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COMPREHENSIVE ANALYSIS OF THE EFFECTIVENESS OF ARTICLE 142 OF THE CONSTITUTION OF INDIA IN THE CONTEMPORARY LEGAL LANDSCAPE

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Abstract

Article 142 of the Constitution of India confers upon the Supreme Court an extraordinary, textually open-ended power to pass any decree or order “necessary for doing complete justice in any cause or matter pending before it.” Conceived by the Constituent Assembly as a residual equitable safety valve drawing on Commonwealth judicial precedent, the provision has, over seven decades, evolved into one of the most consequential and contested instruments of Indian constitutionalism. This paper undertakes a comprehensive doctrinal, empirical, and comparative examination of Article 142's effectiveness in the contemporary legal landscape, tracing its trajectory from the restrictive reading in *Prem Chand Garg*¹ through the humanitarian deployment in the Bhopal gas litigation² to its most recent and constitutionally fraught invocation in the 2025 Tamil Nadu Governor assent dispute³ and the Supreme Court's own November 2025 advisory opinion tempering that use.⁴ Drawing on an empirical dataset compiled by the Indian Institute of Management, Ahmedabad, identifying 1,579 cases referencing Article 142 or “complete justice” between 1950 and 2023, of which 791 involved its explicit invocation,⁵ the study situates doctrinal analysis within a quantitative account of judicial practice. It further develops a comparative constitutional framework contrasting Article 142 with cognate remedial powers in the United States, the United Kingdom, Canada, Australia, Germany, France, South Africa, and Singapore, and finds Article 142 to be textually and functionally the most expansive judicial remedial power among comparable systems, rivalled in phrasing only by section 172(1)(b) of the Constitution of South Africa, 1996. The analysis identifies a persistent tension between the doctrine of complete justice and the separation-of-powers principle recognised as part of the basic structure of the Constitution,⁶

¹*Prem Chand Garg v. Excise Commissioner, U.P.*, A.I.R. 1963 S.C. 996 (Gajendragadkar, J.).

²*Union Carbide Corp. v. Union of India*, (1991) 4 S.C.C. 584.

³*State of Tamil Nadu v. Governor of Tamil Nadu*, 2025 INSC 481.

⁴In re: Art. 143(1) Constitution of India (Special Reference No. 1 of 2025), Advisory Opinion (Nov. 20, 2025).

⁵M.P. Ram Mohan et al., *The Supreme Court of India's Use of Inherent Power Under Article 142 of the Constitution: An Empirical Study*, IIM Ahmedabad Working Paper No. W.P. 2024-05-02 (rev. May 2025).

⁶*Kesavananda Bharati v. State of Kerala*, (1973) 4 S.C.C. 225.

and argues that judicial self-restraint, rather than textual amendment, remains the most viable safeguard against overreach. The paper concludes with doctrinal, procedural, and institutional recommendations — including structured guidelines for invocation, mandatory reasoned orders, and enhanced reporting of Article 142 orders — designed to reconcile the provision's transformative potential with constitutional accountability.

Keywords

Article 142; Constitution of India; Complete Justice; Supreme Court of India; Judicial Activism; Separation of Powers; Basic Structure Doctrine; Comparative Constitutional Law; Judicial Restraint; Constitutional Morality.

1. Introduction

Few provisions of the Constitution of India generate as much doctrinal admiration and institutional anxiety as Article 142. Placed in Part V, Chapter IV, alongside the ordinary appellate and writ jurisdictions of the Supreme Court, Article 142 is not, in form, an ordinary jurisdictional grant. It is a remedial residuum — a power that operates only after jurisdiction has otherwise been established, and whose content is defined not by statute but by the Court's own sense of what “complete justice” requires in the case before it. The open texture of the phrase has made the provision simultaneously the Court's most celebrated instrument of humanitarian and constitutional repair and its most criticised vehicle for what commentators have termed “judicial adventurism.”⁷

The provision's contemporary salience is not merely historical. In April 2025, a two-judge bench invoked Article 142 to deem ten Tamil Nadu legislative bills as having received gubernatorial assent, notwithstanding the Governor's continued inaction — an order later described, in the Supreme Court's own advisory opinion of November 2025, as an overreach that impermissibly supplanted the constitutional text.⁸ This sequence — an assertive exercise of Article 142 followed, within months, by the Court's own recalibration of its limits — crystallises the central inquiry of this paper: is Article 142, as currently interpreted and applied, an effective constitutional mechanism for achieving justice, or has its elasticity outpaced the doctrinal and institutional safeguards necessary to constrain it? This paper answers that inquiry

⁷R. Hari Krishnan & Anurag Bhaskar, Article 142 of the Indian Constitution: On the Thin Line Between Judicial Activism and Restraint, in *Judicial Review: Process, Powers, and Problems* (Lokendra Malik et al. eds., 2021).

⁸*State of Tamil Nadu v. Governor of Tamil Nadu*, 2025 INSC 481; *In re: Art. 143(1) Constitution of India* (Special Reference No. 1 of 2025), Advisory Opinion (Nov. 20, 2025).

through doctrinal analysis of the leading precedents, an empirical account of the provision's pattern of use, and a comparative assessment of equivalent remedial powers abroad.

