



A Critical Analysis of Imposition of President's Rule on States and its Impact on Indian Federal Structure

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Abstract

The research paper provides a concise exploration of the idea of emergency provisions in the context of the Indian political and legal system. It predominantly focuses on the constitutional intricacies surrounding Article 356, famously known as "President's Rule" or "State Emergency." This paper is primarily concerned with the practical aspects of State Emergency as outlined in Article 356 of the Indian Constitution. Article 356 of the Indian Constitution has been a subject of controversy since its inception due to its frequent misuse, which posed a threat to India's federal structure. Article 356 grants authority to the Union to enforce President's Rule, which involves the temporary suspension of state legislatures and executive functions when there is a collapse of the constitutional apparatus. Originally, this provision was included in the Constitution to safeguard people's welfare and prevent state governments from overstepping their authority and infringing upon individuals' fundamental rights as enshrined in the Constitution. Regrettably, this provision has often been wielded as a political tool to unseat governments on flimsy allegations of constitutional machinery breakdown. Political parties, driven by their own vested interests, have consistently applied pressure on the President to promote their individual objectives. As a result, Article 356 has been widely abused by the Union government on multiple occasions, undermining the federal structure of the Constitution. The existing structure of Article 356 has resulted in extensive abuse, greatly harming the nation's democratic system and hindering the development of a federal ethos. This exploitation erodes the integrity of state institutions, diminishes their power, and suppresses the state endeavours. This research paper will delve into the instances of misuse and critically assess the reasons behind Article 356's failure to fulfil its intended purpose. It will also explore measures that can be taken to prevent such abuse and analyze the recommendations put forth by the Sarkaria Commission, tracing the related judicial developments. Furthermore, the paper will examine the justiciability of this article and how it has evolved over time. It will also provide recommendations aimed at curbing its misuse.

Keywords: state emergency, misuse, President's Rule, Article 356, Federal Structure

I. Introduction

Article 356 of the Constitution, colloquially referred to as "President's rule" or "State emergency," grants the President the authority to suspend the executive and legislative powers of a state government when it cannot operate in accordance with the Constitution. During this suspension, the central government assumes direct administration of the state through the Governor and other bureaucratic officials. The initiation of President's rule occurs upon the President's receipt of a report from a State's Governor or through their own assessment of a breakdown in the state's constitutional machinery. This provision permits the imposition of President's rule for periods of up to six months, with a maximum cumulative duration of three years. Nevertheless, parliamentary approval is required every six months to extend this measure.

The Governor compiles a report, which is then presented to the President. With advice from the Council of Ministers and the Prime Minister, the President assumes control of the state government, commonly known as "President's rule." This constitutional provision grants the Union significant authority over the states, raising concerns about potential misuse of this power, which contradicts the principles of federalism. President's rule is typically imposed in two ways: either upon the President's receipt of a report from the state's Governor or when they are convinced that the state's situation prevents it from adhering to constitutional provisions. Article 365 also empowers the imposition of President's Rule when a state fails to comply with the Union's directives on matters within its jurisdiction. So various circumstances may trigger President's Rule, including the state government's inability to elect a Chief Minister within the Governor's specified timeframe, a coalition breakdown resulting in the Chief Minister lacking majority support, failure to prove majority in the Assembly within the allotted time, loss of Assembly majority due to a vote of no-confidence, or the postponement of elections due to factors like natural disasters, war, or epidemics. While Article 356 empowers the Union to assume state functions, it raises questions regarding the impact on state autonomy, making it a sensitive issue with implications for Centre-State relations, necessitating careful handling.

II. Research Questions

1. Whether the President's Rule under Article 356 been abused by the Central Government?
2. How has the Judiciary interpreted the Presidential Satisfaction under Article 356?
3. What effect does the misuse of Article 356 have on the federal structure of our Constitution?

