



1975 Emergency and its Impact

For Prelims: Breakdown of constitutional machinery, [National Emergency](#), [Constitutional Emergency](#), Financial Emergency.

For Mains: [Indian Constitution](#), Emergency Provisions, Type of Emergencies

Source: ET

Why in News?

Recently, the [Prime Minister](#) of India has paid homage to all those great men and women who resisted the [National Emergency](#) of 1975.

- 25th June **2024** marked the **49th anniversary** of the declaration of the national emergency in India.

What is an Emergency?

- **About:**
 - It refers to **legal measures and clauses within a country's constitution or laws** that enable the government to respond swiftly and effectively to **extraordinary situations, such as war, rebellion, or other crises** that threaten the nation's stability, security, or **sovereignty and democracy of India.**
- **Provisions in Constitution:**
 - These provisions are outlined in **Article 352 to Article 360** under [Part XVIII](#) of the Constitution.
 - The emergency provisions in the Indian Constitution draw inspiration from **Germany's Weimar Constitution.**

Articles	Subject Matter
Article 352	Proclamation of Emergency
Article 353	Effect of Proclamation of Emergency
Article 354	Application of provisions relating to the distribution of revenues while a Proclamation of Emergency is in operation
Article 355	Duty of the Union to protect States against external aggression and internal disturbance
Article 356	Provisions in case of failure of constitutional machinery in States
Article 357	Exercise of legislative powers under proclamation issued under Article 356
Article 358	Suspension of provisions of Article 19 during Emergencies

Article 359	Suspension of the enforcement of the rights conferred by Part III during Emergencies
Article 360	Provisions as to Financial Emergency

▪ **Significance:**

- These provisions usually **give the executive branch temporary authority to bypass standard legislative procedures**, limit certain rights and freedoms, and implement policies that would ordinarily fall outside its jurisdiction under normal conditions.

What are the Types of Emergency in the Indian Constitution?

▪ **National Emergency (Article 352):**

- Under Article 352, the President is empowered to declare a state of emergency if he is satisfied that the **security of the country or any part** thereof is **threatened** by **war, external aggression (External Emergency)**, or armed rebellion (Internal Emergency).
 - The term **'armed rebellion'** was inserted by [the 44th amendment](#) replacing **internal disturbance**.
- The declaration grants the **executive vast powers to suspend fundamental rights (except Articles 20 and 21)**, allowing the government to take necessary measures to address the crisis effectively.

▪ **Duration and Parliamentary Approval:**

- The proclamation of emergency **must be approved by both the houses of Parliament** within **one month from the date of its issue**.
 - However, if the proclamation of emergency is issued at a time when the **Lok Sabha has been dissolved** without approving the proclamation, then the **proclamation survives until 30 days from the first sitting of Lok Sabha** after its reconstitution, provided the **Rajya Sabha** has in the meantime approved it.
- If approved by both the houses, the **Emergency continues for 6 months** and can be extended to an **indefinite period** with an **approval of the Parliament for every six months**.
- Every resolution approving the **proclamation of emergency** or its continuance must be passed by either House of Parliament **by a special majority**.

▪ **Revocation of Proclamation:**

- A proclamation of Emergency may be **revoked by the President** at any time by a subsequent proclamation. Such proclamation **does not require parliamentary approval**.
- The emergency must be revoked if the **Lok Sabha passes a resolution by a simple majority** disapproving its continuation.

▪ **Applicability of National Emergency:**

- A proclamation of National Emergency may apply to the **entire country or only a part of it**.
 - The **42nd Constitutional Amendment Act of 1976** enabled the President to **limit the operation of a National Emergency** to a specific part of India.

▪ **Judicial Review of National Emergency:**

- **38th Constitutional Amendment Act of 1975:** It made the declaration of a National Emergency immune to judicial review.
- **44th Constitutional Amendment Act of 1978:** It repealed this provision of the 38th Amendment, thereby **restoring the judiciary's ability to review the declaration of a National Emergency**.
- [Minerva Mills Case, 1980](#): In this the **Supreme Court** ruled that the proclamation of a National Emergency **can be challenged in court** on grounds of **malafide intent** or if the declaration was based on extraneous or irrelevant facts.

