



## THE EXPERIENCE WITH EMERGENCY RULE IN INDIA: LESSONS LEARNED AND SAFEGUARDS FOR THE FUTURE

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### INTRODUCTION

India is a democratic, sovereign, and republican country that gained independence in 1947. After independence, a need was felt for a systematic set of principles that would set the tone for the country's future decades. On November 26, 1949, the Constituent Assembly of India adopted the Constitution of India, which came into effect on January 26, 1950<sup>1</sup>. Dr. B.R. Ambedkar characterised the Indian federal structure as unique due to its ability to transition to a unitary system when the administrative apparatus fails.<sup>2</sup> In light of and experiences of past suppressions and events, the framers of the Indian constitution decided to include a set of emergency rules and regulations that would protect the nation in case of situations that might threaten the safety and stability of the nation.

Although the emergency provisions were embedded in the Constitution of India to protect the nation's integrity, stability, and security, there have been instances wherein these provisions were misused politically. The proclamation of Emergency on the midnight of June 25, 1975, was a "horrible mistake" and the "darkest period" for liberty in India's history post-independence, eminent legal experts have said.<sup>3</sup>

This paper dives into the experiences with emergency rule in India, going from its history and then proceeding with the Constitutional framework of the same. This article aims to discuss how the emergency provisions affect and impact the political institutions, the citizens'

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<sup>1</sup> Factsheet Details <<https://www.pib.gov.in/factsheetdetails.aspx?id=148584>> accessed July 18, 2025

<sup>2</sup> "Emergency Provisions in Indian Constitution - Drishti Judiciary" (*Drishti Judiciary*)

<<https://www.drishtijudiciary.com/to-the-point/ttp-constitution-of-india/emergency#:~:text=The%20framers%20of%20the%20Indian%20Constitution%2C%20having%20learned,the%20security%2C%20integrity%2C%20and%20stability%20of%20the%20nation.>>> accessed July 18, 2025

<sup>3</sup> Pti, "Emergency Horrible Mistake, Darkest Period for Liberty: Legal Experts" *The Economic Times* (June 24, 2025) <<https://economictimes.indiatimes.com/news/politics-and-nation/emergency-horrible-mistake-darkest-period-for-liberty-legal-experts/articleshow/122046854.cms>>

fundamental liberties, and the rule of law. It also critically analyses how the past emergencies, especially the emergency of 1975, have revealed the judicial vulnerabilities and have also played an essential role in accelerating the process of legal and political reforms. It also deals with some issues that continue to be unanswered such as Suspension of fundamental rights, constitutional morality, political abuse, and much more. The article aims to reveal a comparative perspective of the emergency provisions between different countries, like the US, UK, Germany, as compared to India. By reviewing and critically analysing these issues through landmark cases and legal precedents, the paper hopes to explore the solutions and safeguards that could prevent a recurrence of these events and contribute to constitutional resilience and the rule of law.

## CONSTITUTIONAL PROVISIONS FOR EMERGENCY

Emergency provisions are mentioned in PART XVIII (Articles 352-360) of the Constitution of India. The provisions derive their influence from the Weimar Constitution of Germany. The framers of the Indian Constitution were acutely aware of both the benefits and the dangers presented by such provisions. They wanted to ensure that India could respond effectively to emergencies while safeguarding democratic principles and fundamental rights. This delicate balance influenced the inclusion of emergency provisions in our Constitution.<sup>4</sup>

**Article 352: Proclamation of emergency:** If the President is satisfied that a grave emergency exists whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect.<sup>5</sup>

**Article 353: Effect of Proclamation of Emergency:** While a Proclamation of Emergency is in operation, then - Notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to how the executive power thereof is to be exercised.<sup>6</sup>

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<sup>4</sup> Kumar P, "Historical Background of Emergency Provisions in India • PolSci Institute" (*Political Science Institute*, March 4, 2024) <<https://polsci.institute/constitutional-gov-democracy-india/historical-background-emergency-provisions-india/>>

<sup>5</sup> The Constitution of India 1950, art. 352(1)

<sup>6</sup> The Constitution of India 1950, art. 353

**Article 356: State Emergency:** empowers the President to impose President's Rule in a state if he is satisfied that the provisions of the Constitution cannot be carried out in the government in the state.<sup>7</sup>

**Article 360: Provisions as to financial emergency:** This provision allows the President to declare a state of economic emergency if he is satisfied that the financial stability or credit of India or any part thereof is threatened.