III. Research Objectives

1. To analyze the evolution of imposition of President's Rule under Article 356 of the Indian Constitution
2. To critically assess the misuse of Article 356 under the Indian Constitution
3. To determine the Judicial Perspectives of Presidential Satisfaction under Article 356
4. To identify legal reforms to ensure that President's rule does not adversely impact the Indian Federalism

IV. Significance of the Study

This research study holds significant importance as it provides a thorough examination of the concept of emergency provisions within the framework of the Indian political and legal system. With a central focus on the constitutional complexities surrounding Article 356, commonly known as "President's Rule" or "State Emergency," the paper delves into the practical dimensions of State Emergency as outlined in this constitutional provision. Article 356, intended to protect the welfare of the people and prevent state governments from overstepping their authority, has faced persistent controversy due to its frequent misuse, posing a threat to India's federal structure. The study critically analyzes instances of abuse and investigates the reasons behind Article 356's failure to achieve its intended purpose. By exploring the recommendations of the Sarkaria Commission and tracing relevant judicial developments, the research aims to provide insights into preventive measures against misuse. Additionally, the paper delves into the justiciability of Article 356 and its evolution over time, offering recommendations to address and curb potential abuses. Ultimately, this research contributes to a better understanding of the challenges surrounding emergency provisions in the Indian context and proposes constructive measures to safeguard the nation's democratic principles and federal ethos.

V. Research Methodology

The research method undertaken for the research study is doctrinal research. Collection of information for the research is done through sources of law such as Primary and secondary sources. This will be theoretical research wherein the researcher will use various statutes, constitutional provisions, rules, legal doctrines and landmarks judgments of the courts. Additionally, use of commentaries, authoritative text books, relevant legal journals and

articles, newspapers, Law commission reports, committee reports, etc are being used for the research. It is a research study which helps in understanding the imposition of President's Rule and the problems which arise when the central government unduly interferes in the matters of State government. Through this method the data is analysed and the problem is identified, the researcher will identify the gaps or lacunae under Article 356 and thereafter invites the policy makers to make amendments to the law, repeal the law, bring in new laws, etc.

VI. Literature review

1. Misuse of Article 356: Presidential Takeover of State Government Vis-À-Vis Indian Federalism by Muskan Khandelwal , Journal of Constitutional Law & Jurisprudence, 1.4 149 (May. 2021)

In this article, the author commences by emphasizing the perpetual controversy surrounding Article 356, primarily stemming from its alleged misuse. The author asserts that this provision has garnered notoriety due to its frequent utilization, despite its initial intent as a rarely invoked measure. Article 356 confers authority upon the President to suspend a state's legislative assembly through a Proclamation when the state fails to adhere to the constitutional framework. The author interprets Article 356 as a mechanism to address the breakdown of constitutional machinery within a state. This empowers the President to issue an Emergency Proclamation when the state government is unable to function in accordance with constitutional provisions. While critically examining Article 356, the author points out that only around 60 instances justify the imposition of an emergency, while the rest remain contentious. The author highlights the perceived bias of the Center, citing the failure to invoke Article 356 during the 2002 Godhra train incident in Gujarat, despite a constitutional breakdown in the state. Finally, the author concludes that Article 356 is an integral part of the Constitution, and it is the responsibility of the executive to exercise this power in harmony with the Constitution.

2. The Discretionary Power of the President Under the Indian Constitution: A Judicial Assessment by Moksh Sharma, 4.4 CALQ (2017) 93.

This article underscores that President's Rule has primarily operated based on the principle of "political convenience" of the ruling political party at the Center, which has come under scrutiny by the courts over the years. The author delves into the historical origins of Article 356, tracing it back to Sections 45 and 93 of the Government of India Act, 1935. They note that the term "or otherwise" in Article 356(1) was not present in the original Article 188 of the draft Constitution. It was introduced as an amendment to draft Article 277-A, despite objections from Constituent Assembly members who feared it could be easily abused. The article extensively references the debates within the Constituent Assembly, especially those of Dr. B.R. Ambedkar. Dr. Ambedkar defended the introduction of this provision by arguing that it was necessary to grant the President the authority to act even without a report from the Governor. He emphasized the importance of exercising caution and restraint and believed that these provisions would rarely be put into practice, remaining largely symbolic. There has been no clear guiding principle for when to invoke or revoke President's Rule; instead, it has often been driven by political convenience. The author concludes that the President has faced significant pressures and influences from political parties pursuing their vested interests, using this power to advance their own agendas.

