

Emergency Provisions

The emergency provisions are contained in Part XVIII of the Constitution of India, from Article 352 to 360. These provisions enable the Central government to meet any abnormal situation effectively.

The Constitution stipulates three types of emergencies-

(1) National Emergency

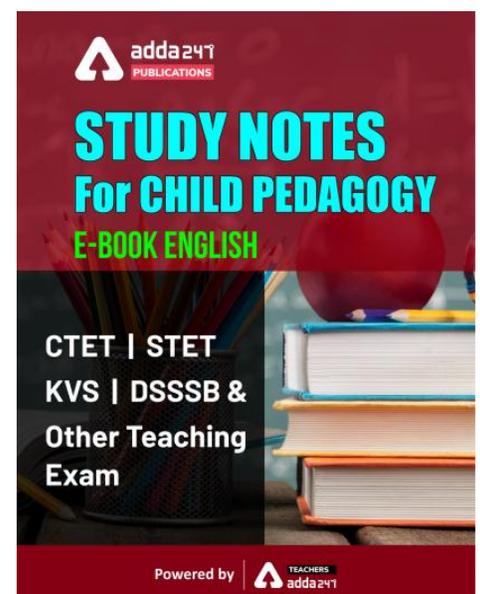
(2) Constitutional Emergency

(3) Financial Emergency

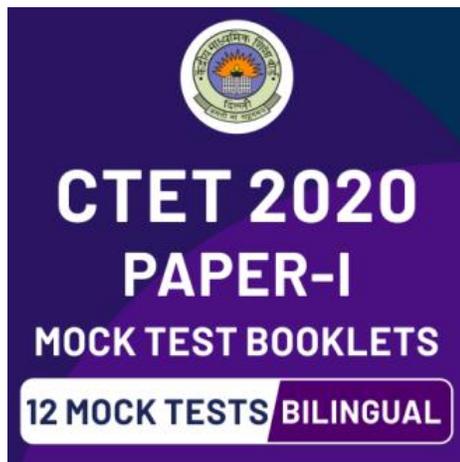
- President can make proclamation of emergency under **Art. 352** in case of war, external aggression or armed rebellion or threat thereof only on recommendation of the Cabinet.
- Every such proclamation must be laid before Parliament and it ceases to be in operation unless it is approved by resolutions of both Houses of Parliament with special majority within one month from the date of its issue.
- The proclamation gets a fresh lease of 6 months from the date it is approved by both Houses of Parliament.
- After the **44th amendment**, proclamation of emergency under **Art. 352** can be made in respect of whole of India or only a part thereof.
- During proclamation of emergency the Union can give directions to any State regarding exercise of the executive power (Ref.: Art. 353(a)).
- During emergency Parliament can extend the normal life of the Lok Sabha for one year at a time, and not exceeding 6 months after the proclamation has ceased to operate.
- Normal life of Lok Sabha was extended only once in **1976**.
- During emergency, Parliament can legislate regarding State subjects.
- During Emergency the President can modify the provisions of the Constitution relating to the allocation of financial resources (**Art. 268 - 279**) between the Union and the States by his own Order. Such Order is subject to approval by Parliament (Art. 354 and has no effect beyond the financial year in which the Proclamation itself ceases to operate.

Effects of emergency on Fundamental Rights:

- Art. 358 provides that the rights provided by **Art. 19**, would be non-existent against the State during emergency.
- Under **Art. 359**, the right to move the Courts for the enforcement of the rights can be suspended, by Order of the President.
- **Articles 20 and 21** cannot be suspended during emergency.



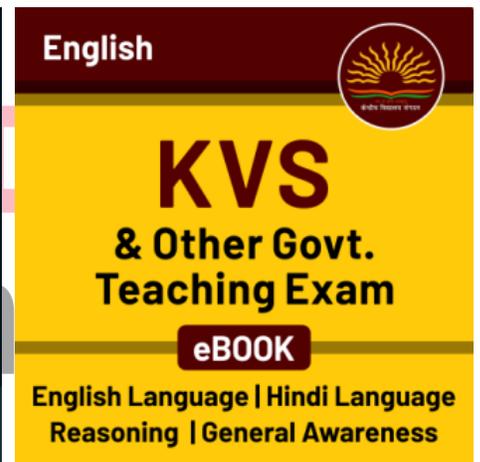
- The first proclamation of emergency under Art. 352 was made by the President on **26 October 1962** in view of Chinese aggression in the NEFA.
- For the first time on **25 June 1975** proclamation of emergency under Art. **352** was made on the ground of "internal disturbance".
- A proclamation of emergency for failure of constitutional machinery can be made by the President when the Constitutional Government of State cannot be carried on for any reasons (Ref.: Art. 356).
- During Emergency under **Art. 352**, the Centre does not get power to suspend the State Government.
- In case of failure of the Constitutional machinery, the State Legislature is suspended and the executive authority of the state is assumed by the President in whole or in part. This is popularly called the **President's rule**.
- Under a proclamation of emergency under **Art. 352**, Parliament can legislate in respect of state subjects only by itself; but under a proclamation under **Art. 356** of the other kind, it can delegate its power to legislature for the State, - to the President or any other authority specified by him.
- Proclamation of emergency for failure of constitutional machinery, can be extended by Parliament upto three years (Art. 356(4), Provision 1).



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