

B.A.LL.B. VI SEMESTER

SUBJECT: CONSTITUTIONAL LAW OF INDIA-II

CODE: BL-6003

TOPIC: Emergency Provision

Emergencies

The Indian Constitution gives President the authority to declare three types of Emergencies.

National Emergency

State Emergency

Financial Emergency

Emergency Provisions in India are borrowed from "WEIMAR" Constitution of Germany

Note- Art. 325 National Emergency

Art. 356 Emergency in States (President Rule)

ART. 360 Financial Emergency

National Emergency:-

Under Art. 352 if the president is satisfied there exist a grave situation where in the security of the country threatened on the grounds of Wars , External Aggression or Armed Rebellion , He can proclaim emergency to that effect.

Emergency can be declared over the complete territory of India or any Part thereof.

President can declare Emergency only on the written advise of the Cabinet. Emergency shall operate for a maximum period of not more than 06 months. Lok sabha has the power to disapprove the operation of

National Emergency at any time if not less than 10th members of Lok sabha.

Amendment :-

38th Constitutional Amendment Act. 1975 :- It empowered President to proclaim National Emergency on different Rounds Even though an Emergency is already under operation.

42nd Constitutional Amendment Act. 1976

44th Constitutional Amendment Act. 1978

State Emergency :- On executive point State Government dismissed and the executive power of the State is exercised by the Centre.

On Legislature State Legislature doesn't function to legislate, state legislative assembly is either suspended or dissolved. On Financial I relation – There id no impact on the distrubition of financial resources between Central & the State .

Amendments :- 42nd Constitutional Amendment Act. 1976 extended the period of State Emergency from 6th month to 1 year.

44th Constitutional Amendment Act. 1978 reverted back the operation of State Emergency to 6 months. Further it divided the maximum period of three years of operation Into one year under ordinary circumstances and two years extra ordinary circumstances , which the stipulated conditions shall have to be satisfied.

Financial Emergency :- Under Art. 360 If the President is satisfied that a situation has arisen where by the financial stability or credit of India or any part of territory there office threatened he may by a proclamation make a declaration to that effect this emergency is never imposed in India.

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