

Centre State Relations

- Legislative Relation {Article 245 to Article 255}
- Administrative Relation {Article 256 to Article 263}
- Financial Relation {Article 268 to Article 293}

{Article 245} Territorial Extent of Parliament and State Legislature

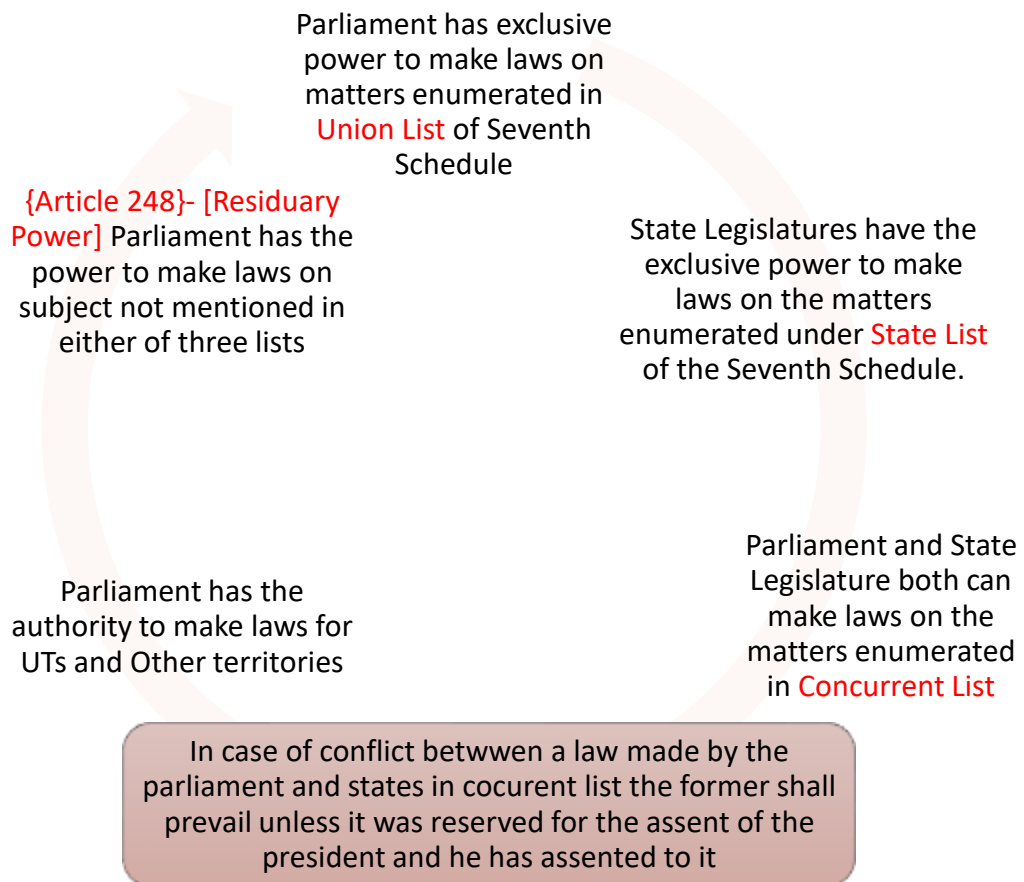
Parliament may make the laws for the whole or any part of territory of India

State legislatures may make laws for whole or any part of the state

Also, that no law of parliament may be deemed to be invalid on the grounds that it would have extra territorial extent.

- E.g. WRT any Indian Citizen living abroad or WRT their properties

Subject matters {Article 246}



Parliamentary Legislation in the State List

1. Under the provisions of {A. 249}

If Rajya Sabha Passes a resolution by majority of 2/3rd present and voting.

