

# Violations of Human Rights During President's Rule: A Critical Analysis

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## **ABSTRACT**

This paper interrogates the tension between the central government's power to impose President's Rule under Article 356 of the Indian Constitution and the potential for concomitant human rights violations. While conceived as a mechanism to safeguard against the collapse of constitutional machinery in states, the discretionary power granted to the Union government has demonstrably been susceptible to misuse. This paper argues that such impositions have frequently coincided with a surge in human rights abuses, often perpetrated with limited legal accountability. The paper dissects the inherent subjectivity within the grounds for invoking Article 356, potentially enabling politically motivated suspensions of democratically elected state governments. This is exemplified by historical instances in India where a change in central leadership has been followed by the swift imposition of President's Rule in states governed by opposing parties, often on flimsy justifications. The paper delves into specific case studies, such as the period of militancy in Punjab during the 1980s and 1990s, where President's Rule caused a rise in extrajudicial killings by security forces operating outside the ambit of judicial oversight. Furthermore, the paper examines documented instances of violence directed at members of the opposition during periods of President's Rule in various Indian states. The paper emphasises the legal lacunae that contribute to a climate of impunity for human rights violations during President's Rule. This includes arbitrary detentions without due process and prolonged detentions exceeding legal limits. Furthermore, restrictions on freedom of speech and assembly imposed under the pretext of maintaining order during President's Rule further erode fundamental rights. The paper critically analyses existing legal recourse mechanisms and their limitations in ensuring effective accountability for such abuses. However, the paper also acknowledges the impact of judicial pronouncements in curbing the misuse of Article 356. The landmark S.R. Bommai case established stricter judicial scrutiny of the imposition

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of President's Rule, particularly in the context of human rights abuse. Ultimately, the paper proposes a two-pronged approach: strengthening safeguards against the arbitrary invocation of Article 356 and fostering a robust framework for investigating and prosecuting human rights violations that transpire under its purview.

**Keywords:** Human Rights, State Emergency, President's Rule, Article 356, constitutional violations

## I. INTRODUCTION

The fundamental rights guaranteed to citizens of India are enshrined in the Constitution. But paradoxically, these rights are suspended in the event of an "Emergency."<sup>3</sup> A declaration of a national emergency must meet the requirements set out in Article 352 of the Constitution. Articles 352, 356, and 360, respectively, deal with National, State, and Financial emergencies<sup>4</sup>. 70 emergencies have been proclaimed between the passage of the National Emergencies Act in 1976 and January 20, 2021; 36 have expired, and 34 are still in effect, each of which the President renews once a year. Events that qualify as national emergencies include war, foreign aggression, and armed insurrection. When the Governor isn't satisfied with how the state is being run, a state of emergency is declared, designating the President as the state's chief executive. "The President may proclaim a Financial Emergency during a financial crisis and instability in the country's wealth. Investigating how proclamations of emergencies affect the daily activities of regular people. Following a Chinese invasion, India proclaimed its first National Emergency on October 26, 1962"<sup>5</sup>, and it remained in effect until January 10, 1968<sup>6</sup>. Declaring an emergency usually follows internal disruptions, whether complete or partial. Punjab witnessed its first state of emergency in 1951. There has never been a financial emergency proclaimed in India. Interestingly, Articles 20 and 21 are non-susceptible. The proclamation of emergencies in different regions and their consequences for fundamental rights are mostly unknown. This study focuses on violations of fundamental rights and the instances in which they occurred nationwide.

Three categories of emergencies may be declared by the Indian President: national, state, and financial. According to Article 352, the President may declare a National Emergency if he believes that armed insurrection, war, or foreign aggression poses a threat to the nation's security. State

3 <https://legaldesire.com/fundamental-rights-proclamation-of-emergency/>

4 India Const. arts. 352, 356, 360; see also M.P. Jain, *Indian Constitutional Law* (8th ed. 2021); D.D. Basu, *Introduction to the Constitution of India* (24th ed. 2022)

5 <https://www.brillopedia.net/post/human-rights-in-times-of-emergency-an-overview-for-indian-scenario>

6 Id

governments continue their operations, but they are essentially governed by the federal government, which has the authority to issue orders. Article 356 of the Indian Constitution gives the Union the power to ensure that state governments discharge their constitutional duties and to defend each state against external invasion and domestic unrest. If the President is determined that the state government can no longer perform its constitutional responsibilities, they may use this article to proclaim a State of Emergency (President's Rule). Lastly, there is the Financial Emergency, Article 360, which can be declared if the President acknowledges that India's sovereignty and financial stability are jeopardised. But it has never been invoked in India so far. The emergency comes with many repercussions, mostly negative<sup>7</sup>. Human rights are explicitly fundamental to human existence, which helps humans develop<sup>8</sup>. Human rights were established internationally by the Universal Declaration of Human Rights in 1948. The United Nations Charter also affirms the universal respect for human rights. In India, greater importance was given to human rights after the massive destruction that happened during the President's rule in Punjab, 1987-1992. Then India established the Protection of Human Rights Act in 1993 and the National Human Rights Commission in 1993 to secure human rights and fulfil India's commitment to national security.

## II. HISTORICAL BACKGROUND

Emergency provisions were introduced in India by the Government of India Act, 1935, which was influenced by the Weimar Constitution<sup>9</sup>. The GOI Act, 1935, had sections for both the centre and the provinces. The centre had 45 sections, while the province had 93. This act allowed the central government to intervene in provincial matters during emergencies caused by internal disturbances or war. The Governor General enjoyed extensive powers during emergencies, including making laws for provinces on their own issues and declaring an emergency. The entire constituent assembly had different opinions on the emergency provisions. Granville Austin noted that A.K. Ayyar and K.M. Munshi were robustly propagating the view that curtailing freedom during the emergency was crucial for both the union and provincial governments<sup>10</sup>. But afterwards, the saviour of our constitutional fundamental rights, Article 32, saved people from human rights violations.

