

Types of Writs

5 Types of Writ in Indian Constitution are issued by the high court or the Supreme Court of India in order to safeguard the fundamental rights of Indian citizens and command constitutional remedies for the people. The constitution provides writs namely, Habeas Corpus, Mandamus, Prohibition, Certiorari, and Quo-Warranto to execute the basic citizen's rights.

The Supreme Court of India under Article 32 saves the fundamental rights of people, and the High Court does the same under Article 226 through Writs in Indian Constitution. Under both of these articles, the high court and supreme court are empowered to issue the writ to enforce the right. Let us understand all of these types of writs in detail for the UPSC exam.

What is Writ?

The writ is a written order issued to prevent the infringement of fundamental rights in India. These are issued to lower courts or individual citizens. There is the right to constitutional remedies under the constitution which supports the issuance of writs. The supreme court and the [high court of India](#) are authorized to issue five types of writs, under Articles 32 and Article 226, respectively.

In fact, under Article 32, the supreme court can empower any other Court to issue the writs. But there has been no provision made so far by the court of law therefore to date only the supreme court and the high court of India can issue the writs. Earlier the high courts of Bombay Madras and Calcutta had the power of issuing these writs, but after 1950 under Article 226 all the high courts were eligible to issue the writs.

Types of Writs

The supreme court and the high court of India are authorized to issue five types of writs, under Articles 32 and Article 226, respectively. The 5 types of writs are:

- Habeas Corpus
- Certiorari
- Mandamus
- Prohibition
- Quo-warranto

Let us understand each type of writ in detail in the coming sections.

Habeas Corpus

The writ of Habeas Corpus is used to prevent the unlawful detention of people. The term Habeas Corpus is a Latin word that means 'to have a body of'. Using Habeas Corpus, the person can save the fundamental right of individual liberty.

- If one person has unlawfully arrested another person, and if a complaint is filed against the former for the detention of the latter, then the court can ask the person who has detailed the body before the court of law.
- The pre-condition for issuance of a Habeas Corpus writ by courts is that the person should have been confined and such confinement should be illegal.
- Habeas Corpus is used for safeguarding individual freedom against arbitrary state action which violates Fundamental Rights guaranteed under the Constitution.

- It is well settled that even if fundamental rights are suspended during an Emergency, the right to move the High Court under Article 226 and the Supreme Court under Article 32 is not suspended and therefore the High Court and the Supreme Court could be moved in such a situation for Writ Petition.
- Both the Supreme Court and the High Courts can issue writs of Habeas Corpus against both public and private authorities.

Mandamus

Mandamus writ is known as the command given to the lower courts issued by the superior court (Supreme Court or High Court) in the violation of the public or statutory duty. The direct meaning of the Mandamus is “We Command” which is issued to a lower court or [tribunal](#). This writ can not be issued to enforce departmental instructions or to order someone to do some discretionary work that is not mandatory under her/his duties or for a contractual obligation or against the President, State Governors, and chief justice of a high court.

The [writ of Mandamus](#) cannot be issued against:

- A private individual or private body.
- Department instruction that is not statutory.
- Cannot be issued if the job is discretionary.
- President and Governor.
- Chief justice in a judicial capacity.

Certiorari

Certiorari writ is issued by a Higher Court to the Lower court to order the transfer of its cases to it or the Higher Court can overrule the order of the lower court in the particular case. The [Supreme Court](#) in 1991 ruled that this Writ of Certiorari can be issued against public authority and also public authorities if they violate the rights of common people (in certain cases). Certiorari cannot be issued against a legislative body, individual, etc.

Certiorari means to be certified.

This type of writ is used to quash directions/orders of a tribunal or inferior courts, which has assumed jurisdiction, it does not possess, or where the order contains an error of law apparent on the face of the record.

- This type of Writ is to provide justice when a lower court exercises power over its jurisdiction or lack of jurisdiction.
- Prohibition promotes prevention while Certiorari is curative.
- The writ of Certiorari also allows the court to transfer a case from the lower court.

Prohibition

It is a Writ that is issued from a higher Court to a lower court to prohibit itself from exercising its jurisdiction beyond limits. The literal meaning of prohibition is to forbid. It directs the lower courts to be inactive for exceeding their jurisdiction.

It can only be issued against a judicial or [quasi-judicial body](#). Writ of Prohibition cannot be issued against an administrative, legislative, or private body.

Quo Warranto

The writ of Quo Warranto can be issued against the public authorities, the legality of holding public office. The meaning of Quo-Warranto is “by what warrants?” It questions authority. It is issued to restrain or refrain a person so that untitled (under the law) public office is not held by them.

