

(v) Adjustment of certain expenses as between the Union and the States [Article 290].

The jurisdiction of the Supreme Court to entertain an application under Article 32 for the issue of a constitutional writ for the enforcement of Fundamental Rights,

B. Writ Jurisdiction. is sometimes treated as an "original" jurisdiction of the Supreme Court. It is no doubt original in the sense that the party aggrieved has the right to directly move the Supreme Court by presenting a petition, instead of coming through a high court by way of appeal. Nevertheless, it should be treated as a separate jurisdiction since the dispute in such cases is not between the units of the Union but an aggrieved individual and the Government or any of its agencies. Hence, the jurisdiction under Article 32 has no analogy to the jurisdiction under Article 131.

The contours of the court's writ jurisdiction have been established in several decisions of the Supreme Court. Where the law provides for a hierarchy of appeals, the parties must exhaust the available remedies before resorting to writ jurisdiction of the Supreme Court. At the same time, the Supreme Court in a catena of decisions has held that this doctrine is not a rule of law, but essentially a rule of policy, convenience and discretion. Thus, where there is failure of principles of natural justice or where the orders or proceedings are wholly without jurisdiction warrants, the Supreme Court may exercise its writ jurisdiction even if the parties had other adequate legal remedies.^{17A}

The Supreme Court is the highest court of appeal from all courts in the territory of India, the jurisdiction of the Judicial Committee of the Privy Council to hear appeals from India having been abolished on the eve of the Constitution. The *Appellate* jurisdiction of the Supreme Court may be divided under three heads:

(i) Cases involving interpretation of the Constitution — civil, criminal or otherwise.

(ii) Civil cases, irrespective of any constitutional question.

(iii) Criminal cases, irrespective of any constitutional question.

Apart from appeals to the Supreme Court by special leave of that court under Article 136, an appeal lies to the Supreme Court from any judgment, decree or final order in a civil proceeding of a high court in two classes of cases —

(A) Where the case involves a substantial question of law as to the *interpretation of the Constitution*, an appeal shall lie to the Supreme Court on the certificate of the high court that such a question is involved or on the leave of the Supreme Court where the high court has refused to grant such a certificate but the Supreme Court is satisfied that a substantial question of law as to the interpretation of the Constitution is involved in the case [Article 132].

(B) In cases where no *constitutional* question is involved, appeal shall lie to the Supreme Court if the high court certifies that the following conditions are satisfied [Article 133(1)] —

(i) that the case involves a substantial question of law of general importance;

(ii) that in the opinion of the high court the said question should be decided by the Supreme Court.

Prior to the Constitution, there was no court of criminal appeal over the high courts. It was only in a limited sphere that the Privy Council entertained appeals in

(i) **Criminal.** criminal cases from the high courts by *special leave* but there was no appeal *as of right*. Article 134 of the Constitution for the