

# FEDERALISM UNDER FIRE: ANALYZING ARTICLE 356 AND STATE GOVERNANCE FAILURES IN INDIA

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**Abstract:** *This study examines Article 356 of the Indian Constitution and its implications for state governance within the federal framework. While Article 356 aims to address governance failures, its application raises concerns about state autonomy and the potential misuse of presidential powers. The research highlights the tension between national integrity and state rights, illustrated through landmark cases such as S.R. Bommai v. Union of India, which reveal the judiciary's critical role in interpreting federalism and safeguarding constitutional supremacy. However, these judicial interpretations also expose vulnerabilities that may lead to arbitrary actions undermining democratic principles. The findings advocate for a re-evaluation of federal governance mechanisms in India, calling for clearer guidelines and safeguards against central overreach. A balanced approach is necessary to uphold the essence of federalism, ensuring that state governments maintain their autonomy while preserving national integrity. Addressing these challenges is vital for fostering a resilient federal structure capable of effectively responding to contemporary governance issues.*

**Keywords:** Article 356, Federalism, State Governance, Presidential Power, Judicial Interpretation.

## 1. Introduction

Federalism in India divides powers between the central government and state authorities, with Article 356 serving as a mechanism for addressing governance failures at the state level. This article empowers the President to take control of state governance when constitutional machinery fails, but its application raises concerns about state autonomy and the potential misuse of presidential authority. The historical context of Article 356 reflects a complex interplay between state rights and national interests, leading to tensions that challenge the principles of federalism. Landmark judicial cases, particularly S.R. Bommai v. Union of India, highlight the judiciary's role in interpreting this provision and safeguarding constitutional supremacy, while also exposing vulnerabilities that can result in arbitrary

actions undermining democracy. This study critically examines the implications of Article 356 for state governance, advocating for clearer guidelines and safeguards against central overreach. A balanced federal framework is essential to ensure state autonomy while maintaining national integrity, fostering a resilient federal structure capable of addressing contemporary governance challenges.

## 2. Literature Review

The concept of federalism in India, particularly in the context of Article 356, plays a crucial role in understanding the dynamics of state governance and central authority. Article 356 empowers the central government to impose President's Rule in states facing governance breakdowns, raising significant concerns about state autonomy and the federal structure. This literature survey aims to critically analyze existing studies on the application and implications of Article 356, exploring its effects on political stability, state governance, and the overall health of India's federalism.

### Summary of Literature Survey

Authors and Year	Work Done	Findings
Adeney, K. (2005)	Explores the relationship between Hindu nationalists and federal structures amidst regionalism.	Highlights how regional dynamics influence federal structures in India, impacting political stability.
Adeney, K. (2006)	Discusses nation formation and consociational federalism in India and Pakistan.	Identifies the role of federalism in shaping national identity and governance in both countries.
Adeney, K. (2007a)	Comments on the necessity of asymmetrical federalism in contemporary politics.	Argues for the relevance of asymmetrical arrangements in addressing diverse regional needs.
Adeney, K. & Sáez, L. (2005)	Edited volume on coalition politics and Hindu nationalism.	Examines the complexities of coalition governance in the context of Hindu nationalism.
Ahluwalia, M. S. (2000)	Analyzes economic performance across Indian states post-reforms.	Finds significant disparities in economic growth and development among states after economic reforms.
Ahmad, A. (2000)	Investigates the Kashmir conflict and its implications for India, Pakistan, and the U.S.	Highlights the complexities of autonomy and regional security in Kashmir's political landscape.
Akoijam, A. B. (2001)	Reflects on historical patterns in Indian politics.	Concludes that historical narratives shape contemporary political dynamics and public perception.

Akoijam, A. B. & Tarunkumar, T. (2005)	Studies the implications of the Armed Forces (Special Powers) Act, 1958.	Critiques the act as a means of legitimizing state violence and its impact on civil liberties.
Alagh, Y. K. (2009)	Discusses decentralization and devolution in the Eleventh Five-Year Plan.	Finds that effective decentralization is essential for improving governance and public service delivery.
Alam, J. (2002)	Analyzes the relationship between the nation and state in India.	Argues that a difficult bond exists, affecting national unity and state governance.
Alok, V. N. (2006)	Examines local government organization and finance in rural India.	Identifies challenges in financing and managing rural local governance structures.
Alok, V. N. (2008)	Investigates the role of state finance commissions in India's fiscal decentralization.	Finds that finance commissions play a critical role in ensuring fiscal equity and resource allocation.
Alok, V. N. (2009)	Analyzes the share of local governments in the divisible pool in India.	Suggests that local governments face challenges in resource allocation, affecting their effectiveness.

