

# PREROGATIVE WRITS

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# WHAT ARE PREROGATIVE WRITS ?


- Court-issued orders used to review, challenge, or correct decisions by government authorities, public officials, or lower courts.
- The primary purpose is to ensure that government actions adhere to the law, prevent abuse of power, and safeguard individual rights.
- They have historical origins in English common law.
- There are four main types:
  - Mandamus
  - Certiorari
  - Prohibition
  - Habeas Corpus,
  - Quo Warranto, each with a specific legal function.

# IMPORTANCE OF PREROGATIVE WRITS

- Ensuring Government Accountability.
- Safeguarding Individual Rights.
- Balancing Power.
- Preventing Legal Errors.
- Upholding the Rule of Law.



# Purpose of Prerogative writs

- Protection of Fundamental Rights.
  - Judicial Review.
  - Correction of Errors and Abuses.
  - Preventive Measures.
  - Accountability of Public Officials.
  - Preservation of Liberty.
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# Types of Prerogative Writs

- **Habeas Corpus:** This writ is used to enforce the fundamental right of individual liberty against unlawful detention.
- **Mandamus:** This writ is used by the court to order the public official who has failed to perform his duty or refused to do his duty, to resume his work.
- **Prohibition:** A court that is higher in position issues a Prohibition writ against a court that is lower in position to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess.
- **Certiorari:** This writ is issued by a court higher in authority to a lower court or tribunal ordering them either to transfer a case pending with them to itself or quash their order in a case.
- **Quo-Warranto:** Quo-Warranto can be issued only when the substantive public office



# CONDITION OF ISSUANCE

- **Existence of a Legal Right:** The petitioner must demonstrate that they possess a legal right that is being infringed upon.
- **Violation of Legal Right:** The petitioner must prove that the public authority's action or decision has resulted in the violation of their legal right.
- **Absence of an Alternative Remedy:** Prerogative writs are typically used when no other legal remedy, such as an appeal or review process, is available to address the violation.
- **Involvement of a Public Authority:** Prerogative writs are generally directed against public authorities or officials.



# PROCEDURE





# ROLE IN JUDICIAL REVIEW

## 1. ENFORCEMENT OF

### FUNDAMENTAL RIGHTS

Prerogative writs are essential tools for enforcing and safeguarding the fundamental rights of Indian citizens as guaranteed by the Constitution.

## 4. PROTECTION OF

### MINORITY RIGHTS

Prerogative writs can be instrumental in protecting the rights of minority groups and individuals who may be vulnerable to discrimination or neglect.

## 2. JUDICIAL SCRUTINY

These writs enable the judiciary to review and assess the actions of government authorities, ensuring that they conform to the principles and provisions of the Indian Constitution.

## 5. PREVENTING ABUSE OF POWER

They serve as a safeguard against the abuse of power by government officials and agencies, ensuring that they act in the public interest rather than for personal or political gain.

## 3. SOCIAL JUSTICE

The use of these writs, particularly in Public Interest Litigations (PILs), helps address systemic injustices and societal issues, thereby contributing to social justice.

## 6. TRANSPARENCY AND ACCOUNTABILITY

By invoking these writs, individuals and organizations can hold government entities accountable for their actions, promoting transparency and fairness in administration.

# HISTORY AND EVOLUTION OF PREROGATIVE WRITS

- **12th Century:** In medieval England by monarchy.
- **13th Century:** Mandamus and prohibition writs were established to compel officials.
- **15th–17th Century:** Firmly established their role in maintaining lawful government actions and protecting individual rights.
- **19th Century:** Legal reforms began to regulate and codify.
- **20th Century:** Legislative developments refined the use of prerogative writs.
- **Post-War Era (Mid-20th Century):** Rule of law and ensuring that government actions remained within legal bounds.
- **Late 20th Century:** Challenge government decisions or actions considered unlawful or beyond an official's authority.
- **21st Century:** Continue to serve as essential legal remedies in countries &



# CONTEMPORARY APPLICATIONS

## Habeas Corpus

**The petitions are frequently filed to protect individuals from illegal detention, especially in cases of human rights violations, police custody abuse, or arbitrary arrests.**

**This writ acts as a safeguard against unlawful deprivation of liberty.**

## Certiorari

**It is employed to correct errors of jurisdiction, ensuring that lower courts, tribunals, or administrative bodies act within their lawful authority.**

**In contemporary India, this is vital for maintaining the integrity of the judicial process.**

# CONTEMPORARY APPLICATIONS

## Mandamus

**It is often invoked to compel public authorities to perform their duties. It includes instances where government agencies fail to take necessary actions or decisions are unduly delayed.**

## Prohibition

**It prevent lower courts, tribunals, or authorities from exceeding their jurisdiction. In the present context, this is crucial to prevent arbitrary or unlawful exercises of power.**

## Quo Warranto

**It challenges the eligibility of individuals holding public office. This writ ensures that public positions are occupied by individuals who meet the prescribed qualifications.**



# **LIMITATIONS AND SPARING USE**

## **LIMITED SCOPE**

Prerogative writs are typically only available to challenge administrative decisions or omissions. They cannot be used to review purely legislative acts or to address private disputes. This limits their applicability.

## **COST-TIME CONSUMING**

Initiating legal proceedings involving prerogative writs can be costly and time-consuming. Legal fees, court costs, and the length of the process can deter individuals and organizations from pursuing this remedy.

## **JUDICIAL DISCRETION**

Courts have significant discretion in granting/denying prerogative writs. It is not automatic, and the court will consider various factors, including the seriousness of the legal error and the public interest.

## **POTENTIAL FOR ABUSE**

Frequent or frivolous use of prerogative writs can burden the judicial system, lead to delays in the administration of justice, and create inefficiencies in government operations.



# **LIMITATIONS AND SPARING USE**

## **LIMITED AVAILABILITY**

The availability and types of prerogative writs may vary from one jurisdiction to another. Some jurisdictions may have a more restricted use of these remedies.

their applicability.

## **PUBLIC INTEREST**

The use of prerogative writs should consider the broader public interest. It is essential to balance the need for accountability with the stability and efficiency of government operations.

## **ENCOURAGING NEGOTIATION**

Negotiation and communication with government agencies or officials can often resolve issues without resorting to prerogative writs. These alternative dispute resolution methods should be explored first.

## **NON-INTERFER ENCE**

Prerogative writs aren't meant to stifle a government official's ability to make discretionary policy decisions. Unless there is an obvious and major legal error, courts are often unwilling to review such rulings.

# CONCLUSION



**Prerogative writs play a crucial role in upholding the principles of the rule of law and ensuring government accountability. They serve as a legal mechanism to hold government authorities and officials accountable for their actions, ensuring they act within the bounds of their legal authority.**



**Prerogative writs help prevent abuse of power and protect individual rights and liberties. They provide a check on administrative discretion, ensuring that government decisions are made in accordance with established legal procedures and standards.**



**Prerogative writs are a cornerstone of the legal system, promoting the rule of law and safeguarding citizens' rights by maintaining government accountability.**



A photograph of the Indian Parliament Building (Lok Sabha) with a large white dome and a red-brown base. The building is surrounded by greenery and a statue of a person on a pedestal in the foreground. A semi-transparent blue gradient is applied over the top half of the image, and the text "THANK YOU !" is written in white, bold, sans-serif capital letters across the center.

**THANK YOU !**