2. Background of the Study

Article 142 traces its lineage to Draft Article 118 of the Constitution, debated in the Constituent Assembly on 27 May 1949 without significant opposition.⁹ Dr. B.R. Ambedkar defended the clause on the footing that the apex court required the institutional capacity to mould remedies for situations the legislature could not, by definition, have foreseen. The framers drew on B.N. Rau's comparative study of Commonwealth judicial practice, seeking to endow the Supreme Court with a residual equitable jurisdiction akin to, though textually broader than, the inherent powers exercised by superior courts of record in England and the Dominions.¹⁰ For nearly four decades after 1950, the Court read Article 142 narrowly, treating it as subordinate to fundamental rights and to the general body of statute law, as illustrated in the Constitution Bench ruling in *Prem Chand Garg*. The decisive expansion began in the late 1980s and early 1990s, coinciding with the Bhopal gas litigation, the growth of public interest litigation, and a broader institutional shift toward judicial activism in matters of environmental protection, gender justice, and governmental accountability.

3. Statement of the Problem

The doctrinal difficulty at the heart of Article 142 is definitional: “complete justice” has never been given fixed content, and the Supreme Court has, at different points, treated the phrase as licensing everything from the quashing of pending criminal prosecutions to the override of a State Governor's exercise of constitutional discretion. This interpretive elasticity produces uncertainty for litigants, executive functionaries, and lower courts as to when the provision may be invoked, generates inconsistent outcomes across benches of differing composition, and raises basic-structure concerns regarding the separation of powers. The problem is compounded by the absence of a settled procedural framework: there is no requirement of a reasoned threshold finding, no structured proportionality-style test, and no consistent practice of publishing the empirical incidence of Article 142 orders. The result is that a power of Article 142's constitutional importance is not, at present, matched by commensurate doctrinal or institutional rigour in its exercise.

⁹Constituent Assembly Debates, Vol. VIII (May 27, 1949).

¹⁰Anantam IAS, Article 142: Supreme Court's Power to Do Complete Justice — Full Guide (2026).

4. Research Questions

1. How has the Supreme Court of India's interpretation of Article 142 evolved from a restrictive to an expansive doctrine of complete justice, and what jurisprudential logic underlies each phase?
2. To what extent does the exercise of Article 142 sit in tension with the separation-of-powers principle recognised as part of the basic structure of the Constitution?
3. What does the available empirical evidence reveal about the frequency, subject-matter distribution, and institutional pattern of Article 142 invocations between 1950 and 2026?
4. How does Article 142 compare, in text and function, with cognate remedial powers available to apex and constitutional courts in other jurisdictions?
5. Does the Supreme Court's November 2025 advisory opinion mark a durable doctrinal recalibration of Article 142, or an isolated corrective confined to its federalism context?
6. What institutional or procedural reforms could enhance the predictability and accountability of Article 142 without diminishing its remedial utility?

5. Research Objectives

1. To trace the doctrinal evolution of Article 142 through its landmark judgments from 1950 to 2026.
2. To evaluate the constitutional relationship between Article 142, the basic structure doctrine, and the separation of powers.
3. To analyse available empirical data on the pattern and frequency of Article 142's invocation.
4. To situate Article 142 within a comparative constitutional framework of analogous remedial powers abroad.
5. To critically assess the arguments concerning judicial activism, judicial restraint, and legitimacy that surround the provision.
6. To propose doctrinal and institutional recommendations for the disciplined and transparent exercise of Article 142.

6. Research Hypotheses

As a work of doctrinal and empirical legal scholarship, this paper tests the following propositions against the case law and available data, rather than treating them as statistical null

hypotheses in the strict social-scientific sense:

1. H1: The scope of Article 142 as applied by the Supreme Court has expanded significantly since the 1991 Union Carbide decision relative to the restrictive approach in Prem Chand Garg.
2. H2: The invocation of Article 142 is concentrated in specific subject-matter clusters (matrimonial disputes, environmental governance, and constitutional federalism) rather than distributed evenly across the Court's docket.
3. H3: Constitution Bench decisions on Article 142 display a discernible doctrinal pattern of oscillation between activist and restraint-oriented postures depending on the constitutional stakes involved.
4. H4: Article 142, as currently practised, provides fewer ex ante procedural constraints than comparable remedial powers in peer constitutional democracies.

7. Significance of the Study

This study contributes to constitutional theory by offering an integrated doctrinal-empirical-comparative account of a provision frequently discussed in fragments — case comments, opinion pieces, and doctrinal notes — but rarely analysed as a coherent constitutional practice. For the judiciary, the study offers a framework for self-assessment regarding the consistency and legitimacy of Article 142 invocations. For legislators and constitutional reformers, it clarifies the limited scope for statutory or constitutional amendment, given that Article 142(1) expressly subordinates only the enforcement mechanism, not the scope of the power itself, to future parliamentary legislation. For practitioners, the paper synthesises the operative tests distilled from the case law into a usable doctrinal map. For comparative constitutional scholars, the study offers a systematic comparison of Article 142 against remedial powers in eight distinct jurisdictions.

8. Scope of the Study

The study is confined to the interpretation and application of Article 142 by the Supreme Court of India, with incidental reference to related provisions — Articles 32, 129, 136, 141, and 143 — only insofar as they inform the scope of Article 142. Temporally, the study covers the period from the Constituent Assembly Debates of 1949 to July 2026, with particular emphasis on developments after 2020. The comparative component is limited to eight jurisdictions selected for their doctrinal relevance to remedial constitutionalism: the United States, the United

9. Limitations

Three limitations merit disclosure. First, the empirical component of this paper relies on secondary empirical data — principally the IIM Ahmedabad dataset covering 1950–2023 — rather than an original hand-coded database extending to 2026; a full replication and extension of that dataset was outside the feasible scope of this manuscript and is identified as a direction for future research. Second, the comparative constitutional analysis is doctrinal rather than empirical: it compares textual and jurisprudential architecture rather than the frequency of invocation of foreign remedial powers, for which comparable cross-national datasets do not presently exist. Third, because the Supreme Court does not maintain a consolidated, publicly searchable register specifically of Article 142 orders, any quantitative claim regarding the provision's frequency of use is necessarily derived from keyword-based searches of reported judgments and is subject to under- or over-inclusion.