When it is expedient in national interest

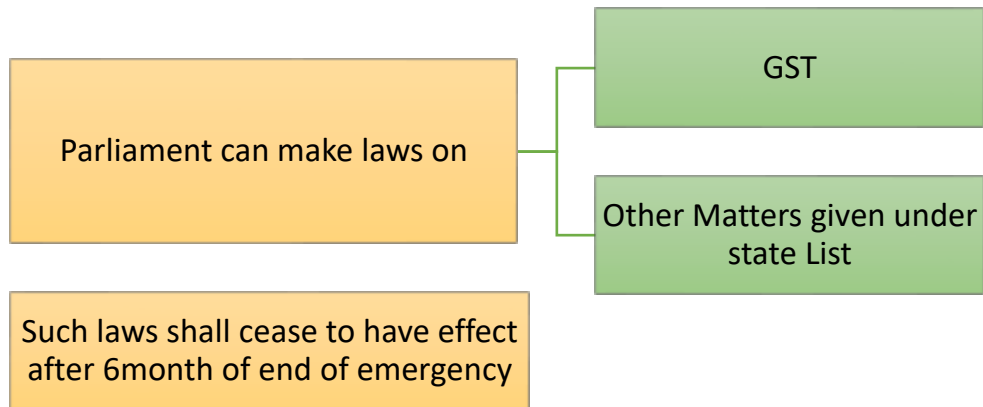
Parliament can make laws on the matters given under state list.

The resolution passed by Rajya Sabha shall remain in force till one year or as specified in the resolution itself

This resolution can again be passed and be extended by one more year

Any such laws made by parliament under this article shall cease to have effect after 6 months of expiry of the resolution passed Rajya Sabha

2. When there is National Emergency in Operation {250}



3. Parliament can enact for states with consent. {252}

If two or more states passes a resolution is passed by all the houses of the respective states

Parliament can also make laws if more than one states requests to do so

Any such act can be amended or repealed by the parliament and not the state legislatures

4. Article 253: Parliament can enact in state list **to give effect to any treaty, agreement or convention or any decision made at any international conference.**

Administrative Relation

Executive Powers of Centre: (Union List)

Obligation of States towards Union:

- **{Article 257}** States shall exercise its executive powers in such a way that it does not prejudice the executive powers of the union.
 - Union can give directions to a state for construction and maintenance of means of communication for national or military purpose.
 - Union can also give directions to a state in the measures to be taken for the protection of the railways within the state.

- Union can also give directions provision of adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups in the state.
- Any cost incurred on implementing such directions shall be paid by the government of India.

Tension Areas in Administrative Relations

Abuse of Article 356

Problems in the
Management of All
India Services

Role and
Functioning of
Governor

Deployment of Central
Forces in the state

Financial Relation:

Restrictions on the taxing powers of the states

- A state legislature can impose **taxes on profession, trades, callings and employments**. But, the total amount payable by any **person should not exceed Rs 2500 per annum**
- state legislature is prohibited from imposing a tax on the supply of goods or services or both in the following two cases :
 - (a) where such supply takes place **outside the state**; and
 - (b) where such supply takes **place in the course of import or export**.

- **Parliament is empowered to formulate** the principles for determining when a supply of goods or services or both takes place outside the state, or in the course of import or export
- state legislature can impose tax on the consumption or sale of electricity except:
 - Electricity consumed by the Centre
 - For the maintenance of railway

Taxes **Levied by the Centre but Collected and Appropriated by the States** (Article 268)

- stamp duties on bills of exchange, cheques, promissory notes, policies of insurance, transfer of shares and others.
- The proceeds of these duties levied within any state **do not form a part of the Consolidated Fund of India but are assigned to that state.**

Taxes **Levied and Collected by the Centre but Assigned to the States** (Article 269):

- Taxes on the sale or purchase of goods (other than newspapers) in the course of inter-state trade or commerce. (ii) Taxes on the consignment of goods in the course of inter-state trade or commerce.
- The net proceeds of these taxes do not form a part of the Consolidated Fund of India. They are assigned to the concerned states in accordance with the principles laid down by the Parliament.

Taxes **Levied and Collected by the Centre but Distributed between the Centre and the States** (Article 270):

- all taxes and duties referred to in the Union List except the following:
- (i) Duties and taxes referred to in Articles 268, 269 and 269-A (mentioned below);
 - The Goods and Services Tax (GST) on supplies in the course of inter-state trade or commerce are levied and collected by the Centre. **But, this tax is divided between the Centre and the States in the manner provided by Parliament on the recommendations of the GST Council**
- (ii) Surcharge on taxes and duties

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axes **Levied and Collected and Retained by the States:**

- These are the taxes belonging to the states exclusively. They are enumerated in the state list and are 18 in number. Land revenue; Duties in respect of succession to agricultural land; **Duties of excise on alcoholic liquors for human consumption Etc.**

Article 275 empowers the Parliament to make grants to the states which are in need of financial assistance and not to every state. Also, different sums may be fixed for different states.