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7 India Const. arts. 352–360; A.G. Noorani, *Constitutional Questions and Citizens' Rights* (2006); M.P. Jain, *Indian Constitutional Law* (8th ed. 2021); S.R. Bommai v. Union of India, (1994) 3 SCC 1 (India)

8 Kamboj, N. S. (1999). Human Rights and Judicial Activism. *Journal of the Indian Law Institute*, 41(1), 110–115. <http://www.jstor.org/stable/43951701>

9 <https://egyankosh.ac.in/bitstream/123456789/57928/1/Unit11.pdf>

10 Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 190–92 (Oxford Univ. Press 1966)

The conflict between the Indian state and Sikh nationalists was very aggressive during the early 1980s and 1990s in Punjab, where there was a mix of political turmoil and military repression<sup>11</sup>. Provincial boundaries and Sikh demands were among the initial factors in this dispute in 1966, which was further fuelled by economic factors through the Green Revolution. In 1975, political centralisation and the emergency imposed by Indira Gandhi alienated the Akalis, who apparently opposed her authoritarianism, leading to mass mobilisation against the central government. The politics of 'Sikh Home Rule' from the 1960s to 1978 and the terrorist movement for 'Khalistan' from 1978 to 1993 made the condition of the state worse<sup>12</sup>.

The Operation Bluestar in June 1984, in which the Indian Army attacked the Golden Temple in Amritsar to remove Jarnail Singh Bhindranwale and his armed supporters<sup>13</sup>. They were seen as militant leaders of the Sikh separatist movement, resulting in heavy casualties, which was a turning point when they demanded an independent Sikh state, which increased the idea of Khalistan. Bhindranwale was killed along with his followers, which heightened the tensions and ended up having another cycle of violence, which was the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards. After the assassination of Indira Gandhi, his son Rajiv Gandhi became the Prime Minister of India and adopted a conciliatory approach to resolve the extremely violent crisis in Punjab with an agreement called 'The Rajiv-Longowal Accord', which included transferring Chandigarh to Punjab, addressing water disputes, and releasing political prisoners<sup>14</sup>. But again in 1987, Punjab had to go through President's rule and had aggressive police operations and state militancy. K.P.S. Gill imposed Operation Black Thunder in 1988, fueling the situation with hate. Under Gill's leadership, the Punjab police implemented a complex strategy known as the 'Gill Doctrine', which ultimately led to extrajudicial killings, excessive torture, and unlawful acts of detention without any warrant. All these events, and the only suffering community is humans, and the violation of their rights. The emergency in the Indian Constitution has a constitutional meaning, referring to an abnormal situation that requires immediate remedial action<sup>15</sup>. The government has a

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11 Butt, A. I. (2017). India's Strategies against Separatism in Assam, Punjab, and Kashmir, 1984–1994. In *Secession and Security: Explaining State Strategy against Separatists* (pp. 83–124). Cornell University Press. <http://www.jstor.org/stable/10.7591/j.ctt1w0d9w9.8>

12 Gurharpal Singh, *The Punjab Crisis: Federalism, Nationalism and Development* (Oxford Univ. Press 1996)

13 Ram Narayan Kumar et al., *Reduced to Ashes: The Insurgency and Human Rights in Punjab* 30–35 (Human Rights Watch 2003); Kuldip Nayar & Khushwant Singh, *Tragedy of Punjab* 92–105 (Vision Books 1984); Christophe Jaffrelot, *India's Silent Revolution* 398–402 (2003).

14 Christophe Jaffrelot, *India's Silent Revolution* 410–12 (Permanent Black 2003)

15 <http://www.penaclaims.com/wp-content/uploads/2018/08/Arpit-Agrawal.pdf>

duty to protect its citizens in crisis. The President declares the emergency after consulting the Council of Ministers. Emergency provisions are set out in Chapter XVIII of the Indian Constitution. Articles 352-356. Stating 352 for National Emergency, 356 for State Emergency (President's Rule), and 360 for Financial Emergency<sup>16</sup>. Dr. B.R. Ambedkar, the former Union Minister and the chairman of the drafting committee, stated that Article 356 should be a 'dead letter' and it should only be invoked when the state government miserably fails constitutionally<sup>17</sup>. The emergency provisions distinguishing between state and central emergency provisions take into account the fact that the grounds for imposing both are different. Article 352 is invoked due to a situation of war, external aggression, or armed rebellion. In contrast, Article 356 is invoked if the state is unable to function within the constitutional framework. In a National emergency, the state/nation functions normally, whereas in President's rule, the state legislation is either suspended or dissolved and hence ceases to function. And the time frames for both vary: Article 356 can be invoked for only a year, while Article 352 has no time limit.

### III. INSTANCES OF NATIONAL EMERGENCIES IN INDIA

**1962 Emergency:** In reaction to Chinese aggression in the North-East Frontier Agency (NEFA), which is today known as Arunachal Pradesh, the first National Emergency was proclaimed on October 26, 1962. The emergency proclamation lasted until January 10, 1968. Another conflict erupted with Pakistan in 1965 during this time, but no new emergency was declared because the previous one was thought to be adequate.

**1971 Emergency:** On December 3, 1971, the Second National Emergency was proclaimed in response to the start of warfare with Pakistan, which ultimately resulted in the formation of Bangladesh. When the third emergency was declared, this one was still in force.

