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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

REVISITING ARTICLE 356: FROM CONSTITUTIONAL SAFEGUARD TO INSTRUMENT OF POLITICAL CENTRALISATION

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INTRODUCTION

The Constitution of India has often been described not just as a legal text, but as a living framework meant to hold together an incredibly diverse nation. In this spirit, constitutional scholar Granville Austin famously called it a "cornerstone of a nation."[1] Yet, like any cornerstone, some parts of it have carried more weight and more controversy than others. One such provision is Article 356. This article allows the President, acting on the advice of the Union government, to step in and take over the functioning of a State if its constitutional machinery is deemed to have broken down.

To understand why such a powerful provision exists, we have to step back to the time when the Constitution was being framed. India had just emerged from the trauma of Partition, communal violence, and the enormous challenge of integrating hundreds of princely states into one unified nation. The fear of instability was real and immediate. In that fragile environment, Article 356 was envisioned as a safety valve, a tool to be used only when a State could no longer function in accordance with the Constitution. Even B. R. Ambedkar, who defended this provision in the Constituent Assembly, expressed hope that it would remain a "dead letter," meaning it would rarely, if ever, need to be used.[2] It was supposed to be extraordinary, something invoked only in moments of genuine constitutional crisis, and treated with the utmost seriousness.

However, the reality that unfolded in the decades after independence told a very different story. Instead of being rarely used, Article 356 became a frequently invoked political tool. By the time the Supreme Court took a hard look at its use in the landmark case of *S. R. Bommai v. Union of India*, it had already been used more than a hundred times. What was troubling was not just the

[1] Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Clarendon Press 1966) 1.
[2] BR Ambedkar, Constituent Assembly Debates (CAD), Vol IX, 4 November 1948, 177 (Lok Sabha Secretariat 1989). Ambedkar expressed the hope that art 356 would 'never be called into operation and would remain a dead letter' and that, if misused, 'it is certainly a ground for impeachment'.

frequency, but the pattern: many of these instances appeared to be driven less by genuine constitutional breakdowns and more by political motivations, often to dismiss State governments led by opposition parties.[3]

This misuse did not go unnoticed. The Sarkaria Commission carefully documented how Article 356 was being applied, highlighting a recurring trend of partisan abuse.[4] Prominent legal thinkers like H. M. Seervai, Rajeev Dhavan, and Upendra Baxi strongly criticised this practice, arguing that it undermined the very federal structure of the Constitution. Even the judiciary, which had earlier taken a more hands-off approach as seen in *State of Rajasthan v. Union of India*, began to recognise the dangers of leaving such vast powers unchecked.[5]

The turning point came with the Bommai judgment in 1994. This case fundamentally changed how Article 356 was understood and applied. The Supreme Court made it clear that the President's power under this provision was not absolute. It introduced important safeguards: for instance, the majority of a government should be tested on the floor of the Assembly, not decided behind closed doors. The Court also declared that federalism is part of the Constitution's basic structure, meaning it cannot be undermined by arbitrary central action. Most importantly, it opened the door for judicial review, allowing courts to examine whether the imposition of President's Rule was justified. In doing so, the Court transformed Article 356 from a tool of unchecked executive power into one that is limited, accountable, and subject to constitutional scrutiny.

But constitutional evolution does not stop with a single judgment. In the years following Bommai, political actors began to find new ways to exert control over States without directly invoking Article 356. These methods were often subtler but equally significant. They included expanding the role of Governors in controversial ways, delaying or withholding assent to State legislation, influencing legislative processes, and using mechanisms like anti-defection laws or financial controls to pressure State governments. In some cases, central investigative agencies were also seen as instruments that could indirectly affect State politics.

[3] TT Krishnamachari, Constituent Assembly Debates, Vol IX, 4 November 1948, 182–183 (Lok Sabha Secretariat 1989).

[4] Report of the Commission on Centre-State Relations (Sarkaria Commission) (Government of India 1988) Vol I, ch VI, para 6.8.06. The Commission documented that by 1988 art 356 had been invoked on over 90 occasions, many of which were of a partisan political character.

[5] HM Seervai, *Constitutional Law of India: A Critical Commentary* (4th edn, NM Tripathi 1993) Vol 3, 2793; Rajeev Dhavan, *President's Rule in the States* (Indian Law Institute 1979) 3; Upendra Baxi, 'The Constitutional Quicksands of Kesavananda Bharati and the Twenty-Fifth Amendment' (1974) 1 SCC (Journal) 45, 52.

The Supreme Court, in response, has continued to refine and strengthen the idea of federal balance. Through cases like Nabam Rebia v. Deputy Speaker, Government of NCT of Delhi v. Union of India (and its later developments), Subhash Desai v. Governor of Maharashtra, and State of Tamil Nadu v. Governor, the Court has tried to push back against these indirect forms of centralisation.[6] These decisions build upon the spirit of Bommai, reinforcing the idea that States are not mere administrative units, but essential components of India's constitutional structure.

Even today, however, the debate around Article 356 remains alive. The imposition of President's Rule in Manipur in February 2025 amid prolonged ethnic violence has once again brought this provision into focus. Situations like these raise difficult questions: When is the use of Article 356 truly justified? Are the safeguards laid down in Bommai sufficient in cases of genuine breakdown of law and order? And perhaps most importantly, why does there still seem to be a gap between what the Constitution aspires to achieve and how political power is exercised in practice?

This ongoing tension is what makes Article 356 such a fascinating and important subject of study. It is not just about legal doctrine, but about the lived reality of Indian federalism, how power is shared, contested, and sometimes misused. This paper undertakes a comprehensive doctrinal, historical, and comparative analysis of Article 356 across all these phases, from its cautious beginnings in the Constituent Assembly, through its troubled history of misuse, to its judicial transformation and its continued relevance in contemporary politics. Such an exploration helps us better understand not only Article 356 itself, but also the evolving nature of India's constitutional democracy.

