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JUDICIAL SERVICE EXAMINATION

Primer - Emergency under
Indian Constitution- in a
single table .

For CLAT, JUDICIAL PREPARATION, LAW OPTIONAL

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PROCLAMATION OF EMERGENCY UNDER INDIAN CONSTITUTION- EXPLAINED IN A SINGLE TABLE.

Types of Emergency	National Emergency	State Emergency	Financial Emergency.
Relevant provision	Art.352	356	360
When it can be declared:	National emergency is imposed whereby there is a grave threat to the security of India or any of its territory due to war, external aggression or armed rebellion.	It can be declared if the president on Governor's report or otherwise is satisfied that the situation has arisen that the government can't be carried in accordance with the constitutional provisions then, he may issue State emergency.	It can be declared if President is satisfied that the financial stability or the credit of India or any part of its territory is threatened.
Procedure for declaration	Such emergency shall be imposed by the president on the basis of written request by the council of ministers headed by the Prime Minister. When they are satisfied that they are satisfied that there is an eminent danger thereof.	President can declare emergency either by the report of Governor or he himself is satisfied that the situation is such that the emergency has to be imposed. But at times, President may declare emergency when a report is not received from the governor. This was done by President Venkataraman in 1991 in the state of Tamil Nadu even though he didn't receive a report from the governor.	It has to be laid before both the Houses of Parliament and ceases to operate at the expiration of two months unless meanwhile approved by the resolution of Houses.

Life -time	<p>Every proclamation is required to be laid before each House of Parliament, it will cease to operate after one month from the date of its issue unless in the meantime it is approved by the parliament, the proclamation may continue for a period of 6 months unless revoked by the president. For further continuance of emergency the resolution has to be passed by either house of parliament by a majority of not less than two-third members of the houses.</p>	<p>The proclamation relating to state emergency shall be laid before each House of Parliament unless both Houses approve it, the emergency shall cease to have effect after the expiry of a period of two months. Further the duration of proclamation can be extended to 6 months each time by both Houses of Parliament passing resolution approving its continuance. Beyond the period of an year the proclamation can only be continued if the Election Commission certifies that it is not possible to hold election in the state or that territory.</p>	<p>Ceases at the expiration of two months unless approved by resolution by both houses of parliament.</p>
Consequence of emergency	<p>During the times of such emergency the executive, legislative and financial power rests with the centre whereas the state legislature is not suspended. The union government under Art.250 of the constitution gets the power to legislate in regards to subjects enumerated in the</p>	<ul style="list-style-type: none"> · The president assumes all the executive power of the state himself. The state administration runs by him or any person appointed by him generally the Governor. · During such proclamation, the state assembly is either dissolved or 	<p>During the operation of financial emergency, the executive authority of the union extends to the giving of directions to any state to observe certain specified canons or financial propriety and such other directions that the President may find</p>

	<p>state list. Except Art20 and 21 all the fundamental rights are suspended. Under Art.359 the president may suspend the right to move to the courts for enforcement of fundamental rights during the time of emergency.</p>	<p>suspended. But the MLA's do not lose their membership of the Assembly.</p> <ul style="list-style-type: none"> · Parliament makes laws regarding the state list. The parliament only passes the budget for the state. · The High court of the state functions independently. · President also proclaims ordinances in the state. <p>During the state emergency the Union government has absolute control over the state except the judiciary.</p>	<p>necessary. The directions may include reduction of salaries or allowance of those serving a state, of all those in connection with the affairs of union including judges of high court and Supreme Court. There has been no occasion of financial emergency in India</p>
Instances in past	<p>National emergency has been imposed thrice in the country- in 1962 at time of Chinese aggression, in 1971 during the indo-pak war, in 1975 on the grounds of internal disturbances.</p>	<p>If one looks at the past instances of state emergency in the country, three common grounds emerge that have been invoked under Art.356- breakdown of law and order, political instability, corruption and maladministration. – land mark cases- <i>Rameshwar Prasad vs UOI</i> and <i>S.R Bomai vs UOI</i>.</p>	<p>No such instances occurred.</p>