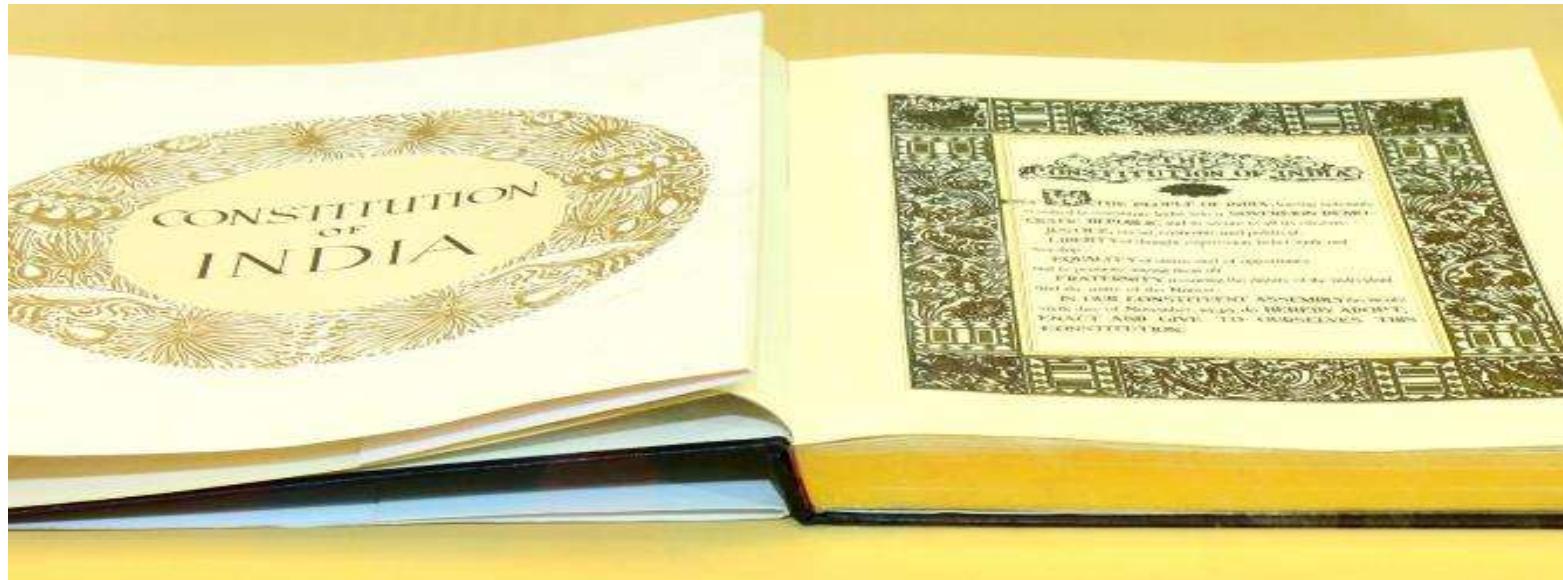


TOPIC 9: EMERGENCY PROVISIONS

1. Overview of Emergency Provisions:

- ▶ The Emergency Provisions are mentioned in Part 18 of the Indian Constitution, from Articles 352 to 360. These provisions empower the Central Government to act decisively during times of crisis to safeguard the unity and integrity of India.