**1975 Emergency:** On June 25, 1975, the third and most contentious National Emergency was proclaimed due to "internal disturbance," a term later criticized for its ambiguity<sup>18</sup>. There were severe restrictions on civil liberties and political repression during this emergency rule period. On March 21, 1977, the emergency had been lifted, and the Janata Party went on to win the Lok Sabha elections. The Shah Commission, created by the new administration, was tasked with investigating the events leading to

16 <https://researchdirections.org/Management/articleupload/CAakH4OWDj.pdf>

17 Constituent Assembly Debates, Vol. IX, 177-78 (Aug. 4, 1949) (statement of Dr. B.R. Ambedkar); see also S.R. Bommai v. Union of India, (1994) 3 SCC 1 (India); M.P. Jain, *Indian Constitutional Law* (8th ed. 2021)

18 Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* 296-310 (Oxford Univ. Press 1999); 44th Constitutional Amendment Act, 1978 (India).

the declaration of emergency and ultimately concluded that the declaration was unjustified<sup>19</sup>.

To address the evident abuse of emergency powers in 1975, major constitutional provisions were implemented to safeguard and prevent violations in the future, which were added by the 44th Constitutional Amendment Act of 1978<sup>20</sup>, including:

- “Armed rebellion” had been chosen in place of “internal disturbance” to limit the grounds of declaring the emergency.
- It became required for the President to declare an emergency to get a formal recommendation in writing from the Cabinet<sup>21</sup>.
- Both Houses of Parliament must give their consent to the emergency proclamation and its extension within a specific period of time.

### **A. State Emergency (President's Rule) in India**

A State of Emergency, also known as the President's Rule, is invoked under Article 356 when the President determines that the state government is unable to perform its constitutional duties, based on the Governor's report or other sources. President's Rule was implemented for the first time in Punjab in 1951. President's Rule has been implemented multiple times since 1950 and is frequently condemned for being misused.

**Misuse of President's Rule:** The President's Rule authority has been frequently exploited for political purposes. For example, it was called upon 16 times during Morarji Desai's government (1977–1979). When the Congress government came to power in 1980, it also made extensive use of this provision. Notably, former prime minister Indira Gandhi enforced President's Rule 27 times, often to overthrow state governments she considered politically objectionable. In Punjab, it was massive, turning draconian in the 1980s and 1990s.

#### **Judicial Safeguards and Interventions - S.R. Bommai Case 1994**

The constitutional questions arose in 1989, when the S.R. Bommai-led government in Karnataka was dismissed, prompting Bommai to challenge the Supreme Court's ruling.

In the landmark case of *S.R. Bommai v. Union of India* (1994), the Supreme Court of India provided guidelines refraining from misuse of Article 356<sup>22</sup>:

- The Supreme Court of India decided that Presidential Rule is subject

19 Report of the Shah Commission of Inquiry, Vol. I–III (Gov't of India 1978);

20 <https://thebasicstructureconlaw.wordpress.com/2022/05/15/44-years-of-the-44th-amendment/>

21 M.P. Jain, *Indian Constitutional Law* (8th ed. 2021)

22 [1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994)3 SCC1

to judicial review.

- Before taking action, the central government must notify the state in question and give it a chance to reply.
- President's Rule is only acceptable in cases where the constitutional mechanisms fail, not only the administrative ones.
- Dissolution of the state government should be the last resort. And initially, the state government will only be suspended, not dissolved.
- The proclamation of an emergency can only happen when both Houses of Parliament give their approval.
- Clause (3) of Article 356 mentions that there will be a check on the President's power<sup>23</sup>.
- The report of the governor is crucial, but not the sole and firm base of the President's decision.
- The centre should justify the imposition of Article 356.
- Financial instability and corruption charges are not the grounds to impose Article 356.
- Actions taken by the state government for the security of secularism are the grounds to impose the emergency, as it is a part of our constitution.

The President can exercise the power only if the state government cannot work exactly as provided in the Indian Constitution<sup>24</sup>. The power under Article 356 is conditioned, not absolute. The precondition is the existence of material evidence and the Governor's Report. The role and recommendations of the Sarkaria Commission should always be considered. This was led and established by Justice R.S. Sarkaria, who submitted the report in 1987 to improve the centre-state relations. The report mentioned that the President's rule should be the last resort and used only when there is an actual breakdown of constitutional machinery in a state<sup>25</sup>. A state of emergency should be invoked when the repercussions of a particular warning and alarming situation are disastrous. Similar points were mentioned in the *S.R. Bommai v. Union of India* case<sup>26</sup>, which is considered a landmark case for the proclamation of an emergency. *S.R. Bommai's* judgment also affirmed that if the declaration is found invalid, the court will then reinstate the dissolved government and legislature. This

23 India Const. art. 356(3)

24 Joseph, J. V., & Reddy, K. J. (2004). Executive discretion and Article 356 of the Constitution of India: A comparative critique. *Electronic Journal of Comparative Law*, 8(1). Retrieved from <https://ssrn.com/abstract=533063>

25 Sarkaria Commission, Report of the Commission on Centre-State Relations ¶¶ .3.01–6.3.08 (Gov't of India 1988); *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India); M.P. Jain, *Indian Constitutional Law* (8th ed. 2021)

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

decision also protects and strengthens the state's autonomy within the Indian political framework and safeguards democracy. It ensures that the President's power to declare an emergency in the state will not go unchecked and will always be subject to judicial scrutiny, preventing its misuse and protecting the strong shield of democratic governance in states<sup>27</sup>.

## **B Financial Emergency**

If India's credit or financial stability is in trouble, the President may declare an economic emergency under Article 360 of the Indian Constitution. India has not declared a Financial Emergency to date. A financial emergency would have profound consequences, giving the central government the power to advise states on economic issues and to lower the pay of public servants, including Supreme Court and High Court judges.