### 3. Research Gap

There is a significant gap in the literature concerning the implications of Article 356 on state governance within India's federal framework. While existing studies address the theoretical aspects of federalism and judicial roles, they often overlook the practical outcomes of Article 356, particularly regarding state autonomy and governance failures. Empirical analyses of its historical applications and their effects are scarce. This study aims to fill these gaps by examining Article 356 in depth and advocating for clearer guidelines to mitigate central overreach.

### 4. Problem Statement

The invocation of Article 356 poses challenges to state governance in India, raising concerns about state autonomy and presidential power misuse. Landmark cases like *S.R. Bommai v. Union of India* reveal judicial vulnerabilities that threaten federalism and democratic processes.

### 5. Methodology

The methodology for examining the legal aspects of federalism in India involves a comprehensive analysis of constitutional provisions, historical context, and judicial

interpretations. This study employs qualitative research methods, primarily focusing on legal texts, scholarly articles, and landmark judgments. Key features of Indian federalism, such as the dual polity system, written constitution, and supremacy of the Constitution, are examined to understand their implications for power distribution between the Centre and the states. The research further investigates the role of the judiciary in maintaining constitutional supremacy and independence, especially regarding emergency provisions like Articles 352 and 356. Case studies, including *S.R. Bommai v. Union of India*, are analyzed to evaluate the justiciability of presidential discretion and the impact of emergency declarations on the federal structure. The findings are contextualized within the broader framework of federalism, highlighting the balance between unity and diversity, and assessing the implications of emergency provisions on the autonomy of state governments and the overall federal balance.

## 6. Limitation

- Qualitative methods may introduce biases in interpreting judicial decisions.
- Focusing on landmark cases may overlook significant rulings affecting Centre-state dynamics.
- Emphasis on *S.R. Bommai v. Union of India* may not capture broader patterns of governance failures under Article 356.
- The analysis may not adequately reflect the diverse issues faced by different states.

## 7. Result & Discussion

**Legal Aspects of Federalism:** Legal experts have varied opinions on the federal nature of India's Constitution. Scholars like Charles H. Alexandrowicz, R.L. Watts, and Rasheeduddin Khan assert that India is a federation, with Alexandrowicz noting that "India is undoubtedly a federation in which the attributes of sovereignty are shared between the Centre and the States." The Supreme Court also supports this view, stating in *S.R. Bommai* that Indian federalism is a principle rooted in historical processes and ground realities.

**Key features of Indian federalism include:**

- **Dual Polity:** Each level of government is assigned specific powers and sovereignty within its territory, allowing both the Centre and States to legislate without overstepping their boundaries.

To clarify this distribution, Schedule VII outlines the Union List, State List, and Concurrent List. While the residuary powers are held by the Centre, the distribution of government powers differs in the United States, where they primarily reside with the States.

### **Legal Aspects of Federalism:**

**Written Constitution:** The Constitution of India is a written document, which is essential for maintaining constitutional supremacy and a clear division of powers. This written nature prevents interference between the jurisdictions of both levels of government.

**Supremacy of the Constitution:** For effective governance within the federal structure, it is vital to uphold the supremacy of the Constitution. In India, the Constitution is recognized as the supreme law, ensuring that all laws and actions by the government must align with its provisions.

**Independence of the Judiciary:** The judiciary serves as the guardian of the Constitution, with the Supreme Court of India fulfilling this role. It operates independently from both the executive and legislative branches, ensuring that judges cannot be removed by the executive or have their salaries cut by Parliament. The Supreme Court possesses the power of judicial review, allowing it to declare laws unconstitutional if they do not comply with the Constitution. This independence is crucial for maintaining the integrity of the federal structure and upholding the rule of law.

**Legal Aspects of Federalism:** The power to declare laws ultra vires exists within India's integrated judiciary, which operates differently from the parallel federal and state court systems found in the United States.