- The writ of Quo-Warranto is issued to prevent the illegal usurpation of a public office by a person.
- It includes both the statutory and constitutional offices but it cannot be issued against the ministerial office.
- The Quo-Warranto is issued by the court to check if the legal claims made by a person in a public office are right or not. By this, the court protects a public office from illegal claims made by people.
- It should be noted that the Writ of Quo Warranto can be issued in the case of non-ministerial or private offices like any substantive public office which is created by statute or by law.

Writ Petition

A writ petition is filed to provide justice to the victim of injustice against fundamental rights. To file a Writ Petition in India, the aggrieved party can approach the courts as per the writ jurisdiction and present their case. Every citizen has the right. Although there is no timeline to approach the court for Writs in India, there must be a valid justification for the delay.

Who can File a Writ Petition?

Any [citizen of India](#) can file a writ petition if their fundamental rights are infringed. The important aspect to know here is that they have legal rights on the matter to do so. It is a lawful document administered by the court that orders a person to achieve a distinct action or to stop performing a specific act.

Writs in the Indian Constitution

The concept of writs has been taken from England (learn more about other [sources of Indian Constitution](#)) where it is known as prerogative writs. In England, the writs were issued in the exercise of the prerogative of the king who is still considered the Fountain of Justice. Later on, the high courts started to issue the writs as an extraordinary remedy to uphold the liberties of the Britishers.

Article 32

Writs under the constitution in Article 32 are drafted to protect the fundamental rights of people effectively, expeditiously, inexpensively, and in a guaranteed manner. Under Article 32, the only included rights are the fundamental rights.

Writs are issued to safeguard the rights. Apart from that, no other rights like customary rights, non-fundamental rights, or statutory rights are included in it. If a fundamental right is violated, then it comes under the category of sine qua non, and Article 32 can be exercised on it.

Article 226

Article 226 works the same as the supreme court does in the case of Writs. The supreme court of India is not the only authorized body to facilitate the enforcement of fundamental rights. This

article gives important [power to high courts](#) that are also vested with an equal level of powers by the supreme court.

According to this, [all high courts in India](#) are authorized to issue directions, orders, and writs of all types of enforcement for fundamental rights. This simply means that if the fundamental rights of any citizen are violated, then the victim can freely move to the high court for help, and high courts are bound to provide help to them by issuing Writs in India.

Difference Between Writ Petition of Supreme Court and High Court

Writ petition filed by the supreme court and the high court is separated by the obligations assigned to it. This is also one of the important [differences between the functioning of SC and HC](#). There are a few key differences that exist between the writs petition filed by SC and HC which are elaborated in the table shown below:

Writ Petition at Supreme Court

The Supreme Court may issue writs against a person or government throughout India's territory.

For the enforcement of only fundamental rights, the Supreme Court can issue the writs.

The Supreme Court may not refuse to exercise its writ jurisdiction because Article 32 is a fundamental right in and of itself.

Writ Petition at High Court

A high court may issue writs only against a person residing within its territorial jurisdiction or against a government or authority located outside its territorial jurisdiction.

The high court can issue Writs for any purpose.

A high court may refuse to exercise its writ jurisdiction because a remedy according to Article 226 is discretionary.

Important Judgements Against Writs Petitions

Over the years, various writs petitions are filed which brought major results helping the smooth functioning of the country. Following are the important [supreme court judgments](#) regarding the Writs of the Indian Constitution.

- **ADM Jabalpur vs. Shivakant Shukla case:** This case is also known as the Habeas Corpus case in which the Supreme Court ruled that the Habeas Corpus writ cannot be suspended even in times of emergency.
- **Barada Kanta vs. State of West Bengal case:** In the Barada Kanta V/s State of West Bengal case the Supreme Court ruled that the Mandamus Writ cannot be issued against private individuals or officials.
- **Surya Dev Rai vs. Ram Chander Rai and Others case:** In this case, it was held that only against an inferior court and not against any higher court or court of the same hierarchy, a Writ of Certiorari can be issued.

Writs UPSC Notes

The types of Writs is an important topic in the [Indian Polity Syllabus for UPSC](#) and is relevant for both UPSC Prelims and Mains exams. Candidates preparing for the upcoming UPSC Exam must cover the Writs UPSC topic exhaustively using the [NCERT books for UPSC](#) and expert-recommended UPSC Books.

Polity Books for UPSC also helps you cover all Types of Writs that are asked in the IAS Exam. Candidates can also download the [UPSC Previous Year Question Papers](#) for revision and practice.

Writs Sample Question

Question: Which of the following statements is correct regarding Article 226?

1. Article 226 of the Constitution empowers a high court to issue writs.
2. The phrase for any other purpose refers to the enforcement of an ordinary legal right.

Choose the correct option for the above statements:

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: c

Question: Issuance of the writs is related to which of the following Articles?

1. Article 21
2. Article 32
3. Article 39 A
4. None of the Above

Answer: 2