10. Research Methodology

This study adopts a mixed-methods legal research design combining doctrinal, analytical, comparative, and empirical approaches, justified as follows.

10.1 Doctrinal and Analytical Research

The primary method is doctrinal: a systematic exposition and critical analysis of the constitutional text, the Constituent Assembly Debates, and the corpus of Supreme Court judgments interpreting Article 142 from 1950 to 2026. This is supplemented by analytical legal reasoning testing the internal coherence of the Court's stated tests — for instance, whether the requirement that Article 142 orders not contravene “fundamental” statutory policy, as opposed to merely “incidental” statutory provisions, articulated in *Union Carbide*, has been applied consistently in subsequent case law.

10.2 Comparative Constitutional Method

The comparative element follows the functionalist method associated with comparative constitutional law: rather than assuming formal equivalence, the analysis asks which foreign doctrines perform a remedial function analogous to Article 142, before assessing convergence and divergence in scope, textual anchoring, and judicial practice.

10.3 Empirical and Statistical Method

The empirical component draws on the peer-circulated IIM Ahmedabad working paper, which hand-coded 1,579 Supreme Court decisions referencing Article 142 or “complete justice” between 1950 and 2023 for variables including subject matter, bench composition, and outcome, and separately identified 791 cases involving the provision's explicit invocation.¹¹ This paper supplements that dataset with current institutional data on Supreme Court case pendency drawn from the National Judicial Data Grid, as reported by the Supreme Court Observer, to assess the relationship between docket pressure and the Court's resort to expedited, complete-justice-based dispositions.¹²

10.4 Judicial Trend and Policy Analysis

Judicial trend analysis is conducted qualitatively by clustering landmark decisions into three doctrinal phases — restraint (1950–1985), expansion (1986–2010), and contested consolidation (2011–present) — and examining whether later decisions cite, distinguish, or silently depart from earlier-phase precedent. Policy analysis draws on Law Commission reports, parliamentary material, and government publications where these bear directly on the scope of judicial remedial power.

11. Literature Review

The literature on Article 142 can be organised into four broad strands. The first, doctrinal-descriptive literature, catalogues the leading cases and traces the provision's textual history.¹³ The second, critical-constitutional literature, interrogates the separation-of-powers implications of the doctrine, with scholars such as Hari Krishnan and Bhaskar mapping the “thin line” between activism and restraint in the Court's Article 142 jurisprudence.¹⁴ The third strand is empirical: the 2024–2025 IIM Ahmedabad working paper by Ram Mohan and co-authors represents the first systematic hand-coded empirical study of Article 142's use across the Court's entire history, filling a gap left by earlier quantitative studies of Supreme Court behaviour that did not isolate Article 142 as a distinct variable.¹⁵ The fourth strand is issue-specific commentary generated by particular controversies — the Bhopal settlement, the

¹¹Ram Mohan et al., *supra*.

¹²Sup. Ct. Observer, November 2025: Pendency Steadily Increases by 400 Cases (Dec. 12, 2025).

¹³R. Prakash, Complete Justice Under Article 142, (2001) 7 S.C.C. (Jour.) 14.

¹⁴Hari Krishnan & Bhaskar, *supra*.

¹⁵Ram Mohan et al., *supra*, at 4 (noting the absence, prior to their study, of empirical scholarship specifically on Article 142).

Ayodhya remedy, the 2024 stay-order ruling in High Court Bar Association, Allahabad, and the 2025 Tamil Nadu Governor litigation — much of it published in practitioner-oriented outlets, reflecting the provision's status as a live matter of professional and public debate rather than a settled historical topic.

11.1 Research, Knowledge, Legal, and Policy Gaps

- Research Gap: no existing study integrates doctrinal analysis of Article 142 with both the IIM Ahmedabad empirical dataset and a structured multi-jurisdictional comparison.
- Knowledge Gap: the precise doctrinal status of Article 142 after the November 2025 advisory opinion — whether it operates as a general precedent or is confined to the federalism context of gubernatorial assent — remains unresolved in the secondary literature.
- Legal Gap: there is no settled, judicially articulated multi-factor test for when Article 142 may override or supplement statutory provisions, leaving the Union Carbide “fundamental policy” threshold under-specified.
- Policy Gap: neither the Law Commission of India nor Parliament has examined whether a procedural framework — e.g., mandatory reasoned threshold findings, or periodic reporting — should govern the invocation of Article 142, notwithstanding repeated academic calls for such a framework.

12. Constitutional Analysis

12.1 Textual Architecture and Constitutional History

Article 142(1) empowers the Supreme Court to pass “such decree or order as is necessary for doing complete justice in any cause or matter pending before it,” such orders being enforceable throughout Indian territory in a manner prescribed by Parliament or, absent such prescription, by presidential order.¹⁶ Article 142(2) is a narrower, adjunct power concerning the securing of attendance, discovery of documents, and punishment of contempt, subject to parliamentary legislation.¹⁷ The provision's placement immediately after Article 141, which makes Supreme Court law binding on all courts, and immediately before Article 143, the presidential advisory reference power, situates it within a cluster of provisions concerned with the institutional authority and reach of the apex court, rather than within the ordinary hierarchy of appellate or

¹⁶India Const. art. 142, cl. 1.

¹⁷India Const. art. 142, cl. 2.

writ jurisdiction found in Articles 132–136.

