



Article 355 & Breakdown of Constitutional Machinery

For Prelims: Breakdown of constitutional machinery, National Emergency, Constitutional Emergency, Financial Emergency.

For Mains: Indian Constitution, Emergency Provisions, Type of Emergencies.

Why in News?

Citing post-poll violence in **Birbhum district, West Bengal**, many political leaders have urged the president to invoke **Article 355 of the Constitution** to ensure that the state government functions in accordance with the provisions of the Constitution.

- The petitioner has asked for imposition of **Article 355** on account of **breakdown of constitutional machinery**.

What is Article 355?

- Article 355 refers to the provision in the Constitution that states that “It shall be the duty of the **Union to protect every State against external aggression and internal disturbance** and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution”.
- The Article 355 is part of [emergency provisions](#) contained in **Part XVIII of the Constitution of India, from Article 352 to 360**.

What is the Relation Between Article 356 and Article 355?

- It is this duty in the performance of which the centre takes over the government of a state under [Article 356](#) in case of **failure or breakdown of constitutional machinery in a state**.
- This is popularly known as **‘President’s Rule’**.
- **Grounds of imposition:** the president’s ruler can be proclaimed under Article 356 on two grounds:
 - **Article 356** empowers the **President to issue a proclamation** if he is satisfied that a situation has arisen in which the government of **a state cannot be carried on in accordance with the provisions of the constitution**.
 - **Article 365** says that whenever a **state fails to comply with or to give effect to any direction from the centre**, it will be lawful for the President to hold that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the constitution.
- **Parliamentary approval and duration:** A proclamation imposing the president's rule must be approved by both the **houses of parliament within two months** from the date of its issue.
- **Consequences of the President’s rule:** The President acquires the following extraordinary powers when the President’s rule is imposed in a state:
 - He can take up the **functions of the state government and powers vested in the governor** or any other executive authority in the state.

- He can declare that the **powers of the state legislature are to be exercised by the parliament.**
- He can take all other necessary steps including the **suspension of the constitutional provisions relating to any body or authority in the state.**
- **Scope of judicial review:** The **38th Amendment act of 1975** made the satisfaction of the President in invoking **Article 356 final and conclusive** which would not be challenged in any court on any ground.
 - But, this provision was subsequently deleted by the **44th Amendment Act of 1978** implying that the satisfaction of the President is not beyond **judicial review**.

What are Emergency Provisions?

- These provisions **enable the Central government to meet any abnormal situation effectively.**
- **Emergency Provisions** in Indian Constitution are **taken from Government of India Act 1935.**
 - However, suspension of Fundamental Rights during emergency is taken from **Weimer (German) Constitution.**
- The rationality behind the incorporation is to safeguard the **sovereignty, unity, integrity and security of the country**, the democratic political system and the Constitution.
- The Constitution stipulates three types of emergencies:
 - **National Emergency**
 - **Constitutional Emergency**
 - **Financial Emergency**

What Is a National Emergency?

- National emergency can be **declared on the basis of war, external aggression or armed rebellion.** The Constitution employs the expression '**proclamation of emergency**' to denote an emergency of this type.
- **Grounds of declaration:**
 - Under **Article 352**, the president can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
 - The President **can declare a national emergency even before the actual occurrence** of war or armed rebellion or external aggression
 - When a national emergency is declared on the **grounds of 'war' or 'external aggression', it is known as 'External Emergency'.**
 - On the other hand, when it is declared on the **grounds of 'armed rebellion', it is known as 'Internal Emergency'.**
 - This term 'armed rebellion' is inserted from the **44th amendment.** Before this term it was known as internal disturbance.

What is a Financial Emergency?

- **Grounds of declaration: Article 360** empowers the president to proclaim a Financial Emergency if he is satisfied that a **situation has arisen due to which the financial stability or credit of India or any part of its territory is threatened.**

What is the impact of Emergencies on Fundamental Rights?

- Articles **358 and 359** describe the effect of a National Emergency on the **Fundamental Rights.** These two provisions are explained below:
 - **Suspension of Fundamental rights under Article 19:** According to Article 358, when a proclamation of **National Emergency is made, the six fundamental rights under Article 19 are automatically suspended.**
 - **Suspension of other Fundamental Rights:** Under **Article 359**, the President is authorised to suspend, by order, the right to move any court for the enforcement of Fundamental Rights during a National Emergency.
 - However it should be noted that Fundamental Rights are **not affected during President's Rule**

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Q. During which Five Year Plan was the Emergency clamped, new elections took place and the Janata Party was elected? (2009)

- (a) Third
- (b) Fourth
- (c) Fifth
- (d) Sixth

Ans: (c)

Q. Which of the following are not necessarily the consequences of the proclamation of the President's rule in a State? (2017)

1. Dissolution of the State Legislative Assembly
2. Removal of the Council of Ministers in the State
3. Dissolution of the local bodies

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

Ans: (b)

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