## **IV FUNDAMENTAL RIGHTS IN EMERGENCIES**

Generally, several patterns have been observed in human rights violations during state emergencies. Some of them are as follows:

The suspension of civil liberties, including the fundamental rights of freedom of speech, assembly, and movement, is being restricted and questioned.

Arbitrary detentions are carried out in large numbers without trial, and sometimes under the preventive detention law.

Excessive use of force by the security forces leads to deaths and injuries of innocent lives.

Media censorship is also evident over the years, with restrictions on the dissemination of information.

The Indian Constitution's guarantee of fundamental rights provides the basis for preserving human dignity and maintaining personal growth. These are protected rights that cannot be violated without cause. But certain rights may be suspended in the event of a national emergency. The Indian Constitution outlines the suspension of fundamental rights during a proclamation of emergency under Articles 352, 358, and 359<sup>28</sup>. The protection of life and personal liberty, and protection against conviction for offences, i.e., Article 20 and 21, respectively, cannot be suspended during any emergency. The misuse of Emergency powers, especially during the 1975 emergency invoked by Indira Gandhi, made it very clear that there must be solid safeguards for fundamental rights and that they must be protected. By balancing the state's need to respond to emergencies with the protection

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27 S.R. Bommai v. Union of India, (1994) 3 S.C.C. 1 (India); India Const. art. 356(3); M.P. Jain, *Indian Constitutional Law* (8th ed. 2021)

28 <https://www.allahabadhighcourt.in/event/humanrightsduringemergency.html>

of individual rights and freedoms, the resulting constitutional amendments and court guidelines sought to prevent the misuse of emergency powers.

### **a. The TADA case - Kartar Singh v. State of Punjab 1994<sup>29</sup>**

The Terrorist and Disruptive Activities (Prevention) Act (TADA) represented a controversial setback in Indian legal history as an anti-terrorism law with a robust hope of curbing terrorism. The Supreme Court's decision to uphold the TADA underscores the complex adaptability that ensures national security, protects national interests, and safeguards human rights and individual freedom<sup>30</sup>. The admissibility of confessions made to police officers and the harsh and drastic provisions of prolonged detention were challenged. Still, the Supreme Court upheld the law in the name of national security. This judgment broadened the scope of personal liberty mentioned in Article 21 of the Indian Constitution. TADA also faced severe criticism for violating fundamental human rights, especially the right to life and individual freedom.

### **b. Protection of Human Rights Act - 1993<sup>31</sup>**

The violation of Human rights reached a peak during this rough phase, which eventually led to a significant effort to protect human rights<sup>32</sup>. Under Article 123, the President of India promulgated the Protection of Human Rights Ordinance on September 28, 1993. The government also constituted the National Human Rights Commission at the central level and the State Human Rights Commission at the state level. The Punjab State Human Rights Commission was established in 1997 by the government of Punjab under Section 21 of the Protection of Human Rights Act. But the PSHRC does not have the power or authority to direct or issue any orders to the state government or the police.

### **c. Role of Courts in Protecting Human Rights in India**

There are some landmark cases which mark the outstanding key judgments for Human rights, like *Maneka Gandhi v. Union of India* (1978)<sup>33</sup>, which guarantees the right to life and personal liberty, overruled the earlier decision in *A.K. Gopalan v. State of Madras* (1950)<sup>34</sup>, and

29 *Kartar Singh v. State of Punjab*, (1994) 3 S.C.C. 569, ¶¶ 25–30

30 Nariman, F. S. (2013). Fifty Years of Human Rights Protection in India – The Record of 50 Years Of Constitutional Practice. *National Law School of India Review*, 13–26. <http://www.jstor.org/stable/44283607>

31 The Protection of Human Rights Act, No. 10 of 1993, Acts of Parliament, 1993

32 Deol, S. S. (2010). Punjab State Human Rights Commission: A Critical Analysis. *The Indian Journal of Political Science*, 71(2), 591–597. <http://www.jstor.org/stable/42753720>

33 *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248

34 *A.K. Gopalan v. State of Madras*, A.I.R. 1950 S.C. 27; (1950) 51 I.C. 88

introduced a broader understanding of the right to life. There are some more cases highlighting the same, which are as follows, *M.H. Hoskot v. State of Maharashtra* 1978, *Hussainara Khatoon v. State of Bihar* 1980, *Sunil Batra v. Delhi Administration* 1978, *Olga Tellis v. Bombay Municipal Corporation* 1985, *Francis Corallie Mullin v. Union Territory of Delhi* 1981, *Subhash Kumar v. State of Bihar* 1991. India's reservation to Article 9(5) of the International Covenant on Civil and Political Rights (ICCPR) directs compensation of wrongful detention or arrest introduced by the Supreme Court in the following cases, *Rudul Shah v. State of Bihar* 1983, *Bhim Singh v. State of Jammu and Kashmir* 1986, *Nilabati Behera v. State of Orissa* 1993. The Supreme Court of India also upheld the constitutionality of preventive detention laws in India, as it has imposed firm and rigorous safeguards to protect the rights of those who are detained in the following cases, *A.K. Roy v. Union of India* 1982, *Pritam Nath Hoon v. Union of India* 1980

The Constitution of India embraces the protection of life and dignity by prohibiting any extrajudicial executions, torture, and inhumane treatment<sup>35</sup>. Torture is recognized as a violation of fundamental human rights under Articles 20(3) and 21 of the Indian Constitution. Human rights are the most important and humane thing that every state should offer its citizens. These rights are the peak of anything human history has ever achieved. These rights grant you a peaceful life, but, down the line, it has been observed that during emergencies in India, they are severely suppressed and violated. Their rights are exploited, and the charge is laid at the door of national interest, which makes this even worse. History gives us a chance to mourn those who had to witness this violation and who eventually fought for what they believed was their right, because fundamental rights are crucial to human dignity. The UDHR and the International Covenant on Civil and Political Rights (ICCPR) also recognize the right to life as an inherent right that should be protected by law. The government of India expresses and denies any torture, but still, the practice continues. The UN Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (1984) has not been ratified by India.

