Polity & Governance · GS - II

Examine how judicial review and procedural fairness can prevent the arbitrary exercise of executive powers in granting remission to convicted prisoners.

EXAM YEAR	PAPER	SUBJECT
DAILY PRACTICE 26/11/2026	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

Articles 72 and 161, remission policy, rule of law, judicial review, victim participation, Article 21, equality before law, prison reforms

Model Answer

Remission is an important component of criminal justice that allows the executive to reduce the period of imprisonment under prescribed conditions. However, its exercise must remain consistent with constitutional principles and the rule of law.

Constitutional and legal framework

1. **Article 72:** The President has the power to grant pardons, reprieves, respites and remissions in specified cases, including certain death sentences.

2. **Article 161:** The Governor exercises similar powers in matters within the executive domain of the state, subject to constitutional limitations.

3. **Statutory framework:** Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 provides for suspension, remission and commutation of sentences, alongside applicable restrictions.

Importance of judicial oversight

1. **Preventing arbitrariness:** Courts can examine whether remission decisions are based on relevant considerations, applicable rules and non-discriminatory standards.

2. **Maintaining consistency:** Governments must apply remission policies fairly rather than create arbitrary exemptions for particular individuals or categories.

3. **Protecting victims' interests:** Victims and their families should receive appropriate procedural consideration, especially where their rights are directly affected by remission decisions.

4. **Preserving public confidence:** Transparent decisions strengthen faith in criminal justice institutions and prevent executive discretion from undermining judicial sentences.

Balancing reform and accountability

Remission should recognise rehabilitation, good conduct, age, health and prospects of reintegration. At the same time, serious offences require careful consideration of public safety, the nature of the crime and the interests of victims.

Conclusion: Remission is a legitimate instrument of humane criminal justice, but it cannot become an arbitrary executive privilege. Judicial review, transparent criteria and procedural fairness are essential to uphold constitutional accountability.

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