

# Judicial Oversight of Administrative Action Via Writs - An Analytical Overview

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**ABSTRACT** - The Indian Constitution sets forth social and economic justice as its slogan. In order to protect fundamental rights, which are often inalienable, the High Court and Supreme Court may invoke the writ remedies provided by the Constitution. Recompense is a key component of these remedies, and it is part of the authority to grant the aggrieved party relief. This is so that it can fulfill its legal obligation to uphold the rights that are protected as well as its, moral need to provide compensation to those who suffer consequences from the violation of these rights. But there has been a significant expansion of the administrative procedure. The article covers the definition of writs, their historical context, and their use in administrative proceedings. One of the ways the Indian Constitution protects fundamental rights is through the application of writs. A right infringement gives rise to the possibility of a Supreme Court appeal. A crucial component Being able to compensate the wounded person as a component of the remedy available to them is one of these remedies. This is based on the notion that, in addition to its legal duty to defend the protected rights, the state also has a social duty to compensate individuals who are harmed when these rights are infringed. This makes sense in a state of welfare, which is essentially a bureaucratic state. The purpose of this article is to present the writers' ideas and how the country's administration will use them.

**KEYWORDS** - Administration Law, Fundamental rights, Indian Constitutions, Socio-economics, Welfare state, Writs.

## I. INTRODUCTION

The use of writs is part of the core fundamental rights which plays important role in protection provided by the Indian Constitution. Using some of the famous quotes from King Martin Luther, I'd like to begin by saying, "Injustice anywhere is a threat to justice everywhere." This implies that any injustice or wrongdoing, wherever it occurs, Will Spread Like a virus Throughout the Planet. And It Cannot Be Accepted Anywhere. All of the Justice Will Be Undone As A Result, and everyone else will be left wondering what it would take for the same injustice to be done to them. Additionally, there is a need to ensure equality for everybody and eliminate bias from the system. Thus, under Common Law, the idea of a writ was developed in order to maintain judicial oversight of administrative operations.

This unusual evolution of the writ was made by the Anglo-Saxon monarchy in antiquity and consists of a quick administrative edict, mostly There were primarily two types of writs: "Open" means everyone can read it & Closed letters are those that are only available to a specific person or persons.

If a person's rights are violated, they can use a writ to make an appeal to the Supreme Court. The ability to

recompense the harmed person as part of the relief that can be provided to them is a vital feature of these remedies. This is based on the idea that the state has a social obligation to make up for the harm done to those who suffer when their rights are violated, in addition to their legal obligation to defend such rights.

Conversely, there has been a notable expansion in a process, this makes sense in a welfare state, which is essentially a governmental state. Consequently, I explain the idea of Writs, their history, and their function in my work.

### **ORIGIN OF WRITS & HISTORICAL BACKGROUND:**

The Regulating Act of 1773, which resulted in the founding of the Indian Supreme Court in Calcutta, is where writs originally surfaced. Under the charter, a number of High Courts were formed in addition to the Supreme court and granted comparable writ jurisdiction. These powers were not granted to the other courts that were subsequently established. The scope of The initial civil authority that these judicial bodies were accorded

<sup>1</sup> Origin and Historical background of writs (1923) *JSTOR*: <https://www.jstor.org/stable/789568> (Accessed: 13 October 2023).

under section 45 of the Specific Relief Act of 1877 served as their writ power.

The English legal system gave rise to writs, including from the moots that were transferred from the English people court to the common law courts. The earliest writs laws in England were passed by the Kings Bench. Writs were considered royal commands that were issued in response to a petition presented in council to the monarch. Writs were written directives that were issued under the king's name and provided the guidelines for further actions.

But as the portions varied, so did the forms and titles of the texts. Over time, the writs were extended to common citizens in addition to being first awarded by the king for the benefit of the crown. These writs were filed under the name "Purchase of a writ," but there was a set cost associated with them. Writs have a long history, particularly in the context of the English and American legal systems. The verb "writan" an Old English term that means "to write," is the source of the word "writ." Writs were formally worded commands or directions issued by authorities to address various legal matters; they were commonly published as royal or governmental papers. A dependent component of the Supreme Court as one of the coordinate parts of the US government was evident for a significant portion of the history of its discretionary docket. For the Court to alter its jurisdiction and remove some cases from its backlog, Congress has to be consulted. In order to distinguish between writs and orders, one can say that writs are issued in situations when an aggrieved party requests an extraordinary remedy-typically in response to an administrative action-while orders can be granted in any matter.

## II. ROLE OF WRITS IN ADMINISTRATIVE ACTION:

Let's talk about the purpose of writs using the discretionary instances as an example. It is now acknowledged that modern administrative and constitutional machinery must include the delegation of discretionary authority. A law-after carefully weighing all available information. The administrative laws branch of the Law, prevents unlawful or, to put it another way, discriminatory conduct by stopping the government from executing orders that are patently incorrect.

