Polity & Governance · GS - II

Compare and contrast the President's power to pardon in India and in the USA. Are there any limits to it in both the countries? What are preemptive pardons?

EXAM YEAR	PAPER	SUBJECT
2025	GS - II	Polity & Governance

MARKS	WORD LIMIT
10	~150 words

Answer Hint

Article 72, Article II Section 2, pardon, reprieve, remission, commutation, federal offences, impeachment, judicial review, pre-conviction pardon, Nixon

Model Answer

Introduction

Pardon is an executive clemency mechanism intended to temper the rigidity of criminal justice. India and the USA both vest significant clemency powers in their Presidents, but their constitutional structures differ.

1. India

Under Article 72, the President may grant pardon, reprieve, respite or remission, and suspend, remit or commute sentences in cases involving court-martial, Union executive matters and all death sentences. The President exercises this power on the aid and advice of the Council of Ministers under Article 74. Judicial review is available on limited constitutional grounds such as mala fide exercise or irrelevant considerations.

2. USA

Article II, Section 2 empowers the President to grant reprieves and pardons for federal offences, except cases of impeachment. The power does not extend to state offences or civil liabilities.

3. Preemptive pardons

A preemptive pardon is granted after an offence has allegedly been committed but before formal prosecution or conviction. President Ford's pardon of Richard Nixon is the classic example; US constitutional interpretation permits a pardon before formal proceedings, provided the offence has already been committed.

Conclusion

Thus, both systems recognise broad clemency, but India's power operates within a parliamentary framework, while the US President exercises an independently vested federal clemency power.

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