

National, State and Financial Emergency

A state of emergency in India refers to a period of governance that can be proclaimed by the President of India during certain crisis situations. Under the advice of the cabinet of ministers, the President can overrule many provisions of the Constitution, which guarantees Fundamental Rights to the citizens of India.

- The emergency provisions are contained in Part XVIII of the Constitution of India, from Article 352 to 360. These provisions enable the Central government to meet any abnormal situation effectively.
- 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-
 1. National Emergency
 2. Constitutional Emergency
 3. Financial Emergency

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.

Parliamentary approval and duration

- 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 or the dissolution takes place during the period of one month 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.

Effects of national emergency

A proclamation of Emergency has drastic and wide-ranging effects on the political system. These consequences can be grouped into 3 categories:

- **Effects on the centre-state relations:** While a proclamation of Emergency is in force, the normal fabric of the Centre-State relations undergoes a basic change. this can be studied under three heads:
 - **Executive:** Centre becomes entitled to give executive directions to a state on 'any' matter
 - **Legislative:** The parliament becomes empowered to make laws on any subject mentioned in the state list; the president can issue ordinances on State subjects also, if the parliament is not in session. The laws made on state subjects by the parliament become inoperative six months after the emergency has ceased to be in operation.
 - **Financial:** the president can modify the constitutional distribution of revenues between the centre and the states.

Failure of Constitutional Machinery in States

Article 356 of the constitution – dealing with provisions in case of failure of constitutional machinery in a state – begins under sub-clause (1) as follows:

If the President, on receipt of report from the Governor of the State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by proclamation, assume to himself.

The determination of the breakdown of constitutional machinery may be done by the President at any time, either upon receipt of a report from the Governor, or suo motu.

- If approved by both the houses, the President's Rule, as it is most-commonly called, can continue for 6 months.
- It can be extended for a maximum of 3 months with the approval of the Parliament.

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.
- **Parliamentary approval and duration:** A proclamation declaring financial emergency must be approved by both the Houses of Parliament within two months from the date of its issue.
- However, if the proclamation of Financial Emergency is issued at a time when the Lok Sabha has been dissolved or the dissolution of the Lok Sabha takes place during the period of two months without approving the proclamation, then the proclamation survives until 30 days from the first sitting of the Lok Sabha after its reconstitution, provided the Rajya Sabha has in the meantime approved it.
- Once approved by both the houses of Parliament, the Financial Emergency continues indefinitely till it is revoked.

Effects of Financial Emergency

- Extension of the executive authority of the Union over the financial matters of the States.
- Reduction of salaries and allowances of all or any class of persons serving in the State.
- Reservation of all money bills or other financial bills for the consideration of the President after they are passed by the legislature of the State.
- Direction from the President for the reduction of salaries and allowances of all or any class of persons serving the Union; and the judges of the Supreme Court and the High Courts