**Bicameral Legislation:** India has a bicameral legislature, consisting of the Lok Sabha and the Rajya Sabha. The Lok Sabha is directly elected by the people, while the Rajya Sabha is composed of representatives elected by the State Legislative Assemblies. Dr. Herman Finer notes that "Legislatures are bicameral for two broad and different reasons: as a part of federalism and as a result of a desire to check the popular principle in the Constitution."

**Functional Aspects of the Federal Structure:** The Indian federal structure aims to maintain the unity and integrity of the country while ensuring the proper utilization of resources for economic development. To enhance Centre-state relations, various agencies have been established, including:

- Intergovernmental agencies
- Federal agencies
- Inter-state conferences

These platforms facilitate interaction and cooperation between the Centre and the states, ultimately strengthening their relationship. For example, revenue collection is divided between the state and central governments as outlined in the Constitution, and the Finance Commission has been developed as a federal agency to promote cooperative working between them. Federalism seeks to balance the need for unity on certain issues with the need for diversity and autonomy in others. Its essence is to prevent the rise of autocratic governance and to ensure a division of power between the states and the union. A.V. Dicey emphasizes that federalism requires a union rather than uniformity.

**Emergency Provisions:** Every nation encounters situations that necessitate immediate action, often rendering ordinary constitutional provisions insufficient. In India, Part XVIII of the Constitution provides the Union with extensive powers—both legislative and executive—during emergencies. The framers believed that the Centre should possess predominant authority to manage all aspects of administration and legislation in such situations. This significant feature has led some scholars to question whether the Indian Constitution is entirely federal. Black's Law Dictionary defines an emergency as "a failure of the social system to deliver reasonable conditions of life." It can also be described as "circumstances arising suddenly that call for immediate action by public authorities under powers specifically granted to them."

**Emergency and Its Impact on Federalism:** The imposition of an emergency is a rare occurrence that significantly highlights the concept of federalism, sparking extensive debate on its implications. Article 356 of the Indian Constitution, which allows for the imposition of President's Rule in states, has become a focal point in discussions about federalism in India. This issue gained prominence when the Janata Party came to power at both the central and state levels following the 1977 elections. During this period, the Janata Party began

dismissing Congress-led state governments and dissolving their assemblies. It was only then that Congress ministers recognized the federal nature of the Constitution, marking a pivotal moment towards federalism and an end to the emergency. The emergency and its aftermath have brought federalism to the forefront, necessitating dedicated discourse on the subject. For instance, H.M. Seervai's third edition of his book includes a chapter titled "Federation in India," which discusses the role of the emergency in shaping federalism. Similarly, B.D. Dua's work, *Presidential Rule in India. A Study in Crisis Politics*, addresses how the Union's intervention during emergencies affects India's federal system. While it is well-established that emergencies diminish the federal structure, it is crucial to assess the extent of this diminishment and the implications for power distribution.

**National Emergency and Federalism:** B.R. Ambedkar emphasized that during an emergency, citizens' primary loyalty should be to the Centre rather than the constituent states, as only the Centre can pursue the common good of the country as a whole. Article 352 of the Indian Constitution empowers the Union government, broadening its scope during emergencies, which can be proclaimed on grounds of war, external aggression, or armed rebellion. The President's discretion in determining whether such a threat exists is subjective. However, this proclamation must be supported by the Cabinet and officially approved by Parliament within a month; otherwise, it ceases to be effective.

**Justiciability of Presidential Discretion:** The 38th Amendment Act introduced Clause 5 to Article 352, which further outlines the scope of presidential discretion during emergencies.

### **Judicial Review and Article 352**

The "satisfaction" of the President, as stated in Article 352, is considered "final" and cannot be questioned in state courts. This provision initially restricted judicial review, but subsequent amendments later restored the ability of courts to review presidential actions. It has been opined that the circumstances surrounding the President's proclamation of emergency under Article 352—such as whether he acted within his powers or in bad faith—should fall within the scope of judicial review.