HISTORICAL AND CONSTITUTIONAL GENESIS OF ARTICLE 356

A. Colonial Roots: From Section 93 to Article 356

To truly understand Article 356, one must begin not in independent India, but in its colonial past. The provision did not emerge in isolation; it has its roots in Section 93 of the Government of India

[6] *Nabam Rebia and Bamang Felix v Deputy Speaker, Arunachal Pradesh Legislative Assembly* (2016) 8 SCC 1; *Government of NCT of Delhi v Union of India* (2018) 8 SCC 501; *Government of NCT of Delhi v Union of India* (2023) 9 SCC 1; *Subhash Desai v Principal Secretary, Governor of Maharashtra* (2023) 6 SCC 1; *State of Tamil Nadu v Governor of Tamil Nadu* Writ Petition (Civil) No 1239 of 2023 (SC, 2024).

Act, 1935,[7] a law designed by the British to govern India while still keeping ultimate control firmly in imperial hands.

Section 93 gave sweeping powers to the Governor of a Province. If the Governor felt that the administration could no longer function according to the law, he could simply step in and take over governance. This was not a neutral safeguard rather it reflected a deep mistrust of elected Indian representatives. The Governor, appointed by the British Crown, was seen as a superior authority who could override democratic processes whenever necessary. In essence, it was a mechanism of control disguised as constitutional protection.

This provision was not merely theoretical; it was used several times. For instance, it was invoked in Sindh in 1937 and later in Bengal in 1943 during the devastating famine.[8] Each such use reinforced a particular mindset that centralised authority stepping in to "correct" provincial governance was both normal and acceptable. By the time India approached independence, this idea had become embedded in the administrative imagination.

When the framers of the Constitution of India began their work, they could not entirely discard this legacy. But they were also deeply conscious of its dangers. As a result, when they adapted the structure of Section 93 into what would become Article 356, they made important and deliberate changes.

First, the role of the Governor was fundamentally redefined. Unlike the colonial Governor, who exercised real executive authority, the Governor in independent India was intended to be a constitutional head, someone who acts on the advice of an elected Council of Ministers, as reflected in Articles 163 and 164. This shift was crucial as it signalled a move from imperial control to democratic accountability.

Second, the framers introduced a system of parliamentary oversight. Under Article 356(3), any proclamation of President's Rule must be approved by Parliament. This was meant to ensure that such a drastic step would not remain solely within the executive's control.

[7] Government of India Act 1935, s 93(1). The section empowered the Governor, where satisfied that governance 'cannot be carried on in accordance with the provisions of this Act', to assume to himself all or any of the functions of the Provincial Government — a provision designed to maintain ultimate Imperial authority over elected provincial legislatures.

[8] VP Menon, *The Transfer of Power in India* (Longmans 1957) 416–420 (Sindh 1937); 418 (Bengal 1943 famine administration). Each invocation reinforced the assumption that centralised authority 'correcting' provincial governance was constitutionally normal.

Finally, and most importantly, the entire constitutional context had changed. Provinces were no longer subordinate administrative units; they became States with their own democratic legitimacy. Article 356, therefore, had to operate within a federal structure where power was shared not imposed.

B. The Federal Design of the Indian Constitution

The federalism of the Constitution of India is not easy to classify. It does not neatly resemble the American model, where States enjoy near-equal constitutional status, nor does it follow the German or Australian systems with their distinct institutional safeguards. Instead, as Granville Austin observed, India's Constitution is held together by a "triple-stranded rope" that is federalism, parliamentary democracy, and fundamental rights, all closely intertwined.

This design reflects a careful balancing act. On one hand, the Constitution distributes legislative powers through the Seventh Schedule into three lists: the Union List, the State List, and the Concurrent List. This division recognises that States must have autonomy in governing their own affairs. On the other hand, the Constitution deliberately gives the Union significant strength. Provisions such as Article 248 (residuary powers with the Union), Article 254 (Union law prevailing over State law in case of conflict), and Articles 256–257 (allowing the Union to issue directions to States) all tilt the balance toward central authority. Emergency provisions in Part XVIII further reinforce this tendency. This is why Indian federalism is often described as "federal, but with a strong centre."

In this broader structure, Article 355 plays a key role. It places a duty on the Union to protect States against external aggression and internal disturbance, and to ensure that governance in every State follows constitutional norms. This duty forms the moral and legal foundation for Article 356. But it also raises an important question: when the Union intervenes, is it truly acting to uphold the Constitution or is it pursuing political advantage? The answer to this question often determines whether Article 356 is seen as a safeguard or a threat.

C. Constitutional Amendments and the Shaping of Article 356

The story of Article 356 is also a story of constitutional struggle of expansion, misuse, and eventual correction. This is particularly visible in the amendments that have reshaped its operation over time.

The 38th Amendment Act, passed during the Emergency under Indira Gandhi, marked perhaps the most extreme moment in this journey. It declared that the President's satisfaction in imposing President's Rule could not be questioned in any court. In effect, it placed this power completely beyond judicial scrutiny. This move was widely criticised because it removed one of the most important checks in a constitutional democracy, the ability of courts to review executive action.

Recognising the dangers of such unchecked power, the 44th Amendment Act sought to restore balance. Enacted after the Emergency by the Janata government, it reversed the position created by the 38th Amendment. It made it clear that Presidential Proclamations could once again be challenged in court. It also introduced safeguards: for example, extending President's Rule beyond one year would require certification from the Election Commission that elections could not be held. Additionally, if Parliament rejected a proclamation, the same grounds could not be used again to reimpose it. The 42nd Amendment (1976), which had also expanded Central powers over States in ways that further eroded federal balance, was substantially corrected by the 44th Amendment.

MISUSE IN PRACTICE: A SEVEN-DECADE CHRONICLE

Statistical Overview and Periodisation

The story of Article 356 in practice is not just a dry record of numbers rather it is, in many ways, a reflection of how political power has been exercised, contested, and at times, stretched beyond its intended limits. Across roughly seven decades, this provision has been invoked over 130 times, and its journey can be understood through five distinct phases, each revealing a different relationship between law and politics.

