

3. Mercy Petition- Polity

The Oman visit is more than a routine diplomatic trip President Droupadi Murmu's recent rejection of a mercy petition underscores the executive's constitutional power to correct judicial errors, a process now streamlined under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to ensure strict timelines and procedural fairness.

Recent Presidential Action

Rejection of Petition- President Droupadi Murmu has rejected the mercy petition of Ravi Ashok Ghumare.

Case Details- The convict was found guilty of kidnapping, raping, and killing a two-year-old girl in Maharashtra in 2012.

Significance- This action highlights the use of executive clemency as a final recourse in the Indian justice system, particularly for capital punishment cases.

Mercy Petition

Definition- It is the **final constitutional remedy** available to a convict after all judicial avenues (such as appeals, review petitions, and curative petitions) have been exhausted.

Mechanism- It is a formal request made to the Head of State (President or Governor).

Purpose- Acts as a fail-safe mechanism to correct potential judicial errors. Provides a humane approach by considering factors beyond the strict scope of the law.

Constitutional Basis for Clemency Powers

The Constitution provides pardoning powers under specific articles for the President and the Governor.

Feature	President of India (Article 72)	Governor of a State (Article 161)
Jurisdiction	Extends to offences against Union Laws.	Extends only to offences against State Laws.
Court-Martial	Can grant pardon in cases where punishment is by a Military Court (Court-Martial).	Has no power to intervene in Court-Martial cases.
Death Sentence	Holds the exclusive power to pardon a death sentence.	Cannot pardon a death sentence; can only suspend, remit, or commute it.

Types of Pardoning Powers

The executive authority can exercise clemency through five distinct methods-

Pardon- Completely absolves the convict from all sentences, punishments, and disqualifications. Restores the individual to their original, innocent position legally.

Commutation- Substitutes one form of punishment for a lighter form. Example Converting a death sentence to life imprisonment.

Remission- Reduces the duration of the sentence without changing its character. *Example-* Reducing 10 years of rigorous imprisonment to 5 years of rigorous imprisonment.

Respite- Awards a lesser sentence than originally prescribed due to special facts. Grounds Physical disability of the convict or pregnancy of a woman offender.

Reprieve- Implies a temporary stay of the execution of a sentence (specifically a death sentence).

Purpose- Allows the convict time to seek a formal pardon or commutation.

Constitutional Philosophy

Correction of Judicial Errors- Recognizes that the judicial process is not infallible and serves as a final check against the miscarriage of justice.

Humanitarian Grounds- Allows the executive to consider non-legal factors such as the convict's age, health, mental condition, or post-conviction conduct.

Procedure under Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

The BNSS, 2023, which replaced the CrPC, has codified and streamlined the mercy petition process under Section 472.

Filing Deadline- A mercy petition involving a death sentence must be filed within 30 days of the

Supreme Court dismissing the appeal or the High Court confirming the sentence (if no appeal is filed).

Role of Government- The Ministry of Home Affairs (acting for the Central Government) receives the petition. It seeks comments from the concerned State Government and examines the case records.

Time-Bound Recommendation- The Ministry of Home Affairs must submit its recommendation to the President within 60 days of receiving the State Government's comments.

President's Decision & Communication- There is no specified time limit for the President to make a decision. However, once a decision is made, the Central Government must communicate it to the jail authorities within 48 hours.

Finality of Decision- Section 472(7) states that the President's decision on a mercy petition shall be final. No appeal shall lie in any court against this order.

Judicial Intervention & Key Rulings

While the President's decision is constitutionally final, the Supreme Court retains the power of Judicial Review over the *process*, not the *merits* of the decision.

Executive Function (Maru Ram vs Union of India, 1980)- The Court clarified that this power is exercised on the aid and advice of the Council of Ministers, not as a personal discretion of the President.

Act of Grace (Kehar Singh vs Union of India, 1989)- Ruled that pardon is an "act of grace," not a right. Judicial review is allowed only if the decision is arbitrary, irrational, mala fide, or discriminatory.

No Extraneous Factors (Epuru Sudhakar vs Govt of AP, 2006)- The Court ruled that the pardoning power cannot be based on extraneous factors such as political reasons, caste, or religion.

Conclusion

The mercy petition serves as a constitutional "safety valve," balancing legal rigidity with executive clemency. The introduction of the BNSS, 2023 has brought necessary structure to this process, ensuring that while the power to forgive remains, it is exercised within a defined, fair, and time-bound framework.

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