CHAPTER-1
INTRODUCTION

The provisions regarding President's Rule have been incorporated in the Constitution of India to maintain the unity and integrity of the country, the law and order, and the proper functioning of constitutional machinery in the States. The President's Rule under Article 356 of the Constitution has been used 101 times till 2001. In some cases the Union Government has rightly used this power for legitimate purposes, but this power has mostly been misused for partisan purposes. Undoubtedly, this tendency is against the basic intention of the framers of the Constitution.

The language of Article 356 is vague and ambiguous. The Constitution is silent about the circumstances that clearly indicate the 'failure of constitutional machinery of the State.' Therefore, the Union Government or Governors have interpreted this phrase to fulfil their vested interests. The Union Government uses or misuses this power through the Governor of the State concerned. Usually, Governors act as agents of the Union Government and not as the impartial constitutional heads of the States. The Constitution does not provide any safeguard against such misuse. It creates serious problems in Centre-State relations and Article 356 has become the most controversial subject in our Constitution. The National Commission to Review the Working of the Constitution (Venkatachaliah Commission) (2002) pointed out that "Article 356 is one of the most talked about and a subject of controversy allegedly on grounds of having been frequently misused and abused."

The frequent invocation of Article 356 greatly disturbs the balance of power of Indian federal system. In fact, it has become a weapon in the hands of the Union Government to intervene in the affairs of the states. During President's Rule the Indian federal system turns into a Unitary system. It has negative consequences for

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the principles of federalism. Granville Austin calls these emergency provisions as "The Union’s Long Arm"\(^2\).

Many a time President’s Rule in various States has been imposed on various untenable grounds such as:

(i) When the strength of different parties in the legislature becomes so fluid that no stable government is possible.
(ii) When a State fails to carry out the directions of the Centre under Articles 256 and 257.
(iii) When the administration of a State deteriorates to such an extent that it is unable to control the worsening law and order situation.
(iv) The Government is misusing its powers.
(v) The Government has lost the confidence of the people.
(vi) The Government is indulging in secessionist activities.
(vii) The Chief Minister refuses to resign when the coalition partner(s) withdraw(s) support.\(^3\)

The main points of the criticism in regard to the use of Article 356 has been that more often than not, it has been interpreted and applied differently in similar situations to suit the political interests of the party in power at the Centre. It has been alleged that its misuse has been motivated by such extraneous considerations as:

(i) Opposition parties or groups had not been given chance to form alternative government.
(ii) Legislative Assemblies were dissolved or kept in a state of suspended animation.
(iii) President’s Rule was used for partisan purposes like gaining the buying-time to realign party strength, or sorting out Intra-party differences, or for resolving leadership crisis.
(iv) President’s Rule was used to dislodge State Government run by some political party or coalition other than the party in power at the Centre on plea of corruption, political instability, maladministration, unsatisfactory law and

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order situation, etc; even though they commanded the confidence of their respective assemblies.⁴

RATIONALE OF THE STUDY

Mostly legal and journalistic studies have been done on President’s Rule in Indian States. There is little justification in the principles of federalism for the repeated use of President’s Rule. In most of the cases, the President’s Rule has been used to dislodge the duly elected State Governments ruled by a political party or coalition other than the party in power at the Centre, even though these sacked State Governments have majority in their respective Assemblies. On the contrary, the President’s Rule is sometimes not imposed even in genuine cases where reasonable grounds are apparent for instance, in Gujarat the constitutional machinery head collapsed and the BJP government headed by Narendra Modi had failed to protect the life and property of the minority community in the State, consequent on the Sabarmati Express train carnage in Godhra on February 27, 2002. The BJP-led NDA government at the Centre also failed to fulfil its constitutional obligations enjoined on it under Articles 355 and 356, and favoured their own party’s government in the State. As Chenoy et al. (2002), pointed out, “Instead of intervening and taking decisive action against the State Government, the Union Government has choosen to minimize the seriousness of what happened, with senior Union Government leaders from early on alleging without proof foreign involvement in Godhra”.⁵

The repeated misuses of Article 356 has reduced the States’ autonomy and it is also against the mandate of the people of States. It is further noted that imposition of the President’s Rule becomes more difficult if the coalition government is there in power at the Centre, because coalition partners raise protest against the dismissal of State Government ruled by a coalition partner or a regional party supported by them. This scenario provides the rationale of this study.

