
FROM CONSTITUTIONAL REMEDY TO POLITICAL WEAPON: A CRITICAL STUDY OF ARTICLE 356 IN THE INDIAN CONSTITUTION

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ABSTRACT

Article 356 of the Constitution of India is a special constitutional mechanism in place to counter cases when the working of the governance of a State cannot be conducted in accordance with the constitutional provisions. Although this was originally meant to be a remarkable protection to ensure federal integrity, democratic governance and national unity, its implementation has elicited a lot of controversy. This paper will look at the history and development of Article 356 and how it was initially seen as an uncommon provision but now used quite frequently, often with a political factor of influence. It is a critical examination of the powers of constitutional authorities, especially Governors, and the doctrine of the subjective satisfaction of the President, which has been traditionally used to remove State governments. The study also assesses the effect of the historic ruling in *S.R. Bommai v. Union of India* (1994) that brought about the judicial review and placed substantial restrictions on the misuse of the provision.

The present article is a doctrinal analysis supported by the case study analysis to assess the implications of Article 356 on the federal system and democracy in India. It uses the provisions of the constitution, court rulings, and some of the salient suggestions of the Sarkaria and Punchhi Commissions to appreciate the need and abuse of the provision. The paper concludes that even though Article 356 is an essential constitutional safeguard, its soundness is in the strict adherence to constitutional morality and constitutional responsibility. It recommends reforms in coming up with definite definitions of failure of constitutional machinery, gubernatorial neutrality, floor tests and time limits in the President Rule. Lastly, the research points out the need to find a balance between constitutional imperative and federalism and democracy in India.

Keywords: Article 356, President's Rule, Federalism, Constitutional Machinery, Judicial Review, *S.R. Bommai Case*, Governor's Role, Constitutional Morality, Sarkaria Commission, Punchhi Commission.

Introduction.

The Constitution of India which is of federal frame of governance also incorporates certain features of unitary system of governance.¹ One such provision is Article 356 of the Constitution which enables the Union Government to assume to govern a State and impose President's Rule in that State if the Government of that State fails to function in accordance with the Constitution.² The provision of the article is intended to save the Constitution and maintain the integrity and unity of the country.³ But, the criticism against the provision of the article is its application. Jawaharlal Nehru who had fathered the article had also contended that after the framing of the Constitution, the article was never invoked even once.⁴ But, now, the article is invoked not once but many times. Recalling the words of the father of the Constitution B.R. Ambedkar, members of the Constituent Assembly felt that Article 356 of the Constitution would be a "dead letter".⁵

Article 356 of the Indian Constitution has been oft-debated on grounds of inconsistency with federalism and democracy.⁶ The powers granted to the Centre under the Article have been grossly misused to dismiss governments in opposition-ruled states.⁷ Although post the S.R. Bommai v. Union of India judgment, the scope of Article 356 has contracted,⁸ the subject continues to remain relevant and a favorite area of study with respect to contemporary Indian federalism.⁹

Statement of the Problem

Article 356 of the Constitution of India deals with situations wherein the Government of a State cannot be carried on with in accordance with the provisions of the Constitution. Although this provision of the Constitution is made to preserve the Federal System in the country, it has been grossly misused in the past. But due to the doctrine of the 'President's subjective satisfaction' largely guided by the advice of the Union Council of Ministers, this provision has been drastically misused in the past to dismiss the State Governments not because of internal

1 M.P. Jain, Indian Constitutional Law (8th ed. 2018)

2 India const. art. 356.

3 H.M Seervai, constitutional law of India vol.3 (4th ed.2013)

4 9 constituent Assembly debates 177(Aug.4,1949)

5 9 Constituent Assembly Debates 175 (Aug. 4, 1949)

6 Granville Austin, working a democratic constitution (1999)

7 Sarkaria commission, Report of the commission on Centre- State Relations Vol.1, ch. VI (1988)

8 S.R. Bommai v. UOI, (1994) 3 S.C.C. 1

9 Punchhi Comm'n, Report on Centre- state relations vol. 2

disturbances or complete and purposeless breakdown of the governance but because the Party in power at the Centre is different from the Party in power at the State.

It is the Governors who recommend to the President of India the imposition of President's Rule on a State. But ever since the landmark decision of the Supreme Court in the case of *S. R. Bommai v. Union of India*, certain safeguards have been incorporated into Article 356.

Research Question

Whether the imposition of Article 356 has affected India's federal structure and democratic governance?

Research Objective

The primary objective of this study is to analyse the use and misuse of Article 356 and its implications for India's federal and democratic framework.