These sums are charged on the Consolidated Fund of India every year.

Apart from this general provision, **the Constitution also provides for specific grants for promoting the welfare of the scheduled tribes in a state or for raising the level of administration of the scheduled areas in a state including the State of Assam.**



The statutory grants under Article 275 (both general and specific) are given to the states on the recommendation of the Finance Commission

Discretionary Grants

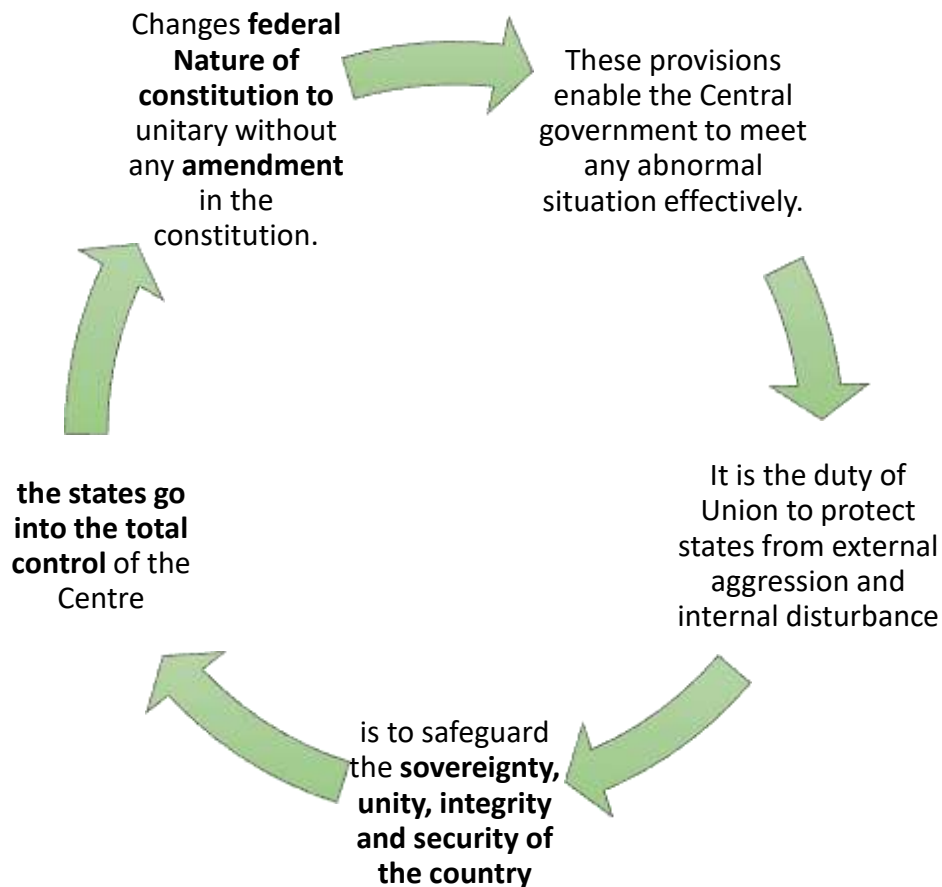
- Article 282 empowers both the Centre and the states to make **any grants for any public purpose, even if it is not within their respective legislative competence.**
- Under this provision, the Centre makes grants to the states.
 - Under this provision, the Centre makes grants to the states. These grants are known as discretionary grants, the reason being that the Centre is under no obligation to give these grants and the matter lies within its discretion.
 - These grants have a two-fold purpose: to help the state financially to fulfil plan targets; and to give some leverage to the Centre to influence and coordinate state action to effectuate the national plan.

EMERGENCY

The framers of the Constitution felt that, in an emergency, the Centre should have overriding powers to control and direct all aspects of administration and legislation throughout the country.

The Constitution envisages three types of emergencies:

- (i) emergency arising from a threat to the security of India; (National Emergency)
- (ii) breakdown of constitutional machinery in a State; (State Emergency or President Rule)
- (iii) financial emergency.



