

Deciphering the Nature of State under Article 12 of the Indian Constitution

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Abstract

The nature of the State under Article 12 of the Indian Constitution is a subject of paramount importance in the realm of constitutional law. Article 12 defines the term “State” as it is used throughout the Constitution, and its interpretation has far-reaching implications for the fundamental rights and duties of Indian citizens. The complexities involved in deciphering the nature of the State within the context of Article 12. Article 12, as a cornerstone provision, serves as a bridge between the legal framework and the protection of individual liberties. The definition of the State, under this article, extends beyond the executive and legislative branches to include government instrumentalities and even entities significantly financed or controlled by the government. This broad interpretation, while essential for safeguarding the fundamental rights of the citizens, has also raised questions about the extent of government reach and the potential for abuse of power. The historical evolution of Article 12, key judicial pronouncements, and the dynamic interplay between government bodies, public authorities, and private entities that fulfill public functions. It also explores the need for a balanced and nuanced approach to interpret the nature of the State, ensuring the protection of individual rights while preserving the autonomy of non-state entities. Understanding the evolving nature of the State under Article 12 is essential for shaping the course of constitutional jurisprudence and the protection of citizens' fundamental rights in India.

Keywords: Article 12, autonomy, legal-framework, individual-right, private-entities

INTRODUCTION

The initial notion of state when exploring its jurisprudential chronicle could be conceptualized in Machiavelli's idea of 'state absolutism' that essentially signifies that state is absolute and its neither subordinate to the church nor natural law [1] which gives emphasis to ruthlessness to obtain power and stability which again could be correlated to Hobbes' 'social contract theory' and Levithan where Hobbes' reasoning stemmed from the fact that a divided sovereignty in a state could be disastrous (as seen in the English civil war) thus the will of the people which is subjected to various desires and

passions must be combined to form an artificial being called 'Levithan' and being a creature with no will a sovereign must be appointed to give will to the Levithan [2], Jean Bodin was another Thinker who advocated for the supreme power of the state by the means of absolute monarchism [3], thus exploring the early legal history of the term state we can see that a very empathetic emphasize as been given to the stability of the state and the sphere of international relations was only restricted for protection from external threats as Hobbes has iterated in his works it is only late through the works like Locke's Two treaties of the Government which details out his beliefs “*qua human nature and*

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politics". The main purpose of his philosophy that, the sole existence of state is characterised by its desire to seek and support the well-being of all individuals. Locke also mentions if the state sways away from this goal, then citizens have an obligation to revolt against the Sovereign. Thus a formal approach is born that is not only focusing on internal threats but also cementing the role of the state as keeper of its people, another concept born out of Locke's Social Contract was the 'minimal state' concept further propagated by Robert Nozick. According to Nozick, minimal state means a state that functions essentially as a "night watchman," with powers limited to those necessary to protect citizens against violence, theft, and fraud. Now when we explore the definition of state under international law we can observe that in the Montevideo convention firmly exhibits an idea of state sovereignty notably by signifying the concept of an 'effective government' in its definition a further deciphering the same we are led to the idea that James Bryce propagated in his:

"Legal sovereignty lies in that authority, be it a person or a body, whose expressed will binds others, and whose will is not liable to be over-ruled by the expressed will of anyone placed above it."

Thus one can notice the wide use of the Westphalian concept of sovereignty where state attains freedom from all external factors something which Jean Bodin also advocated for in his works, this concept was mainly formulated for the separation of church from the state as advocated by thinkers like Locke and Thomas Jefferson.

Further exploring the Montevideo convention's definition of state at the international sphere in the article 1 of the convention:

"The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states [4]."

When we observe this definition, we can vehemently observe that the nature of the notion of state went from being as an entity that protects its people from external powers to a political entity that should consider and encompass all its subjects and it must be an entity that can reasonably balance all its various elements and attain an international legal personality to interact with other international legal personalities in the spectrum of international relations so that it may not wither away.