The first President's rule was imposed in the state of Punjab on June 20, 1951, marking the first use of Article 356 in India, which lasted till 17th April 1952. President's Rule was imposed continuously in India; in some cases, it lasted longer than a year<sup>36</sup>. These instances include the two years and eight months that Nagaland experienced during and after the 1975–1977 National Emergency, the one year and four months that Tamil Nadu experienced during the 1976–1977 Emergency, and the nearly

35 <https://egyankosh.ac.in/bitstream/123456789/43837/1/Unit-13.pdf>

36 <http://www.jstor.org/stable/43951266>

constant President's Rule in Punjab since 1983, which resulted in the 59th Amendment that reflected the suspension of constitutional protections. Prominent extended situations include West Bengal, where there were several occurrences spanning from eight months to more than a year from 1968 to 1972; Kerala, which experienced over six years of President's Rule from 1956 to 1967; and comparable incidents occurred in Pepsu, Uttar Pradesh, Orissa, and Gujarat. There were 17 instances in which the President's Rule lasted six months to a year, including Karnataka in 1989, linked to the Congress party's election tactics; several cases in Assam from 1979 to 1982; and numerous cases in Manipur from 1973 to 1981, frequently excused by political unrest or corruption.

Emergencies are invoked due to several brutal reasons, like in Punjab, the president's rule was imposed from 1987 to 1992 because of the extreme political unrest and insurgency in the late 1980s and early 1990s<sup>37</sup>. This era marks the peak level of violations of human rights, including enforced disappearances, extrajudicial killings by security forces, and a high frequency of reports of torture while detained. President's Rule was implemented several times in Assam during the Assam campaign (1979–1985), a popular campaign against illegal immigration that resulted in multiple fatalities and injuries from police brutality and numerous mass detentions that led to overcrowding and appalling conditions in jail. Between 1986 and 1996, political unrest and insurgency in Jammu and Kashmir led to the frequent imposition of President's Rule, claiming widespread mass graves holding the remains of missing people, indiscriminate killings of civilians by security forces, and stringent limitations on the freedoms of speech, assembly, and movement. Between 2001 and 2004, Manipur experienced severe human rights violations as a result of the implementation of President's Rule, which included extrajudicial killings, the disappearance of young men, and reports of security personnel sexually abusing women<sup>38</sup>. This terrible brutality sparked widespread protests, including the well-known Manipuri women's protest in 2004. Bihar was placed under the President's Rule from 1999 to 2000 due to uncertainties in law and order<sup>39</sup>. There were reports of police brutality, which included excessive torture and unfortunate deaths in custody, as well as the repression of dissent, with political opponents and activists subjected to arbitrary arrests and harassment that restricted their freedom of speech<sup>40</sup>.

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37 Government of India, *List of Periods of President's Rule in the States* (Department of Political Affairs, 1995)

38 Human Rights Watch, *India: Human Rights in Manipur* (2004); Amnesty International, *India: Human Rights Abuses Under President's Rule in Manipur* (2004); M.P. Singh, *Indian Administration: Institutions and Issues* 245–50 (2010)

39 *Id*

40 *Id*

The Punjab-Sikh issue, with a particular focus on the factors that gave rise to Bhindranwale's militant leadership and the Akali Dal's widespread activism<sup>41</sup>. It draws attention to the anger within the Sikh community, which is primarily focused on the central government's centralising policies and is motivated by political irritation, religious symbolism, and economic concerns. The Sikh community and the central government maintained political and economic ties irrespective of the crisis. On the other hand, the central government, led by Congress (I), was handling the issue; it was accused of adopting conflicting tactics and of hampering justified requests. The Punjab Sikh crisis was simultaneously going hand in hand, which marked a decade-long violence and brutality, hampering not only innocent lives but also breaking the country's pride of unity. The emergency made the situation worse, as the lack of leadership in Punjab left it unable to resolve the issues. This also fuelled heightened tensions and feelings of separatism.

“According to the report of Amnesty International Organisation, the violation of Human Rights during the President's rule in Punjab was brutal and totally inhumane<sup>42</sup>. They highlighted many instances that were crucial human rights issues. Arbitrary arrest without warrants, without registering it in the police station records, and not letting them contact their family or relatives, and no access to the information, was seen as a significant issue in terms of disappearance. The arrests were followed by extreme torture. “Lakhwinder Singh and Baldev Singh were also tortured, and the detention was also unacknowledged. Even after bail was granted, new charges were imposed, and they were rearrested. Hardev Singh was arrested illegally 38 times. Justice S.S. Sodhi, through a routine inspection, came to know the brutality in Amritsar Central Jail in 1989 and deeply criticised the entire police force for such huge detentions followed by torture under the Arms Act<sup>43</sup>. The officers saw the violation of Section 57 of the Code of Criminal Procedure. The High Court ordered release and compensation for Lakhwinder Singh and Medical treatment for Baldev Singh because of extreme physical torture. Harassment was at its peak; people who were trying to find out their dear ones ended up being tortured, especially women. Human rights violation under the Director General of Police, K.P.S Gill, in the Punjab was accused of fake encounters and extrajudicial killings of militants, and also torture. At that time, the government repeatedly ignored these human rights violations and restricted