Unlike the other two types of emergencies, a Financial Emergency has never been proclaimed in India to date.<sup>8</sup>

### THE 1975 EMERGENCY: TIMELINE AND CONTEXT

The emergency was imposed exactly 50 years ago, on June 25, 1975. The 21-month period, one of the darkest chapters in the history of the Indian republic, saw the suspension of civil liberties, curtailment of press freedom, mass arrests, the cancellation of elections, and rule by decree<sup>9</sup> 1975 was the first time that a national emergency was proclaimed on the grounds of “Internal Disturbance,” which was later amended to “Armed Rebellion” in the 44<sup>th</sup> Amendment Act due to its potential misuse. The Emergency lasted from June 25, 1975, to March 21, 1977, after which elections were declared.

Following the proclamation, the country went through a series of instabilities and authoritarian rule. Democratic institutions were abolished, people were stripped of their Fundamental duties, and central powers no longer took responsibility and accountability. In June 1975, the High Court of Allahabad (now Prayagraj) ruled against Gandhi in an electoral fraud case filed by political leader Raj Narain, whom Gandhi had defeated in the 1971 general election. The court struck down Gandhi’s poll victory in the Rae Bareilly constituency in Uttar Pradesh and required her to stay out of politics for six years.<sup>10</sup> Following the judgment of the court, the nation erupted

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<sup>7</sup> “Emergency Provisions in Indian Constitution - Drishti Judiciary” (*Drishti Judiciary*)

<[<sup>8</sup> “Emergency Provisions in Indian Constitution - Drishti Judiciary” \(\*Drishti Judiciary\*\)](https://www.drishtijudiciary.com/to-the-point/ttp-constitution-of-india/emergency#:~:text=The%20framers%20of%20the%20Indian%20Constitution%2C%20having%20learned,the%20security%2C%20integrity%2C%20and%20stability%20of%20the%20nation.>” accessed July 14, 2025</a></p></div><div data-bbox=)

<[<sup>9</sup> Pathak V, “Explained: Emergency and Its Lessons” \*The Indian Express\* \(June 25, 2025\)](https://www.drishtijudiciary.com/to-the-point/ttp-constitution-of-india/emergency#:~:text=The%20framers%20of%20the%20Indian%20Constitution%2C%20having%20learned,the%20security%2C%20integrity%2C%20and%20stability%20of%20the%20nation.>” accessed July 14, 2025</a></p></div><div data-bbox=)

<[<sup>10</sup> Roy and Gitanjali, “The Emergency | India, 1975, Indira Gandhi, History, & Facts” \(\*Encyclopedia Britannica\*, July 6, 2025\) <\[\\[www.jlrjs.com\\]\\(http://www.jlrjs.com\\)\]\(https://www.britannica.com/event/the-Emergency-India>”</a></p></div><div data-bbox=\)](https://indianexpress.com/article/explained/explained-emergency-its-lessons-10086542/>”</a></p></div><div data-bbox=)

into protests led by Jayaprakash Narayan, who called for a “Total Revolution” and demanded that the prime minister resign. The then Prime Minister, Indira Gandhi, instead of resigning, opted to forcefully keep her power by advising the President, Fakhruddin Ali Ahmed, to declare a national emergency, citing internal disturbances. It was an attempt to curb the rising civil unrest, protests, strikes, and student movements that were creating a heated atmosphere amongst the nation under the leadership of leaders like JP Narayan, Morarji Desai, Atal Bihari Vajpayee, and many more.