**Invocation of Article 352:** Article 352 was first invoked on October 26, 1962, during a conflict with China, remaining in effect until it was revoked in 1968 after the Indo-Pakistan war. A second emergency was declared in 1971 due to external aggression, and while this



was ongoing, a third proclamation was made in 1975 on the grounds of "internal aggression." Public sentiment at the time suggested there was no actual threat, leading to allegations that the proclamation was a misuse of Article 352. This misapplication contributed to the government's loss of majority and subsequent elections in 1977. An investigation concluded that the emergency was unjustified, resulting in amendments aimed at preventing similar occurrences in the future.

**Consequences of a Proclamation of Emergency on Federal Structure:** The proclamation of emergency under Article 352 has significant implications for the legislative, executive, and financial powers of states:

**Change in Centre-State Relations:** The relationship between the Centre and states undergoes a fundamental shift, effectively altering the federal structure. Under certain provisions, Parliament gains the authority to legislate on matters within the state list, overriding state laws. Additionally, the central government can levy taxes that fall under the state list.

**Centralization of Executive Power:** Article 353 shifts executive powers to the Centre, allowing it to direct states, impose duties, and confer authority on officials, even in areas not listed under the Union list. Furthermore, the Centre can exercise executive powers in states not under emergency if security is threatened. While normally the Union can exert executive authority over states, the scope of these powers increases during an emergency.

**Modification of Revenue Distribution:** Provisions allow the President to modify revenue distribution between the Centre and states. During a national emergency, although state governments remain in place, the Centre assumes comprehensive powers, encompassing legislative, executive, financial, and administrative functions. This effectively suspends the doctrine of "division of power," transforming the federal structure into a unitary system where state administration falls directly under Union control.

**State Emergency:** The framers of the Indian Constitution established provisions under Articles 355, 356, and 365 to address situations where the constitutional machinery in a state might break down. These provisions were intended to maintain national unity and law and order, with the overriding powers of the Union meant to be used only in extreme cases, such as threats to integrity or significant political instability. Despite this intent, Article 356 has



been invoked over a hundred times, disrupting the federal balance of power and transforming the federal structure into a more unitary system. This clause is based on Section 93 of the Government of India Act, 1935, allowing the central government to take control when a state government is ineffective.

**Justiciability of Article 356:** Challenges to the invocation of Article 356 have been largely unsuccessful. For instance, a former Chief Minister of Haryana contested central government actions, but the court ruled it could not review the legality of the President's proclamation, citing constitutional powers and lack of jurisdiction. The Andhra High Court also deemed the President's satisfaction under Article 356 non-justiciable, labeling it a political matter. The 38th amendment declared the President's satisfaction as final, although this was later repealed by the 44th amendment. In *Rajasthan v. Union of India*, it was acknowledged that while the article's scope is broad, proclamations could be challenged if exercised in bad faith or unlawfully, and state assemblies cannot be dissolved without Parliament's approval.

**The landmark judgment regarding Article 356, *S.R. Bommai v. Union of India*, established several key principles:**

- While the President holds the power to issue a proclamation, this action must be taken based on the advice of the Council of Ministers.
- The Governor is required to explore various alternatives before concluding that the ministry has lost its support.
- A proclamation is justifiable if it is made with mala fide intentions or is based on irrelevant grounds.
- The dissolution of the state assembly should not occur unless sufficient grounds are established.
- According to Justice Jeevan Reddy, Article 356 grants the President conditional powers rather than absolute authority. The President's satisfaction must be based on relevant material, including the Governor's report.
- If a state assembly is dissolved by the President during an emergency, it can be restored if the court finds that there were no justifiable grounds for the proclamation.

### **Invocation of Article 356**

The invocation of Article 356 has evolved through distinct phases:

- **Phase I (1950-1966):** The Congress government undermined non-Congress state governments, harming Centre-state relations and eroding federalism.
- **Phase II (1967-1976):** Indira Gandhi's government invoked emergency provisions 12 times (1967-1970) to centralize power, dismissing opposition governments and addressing internal party conflicts.
- **Phase III (1977-1978):** The Janta Party, under Morarji Desai, used Article 356 12 times against opposition governments, exacerbating tensions between the Centre and states.
- **Phase IV (1979-1980):** The Charan Singh government invoked President's Rule four times, adhering to constitutional requirements without political manipulation.
- **Phase V (1980-1984):** Indira Gandhi again imposed emergency provisions 14 times, using President's Rule as a political weapon, which critics argued undermined participative governance and the credibility of constitutional offices.

