

Center's Responsibility and Internal Disturbance within States

A notable feature of the Indian Constitution is the way in which the normal peace-time federation can't be adopted to an emergency situation. The framers of constitution felt that, in an emergency, the centre should have overriding powers to control and direct all aspects of administration and legislation throughout the country.

The constitution envisages three types of emergencies—

- i. Emergency arising from threat to the security of India.
- ii. Break down of constitutional Machinery in a state.
- iii. Financial Emergency.

Proclamation of emergency is serious matter as it disturbs the normal fabric of the constitution and adversely affects the rights of the people. So it should be issued only in exceptional circumstances. Art. 355 deals responsibility when there is internal disturbance within the state.

Center's Duty to protect the States

Art. 355. imposes a twofold duty on the Center—

- i. To protect every state against external aggression and internal disturbance.
- ii. To ensure that the government of every state is carried on in accordance with the provisions of the constitution.

Such provisions are also found in other federal constitutions that are in American and Australian Constitution. But in America and Australian the centre acts only when the request made by states. While there is no such pre-condition under Art. 355. The center can thus interfere even armed without state's request.

Further if the Government state is not carried on in accordance with the provisions of constitution. Then center can take over the government of state under Art. 356 of the constitution on the ground of failure of constitutional Machinery in that state. In other federations. However, the center cannot do so.

The word 'aggression' has been constructed to be a word of very wide import. It is not limited to only war. There are many acts which cannot be termed as war. A bloodless aggression from a vast and incessant flow of millions of human beings forced to flee in to another state could constitute aggression under Art. 355.

Article 355 uses the term "Internal disturbance" while Art.352 uses term "armed rebellion". The term "armed rebellion" is narrower in scope than "internal disturbance" which is very wider. This means that a mere "internal disturbance" short of armed rebellion cannot justify a proclamation. Under Art. 352.

Further, Art. 356 talks only of breakdown of constitutional government in the state. This means that mere 'internal disturbance' does not justify a proclamation under Art 356 unless it results in the constitutional breakdown in the state.

In India law and order is a state subject and therefore central intervention under Art. 355 would be justifiable only in case of aggravated form of disturbance, which the state finds beyond its means to control center can intervene Suo-motto or at the request of concerned State Government.

In order to deploy the Central Reserve Police Force. In a particular state. (without the permission of that state) 42nd amendment was made in the constitution and Art. 257A was inserted by which center is made enabled to do deploy any such force without the concurrence of the concerned state government. However Art. 257-A was repealed by 44th Amendment in the constitution. But however entry 2A in the Union list remained intact forces in state in aid of civil power.

The Indian federation has a strong 'Unitary bias' and the central government has powers to 'supervise' and even to supersede in certain circumstances a state government temporarily to restore normally or to inject honesty and integrity into the state administration. Whether these essentials of good government may be lacking.

This can be said that under Art. 355 center is under obligation to appoint commission of enquiry to ensure that state governments are carried on in accordance with the constitutional provisions. Certainly a corrupt government cannot be regarded as a government being carried on in accordance with the constitution. In the opinion of prof. M. P. Jain even Art. 356 emanates from Art. 355 and not vice versa.