

8.6.22

Q1. Write a note on all the writs in the Indian constitution.

Ans = The Indian constitution empowers the Supreme Court to issue writs for enforcement of any of the fundamental rights conferred by Part III of Indian constitution under Article 32. Thus the power of writs is primarily a provision made to make available the right to constitutional remedies to every citizen.

In addition to the above, the constitution also provides for the Parliament to confer on the Supreme Court power to issue writs, for purposes other than those mentioned above. Similarly High Courts in India are also empowered to issue writs for the enforcement of any of the rights conferred by Part III & for any other purpose.

Types of writs:

(1) Habeas Corpus:

This writ is issued to produce a person who has been detained, whether in prison or in private custody, before a court & to release him if such detention is found illegal.

(2) Mandamus:

It is an order from the Supreme court or High court to a lower court or public authority to perform a public duty. This writ is issued when any govt., court, corporate or any public authority has to do a public duty but fails to do so.

(3) Certiorari:

The writ of certiorari can be issued by the Supreme Court for quashing the order already passed by an inferior court, tribunal or quasi-judicial authority.

(4) Prohibition:

This writ is issued when a lower court or a body tries to transgress the limits or powers vested in it. The writ of prohibition is issued to prohibit the latter from continuing the proceedings in a particular case, where it has no jurisdiction to try.

(5) The Writ of Quo-Warranto:

It is a writ issued with a view to restrain a person from holding a public office to which he is not entitled. It requires the concerned person to explain to the court ~~may issue a writ of~~ by whom



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authority he holds the office. Thus, High Court may ~~annouce~~ issue a writ of quo-warranto if a person holds an office beyond his retirement age.

Q2. Explain the hierarchy of the Judiciary System of India.

Ans =

(1) Supreme Court of India :

- Its decision are binding on all courts
- Can transfer Judges of High Courts
- Can move cases from any court to itself
- Can transfer cases from one high court to another.



(2) High Court :

- Can hear appeals from lower courts.
- Can issue writs for restoring Fundamental Rights.
- Can deal with cases within the jurisdiction of the State.
- Exercises superintendence & control over courts below it.





### (3) District Courts:

- Deals with cases arising in the district
- Considers appeals on decisions given by lower courts.
- Decides cases involving serious criminal offences.



### (4) Subordinate Courts:

- Consider cases of civil and criminal nature.

# Apart from the above structure, there are also two branches of the legal system, which are:

(1) Criminal Law: These deal with the committing a crime by any citizen/entity. A criminal case starts when the local police file a crime report.

(2) Civil Law: These deal with disputes over the violation of the fundamental rights of a citizen.

# Supreme Court has three types of jurisdiction:

- (1) Original
- (2) Appellate
- (3) Advisory.

The jurisdiction of Supreme Court is mentioned in Articles 131, 133, 136 & 143 of the Constitution.