3. Some Areas of Friction between the Union and the States by David Annoussamy, (2002) 1 LW (JS) 73

In this article, the author asserts that the Constitution's Article 356, which allows for the dismissal of a state's representative government, is a source of significant concern for states. The author notes that nearly all states have, at some point, called for the removal of this article. Dissolving a legitimately elected state assembly through an external agency is seen as a direct affront to democratic principles. Furthermore, it is viewed as a violation of federalism, which envisions the coexistence of two governing bodies without one undermining the other. Additionally, the mere existence of such a provision has a detrimental effect on the public's confidence. The author suggests that this erosion of democratic values may be more detrimental than the temporary suspension of state governance, as it hampers the potential for a young democracy to flourish. The author concludes by advocating for a genuine democracy to thrive; the union and states should operate

independently within their respective spheres. In areas where their jurisdictions intersect, effective and harmonious coordination should be established to prevent conflicts.

4. Analysing the scope of Article 356 : Emergency on the grounds of Breakdown of State machinery by Prateek Chandgothia, Journal of Constitutional Law & Jurisprudence, 2.3 JCLJ (2022) 704

The author of this article provides an explanation of Article 356 in the Constitution of India. This article grants the Union the authority to impose President's Rule and suspend the functioning of a state's legislature and executive in the event of a breakdown of the constitutional system. The author contends that this provision was initially introduced to safeguard the welfare of the people and to prevent state governments from exceeding their powers and infringing upon the fundamental rights of individuals, as outlined in the Constitution. The author expresses the view that, in practice, this provision has evolved into a political tool that can be wielded to oust a government on flimsy allegations of a breakdown in the constitutional system. Furthermore, the author highlights the vagueness in the wording of the provision, particularly in the phrase "in accordance with the provisions of the Constitution," which is subject to varying interpretations, resulting in ambiguity and uncertainty. The author concludes the article by asserting that over time, Article 356 has been frequently invoked as a means of settling political rivalries, despite attempts through legal precedents and committee recommendations to curb its misuse, indicating that strict adherence to these controls has not been consistently maintained.

5. Imposition of President's Rule in Indian States from Independence to 2020: An analysis by Anil Ghanghas, 4 (3) Ind. J. Pol. SCI (2020)

In this article, the author delves into the history of President's Rule in various Indian states since independence. The author compares its imposition in different states, examines the circumstances under which it was invoked, and evaluates its constitutionality. A comprehensive analysis of the trend of President's Rule imposition is also presented, divided into twenty-year increments. Firstly, it can be imposed when the President determines that the state government cannot function in accordance with the Constitution. Secondly, it can occur when the state government fails to appoint a chief minister within a time frame set by the state's governor. Thirdly, it can be declared when a coalition collapses, leaving the chief minister with minority support in the legislative assembly, and the chief minister is unable to prove majority within the stipulated time. Fourthly, it can be invoked if a vote of no-confidence leads to the loss of a majority in the assembly. The article concludes by suggesting that it is imperative to amend Concurrent Provisions in a manner that allows centrally-sponsored schemes to fall under the state's jurisdiction, while issues related to law and order, national security, and international matters can be placed in the concurrent list, giving the central government a more decisive role.

VII. Historical background regarding the imposition of President's rule under Article 356 of the Constitution

The authors of our Constitution were well aware that, in a country as diverse as India, marked by significant socio-economic disparities and a vast population, the security of the nation and the stability of its political system couldn't be taken for granted and might go beyond the capabilities of individual states. The origin of Article 356 can be traced back to Section 93 of the Government of India Act, 1935. This section empowered the Governor to assume, through a proclamation, any or all of the powers vested in or exercisable by any provisional body or authority if they believed that the government of a province couldn't function in accordance with the Act's provisions. Notably, the words "or otherwise" in Article 356(1) were not part of the original Article 188 in the initial draft of the Constitution, but they were later added through an amendment to Article 277-A. This addition was made despite objections from members of the Constituent Assembly who expressed concerns that it could potentially lead to misuse.

Dr. Ambedkar justified the introduction by stating: —

"It may be that the Governor does not make a report.... I think as a necessary consequence to the introduction of Article 277-A, we must give liberty to the President to act even when there is no report by the Governor and when the President has got certain facts within his knowledge on which he thinks, he ought to act in the fulfilment of his duty"

Dr Ambedkar explained the purpose of these provisions and laid emphasis on the need for caution and restraint as under: —

“That such articles will never be called into operation and that they would remain a dead letter. If at all they are brought into operation, I hope the President, who is endowed with these powers, will take proper precautions before actually suspending the administration of the provinces. I hope the first thing he will do would be to issue a mere warning to a province that has erred, that things were not happening in the way in which they were intended to happen in the Constitution. If those warning fails, the second thing for him to do will be to order an election allowing the people of the province to settle matters by themselves. It is only when these two remedies fail that he could resort to this article.”

