



Martial Law in South Korea

For Prelims: [Impeachment](#), [President](#), [Martial law](#), National Emergency, [Article 34](#)

For Mains: Martial Law in India, Martial Law vs. National Emergency, India and South Korea Relations

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Why in News?

On 15th January 2025, **South Korea witnessed the arrest of impeached President** Yoon Suk-yeol. His declaration of [martial law](#) in December 2024, **further escalated the political turmoil in the country.**

- Although martial law was lifted a day later, **public outrage, mass protests, and rapid legislative action led to his [impeachment](#).**

Note: The President of India **can be impeached for violating the [Constitution](#)**, requiring a two-thirds majority in both [Houses of Parliament](#).

History of South Korea's Path to Democracy

- **Colonialism and Division of Korea (1910-1945):**
 - Korea endured brutal **colonial rule under Japan from 1910 to 1945.**
 - After [World War II](#), the peninsula was **divided into two zones at the 38th parallel** between Soviet-controlled **North Korea** and US-controlled **South Korea.**
- **Rhee Syngman's Autocracy (1948-1960):** Rhee Syngman, supported by the US, became South Korea's first president in 1948.
 - His **administration was marked by authoritarianism and repression** until a student-led uprising forced his resignation in April 1960.
- **Military Rule:** Since the establishment of the Republic of Korea, **martial law has been declared 16 times.** It was last declared in 1980.
- **Democratic Transition (1987 Onwards):** Elections held in 1987 resulted in Roh Tae-woo becoming president.
 - By February 1988, **South Korea began its journey toward becoming a liberal [democracy](#).**

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What Does Martial Law Entail?

- **About:** Martial law (Military Rule) **refers to a situation where civil administration is run by the military authorities** according to their own rules and regulations framed outside the ordinary law.
 - It thus **implies the suspension of ordinary law** and the government by military tribunals.
 - It is **different from the [military law](#)** that is applicable to the armed forces.
- **Imposition of Martial Law:** The law is enforced **when a government faces** widespread civil unrest, **[natural disasters](#)** or threats of invasion.
- **Scope of Control Under the Law:** The military authority takes control of normal civil functions as well as the security of the state when martial law is imposed.
 - It also involves **restrictions on freedoms, curfews, and military involvement** in law enforcement and public order.

How is Martial Law in South Korea Different From Martial Law in India?

- **Martial Law in South Korea:**
 - **Conditions for Declaration:** As per **Article 77 of the Republic of Korea's constitution**, Martial law can be declared by the President of South Korea during war, armed conflict, or similar national emergencies when military forces are required for public safety and order.
 - This **allows the mobilization of military forces** to deal with military necessity or to ensure national security.
 - **Scope of Powers:** Martial Law allows **special measures to be taken concerning rights such as** warrants, freedom of speech, the press, assembly, and association.
 - The Constitution allows for the **suspension or alteration of regular judicial and executive powers** under martial law.
- **Martial Law in India:**
 - **About:** **Article 34** provides for restrictions on fundamental rights while martial law is in force in any area within the territory of India.

- The concept of martial law has been borrowed in India from the English common law. However, **the expression 'martial law' has not been defined anywhere in the Constitution.**
- The declaration of martial law under Article 34 is different from the declaration of a [national emergency under Article 352](#).
- **Indemnity for Actions Taken During Martial Law:**
 - Article 34 empowers the Parliament to **indemnify any government servant or any other person** for any act done by him in connection with the maintenance or restoration of order in any area where martial law was in force.
 - The Parliament **can also validate any sentence passed**, punishment inflicted, forfeiture ordered or other act done under martial law in such an area.
 - The Act of Indemnity made by the Parliament **cannot be challenged in any court** on the ground of contravention of any of the fundamental rights.
- **Conditions for the Imposition:**
 - There is also **no specific provision in the Constitution** that authorises the executive to declare martial law.
 - The martial law is **imposed under extraordinary circumstances like** war, invasion, insurrection, rebellion, riot or any violent resistance to the law.
- **Scope of Powers:**
 - During the operation of martial law, the military authorities are vested with abnormal powers to take all necessary steps.
 - The [Supreme Court](#) held that the declaration of martial law does not *ipso facto* (by that very fact) **result in the suspension of the writ of habeas corpus.**

Martial Law vs. National Emergency

Martial Law	National Emergency
It affects only Fundamental Rights.	It affects not only Fundamental Rights but also Centre-state relations , distribution of legislative powers between centre and states and may extend the tenure of the Parliament.
It suspends the government and ordinary law courts.	It continues the government and ordinary law courts.
It is imposed to restore the breakdown of law and order due to any reason.	It can be imposed only on three grounds —war, external aggression or armed rebellion.
It is imposed in some specific areas of the country	It is imposed either in the whole country or in any part of it.
It has no specific provision in the Constitution. It is implicit.	It has specific and detailed provisions in the Constitution. It is explicit.

How have Relations Between India and the Republic of Korea Been?

- **Diplomatic Relations:**
 - India-Republic of Korea (ROK) **established diplomatic relations in 1973**. Consular relations were established in 1962.
 - Both countries **formed a "Strategic Partnership" in the year 2010**, which was elevated to a "Special Strategic Partnership" in the year 2015.
- **Historical Ties:**
 - According to the 13th-century Korean historical text **Princess Suriratna (Ayodhya) married King Kim-Suro**, forming ancestral ties with Korea.
 - Nobel Laureate [Rabindranath Tagore](#) composed a short poem titled- '**Lamp of the East**', which is fondly remembered by the Koreans and finds mention in Korean school textbooks.
- **India's Role in the Korean War:** India played a significant role in the Korean Peninsula following Korea's independence in 1945.
 - Former **Indian diplomat Shri K.P.S. Menon served as the Chairman of the United**

Nations (UN) Commission established in 1947 to oversee the elections in Korea.

- During the war, India sent an Army medical unit, the **60th Parachute Field Ambulance**, to provide medical assistance during the conflict.
- Additionally, **both warring sides accepted a UN resolution** sponsored by India, leading to the declaration of a ceasefire in 1953.
- India **dispatched one Brigade Group designated as Custodian Forces -India (CFI) to Korea**, which was instrumental in resolving the **Prisoners of War** issue.

▪ **Economic Relations:**

- Trade and economic relations gathered momentum following the implementation of the **Comprehensive Economic Partnership Agreement (CEPA)** in 2010.
- Bilateral trade in 2023 was **USD 24.4 billion**.
 - India's import volume was USD 17.9 billion, while the export volume was USD 6.7 billion.
- ROK's total **Foreign Direct Investment (FDI)** to India until June 2023 stands at USD 8.02 billion.
- India and ROK **launched an initiative 'Korea Plus'** to promote and facilitate Korean investments in India.

▪ **Defence:**

- A **Roadmap for Defence Industries Cooperation** was signed between the two countries in 2019.
- For the first time, **an India pavilion was set up at ADEX-2023 (Seoul International Aerospace & Defense Exhibition 2023)**, showcasing India's defense manufacturing capabilities.

▪ **Cultural:**

- An Indian Cultural Centre (**renamed later as Swami Vivekananda Culture Centre (SVCC)**) was established in 2011 in Korea as a cultural wing of India.
- **SARANG, the festival of India in Korea** is organised every year to showcase India's diverse art and music in various regions of ROK.

Drishti Mains Question:

Compare and contrast martial law and national emergency as constitutional mechanisms in India.