A Definitive Analysis

Part III of the Indian Constitution begins with Article 12 which defines the state as:

"Definition In this part, unless the context otherwise requires, the State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India [5]."

Article 12 of the Indian Constitution is a pivotal provision that plays a crucial role in the framework of fundamental rights in India. This article serves as the foundation for understanding the reach and applicability of fundamental rights and the protection they offer to Indian citizens against the actions of the State [6]. Article 12 serves as a cornerstone in the Indian legal system, providing clarity on who is bound by the Constitution's principles and fundamental rights. The crux of Article 12 lies in its definition of the term "State." It explicitly states that "State" includes the Government of India and the Governments of States, which encompasses the entire governmental machinery at the central and state levels. This broad definition incorporates not only the executive branch but also the legislature and judiciary [7]. Consequently, any entity or authority established by law, whether at the national or state level, falls under the purview of "State" as per Article 12. The significance of Article 12 becomes manifest when one contemplates the fundamental rights enshrined for Indian citizens within Part III of

the Constitution. These fundamental entitlements, encompassing the right to equality, freedom of speech and expression, and the right to life and personal liberty, are legally enforceable against entities falling within the purview of the term "State." Article 12, by virtue of its broadened definition of the term "State" to encompass all governmental bodies, serves to render these fundamental rights amenable to invocation not solely against executive entities but also in opposition to legislative and judicial actions that transgress these rights. Article 32 of the Indian Constitution, often denominated as the "nucleus and essence of the Constitution," confers upon citizens the prerogative to directly approach the Supreme Court for the protection and realization of their fundamental rights. In a similar vein, Article 226 empowers High Courts with the competence to issue writs for the preservation of fundamental rights. Both of these provisions trace their origins to Article 12, serving as instrumental mechanisms for shielding these rights from the actions of the "State." Over the course of time, the judiciary has assumed a pivotal role in augmenting the ambit of Article 12 to ensure the holistic safeguarding of fundamental rights. The construct of "State action" has been comprehensively construed to encompass not only governmental entities but also private bodies engaged in public functions or the beneficiaries of substantial financial support from the government. This evolution has resulted in heightened accountability and the enhanced protection of fundamental rights, even in circumstances involving private entities [8]. Article 12 of the Indian Constitution may appear as a mere definition, but it serves as a cornerstone for the enforcement of fundamental rights. By defining the term "State" expansively, it ensures that the protection of these rights is not limited to actions of the executive branch alone but extends to all branches of government and even certain private entities [9]. This provision underscores the commitment of the Indian Constitution to safeguarding the individual liberties and freedoms of its citizens, making it an indispensable component of the country's legal framework.

Evolution of Article 12 and its Interaction with Fundamental Rights

A Robust interaction has taken place between the conception of article 12 and Fundamental rights through case laws. Identifying the application of Article 12 and at the same time analysing the applicability of Fundamental rights through the concept of state and authority defined in article 12 a major distinction has been provided by the court on matter concerning state actors and private entities it won't be an understatement to mention the debate along article is mainly involving the huge fiasco of differentiating private entities and state.

P.D. Shamdasani [10] a five-member panel of this Court was addressing a writ petition under Article 32 filed by a person who had lost numerous legal actions, both civil and criminal, against the Central Bank of India Limited, which at the time was an organization with a Companies Act incorporation. In that case, the petitioner was aggrieved because the bank had used its right of liens to sell the firm shares, he owned to recover a debt. The petitioner, therefore, asserted his claim following Article 19(1)(f) and Article 31(1) (which was in effect at the time). But while contrasting Article 31(1) (as it was at the time) with Article 21, which also contained a declaration in the same negative form, this Court made the following observation:

"There is no express reference to the State in Article 21. But could it be suggested on that account that the Article was intended to afford protection to life and personal liberty against violation by private individuals? The words "except by procedure established by law" plainly exclude such a suggestion [11]."

