

## Impact of President's Rule in Centre-State Relations

### Why in news?

The recent spate of renewed violence in Manipur has once again triggered the discussion around Centre-State relations and the use of emergency provisions by the Centre.

### What is India's federal structure of governance?

- India is a federation with governments at the Centre and the States.
- **Indian Constitution** - It has separate provisions with respect to legislative, executive and financial distribution of powers between Centre and State
  - **Legislative Relations** - Articles 245 to 255
  - **Administrative Relations** - Articles 256 to 263
  - **Financial Relation** - Articles 268 to 293
- **Distribution of Power** - The 7<sup>th</sup> Schedule to the Indian Constitution distributes the power between the Union and States.
  - **List I (Union List)** - 98 subjects (originally 97)
  - **List II (State List)** - 59 subjects (originally 66)
  - **List III (Concurrent List)** - 52 subjects (originally 47)
- Centre has exclusive control over Union List while State have exclusive control over State List except few instances.
- Both Centre and State can legislate on Concurrent List, but centre has overriding powers over state laws.

*In India, it is the domain of the State governments to maintain law and order in their respective States.*

### What is President's Rule?

*The emergency provisions are provided in Part XVIII of the Constitution where Articles 355 and 356 deal primarily with the affairs of government in a State.*

- **President's Rule** - **Article 356** allows for the imposition of the President's rule in the state.

*President's Rule is also known as 'State Emergency' or 'Constitutional Emergency.'*

- It can be proclaimed under two grounds
  - **Article 356** - When the government of a state cannot be carried on in accordance with the Constitutional provisions.
  - **Article 365** - When a state fails to comply with or to give effect to any direction from the Centre.

*While in the U.S. and Australia, federal government functions also involve protecting States, their constitutions do not contain provisions for removing State governments.*

- **Duty of Central Government** - **Article 355** imposes a duty on the Centre to protect every State from external aggression and internal disturbance.
- It also specifies that the Centre should ensure that every State government operate according to the Constitution.
  - Article 355 was incorporated to check any arbitrary or unauthorised use of Article 356.
- **Approval of President's Rule** - A proclamation imposing President's Rule must be approved by both the Houses of Parliament **within 2 months** from the date of its issue.
- **Duration** - If approved by both the Houses of Parliament, the President's Rule continues for **6 months**.
- It can be extended for a maximum period of 3 years with the approval of the Parliament, every 6 months.
- **Condition on Extension** - The 44<sup>th</sup> Amendment Act of 1978 introduced conditions to extend the proclamation of President's Rule beyond one year.
  - A proclamation of National Emergency should be in operation in the whole of India or in part. (Or)
  - Election Commission must certify that the general elections to the legislative assembly of the concerned state cannot be held.
- **History of President's Rule** - Since 1950, the President's Rule has been imposed on more than 125 occasions.
  - For the first time, the President's Rule was imposed in Punjab in 1951.

### **What are its impacts on Centre-State Relations?**

- **Impacts on Executive Power**- President can take up the functions of the state government.
- President dismisses the state council of ministers headed by the chief minister.
- The state governor, on behalf of the President, carries on the state administration.
- **Impact on Legislative Power** - President either suspends or dissolves the state legislative assembly.
- The Parliament passes the state legislative bills and the state budget.
- The law made by the Parliament continues to be operative even after the President's Rule.
- **Issues** - Article 356 was misused on several occasions removing elected governments that enjoyed majority in the States.

- Their invocation varied from loss in Lok Sabha elections to deterioration of law and order in the States.

