

“Emergency” in India was a period of 21 months during 1975 to 1977 declared by the then Prime Minister Mrs. Indira Gandhi and officially issued by President Fakhruddin Ali Ahmed under Article 352 of the Constitution of India because of the prevailing “internal disturbances”. This gave the Prime Minister an authority to Rule by decree leading to suspension of elections and curbing of civil liberties.

Analysis:

- A state of emergency in India refers to a period of governance that can be proclaimed by 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 President can declare 3 types of emergencies:
National emergency (Article 352)
State emergency (Article 356)
Financial emergency (Article 360)
- **NATIONAL EMERGENCY:** It can be declared on the basis of external aggression/armed rebellion in the whole of India/part of its territory.

Instances-

| <u>Time period</u> | <u>Reason</u> | <u>Remarks</u> |
|------------------------------|---------------------------------------|--|
| 26 Oct 1962 – 10 Jan 1968 | India-China war | Security of India threatened By external aggression |
| 3 Dec 1971 – 21 March 1977 | Indo-Pakistan war; and later extended | Security of India threatened By external aggression |
| 25 June 1975 – 21 March 1977 | Political instability | Security of India threatened by internal disturbances |

It needs to be approved by both the Houses of Parliament within a month by special majority.

Duration- It can be extended for up to 6 months further indefinitely by resolutions in 6-months increments.

Effect- Many Fundamental Rights of Indian citizens can be suspended. The federal system of governance becomes unitary.

- **STATE EMERGENCY/ PRESIDENT’S RULE:** It can be declared in any state of India under article 356 on the recommendation of the Governor of the state. It must be approved by the Parliament within 2 months.

In Jammu and Kashmir, Governor’s rule can be imposed for 6 months (under Section 92 of the state Constitution) and Article 356 can be imposed after these 6 months. It has been recently declared in the state on 20 June 2018.(PRIOR TO THE REVOKE OF ART.370)

Duration- It is imposed for an initial period of 6 months and can last for maximum 3 years with repeated Parliamentary approval and beyond that period a Constitutional Amendment is required.

Effects- The President takes over the Executive and Governor administers the state in the President’s name. The Parliament makes laws on 66 State subjects and all money bills are referred to the Parliament. The Legislative Assembly can be dissolved/ suspended. There is no effect on Fundamental Rights.

Instances- It has been declared in every state of India except Chhattisgarh and Telangana.

- **FINANCIAL EMERGENCY:** It can be declared by the President in situations of financial instability and must be approved by the Parliament within 2 months.

Effects- The President can reduce the salaries of all government officials. All money bills passed by the state legislatures are submitted to the President for his approval. Fundamental Rights cannot be suspended.

Duration- It has no maximum duration.

Instances- It has never been declared.

- **NATIONAL EMERGENCY (1975-1977):** During this period of Emergency under Prime Minister Indira Gandhi:
 1. **Amendments** were made which made **policy guidelines more important than Fundamental Rights.**
 2. Most of the **political leaders were arrested.**
 3. The **press was censored.**
 4. Several **human rights violations** were reported.
 5. **Elections** were
 6. **38th Amendment:** Judicial review of proclamation of Emergency was barred.
 7. **39th Amendment:** Stripped the judiciary's power of electoral scrutiny of a person elected as PM.
 8. **42nd Amendment**
 - **42nd amendment of the Constitution of India:**
 1. Often called a “**mini-Constitution**”
 2. Very **controversial**
 3. Attempted to **reduce the power of Supreme Court** and High Courts.
 4. Defined **Fundamental Duties.**
 5. Almost all parts of the Constitution were changed and added words “**socialist**” and “**secular**” in the **Preamble.**
 6. Gave **more powers to the Central government.**
 - Later, the newly formed Janata government brought about **43rd and 44th amendments** in 1977 and 1978 respectively to **restore the earlier constitution** to some extent. The Supreme Court evolved the **basic structuredoctrine** to strike down 39th Amendment some parts of the 42nd This paved the way for **restoration of democracy.**

Conclusion:

The **provisions of emergencies** are provided keeping in view the **security and stability** in the nation. But they must **not be used for political gains or disturbing the democratic structure** of the nation. They are meant only to **maintain the constitutional machinery** only in cases of **real crisis situations.** If autocratic rule tries to destroy the democratic structure of India, the citizens have the powers to change the rule by general elections as done in 1977.