The first phase (1950–1959) was marked by caution. In the early years of the Republic, Article 356 was used sparingly (only four times) and mostly in situations where there appeared to be genuine constitutional breakdowns. There was still a certain reverence for constitutional boundaries, and the provision retained something of the restraint that B. R. Ambedkar had hoped for when he described it as a "dead letter." This restraint began to erode in **the second phase (1960–1976)**. Particularly during Indira Gandhi's tenure, the use of Article 356 increased dramatically. Between 1966 and 1976 alone, it was invoked dozens of times. What is striking here is not just the frequency, but the pattern. State governments led by opposition parties, or even those weakened by internal dissent within the ruling party, were often dismissed. The provision, once seen as a constitutional safety valve, began to resemble a political instrument.

The trend deepened in **the third phase (1977–1993)**, which can best be described as an era of political retaliation. When the Janata Party came to power in 1977, it dismissed nine Congress-led State governments. Just a few years later, when Indira Gandhi returned to power in 1980, she responded in kind by dismissing nine Janata-ruled States. This back-and-forth use of Article 356 reduced it to a tool of partisan warfare, stripping it of much of its constitutional legitimacy.[9]

A turning point came with **the fourth phase (1994–2016)**, following the landmark judgment in *S. R. Bommai v. Union of India*. The Supreme Court imposed meaningful checks, most importantly, the requirement that a government's majority be tested on the floor of the Assembly, not decided in the Governor's report. As a result, the use of Article 356 declined significantly. The Centre became more cautious, and in several cases, potential proclamations were dropped after legal scrutiny.

We now find ourselves in **the fifth phase (2016–present)**, where the nature of central intervention has subtly but significantly changed. Direct use of Article 356 has become rare. Instead, there has been a shift toward more indirect methods, which might be called 'centralisation without proclamation.' These include assertive gubernatorial actions, financial pressures, and strategic use of central agencies. In other words, while the form of intervention has evolved, the underlying tensions between the Centre and the States remain very much alive.

Typology of Misuse

Over time, constitutional scholars and expert bodies such as the Sarkaria Commission have shown that the misuse of Article 356 has not been accidental or isolated, but has followed recurring patterns.[10] One of the most common among these, especially before the corrective intervention of S. R. Bommai v. Union of India, was the simple bypassing of the floor test. Governments were dismissed without being given a fair opportunity to prove their majority on the Assembly floor, with decisions often resting on the Governor's subjective assessment rather than a transparent legislative process. Closely linked to this was the practice of "defection engineering," in which

[9] Granville Austin, *Working a Democratic Constitution: The Indian Experience* (Oxford University Press 1999) 355. Austin observes that the Janata Government's 1977 dismissal of nine Congress-governed States was 'mirrored' by Indira Gandhi's dismissal of nine Janata-governed States in 1980 — establishing a retaliatory cycle that 'deeply eroded the constitutional credibility of Article 356'.

[10] Report of the Commission on Centre-State Relations (Sarkaria Commission) (Government of India 1988) Vol I, ch VI, para 6.8.09. The Commission identified five principal patterns of misuse: (i) floor test bypass; (ii) defection engineering; (iii) gubernatorial agency; (iv) secularism invocation; (v) law and order pretext.

instability was not always natural but deliberately created. Legislators were persuaded or pressured to withdraw support, and the manufactured crisis was then presented as evidence of constitutional breakdown.[11] Such episodes in Jammu and Kashmir, Karnataka, and Arunachal Pradesh reveal how political strategy often preceded constitutional action.

Another deeply concerning pattern has been the role of the Governor, giving rise to what is often described as "gubernatorial agency." Instead of acting as neutral constitutional figures, Governors have at times appeared aligned with the Centre, submitting reports that justify the imposition of President's Rule on questionable grounds. This concern is further complicated by the immunity granted under Article 361, which makes it difficult to hold them legally accountable. Alongside this, broader and more sensitive justifications such as threats to secularism have also been invoked. Following the Babri Masjid demolition, for instance, several State governments were dismissed on this ground. While the Court in *Bommai case* did affirm secularism as a basic feature, it also warned against its misuse as a political pretext. Similarly, situations of law-and-order breakdown have often been stretched to fit the idea of "constitutional failure," even when they fall short of that threshold, as seen in repeated interventions in Manipur. Recognising these distortions, the Punchhi Commission suggested more nuanced alternatives, such as a localised emergency mechanism.[12]

In recent years, however, the nature of misuse has become more subtle and sophisticated. Rather than invoking Article 356 directly, the Centre has increasingly relied on what may be called "indirect centralisation." Through tools such as gubernatorial intervention in legislative functioning, withholding of financial resources, or the strategic use of investigative agencies, outcomes similar to those of the President's Rule are achieved without formally declaring it. This evolving pattern operates within legal grey areas, making it harder to challenge, yet its impact on federal balance is just as significant, if not more so, than the overt misuse witnessed in earlier decades.

[11] *S R Bommai v Union of India* AIR 1994 SC 1918, paras 4–19 per Jeevan Reddy J. The Karnataka 1989 facts: Governor Pendekanti Venkatasubbaiah reported on 19 April 1989 that Bommai had lost majority support; seven of the nineteen legislators who had allegedly withdrawn support retracted their letters and reaffirmed support; Bommai communicated his readiness to face the Assembly; the President issued the Proclamation on 20 April 1989 without affording a floor test

[12] Report of the Commission on Centre-State Relations (Punchhi Commission) (Government of India 2010) Vol II, para 8.4.01. The Commission recommended a 'localised emergency' mechanism allowing the Centre to intervene in specific troubled regions for not more than three months without dissolving the entire State government — designed precisely for situations like repeated interventions in Manipur.