### TYPES OF WRITS:

The Indian Constitutional Law specifies 5 different categories of writing according to the constitution of India which can be follows as:-

making body must adopt laws on any topic to further the general welfare, and in the process, it has gained the requisite powers that are subject to judicial scrutiny. The person having discretionary authority must use it honestly, only for the reasons for which it was authorized, and in accordance with the guidelines set forth by the Act. However, the courts have the authority to determine whether a legislation is reasonable. Courts usually consider two factors when making decisions: whether the statute offers procedural safeguards and if it is a piece of substantively lawful legislation. According to the fourteenth article of the constitution, the legislation is declared extra vires and invalid and illegal if one of these two requirements is not met. A significant component of administrative decision-making is the discretionary powers of the various government executives, which frequently transgress the accepted norms of administrative law. Inappropriate use of these discretionary privileges might result in Executives are unable to dodge judicial scrutiny by leaving out explanations if they mishandle, abuse, or are not utilized at all. The court may nonetheless require them to reconsider the situation in light of pertinent factors, even if their arguments may not be subject to judicial inspection for correctness, sufficiency, or satisfaction. if they offer them. The Executive is required to consider relevant criteria while making decisions. Information that is relevant should not be ignored, nor should it be given great weight if it is completely unneeded or unconnected. They ought not to err in handling a legal problem. Only that option would be acceptable. The power to verify that the Executive is operating lawfully rests with the courts. They can't avoid court scrutiny by failing to offer an explanation. If they submit reasons, even if those reasons are not good ones, the court has the authority to require even if a judge may not be able to judge the legitimacy, adequacy, or satisfactoriness of these explanations, they should reconsider the case in light of pertinent facts. Even if the Executive decides that it is not necessary to use its power, it should still do so and demonstrate that it did so only

### 1.HABEAS CORPUS:

The Latin phrase "habeas corpus" means "to have the body". The best method for ending an unlawful detention is to file a writ of habeas corpus. A person's right to personal Liberty is largely protected by this directive. If the person making the arrest unlawfully held you, you have the right to writ of habeas corpus to protect yourself. Where person is properly being held as an accused, the writ does not apply.

### GROUND:

1. The applicant has to be taken into custody.

<sup>2</sup> Types of writs (2023) legal services in india law ,E journal.  
<https://www.legalserviceindia.com/legal/article-9960-5-types-of-writs-in-indian-constitution.html>.

2. The family of the prisoner may also submit this writ. A lawsuit in the public interest may also be brought by any third party.

3. It might be informal or formal.

4. The writ of habeas corpus was granted in reaction to a letter from a fellow inmate alleging cruel treatment of the inmates.

5. Should the police officer neglect to carry out the necessary arrest protocols, this writ will be applicable. Section 56 of the Criminal Procedure Code mandates that an arrested person appear before the judge within twenty-four hours following being apprehended. In the event that the police officer disobeys, a writ of habeas corpus petition may be filed and approved.

## 2. MANDAMUS:

Mandamus is Latin for "We Command". One can utilize a writ of mandamus to direct subordinate courts to act or not. A mandamus may be issued to an organization, a board of tribunals, or any other administrative body. It is significant to remember that a private individual cannot receive a writ of mandamus. The writ of mandamus may only be granted to public offices, according to the law.

### GROUNDINGS

1. The petitioner's rights have to be violated.
2. The public servant must have forgotten to complete the necessary or mandatory assignment.
3. The petitioner's right has expired, the court may decide not to issue a writ of mandamus. The responsible authority has already completed the task

## 3. CERTIORARI:

Unlike other writs, the writ of appeal is a unique type of writ. The origin of Latin the term "certiorari" means "to inform." The certiorari writ is intended to rectify. when natural justice principles or fundamental rights are violated, higher courts may issue writs of certiorari to lower courts. This writ may be issued to remedy mistakes in records that appear to be from lower courts.

### GROUNDINGS:

1. There is legal standing for the organization or person.
2. The authority comes from responding to inquiries that affect people's rights.
3. Such an entity or individual is accountable for performing its functions in an equitable way.

4. Such an individual or organization acts illegally or outside the bounds of their power.

## 4. QUO WARRANTO:

The courts will issue a Writ of Quo Warranto to a private individual who takes an office on which he is not entitled. A powerful disincentive to people taking over positions of leadership in public life is Quo Warranto, which translates to "by what authority" in Latin.

### GROUNDINGS:

1. The status that the private individual mistook for a public one.
2. The office was established by another statute or the Constitution.
3. The tasks that come with this position are public in nature.

## 5. PROHIBITION:

In compliance with the Constitution, the Writ of prohibition is the final writ that may be issued. A Superior Court may use this Writ as an uncommon and unusual remedy to stop a lower court or tribunal from ruling on a matter that is outside the purview of the court. A judgment will be void if the court or tribunal lacks jurisdiction but still determines the matter since a legal act must be sanctioned by the law.

During the hearing of an appeal against the High Court's ruling, for example, it is certain that such activity will be forbidden since the District Court lacks the authority to review this kind of appeal. As a result, a Writ of Prohibition will be filed to overturn the District Court's ruling. What distinguishes the Writ Jurisdiction of the Supreme Court of India from that of the Higher Court?

