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## **PARDONING POWER OF THE PRESIDENT**

### **INTRODUCTION**

One of the most important parts of the Indian constitutional structure is the President's ability to pardon, reprieve, relieve, or remit punishment. The President of India has the discretionary right to pardon, which is stated in Article 72 of the Indian Constitution. This power can be used in situations where justice or mercy is required. Nonetheless, there has been discussion, examination, and criticism surrounding the use of this authority. According to Article 72 of the Indian Constitution, the President may pardon, reprieve, respite, or remit penalty, as well as suspend, remit, or commute the sentence of any individual found guilty of any crime. The President may take into account a number of considerations, such as the type of offence, the offender's background, and the public interest, using this discretionary power, which is unrestricted. This power was included into the Indian Constitution by its framers, who were influenced by several legal traditions and ideas. The drafting committee took into consideration the significance of giving the President this authority in order to maintain a balance between justice and mercy, as the arguments in the Constituent Assembly make clear. The President has broad pardoning authority that includes pardons, reprieves, respites, remissions, and commutations, among other types of mercy. A reprieve involves temporarily stopping the execution of a punishment, whereas a pardon involves the full remission of the sentence and the restoration of the offender's rights and privileges. While remission entails the mitigating of the sentence, respite refers to the decrease of a sentence. Commutation, on the other hand, involves the substitution of a less severe punishment for a more severe one.

## **SCOPE OF ARTICLE 72 OF THE INDIAN CONSTITUTION**

A vital clause in the Indian Constitution, Article 72, gives the President of India the authority to pardon, reprieve, respite, or remit punishment, as well as to suspend, remit, or commute the sentence of anyone found guilty of crimes. This crucial constitutional clause gives the president of state the authority to decide what constitutes mercy and justice, so creating a process for executive clemency. The Indian Constitution lays down:

*Article 72- "Power of President to grant pardons etc. to suspend, remit or commute the sentences of any person convicted of any offence."*<sup>1</sup>

This article gives the president the authority to pardon, reprieve, etc. in circumstances when a person has been sentenced by a court, including a court martial, but not before. A pardon could be unconditional or restricted. It is conditional in that it becomes void when a certain occurrence occurs, or it becomes active only after the granter carries out a certain act. A pardon releases the individual from all childhood and from any statutory or other disqualifications that may have resulted from their conviction. The pardoning authority may be used at any point following the commission of an offence, including before, during, and after conviction. It can even be used before or after legal procedures are filed.

Nature and Scope of Power – Besides a pardon the President can also grant:

1. reprieves - a temporary suspension of the punishment fixed by law;
2. respites- postponement to the future the execution of a sentence;
3. commutation- changing a punishment to one of a different sort than that originally proposed;
4. remission- reduce the amount of punishment without changing the character of punishment.

The inference of Article 72 is that it vests a discretionary power in the President, giving them the authority to review and intervene in individual cases where justice or mercy may require an exception to the normal course of legal proceedings. The language of the article is broad,

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<sup>1</sup> The Indian Constitution

allowing for various forms of clemency, such as pardons (complete remission of the sentence), reprieves (temporary suspension of execution), respites (reduction of a sentence), and remissions or commutations (reduction or substitution of a sentence). The scope of Article 72 is wide-ranging, encompassing the power to intervene at different stages of the criminal justice process.

The President can consider factors such as the nature of the offense, the character of the offender, and the public interest in making decisions related to pardons or commutations. This broad discretion, however, has been a subject of criticism, as it lacks specific guidelines, potentially leading to subjective and arbitrary decisions.

## **CONCLUSION**

In conclusion, the pardoning power of the President in Indian constitutional law is a complex and multifaceted aspect that requires scrutiny. While it serves as a mechanism for mercy and justice, the lack of specific guidelines, the potential for political influence, and the impact on judicial independence raise valid concerns. A critical review of this power reveals the need for reforms to strike a balance between the discretionary authority of the President and the principles of justice, accountability, and transparency. As India evolves, so too must the mechanisms that govern the exercise of executive clemency to ensure that they remain in harmony with the values enshrined in the Constitution. However, its applicability and exercise are subject to certain considerations and limitations. Furthermore, Article 72 must be used carefully even though it plays a vital role in maintaining the concepts of mercy and justice and acting as a safety valve in extraordinary situations.

It is crucial to strike a balance between the President's discretionary power and the requirements of responsibility, openness, and respect for the law. To overcome the limits and make sure that the application of Article 72 is in line with the fundamental ideals established in the Indian legal system, ongoing discussions and possible amendments may be required.