The aforementioned idea in P.D. Shamdasani was reiterated by another five-member bench of this Court in Smt. Vidya Varma vs. Dr. Shiv Narain Varma [12] holds that the language of Article 31(1) and Article 21 is similar and does not apply to invasions of a right by a private individual. As a result, no writ will lie in cases where this is the case. A Constitution Bench of this Court was presented with two questions in the case of Sukhdev Singh vs. Bhagatram Sardar Singh Raghuvanshi [13]. One of the contentious issues under consideration pertained to the eligibility of an employee affiliated with a statutory corporation to avail the protective provisions of Articles 14 and 16 against the said corporation, grounded in the presumption that these statutory corporations can be classified as authorities within the

purview of Article 12. In a distinct yet concurring judgment, Justice Mathew observed that the conceptualization of the state has undergone substantial evolution in contemporary times. It is no longer adequate to perceive the state solely as a coercive mechanism wielding authoritative power. The learned Judge cited the *Marsh v. Alabama* [14] ruling of the US Supreme Court, in which a Jehovah's witness was detained for trespassing and passing out leaflets in a corporate-owned town. Despite the fact that the land in question held the status of being privately owned, the Court pronounced that municipal administration constituted a public function, and as such, the corporation's private entitlements were to be exercised in accordance with the constraints and principles enshrined within the constitution. Justice K.K. Mathew, in alignment with the *Marsh* precedent, persisted in affirming this stance by articulating the subsequent viewpoint:

"But how far can this expansion go? Except in very few cases, our Constitution does not, through its own force, set any limitation upon private action. Article 13(2) provides that no State shall make any law which takes away or abridges the rights guaranteed by Part III. It is the State action of a particular character that is prohibited. Individual invasion of individual right is not, generally speaking, covered by Article 13(2). In other words, it is against State action that fundamental rights are guaranteed. Wrongful individual acts unsupported by State authority in the shape of laws, customs, or judicial or executive proceeding are not prohibited. Articles 17, 23 and 24 postulate that fundamental rights can be violated by private individuals and that the remedy under Article 32 may be available against them. But, by and large, unless an act is sanctioned in some way by the State, the action would not be State action. In other words, until some law is passed or some action is taken through officers or agents of the State, there is no action by the State..." [15]

In *People's Union for Democratic Rights* [16] the Court held that everyone, including the contractors, are entitled to the protection of the fundamental rights granted by Article 24. The Delhi Development Authority, the Delhi Administration, and the Union of India were additionally held to have a responsibility to see that the contractors adhered to this constitutional requirement by the Court. Further, the Court iterated the international applicability of fundamental rights, including those included in Articles 17, 23, and 24. In the case of *S. Rangarajan* [17], the Madras High Court's division bench cancelled the "U" certificate given to a Tamil feature film on the grounds that it violated the reservation policy. The Tamil Nadu government backed the High Court's ruling on the grounds that a number of local organizations were pushing for its outlawation because it harmed the sentiments of those who fall under the reserved categories. The Court expressed both amusement and concern regarding the position adopted by the State Government, emphasizing that the onus rests upon the State to safeguard the fundamental right of freedom of expression, given that it is a right conferred upon individuals vis-à-vis the State itself. The Court firmly repudiated any assertion by the State contending its inability to address the issue of a hostile audience effectively. It underscored that it is the imperative and obligatory duty of the Court to forestall such predicaments and ensure the protection of freedom of expression, thereby affirming that the State must not compromise the rule of law or yield to coercion and intimidation. In the case of *Smt. Nilabati*, a distinction was drawn by the Court between two categories: (i) the *Kasturi Lal* ruling, which upheld the State's assertion of sovereign immunity in cases involving tortious acts committed by its employees, a limitation confined to the sphere of tort liability; and (ii) the State's accountability for breaches of fundamental rights, a domain in which the doctrine of sovereign immunity finds no application within the constitutional framework. The law was summarised as follows in the paragraph that includes Dr. A.S. Anand, J.'s separate but concurring opinion:

"The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power

but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting “compensation” in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making ‘monetary amends’ under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of ‘exemplary damages’ awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law [18].”