The present study is, therefore, a critical assessment of the factors leading to the imposition of President’s Rule in the States, of the uses and misuses of the

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provisions of President’s Rule under coalition governments (1990-2001) and linking it with the principles of federalism, and it suggests reasonable grounds where President’s Rule should be imposed.

REVIEW OF LITERATURE
Maheshwari, Shri Ram (1977), *President’s Rule in India*, Macmillan: New Delhi, is a descriptive analysis of President’s Rule. In this study history of President’s Rule, role of Governor, of Union Government and of Parliament have been described. It also analyses the reality, trends, issues and problems of President’s Rule. The findings of this study indicate that President’s Rule has been generally introduced without prior warnings to the States to set right their affairs. President’s Rule being Centre’s rule, the Governor may be and, indeed, is being increasingly looked upon as New Delhi’s agent.

Siwach, J.R. (1979), *Politics of President’s Rule in India*, Indian Institute of Advanced Study: Shimla. This study describes the situation of failure of the constitutional machinery and parliamentary control mechanism. It also analyses politics of suspended animation, concept of stable government and nature of Presidential administration. The findings of this study are that the misuse of provisions relating to the President’s Rule is possible because the language of Article 356 is vague and the Article has been interpreted differently in different situations. Whenever President’s Rule has been imposed, in most cases the Assembly has been dissolved or kept in suspended animation keeping in view the interest of the ruling party at the Centre. The Governors have been applying the yardstick of majority of the party in the Assembly as a proof of stable government, which, by itself, is a doubtful proposition because the majority of the party in power in the Assembly and stability do not always go together. The administration during the President’s Rule is run keeping in view the interest of the ruling party at the Centre.

Dhavan, Rajeev (1979), *President’s Rule in the States*, N.M.Tripathi: Bombay. In this study the origin of President’s Rule, the manner in which President’s Rule has been used and the political interpretation of Article 356 have been analysed. It also analyses the responses of Parliament and Judiciary on President’s Rule. This study concludes that the power to impose President’s Rule has been interpreted and used by
each succeeding administration in its own way. Parliament’s role is an ‘ex-post facto’ one. The Courts have not entertained petitions on the political aspects of imposition of President’s Rule.

Dua, B.D. (1985), *Presidential Rule in India (1950-1974): A Study in Crisis Politics*, S. Chand : New Delhi. In this study the working of Indian federal system and the Union’s intervention through Presidential Rule from the perspective of over-all Indian political development is analysed. It describes the concept of Emergency Governance in some Western political systems, e.g., of U.S.A., Canada, Germany, Switzerland and some Latin American systems. It also analyses the impact of Emergency Governance on the federal system. It analyses Indian politics at three different levels. It identifies crisis episodes at the State level, explores leadership choices at the federal level, and elaborates on the system-environmental changes in the context of which crises arise and find their resolution through federal decisions. The conclusions drawn from the study are that Presidential Rule has been used as a means to establish Union’s predominance in general and of the Congress Party in particular, thereby making the Indian political system a case of pathology of federalism.

Destha, Sunil (1993), *President’s Rule in the States: Constitutional Provisions and Practices*, Deep and Deep Publications: New Delhi. It is a critical study of the historical perspective, constitutional provisions and judicial response to the President’s Rule and also analyses the frequency and manner of the use of Article 356 till 1993. It also describes legislative, administrative and financial consequences of President’s Rule. This study concludes that in practice the powers granted under Article 356 to the President have been usually abused and President’s Rule has been proclaimed in States on various occasions on extraneous and unjustifiable grounds.

Suryaprasad, K. (2001), *Article 356 of the Constitution of India: Promise and Performance*, Kanishka Publishers: New Delhi. In this study, evolution of Article 356 and the orbit of operation of the provision and its implications and promises have been analysed. It is also an analysis of the concept of ‘failure of the constitutional machinery in States’ and a brief survey of Presidential proclamations and reasons for the imposition of President’s Rule. The role of the Parliament as safeguard against the abuse of power and role of Judiciary in this regard are also discussed. Findings of this
study are that all political parties are culpable of using or misusing Article 356 whenever they were in power or were supporting those in power. In practice, Parliamentary check over the abuse of power is minimal and ineffective.