Most Affected States

The impact of Article 356 has never been evenly distributed across India, and this unevenness itself reveals how deeply politics and circumstance shape its use. Some regions have faced repeated interventions, almost becoming frequent sites of constitutional breakdown. Manipur, for instance, stands out for having experienced President's Rule more than any other State, reflecting a history marked by recurring instability and conflict. Uttar Pradesh, given its political significance and turbulent phases in earlier decades, has also seen frequent use of this provision. In contrast, Jammu and Kashmir presents a unique and more complex story, having spent an exceptionally long cumulative period under central rule due to its sensitive political and security context, particularly in relation to Article 370. Similarly, Punjab witnessed extended Central intervention during the militancy years, when governance challenges were inseparable from serious internal security concerns. Importantly, the reach of Article 356 has not been confined to large or conflict-prone States alone; smaller regions like Puducherry have also experienced its effects, as seen in 2021 when a government lost its majority. Taken together, these examples show that Article 356 has operated across diverse political landscapes, but its burden has fallen more heavily on certain States, often shaped by a mix of instability, strategic importance, and shifting political equations.

STATE OF RAJASTHAN V. UNION OF INDIA (1977): JUDICIAL ABDICATION AND ITS CONSEQUENCES

The case of State of Rajasthan v. Union of India emerged at a moment of dramatic political change in India. After the sweeping victory of the Janata Party in the 1977 general elections, marking the first major defeat of the Congress at the national level, the newly formed government moved quickly to dismiss nine State governments that were still led by the Congress. The justification offered was simple, yet constitutionally questionable: these State governments no longer reflected the "popular will" expressed in the parliamentary elections. But this reasoning overlooked a basic feature of India's federal structure: Parliament and State Assemblies derive their mandates separately. A shift in national political sentiment does not automatically invalidate the legitimacy of elected State governments. Recognising this, several States, including Rajasthan, Madhya Pradesh, and Himachal Pradesh, approached the Supreme Court to challenge what appeared to be a deeply political use of Article 356.

When the matter reached the Court, the majority adopted an extreme stance of restraint. Led by Chief Justice M.H. Beg, the Court acknowledged that the President's "satisfaction" under Article 356 could, in theory, be reviewed but only in the rarest of cases, such as when it was based on clearly irrelevant or mala fide grounds. In practice, however, this standard was so high that it effectively shielded executive decisions from meaningful scrutiny. The Court chose not to strike down the proclamations, placing its faith instead in political accountability, arguing that Parliament, through its power to approve such proclamations, was the appropriate check. In doing so, it implicitly accepted the idea that the results of a general election could justify reshaping State governments, a position that has since been widely criticised as constitutionally unsound.[13]

In sharp contrast, the dissent by V. R. Krishna Iyer offered a far more principled and enduring vision. He warned that the majority's approach amounted to a failure of the judiciary to perform its constitutional role. For him, federalism was not a matter of convenience but a core structural feature of the Constitution, one that could not be undermined by political expediency. He insisted that the President, though formally the authority, acts on the advice of the government and that such advice must be rooted in genuine constitutional breakdown, not partisan calculations. His dissent was remarkably forward-looking, anticipating many of the safeguards that would later be firmly established in *S. R. Bommai v. Union of India*, including the idea that presidential satisfaction must be based on objective and reviewable material.[14]

In hindsight, the decision has been widely criticised by scholars and commentators alike. Leading constitutional thinkers such as H. M. Seervai, D. D. Basu, and M. P. Jain pointed out that the Court blurred an important distinction between the existence of power and its justification.[15] By failing to rigorously examine whether the constitutional conditions for invoking Article 356 were actually met, the Court effectively gave the executive a free hand. Perhaps more significantly, the judgment had long-term consequences.[16] By upholding the dismissals carried out by the Janata government,

[13] Report of the Commission on Centre-State Relations (Punchhi Commission) (Government of India 2010) Vol II, para 8.4.01. The Commission recommended a 'localised emergency' mechanism allowing the Centre to intervene in specific troubled regions for not more than three months without dissolving the entire State government — designed precisely for situations like repeated interventions in Manipur.

[14] *State of Rajasthan v Union of India* AIR 1977 SC 1361, (1977) 3 SCC 592 (Constitution Bench: Beg CJ, Chandrachud, Bhagwati, Fazal Ali, Untwalia, Shinghal and Krishna Iyer JJ; Krishna Iyer J dissenting).

[15] HM Seervai, *Constitutional Law of India: A Critical Commentary* (4th edn, NM Tripathi 1993) Vol 3, 2793–2800. Seervai characterised the majority opinion as 'profoundly unsatisfying' and argued that it confused 'the formal question of whether the President had authority to issue a Proclamation with the substantive question of whether the conditions justifying its issuance were present'.

[16] DD Basu, *Shorter Constitution of India* (16th edn, LexisNexis 2022) 1442.

it set a precedent that was soon mirrored when Indira Gandhi returned to power in 1980 and dismissed nine opposition-ruled States in a similar fashion. What followed was a cycle of retaliation that deeply eroded the constitutional credibility of Article 356, turning it, for a time, into a tool of political convenience rather than a safeguard of constitutional order.[17]

S.R. BOMMAI V. UNION OF INDIA (1994): THE CONSTITUTIONAL WATERSHED

The story of S. R. Bommai v. Union of India is, at its core, about how fragile democratic processes can become when constitutional powers are used without restraint. S. R. Bommai was leading an elected government in Karnataka in 1989 when a sudden claim emerged that his government had lost majority support. The Governor relied on letters from a few legislators to make this assessment, but what followed exposed the uncertainty of that claim. Many of those legislators quickly changed their stance and reaffirmed their support for the government. In a functioning democracy, this should have led to a simple solution: test the majority on the Assembly floor. Bommai himself asked for exactly that. Yet, instead of allowing this transparent and democratic process to unfold, the Governor recommended President's Rule, and the government was dismissed almost immediately. What this episode revealed was not just a political conflict, but a deeper problem: decisions about elected governments were being made behind closed doors, rather than in the legislature where they rightfully belong.

