



Pardoning Powers of President in India

[Source: IE](#)

Why in News?

Recently, the US President Joe Biden issued a '**full and unconditional pardon**' for his son, Hunter Biden, who faced sentencing for illegally owning a firearm while using drugs and for tax-related offenses.

- This ignited discussions about the [pardon power of the president in India](#).

What is the Pardon Power of the President in India?

- **Pardon Powers:** [Article 72 of the Indian Constitution](#) gives the **President of India** the power to **grant pardons, remit or commute sentences, grant respites or remissions of punishment, or relieve the sentence** of any person convicted of an offense in cases where:
 - The punishment is by a [Court Martial](#).
 - The sentence involves [capital punishment \(death sentence\)](#).
 - The conviction is for offenses under **Union laws**.
- **Significance:** This power ensures that the **president can remedy potential judicial errors or exercise clemency** in situations requiring humanitarian considerations.
- **Limitations:** The President cannot exercise this power independently. Decisions must align with the advice of the **Council of Ministers**.
 - This principle was upheld by the [Supreme Court \(SC\) of India](#) in landmark cases such as:
 - **Maru Ram vs Union of India, 1980:** The SC held that the power to grant pardons must be exercised fairly, reasonably, and without arbitrariness, ensuring justice and balance.
 - **Kehar Singh v. Union of India, 1988:** The SC held that the President's pardoning power is independent of the judiciary, but it can be reviewed to ensure procedural fairness. The review focuses on adherence to constitutional principles and procedural requirements, not the merits of the decision.

| Clemency Type | Definition |
|--------------------|-----------------------------------------------------------------------------------------------------------------|
| Pardon | Removes both the sentence and the conviction, absolving the convict from all punishments and disqualifications. |
| Commutation | Substitutes one form of punishment for a lighter one. |
| Remission | Reduces the period of a sentence without changing its nature. |
| Respite | Awards a lesser sentence due to special circumstances like physical disability or pregnancy. |
| Reprieve | Temporarily stays the execution of a sentence to allow time to seek pardon or commutation. |

Note

The Governor of a state exercises pardoning powers under **Article 161**, though with limitations compared

to the President's power.

- The Governor can pardon, reprieve, respite, remit, suspend, or commute the punishment or sentence of anyone convicted of an **offence under State law**.
- The Governor can suspend, remit, or commute a death sentence, **but cannot pardon it**.
- The President can grant pardon in cases involving a **Court Martial**, but Article 161 does not grant this power to the Governor.

Presidential Pardon of the US

- The US Constitution grants the president the power to “grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.”
- This executive power applies exclusively to federal crimes and does not extend to state-level offenses or impeachment cases.

PDF Reference URL: <https://www.drishtiias.com/printpdf/pardoning-powers-of-president-in-india>

