APPE LD STUDY CENTRE

TNPSC GROUP I & II INDIAN POLITY WORKSHEET

EMERGENCY PROVISIONS

The Emergency provisions are contained in Part XVIII of the Constitution, from Articles 352 to 360. These provisions enable the Central government to meet any abnormal situation effectively. During an Emergency, the Central government becomes all powerful and the states go into the total control of the Centre. It converts the federal structure into a unitary one without a formal amendment of the Constitution.

The provisions are borrowed from **Govt. of India Act, 1935**. Provision related to "Suspension of Fundamental Rights during Emergency" was borrowed from **Weimar Constitution of Germany**.

Types of emergencies:

The Constitution stipulates three types:

- 1. An emergency due to war, external aggression or armed rebellion (Article 352). This is popularly known as 'National Emergency'.
- 2. An Emergency due to the failure of the constitutional machinery in the states (Article 356). This is popularly known as 'President's Rule'. It is also known by two other names—'State Emergency' or 'constitutional Emergency'.
- 3. **Financial Emergency** due to a threat to the financial stability or credit of India (Article 360).

EMERGENCY AN OVERVIEW

	NT (1		T 1
	National	Presidents rule	Financial
	emergency		emergency
Grounds of		President can	president to
Declaration	declare a national	-	T
	emergency when	emergency or	Financial
		President's rule	0
	India or a part of it	under	account of to the
	is threatened by	1. Article 356 in case	
	External		or credit of India
	emergency-war or	constitutional	
	external	machinery in state.	
	aggression or	2. Article 365 says that	
	Internal	whenever a state	
	emergency-armed	fails to comply with	
	rebellion.	or to give effect to	
		any direction from	E
		the Centre	
Parliamentr		must be approved by	
y Approval	by both the Houses	both the Houses of	approved by both
and		Parliament within	
Duration	within one month	two months from the	Parliament
		date of its issue. If	
		approved by both	
	by both the Houses	the Houses of	date of its issue.
	of Parliament by	Parliament by simple	
		majority, the	
	the emergency	President's Rule	Houses of
	continues for six	continues for six	Parliament by
	months, and can	months. It can be	simple majority,
	be extended to an	extended for a	the Financial
	indefinite period	maximum period of	Emergency
	with an approval	three years with the	continues
	of the Parliament	approval of the	indefinitely till it
	for every six	Parliament, every six	is revoked.
	months.	months.	

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Revocation	revoked by the	Revoked by the	revoked by the
of	President at any	President at any time	president at
Proclamation	time by a	by a subsequent	anytime by a
	subsequent	proclamation.	subsequent
	Proclamation		proclamation
	without		
	parliamentary		
	approval.		
	President must		
	revoke a		
	proclamation if		
	the Lok Sabha		
	passes a		
	resolution		
	disapproving its		
	continuation.		
Effects of	The life of the Lok	President dismisses	(a) the reduction
National	Sabha may be	the concerned state	of salaries and
Emergency		council of ministers	
on	its normal term	headed by the chief	or any class of
Legislative	(five years) by a	minister. The state	persons serving
	law of Parliament	governor, on behalf	in the state; and
	for one year at a	of the President,	(b) the
	time (for any	carries on the state	reservation of all
	0 /	administration.	money bills or
	-	President either	
		suspends or	
	0 5	dissolves the state	
	ceased to operate	legislative assembly.	the President
			after they are
			passed by the
			legislature of the
Effects of	Article 358 deals	No effect on	state. No effect on
National		Fundamental Rights.	
Emergency	suspension of the	0	Rights.
on	Fundamental	position, status,	0
fundamental		-	
rights		-	
3 Page APP	OLO STUDY CENTRE	PH: 24339436, 42	867555, 984026187

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the words 'armed	government
rebellion' for	pursuing anti-
'internal	secular politics is
disturbance'.	liable to action
b. The President,	under Article 356
however, can	question of the state
proclaim a	government losing
national	the confidence of the
J	legislative assembly
after receiving a	should be decided on
written	the floor of the
recommendation	
from the cabinet.	
Minerva Mills	
case,1980-	Recommended
	Sparing use of state
national	emergency
emergency can be	S PE
challenged in a	NTN
court.	emergency
Shah Commission	
appointed to	
inquire into 1975	
emergency.	

Rule of law / Due process of law

Rule of Law The concept of 'equality before law' is an element of the concept of 'Rule of Law', propounded by A.V. Dicey, the British jurist. Its three elements are

- Absence of arbitrary power, that is, no man can be punished except (i) for a breach of law.
- Equality before the law, that is, equal subjection of all citizens (rich (ii) or poor, high or low, official or non-official) to the ordinary law of the land administered by the ordinary law courts.
- The primacy of the rights of the individual, that is, the constitution is (iii) the result of the rights of the individual as defined and enforced by the courts of law rather than the constitution being the source of the individual rights.

The Supreme Court held that the 'Rule of Law' as embodied in Article 14 is a

'basic feature' of the constitution.

TRE Due process of law and related articles, court cases

- Article 21 declares that no person shall be deprived of his life or personal liberty except according to procedure established by law. This right is available to both citizens and non-citizens.
- Gopalan case (1950) the Supreme Court has taken a narrow interpretation of the Article 21. It held that the protection under Article 21 is available only against arbitrary executive action and not from arbitrary legislative action.
- *Menaka* case (1978) the Supreme Court ruled that the right to life and personal liberty of a person can be deprived by a law provided the procedure prescribed by that law is reasonable, fair and just.

Due process of law is based on **natural justice**