

Emergency Provisions in Indian Constitution

The emergency provisions in Indian constitution have been taken from the Government of India, Act 1935. Part 18 of Indian constitution mentions the emergency provisions & deals with the case of emergency in India in Articles 352 - 360. During a state of emergency, full power is shifted to the Central government.

While the Indian constitution was being framed, a major roadblock faced by the concerned authorities was the inclusion of preparatory measures under which the President could easily announce the state of emergency. This hurdle in the process gave birth to three articles that dealt with three different conditions of a state emergency.

Emergency Provisions - Part 18 of Indian Constitution

The emergency provisions of the Indian constitution have been mentioned under Part 18 of the constitution where specific articles have been formulated. The emergency article in India is an important addition that deals with various types of emergency situations in the country.

- Article 352 - It was included in the constitution to deal with a situation of emergency because of external risk, like war or armed rebellion.
- Article 356 - It dealt with the President's rule that meant an emergency because of the failed constitutional machinery.
- Article 360 - this article was included to deal with the financial emergency due to the country's financial status being at risk. It was added much later by Dr. B.R.Ambedkar.

Types of Emergency in India: Emergency Provisions

The emergency provisions have been formulated so that the nation is prepared in case of emergency and appropriate measures can be taken in time of need. These emergency provisions in the Indian Constitution find their place in it as a result of an effort to protect the integrity, sovereignty, and overall security of the country and to provide adequate arrangements for the President to declare an Emergency in the country. Based on the three articles that were formulated to tackle an emergency situation, the state of emergency has been categorized into three types as given below:

1. National Emergency
2. Constitutional Emergency/State Emergency
3. Financial Emergency

National Emergency

Article 352 of the Indian constitution deals with the case of National Emergency which is concerned with the nation's security being at risk due to external/internal factors such as war, armed rebellion, or similar aggressive attacks. In such a case, where a National emergency is declared due to an external threat, it is also referred to as an 'External Emergency'.

On the other hand, if such an emergency is declared due to an 'armed rebellion', it is called an 'Internal Emergency'. The President can even declare a national emergency before an actual attack takes place. The very first National Emergency was announced in 1962, while India was at war with China followed by another 'Internal Emergency', declared by Indira Gandhi.

Constitutional Emergency or President's Rule

Article 356 directly deals with the case of a 'state emergency' which is also called a 'constitutional emergency' as it indicates a failure in the constitutional machinery of the country. As per the emergency provision in the Indian constitution, as mentioned in Article 356, the Central government undertakes all the functions of a state. This is also known as the President's Rule.

Under the President's Rule, the President is entitled to have distinguished powers over the state. Up till now, a total of 35 times the President's Rule has been enforced under Prime Minister Indira Gandhi.

Financial Emergency

When the country faces a financial crisis, the President of India may declare an emergency to take control of the situation and avoid panic among the countrymen. A financial emergency may be dealt with the help of Article 360 according to which the emergency provisions are brought into use. In case of a Financial Emergency, the salaries & allowances of Government officials are also expected to face a cut.

Till now, India has not faced a state of Financial Emergency. Although, in the year 1991, a possibility of financial instability was expected. The Indian government tackled the situation well in time without having the need to declare a state of emergency.

44th Amendment of Indian Constitution

The 44th amendment in the Indian constitution was an act introduced in 1978. This act was responsible for a few changes in the emergency provisions in the Indian constitution. The origin of this amendment was the 42nd Amendment Act which had initially brought some tweaks against the interest of the people.

Therefore, to make further amends to those tweaks and to change them as per the nation's interest again, the 44th Amendment Act of the Indian Constitution was introduced.

44th Amendment Act of 1978: Key Points

The major changes brought about by the 44th Amendment Act of Indian Constitution have been listed below:

- The Act firstly states that any kind of tweaks to the basic framework of the constitution could be done only if the people of the nation agree which could be determined by a majority vote. This could be accomplished by making amends to Article 368.
- The Act overturned the changes made in the 42nd Amendment which permitted the government to tweak the constitution at its discretion by using Article 368.
- "Armed rebellion" replaced the previously used phrase "internal disturbance".
- The 44th Amendment Act of Indian Constitution also gave freedom of speech & reporting to the media.
- The Right to Property was made a legal right under Article 300A after it was withdrawn from the list of fundamental rights.

State Emergency

A 'state emergency' in India can be declared by a President under Article 356 of the Indian constitution, in case of failure of the constitutional machinery. It is also known as President's Rule. The Prime Minister no more has powers over the state and the state is totally governed by the central government. The state government is suspended in such a case of emergency.