41 <https://doi.org/10.2307/2644965>

42 <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa200111991en.pdf>

43 Human Rights Watch, *Reduced to Ashes: The Insurgency and Human Rights in Punjab* 45–50 (2003); Kuldip Nayar & Khushwant Singh, *Tragedy of Punjab* 120–125 (1984); Ram Narayan Kumar et al., *State of Human Rights in Punjab: 1984–1993* (1994).

international organisations from entering the country<sup>44</sup>. Afterwards, the Sikh intellectuals supporting the Khalistan established human rights organisations to shame the government. The legal battle was also going on in parallel. The statistics show that more than 1,000 writ petitions have been filed against the Punjab police. This somewhere brought down the morale of the Punjab police. And since the control was under the central government, the forces were given extreme, ruthless powers under Acts such as the Armed Forces (Special Powers) Act (AFSPA) and the National Security Act<sup>45</sup>.

“The period 1984-1996 officially claims 15,000 deaths, and an estimate of double the deaths; there were disappearances and physical tortures<sup>46</sup>. The Punjab police not only brutally attacked innocent lives. But also, many petitions for Habeas Corpus were filed, and none were considered. But the Punjab and Haryana court stood when the dismissal of a petition came forward, which was the killing of a lawyer and human rights activist, Kulwant Singh. His family led the Supreme Court intervention, which resulted in a CBI investigation and the trial of police officers. In India, the legal system and the Constitution do not conflict with international law; they consider it part of national law. The Supreme Court of India also ruled that international human rights standards, including the potent restoration of the disappearances and extrajudicial executions, are mentioned in the Indian Constitution as a part of Fundamental Rights. People must know their duty to protect their human rights from such cruelty. And along with providing a safe space for others, human rights are also necessary. The police officers should be guilty of violating human rights and setting up wrong examples for the next generation to justify the violation in the name of making an effort to protect the state. The state will be protected if the man’s rights are not violated and if it works within the constitutional framework.

## V. CRITICAL ANALYSIS

“The President’s rule was misused extensively for several reasons that were not merely justified by the need to maintain the constitutional mechanism. The Sarkaria Commission’s findings also indicate that

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44 Telford, H. (2001). Counter-Insurgency in India: Observations from Punjab and Kashmir. *Journal of Conflict Studies*, 21(1). Retrieved from <https://journals.lib.unb.ca/index.php/JCS/article/view/4293>

45 Ram Narayan Kumar et al., *Reduced to Ashes: The Insurgency and Human Rights in Punjab* 55–60 (Human Rights Watch 2003); Kuldip Nayar & Khushwant Singh, *Tragedy of Punjab* 130–135 (1984); *Armed Forces (Special Powers) Act, 1958*, No. 28 of 1958 (India); *National Security Act, 1980*, No. 65 of 1980

46 <http://www.humanrights.asia/resources/journals-magazines/article2/focus-police-in-india/dark-clouds-of-state-repression-police-excesses-have-broken-punjab/>

the imposition of the emergency may have violated the law”<sup>47</sup>. The S.R. Bommai v Union of India was momentous and decisive in limiting the use of President’s rule. The post-Bommai era will now protect the civil and political rights of state governments and their constituents. But in India today, even after this massive judgment, there are still vulnerabilities in safeguarding. Understanding the current scenario in India, the central government’s approach towards Jammu and Kashmir since 2019 suggests that there are potential circumstances for history to repeat.

“The imposition of emergency rule in Punjab was frequent, indicating extreme governance challenges and an inability to protect its people”<sup>48</sup>. The disturbances were severe from the 1960s through the 1990s. The state’s political system is of utmost constitutional priority. The clear causes were communal tensions, coalition politics, socio-economic disparities, and historical grievances. The root cause should be taken care of so that the proclamation of an emergency is refrained from in the future. “The President is considered a mechanism for restoring peace and for developing the state again constitutionally. However, as noted by the Sarkaria Committee and the S.R. Bommai case, it is crucial to examine the matter in depth and keep the state under judicial review. The most extended phase of President’s rule in Punjab was May 11 to February 25, 1992, lasting 4 years and 259 days, and the second was October 10, 1983, to September 29, 1985, lasting 1 year and 354 days”<sup>49</sup>. This clearly indicates political unrest and instability. During the emergency, it was witnessed that human rights were heavily violated because of the arrests and torture. “The analysis of the human rights violations underlines how both the Sikh militants and the Indian security forces committed crimes and atrocities, and made the state unstable. Punjab witnessed significant loss of human life, human rights violations, and was heavily impacted by the socio-economic condition of the state”<sup>50</sup>. Despite witnessing widespread extrajudicial killings, enforced disappearances, and torture, there was a lack of accountability, which was the biggest failure in terms of fixing the situation. The punishment and investigations for the perpetrators were not initiated, which further exploited the community of sufferers and hampered their fundamental rights. The political instability lacked not only in building a strong government but also in serving justice. The Punjab crisis serves as a model for addressing human rights violations when security is breached, and the proclamation of an emergency becomes the last resort.

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47 <https://www.hindustantimes.com/india-news/how-supreme-court-judgment-checked-the-misuse-of-pr-ident-s-rule-art-356-101710094868606.html>

48 <https://ijsrd.com/Article.php?manuscript=IJSRDV11I120087>

49 Government of India, List of Periods of President’s Rule in the States (Department of Political Affairs, 1995)

50 <https://www.hrw.org/report/2007/10/17/protecting-killers/policy-impunity-punjab-india>

“The state government is immediately dissolved when the President’s rule is invoked; the first instance occurred in 1951, when the Chief Minister, Gopi Chand Bhargava, was forced to resign<sup>51</sup>. Even in Pepsu (Patiala and East Punjab States Union) in 1953, the same happened, and Dr. B.R. Ambedkar strongly condemned it and criticised it as a violation of the constitution. This highlights the term ‘suspended animation’, in which the assembly of the state is temporarily suspended, benefiting certain political parties and their agendas<sup>52</sup>.

