Impact of President's Rule in Centre-State Relations

Why in news?

The recent spate of renewed violence in Manipur has once again triggered the discussion around Centre-State relations and the use of emergency provisions by the Centre.

What is India's federal structure of governance?

- India is a federation with governments at the Centre and the States.
- **Indian Constitution** – It has separate provisions with respect to legislative, executive and financial distribution of powers between Centre and State
    - **Legislative Relations** - Articles 245 to 255
    - **Administrative Relations** - Articles 256 to 263
    - **Financial Relation** - Articles 268 to 293
- **Distribution of Power** - The ***7th Schedule*** to the Indian Constitution distributes the power between the Union and States.
    - **List I (Union List)** - 98 subjects (originally 97)
    - **List II (State List)** - 59 subjects (originally 66)
    - **List III (Concurrent List)** - 52 subjects (originally 47)
- Centre has exclusive control over Union List while State have exclusive control over State List except few instances.
- Both Centre and State can legislate on Concurrent List, but centre has overriding powers over state laws.

> *In India, it is the domain of the State governments to maintain law and order in their respective States.*

What is President's Rule?

> *The emergency provisions are provided in Part XVIII of the Constitution where Articles 355 and 356 deal primarily with the affairs of government in a State.*

- **President's Rule** - ***Article 356*** allows for the imposition of the President's rule in the state.

> *President's Rule is also known as 'State Emergency' or 'Constitutional Emergency.*

- It can be *proclaimed under two grounds*
    - **Article 356** - When the government of a state cannot be carried on in accordance with the Constitutional provisions.
    - **Article 365** - When a state fails to comply with or to give effect to any direction from the Centre.

While in the U.S. and Australia, federal government functions also involve protecting States, their constitutions do not contain provisions for removing State governments.

- **Duty of Central Government** - ***Article 355*** imposes a duty on the Centre to *protect every State* from external aggression and internal disturbance.
- It also specifies that the Centre should ensure that *every State government operate according to the Constitution*.
    - Article 355 was incorporated to *check any arbitrary or unauthorised use of Article 356*.
- **Approval of President's Rule** - A proclamation imposing President's Rule must be approved by both the Houses of Parliament ***within 2 months*** from the date of its issue.
- **Duration** - If approved by both the Houses of Parliament, the President's Rule continues for ***6 months***.
- It can be extended for a *maximum period of 3 years* with the approval of the Parliament, every 6 months.
- **Condition on Extension** - The *44th Amendment Act of 1978* introduced conditions to extend the proclamation of President's Rule beyond one year.
    - A proclamation of National Emergency should be in operation in the whole of India or in part. (Or)
    - Election Commission must certify that the general elections to the legislative assembly of the concerned state cannot be held.
- **History of President's Rule** - Since 1950, the President's Rule has been imposed on more than 125 occasions.
    - For the first time, the President's Rule was *imposed in Punjab in 1951.*

What are its impacts on Centre-State Relations?

- **Impacts on Executive Power**– President can take up the functions of the state government.
- President dismisses the state council of ministers headed by the chief minister.
- The state governor, on behalf of the President, carries on the state administration.
- **Impact on Legislative Power** - President either suspends or dissolves the state legislative assembly.
- The Parliament passes the state legislative bills and the state budget.
- The law made by the Parliament continues to be operative even after the President's Rule.
- **Issues** - Article 356 was *misused on several occasions* removing elected governments that enjoyed majority in the States.

- Their invocation varied from loss in Lok Sabha elections to deterioration of law and order in the States.

How court ruling have shaped president's rule in India?

Cases	Judgements
State of Rajasthan Vs Union of India (1977)	• *Courts can strike down* President's rule if it was based on irrelevant or mala fide considerations. • *President's satisfaction is a prerequisite* for exercising the powers under Article 356.
S R Bommai case (1994)	• Article 356 should be imposed only in the event of a breakdown of constitutional machinery. • *Cannot be invoked for* an ordinary breakdown of *law and order.* • Should not be misused for political reasons. • Proclamation is *subject to judicial review*.
H.S.Jain Vs Union of India (1997)	• It broadened the interpretation of Article 355 *giving the Union more flexibility* to intervene in state affairs.
Naga People's Movement of Human Rights Vs Union of India (1998)	• The deployment of armed forces in aid of civil power is permitted for a temporary period, until normalcy is restored
Sarbananda sonowal vs union of india (2005)	• Court struck down the Illegal Migrants (Determination by Tribunals) Act (IMDT Act) 1983 as it violated Article 14 & 355. • It also failed to address the problem of illegal immigration in Assam.

What lies ahead?

Dr. Ambedkar in the constituent Assembly wished that Articles 355 and 356 would never be called into operation and would remain a dead letter.

- It shall be invoked as a last resort as recommended by various committees as mentioned below

Committee	Recommendations
1st ARC 1967	• It shall be used as a last resort if state fails to follow the constitutional machinery.
Sarkaria Commission (1987)	• All possibilities of forming an alternative government should be explored before imposing President's Rule. • Article 356 should be used only as a last resort, when all other options have failed. • Before invoking Article 356, the center should *issue a warning to the state* in specific terms. • President's proclamation *should include the reasons* why the state cannot run normally. • President should only be able to dissolve the state legislature after getting parliamentary approval.

National Commission to Review the Working of the Constitution (2002)	• President's Rule under Article 356 should be *used sparingly* and only in extreme situations. • Grounds for invoking President's Rule should be clearly defined and more stringent. • *Courts should have greater power to review* the President's decision to impose President's Rule. • *Limiting the duration of President's Rule*, to ensure that it is not used as a tool to indefinitely suspend a state government.
Punchhi Commission (2007)	• Localize areas, a district or parts of a district be brought under the President's rule instead of the whole State. • The time period of an emergency should be *at most three months.* • Specific guidelines on the chief ministers' appointment to limit the discretionary powers of the governor.

1st Administrative Reforms Commission (1967) was initially headed by Morarji Desai and later by Hanumanthaiah.

Justice M.N. Venkatachaliah chaired the National Commission to Review the Working of the Constitution (NCRWC) in 2002.

Quick Facts

Constitutional Provisions on Emergency
• Emergency provisions are contained in Part XVIII of the Constitution from Artic1es 352 to 360. • **Article 352** - Proclamation of Emergency • **Article 353**- Effect of Proclamation of Emergency • **Article 354**- Distribution of revenues while a Proclamation of Emergency is in operation • **Article 355**- Duty of the Union to protect states against external aggression and internal disturbance • **Article 356**- Provisions in case of failure of constitutional machinery in states • **Article 357**- Exercise of legislative powers under proclamation issued under Article 356 • **Article 358**- Suspension of provisions of Article 19 during • **Article 359**- Suspension of the enforcement of the rights conferred by Part III during Emergencies • **Article 360**-Provisions as to Financial Emergency

Reference

[The Hindu | Impact of emergency provisions on Centre-State relations]

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