National Emergency:

- **When** can national emergency be proclaimed?- If the president is satisfied that there is a grave emergency and **security of India** or **any part of territory** is at threat
- **Grounds:** by **War/External Aggression** or [**Armed Rebellion**]
- Earlier in place of Armed Rebellion the word was mentioned as “Internal Disturbance” but by the (44th Constitutional Amendment -1978)] it was replaced with Armed Rebellion.
- **Process of Proclamation:** By the president on the written consent of the Union Cabinet.

How it can be revoked:

- By a **subsequent proclamation** of the president

- If proclamation does not receive the necessary parliamentary approval then it ceases to be in operation.
- If Lok **Sabha passes a resolution** disapproving the continuance of emergency, then president Shall revoke the emergency.
- If one tenth of the members of Lok Sabha has given a request to consider the motion of revoking the emergency- a special sitting of the house shall be called within 14 days.
- **Multiple Proclamation:** president can issue different proclamation on different grounds even when a previous proclamation is in force.

Proclamation shall be passed **by each house** of parliament

Both houses shall pass **within 1 month** of issuance.

Majority Required:
Special Majority

If Lok Sabha is in dissolved state or gets dissolved within that one month, then It must be passed by Rajya Sabha

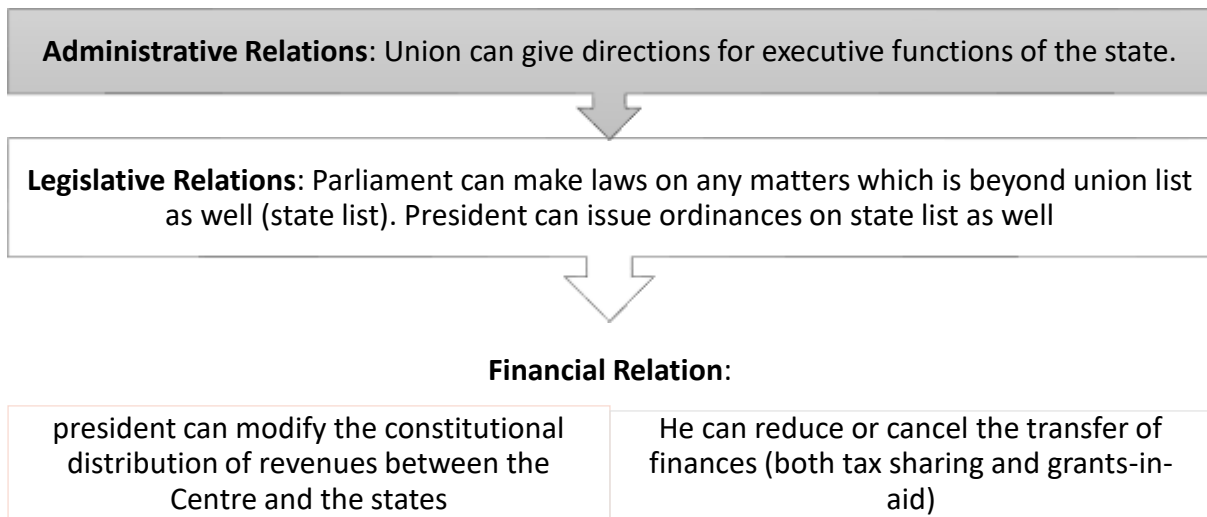
When LS sits again the proclamation shall be passed **within 30 days** from the days when it sits first.

Life of Proclamation: **6 months** from date of passing the resolution

It can be **further extended by 6 months** by passing from both the houses

It can be extended **any number of time every time** by passing from both the houses

Impact of National Emergency:



Laws made by parliament on state list shall be **valid till 6 months only after the emergency** has ceased to operate (Article 250)

How does national emergency impacts fundamental rights?

