

# EMERGENCY PROVISIONS UNDER INDIAN CONSTITUTION

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## Abstract

*Lets talk about emergency provisions under Indian Constitution , so we may call it as the failure of social structure to deliver affordable conditions of life” .The term emergency could also be outlined as “circumstances arising suddenly that involves immediate action by the general public authorities below the powers particularly granted to them ”.Dr. B.R Ambedkar claimed that the Indian Federation was distinctive as throughout the days of emergency it may convert itself into a completely unitary system.In India, the emergency provisions ar such the constitution itself permits the central acquire the strength of unitary government whenever things demands.*

## Introduction:

During such pressing wants all the pacific strategies ought to be exhausted and emergency ought to even be the last weapon to use because it affects India’s federal feature of state. There are three types of emergencies under the Indian Constitution namely-National Emergency, Failure of constitutional machinery in states, Financial Emergency.

As per the articles 352, 356 and 360 within the Constitution of India, President of Asian nation are given extraordinary power to declare associate emergency to fulfill any threat to the country. Those powers to President of Asian nation in Constitution square measure referred to as emergency provisions. The Indian system of presidency is of quasi-judicial nature wherever resembling central, powers square measure distributed between the centre and also the state and like unitary kind owing to retention of powers to the Union throughout emergency. Here the government relinquishes their rights to the central government to retain security and pursuit of public welfare. it had been at the time once close country, China attacked the northern borders move a threat to the protection of Asian nation, once for the primary time the Union assumed powers to handle such a scenario. Since then the President was allotted with extraordinary powers to act in things of Emergency.

Article 352 of the Indian Constitution talks concerning the national emergency. National emergency is obligatory whereby there's a grave threat to the protection of Asian nation or any of its territory thanks to war, external aggression or armed rebellion. Article 256 talks concerning the failure of constitutional machinery in state conjointly referred to as the President’s rule. If the president on Governor’s report or otherwise is glad that things has arisen that the govt. can’t be carried in accordance with the constitutional provisions then, he could issue State emergency.

President will declare emergency either by the report of Governor or he himself is glad that things is such the emergency has got to be obligatory. however from time to time, President could declare emergency once a report isn’t received from the governor. This was done by President Venkataraman in 1991 within the state of Tamil Nadu even if he didn’t receive a report from the governor.

The president beneath Article 360 of the constitution has the facility to declare monetary emergency if he's glad that the monetary stability or the credit of Asian nation or any a part of its territory is vulnerable. it's to be ordered before each the homes of Parliament and ceases to control at the expiration of 2 months unless in the meantime approved by the resolution of homes.

During the operation of economic emergency, the manager authority of the union extends to the giving of directions to any state to watch bound nominative canons or monetary behaviour and such different directions that the President could notice necessary. The directions could embrace reduction of salaries or allowance of these serving a state, of all those in reference to the affairs of union as well as judges of tribunal and Supreme Court. There has been no occasion of economic emergency in Asian nation.

**Emergency provisions under Indian Constitution** The Indian Constitution provides a detailed insight into the entire government structure, basic rights and duties of the citizen and special provisions. There are a total of 395 Articles in the constitution of India. Enacted on 26th of January, 1950, the Constitution contains Emergency and Special Provisions of the Indian Constitution. Special Provisions relating to Certain Classes are included in Part XVI. The Constitution of India also covers Emergency Provisions in Part XVIII.<sup>1</sup>

**National Emergency-** National emergency is caused by war, external aggression or armed rebellion in the whole of India or a part of its territory. Such an emergency was declared in India in 1962 (Indo-China war), 1971 (Indo-Pakistan war)<sup>1</sup>, 1975 to 1977 (declared by Indira Gandhi on account of "internal disturbance") Under Article 352 of the India Constitution, the President can declare such an emergency only on the basis of a written request by the Cabinet Ministers headed by the Prime Minister. Such a proclamation must be approved by the Parliament within one month. Such an emergency can be imposed for six months. It can be extended by six months by repeated parliamentary approval, up to a maximum of three years. In such an emergency, Fundamental Rights of Indian citizens can be suspended. The six freedoms under Right to Freedom are automatically suspended. However, the Right to Life and Personal Liberty cannot be suspended (Article 21).

**State Emergency-** State emergency, also known as President's rule, is declared due to breakdown of constitutional machinery in a state.<sup>2</sup> If the President is satisfied, on the basis of the report of the Governor of the concerned state or from other sources that the governance in a state cannot be carried out according to the provisions in the Constitution, he/she can declare a state of emergency in the state. Such an emergency must be approved by the Parliament within a period of 2 months.

**Financial Emergency-** If the President is satisfied that there is an economic situation in which the financial stability or credit of India is threatened, he/she can then proclaim a financial emergency, as per the Constitutional Article 360. Such an emergency must be approved by the Parliament within two months. It has never been declared. The President can reduce the salaries of all government officials, including judges of the Supreme Court and High Courts, in case of a financial emergency. All money bills passed by the State legislatures are submitted to the President for approval. They can direct the state to observe certain principles (economy measures) relating to financial matters.

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<sup>1</sup> Omar, Imtiaz (2002). Emergency Powers and the Courts in India and Pakistan. Martinus Nijhoff Publishers. p. 129.

<sup>2</sup> Pratiyogita Darpan (March 2007). pp. 60