Article 226 of the Indian Constitution gives the High Courts of India the ability to issued writs, instead of the Supreme Court's Article 32 jurisdiction. Nonetheless

### REMEDIES:

When a petition becomes infructuous, it may be dismissed under Art. 32. For example, if a petitioner in a habeas corpus case was released while the case was still pending but a writ petition was allowed to continue as a qualified habeas corpus case to determine whether the petitioner was still in custody, having a public law remedy of being entitled to compensation for unlawful detention a breach of Article 21.

A person would be granted habeas corpus under Article 32 to seek their release if the order or statute that led to their incarceration violated one of their fundamental rights, such as Articles 14, 21, or 22.

<sup>3</sup> Types of writs (2023) legal services in india law E journal. <https://www.legalserviceindia.com/legal/article-9960-5-types-of-writs-in-indian-constitution.html>.

<sup>4</sup> Remedies (22AD) LexisNexis: <https://store.lexisnexis.in/writ-remedies-remediable-rights-under-public-law?limit=75>

Under the new law, detention would not be subject to a habeas corpus challenge. Final verdict of conviction rendered by a criminal court. If the detainee is produced, the habeas corpus petition becomes ineffective. in front of the Magistrate.

### **PREROGATIVE WRIT IN INDIA:**

That historically has been known as a "prerogative writ," it instructs the actions of another arm of the government, such as an agency, official, or other court. Under English law, it had traditionally only had access to the Crown, a reflection of the monarch's extraordinary power and discretionary prerogative. The term "traditional six-part writs" may be out of date because the traditional six-part writs are sometimes referred to as "extraordinary writs" and "extraordinary remedies. The following six writs are often known as prerogative writs: a certiorari, which is an order from a higher court compelling a Lower court to provide the case file for review. a request that a prisoner appear in court to answer questions about whether or not their confinement is lawful.

A higher court has the authority to issue a mandamus to require a lower court or government official to perform their assigned tasks correctly.

prohibition is the act of directing someone to stop engaging in any unlawful behaviour.

Proceeding to judgment in a lawsuit by submitting it to a lower court is known as procedendo; quo warranto, which needs to be justified before a power is used. Furthermore, scire facias, one of the uncommon writs, was originally referred to as a prerogative writ. We no longer need to be concerned with the early evolution or procedural intricacies of these writs under English law, nor need we be burdened by discrepancies or changes in the decisions made by the courts of England in specific cases, thanks to the explicit provisions in our Constitution. As long as we adhere to the general guidelines that control the exercise of jurisdiction when it comes to granting writs of this kind under English law, we have the authority to provide orders or issue writs in the form of appeal in all pertinent cases and in a manner that is suitable.

### **HISTORY OF UNITED STATE WRITTEN LAW:**

Writs are a relic from the English common law system that are used in the United States. When it is "necessary or appropriate in aid of respective jurisdictions and agreeable to the usages and principles of law," U.S. federal courts are authorized to issue common law writs under the All-Writs Act which was first adopted in the judiciary Act of 1789. These days, the All-Writs Act is applied in cases when a legislative strategy is ambiguous or nonexistent.

Nevertheless, a number of writs by Name have been eliminated from the 1938 US districts court's civil procedures are governed by the Federal Regulations of Civil Procedure. Consequently, relief that was formerly accessible via the writ system is currently subject to the Federal Rules of Civil Procedure.

### **PREROGATIVE WRITS:**

The phrase "prerogative writs," also referred to as "extraordinary writs" or "extraordinary remedies," describes directives "issued by a court exercising unusual or discretionary power." When all other legal alternatives have been exhausted, American courts now issue prerogative writs.

Habeas corpus, which literally translates to "that you have the body," is a petition used to contest the legality of state court rulings that result in criminal convictions. In order for the court to assess whether the petitioner's arrest, trial, or sentence violated any federal laws in the United States, law enforcement officials are required by a writ of habeas corpus to bring the petitioner they are holding before the court.

When a higher court has the authority to choose whether or not to hear an appeal from a lower court, it will issue a writ of certiorari, an uncommon order. The United States Supreme Court is cited in relation to this writ the most frequently. A mandamus writ orders a higher authority, an individual, or a subordinate court to do an action. The opposite of a writ of Mandamus is a writ of Prohibition, which forbids A public entity from acting in a certain manner. This type of writ, which instructs the lower court to stop a pending action, is frequently sent by an appellate court.

When the state challenges the validity of someone holding a public office, a charter, or any other authority that may be used with official approval, they are granted a writ of quo warranto.

### **APPLICABILITY OF MANDAMUS:**

In cases where a fundamental right, such as those protected by Articles 14, 16, or 19, is violated, the writ of mandamus may be issued under Article 32. It may also be used to stop the enforcement of a statute that affects the petitioner and violates a fundamental right while also requesting ancillary relief.

For the purpose of safeguarding and upholding working women's basic human rights who are experiencing sexual harassment in this situation, a Writ of Mandamus may be granted together with the appropriate instructions.

Applicability of Prohibition:

A writ of prohibition would be issued under Article 32 to stop a quasi-judicial power from continuing when it begins to act in violation of a basic right.