Sethy, Rabindra Kumar (2003), *Political Crisis and President's Rule in an Indian State*, A.P.H. Publishing Corporation: New Delhi. In this study of the evolution of emergency governance in India, a survey of the use and abuse of Article 356 upto 2000 has been made and this study has also analysed the political background leading to the imposition of President’s Rule with special reference to Orissa. The findings of this study are that in large number cases the use of Article 356 had delayed the return of popular governments. This is more for political reason than administrative ones. Also, the political use of the Article 356 had a damaging effect upon Union-State relations.

Singh, Bhawani (1991), *Governor: Role Identification and Sarkaria Commission*, Jaipur: Printwell. This study throws much light on the role played by the State Governors in bringing about the President’s Rule in their respective States. In this study, consequences of Sarkaria Commission’s recommendations (1988) have also been analysed. Findings of this study indicate that with regard to the dissolution of the State Assemblies and the dismissal of State Ministries, there is no uniform pattern. Some Governors have acted constitutionally by acting on the advice of the Chief Ministers, others have shown an utter disregard for constitutional norms. They have acted in their discretion mostly in conjunction with the ruling party at the Centre, which is unfortunate. Most of them have acted as agents of the Union Government, because of which their motives became suspect, their credibility got eroded and their gubernatorial office was devalued.

Morris-Jones, W.H. (1964), *The Government and Politics of India*, B.I. Publications: New Delhi, Reprinted 1971. In this book, the structure, functioning and implications of Indian political system have been deeply discussed. Findings of this book are that the Indian federalism is a bargaining federalism. This bargaining federalism assumes interdependence of Union Governments and State Governments. Union Government and State Government competitively bargaining with each other on many occasions
like plan formulation, financial relations, and reservations of State bills (Article 201), etc.

Pylee, M.V. (1960), *Constitutional Government in India*, Fourth edn., 1984, S. Chand: New Delhi. In this book, it is pointed out that the ruling party at the Centre has exploited this provision for any reason to gain political advantage. This study indicates that such abuse of Article 356 is there largely because of the vagueness of the Article itself. The ingredients of the situation "In which the Government of the State cannot be carried on in accordance with the provisions of the Constitution" are vague and it is exploited to suit the political advantage of the party in power at the Centre.

Rudolph, Lloyd I. and Rudolph, Susanne H. (eds.) (1987), *In pursuit of Lakshmi: The Political Economy of the Indian State*, Orient Longman: New Delhi. In this book, there is an analysis of the political economy of the Indian State with the models of the command polity and the demand polity. Findings of this book are that in India, popular sovereignty expresses itself more through the voter than consumer sovereignty. The process of economic liberalisation makes it possible for the States to be not only relatively autonomous and self-determined but also self-interested.

Brass, Paul R. (1990), *The Politics of India Since Independence*, Fourth edn., 2004, Cambridge University Press: Cambridge (U.K). In this book, the author has focused on the deepening crisis of national unity, the proposed transformation in the Indian economy, the centre-state conflicts, and the political changes in the party system, especially the decline of the Congress Party and the rise of the BJP.

Chakrabarty, Bidyut (ed.) (1990), *Centre-State Relations in India*, Segment Book Distributors: New Delhi. In this book, there is an analysis of Indian federal system, problems in Center-State relations, attitude of the ruling party at the Centre, and also of the solutions of the problems in Centre-State relations. Findings of this book are that the Union Government interferes with the States' affairs and that it creates tensions between the Union Government and the State Governments, and that a regard to the principles of federalism can increase the cooperation between the Union and the States.
Basu, Durga Das (1998), *Constitutional Law of India*, Prentice Hall: New Delhi. There is an analysis of constitutional provisions relating to President’s Rule and justifiability of the Proclamation. It also deals with the impact of the Bommai case (1994) verdict on the use of Article 356. It is concluded that the Constitution of India is neither purely federal nor purely unitary but it is combination of both. It is a Union or composite State of novel type.

Austin, Granville (1996), *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press: New Delhi, Reprinted 2000, offered the most authoritative and exhaustive account of Indian federalism from constitutional point of view. Rejecting the observations of centralised federation or quasi-federal, he pointed out the pragmatic character of Indian federalism which is what he calls ‘a co-operative federalism’ that produces a strong Union Government yet not necessarily weak provincial governments.

