BLOGS

Procedure for Impeachment of President in India

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Understanding the President’s Role

In both parliamentary and presidential systems, the president stands as a symbolic figure embodying a nation’s dignity and integrity. With substantial powers, there’s a recognition that these powers, if misused, could be detrimental. Hence, many countries have provisions for the impeachment of their presidents to check any potential misuse of these powers. The procedure for this is typically outlined in their respective constitutions.

The President of India, also known as the President of the Republic of India, serves as the Head of State of the Republic of India. **Article 54 of the Indian Constitution** details the electoral process of the president, involving an Electoral College comprising elected members of both Houses of Parliament and Legislative Assemblies of the States.

Grounds and Procedures

Impeachment in India is triggered solely on the grounds of “violation of the constitution,” as articulated in **Article 56(1)(b) of the Indian Constitution**. **Article 61** delineates the detailed

procedure for impeachment. The initiation can occur in either house, necessitating charges signed by at least 1/4 of the members. A 14-day notice is given to the President, followed by a resolution vote requiring a special majority of not less than two-thirds of the total membership of the House. The other house then investigates the charges, presided over by its respective officer.

Impeachment Proceedings

If the investigation house, through a special majority of at least 2/3rd of its total membership, sustains the charges, the president is removed from office from the date of passing the resolution. Notably, **Article 61(3)** grants the President the right to appear and be represented during the investigation, aligning with the principle of Audi alterum partum. Importantly, this provision has never been exercised to date.

Interpreting "Violation of the Constitution"

The **Constitution's ambiguity** regarding "violation of the Constitution" has raised questions about its definition. The term lacks explicit elucidation within the Constitution, leaving room for broad interpretation. Suggestions to refine it by incorporating specific instances such as "treason, bribery, or other high crimes and misdemeanours," similar to the American Constitution, have been debated. **Dr. Ambedkar argued** that the phrase is comprehensive enough to encompass these acts, including the violation of the president's oath.

While the Constitution doesn't explicitly define what constitutes a violation, an act that's unconstitutional is inherently violative. This broadens the scope, encompassing acts akin to treason, bribery, high crimes, misdemeanours, and any infringement of fundamental rights.

The phrase "violation of the Constitution" encompasses various dimensions, including acts contrary to the basic structure, fundamental rights, and any actions deemed unconstitutional. It serves as the foundational principle guiding the impeachment process, ensuring the President upholds the integrity and principles of the Indian Constitution.

Conclusion

The process of impeachment of President in India, hinged on the charge of "violation of the Constitution," serves as a vital mechanism to maintain the sanctity of the highest office and ensure adherence to constitutional principles. Despite lacking a precise definition, this charge

encompasses various acts, ensuring a broad scope that includes offences against the fundamental tenets of the Constitution. Supported by legal precedents emphasising the Constitution's fundamental structure, this process reinforces the accountability and responsibility inherent in the President's role. Ultimately, it stands as a symbolic shield, upholding the integrity of the nation's democratic framework and the principles enshrined in its Constitution.