<sup>5</sup> prerogative writs in india (19AD) Ballotpedia.:  
<https://ballotpedia.org/Writ>

A Supreme Court bench cannot issue a Writ of Certiorari to overturn a decision made by another Supreme Court bench or a High Court.

Applicability of Quo Warranto:

When the police were permitted to carry out their job, there was no reason to issue the writ of quo warranto.

### **CONSTITUTIONAL PROVISION:**

Article 32 and Article 226 of the Indian Constitution provide provisions for the Judicial review of administrative actions through writs and for the enforcement of basic rights. A person's constitutional right is to file a judicial complaint or grievance challenging any administrative decision. The two most crucial elements of writ jurisdictions are the safeguarding of basic liberties and the assurance of equitable treatment.

The Supreme Court and the High Court are the only courts that have the authority to issue writs. The Constitution's Articles 32 and 226 provide the supreme court and lesser courts, respectively, this authority. The right to petition the Supreme Court for the enforcement of fundamental rights protected by part III of the constitution is granted under Article 32, paragraph one, of the document.

In accordance with Art 32(2), the supreme court may provide directives, orders, or writs in the form of a Quo-warranto, Certiorari, Prohibition, Habeas Corps, or mandamus for the enforcement of basic rights.

Under Article 32(2), The Supreme Court is Empowered To Issue Directives, Orders, Or Writs Of Habeas Corpus, Certiorari, Prohibition, Mandamus, And Quo Warranto For The Purpose Of Enforcing Basic Rights.

The aforementioned directives, orders, or writs may be issued by state high courts for "any other purpose" or to enforce fundamental rights under Article 226. High courts, in particular, has the power to utilize writs not just to uphold basic rights but also to enforce "non-fundamental rights".

The Supreme Court and the High Court are therefore granted discretionary remedies by the constitution. In the absence of provision for such remedies to enforce, that nobody can exercise their allocated rights. For every right, there must be a remedy, then.

### **IN, RUDUL SHAH V. STATE OF BIHAR 1983 AIR 1086**

where in the Petitioner was detained for the death of his wife in 1953 and additionally had to serve a further 14 years in prison after being found not guilty before being freed on October 16, 1982 compelled the Court further ruled that although they wanted to respond to the cause notice swiftly, they did not do so within the allotted four months. The Muzaffarpur Central Prison warden, Shri Alakh Deo Singh, presented an affidavit in accordance

with the directive on April 16, 1983. The following order was issued by the knowledgeable additional session judge:

The accused has been found not guilty, but should remain behind bars until further orders from the state's government and the prison inspector general.

According to the court, there is no evidence to back up the jailor's assertion that the petitioner is mentally ill. The petitioner's detention was ruled to be unlawful by the court.

The court of appeals to decided that filing a petition under Article 32 of the Constitution of India to the Supreme Court under any of the privileges provided by Part III of the Act is an essential right in and of itself. The court claims that when a fundamental right is violated, the Indian Supreme Court is empowered to award compensation under Article 32 of the Indian Constitution. Apart from the rupees 5,000 that were previously provided, the State Government was mandated by the court to furnish an extra rupees 30,000 as compensation.

### **SIMILARLY, AIR 1961 SC 1457 IN DARYAO V. STATE UTTAR PRADESH**

The principle of res judicata, which holds that decisions are binding on all parties, was established in the historic case of State of Uttar Pradesh v. Daryao. The scope of the application of the res judicata principle has been broadened by the Indian Supreme Court. before this instance, petitioners invoked Article 226 of the Constitution of India to file the Writ petition before the Allahabad High Court. However, the lawsuit was dropped. Subsequently, they submitted separate petitions to the Supreme Court of India, under Article 32 of the Constitution's writ authority. The defendants objected to the petition, claiming that an Article 32 petition would be subject to the High Court's earlier ruling as res judicata. The Court of Appeals State of Uttar Pradesh v. Daryao

The famous Daryao v. State of Uttar Pradesh case established the res judicata theory. The Supreme Court of India provided an even stronger basis for the res judicata idea. in accordance with Article 226 of the Constitution of India, the petitioners in this instance filed a writ petition with the Allahabad High Court. But the complaint was withdrawn. Subsequently, they utilized the writ authority granted by Article 32 of the Constitution to separately petition the Supreme Court. In their objection to the petition, the defendants stated that in the event of an Article 32 petition, the prior decision of the High Court would be res judicata. The requests were repeatedly denied by the Supreme Court.

The court concluded that a petition filed according to the Article 32 of the Indian Constitution and is subject to the res judicata rule. An equivalent plea filed before

the High Court of India under Article 32 of the Constitution of India which would be prohibited if a petition is submitted by the petitioner under the Article 226 of the Constitution of India was denied on the grounds.