Dr. Ambedkar had assumed that Article 356 of the Indian Constitution would not be used frequently and would just remain a dead letter, however the number of times it has been used improperly by the Centre, proves him wrong.

i. Issue of excessive invocation of the President’s Rule:

Regrettably, Article 356 has frequently been exploited for political gain, primarily to acquire power from rival political parties. The application of President's Rule in different states under Article 356 has garnered criticism from various sources. This article has been invoked 109 times since its initial use in Punjab in 1951, averaging more than two uses annually. At certain points, it was used as frequently as half a dozen times per year. It's evident that this article has been misused far more often than it has been employed to safeguard constitutional norms within the states. This authority has primarily been used by the ruling party at the national level to oust democratically elected state governments that do not conform to its policies. According to the Sarkaria Commission's Report, which examined 75 cases of President's Rule from June 1951 to May 1987, it was found that in 52 out of 75 cases, Article 356 was used for purposes it was not intended for. Consequently, the utilization of this article for political motives undermines the federal character and democratic principles, which are regarded by the judiciary as fundamental pillars of the Constitution.

ii. Issue of undermining of the federal spirit by virtue of the President’s rule:

The undermining of the federal spirit through the imposition of President's rule is a critical issue. It's crucial to bear in mind that maintaining the equilibrium between the Union and the States and advancing the well-being of the people hinges on embracing the notion of "cooperative federalism" instead of an approach rooted in dominance or superiority. In our constitutional framework, no single entity can claim supremacy, as sovereignty is not vested in any one institution or government branch. Governance power is distributed among various organs and institutions, which is vital for effective governance. The Union and the States are equal partners in governing the country, respecting the people's will expressed through democratic elections is paramount. Any misappropriation or abuse of power by the central government can harm the federal system. India's constitution acknowledges its federal nature, and federalism is an integral part of our constitutional framework. Unfortunately, the Union government has frequently misused Article 356 to intervene in state government affairs, which has been detrimental to Indian federalism over time. The Sarkaria Commission Report and the Supreme Court's decision in *S.R. Bommai v. Union of India* (reported in AIR 1994 SC 1918) provide substantial evidence supporting this assertion.

VIII. The Sarkaria Commission Report,1987:

As mentioned previously, in spite of the safeguards detailed in Article 356, the Central government invoked this article on numerous occasions because of uncertainties in its language. It was only in 1987, with the submission of the Sarkaria Commission's report, that some of the uncertainty surrounding Article 356 became clearer.

The Sarkaria Commission proposed eight safeguards to prevent the misuse of the powers granted by this article. Below are the suggested protective measures:

1. Article 356 should be employed with restraint, as a final recourse, only when all other viable options have been exhausted to avert or rectify a breakdown of the constitutional machinery in a state.
2. A notice should be issued to the non-compliant state when it deviates from constitutional governance. Nevertheless, this might not be feasible in cases where prompt action is required to avert catastrophic outcomes.

3. When external aggression or internal disturbance paralyzes state administration, leading to a potential breakdown of the constitutional machinery, all other options under Article 355 should be exhausted to contain the situation.
 - (a) In situations of political turmoil, the Governor should exhaust all potential avenues for establishing a government with majority backing. If this is not feasible and fresh elections can be held promptly, the outgoing ministry, if there is one, should continue as a caretaker government.
 - (b) If the conditions as described are not fulfilled, the Governor should refrain from dissolving the assembly and appointing a caretaker government. Instead, they should suggest Presidential rule while keeping the Assembly intact.
4. Each proclamation should be presented before both houses of Parliament as soon as possible, and in any case, before the two-month period specified in Article 356(3).
5. The Governor's report must be all-encompassing, providing a lucid and exact account of all pertinent details and reasons by which the President can assess whether the situation outlined in Article 356 exists or not.
6. The Governor's report should receive wide publicity through all forms of media and should be disclosed in full.
7. Typically, Presidential rule should be imposed based on the Governor's report under Article 356(1).