The Court noted in *Lucknow Development Authority v. M.K. Gupta* that the jurisprudential landscape within administrative law pertaining to the liability of public authorities for their arbitrary, and at times, actions exceeding the scope of their legal authority, has undergone substantial development. It is now firmly acknowledged by both this Court and the English Courts that the State bears the obligation to indemnify a citizen for losses or injuries incurred due to the arbitrary conduct of its employees.

The judgment in the prior case of *Bodhisattwa Gautam* was rendered under unique and atypical circumstances. A complaint was filed by a female college student against a lecturer for suspected violations of Sections 312, 420, 493, 496, and 498A of the Indian Penal Code. Under Section 482 of the Criminal Procedure Code, the Lecturer petitioned the High Court to dismiss the complaint. The High Court denied the motion to quash. This Court denied the Lecturer's request for special leave, and it also asked him to provide a justification for not being required to pay fair maintenance while the case was pending.

Subsequent to the determination that the fundamental rights of the women, as delineated under Article 21, had been infringed upon, and recognizing the authority of the Court to furnish a redress under Article 32, even in the case involving a non-state actor (the accused), this Court issued an order mandating the disbursement of monthly interim compensation. In *Chairman, Railway Board & Ors. v. Chandrima Das (Mrs.) & Ors* [19], this ruling was quoted with approval. As the learned amicus correctly noted, wherever it was determined that non-State actors had breached the right under Article 21, this Court has awarded damages against them. For instance, in *M.C. Mehta vs. Kamal Nath* [20], this Court dealt with a case where a firm constructed a club on the banks of the River Beas, partially using land it had leased from the government and partially by trespassing on forest territory, effectively altering the course of the River. The Court held the owner of the private motel to be liable to pay compensation towards the cost of restoring the ecology of the area by invoking the "polluter pays principle" and "precautionary principle" laid out in *Vellore Citizens' Welfare Forum v. Union of India* [21] and also applied in *Indian Council for Enviro Legal Action v. Union of India* [22]. A show-cause letter was then sent to the motel asking it to provide justification as to why it should not be required to make restitution for the environment's degradation and why no pollution fee should be imposed. In response, the motel argued before the court that even though it was permissible for this Court to award compensation in proceedings under Article 32 to those whose fundamental rights were violated, who are victims of arbitrary Executive action, or who are victims of atrocious behaviour of public authorities, the Court cannot impose any fine on those who are responsible for that action. The motel also argued that because fine is a part of criminal law, its imposition would be against Articles 20 and 21. Even though it accepted the argument in question regarding the fine component, the court ordered that a new notice be sent to the motel asking it to provide justification for not also being granted exemplary damages. Following that, this Court made the following ruling in *M.C. Mehta v. Kamal Nath*:

"In the matter of enforcement of fundamental rights under Article 21, under public law domain, the Court, in exercise of its powers under Article 32 of the Constitution, has awarded damages against those who have been responsible for disturbing the ecological balance either by running the industries or any other activity which has the effect of causing pollution in the environment. The Court while awarding damages also enforces the "POLLUTER PAYS PRINCIPLE" which is widely accepted as a means of paying for the cost of pollution and control. To put in other words, the wrongdoer, the polluter, is under an obligation to make good the damage caused to the environment [23]."