“The Punjab crisis was not just about maintaining law and order through the President’s rule, but also a political issue with deep economic and social roots”<sup>53</sup>. If the central and state governments had worked towards this, the imposition of the emergency might not have happened. Human rights would not be violated because of the long-term armed conflict, which has taken so many lives. Human rights in Punjab were heavily influenced by political turmoil and economic deprivation. Most of the human rights are protected and violated by the state itself. The more peaceful the state, the more serene the behaviour; the more oppressive the state, the more destructive the reactions.

“The S.R. Bommai case not only curbed the misuse of the President’s rule but also established a powerful federalism in India”<sup>54</sup>. “He emphasised in his judgement that democracy and federalism are integral to the Indian constitution”<sup>55</sup>. Also, directs state governments that secularism is a fundamental feature. And since the emergency is under judicial review, the court can restore the status quo ante if the emergency is found invalid. There should be adequate measures and safeguards to invoke President’s rule not only to protect state autonomy but also to maintain the balance between the Union and the States.

President’s rule, under Article 356 of the Indian Constitution, is meant to safeguard the functioning of constitutional mechanisms, but its misuse leads to human rights violations<sup>56</sup>. For example, as seen in Punjab, there was political repression by the central government, as the state government is now dissolved. Political leaders and activists are detained without any warrant and are brutally tortured, and the political gatherings are restricted. Censorship of the news and media journalists being harassed

51 Khurana, J. C. (1980). [Review of Politics Of President’s Rule In India, by J. R. Siwach].

52 S.R. Bommai v. Union of India, (1994) 3 S.C.C. 1, ¶¶ 12–20

53 Basu, K. (2017). The Khalistan movement and human rights violations in Punjab. *International Journal of Current Advanced Research*, 06(12), 8038-8047. <http://dx.doi.org/10.24327/ijcar.2017.8047.1277>

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

55 Id

56 India Const. art. 356; S.R. Bommai v. Union of India, (1994) 3 S.C.C. 1

and imprisoned. Excessive use of police and military force results in arbitrary detentions, torture, and extrajudicial killings. To encounter all these issues, it is essential to have a robust judicial system and procedures so that the President's rule does not cost the Indian democracy and violate human rights.

## **VI. RECOMMENDATIONS AND CONCLUSIONS**

The conclusion of the entire research firmly states that the President's rule severely hampered human lives and massively violated their rights.

- The Supreme Court of India has investigated several cases, but due to widespread allegations, investigations were inadequate, and accountability was lacking. The compensation given by the Supreme Court was an attempt to settle with the victims and their families, but it does not justify their loss, and in many cases, they continue to seek justice for the abuses they went through.
- The society, which is supposed to live freely without any suppression, faced fear and intimidation because of the injustice and atmosphere they experienced, and as the civilians distrusted their government. The communal tensions targeted the Sikh community and spread hate. Punjab wasn't saved, which demeans its value to the nation, and hence the feeling arose.
- The President's rule is imposed to restore peace in a state and to restore it to constitutional order, without severely violating the Constitution. Incidents that Punjab had to go through were an extreme level of damage not only to their respective human rights but also cost them their life. Multiple setbacks under the President's rule deprived them of their natural freedom.
- The S.R. Bommai case expanded the scope of the Sarkaria Commission by establishing a strong wall against violations and making the imposition subject to judicial review. This ruling also placed significant emphasis on secularism as a fundamental feature of the Indian Constitution. This case weighed up Indian Constitutional law, which appears to place limitations on the central government's power to dissolve any state.
- President's rule can affect the structure of India by condemning the ruling political organisation, thereby hampering the democratic features of the Indian Constitution, underscoring the importance of reinforcing federalism in India.
- It is crucial for the judiciary and the government to work together as a strong team to protect human rights, which are fundamental and should remain even in times of crisis. This is a duty that makes

them serve the national interest. The commitment to upholding constitutional and international human rights is indispensable to safeguarding the integrity and dignity of the Indian state and its people.

- India's history saw a dark and draconian period where the state's effort to maintain law and order turned into widespread violence. This, in present times, makes an alarming time for reconciliation and justice, as the sufferers are still alive and the injustice eventually will spread hate and influence the civilians to distrust the Indian government.

The author suggests the following Recommendations to address human rights violations during the President's rule in Punjab, ensure justice and accountability, and prevent further damage.

- The government of India and its people should condemn human rights violations in all circumstances, including when an emergency is proclaimed. Castigation of torture, custodial killings, fake encounters, and disappearances would not be tolerated in any circumstance.
- To build a strong order for this, the government should commit to prosecuting officials who can investigate such abuses. In India, a national commission for such instances can work more efficiently if given a priority.
- An impartial and independent investigation should be conducted so that the abuses can be punished, and also those who suffered that torture can receive justice. Those who disappeared or were killed will get a fair chance to serve punishment to those criminals.
- The victims and their families should be able to reach them. This commission should be the strictest of all the commissions made so far in India. These commissions should have access to every possible document, records, and also site visits to understand and investigate the crucial matters at the ground level and ensure justice for those who were harmed, tortured, and killed.
- Even the abusers who belong to the police, security forces, and paramilitary forces should also be charged for the crime they commit by violating human rights; they shouldn't get any extra creamy layer of protection just because they serve the country. If they commit the crime, they should be punished. Conduct training for personnel to improve their actions in challenging situations and prevent them from harming human rights. Sensitise the officials to respect the rights of the detainees and also keep human dignity above such heinous crimes.
- Repeal or amend laws that violate human rights, such as the TADA

(Terrorist and Disruptive Activities) Act, and ensure they meet and apply the standards set by international human rights law.