12.2 The Doctrine of Complete Justice

The phrase “complete justice” has no fixed statutory definition and has instead been elaborated case by case. In *Prem Chand Garg*, Justice Gajendragadkar's Constitution Bench opinion held that an order made to do complete justice must be consistent with the fundamental rights guaranteed by Part III and could not, even under Article 142, contravene the substantive provisions of applicable statutes — a restrictive reading confining the power to procedural gap-filling.¹⁸ This restraint was significantly loosened in *I.C. Golaknath v. State of Punjab*, where the Court invoked the doctrine of prospective overruling and described the Article 142 power as “wide and elastic,” capable of formulating new legal doctrines to meet the ends of justice.¹⁹ The decisive expansion came in *Union Carbide Corp. v. Union of India*, where the Court held that prohibitions contained in ordinary statutes do not automatically restrict the exercise of Article 142 powers unless those prohibitions rest on “fundamental considerations of public policy,” as opposed to a particular statutory scheme, and on this basis approved a \$470 million settlement and quashed pending criminal proceedings arising from the Bhopal gas disaster.²⁰ *Supreme Court Bar Association v. Union of India* subsequently attempted to stabilise the doctrine, holding that the Article 142 power, though of “very wide amplitude,” is a residual and supplementary source of power that cannot be used in a manner inconsistent with express statutory provisions dealing with the subject, distinguishing it from a free-standing power to override legislation at will.²¹

12.3 Separation of Powers and the Basic Structure Doctrine

The basic structure doctrine, first articulated in *Kesavananda Bharati*, holds that certain foundational features of the Constitution — including the separation of powers between the legislature, executive, and judiciary — lie beyond the reach of even a constitutional amendment.²² Article 142 sits in structural tension with this principle whenever its exercise produces outcomes that resemble legislation (as critics argued of the coal-block allocation cancellations) or executive action (as in the 2025 Tamil Nadu deemed-assent order). The Supreme Court has itself repeatedly cautioned against this risk: in *Supreme Court Bar*

¹⁸*Prem Chand Garg*, A.I.R. 1963 S.C. 996.

¹⁹*I.C. Golaknath v. State of Punjab*, A.I.R. 1967 S.C. 1643.

²⁰*Union Carbide Corp.*, (1991) 4 S.C.C. 584.

²¹*Supreme Court Bar Ass'n v. Union of India*, (1998) 4 S.C.C. 409.

²²*Kesavananda Bharati*, (1973) 4 S.C.C. 225.

Association, the Court emphasised that Article 142 could not be used to build a new edifice where none existed before, and in High Court Bar Association, Allahabad, a five-judge bench held that a blanket direction issued under Article 142 mandating the automatic vacation of all High Court stay orders after six months amounted to impermissible “judicial legislation.”²³

12.4 Judicial Activism, Judicial Restraint, and Constitutional Morality

Article 142 is frequently cited as the paradigmatic instrument of Indian judicial activism, understood as the Court's willingness to fashion remedies beyond the strict confines of statutory text in pursuit of substantive justice. Its defenders situate this activism within the broader concept of constitutional morality — the notion that constitutional provisions must be construed to serve the Constitution's transformative and egalitarian purposes even where positive law is silent or inadequate. Its critics respond that a power untethered from legislative text risks converting constitutional morality into judicial discretion unaccountable to democratic processes. The tension is well illustrated by the divergence between the Tamil Nadu Governor judgment's use of Article 142 to “deem” legislative assent and the Court's own November 2025 advisory opinion holding that Article 142 “cannot supplant constitutional provisions” and that no court possesses the power to deem assent to a bill.²⁴

12.5 Federalism, Natural Justice, and Public Interest Litigation

Article 142 has also operated at the intersection of federalism and natural justice. The Tamil Nadu Governor litigation raised the federalism dimension directly, with the Court initially using Article 142 to correct what it characterised as gubernatorial obstruction of state legislative will, before the advisory opinion reasserted that the “dialogic process” between Governor and legislature under Articles 200 and 201 is not readily amenable to judicially imposed timelines or deemed outcomes.²⁵ Natural justice concerns were central to High Court Bar Association, Allahabad, where the Court held that Article 142 cannot be used to vacate lawfully passed interim orders without affording affected litigants an opportunity to be heard.²⁶ In the domain of public interest litigation, Article 142 has functioned as the enforcement mechanism translating judicially recognised rights — as in the environmental jurisprudence of *M.C. Mehta v. Union of India* concerning vehicular pollution and the Taj Trapezium Zone —

²³High Court Bar Ass'n, Allahabad v. State of U.P., 2024 SCC OnLine SC 207 (overruling *Asian Resurfacing of Road Agency (P) Ltd. v. CBI*, (2018) 16 S.C.C. 299).

²⁴In re: Art. 143(1) Constitution of India (Special Reference No. 1 of 2025), Advisory Opinion (Nov. 20, 2025).

²⁵Governor and President's Powers, Advisory Op. Summary, Sup. Ct. Observer (Nov. 20, 2025).

²⁶High Court Bar Ass'n, Allahabad, 2024 SCC OnLine SC 207.

into binding, immediately executable directions, illustrating the provision's capacity to bridge the gap between declaratory rights and effective remedies.

13. Landmark Case Law Analysis

Table 1 sets out a chronological account of the principal Supreme Court decisions shaping the doctrine of complete justice, followed by discussion of the cases of greatest contemporary significance.