### **WRITS AND JUDICIAL REVIEW IN ADMINISTRATIVE STRUCTURE IN UK, U.S, AND INDIA: A CONUNDRUM IN LEGAL IMPLEMENTATION**

In U.S the administrative framework and the system of checks and balances in the US are greatly influenced by writs and judicial review. The ability of federal courts, particularly the U.S. Supreme Court, to examine and perhaps invalidate decisions done by the executive branch and other government agencies to make sure they comply with the Constitution is known as judicial review. One important tool The writ of certiorari is the tool the Supreme Court employs to exercise its jurisdiction over judicial reviews.

**JUDICIAL REVIEW:** The authority of the federal courts is referred to as judicial review. particularly the Supreme Court, to examine whether decisions made by the executive branch, administrative bodies, and even legislative activities are constitutional. Judgement review was first introduced in the well-known Marbury v. Madison case in 1803.

**WRIT OF CERTIORARI:** The Certiorari Writ, which the Supreme-Court of India might grant to administrative agencies, lower federal or state courts, or both, asking them to produce case records for their consideration. The Court exercises its judgment in selecting which cases to hear, so it is not a robotic procedure. This writ is an essential tool that the Court uses to carry out its judicial review authority.

**REGULATORY BODIES:** Examples of regulatory bodies are the Federal Communications Commission (FCC) and the Environmental Protection Agency (EPA), that are in charge of carrying out and upholding federal laws and regulations. In certain sectors, these agencies have the power to make rules and enforce them, although their decisions may be contested in court.

**CHALLENGES TO AGENCY ACTS:** By bringing legal action in federal courts, individuals, companies, or interest groups can contest administrative agency acts. This may entail accusations that the agency is acting arbitrarily and capriciously, that its activities go beyond its power, or both. Courts have the power to investigate these actions to ensure that they comply with both law regulations and the Constitution of India.

**LEGAL STANDARDS:** Courts apply various legal standards when reviewing administrative agency actions. These standards may include the "Chevron deference" (deference to agency interpretations of ambiguous

statutes), "arbitrary and capricious" standard (examining whether the agency's decision is reasonable), and "substantial evidence" standard (assessing whether there is enough evidence to support the agency's findings).

**Judicial Remedies:** If a court determines that an administrative agency's action is unconstitutional, illegal, or arbitrary, it can issue a range of remedies, such as ordering the agency to reconsider its decision, blocking the action, or awarding damages to affected parties.

**STARE DECISIS:** Judicial review is also impacted by the precedent-setting principle of stare decisis. The Supreme Court's previous rulings provide legal consistency and stability by acting as precedent and influencing the Court's decisions in cases that are similar to one another.

Judicial review's authority guarantees that executive branches function in accordance with the Constitution and the legislation passed by Congress. It contributes to the preservation of the balance of power in the US government by acting as a vital check on the legislative and executive branches.

In The United States, There Are a Lot of Legal Enigmas Since The Legal System Is So Intricate And Dynamic. These May Be A Few Of the Puzzles. Federal, state, and municipal laws in the United States can conflict with one another. When federal law conflicts with state law, it can lead to ambiguity and legal disputes.

**CONSTITUTIONAL INTERPRETATION:** It's never easy to interpret the United States Constitution. Application of rights and principles can get complicated when there are disagreements regarding the interpretation of constitutional provisions.

**LATEST TECHNOLOGY:** The swift progress of technology can give rise to legal quandaries. In the digital age, for instance, concerns about liability, intellectual property, and privacy are frequently intricate and changing.

**Criminal Justice:** There are always concerns regarding the fairness and equity of the criminal justice system. There are persistent problems with issues like racial inequities, the death penalty, and sentencing guidelines.

**IMMIGRATION:** The rules governing immigration are nuanced and contentious. Determining who is allowed to enter and remain in the nation, as well as under what circumstances, is a constant task, especially in light of shifting political environments.

**HEALTHCARE:** The laws and policies pertaining to healthcare have been a topic of controversy, particularly in light of discussions around the Affordable Care Act and patient access.

**ENVIRONMENTAL REGULATIONS:** It is a continuing legal challenge to strike a balance between

individual property rights, economic interests, and environmental protection.

**GUN CONTROL:** With varying opinions on the boundaries of personal freedom and public safety, interpreting the Second Amendment and regulating firearms present an ongoing legal problem.

**FREE SPEECH:** There is a continuous legal dispute about what constitutes acceptable speech, particularly in the digital era. Complex issues arise when it comes to hate speech, disinformation, and social media moderation.

**ABORTION:** There have been discussions concerning the extent of a woman's right to choose and state-level limitations around the legal status and regulation of abortion in the United States. This has been a difficult and developing subject.

The complex and varied nature of the American legal system is reflected in these puzzles, which frequently call for careful thought, legal research, and even legislative action or court rulings to resolve. It's crucial to remember that different regions may have different legal conundrums, and what is deemed a conundrum in one may not be in another.

In *Marbury v Madison* (1803)

Judicial review as a concept was first defined in this case. According to a unanimous ruling by the US Supreme Court, US Federal Courts have the authority to declare legislation void and to have them overturned if they directly violate the basic rights protected by the US Constitution. The Courts have the jurisdiction to assist in determining whether an act passed by Congress or an action carried out by the executive branch is legitimate.