The list below gives an entire timeline of key events that led to the 1975 emergency and the events that occurred during the emergency -

**January 1966:** Indira Gandhi elected prime minister.

**November 1969:** The Congress splits after Gandhi is expelled for violating party discipline.

**1973-75:** Surge in political unrest and demonstrations against the Indira Gandhi-led government.

**1971:** Political opponent Raj Narain lodges a complaint of electoral fraud against Indira Gandhi.

**June 12, 1975:** Allahabad High Court found Gandhi guilty over discrepancies in the electoral campaign.

**June 24, 1975:** Supreme Court rules that MP privileges no longer apply to Gandhi. She is barred from voting but allowed to continue as Prime Minister.

**June 25, 1975:** Declaration of Emergency by President Fakhruddin Ali Ahmed on the advice of Indira Gandhi.

**June 26, 1975:** Indira Gandhi addresses the nation on All India Radio.

**September 1976:** Sanjay Gandhi initiates a mass forced sterilisation program in Delhi.

**January 18, 1977:** Indira Gandhi calls for fresh elections and releases all political prisoners.

**March 23, 1977:** Emergency officially comes to an end.<sup>11</sup>

## LANDMARK CASES

Listed below are some of the landmark cases that emerged during and after the Emergency, which further played a vital role in constitutional jurisprudence and acted as safeguards of our democracy and the institution to make sure that the fundamental principles of the constitution are upheld and duly followed.

**ADM Jabalpur V. Shivakanta Shukla (1976):** This, which is also called the Habeas Corpus case, is one of the most important cases of the Emergency of 1975. The case questioned the detention of persons under the Maintenance of Internal Security Act (MISA) during the Emergency. The SC said during an Emergency, the right to life and liberty, i.e., Article 19 and Article 21, can be suspended, and the court cannot interfere with those that are political decisions to be taken by the government.<sup>12</sup>

**Minerva Mills Ltd. v. Union of India (1980):** The question in this case was regarding the constitutional validity of the 42nd Amendment Act, which had granted extensive powers to the government during the time of emergency. The Supreme Court ruled that the Constitution had an identifiable basic structure, the contours of which could not be amended by Parliament. It was also held by the court that the fundamental rights were included in the basic structure of the constitution, and these could not be suspended during an emergency.<sup>13</sup>

**Ramesh Thappar v. State of Madras (1950):** This case revolves around the decision of the Madras government to ban a magazine, “Cross Roads,” which was critical of the government. The issues were raised in the court as to whether freedom of speech was a fundamental right. The court held that the freedom of speech and expression was a fundamental right under Article 19 (2) of the Constitution and that the government could not impose restrictions on it.<sup>14</sup>

**Kesavananda Bharati v. State of Kerala (1973):** One of the most important cases in respect of the basic structure doctrine of the Constitution. The Supreme Court held that the Parliament could not alter or change the basic structure doctrine of the Constitution. It also stated that the

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<sup>11</sup> Online E, “1975 Emergency Explained: A Look Back at India’s ‘Dark Days of Democracy’; Govt Designates Day as ‘Samvidh’” *The Economic Times* (July 12, 2024) <<https://economictimes.indiatimes.com/news/how-to/1975-emergency-explained-a-look-back-at-indias-dark-days-of-democracy/articleshow/111248087.cms>>

<sup>12</sup> ADM, *Jabalpur v Shivakant Shukla* (1976) 2 SCC 521 (SC)

<sup>13</sup> *Minerva Mills Ltd v Union of India* (1980) AIR 1789, (1981) 1 SCR 206 (SC)

<sup>14</sup> *Romesh Thappar v State of Madras* (1950) AIR SC 124, 1950 SCR 594 (SC)

government's power to amend the constitution was not unlimited and was equally accountable and responsible to uphold the fundamental principles of the constitution.<sup>15</sup>

## A COMPARATIVE PERSPECTIVE

**India:** Emergency Provisions are explicitly specified under Part XVIII (Articles 352,356,360), which covers national emergencies, state emergencies, and final emergencies. A National emergency must be proclaimed by the President on the “written request” and requires Parliamentary approval by a two-thirds majority within one month. Fundamental rights like Articles 19, 20, and 21 cannot be suspended even during an emergency, which offers a constitutional safeguard.