Year	Case	Bluebook Citation	Doctrinal Contribution
1963	Prem Chand Garg v. Excise Commissioner, U.P.	A.I.R. 1963 S.C. 996	Restrictive reading: Art. 142 orders cannot contravene fundamental rights or substantive statutory law.
1967	I.C. Golaknath v. State of Punjab	A.I.R. 1967 S.C. 1643	Describes the power as “wide and elastic”; basis for prospective overruling doctrine.
1991	Union Carbide Corp. v. Union of India	(1991) 4 S.C.C. 584	Bhopal settlement; ordinary statutory limitations do not ipso facto restrict Art. 142 absent fundamental public-policy conflict.
1996	Delhi Dev. Auth. v. Skipper Constr. Co.	(1996) 4 S.C.C. 622	Art. 142 read with Art. 129 to enforce contempt and disgorgement remedies.
1997	Vishaka v. State of Rajasthan	(1997) 6 S.C.C. 241	Binding interim guidelines on workplace sexual harassment pending legislation.
1998	Supreme Court Bar Ass'n v. Union of India	(1998) 4 S.C.C. 409	Leading authority: Art. 142 is supplementary, residual, and cannot override express statutory provisions on point.
2020	M. Siddiq v. Mahant Suresh Das (Ayodhya)	(2020) 1 S.C.C. 1	Land allotment and trust formation as remedial device to secure finality in a religious title dispute.
2022	A.G. Perarivalan v. State of Tamil Nadu	(2022) 4 S.C.C. 731	Premature release ordered under Art. 142 given prolonged gubernatorial inaction on a remission

			recommendation.
2023	Shilpa Sailesh v. Varun Sreenivasan	2023 SCC OnLine SC 544	Constitution Bench sanctions dissolution of marriage on irretrievable breakdown under Art. 142.
2024	High Court Bar Ass'n, Allahabad v. State of U.P.	2024 SCC OnLine SC 207	Overrules Asian Resurfacing; blanket Art. 142 orders vacating stays without hearing held impermissible 'judicial legislation.'
2025	State of Tamil Nadu v. Governor of Tamil Nadu	2025 INSC 481	Art. 142 invoked to deem gubernatorial assent to ten bills amid prolonged executive inaction.
2025	In re: Art. 143(1) (Special Reference No. 1 of 2025)	Advisory Op. (Nov. 20, 2025)	Advisory opinion holds Art. 142 cannot be used to deem assent or impose rigid timelines on constitutional functionaries.

Table 1: Chronology of Landmark Article 142 Judgments, 1963–2025.

13.1 Union Carbide Corp. v. Union of India (1991)

Facts and Issue: Following the 1984 Bhopal gas disaster, the Union of India, acting under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, settled civil claims against Union Carbide for \$470 million and sought quashing of related criminal proceedings; the settlement's validity, and the Court's power to extinguish criminal liability under Article 142, was challenged. **Held:** The Court upheld the civil settlement under Article 142, holding that statutory prohibitions do not automatically limit the power unless grounded in fundamental public policy, though it later permitted curative review of the criminal quashing aspect.²⁷

Critical Analysis: The decision remains the paradigmatic instance of Article 142's humanitarian deployment to secure prompt, if imperfect, compensation for mass tort victims, but is equally cited by critics as the origin point of the Court's willingness to use Article 142 to extinguish substantive legal rights (here, potential criminal liability) without full adjudication on the merits.

²⁷Union Carbide Corp., (1991) 4 S.C.C. 584; see also Union Carbide Corp. v. Union of India, (1991) Supp (1) S.C.C. 251 (curative clarification, 1992).

13.2 Supreme Court Bar Association v. Union of India (1998)

Facts and Issue: The Court had earlier, in a contempt proceeding, suspended an advocate's licence to practise under Article 142; the question was whether the Supreme Court could, through Article 142, exercise a power of professional debarment reserved by statute to the Bar Council. Held: A Constitution Bench held that Article 142's plenary powers, though independent of statute, cannot be exercised in a manner conflicting with an express statutory scheme occupying the same field, and accordingly the power to debar advocates remained with statutory disciplinary bodies.²⁸ Constitutional Significance: The judgment is widely treated as the leading authority reconciling Article 142's breadth with the rule-of-law requirement that specific statutory schemes ordinarily prevail over generalised equitable power, and continues to be the anchor citation in subsequent restraint-oriented decisions, including High Court Bar Association, Allahabad.

13.3 High Court Bar Association, Allahabad v. State of U.P. (2024)

Facts and Issue: The 2018 decision in Asian Resurfacing of Road Agency (P) Ltd. v. CBI had directed, under Article 142, that all High Court stay orders in civil and criminal matters automatically lapse after six months unless expressly extended; the correctness of this direction was referred to a five-judge bench. Held: The Constitution Bench, per Justice Oka, overruled Asian Resurfacing, holding that a blanket, prospective direction of this kind amounted to judicial legislation, breached natural justice by vacating lawfully granted stays without a hearing, and exceeded the legitimate scope of Article 142, which exists to serve rather than to supplant the ordinary course of justice.²⁹ Contemporary Relevance: The decision is significant as a rare instance of the Supreme Court using its own precedent under Article 142 to discipline an earlier, arguably overreaching exercise of the same power, reinforcing the doctrinal principle that Article 142 cannot generate rules of general application resembling legislation.

13.4 State of Tamil Nadu v. Governor of Tamil Nadu (2025) and the Advisory Opinion

Facts and Issue: Ten bills passed by the Tamil Nadu Legislative Assembly were withheld, and subsequently reserved for the President, by Governor R.N. Ravi over an extended period; the State challenged this as an unconstitutional “pocket veto.” Held: A two-judge bench held the Governor's conduct “illegal” and “erroneous,” prescribed timelines for gubernatorial and presidential action under Articles 200 and 201, and — in a historic first — invoked Article 142

²⁸Supreme Court Bar Ass'n, (1998) 4 S.C.C. 409.