The Court held in *Consumer Education & Research Centre &Ors. v. Union of India &Ors* [24], that in appropriate cases, The Court possessed the authority to issue suitable directives to the employer, irrespective of whether it was a governmental entity, its subsidiary organization, or a private employer. Such directives were aimed at effectuating the right to life, preventing workplace contamination, preserving the environment, safeguarding the well-being of the labor force, and ensuring the availability of uncontaminated and unpolluted water for the safety and health of the general populace. In that instance, the court was discussing the diseases and occupational health risks that affect workers in the asbestos sectors. The Court stated in the Report's paragraph 29:

"...It is therefore settled law that in public law claim for compensation is a remedy available under Article 32 or Article 226 for the enforcement and protection of fundamental and human rights. ... It is a practical and inexpensive mode of redress available for the contravention made by the State, its servants, its instrumentalities, a company or a person in the purported exercise of their powers and enforcement of the rights claimed either under the statutes or licence issued under the statute or for the enforcement of any right or duty under the Constitution or the law [25]."

In *Vishaka v. State of Rajasthan* [26], the court established rules, in the absence of legislation, for the enforcement of working women's constitutional rights to gender equality and to stop sexual harassment of women at work. The case was brought to enforce working women's fundamental rights. Both governmental and private companies were required by the guidelines to respect the fundamental rights that working women are given under Articles 14, 15, 19(1)(g), and 21. In *Medha Kotwal Lele &Ors. v. Union of India* [27], the Court observed that even 15 years after the Vishaka ruling, several States still had not implemented the required changes or had not successfully put the directives into practise. The Court issued a direction in Paragraph 44.4:

"The State functionaries and private and public sector undertakings/organisations/bodies/institutions, etc. shall put in place sufficient mechanism to ensure full implementation of Vishaka guidelines and further provide that if the alleged harasser is found guilty, the complainant victim is not forced to work with/under such harasser and where appropriate and possible the alleged harasser should be transferred. Further provision should be made that harassment and intimidation of witnesses and the complainants shall be met with severe disciplinary action [28]."

The Hindu Minority and Guardianship Act, 1956, and Section 19(b) [29] of the Guardians and Wards Act, 1890, which declared the father to be the natural guardian of the person and property of a minor son and an unmarried daughter, were being challenged in *Githa Hariharan (Ms.) vs. Reserve Bank of India & Anr* [30]. According to these legislations, the mother was considered as the natural guardian "after the father". When dealing with the children, these laws made it difficult for spouses who were living apart. This Court interpreted the phrase "after" to mean "in the absence of" by interpreting the duties of the State under specific international conventions, such as Convention on the Elimination of Discrimination against Women (CEDAW), into the right to the dignity of women and gender equality, traceable to Articles 21 and 14. In order to interpret a phrase in the context of family law, this Court invoked basic rights. The Army College of Medical Sciences' policy of admitting only those who are

wards of army soldiers, based on results received in an admission exam, was challenged in *Indian Medical Association v. Union of India* [31]. The issue of whether this discriminatory action by a private entity would violate Article 15 of the Constitution was brought up for discussion. The Court stated in Paragraph 187:

"In as much as education, pursuant to T.M.A. Pai [32], is an occupation under subclause(g) of clause (1) of Article 19, and it is a service that is offered for a fee that takes care of all the expenses of the educational institution in rendering that service, plus a reasonable surplus, and is offered to all those amongst the general public, who are otherwise qualified, then such educational institutions would also be subject to the discipline of clause (2) of Article 15. In this regard, the purport of the above exposition of clause (2) of Article 15, when read in the context of egalitarian jurisprudence inherent in Articles 14, 15, 16 and Article 38, and read with our national aspirations of establishing a society in which equality of status and opportunity, and justice, social, economic and political, would imply that the private sector which offers such facilities ought not to be conducting their affairs in a manner which promote existing discriminations and disadvantages [33]."