This case gained even greater significance because it was heard along with similar disputes from across the country, including those arising after the Babri Masjid demolition, when several State governments were dismissed under controversial circumstances. Recognising the seriousness of these issues, the Supreme Court constituted a nine-judge bench, signalling that this was not just about one State or one government, but about the future of India's constitutional balance. When the judgment finally came in 1994, it did more than resolve a dispute; it reshaped the way Article 356 would be understood and applied.[18]

[17] DD Basu, *Shorter Constitution of India* (16th edn, LexisNexis 2022) 1442; MP Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2022) 896. Both scholars note that the judgment's practical effect was to reduce art 356 to 'an instrument of executive will, insulated from constitutional accountability', and that by validating the 1977 dismissals it implicitly authorised the mirror-image 1980 dismissals.

[18] *S R Bommai v Union of India* AIR 1994 SC 1918, para 157 per Jeevan Reddy J: 'Presidential satisfaction, being in substance the satisfaction of the Council of Ministers, is amenable to judicial review on the limited ground that the material disclosed does not support the satisfaction, or that the satisfaction is based on extraneous, irrelevant or perverse grounds — i.e., where no reasonable authority in the position of the President could have been genuinely satisfied that a constitutional breakdown had occurred.'

The Court brought a much-needed sense of accountability to the exercise of this power by making it clear that the President's "satisfaction" is not beyond question. Until then, such decisions were often treated as purely political and therefore immune from judicial scrutiny. The Court changed this approach by holding that if the decision is based on irrelevant, arbitrary, or mala fide grounds, it can be challenged and reviewed. In doing so, it quietly but firmly reminded the executive that constitutional power is never absolute, it must always be exercised with reason and responsibility. Perhaps the most powerful and practical safeguard introduced by the judgment was the insistence on the floor test. The Court recognised a simple truth: in a parliamentary democracy, the legitimacy of a government can only be determined by the elected representatives in the Assembly. Not by the Governor's opinion, not by political speculation, and certainly not by the Centre's assumptions. This principle restored the Assembly to its rightful place as the arena where political legitimacy is tested.

At a deeper level, the judgment reaffirmed the idea that India's federal structure is not merely administrative, but foundational. Drawing strength from earlier rulings like Kesavananda Bharati v. State of Kerala,[19] the Court emphasised that States are not subordinate extensions of the Centre. They carry their own democratic mandate and constitutional authority within their domain. This meant that the Centre could not dismiss State governments simply because of political disagreements or convenience. At the same time, the Court acknowledged that there may be exceptional situations in which Article 356 is necessary, such as a genuine breakdown of the constitutional machinery, the inability to form a stable government, or actions that strike at the core values of the Constitution, such as secularism. But by clearly distinguishing these situations from routine political conflicts, the Court ensured that the provision could no longer be used casually or opportunistically.

The judgment also addressed what should happen when this power is misused. It empowered courts to restore dismissed governments, reinforcing that constitutional wrongs must have meaningful remedies. Yet, it did not ignore practical realities; some actions taken during President's Rule might not be easily undone, and undoing everything could create further instability. This balanced approach reflected a mature understanding of governance, where legal

[19] *Kesavananda Bharati v State of Kerala* AIR 1973 SC 1461, (1973) 4 SCC 225 (thirteen-judge Constitutional Bench). The judgment established the basic structure doctrine — that certain fundamental features of the Constitution, including federalism, are immune from abrogation even by constitutional amendment under art 368.

correction must coexist with administrative continuity. The role of the Governor, too, was brought into focus, with the Court cautioning that Governors must act as neutral constitutional figures, not as instruments of political strategy. Their reports, the Court emphasised, must be grounded in facts and reasoning, not in political calculations.

The impact of this decision was immediate and profound. The frequent, often controversial use of Article 356 began to decline as the Centre became more cautious, aware that its actions could be tested in court.[20] More importantly, the judgment restored confidence in the constitutional system by reinforcing that democracy is not just about forming governments, but about respecting the processes that sustain them. It reminded all institutions that power must be exercised within limits, and that those limits are what protect the spirit of the Constitution. It is for this reason that eminent jurists like Fali S. Nariman described the judgment as the "Magna Carta of Indian federalism." In the end, *Bommai* did not just interpret Article 356; it transformed it, turning a once-misused provision into a carefully controlled constitutional safeguard anchored in democracy, federalism, and the rule of law.[21]

SARKARIA AND PUNCHHI COMMISSION RECOMMENDATIONS

The story of reforming Article 356 cannot be understood without examining the important commissions that sought to curb its misuse over time. The Sarkaria Commission, reporting in 1988, was one of the earliest to openly acknowledge how frequently Article 356 had been abused. It strongly emphasised that President's Rule should be used only as a **last resort**, after all possible alternatives like forming another government had been explored. It also stressed that Governors must act carefully and transparently, giving clear, evidence-based reasons for their recommendations, and that State Assemblies should not be dissolved immediately but kept in suspended animation until Parliament approves the Proclamation.[22] Importantly, it warned against

[20] Sudhir Krishnaswamy, *Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine* (Oxford University Press 2009) 88.

[21] Fali S Nariman, 'Bommai and After: Federal Relations Revisited' (2004) 1 Indian Journal of Public Law and Policy 18, 20. Nariman described the judgment as 'the Magna Carta of Indian federalism' and observed that it 'transformed Article 356 from a provision of substantive discretion into a provision of conditional and reviewable constitutional authority'.

[22] Report of the Commission on Centre-State Relations (Sarkaria Commission) (Government of India 1988) Vol I, ch VI, para 6.8.09. Key recommendations: (i) art 356 must be used only as an absolute last resort after all alternatives have failed; (ii) the Governor must explore the possibility of an alternative government before recommending President's Rule; (iii) the State Assembly must be kept in 'suspended animation', not dissolved, until Parliament

using Article 356 for political disagreements. Although these suggestions were not formally enacted, many of them were later reflected in the principles laid down by the Supreme Court in S. R. Bommai v. Union of India, giving them real constitutional weight.