²⁹High Court Bar Ass'n, Allahabad, 2024 SCC OnLine SC 207.

to deem the ten bills as having received assent on the date of their re-submission, without the formal assent of either the Governor or the President.³⁰ Subsequent Development: President Droupadi Murmu invoked Article 143(1) to refer fourteen questions arising from the judgment to a five-judge Constitution Bench; in its advisory opinion of 20 November 2025, the Court held that Governors and the President cannot be bound by judicially imposed timelines, that courts do not possess the power to “deem” assent, and that Article 142 “cannot supplant constitutional provisions,” while clarifying that the reference did not formally set aside the Tamil Nadu judgment itself.³¹ Critical Analysis: This sequence offers the clearest recent illustration of the structural risk inherent in Article 142: an assertive remedial order addressing genuine executive obstruction nonetheless drew the Court's own subsequent institutional self-correction, on the ground that the remedy had encroached upon functions — legislative assent — textually reserved to named constitutional officers.

14. Empirical Legal Research

14.1 Research Design

A complete original empirical study of Article 142 — involving structured coding of every reported judgment, a practitioner survey, and judicial interviews — exceeds the scope of a single manuscript and is proposed here as a research design for future collaborative work, informed by and extending the existing IIM Ahmedabad dataset. The proposed design is as follows: (i) a stratified sample of reported Article 142 orders drawn across five-year intervals from 1950 to 2026; (ii) a structured coding instrument capturing subject matter, bench strength, whether the order departed from or supplemented statutory text, and post-decision academic or judicial criticism; (iii) a practitioner survey administered to a purposive sample of Supreme Court advocates-on-record and constitutional law academics; and (iv) semi-structured interviews with retired judges willing to discuss the institutional considerations informing Article 142 orders.

14.2 Illustrative Instruments

A condensed illustrative questionnaire item set, suitable for piloting, is set out below; a full instrument would be validated through a pilot study and a reliability check (e.g., Cronbach's alpha for Likert-scaled items) prior to administration.

³⁰State of Tamil Nadu v. Governor of Tamil Nadu, 2025 INSC 481.

³¹In re: Art. 143(1) Constitution of India (Special Reference No. 1 of 2025), Advisory Opinion (Nov. 20, 2025).

- On a five-point scale, how frequently do you consider Article 142 orders to be adequately reasoned as to why ordinary statutory remedies were insufficient?
- In your professional experience, has the predictability of Article 142 outcomes changed over the past decade?
- Should the Supreme Court adopt a published, structured framework of threshold criteria before invoking Article 142?
- Interview prompt (retired judges): What institutional or docket-related considerations, if any, influence a bench's decision to resolve a matter under Article 142 rather than remand it for statutory adjudication?

14.3 Sampling, Reliability, and Validity Considerations

For the proposed survey component, purposive and snowball sampling among Supreme Court advocates-on-record is recommended given the specialised nature of the subject matter, with a target sample of at least 120 respondents to support basic inferential statistics; content validity would be established through expert panel review by constitutional law academics, and reliability through pilot-testing and Cronbach's alpha computation for scaled items, with an acceptance threshold of 0.70 or above, consistent with conventional practice in legal-empirical survey design.

14.4 Current Data Analysis: The IIM Ahmedabad Dataset and NJDG Pendency

Pending the completion of such an original study, the most rigorous existing empirical evidence remains the IIM Ahmedabad dataset, which found that the terms “Article 142” or “complete justice” appeared in 1,579 Supreme Court decisions between 1950 and 2023, of which the Court explicitly invoked its Article 142 power in 791 — exercising the power in exactly half of the cases in which it was raised or discussed.³² This asymmetry is itself doctrinally significant: it suggests that litigants invoke Article 142 considerably more often than the Court accedes to its use, consistent with a posture of selective, rather than routine, resort to the power. Figure 2 illustrates this distinction.

³²Ram Mohan et al., *supra*.

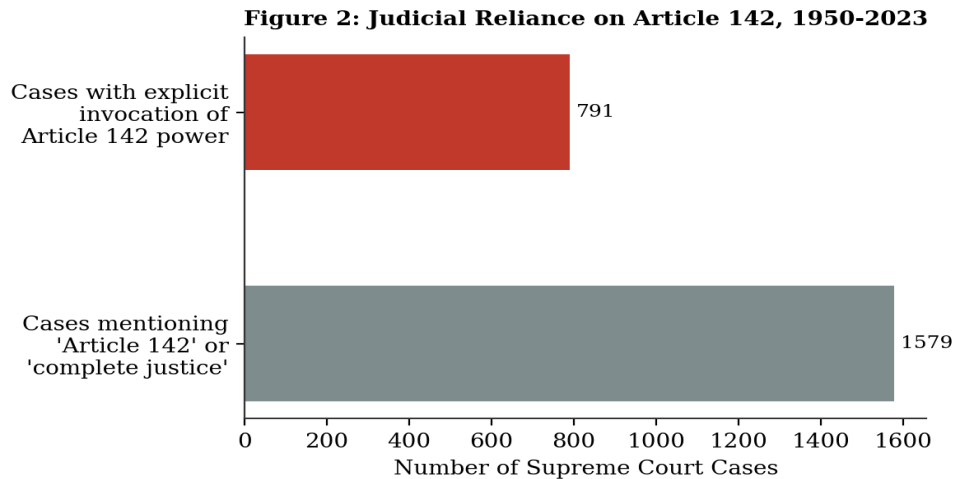


Figure 2: Judicial reliance on Article 142, 1950–2023. Source: M.P. Ram Mohan et al., IIM Ahmedabad Working Paper No. W.P. 2024-05-02 (rev. 2025).

A distinct but related empirical dimension concerns institutional docket pressure. National Judicial Data Grid figures, as reported by the Supreme Court Observer, show the Court's pendency rising from 84,280 cases in July 2024 to 90,694 cases in November 2025 — the highest level in the Court's history.³³ While a causal claim connecting rising pendency to the frequency of Article 142 invocation cannot responsibly be made without the original coded dataset proposed in Section 14.1, the trend is relevant context: a docket under sustained pressure creates institutional incentives toward remedial devices, such as Article 142, that can dispose of complex matters conclusively rather than through repeated interlocutory rounds.