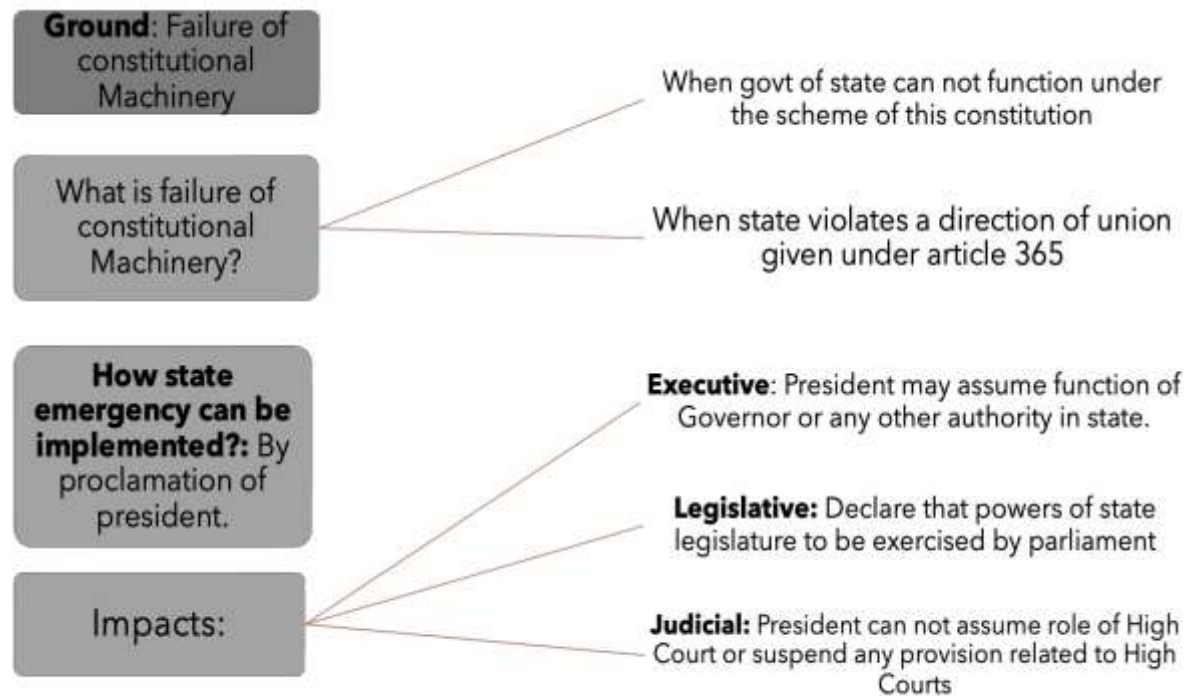
Automatic Suspension: Under Article 358

1. **If national emergency is declared on Ground:** War or External Aggression
2. Article 19 automatically suspended, which means Parliament can make any law or any executive action can be taken which even violates article 19 .
3. **Any such law shall expire as soon as emergency ends**
4. If emergency is implemented in any part, even then this provision can be implemented to other parts as well.
5. Any such law made must contain the recitals.

Suspension by Declaration: {A. 359}

- President by order (proclamation) declare that all Fundamental Rights except Article 20 and 21 Including right to move to court {32 and 226} is suspended.
- Duration: Till operation of emergency or shorter period.
- If emergency is implemented in any part, even then this provision can be implemented to other parts as well.
- Any such law made must contain the recitals.

State Emergency or President Rule



Conditions for Presidents Rule

- Must be approved by both houses within **two Months- Simple Majority**
- If LS is dissolved or gets dissolved, **then within 30 days from its first sitting**
- Can continue for a period **of 6 months**
- Can be extended by approval of parliament **for another period of 6 months**
- Can be extended for a **maximum period of 3 years**
- **If it is to be extended beyond 6 months then, following grounds: (by 44th CA)**
 - **Existence of National Emergency U/A 352**
 - **Certificate of Election commission of India**

Presidential Proclamation dissolving legislative assembly is subject to judicial review

Burden lies on Union to prove the relevant material existed to justify president rule

If court strikes down proclamation under 356 it can restore the government

A state government pursuing anti secular politics is liable to action under article 356. Secularism has been declared as basic features of the constitution.

The power under Article 356 is an exceptional power and should be used only occasionally to meet the requirements of special situations

Financial Emergency (under Article 360)

By President when he is - Satisfied that a situation has arisen due to which the **financial stability or credit of India** or any part of its territory is **threatened**.

Satisfaction of the president is not beyond judicial review.

must be approved by both the Houses of Parliament **within two months** by even simple majority

Once approved by both the Houses of Parliament, the Financial Emergency continues indefinitely till it is revoked

revoked by the president at anytime by a subsequent proclamation