### Consequences of Invocation of Article 356

1. **Shift in Legislative Power:** During an emergency, Parliament can assume the State Legislature's powers, and the President can control the State Consolidated Fund. The state's ability to make laws is suspended until the emergency ends. Though the President can dissolve the state assembly, it's often suspended, with the Governor acting under central government orders.
2. **Undermines Popular Sovereignty:** The Centre's control over the state during an emergency violates the principle of popular sovereignty, where the government should be based on the consent of the people.
3. **Erosion of Self-Governance:** Repeated misuse of Article 356 dismisses elected state governments, placing unaccountable administration under the Governor, undermining Indian federal democracy.
4. **Loss of State Autonomy:** States lose political independence, with the Constitution favoring a strong Centre. This central bias weakens federalism, as the Centre can intervene in state matters.

Granville Austin labels the emergency provisions as "The Union's Long Arm." Key criticisms of Presidential Rule include:

- **Partisan Use:** Often exploited for political gain, leading to the suspension of state assemblies and manipulation of political dynamics.
- **Overtaking Governments:** There have been instances where governments were removed from power via emergency declarations, setting harmful precedents.
- **Lack of Alternatives:** The opposition is frequently denied opportunities to establish alternative governments.
- **Partisan Role of Governors:** Some governors have acted in politically biased ways, dismissing non-ruling party governments.
- **Political Motivations:** Research indicates that some emergency declarations were driven by political rather than administrative reasons.

The Constitution prioritizes federalism, and dismissing an elected State Assembly undermines this principle. Article 356(1) should be used judiciously to protect the federal structure.

**Financial Emergency:** Article 360 allows the President to declare a financial emergency if financial stability is threatened. This proclamation can be revoked and must be approved by both houses within two months.

**Imposition:** Since the adoption of the Constitution of India nearly 70 years ago, a financial emergency has never been invoked. There has been no situation that warranted its imposition. If such an emergency were to be declared, it could result in significant setbacks, potentially reversing the progress made over the last three decades.

## 8. Conclusion

The analysis of Article 356 and its implications for state governance in India underscores significant challenges within the federal framework. While Article 356 is designed to address governance failures, its application often raises concerns regarding the autonomy of state governments and the potential misuse of presidential powers. The historical and judicial context reveals a tension between the need for national integrity and the preservation of state rights, highlighting the delicate balance inherent in Indian federalism. The examination of landmark cases, particularly *S.R. Bommai v. Union of India*, illustrates how judicial interpretations can shape the landscape of federalism and influence the justiciability of emergency provisions. These cases reflect the judiciary's critical role in safeguarding

constitutional supremacy, yet they also expose vulnerabilities in the system that can lead to arbitrary actions undermining democratic principles. Ultimately, the findings call for a re-evaluation of the mechanisms governing federalism in India, emphasizing the necessity for clearer guidelines and safeguards against the overreach of central authority. A more balanced approach is essential to uphold the spirit of federalism, ensuring that state governments retain their rightful autonomy while maintaining the integrity of the nation. Addressing these issues is crucial for fostering a resilient federal structure capable of responding to contemporary governance challenges.

### Future scope

- **Comparative Analysis:** Study emergency provisions in other federal systems to identify best practices.
- **Judicial Review:** Explore frameworks for enhancing judicial oversight of Article 356 applications.
- **Legislative Reforms:** Propose clarifications to Article 356's scope to protect state autonomy.
- **Impact Assessments:** Conduct studies on the long-term effects of Article 356 on governance.
- **Advocacy for State Rights:** Strengthen civil society's role in monitoring central power.
- **Crisis Management Alternatives:** Develop frameworks for addressing governance failures without relying on Article 356.

### Suggestion

- **Establish Clear Guidelines:** Create specific criteria for invoking Article 356 to reduce arbitrary use and protect state autonomy.
- **Enhance Judicial Oversight:** Strengthen the judiciary's role in reviewing Article 356 applications to ensure constitutional alignment.
- **Implement Regular Monitoring:** Set up mechanisms for ongoing assessment of state governance to prevent reliance on Article 356.
- **Empower State Legislatures:** Encourage cooperation and devolve powers to enhance local governance.

- **Provide Crisis Management Training:** Train state officials on governance best practices to minimize central intervention.

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