The legality of Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 was the subject of contention in the case of *Society for Unaided Private Schools of Rajasthan*. The contention centered on the argument that this provision was in contravention of Articles 19(1)(g) and 30 of individuals who had established private educational institutions. The Court, after careful deliberation, concluded that the stipulation mandating all schools, whether public or private, to allocate 25% of their admission capacity for students hailing from disadvantaged backgrounds, was in conformity with the constitutional framework. Consequently, the Court upheld this provision.:

"The provisions referred to above and other provisions of international conventions indicate that the rights have been guaranteed to the children and those rights carry corresponding State obligations to respect, protect and fulfil the realisation of children's rights. The obligation to protect implies the horizontal right which casts an obligation on the State to see that it is not violated by nonState actors. For nonState actors to respect children's rights casts a negative duty of no violation to protect children's rights and a positive duty on them to prevent the violation of children's rights by others, and also to fulfil children's rights and take measures for progressive improvement. In other words, in the spheres of non State activity there shall be no violation of children's rights [34]."

The petitioner, a person with cerebral palsy, was insolently asked to leave a SpiceJet aircraft by the flight crew due to the disability in *Jeeja Ghosh v. Union of India* [35]. The petition was submitted in order to put in place a system that would prevent similarly situated people from experiencing such a violation of their human dignity and inequity. The Court noted the following:

"It is submitted by the petitioner that the Union of India (Respondent 1) has an obligation to ensure that its citizens are not subject to such arbitrary and humiliating discrimination. It is a violation of their fundamental rights, including the right to life, right to equality, right to move freely throughout the territory of India, and right to practise their profession. The State has an obligation to ensure that these rights are protected — particularly for those who are disabled. ..."

The Court awarded compensation to the petitioner against the private Airline on the ground that the airline, though a private enterprise, ought not to have violated her fundamental right. In *Zee Telefilms Ltd. v. Union of India* [36], this Court determined that even though BCCI does not fall under the definition of "State," it performs public duties. As a result, even in the absence of an Article 32 remedy, the aggrieved party may still seek redress before the regular courts of law or through the filing of a writ petition under Article 226. This Court made the point that a person who violates a constitutional right

cannot get away with it just because they are not a State. In *Janet Jeyapaul v. SRM University* [37], this Court applied the aforementioned reasoning to a "Deemed to be University" on the grounds that, despite being a private university, it was performing "public functions" by providing education. All of the aforementioned decisions demonstrate that the Court used horizontal impact on a case-by-case basis while into account. But this Court created a mechanism in *Justice K.S. Puttaswamy* [38] to allow the courts to have certain fundamental rules in place for handling such instances. This Court outlined the situation while reaffirming the right to privacy as a fundamental freedom:

Once we have arrived at this understanding of the nature of fundamental rights, we can dismantle a core assumption of the Union's argument: that a right must either be a common law right or a fundamental right. The only material distinctions between the two classes of right—of which the nature and content may be the same—lie in the incidence of the duty to respect the right and in the forum in which a failure to do so can be redressed. Common law rights are horizontal in their operation when they are violated by one's fellow man, he can be named and proceeded against in an ordinary court of law. Constitutional and fundamental rights, on the other hand, provide remedy against the violation of a valued interest by the "State", as an abstract entity, whether through legislation or otherwise, as well as by identifiable public officials, being individuals clothed with the powers of the State. It is perfectly possible for an interest to simultaneously be recognised as a common law right and a fundamental right. Where the interference with a recognised interest is by the State or any other like entity recognised by Article 12, a claim for the violation of a fundamental right would lie. Where the author of an identical interference is a nonState actor, an action at common law would lie in an ordinary court [39]."

"Privacy has the nature of being both a common law right as well as a fundamental right. Its content, in both forms, is identical. All that differs is the incidence of burden and the forum for enforcement for each form [40]."

Thus, the answer to this question whether a non state entity could be held liable for abrogating fundamental rights such as 19 and 21 partly found in the 9- Judge Bench decision in *Justice K.S.Puttaswamy* [41] itself. From the series of court rulings mentioned above, it is clear that after *A.K. Gopalan v. State of Madras* [42] lost its appeal, this Court broadened the scope of Article 21 to include issues related to health, the environment, transportation, education, and prisoner's lives, among other things. In *S. Krishnan v. State of Madras*, Vivian Bose, J. used poetic words to describe the circumstances:

"Brush aside for a moment the pettifogging of the law and forget for the nonce all the learned disputations about this and that, and "and" or "or ",or "may" and "must ". Look past the mere verbiage of the words and penetrate deep into the heart and spirit of the Constitution."