### How court ruling have shaped president's rule in India?

Cases	Judgements
State of Rajasthan Vs Union of India (1977)	<ul style="list-style-type: none"> <li>• <u>Courts can strike down</u> President's rule if it was based on irrelevant or mala fide considerations.</li> <li>• <u>President's satisfaction is a prerequisite</u> for exercising the powers under Article 356.</li> </ul>
S R Bommai case (1994)	<ul style="list-style-type: none"> <li>• Article 356 should be imposed only in the event of a breakdown of constitutional machinery.</li> <li>• <u>Cannot be invoked for</u> an ordinary breakdown of <u>law and order</u>.</li> <li>• Should not be misused for political reasons.</li> <li>• Proclamation is <u>subject to judicial review</u>.</li> </ul>
H.S.Jain Vs Union of India (1997)	<ul style="list-style-type: none"> <li>• It broadened the interpretation of Article 355 <u>giving the Union more flexibility</u> to intervene in state affairs.</li> </ul>
Naga People's Movement of Human Rights Vs Union of India (1998)	<ul style="list-style-type: none"> <li>• The deployment of armed forces in aid of civil power is permitted for a temporary period, until normalcy is restored</li> </ul>
Sarbananda sonowal vs union of india (2005)	<ul style="list-style-type: none"> <li>• Court struck down the Illegal Migrants (Determination by Tribunals) Act (IMDT Act) 1983 as it violated Article 14 &amp; 355.</li> <li>• It also failed to address the problem of illegal immigration in Assam.</li> </ul>

### What lies ahead?

*Dr. Ambedkar in the constituent Assembly wished that Articles 355 and 356 would never be called into operation and would remain a dead letter.*

- It shall be invoked as a last resort as recommended by various committees as mentioned below

Committee	Recommendations
1 <sup>st</sup> ARC 1967	<ul style="list-style-type: none"> <li>• It shall be used as a last resort if state fails to follow the constitutional machinery.</li> </ul>
Sarkaria Commission (1987)	<ul style="list-style-type: none"> <li>• All possibilities of forming an alternative government should be explored before imposing President's Rule.</li> <li>• Article 356 should be used only as a last resort, when all other options have failed.</li> <li>• Before invoking Article 356, the center should <u>issue a warning to the state</u> in specific terms.</li> <li>• President's proclamation <u>should include the reasons</u> why the state cannot run normally.</li> <li>• President should only be able to dissolve the state legislature after getting parliamentary approval.</li> </ul>

<b>National Commission to Review the Working of the Constitution (2002)</b>	<ul style="list-style-type: none"> <li>• President's Rule under Article 356 should be <i>used sparingly</i> and only in extreme situations.</li> <li>• Grounds for invoking President's Rule should be clearly defined and more stringent.</li> <li>• <i>Courts should have greater power to review</i> the President's decision to impose President's Rule.</li> <li>• <i>Limiting the duration of President's Rule</i>, to ensure that it is not used as a tool to indefinitely suspend a state government.</li> </ul>
<b>Punchhi Commission (2007)</b>	<ul style="list-style-type: none"> <li>• Localize areas, a district or parts of a district be brought under the President's rule instead of the whole State.</li> <li>• The time period of an emergency should be <i>at most three months</i>.</li> <li>• Specific guidelines on the chief ministers' appointment to limit the discretionary powers of the governor.</li> </ul>

*1st Administrative Reforms Commission (1967) was initially headed by Morarji Desai and later by Hanumanthaiah.*

*Justice M.N. Venkatachaliah chaired the National Commission to Review the Working of the Constitution (NCRWC) in 2002.*

## Quick Facts

<b>Constitutional Provisions on Emergency</b>
<ul style="list-style-type: none"> <li>• Emergency provisions are contained in Part XVIII of the Constitution from Articles 352 to 360.</li> <li>• <b>Article 352</b> - Proclamation of Emergency</li> <li>• <b>Article 353</b>- Effect of Proclamation of Emergency</li> <li>• <b>Article 354</b>- Distribution of revenues while a Proclamation of Emergency is in operation</li> <li>• <b>Article 355</b>- Duty of the Union to protect states against external aggression and internal disturbance</li> <li>• <b>Article 356</b>- Provisions in case of failure of constitutional machinery in states</li> <li>• <b>Article 357</b>- Exercise of legislative powers under proclamation issued under Article 356</li> <li>• <b>Article 358</b>- Suspension of provisions of Article 19 during</li> <li>• <b>Article 359</b>- Suspension of the enforcement of the rights conferred by Part III during Emergencies</li> <li>• <b>Article 360</b>-Provisions as to Financial Emergency</li> </ul>

## Reference

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