IX. Judicial Perspective of Presidential Satisfaction:

The judgment in the **Rajasthan v. Union of India** case was delivered following the National Emergency of 1975. After the Janata Party won a landslide victory in the Lok Sabha election, forming the central government, Charan Singh, the Home Minister at the time, advised Chief Ministers of states with Congress-led governments to resign from their state legislatures. Rajasthan and other states challenged this advice in the Supreme Court, arguing it was illegal and violated the constitution.

The court ruled that the Home Minister's letter was advisory rather than a directive, falling within the bounds of maintaining democratic norms. It was not a valid reason for invoking Article 356. The court also clarified that Article 356 could be invoked with the President's assent, even without parliamentary approval. Nonetheless, the court emphasized that the judicial review of proclamations under Article 356 should be infrequent, as any grounds even remotely linked to the preservation of democratic principles would render a proclamation lawful.

In the **SR Bommai v. Union of India** case, the Supreme Court set significant precedents related to the constitution. It evaluated the legality of six proclamations and made key observations such as the federal structure of the constitution is fundamental and should not be subverted, state governments are created by the constitution and must be protected, and Article 356 should be used sparingly after all steps to prevent political paralysis have been exhausted. The court ruled that approval from Parliament was necessary for dissolving the assembly. During SR Bommai's time as the Karnataka state government, they challenged the legitimacy of the President's proclamation, contending that it relied on the governor's report without the opportunity for a floor test or a chance for the ruling party to demonstrate majority support. The Karnataka High Court rejected the petition, asserting that the governor was not obligated to conduct a floor test unless his rationale was unfounded, irrelevant, or evidently ill-intentioned. The Supreme Court overruled the Karnataka High Court and provided guidelines for imposing President's rule. It emphasized that Article 356 could be invoked in cases of constitutional breakdown or a hung assembly. The court determined that the state legislature could not be dissolved until the proclamation was ratified by both houses of Parliament, and that the majority should be assessed within the legislative assembly. This overturned the earlier observation in the Rajasthan v. UOI case, which stated that the governor was not obliged to conduct a floor test. As a result, proclamations in Karnataka, Meghalaya, and Nagaland were declared unconstitutional.

Following the Sarkaria Commission and the Bommai case, the abuse of Article 356 reduced significantly. In the **C.R. Das v. UOI** case, the governor's report about a breakdown in constitutional machinery due to deteriorating law and order was denied by the President, stating that bad governance did not amount to a breakdown. In the **Rameshwar Prasad v. Union of India** case, the court emphasized that emergency proclamations should not be based on the whims of the governor but on real and cogent grounds.

The outcome of the Bommai case was reflected in the **Harish Singh Rawat v. UoI** case, where the state government was dissolved without a floor test. The governor initially called for a floor test, but later, Presidential rule was enforced. This led to a query about the procedure for passing a vote of no-confidence when

the assembly is in a state of suspended animation. The High Court ordered a floor test to be conducted and declared the proclamation void ab initio.

X. Critical Analysis:

A major concern regarding Article 356 pertains to its limited justifiability, as it has only been reasonably invoked in about 60 cases, leaving the rest mired in controversy. More often than not, this power has been flagrantly misused. Political parties, motivated by self-interest, have consistently exerted pressure on the President to advance their own agendas. Consequently, the application of President's Rule under Article 356 should adhere to constitutional principles rather than serving political expediency for the ruling party. Such powers should be exercised without manipulation and with due respect for the people's democratic choices. Furthermore, the President, as the formal guardian of power, plays a pivotal role in the Constitution's efficient functioning. It's imperative that the will of the majority, as expressed by the people, takes precedence. The invocation of Presidential power should not occur at the slightest provocation; it should be exercised judiciously, as a constant resort to this power risks diminishing the public's esteem for the office. The potential for political misuse is ever-present, and Article 356, in its current form, has allowed for widespread exploitation, undermining the principles of democratic governance and federalism in several ways. Firstly, it weakens state institutions, eroding their authority and stifling their initiatives. Secondly, the mere possibility of such intervention has a detrimental impact on the public psyche. Rather than seeking democratic means to align the government with their wishes, people tend to clamor for the dismissal of state governments.