Building on this, the National Commission to Review the Working of the Constitution revisited these ideas and largely supported them, while adding an important concern Governor bias. It suggested that questions about majority support should ideally be decided by the Speaker of the Assembly rather than the Governor, highlighting the need to keep such decisions within the legislative domain and away from political influence.[23]

Later, the Punchhi Commission (2010) recognised that while *Bommai* had reduced blatant misuse, deeper structural issues still remained. Its most innovative idea was the concept of a **"localised emergency,"** allowing the Centre to intervene only in troubled regions instead of dismissing an entire State government. It also recommended strengthening Article 355 as a protective duty rather than a backdoor to Article 356, ensuring fixed tenure and independence for Governors, and involving Chief Ministers in their appointment to reduce political misuse. However, despite their practical value, these recommendations remain unimplemented even today. Their relevance is evident in recent situations like Manipur (2025), where a regional crisis still resulted in the imposition of President's Rule across the whole State, exactly the kind of situation these reforms had sought to address.

CONTEMPORARY JURISPRUDENCE: 2016–2026

From 2016 to 2026, the Supreme Court has played an important role in shaping how power is shared between the Centre and the States, even in cases that were not directly about Article 356. These judgments show how the idea of federalism from the *Bommai* case is being applied in new situations.

One important set of cases involves Delhi. In *Government of NCT of Delhi v. Union of India* (2018), the Supreme Court made it clear that the Lieutenant Governor cannot act independently in

approves the Proclamation; (iv) a prior warning must ordinarily be given to the State government; (v) art 356 must not be used to settle political disagreements.

[23] Report of the National Commission to Review the Working of the Constitution (Venkatachaliah Commission) (Government of India 2002) para 8.8. The Commission largely endorsed the Sarkaria recommendations and added the significant suggestion that questions of majority support should be determined by the Speaker of the State Assembly rather than the Governor, to insulate such decisions from gubernatorial partisanship.

most matters and must follow the advice of the elected government, except in areas like police, land, and public order. The Court emphasised that real power in a democracy should lie with elected representatives, not unelected authorities.[24] In 2023, the Court went a step further and said that the Delhi government should also have control over its officers and administration. However, the Central government later passed a law to take back this control. This situation shows an ongoing struggle: while the Court tries to strengthen federal principles, the political executive sometimes uses laws to get around these decisions.[25]

Another major development came from the Maharashtra political crisis of 2022–23. This involved internal conflict within a political party, the fall of the government, and controversial actions by the Governor. In the *Subhash Desai* case (2023), the Supreme Court strongly criticised the Governor's decisions. It said that calling for a trust vote without clear proof that the government had lost its majority was unconstitutional. It also said that inviting a new government before deciding whether some MLAs should be disqualified was improper. This judgment made it clear that the principles from *Bommai*, especially the idea of proving majority through a floor test, apply not just to Article 356, but also to actions like calling trust votes. It also stressed that Governors must act fairly and not take sides in political disputes.

A similar issue came up in Tamil Nadu, where the Governor delayed action on several Bills passed by the State government for a long time. In *State of Tamil Nadu v. Governor of Tamil Nadu* (2024), the Supreme Court ruled that this delay was unconstitutional.[26] It said that Governors cannot simply sit on Bills and must act within a reasonable time. The Court even set a clear timeline, saying that decisions should be made within one month. This case is important because it prevents

[24] *Government of NCT of Delhi v Union of India* (2018) 8 SCC 501 (five-judge Constitution Bench: Dipak Misra CJI, Chandrachud, Sikri, Khanwilkar and Ashok Bhushan JJ), para 162 per Chandrachud J. The Court held that the Lieutenant Governor is bound by the aid and advice of the elected Council of Ministers in all matters except land, police and public order; the democratic principle requires that real executive authority rest with elected representatives, not unelected constitutional heads.

[25] Government of National Capital Territory of Delhi (Amendment) Act 2023 (restoring Central control over Delhi's administrative services through legislation, thereby reversing the 2023 Supreme Court judgment). The episode illustrates the political executive's use of legislative instruments to circumvent unfavourable judicial outcomes in Centre-State disputes.

[26] *Subhash Desai v Principal Secretary, Governor of Maharashtra* (2023) 6 SCC 1 (five-judge Constitution Bench: Chandrachud CJI, Ashok Bhushan, R Subhash Reddy, HR Dave and Pamidighantam Sri Narasimha JJ), paras 89–108 per Chandrachud CJI. Governor Koshiyari's trust vote call without objective material showing loss of majority was held unconstitutional; his invitation to the Shinde faction to form government before Tenth Schedule disqualification proceedings were resolved was held constitutionally improper; the Governor must be impartial between contending parties in government-formation disputes.

Governors from indirectly blocking elected governments. Instead of dismissing a government under Article 356, such delays could paralyse it quietly, and the Court made it clear that this is not acceptable.

Another major constitutional development was the removal of Article 370 and the reorganisation of Jammu and Kashmir in 2019. The Supreme Court upheld this decision in 2023, saying that Jammu and Kashmir's special status was not permanent and could be changed by the Centre.[27] This situation is serious because it shows a much stronger form of central control, not just removing a government, but changing the very status of a State. It also creates a gap in legal protections, because the rules that apply to President's Rule under Article 356 do not fully apply to Union Territories like Jammu and Kashmir.

Finally, the imposition of President's Rule in Manipur in 2025 highlights how complex these issues can be in real life.[28] The State had been facing serious ethnic violence for a long time, with many deaths and large-scale displacement. In such a situation, the Centre argued that normal governance had broken down and intervention was necessary. Some experts agree that this fits within the proper use of Article 356 under the *Bommai* guidelines. Others argue that the problem was limited to certain regions, and that a better solution, like a "localised emergency," as suggested by the Punchhi Commission, could have been used instead of taking over the entire State. There is also concern that extending President's Rule for too long delays the return of democratic governance.

Overall, these developments show that while the Supreme Court has been trying to protect federalism and limit misuse of power, new challenges keep emerging. The tension between legal principles and political actions continues, and the balance between the Centre and the States is still evolving.