In conclusion the status quo of the Law that mentions that the Court can entertain writ petitions for enforcing these rights only against the State, changed over a period of time. As vehemently discussed and acknowledged in *Kaushal Kishore v. State of UP* [43]:

"The transformation was from "State" to "Authorities" to "instrumentalities of State" to "agency of the Government" to "impregnation with Governmental character" to "enjoyment of monopoly status conferred by State" to "deep and pervasive control" to the "nature of the duties/functions performed" [44].

CONCLUSION

The journey to deciphering the definition of the state under Article 12 of the Indian Constitution has been both enlightening and intricate. This article has delved deep into the constitutional provisions, judicial interpretations, and scholarly debates surrounding this fundamental concept. Through a

meticulous examination of the evolving jurisprudence, it is evident that the definition of "state" under Article 12 is not confined to the traditional government entities alone but extends to a wider spectrum of bodies and authorities that wield substantial governmental powers.

The project has underscored the vital role played by the judiciary in shaping the contours of the state, ensuring that fundamental rights are not arbitrarily abridged by entities exercising public functions. It has also shed light on the complexities and nuances in classifying various bodies as "state" or "non-state," emphasizing the need for a case-by-case analysis to determine the applicability of fundamental rights.

Furthermore, this project has highlighted the dynamic nature of constitutional interpretation, where the definition of "state" has expanded over time to accommodate the changing socio-political landscape of India. It is clear that the Indian judiciary, through its progressive decisions, has sought to uphold the spirit of the Constitution and protect the rights of citizens against the overreach of both traditional and non-traditional state actors.

In the future, the definition of "state" under Article 12 will likely continue to evolve as new challenges and complexities emerge. Scholars, jurists, and policymakers must remain vigilant in their analysis and interpretation to ensure that the principles of justice, equality, and democracy, enshrined in the Indian Constitution, are upheld for generations to come. Deciphering the definition of the state is not merely an academic exercise; it is a fundamental aspect of safeguarding the rights and freedoms of the Indian citizenry and preserving the essence of constitutional democracy.

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28. *ibid*
29. Section 19 - Guardian not to be appointed by the Court in certain cases: Nothing in this Chapter shall authorize the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian of the person - a) of a minor who is

a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or b) of a minor whose father is living and is not, in the opinion of the court, unfit to be guardian of the person of the minor, or c) of a minor whose property is under the superintendence of a Court of Ward competent to appoint a guardian of the person of the minor.

30. *Ms. Githa Hariharan & Anrv. Reserve Bank Of India & Anr* (1998) 2 SCC 228.
31. *Indian Medical Association v. Union Of India & Ors* (2011) 7 SCC 179.
32. *T.M.A.Pai Foundation & Ors v. State Of Karnataka & Ors* (2002) 8 SCC 481.
33. *Supra* note 37.
34. *Ibid*.
35. in *Jeeja Ghosh v. Union of India* (2016) 7 SCC 761.
36. *Zee Telefilms Limited & Anr. v. Union of India & Ors.* (2005) 4 SCC 649.
37. *Janet Jeyapaulv.. SRM University and others* 2015 (16) SCC 530.
38. *Justice K.S. Puttaswamy v. UOI* (2017) 10 SCC 1
39. *Ibid* para 397
40. *Ibid* para 398
41. *ibid*
42. *A.K. Gopalan v. State of Madras*, 1950 SCR 88.
43. *Kaushal Kishor v. State of Uttar Pradesh and Others*, 2023 SCC Online SC 6.
44. *Ibid*.