A peculiar situation arose concerning the state of Manipur, where the central government did not invoke President's Rule despite there being a dire need. Since May 2023, Manipur has been plagued by uncontrolled violence stemming from ethnic clashes between the Kuki and Meitei communities. This has led to a severe breakdown of the state's constitutional machinery and a complete collapse of law and order. The Manipur state government failed to protect the life and liberty of its people amidst the ongoing violence. The BJP-led central government faced significant criticism for not imposing President's Rule in Manipur, even though it appeared to be a fitting case for doing so under Article 356. Allegedly, the BJP's presence in both the central and state governments deterred them from invoking Article 356, as it would imply a failure of the BJP party which rules the state of Manipur. This episode underscores the partisan behavior of the central government towards a particular state. It is incumbent upon the central government to impose President's Rule in Manipur to quell the violence and restore peace and normalcy in the state.

XI. Conclusion

The original intent of the Indian Constitution was to establish a system of parliamentary democracy at both the national and state levels, functioning within a federal structure. This federal structure included unique safeguards to ensure national unity and growth. However, this distinctive feature aimed at curbing tendencies that might weaken the nation has, at times, been subject to manipulative practices and faced criticism from various quarters. Maintaining a federal system with a central bias is challenging when the political parties responsible for its operation hold contradictory attitudes. Hence, it is imperative to foster a federal spirit within the government and the political landscape in order to attain the intended success of this system. The active use of Article 356 introduces a new dimension to the functioning of India's federal-parliamentary democracy. The framers of the Constitution originally intended to treat this article as a "dead letter" or to disregard its existence in practice. However, over the years, it has become one of the most actively employed provisions of the Constitution. Article 356 has emerged as a delicate issue in the Center-State relationship in India. The centralization of authority and resources at the national level frequently results in a perception of dominance and a superpower mentality, which, in its wake, triggers sentiments of frustration, inequity, bias, and powerlessness among the states. This situation can give rise to dangerous regionalist forces. Given the nature of India's parliamentary democracy and the prevailing party structure, rather than removing Article 356, it is advisable to make appropriate amendments to prevent its misuse.

XII. Suggestions

Therefore, considering the recommendations of the Commission mentioned above and the legal guidance provided by the courts, the following proposals are put forth:

1. To prevent the potential abuse of Article 356, it is essential to establish safeguards in the form of adhering to established conventions.

2. The role of the Governor, while not mandated by Article 356, holds significant importance and can be crucial. Currently, President's Rule can be imposed even without a Governor's report if the President determines a failure of the constitutional machinery in the State. Therefore, making the Governor's report a prerequisite for considering the application of this provision in a state is suggested, eliminating the "otherwise" clause from the provision through an amendment.

3. Apart from relying on Article 356, which should only be considered as a final option, there exist other provisions within the Constitution that should be employed first. Article 355 grants the Union government the authority to safeguard states from internal disruptions and secure their commitment to the Constitution. The central governments should exercise great restraint and not use this article arbitrarily.¹

Proposed amendments to Article 356 could include the following:

- a) It should stipulate that the Legislative Assembly cannot be dissolved until both Houses of Parliament approve the proclamation issued under Article 356(1). If necessary, it can be placed under temporary suspension.
- b) Prior to issuing the proclamation under Article 356(1), the President or the Central Government should inform the State Government about the areas where it is not adhering to the Constitution and grant it a reasonable opportunity to rectify the situation.
- c) The proclamation should encompass, as an annex, the circumstances and justifications upon which the President grounds their conviction that a situation has arisen where the state government is unable to function in accordance with the Constitution.
- d) The assessment of whether the government in a state has forfeited the trust of the Legislative Assembly should be solely conducted within the Assembly itself and nowhere else.
- e) The removal of a state government by the Governor should only transpire when a Chief Minister declines to step down subsequent to their Ministry being defeated in a vote of no-confidence.

In addition to these recommendations, it is advised that ruling parties follow the safeguards and guidelines provided by the Sarkaria Commission and those outlined in the Bommai judgment. By using Article 356 judiciously, the unity and integrity of India can be further reinforced. This requires a commitment from both central and state ruling parties wherein they should prioritize the welfare of the Indian people over political agendas.

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