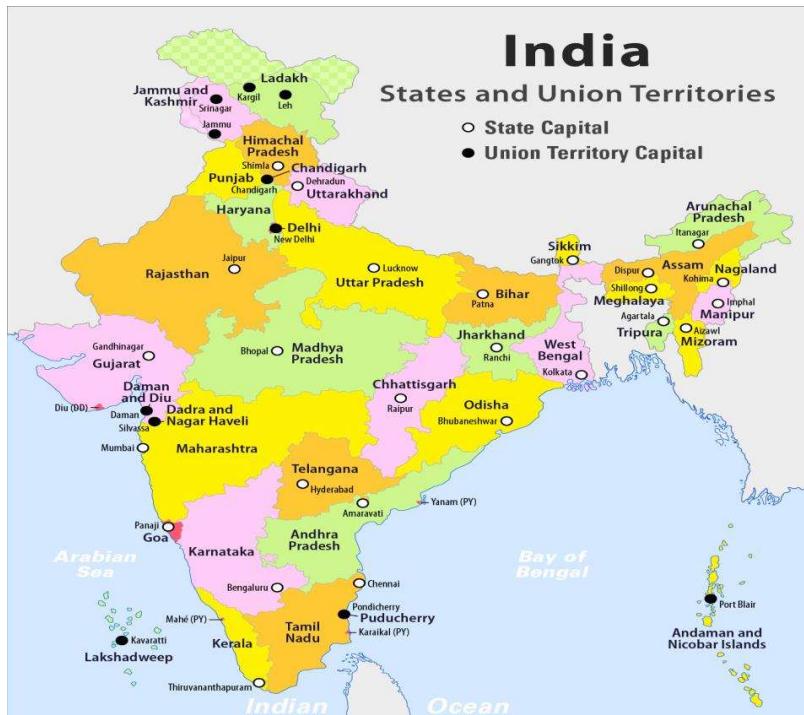


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Meaning and Purpose:

- ▶ Emergencies are extraordinary situations threatening the security, stability or financial health of the nation.
- ▶ The constitution empowers the President to take special measures temporarily.
- ▶ Purpose: ensure quick central response during crisis.



Historical Background:

- ▶ Inspired by Government of India Act, 1935.
- ▶ Debated extensively in the Constituent Assembly.
- ▶ Dr. B.R. Ambedkar: “No democratic Constitution can work in chaos.”



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Key Features:

- ▶ Temporary suspension of federal structure.
- ▶ Central government gets overriding powers.
- ▶ Fundamental Rights may be restricted.
- ▶ Parliament assumes greater control.

Government Powers in a Federal Structure		
Federal/National Government Powers	Concurrent/Shared Powers	State Government Powers
Enumerated/Written/Delegated Powers Coin Money & Punish Counterfeiting Regulate Interstate Commerce & Foreign Trade Conduct Foreign Affairs Establish Rules of Naturalization/Immigration Establish Copyright & Patent Laws Regulate the Postal System Establish a Court System Declare War & Raise/Support National Military	Concurrent/Shared Powers Levy & Collect Taxes Borrow Money Make & Enforce Laws Establish Courts Charter Banks & Corporations Take Property for Public Use (eminent domain) Connect Roads & Infrastructure	Reserved Powers Regulate Intrastate Commerce Conduct Elections Provide for Public Health, Safety, Welfare & Morals Establish Local Governments Maintain Militia (National Guard) Ratify Amendments to the Constitution
Prohibited/Denied Powers Tax State Exports & Change State Boundaries Violate Bill of Rights & Deny Due Process Suspend Habeas Corpus (except national emergency) Bills of Attainder Ex Post Facto Laws Confer Titles of Nobility		Prohibited/Denied Powers Tax Imports & Exports Coin Money Enter Into Treaties with Foreign Nations Impair Obligation of Contracts Abridge Privileges & Immunities of Citizens Deny Due Process and Equal Protection of the Law
Implied/Inherent Powers Make "Necessary and Proper" Laws to Carry Out Enumerated Powers Powers Not Explicitly Written/Implicit		Implied/Inherent Powers Powers Not Explicitly Written/Implicit

Constitutional Provisions:

- ▶ Article 352: National Emergency
- ▶ Article 356: State Emergency (President's Rule)
- ▶ Article 360: Financial Emergency
- ▶ Emergency Provisions are in Part 18 of the Constitution.