EVOLVING TACTICS OF CENTRALISATION: THE SHIFT FROM ARTICLE 356

One of the most important developments in the post-Bommai constitutional landscape is the systematic shift by Central governments, across party affiliations, away from the formal

[27] Jammu and Kashmir Reorganisation Act 2019, s 73 (President's Rule for the Union Territory of Jammu and Kashmir is governed by s 73, not art 356, since art 356 does not apply to Union Territories); *In Re: Article 370 of the Constitution* Writ Petition (Civil) No 1068 of 2019 (five-judge Constitution Bench: Chandrachud CJI, Sanjiv Khanna, BR Gavai, Surya Kant and AS Oka JJ, judgment November 2023) (upholding the abrogation; J&K did not possess sovereign constituent-unit status).

[28] IAS Parliament, 'Article 356 (President's Rule)' (15 February 2025) <https://www.shankariasparliament.com/current-affairs/article-356-presidents-rule> accessed 10 April 2026.

mechanism of Article 356 and towards alternative instruments that achieve analogous centralisation outcomes with less judicial exposure. As one commentator in Outlook India (2025) has sharply observed: 'Why risk invoking emergency powers and judicial review when the same outcome can be achieved through pliant Governors, investigative agencies, fiscal leverage, and now, thanks to the Supreme Court, indefinite legislative obstruction?'[29]

Five principal substitutes for Article 356 have been identified in the contemporary period. The first is a gubernatorial bill that would prevent the practice, most prominently documented in Tamil Nadu, Kerala, and West Bengal, of Governors refusing to grant assent to State Bills for extended periods, thereby preventing the State government from implementing its legislative programme. The Supreme Court's 2024 Tamil Nadu judgment has constrained this practice, but it has not been entirely eliminated.

The second substitute is fiscal squeeze, the use of the Central government's control over financial transfers (GST compensation payments, Central grants, disaster relief funds) to penalise States governed by Opposition parties or to impose Central policy preferences. Since the introduction of the GST framework in 2017, States have experienced a substantial reduction in their autonomous revenue-raising capacity, making them significantly more vulnerable to fiscal pressure from the Centre.[30] This form of financial centralisation has no direct constitutional remedy under the Bommai framework.

The third substitute is the deployment of Central investigative agencies, the Central Bureau of Investigation, the Enforcement Directorate, and the National Investigation Agency, against Opposition State governments and their leaders. The Supreme Court has on several occasions criticised the misuse of these agencies for partisan purposes, and in Manish Sisodia v. CBI (2024) made observations critical of the 'bail is exception, jail is rule' practice in cases with political dimensions.[31] However, the constitutional challenge to the deployment of Central agencies as

[29] Outlook India, 'A Union of the Unequals: How a Recent SC Judgment Puts Indian Federalism at Stake' *Outlook India* (December 2025) <https://www.outlookindia.com/national/how-a-recent-sc-judgement-puts-indian-federalism-at-stake> accessed 10 April 2026.

[30] Constitution (101st Amendment) Act 2016 (introducing the Goods and Services Tax framework and conferring concurrent taxing power under art 246A). Since 2017, States have lost a substantial portion of their autonomous revenue-raising capacity, making them significantly more vulnerable to fiscal pressure from the Centre over GST compensation payments and Central grants.

[31] *Manish Sisodia v CBI* Special Leave Petition (Criminal) No 5777 of 2023 (Supreme Court, 2024).

instruments of political pressure on State governments has not yet produced a definitive judicial resolution.

The fourth substitute is ordinance-based restructuring of State administration, the use of Central ordinances to modify the governance structures of Union Territories and, through analogous legislative techniques, to affect the administrative arrangements of States. The GNCTD Amendment (2023), which, through legislation, reversed the Supreme Court's 2023 judgment on Delhi services, is the most dramatic recent example.

The fifth and most subtle substitute is appointment leverage the use of Central control over Governor appointments, State university Vice-Chancellor appointments, and appointments to statutory regulatory bodies to populate State institutions with individuals sympathetic to Central policy preferences, thereby influencing State governance without formally displacing elected State governments.

The cumulative effect of these five mechanisms is to create what some scholars have termed 'functional President's Rule', a condition in which the elected State government nominally remains in office but is so constrained by Central intervention that its effective governance capacity is severely diminished.[32] This form of de facto centralisation is considerably harder to address through the Bommai framework than formal Article 356 invocations, because it does not produce a discrete constitutional act (the Proclamation) that can be challenged in court. The challenge for Indian constitutional jurisprudence over the next decade is to develop doctrinal tools capable of addressing these indirect forms of centralisation.

PROPOSED REFORMS AND WAY FORWARD

To improve how Article 356 works in practice, the first step is to make its language clearer and more precise. Right now, terms like “failure of constitutional machinery” are quite vague, which allows for different interpretations and possible misuse. Defining this phrase more clearly would ensure that the provision is used only in genuine emergencies. It would also help to clearly list situations where President’s Rule can and cannot be imposed, based on the principles laid down

[32] Sujit Choudhry and Madhav Khosla, 'Shaping Transition: The Supreme Court of India and the Coalition Dynamics of Emergency Law' (2018) 16 International Journal of Constitutional Law 931, 942. The authors coin the term 'functional President's Rule' to describe a condition in which the elected State government nominally remains in office but is so constrained by Central intervention across multiple dimensions that its effective governance capacity is severely diminished.

in the *Bommai* judgment. Another important reform would be to require approval from the Rajya Sabha before imposing President's Rule, since it represents the interests of the States. At the same time, removing vague phrases like "or otherwise" would limit the Centre's ability to justify its actions without strong evidence.[33]

Alongside constitutional changes, the role of the Governor needs serious reform. Since Governors play a key role in recommending President's Rule, their position should be more neutral and independent. Giving them a fixed term and protecting them from arbitrary removal would help in this regard. Their appointment process should also involve consultation with the state's Chief minister to build trust. Before sending a report that could lead to President's Rule, Governors should give the State government a chance to explain its position. In addition, there should be a way to hold Governors accountable if they act in a biased or politically motivated manner, rather than enjoying complete immunity.