*Similarly, in, the U.K judicial review and writs in the UK'S administrative structure:*

The idea of "writs" and judicial review are fundamental to the administrative system in the United Kingdom, especially when it comes to the legitimacy and equity of government activities. A court of law can hear challenges to the decisions, acts, or omissions of public authorities, including government agencies, through the process of judicial review. Through this procedure, it is ensured that government activities adhere to the legality, fairness, and reasonableness standards as well as the rule of law.

Key components of writs and judicial review in the UK administrative framework are as follows:

**HISTORICAL BACKGROUND:** The prerogative writs in common law, such as mandamus (a command to do something), certiorari (a command to quash a decision), and prohibition (a command to discontinue proceedings), are where The UK was the first country to employ writs to regulate administrative processes. These prerogative writs

have developed into contemporary judicial review procedures over time.

*Similarly, In, the Judicial Review Grounds: Judicial review may be requested in the UK for a number of reasons, such as:*

**ILLEGALITY:** Contesting decisions that are illegal or ultra vires, or outside the bounds of the law.

**IRRATIONALITY:** Contesting choices that are so irrational that they could not have been taken by any rational decision-maker.

**PROCEDURAL IMPROPRIETY:** Contesting rulings that violated natural justice principles or in which just procedures were not adhered to.

**THE COURTS' ROLE:** Judicial review heavily relies on the judiciary. Courts are in charge of examining the decisions made by administrative authorities, including the Appeal Court and the High Court. As the judiciary makes ensuring that decisions made by the administrative branch respect fundamental rights and the law.

**PRE-ACTION PROCEDURES:** Claimants are usually expected to adhere to pre-action procedures prior to starting judicial review proceedings. Prior to going to court, these protocols urge parties to interact and attempt to resolve disagreements.

**STANDING:** A judicial review is not available to everyone. In order to have "standing," a claimant must be sufficiently interested in the issue under dispute. This interest may be equitable or directly related to the law.

**REMEDY:** In the event that a court determines that an administrative action is illegal, it may declare the parties' rights, overturn the decision, or issue a required order. The claimant's situation should have been the same had the unconstitutional judgment not been made, according to the court's goal.

**STATUTORY REVIEW:** Certain statutory procedures exist for contesting government judgments in a number of areas, including planning, immigration, and environmental law, in addition to common law court review. These statutory review mechanisms frequently follow their own set of guidelines.

**THE HUMAN RIGHTS ACT OF 1998:** This law permits people to file human rights-related challenges against public agencies and incorporates the European Convention on Human Rights into UK, legislation. It has significantly changed the UK's judicial review environment.

**RESTRAINTS ON JUDICIAL REVIEW:** Although judicial review is a crucial component of the administrative system, its use is not unrestricted. For instance, many decisions are deemed non-justiciable, and

legislative sovereignty principles restrict the role of the judiciary in particular political matters

In conclusion, the UK's administrative framework relies heavily on writs and judicial review as vital instruments for enforcing accountability against public officials and guaranteeing that their decisions are just, reasonable, and lawful. These systems preserve the rule of law and safeguard citizens' rights while dealing with the government.

**THE DISCRETION CONUNDRUM:** One dilemma in judicial review is striking a balance between the need to avoid abuse of public authorities' lawful discretion and their exercise of it. Unless public authorities are acting unlawfully, courts should exercise caution when substituting their own decisions for those of public bodies. Finding the ideal balance can be difficult.

**THE CONUNDRUM OF DISCRETION:** One conundrum in judicial review is the balance between the legitimate exercise of discretion by public authorities and the need to prevent abuse of that discretion. Courts must be cautious not to substitute their own decisions for those of public bodies unless they are acting unlawfully. Striking the right balance can be challenging.

**GROUNDS FOR JUDICIAL REVIEW:** In the UK, judicial review can be demanded for a number of reasons, such as procedural irregularity, absurdity, or illegality. Each ground presents its own set of complexities and challenges when determining whether a decision or action is unlawful.

**ILLEGALITY:** This defence entails determining if the choice or conduct is beyond the scope of the public authority's authorized legal authority. Determining the limits of such powers and knowing when they are exceeded can be difficult.

**IRRATIONALITY:** Also referred to as the "Wednesbury unreasonableness" test, this standard looks at whether the conclusion is so irrational that it could never have been reached by any reasonable authority. It can be difficult to define what "unreasonableness" is.

**PROCEDURAL IMPROPRIETY:** The question here is whether the right processes were followed while making decisions. Evaluation of fairness, prejudice, and procedural mistake issues can be challenging.

**HUMAN RIGHTS AND EU LAW:** The Human Rights Convention of Europe was integrated into UK Law via the Human Rights Act of 1998. made judicial review even more intricate. Cases frequently require the courts to carefully weigh an individual's rights against the general interest.

**IMPACT OF POLITICAL FACTORS:** It is concerning that political factors may have an impact on the judicial review procedure. Some contend that in order to prevent

legal challenges to their policies and judgments, governments may attempt to restrict the reach of judicial review.