2. Types of Emergencies:

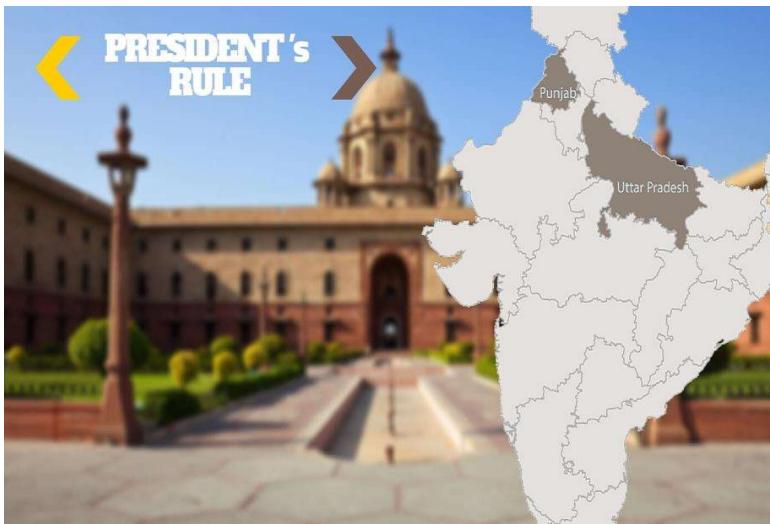
- ▶ There are three types of emergencies in India:
- ▶ National Emergency (Article 352) - Declared when India faces war, external aggression, or armed rebellion. The entire country or a specific part can be brought under emergency.
- ▶ State Emergency (Article 356) - Imposed when the state government fails to function according to the Constitution. The President assumes the functions of state government.
- ▶ Financial Emergency (Article 360) - Declared when the financial stability or credit of India or any part thereof is threatened. The Union can control financial matters and salaries of the government officials.

National Emergency (Art. 352):

- ▶ Declared during war, external aggression, or armed rebellion.
- ▶ President acts on written advice of Cabinet.
- ▶ Parliament approval within one month; valid for 6 months.
- ▶ Can be extended indefinitely with approvals.
- ▶ Example: 1962 (China War), 1971 (Pakistan War), 1975 (Internal Emergency)

State Emergency (Art. 356):

- ▶ Imposed when a state government cannot function per the Constitution.
- ▶ Based on Governor's report on President's satisfaction.
- ▶ Commonly known as President's Rule.
- ▶ Parliament assumes state legislative powers.
- ▶ Example: Used over 100 times in Indian history.



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Financial Emergency (Art. 360):

- ▶ Declared when India's financial stability is threatened.
- ▶ Centre can control state finances, salaries of officials, etc.
- ▶ Parliament's approval needed within 2 months.
- ▶ Never imposed till date.



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Summary:

- ▶ National Emergency protects sovereignty and unity.
- ▶ State Emergency ensure constitutional governance in states.
- ▶ Financial Emergency safeguards economic stability.
- ▶ However, all three shift the balance of power towards the Centre, which is why they must be used cautiously and responsibly within democratic limits.

3. **Imposition of Emergency:**

- ▶ The President can declare any form of emergency based on any recommendation of the Union Cabinet.
- ▶ The proclamation must be approved by both Houses of Parliament within a specific time(one month for national Emergency).
- ▶ Once approved, the emergency remains in force until it is revoked by the President.
- ▶ Parliament can extend a National Emergency indefinitely, by approving it every six months.



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4. Effects of Emergency:

- ▶ Fundamental Rights: During a National Emergency, fundamental rights under Article 19 are suspended, and the powers of the Union expand while the states autonomy reduces temporarily.
- ▶ Centre- State Relations: The federal structure becomes more unitary; the Centre get the power to direct the States.
- ▶ Legislative Powers: Parliament can make laws on subjects in the State List.
- ▶ Financial Control: During Financial Emergency, the President can reduce the salaries of government employees, including judges.









5. Constitutional Safeguards during Emergency:

- ▶ To prevent misuse, safeguards like parliamentary approval, judicial review, and time limitations are built into the Constitution. The 44th amendment Act(1978) further strengthened these protections.
- ▶ The President cannot proclaim emergency arbitrarily- it must be based on Cabinet advice.
- ▶ Parliamentary Approval is compulsory within a fixed time frame.
- ▶ Judicial Review: The Supreme Court can examine the validity of a Emergency proclamation.



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6. Critisms and debate around Emergency Provisions:

- ▶ Criticism of India's emergency provisions centres on the potential to undermine federalism by centralising power in the Union, threaten civil liberties and freedoms, and can be misused for political gain, as seen in the 1975 emergency.
- ▶ Supporters say that emergency powers are necessary for national security and integrity in time of crisis.
- ▶ Debate continues on balancing national interests with individual freedoms.



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Conclusions:

- ▶ The Emergency Provisions are essential for maintaining national security and stability, but they must be exercised with utmost caution, accountability, and constitutional restraint. It is essential to maintain the spirit of democracy and constitutional balance.