Austin, Granville (1999), *Working A Democratic Constitution: The Indian Experience*, Oxford University Press: New Delhi. In this book, the use of President’s Rule in the States has been critically analysed and Sarkaria Commission’s recommendations (1987) have also been discussed. It is concluded that more often than not, this power has been exercised for political purposes and its misuse undermined the credibility of an office, i.e., of the Governor which under the Constitution was designed to serve national unity and effective federalism.

Hardgrave, Robert L., Jr. and Kochanek, Stanley A. (1970), *India: Government and Politics in a Developing Nation*, sixth edn., 2000, Harcourt Brace and Company: Orlando (USA). In this book, the framework of the institutions of governance in India, the party system, the origin, nature and challenge of India’s federal system are critically analysed. Findings of this book are that the Constitution of India provides a federal system with certain unitary features. Sometimes it showed a cooperative-bargaining federalism. After the adoption of economic liberalisation policy (1990) and emergence of coalition governments at the Centre, transformation in the Indian federal system has been in favour of the States.
Dua, B.D. and Singh, M.P. (eds.) (2003), *Indian Federalism in the New Millennium*, Manohar Publications: New Delhi. In this book, the nature of Indian federalism and the impact of economic globalisation on the Indian federalism have been analysed. Findings of this book are that the process of economic liberalisation and globalisation has increased the cooperation between the Union and States, and that the Indian system is becoming more federal than it ever was, for the Centre is in need of cooperation from the States for implementing many of its economic policies and plans.

Kashyap, Subhash C. et al. (eds.) (2000), *Reviewing the Constitution?*, Shipra Publications: Delhi. In this book, use and misuse of Article 356 under coalition governments period, impact of the Rajasthan case (1977) and of the Bommai case (1994) on the use of Article 356 have been analysed. It is concluded that the progressive decline in the use of President's Rule coincides with the advent of coalition governments and it is important to seriously examine the proposals for stringent safeguards, if not outright abolition of the Article. The Bommai case judgement (1994) has made some difference in terms of injecting statutory restraint, but apparently not enough to deter attempts at misuse.

Narang, A.S. (2000), *Indian Government and Politics*, Sixth edn., 2005, Geetanjali Publishing House: New Delhi. In this book, the nature and working of Indian federalism, tension areas in Union-State relations, and demand for autonomy have been critically analysed. It is concluded that the centralisation of the power in favour of the Centre has reduced the States’ autonomy and that ruling party at the Centre misused Article 356 for its vested interests. The regional parties’ demand for States’ autonomy creates tension between the Centre and the States. It is suggested that Centre-State relations can be strengthened by constitutional reforms and by evolving healthy democratic conventions in the country.

(6th December, 1992) has also been widely discussed. In this article, the role of the Union Government has been criticised for not taking proper action under Article 355 or 356 at the proper time and it has been suggested that Union Government should have taken proper action under Article 355 or 356 at the appropriate time.


Kashyap, Subhash C. (2002), “The meaning and reality of Article 355”, The Tribune: New Delhi, 7 May, 2002. In this presentation Articles 355, 356 and 365 have been widely analysed. It is described that Article 355 makes it the constitutional duty of the Union to ensure that the government of every State is carried on in accordance with the provisions of this Constitution. It is concluded that the Union can also act under Article 355, i.e., without imposing President’s Rule. It is not correct to say that Article 355 has no operative part. Duty “to protect” and “to ensure” necessarily carries with it all the necessary powers to do so.

Bhamhri, C.P. (2005), “Federation and Coalition”, Sahara Time, New Delhi, 21 May, 2005. In this article, the nature of Indian federal system and the impact of coalition politics on Indian federal system have been critically analysed. It is concluded that the greatest advantage of a coalition system is that regional parties participate in power at the Centre. The UPA, like the NDA, has been accommodative of their regional coalition partners. On the contrary, coalition partners have a ‘localist’ approach and the UPA government, too, has experienced many moments of anxiety over demands from its coalition partners.
OBJECTIVES OF THE STUDY

The objectives of this study are as follows.

1. To know the intension of the framers of the Constitution of India regarding incorporation of the provisions relating to President’s Rule.