Research Methodology

The methodology of this research is based on the doctrinal method of research. To achieve the objectives of this study the relevant sections of the Constitution of India shall be studied. To achieve the specific objectives of the study all relevant judicial pronouncements and relevant literature on Article 356 of the Constitution of India shall also be studied. For the said purpose the study shall include both the primary and secondary sources. The primary sources for this study shall include the relevant sections of the Constitution of India and other material in respect of Presidential Proclamations issued under Article 356 of the Constitution of India. In addition to the said primary sources, this study shall also include the secondary sources like books, articles, reports etc. of both Indian and Foreign authors. There have been two commissions which have studied the Article 356 of the Constitution of India, namely Sarkaria Commission and the Punchhi Commission. Therefore, the said commission's reports shall also be studied in order to have a deeper understanding of the said provision as well as the said provision's history. Further, the study shall also be based on a qualitative method of case study in order to understand the said provision in action in recent times and in the context of the said provision's role in the recent constitutional crises in Arunachal Pradesh and Manipur.

Conceptual Framework

The theoretical framework of this paper analyses the operation of Article 356¹⁰ of the Constitution of India, based on an institutional approach, where the role that the Governor played in the formation of constitutional crises of Indian federalism is taken into consideration. Though Article 356 was meant to be an extraordinary constitutional protection only to be invoked in situations of actual breakdown of constitutional machinery¹¹, the experience of applying it in practice suggests that breakdowns may frequently be determined by institutional discretion, political interests, and procedural politics, rather than objectively constitutional failure.¹² This framework also suggests that constitutional crises can be produced through the processes where political instability is turned into a constitutional disintegration story.¹³ The article examines two opposite constitutional processes in Manipur and Arunachal Pradesh as an example. Events in Arunachal Pradesh can be seen as an example of pre-emptive constitutional breakdown, especially in the light of the constitutional controversy discussed in *Nabam Rebia and Bamang Felix v. Deputy Speaker*¹⁴, and events in Manipur can be seen as an example of induced deadlock where institutional inaction over a prolonged period helped create the perception of a stagnation in governance¹⁵. These case studies collectively demonstrate the way the modern functioning of Article 356 needs to be interpreted within a wider institutional context and not simply as a reaction to an objective breakdown of constitutional rule¹⁶.

Case Study: Arunachal Pradesh

The 2016 constitutional crisis in Arunachal Pradesh is an example of how the institutional intervention may add to the sense of constitutional breakdown. The internal division in the ruling party gave rise to political instability but the crisis escalated when the Governor proceeded to the session of the Legislative Assembly without the assistance and advice of the Council of Ministers and ordered that a motion to remove the Speaker be brought up as a priority. These acts upset the normal operations of the legislature and led to conflicting claims on the legality of legislative sessions held outside of the formally recognized Assembly facilities. Later, the Union government took control of the State by means of President's Rule

10 Article 356, Ind. constitution

11 S.R. Bommai v. Union of India, (1994) 3 S.C.C.1

12 Rameshwar Prasad v. Union of India, (2006) 2 S.C.C. 1

13 Granville Austin, Working A Democratic Constitution: The Indian Experience (1999).

14 *Nabam Rebia v. Deputy Speaker*, (2016) 8 S.C.C. 1

15 M.P. Jain, Indian Constitutional Law (2018).

16 H.M. Seervai, Constitutional law of India (1996).

under Article 356 on grounds of breakdown of constitutional machinery. But a Supreme Court decision soon after that the acts of the Governor were unconstitutional and reinstated the government dismissed, again asserting that legislative majority must be tried in an Assembly floor and not decided by executive whim. The episode thus proves that procedural deviations by constitutional authorities would help to build a constitutional crisis, thus raising the question of misuse of emergency provisions by a federal system.

Case Study: Manipur (2023–2026)

The constitutional stress events of 2023-2026 in Manipur explain a type of constitutional stress where the presentation of an institutional intervention is erased, although the administrations are frozen by a long-term process of administrative stasis and slow legislative action.¹⁷ The State had witnessed severe ethnic violence and internal displacement posing a great law-and-order challenge to the government.¹⁸ Whereas, in such a disturbance, there was a great pressure exerted on the administrative institutions, the doctrine of the constitution requires that there are differences between a serious disorder of a people and a constitutional machine in reality disintegrated.¹⁹ It was felt that the State government was not able to work within the constitutional boundaries due to the late sitting of the Legislative Assembly and lack of time to have the legislative subjected to scrutiny.²⁰ In this case, the central intervention problem under Article 356 was outlined as a solution to a paralysis of government in contrast to a legislative instability.²¹ The case of Manipur can thus be discussed as an induced deadlock where constitutional failure appears to be gradually created by institutional inaction, procedural procrastination, rather than by direct ousting of an elected government.²² This development highlights the continued currency of judicial safeguards that were added to *S. R. Bommai v. Union*²³ of India that reiterated that President Rule was always a last resort in federal democracy.