Another important step is to turn the safeguards from the *Bommai* case into formal law. At present, many of these guidelines are treated more like conventions than strict legal rules. By passing a law that includes requirements such as conducting a floor test to prove majority, giving clear reasons in the Governor's report, allowing time before dissolving the Assembly, and resolving defection-related disputes before forming a new government, these protections would become stronger and easier to enforce.

There is also a need to rethink the "all-or-nothing" nature of Article 356. Currently, if there is a problem in one part of a State, the entire State government can be dismissed. A more balanced approach, suggested by the Punchhi Commission, is the idea of a "localised emergency." This would allow the Centre to step in only in specific regions where governance has broken down, without affecting the entire State. Situations like the 2025 Manipur crisis show why such a flexible option could be useful.

Finally, improving Centre–State relations requires more than just fixing Article 356. India needs stronger systems for cooperation between different levels of government. The Inter-State Council, which was created for this purpose, has not been used effectively so far. Making it more active, ensuring it meets regularly, and giving more weight to its recommendations could help build better coordination and reduce conflicts.

[33] KM Munshi, Constituent Assembly Debates, Vol IX, 4 November 1948, 186 (Lok Sabha Secretariat 1989).

CONCLUSION

Article 356 of the Indian Constitution sits at the heart of one of the country's most enduring constitutional dilemmas. On paper, India is a federal system where power is shared between the Centre and the States to reflect the nation's vast diversity. But Article 356 introduces a strong unitary element, allowing the Central government to step in and take control of a State when there is a "constitutional breakdown." This creates a built-in tension: how do you preserve State autonomy while also giving the Centre the authority to act in moments of crisis? Over the past seventy years, this question has never been fully settled, and experience shows that careful drafting alone cannot resolve it.

When the Constitution was being framed, the members of the Constituent Assembly were acutely aware of the fragile conditions of a newly independent nation. Partition, regional instability, and concerns about national unity shaped their thinking. Article 356 was therefore designed as an emergency provision, something to be used sparingly, almost reluctantly, and only in truly exceptional circumstances. However, once electoral politics took root, the reality turned out to be very different. Political parties in power at the Centre began using Article 356 not just to address genuine crises, but as a strategic tool to dismiss State governments led by rival parties. What was meant to be a constitutional safeguard gradually became a political weapon.

For a long time, the judiciary did little to stop this trend. In *State of Rajasthan v. Union of India* (1977), the Supreme Court took a hands-off approach, effectively refusing to closely scrutinise the Centre's use of Article 356. This reluctance allowed misuse to grow throughout the 1970s and 1980s. It wasn't until *S.R. Bommai v. Union of India* (1994) that a major correction occurred. In that landmark judgment, the Court fundamentally reshaped how Article 356 would operate. It declared federalism to be part of the Constitution's basic structure, meaning it could not be undermined. It also introduced important safeguards: requiring floor tests to determine legislative majority, allowing limited judicial review of the President's decision, and laying down standards for how Governors should act. These changes did not eliminate the provision, but they made its misuse far more difficult and legally risky.[34]

[34] Sudhir Krishnaswamy, *Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine* (Oxford University Press 2009) 88.

Even so, the story after *Bommai* is not one of complete resolution. Instead, it is one of adaptation. Political actors have, to a large extent, shifted away from the direct use of Article 356 and instead rely on other methods to exert control over States. These include expanding the discretionary role of Governors, using financial pressure, deploying central agencies, or reshaping governance through ordinances. While these tools may not formally invoke Article 356, they can sometimes achieve similar outcomes. In response, the Supreme Court has continued to evolve its approach, delivering a series of judgments such as *Nabam Rebia* (2016), the *NCT of Delhi* cases (2018 and 2023), the *Maharashtra political crisis* ruling (2023), and *State of Tamil Nadu v. Governor* (2024) that seek to protect federal principles in these new contexts. Still, the Court's role remains largely reactive, addressing issues case by case, while the political forces pushing toward centralisation are broader and more systematic.

A recent example highlights this ongoing challenge. The imposition of President's Rule in Manipur in 2025 can be seen from two angles. On the one hand, it may represent a genuine situation in which constitutional governance has broken down, making Central intervention necessary. On the other hand, it also exposes a gap in India's constitutional design: the lack of flexible, intermediate tools to address localised crises. The Punchhi Commission had suggested the idea of a "localised emergency" that could address specific governance failures without dissolving an entire State government. The absence of such mechanisms means that Article 356 often remains a blunt instrument, even when a more precise response would be preferable.

Looking ahead, strengthening India's federal system will likely require a combination of reforms rather than a single solution. One possibility is to amend Article 356 itself, clearly limiting its use to genuine emergencies, incorporating safeguards developed in the *Bommai* judgment, and perhaps requiring approval from the Rajya Sabha in a manner similar to Germany's Bundesrat system. Another important step would be reforming the office of the Governor to ensure greater neutrality and accountability, reducing the scope for political misuse. There is also a need to formally codify conventions that guide Centre–State relations, so that they are treated as binding norms rather than informal practices that can be ignored.

Ultimately, however, legal and institutional changes can only go so far. The health of Indian federalism depends just as much on political culture as it does on constitutional text. If political actors view federal principles as obstacles to be bypassed, no framework will fully prevent misuse.

But if they treat those principles as essential to democratic governance, the system becomes far more resilient.

Dr B.R. Ambedkar once expressed the hope that Article 356 would remain a "dead letter", a provision rarely, if ever, used. That hope has not been realised. Yet the journey from judicial inaction in 1977, to the transformative intervention in *Bommai*, and onward to more recent federalism-protective rulings shows that the Constitution is capable of growth and self-correction. As has been observed in recent years, it is a living document—one that evolves in response to the needs of a complex democracy.[35] The real challenge is ensuring that this evolution is guided by constitutional values rather than short-term political interests, and that the reforms needed to uphold those values are not endlessly postponed.

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