▪ **State Emergency or President Rule (Article 356):**

PRESIDENT'S RULE

WHAT IT MEANS

HOW CAN IT BE IMPOSED IN A STATE

- 1 On recommendation of Governor in case of failure of constitutional machinery
- 2 If a state legislature is unable to function according to constitutional provisions



EXECUTIVE AUTHORITY
Exercised through the centrally appointed Governor



PARLIAMENT'S ROLE
Every such proclamation must get Parliament's approval within two months from date of issue

Article 356 of the Indian Constitution has the provision of President's Rule



DURATION

6 months



A maximum of 3 years by approval of Parliament after every 6 months



TERMINATION

By President, any time (s)he deems fit; does not need Parliament's approval

A NEW PROVISION

The 44th Constitutional Amendment 1978 states that the President's Rule can't be imposed in any state beyond 1 year unless

- 1 A Proclamation of National Emergency is in operation
- 2 The Election Commission certifies that the continuance of President Rule is necessary to hold Assembly elections

Some of many Examples of Imposition of President Rule:

- **Maharashtra (2019):** It was imposed for a short period following political uncertainty after the assembly elections, but a new government was formed within a week.
- **Uttarakhand (2020):** It was imposed for a similar short duration due to a political crisis involving a floor test in the assembly.
- **Uttar Pradesh (1991-1992):** Imposed following the assassination of then Prime Minister Rajiv Gandhi and subsequent political instability.
- **Punjab (1987-1992):** Imposed due to heightened militancy and internal disturbances.
- **Scope of Judicial Review**
 - The Supreme Court has laid down guidelines in various cases such as **S.R. Bommai vs Union of India, 1994** and [Rameshwar Prasad vs Union of India, 2006](#) regarding the use of Article 356.
 - [S.R. Bommai vs. Union of India, 1994:](#)
 - The **Supreme Court** ruled that imposing President's Rule is **subject to Judicial Review**.
 - It established that the **satisfaction of the President** must be based on

relevant material, and a proclamation based on irrelevant or extraneous grounds can be struck down.

- The State Legislative Assembly should only be dissolved after Parliament has approved the proclamation; until then, the President can only suspend the assembly.
- It emphasised that the power under **Article 356** is **exceptional** and should be used **only occasionally** to meet the requirements of **special situations**.

◦ **Recommendation Regarding Article 356:**

• [Punchhi Commission:](#)

- It recommended **localising emergency provisions under Articles 355 and 356** by bringing **only specific areas like a district or parts of a district under the President's rule** instead of the entire State.
- They also suggested that such Emergency provisions **should not last for more than 3 months**.

• [Sarkaria Commission:](#)

- **Article 356** is a **measure of last resort** for preventing or rectifying the breakdown of the Constitutional Machinery of the State.
- It can only be invoked in the event of **political crisis, internal subversion, physical breakdown, and non-compliance** with constitutional directives of the Centre.
- The Governor's report should be a **'speaking document'** and **given wide publicity**.
- The Governor should recommend a proclamation of the President's Rule **without dissolving the Legislative Assembly**.

▪ **Financial Emergency (Article 360):**

- This provision allows the **President** to declare a **state of financial emergency** if he is satisfied that the **financial stability or credit of India or any part thereof is threatened**.
- During a Financial Emergency, the **President can direct the reduction of salaries and allowances** of all or any class of persons serving in the civil services, **including judges of the SC and High Courts**.
- The central government also gains **control over the financial resources** of the states, with the power to give directions for their efficient management.
- The proclamation of a financial emergency must be **approved by both houses of Parliament within 2 months**. If not approved, the proclamation ceases to have effect. However, any such proclamation may be revoked or varied by the President at any time.
- Unlike the other two types of emergencies, a Financial Emergency has been **never proclaimed in India to date**.

How Many Times Emergency was Imposed in India?

- National Emergency has been proclaimed 3 times so far in India:
 - [Indo-China War \(1962\)](#): Declared due to "**external aggression**" in 1962 during the **Sino-Indian War**.
 - [Indo-Pak War \(1971\)](#): Imposed on the grounds of "**external aggression**" in **1971** during the **Indo-Pakistani War**.
 - **(1975-1977)**: The third and **most controversial** national emergency was declared in 1975, primarily due to "**internal disturbance**" amidst internal political unrest. This period witnessed a **significant suspension of civil liberties**.

What were the Impacts of Imposing National Emergency in 1975?

▪ **Constitutional Changes:**

- [Constitution \(39th Amendment\) Act, 1975](#) was enacted in response to the Allahabad High Court's ruling declaring PM Indira Gandhi's election void.
 - The Act placed **disputes involving the president, Vice President, prime minister, and Speaker beyond the judiciary's scope** and included certain Central Acts in the Ninth Schedule.