**United States:** The U.S Constitution does not explicitly mention emergencies but instead is governed by statutory frameworks like the National Emergencies Act (1976). Section 50 of the U.S. Code enshrines the National Emergency Act of 1976. The National Emergencies Act imposes procedural requirements on the President’s exercise of emergency powers.<sup>16</sup> The President has been granted the great powers of imposing an emergency in the situation of any crisis, emergency, or urgent demand in the nation. These powers are given by the constitution or statutory, which are always accessible to the president. These powers are not limited only to war situations. Some powers are given by the statute, which are latent and remain silent until an emergency is announced in the nation. These powers give the authority to the president to command production, to seize property, to impose military law, and to control transportation and communication. The president used these powers discretionarily till World War I. After that number of emergency powers were given to the president.

**United Kingdom:** The UK lacks a codified constitution, so emergency powers derive from a combination of statutory laws and royal prerogative. Key legislations governing emergencies include:

- The Civil Contingencies Act 2004 provides a modern legal framework for dealing with emergencies.
- The Public Health (Control of Disease) Act 1984, is used for health-related crises.

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<sup>15</sup> *Kesavananda Bharati v State of Kerala* AIR 1973 SC 1461; (1973) 4 SCC 225

<sup>16</sup> Indian Legal Solution, “Emergency Provisions of US and India: A Comparison” (*Indian Legal Solution*, March 10, 2021) <<https://indianlegalsolution.com/emergency-provisions-of-us-and-india-a-comparison/>> accessed July 18, 2025

- Royal Prerogative, which allows the government to take urgent actions without immediate parliamentary approval.
- While the UK's provisions are flexible and rely on parliamentary legislation, India's emergency provisions are constitutionally defined and rooted in the basic structure doctrine.

## **IMPACT ON DEMOCRACY**

Emergency provisions were incorporated by the makers to make sure the citizens live in a nation where its security, integrity, and freedom are upheld, even in times of crisis. Our democracy often relies on the doctrinal principles of the rule of law, civil conduct, a system of checks and balances between different levels of government, protection of fundamental rights, and so on. Ironically, during emergencies, these principles are the first to get overturned. Accountability gets limited, and fundamental rights are restricted.

In India, during the 1975-1977 Emergency, Articles 14, 19, and 21 were effectively suspended, which suggests that one of the most impactful of these provisions was the suspension of fundamental rights. The Judiciary, too, in this case, failed to act as a safeguard to protect the rights of the individuals, holding that even the right to life could be restricted during an emergency. The long-term democratic impacts of emergency provisions might include issues such as erosion of public trust in the political and judicial institutions. However, amendments like the 44<sup>th</sup> Amendment reinforced judicial review and proved that even a democracy can learn from its past mistakes and act accordingly in the future to prevent the recurrence of the same.

## **CONCLUSION**

The experience with Emergencies in India still stands as a reminder of how constitutional provisions can be misused to satisfy authoritarian needs and ends. As much as these provisions were embedded as safeguards to protect the nation's security and integrity during a crisis, their misuse, such as the 1975 emergency, has undermined the constitutional morality, resilience, and oversight. But it also proved that judicial review still stands as the backbone of the basic structure doctrine of the constitution and has also catalysed the process of judicial and legal reforms, such as the 44<sup>th</sup> Amendment, which further strengthened the democratic governance.

As India continues to go through amendments and evolve as a democratic, federal, and republican, it must ensure that these kinds of provisions are not politically abused but rather are considered tools of last resort governed by a strong commitment to the rule of law.