**ACCESS TO JUSTICE:** It may be difficult for individuals and smaller corporations to obtain the courts because of the costs and complexity involved in the judicial review process. There is always the dilemma of how to guarantee meaningful access to justice in the framework of judicial review.

**EVOLUTION OF JUDICIAL REVIEW:** THROUGH case law, the parameters and character of judicial review have changed over time. Because of this history, it may be challenging to forecast how the courts will rule in particular cases or whether the guiding principles of judicial review will change.

*Similarly, In, India Writs and Judicial Review Are Important Parts of India's Administrative System:*

The legal system in India is unified and integrated. The Supreme Court (SC) is apex of a pyramid that represents the Indian judiciary. District and lower courts are ranked below the SC, which is topped by the High Courts. The upper courts directly oversee the operations of the lesser courts.

The Indian legal system heavily relies on the use of writs and judicial review, both of which are grounded in the country's Constitution. This is a synopsis:

**CONSTITUTIONAL PROVISIONS:** The Writ jurisdiction of the Supreme Court and High Courts is established under Article 32 and 226 of the Indian Constitutions, respectively, People can now petition higher courts straight away to have administrative judgments reviewed and to have their fundamental rights upheld, thanks to these provisions.

**INDIA'S JUDICIAL EVALUATION PROCEDURE:** The Indian judiciary examines administrative acts, rulings, and laws to make sure they don't violate the Constitution. Examining the acts of the legislative, executive, and administrative branches falls under this category.

**GROUNDS FOR JUDICIAL REVIEW:** Like other common law jurisdictions, India has the following grounds for judicial review:

**ILLEGALITY:** Contesting acts that are illegal or ultra vires, or outside the bounds of the law.

**Irrationality:** Contesting choices that are so irrational that they could not have been taken by any rational decision-maker.

**PROCEDURAL IMPROPRIETY:** Contesting rulings that violated natural justice principles or that did not adhere to fair procedures.



**PUBLIC INTEREST LITIGATION (PIL):** A noteworthy advancement in the judicial review process in India is public interest litigation. It enables any citizen, even on behalf of others, to petition the court to seek remedies for infringements on public rights or the execution of legal obligations. PIL has been helpful in tackling many different issues, such as human rights and environmental protection.

**THE ROLES OF THE HIGH COURTS AND THE SUPREME COURT:** The Indian Supreme Court and other High Courts wield the authority of judicial review. The Writs of the Supreme Court and the High Courts are granted under Article 32 and 226 respectively. They are necessary to uphold the rule of law and protect fundamental rights.

**LIMITATIONS ON JUDICIAL REVIEW:** As a crucial part of the Indian legal system, judicial review although it has certain restrictions. There are certain issues that are not deemed subject to the separation of powers concept, which is crucial in establishing the limits of judicial involvement in matters of policy.

In conclusion, judicial review and writs are essential components of India's administrative system. They give people and groups the ability to contest administrative decisions that infringe upon their rights or go beyond what is permitted by law. The maintenance of the rule of Law, The distribution Of Power, and the conformity of governmental actions to of fundamental rights and constitutional principles are all supported by these systems.

**SIMILARLY, IN A.K. KRAIPAK V. UNION OF INIDA (AIR 1970 SC 150):**

According to the ruling of the court, determining whether an administrative authority's activity qualifies as administrative or quasi-judicial requires taking into account the type of authority granted, the people to whom it is awarded, the circumstances surrounding its grant, and the expected results. The Judicial Review of Administrative Action is one way the constitutional discipline is applied to the administrative authorities as they carry out their functions. From England, it expanded to other common law countries. It was England that introduced the idea of judicial review to India. India adopted a legal system modeled after the English prerogative, with the King's Bench court serving as the model. This made it possible for the court to have comprehensive oversight over when performing judicial or extrajudicial duties, officials' and authorities' fidelity to the law. Judicial review is a great tool for scrutinizing laws that are subjective, unjust, discriminatory, or unlawful. Judicial review is the cornerstone of constitutionalism, which advocates limited government. There are two types of administrative actions: statutory and non-statutory. The

former have the same legal force while the latter do not. Most administrative actions are subject to legal authority either by legislation or the Constitution; but, in other circumstances, such as when instructions are sent to subordinates, they may not be statutory and nevertheless be subject to disciplinary action if they are broken. Despite the fact that the majority of administrative action is optional and dependent on the subjective pleasure of the individual, the administrative power must function impartially, fairly, and appropriately. By evaluating legislative and executive actions, the courts find the golden thread of logic and significance in legislation. Along with creating and shaping laws, they also expose their appropriateness and intricacies, smooth out angularities, overturn unfair laws or unlawful acts, and-above all-exercise great moral restraint when it comes to questions of practicality.

***Conundrum In Legal Implementation: Writs and Judicial Review In Administrative In India:***

Writs are an essential part of the Indian legal system, particularly when it comes to judicial review of administrative decisions. It is not without complications, though, and implementation presents some difficulties. Here is a summary of how writs and judicial review are used in administrative affairs in India, along with certain legal implementation issues:

According to articles 32 and, 226 of the Indian constitution, respectively, The Supreme Court and High Court, of India are empowered to give writs. Among these writs are Quo Warranto, Mandamus, Certiorari, Habeas Corpus, and Prohibition. They are essential tools for reviewing administrative decisions and ensuring that basic rights are respected.