- [Constitution \(42nd Amendment\) Act, 1976](#) of India significantly increased the power of the central government and Prime Minister's office by introducing-
 - **Increased central government control** by allowing deployment of forces in states and overriding state laws during emergencies.
 - **Limited judicial review** of laws and amendments, making them less accountable.
 - **Extended the terms** of Parliament and state assemblies.
 - Allowed **laws overriding** fundamental rights in case of anti-national activities.
- [Constitution \(44th Amendment\) Act, 1978](#):
 - It sought to rectify the imbalances created by the **42nd Amendment, 1976** and restore the primacy of fundamental rights. Key changes included
 - **Limiting Suspension of Rights:** The right to life and liberty under [Article 21](#) could **not be suspended during any emergency**.
 - **Judicial Review:** The Supreme Court's power to review presidential proclamations of emergency was reinforced.
 - **On Emergency:** It made the requirement for the President to act on the **written recommendation of the cabinet** before declaring a national emergency under **Article 352**.
- **Emergency Acted as a Vaccine Against Dictatorship:**
 - The period of emergency in 1975-77 serves as a reminder of the **importance of democracy and the dangers of unrestrained executive authority**. This recognition can motivate efforts to **enhance democratic systems** by implementing restrictions on the Prime Minister's power in times of crisis.
 - Emergency undermined India's democratic integrity and oppressed people under the **Maintenance of Internal Security Act (MISA)** and **Defence of India Rules (DIR)** and exposed the **vulnerability of democratic institutions** and fostered cynicism about leadership.
- **Vocalism About Rights:**
 - **Strict control over media** stifled dissent and limited access to information which led to emergence of **grassroots movements** and **underground press** challenging the government's narrative and advocating for human rights such as
 - **Navnirman Andolan in Gujarat:** A youth-led movement advocating for democratic rights and social justice.
 - **Jayaprakash Narayan Movement in Bihar:** A movement calling for social and political reforms.
 - **George Fernandes-led Railway Strike:** A powerful demonstration of **worker solidarity and dissent against government policies**.
- **Evolving Role of Judicial Activism:**
 - The Emergency period highlighted the fluctuating role of judicial activism, with the [ADM Jabalpur case](#) showing concerns about overreach, but subsequent judgments like **habeas corpus petitions** and the **Menaka Gandhi case** reaffirming a commitment to uphold **fundamental rights**, paving the way for a stronger system of judicial review in India.
 - [ADM Jabalpur v. Shivkant Shukla, 1976](#) upheld the suspension of fundamental rights during an emergency. It argued that the **right to life could be restricted** by the government for national security. This decision sparked outrage and accusations of judicial overreach, weakening the protection of fundamental rights.
 - **Habeas Corpus Petitions:** These petitions, filed by individuals detained during the Emergency, **challenged the government's actions**. This marked a shift towards a more robust judicial review.
 - [State of Uttar Pradesh v. Raj Narain, 1975, Supreme Court](#) ruled Prime Minister Indira Gandhi **guilty of electoral malpractices** which highlighted the judiciary's independence even during a politically sensitive time.
 - In [Maneka Gandhi v. Union of India 1978](#), the SC overruled the ADM Jabalpur judgement and **re-established the primacy of fundamental rights and limited the power to suspend** them during emergencies. It gave a new dimension to **Article 21** and held that the **right to live is not merely a physical right but includes within its ambit the right to live with human dignity**.
- **Changes in Political Parties' Attitude:**
 - The Emergency **united previously disparate opposition parties**. This underscored the **importance of a strong opposition in a democracy**. Political parties became **wary of**

resorting to similar measures in the future, valuing democratic processes.

Conclusion

India's Constitution has emergency provisions that include checks and balances, preventing their misuse. These measures safeguard democracy, uphold the rule of law, and protect individual rights during crises. They ensure the Union government remains accountable within constitutional and democratic frameworks.

Drishti Mains Question:

What are emergency provisions under the constitution of India? How has the check and balance for the implementation of these provisions fixed the accountabilities of the Union government?

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q) Which of the following is/are the exclusive power(s) of Lok Sabha?(2022)

1. To ratify the declaration of Emergency
2. To pass a motion of no-confidence against the Council of Ministers
3. To impeach the President of India

Select the correct answer using the code given below:

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

Ans: (b)

Q) With reference to the constitution of India, prohibition or limitations or provisions contained in ordinary laws cannot act as prohibitions or limitations on the constitutional powers under Article 142. It could mean which one of the following?(2019)

- (a) The decisions taken by the Election Commission of India while discharging its duties can not be challenged in any court of law.
- (b) The Supreme Court of India is not constrained in the exercise of its powers by laws made by the parliament.
- (c) In the event of grave financial crises in the country, the President of India can declare Financial Emergency without the counsel from the cabinet.
- (d) State Legislatures can not make laws on certain matters without the concurrence of the Union legislature.

Ans: (b)

Q) If the President of India exercises his power as provided under Article 356 of the Constitution in respect of a particular State, then(2018)

(a) the Assembly of the State is automatically dissolved.

(b) the powers of the Legislature of that State shall be exercisable by or under the authority of the Parliament.

(c) Article 19 is suspended in that State.

(d) the President can make laws relating to that State.

Ans: (b)

Mains

Q) Under what circumstances can the Financial Emergency be proclaimed by the President of India? What consequences follow when such a declaration remains in force? **(2018)**

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