Critical Evaluation and Suggestions

Article 356 of the Constitution of India deals with a situation wherein the Constitution of India

17 Granville Austin, *Working A Democratic Constitution: The Indian Experience* (1999).

18 National Human Rights Commission, *Report on Internal Displacement and Ethnic Violence in Manipur (2023-2024)*.

19 *S.R. Bommai v Union of India*, (1994) 3 S.C.C. 1

20 M.P. Jain, *Indian Constitutional Law* (4th ed. 2018).

21 INDIA CONST. art. 356.

22 H.M. Seervai, *Constitutional Law of India*

23 *S. R. Bommai v. Union of India*, (1994) 3 S.C.C. 1

has failed in a State. Unfortunately, this provision of the Constitution has been grossly misused by the Union Government to ruler a State to their “subjective satisfaction”. In this set up the satisfaction of the Governors who are required to be satisfied regarding the failure of the State Government is only secondary. There is, nevertheless, a formidable judicial review mechanism to determine when Constitution has been violated in a State or not, particularly, following the verdict given by the Supreme Court in the case of *S.R. Bommai and Others v. Union of India and Others* under which federalism has been declared a fundamental framework of the Constitution. Article 356 thus is anti-empowerment of States and their governance.

To prevent abuse of Article 356 of the Constitution of India and at the same time make it relevant, it is necessary to incorporate some changes in the present system through reform. The first reform would necessitate clearly and precisely defining the term “Failure of Constitutional Machinery”. The second reform would involve in making some changes in the system of having Governors so that Governor remains neutral and not a mere representative of the Union Executive. The third reform would be to enforce the provision of the Constitution that Governor shall test the majority of the legislators in the House in all matters connected with failure of governance and polity. The fourth reform would involve in making the period of imposition of Presidential Rule as short as possible so that general elections to the Assembly of the State are held at the earliest and democratic system of governance is restored to the State.

Conclusion

Article 356 of the Constitution of India makes a provision that the Governor of a State may assume direct governance of the State by the imposition of Presidential Rule, in the situation when the Governor is of the view that the Government of a State is incapable of being conducted in accordance with the provisions of the Constitution. This Article is to be resorted to in extremely extraordinary occasions when the Constitutional system in a State is literally broken down. But, this Article has been used unfairly on political grounds in some occasions with the Union government clashing horns with the State governments. This Article allows the imposition of central rule or presidential rule in the state, a tool that has been frequently resorted to by the central government whenever the central government is in conflict with the state government in India. This has been greatly condemned by both legal and political analysts who say it is an abuse of democracy and sabotages the federal form of government in India.

In *S. R. Bommai v. Union of India*, the judicial tribunal expounded on the purpose of judicial

review to control the application of the internal blockade provisions in Article 356 of the Constitution of India. The ruling emphasized the importance of federalism as a constitutional principle and a crucial structural attribute of the Indian democracy. Even the provisions on internal blockade and central rule, despite being limited by institutional checks and balances installed on the Constitution, are obviously not beyond political manipulation. The ruling therefore sharply brings out the importance of political institutions to adhere and observe constitutional morality and democratic principles. Moderate and responsible use of Article 356 is crucial to a highly pluralistic democracy such as in India. In the larger interest of national integration, regional autonomy has to be judiciously recognized and respected.

References

Case laws

1. S.R. Bommai v Union of India (1994)
2. State of Rajasthan v. Union of India (1997)
3. A.K. Roy v. Union of India (1982)
4. Rameshwar Prasad v. Union of India (2006)
5. B.P. Singhal v. Union of India (2010)
6. Nabam Rebia v. Deputy Speaker (2016)

Statutes

1. Indian Constitution
2. Government of India Act 1935.

Commission Reports

1. Sarkaria commission Report (1988).
2. Punchhi Commission Report (2010).

Books

1. M.P. Jain, 'Indian Constitutional law'
2. D.D. Basu, 'Introduction to the Constitution of India'
3. H.M. Seervai, 'Constitutional Law of India'
4. V.N. Shukla, 'Constitution of India'