**JUDICIAL REVIEW:** The judiciary uses judicial review as a tool to assess whether decisions and acts taken by administrative bodies are lawful and constitutional. Ensuring that government acts comply with the law and the Constitution is contingent upon the effectiveness of this procedure.

**CONSTITUTIONAL FRAMEWORK:** The complexities surrounding the many provisions of the Constitution, such as There are often challenges in applying Indian law because of the Union-States power divide, the scope of fundamental rights, and the regulations controlling administrative law.

Maintaining a balance between the necessity for the court to check the actions of the administration and the principles of the separation of powers is one of the issues. Finding this balance can be challenging at times since it requires determining whether a choice is within the purview of presidential discretion or if it verges on the illegal or unconstitutional.

**REASONS FOR WRITS:** Similar to the UK, India has a number of grounds for issuing writs, including infringement of fundamental rights, illegality, irrationality, and improper procedure. The criteria for assessing these grounds may change over time as a result of court rulings, and they may be difficult to apply in particular situations.

**DELAY AND ACCESS TO JUSTICE:** The problem of delay is a significant obstacle to the legal application of judicial review in India. Years are frequently needed to conclude cases, which might reduce the review process's efficacy. The backlog of cases, complicated procedural issues, and sheer amount of litigation are all to blame for this delay.

**THE PUBLIC INTEREST LITIGATION (PIL) MOVEMENT EMERGED:** has broadened the purview of judicial review in India. Although PIL has been helpful in resolving public complaints, it has also come under fire for occasionally obfuscating the distinctions between the administration and the judiciary when it comes to matters of policy.

**POPULISM AND POLITICAL INFLUENCE:** In certain situations, political forces can have an impact on the judiciary's decisions, making it difficult to maintain the independence and objectivity of the judiciary in administrative review.

**ADMINISTRATIVE EXPERTISE:** The court may occasionally be unable to assess intricate administrative decisions due to a lack of technical knowledge, which can result in less than ideal judicial review results.

**TREATIES AND AGREEMENTS ABROAD:** India's judicial review process may encounter challenges due to its responsibilities under international treaties and agreements, which require the courts to strike a balance between national legislation and international commitments.

In conclusion, judicial review in administrative cases and the writ jurisdiction in India are important tools for maintaining The Rule Of Law and defending Individual liberties of but they are not without difficulties and complexities. The legal application of judicial review in India continues to face difficulties in maintaining objectivity in the face of political interference, addressing delays, and striking the correct balance between the powers of various levels of government.

### III. CONCLUSION

Prerogative writ jurisdiction is only provided by the Constitution for review by the courts of administrative action; such power is undoubtedly Flexible but has no Limitation.

Nonetheless, the 'Freedom of choice' must be Exercised in Compliance with Accepted Laws and Regulations. In this

context, it is important to stress that the rule of law that is, the lack of arbitrary power lays down the foundation for the Whole legitimate system.

In an 'administrative structure' that maintains the rule of law, discretionary authority must be delegated to the legislative and executive branches, based on well-defined parameters.

Furthermore, letters, postcards, telegrams, and even newspaper articles vice-versa may be submitted as petitions for writs to both the Supreme Court and the High Court of India under 'Articles 32 and 226' of the Indian constitution. These petitions provide exceptional legal remedies to the individual to those whose rights are being violated by the court or quasi judicial order. PIL is an important to the legal system because it gives the 'economically and socially' disadvantaged some of whom might not even be known to it of their rights a route to justice.

The law is the 'highest authority', and no individual is above the law, stated to the Constitution of India. Even the supreme court justices must abide by the rulings they make when applying the law. In addition, the statutory remedies outlined in the constitution also serve as a systemic equilibrium. As a result, the writ jurisdictions depend as an judicial restraints on bizarre, unfair, and harmful decisions made by our governments.

The power to issue a writ is unrestrained, but it can only be applied only in accordance with legal principles that are sound. The lack of arbitrarily exercised power is a fundamental basic requirement for the principle of law, which forms the base of the whole constitutional and democratic system. From this vantage point, the 'Rule of Law' implies that the judgment or the discretion must be founded on a set of rules and guidelines. Generally speaking, the choice should be predictable and everyone should be aware of his existence. If a decision is made without considering any norms or standards, it is arbitrary and not in complying with the rule of law. Everyone is perfect since the state's greatest law is the law of the land. The judgments the Supreme Court makes on writ petitions become the official laws of the nation, and even the justices of the Supreme Court are governed by the law. Therefore, the document's constitutional remedies serve as a check on and uphold the legal limits on the actions of the government. The court system or the rule of law is crucial in our nation. Judges' assessments of administrative acts are known as writ jurisdictions. The judiciaries are on guard all the time to make sure that every administrative operation is done legally. As a result, When decisions are made concerning public policy that are irrational, unjust, or go against the interests of society as a whole, the writ jurisdictions serve as judicial checks.

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