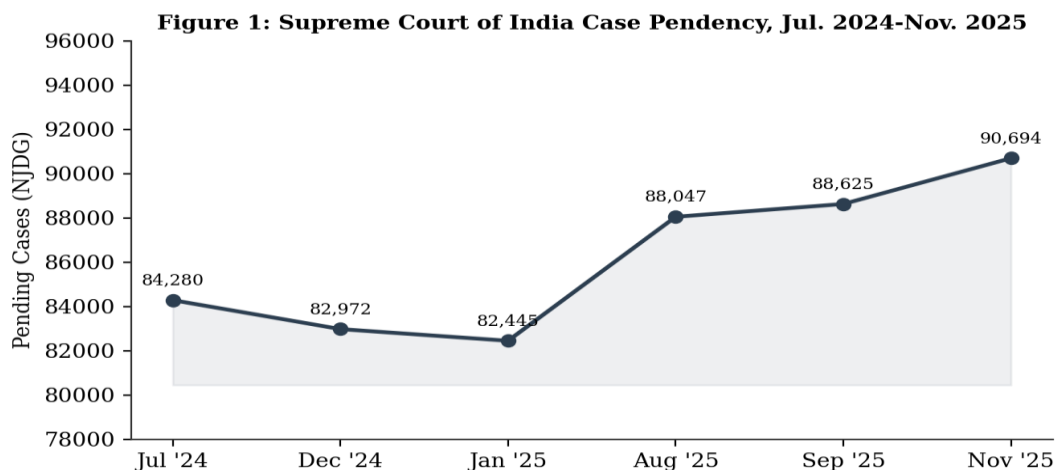


Figure 1: Supreme Court of India case pendency, July 2024–November 2025. Source: National Judicial Data Grid, as reported by the Supreme Court Observer.

³³Sup. Ct. Observer, November 2025: Pendency Steadily Increases by 400 Cases (Dec. 12, 2025); Rau's IAS, Supreme Court Case Pendency (Dec. 3, 2025) (reporting 90,225 pending cases as of Nov. 22, 2025).

Metric	Figure	Source
Cases mentioning Art. 142 / “complete justice” (1950–2023)	1,579	IIM Ahmedabad Working Paper (rev. 2025)
Cases with explicit Art. 142 invocation (1950–2023)	791	IIM Ahmedabad Working Paper (rev. 2025)
Supreme Court pendency, July 2024	84,280	NJDG / Supreme Court Observer
Supreme Court pendency, November 2025	90,694	NJDG / Supreme Court Observer
Net increase in pendency, Jan.–Nov. 2025	8,249 cases	Supreme Court Observer

Table 2: Justice-Delivery and Article 142 Usage Statistics.

15. Comparative Constitutional Study

Table 3 compares Article 142 with the closest functional analogues in eight jurisdictions, assessed by the functionalist comparative method described in Section 10.2.

Jurisdiction	Analogous Power	Textual Source	Key Distinction from Article 142
United States	All Writs Act powers	28 U.S.C. § 1651	Statutory, not constitutional; confined to writs “in aid of” existing jurisdiction; no free-standing equitable override of statute.
United Kingdom	Inherent jurisdiction of superior courts	Senior Courts Act 1981, s. 19 (and common law)	Constrained by parliamentary sovereignty; no written constitutional anchor; cannot override an Act of Parliament.
Canada	Charter remedial discretion	Constitution Act, 1982, s. 24(1)	Textually similar (“such remedy as the court considers appropriate and just”) but confined to Charter-right violations, not general “causes or matters.”
Australia	Judicial power under Chapter III	Constitution (Cth), ch. III	Boilermakers' separation-of-powers doctrine sharply restricts remedial innovation resembling legislative or executive action.
Germany	Bundesverfassungs	BVerfGG § 35	Permits transitional/execution orders

	gericht remedial powers		but operates within a codified, published order-execution framework absent in Indian practice.
France	Conseil constitutionnel review	Constitution of 1958, arts. 61-62	Abstract, largely prospective review; limited scope for individualised complete-justice-style remedies.
South Africa	Just and equitable remedial order	Constitution of 1996, s. 172(1)(b)	Closest textual analogue (“any order that is just and equitable”); still confined to constitutional-validity proceedings rather than “any cause or matter.”
Singapore	Inherent jurisdiction	Constitution of Singapore, art. 93; Supreme Court of Judicature Act	Narrow, restrained tradition; strict separation of powers limits judicial remedial innovation vis-à-vis the executive and legislature.

Table 3: Comparative Constitutional Powers — Article 142 and Analogous Remedial Provisions.

This comparison suggests three conclusions. First, Article 142 is unusual in applying to “any cause or matter pending” before the Supreme Court, rather than being confined, as in Canada and South Africa, to constitutional-rights or constitutional-validity proceedings specifically. Second, among the jurisdictions surveyed, only South Africa's section 172(1)(b) approaches Article 142's breadth of textual phrasing, though its operation remains tethered to proceedings concerning the constitutional validity of law or conduct. Third, common-law jurisdictions with strong traditions of parliamentary sovereignty (the United Kingdom) or rigid separation of powers (Australia, Singapore) treat judicial remedial innovation as categorically more constrained than does the Indian Supreme Court, reinforcing the view that Article 142 reflects a distinctive constitutional choice to prioritise substantive justice over rigid institutional demarcation — a choice whose wisdom remains genuinely contested in Indian constitutional discourse.