- India itself is a member of the United Nations Rights Council, and India needs to cooperate with all its mechanisms. And if India is unable to manage cooperation, it also loses its grip on external management, along with internal management. International attention can take accountability if human rights organisations across the world condemn the human rights violation and call for extensive justice for the victims. Reports by international organisations such as Amnesty International and Human Rights Watch can have a greater impact in spreading awareness.
- The commissions, such as the National Human Rights Commission and State Human Rights Commission, should be strengthened to effectively investigate and act on human rights violations and their complaints. Specific steps should be taken, such as raising awareness of human rights and human dignity.

## REFERENCES:

- Bagri, R. (2012). Development of Indian Federalism & Role of the President Rule in The Light Of The S.R. Bommai Case (1994). *The Indian Journal of Political Science*, 73(3), 443–452. <http://www.jstor.org/stable/41852116>
- Basu, K. (2017). The Khalistan movement and human rights violations in Punjab. *International Journal of Current Advanced Research*, 06(12), 8038-8047. <http://dx.doi.org/10.24327/ijcar.2017.8047.1277>
- Butt, A. I. (2017). India's Strategies against Separatism in Assam, Punjab, and Kashmir, 1984–1994. In *Secession and Security: Explaining State Strategy against Separatists* (pp. 83–124). Cornell University Press. <http://www.jstor.org/stable/10.7591/j.ctt1w0d9w9.8>
- Chima, J. S. (1994). The Punjab Crisis: Governmental Centralization and Akali-Center Relations. *Asian Survey*, 34(10), 847–862. <https://doi.org/10.2307/2644965> <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa200111991en.pdf>
- Deol, S. S. (2010). Punjab State Human Rights Commission: A Critical Analysis. *The Indian Journal of Political Science*, 71(2), 591–597. <http://www.jstor.org/stable/42753720>
- Dhavan, R. (1989). President's Rule: Recent Trends. *Journal of the Indian Law Institute*, 31(4), 521–533. <http://www.jstor.org/stable/43951266>
- Joseph, J. V., & Reddy, K. J. (2004). Executive discretion and Article 356 of the Constitution of India: A comparative critique. *Electronic Journal of Comparative Law*, 8(1). Retrieved from <https://ssrn.com/abstract=533063>

- Kamboj, N. S. (1999). Human Rights And Judicial Activism. *Journal of the Indian Law Institute*, 41(1), 110–115. <http://www.jstor.org/stable/4395170>
- Khurana, J. C. (1980). [Review of Politics of President's Rule in India, by J. R. Siwach]. *Journal of the Indian Law Institute*, 22(3), 442–444. <http://www.jstor.org/stable/43950707>
- Nariman, F. S. (2013). Fifty Years of Human Rights Protection in India – The Record Of 50 Years Of Constitutional Practice. *National Law School of India Review*, 13–26. <http://www.jstor.org/stable/44283607>
- Telford, H. (2001). Counter-Insurgency in India: Observations from Punjab and Kashmir. *Journal of Conflict Studies*, 21(1). Retrieved from <https://journals.lib.unb.ca/index.php/JCS/article/view/4293>
- <https://egyankosh.ac.in/bitstream/123456789/43837/1/Unit-13.pdf>
- [http://14.139.60.116:8080/jspui/bitstream/123456789/12640/1/019\\_Authority%20to%20Recommend%20President%27s%20Rule%20under%20Article%20256%20of%20Constitution%20%28125-132%29.pdf](http://14.139.60.116:8080/jspui/bitstream/123456789/12640/1/019_Authority%20to%20Recommend%20President%27s%20Rule%20under%20Article%20256%20of%20Constitution%20%28125-132%29.pdf)
- <https://www.firstpost.com/explainers/what-is-article-356-which-pm-says-indira-gandhi-misused-50-times-12132492.html>
- <https://researchdirections.org/Management/articleupload/CAakH4OWDj.pdf>
- <https://www.allahabadhighcourt.in/event/humanrightsduringemergency.html>
- <https://www.hindustantimes.com/india-news/how-supreme-court-judgment-checked-the-misuse-of-president-s-rule-art-356-101710094868606.html>
- <https://ijsrd.com/Article.php?manuscript=IJSRDV11I120087>
- <https://www.hrw.org/report/2007/10/17/protecting-killers/policy-impunity-punjab-india>
- <http://www.humanrights.asia/resources/journals-magazines/article2/focus-police-in-india/dark-clouds-of-state-repression-police-excesses-have-broken-punjab/>
- <http://www.penacclaims.com/wp-content/uploads/2018/08/Arpit-Agrawal.pdf>
- <https://egyankosh.ac.in/bitstream/123456789/57928/1/Unit11.pdf>
- <https://www.brillopedia.net/post/human-rights-in-times-of-emergency-an-overview-for-indian-scenari>
- <https://thebasicstructureconlaw.wordpress.com/2022/05/15/44-years-of-the-44th-amendment/>
- <https://www.jagranjosh.com/general-knowledge/article-356-of-the-indian-constitution-1609148321-1>
- <https://www.livemint.com/Politics/SJ3mETZ7H1cjKNlodkcM8O/How-Presidents-Rule-in-India-has-been-imposed-over-the-year.html>