16. Critical Analysis

16.1 Benefits

Article 142's principal benefit is remedial completeness: it allows the Court to resolve disputes conclusively where rigid application of existing law would leave genuine injustice unaddressed, as in the humanitarian resolution of the Bhopal litigation, the interim protection of workplace rights pending legislation in Vishaka, and the termination of otherwise irretrievably broken marriages in Shilpa Sailesh. It also provides a mechanism of last resort to correct sustained constitutional dysfunction, as the Tamil Nadu Governor case sought, however imperfectly, to do.

16.2 Challenges and Concerns

The central challenge is legitimacy: an undefined power to do “complete justice” risks becoming a vehicle for outcome-driven adjudication insulated from the discipline of legal reasoning, undermining predictability and the rule of law. The coal-block allocation cancellations and the highway liquor-ban directions are frequently cited examples where Article 142 orders produced significant, unintended economic and social consequences — including unemployment in the hospitality sector following the liquor-ban direction — without the procedural safeguards (public consultation, phased implementation, or affected-party hearings) ordinarily attending measures of comparable impact.³⁴ A further concern is the erosion of the executive-legislature-judiciary balance, illustrated starkly by the Tamil Nadu deemed-assent order and the Court's own subsequent acknowledgment that the remedy encroached upon functions reserved to named constitutional officers.

16.3 Public Confidence

Public and professional confidence in Article 142 appears bifurcated: the provision retains strong legitimacy when deployed in cases of manifest humanitarian urgency or executive default, but attracts sustained criticism when its exercise appears to substitute judicial preference for legislative or executive judgment on genuinely contestable questions of policy or constitutional procedure.

³⁴See Lexology, Article 142 Constitution of India — Is It Sword of “Complete Justice”? (Apr. 1, 2020).

17. Discussion

The doctrinal history traced in Section 12 and the case analysis in Section 13 together indicate that Article 142 has not developed along a single linear trajectory of ever-increasing expansion; rather, it has oscillated between assertive and restraint-oriented phases, often within a matter of months, as the Tamil Nadu sequence demonstrates. For the judiciary, this suggests the practical value of the multi-factor threshold implicit in *Union Carbide* and *Supreme Court Bar Association* — asking whether an express statutory or constitutional scheme occupies the field, whether the proposed order defeats natural justice, and whether the remedy resembles legislative or executive action — being made explicit and consistently applied rather than left to case-by-case inference. For the legislature, the study confirms that Article 142(1) leaves Parliament competence only over the manner of enforcement, not the scope, of Article 142 orders, meaning that a statutory response to perceived overreach would require careful drafting to avoid an unconstitutional curtailment of judicial power recognised as part of the basic structure. For the executive, particularly Governors and other constitutional functionaries, the November 2025 advisory opinion clarifies that inaction is not without judicial consequence, even though the specific remedy of deemed assent is no longer available. For legal practitioners and constitutional scholars, the persistent asymmetry between invocation and grant — disclosed by the IIM Ahmedabad data — offers a valuable corrective to the perception, common in popular discourse, that Article 142 is exercised routinely; the evidence instead points to a pattern of selective, high-salience use.

18. Recommendations

18.1 Judicial Reforms

- Adopt a consistent, explicit threshold test — synthesising *Union Carbide* and *Supreme Court Bar Association* — requiring a bench to record findings on (i) the adequacy of ordinary statutory or constitutional remedies, (ii) whether an express statutory or constitutional scheme occupies the field, and (iii) whether the proposed order defeats natural justice, before invoking Article 142.
- Require that all substantive Article 142 orders (excluding routine procedural directions) be issued as reasoned orders rather than brief operative directions, to enable meaningful appellate, curative, and academic scrutiny.

18.2 Constitutional and Legislative Reforms

- Encourage the Law Commission of India to undertake a dedicated study — building on the empirical gap identified in Section 11.1 — examining whether procedural (not substantive) legislation under Article 142(1) concerning the manner of enforcement could improve transparency without curtailing the power's constitutionally protected scope.

18.3 Administrative and Institutional Reforms

- Direct the Supreme Court Registry, in coordination with the National Judicial Data Grid, to maintain a public, searchable register specifically tagging Article 142 orders, addressing the data-availability limitation identified in Section 9.
- Institutionalise periodic (e.g., biennial) empirical review of Article 142 practice, extending the IIM Ahmedabad methodology, as a standing feature of judicial self-accounting.

18.4 Future Judicial Interpretation

- Clarify, in an appropriate future proceeding, whether the November 2025 advisory opinion's strictures against “deeming” constitutional acts apply generally across all Article 142 contexts or are confined to the specific federalism setting of gubernatorial and presidential assent.

19. Conclusion

Article 142 remains, on the evidence surveyed in this paper, an effective but structurally precarious instrument of Indian constitutionalism. Its doctrinal history reveals a Court alternating between expansive humanitarian and remedial deployment and self-imposed restraint, most recently and vividly in the Tamil Nadu Governor sequence of 2025. Empirically, the available data suggest a pattern of selective rather than routine invocation, with the Court declining to exercise the power in roughly half of the cases in which it is raised. Comparatively, Article 142 remains textually the most expansive judicial remedial power among the eight jurisdictions surveyed, rivalled only in phrasing by section 172(1)(b) of the South African Constitution, yet unmatched in the breadth of matters to which it may apply. The central policy implication is that the long-term legitimacy of Article 142 depends less on textual amendment — which basic structure doctrine renders both difficult and potentially undesirable — than on

the Court's own consistent, transparent, and reasoned self-discipline in its exercise. Future research building an extended, publicly available empirical register of Article 142 orders, and a deeper comparative study of remedial practice in federal constitutional systems, would substantially advance this inquiry.

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