2. To analyse critically the provisions regarding President’s Rule, e.g., Articles 355, 356 and 365, etc.

3. To know the principles of federalism and its link with the provisions regarding President’s Rule.

4. To analyse the factors leading to the imposition of President’s Rule since Independence.

5. To analyse critically the cases of President’s Rule during the period 1990-2001.

6. To analyse the impact of President’s Rule on Indian political system.

7. To analyse the recommendations of Commissions and Committees relating to President’s Rule and to suggest some remedial measures to check the misuse of Article 356.

8. To analyse the Judicial response to the use and misuse of the Article 356.

HYPOTHESIS

The following hypotheses will be tested in this study:

First: Provisions regarding President’s Rule are often misused by the ruling party at the Centre for its political purposes. In most of the cases, President’s Rule was imposed to dislodge State governments ruled by a political party or coalition other than the party in power at the Centre and such imposition is a negation of the principles of federalism.

Second: Usually Governors act as agents of the Union Government and not as the impartial constitutional heads of the states while sending their report to the Union for the imposition of President’s Rule.
Third: After the S.R. Bommai case (1994), imposition of President’s Rule in the States has become more difficult as Proclamation of the imposition of President’s Rule came under Judicial review.

Fourth: The frequency of the imposition of President’s Rule got reduced after the emergence of coalition government at the Centre owing to internal resistance of the coalition partners.

RESEARCH METHODOLOGY & COLLECTION OF DATA
The historical, analytical and case study methodology will be used to examine the hypotheses and to reach the findings and conclusions of this study. In the historical method, Section 93 of Government of India Act, 1935, and Constituent Assembly Debates relating to President’s Rule have been widely discussed. In the analytical method constitutional provisions, i.e., Articles 355, 356, 365 etc. regarding President’s Rule, and the factors leading to the imposition of President’s Rule have been analysed considering all pros and cons. The impact of use and misuse of the Article 356 on Indian political system and its links with the principles of federalism have also analysed. In this study all the cases of President’s Rule during 1990-2001 have been thematically categorised, and there have been critically examined the intention of ruling party at the Centre, role of the State Governors and responses of Opposition parties, Judiciary and of the Scholars have been widely discussed. Different techniques of data collection will be used in this study. Apart from Primary Sources as Constituent Assembly Debates, the Constitution of India, Rajaya Sabha Debates (1990-2001), Lok Sabha Debates (1990-2001), Judgements of the Courts regarding President’s Rule, and Reports of the Commissions and Committees in this regard will be used. An extensive survey of Secondary Sources including scholarly review of literature, books, journals, magazines, and newspapers on the topic are to be used in this study.

SCHEME OF CHAPTERISATION
Chapter – 1, In this introductory chapter the problem of this study, rationale of this study, and review of literature have been dealt with. The objectives of the study, hypothesis of this study, research methodology, and scheme of chapterisation have also been taken up.
Chapter-2, In this chapter the evolution of Article 356 and critical debates of Constituent Assembly regarding incorporation of the provisions of President's Rule have been described. This chapter also describes the situations in which these provisions were adopted by the Constituent Assembly. The hopes and fears of the framers of the Constitution have also been discussed in this chapter.

Chapter-3, In this chapter the setup of federal principles and its comparison with the provisions regarding President's Rule have been critically analysed. The constitutional provisions regarding President's Rule have been explained. Articles 355, 356 and 357 have been analyses in detail. A critical analysis of conditions in which Article 356 is invoked have also been taken up. Legislative, administrative and financial impact of proclamation of President's Rule have also been discussed in this chapter.

Chapter-4, In this chapter the factors leading to the imposition of President's Rule and their consequences on Indian political system have been analysed. Also, there have been discussed the attitude of the Union Government and responses of the State governments in this regard.

Chapter-5, In this chapter there will be discussion of thematically categorised cases of the imposition of President's Rule in various States during the years 1990-2001. It carries out a critical study of the uses and misuses of Article 356 by the National Front, Janata Dal (Socialist), Congress (I), United Front, and NDA governments at the Centre and the intentions apparent or hidden therein.

Chapter-6, In this chapter there will be discussed the recommendations of Administrative Reforms Commission (1968), Centre-State Relations Inquiry Committee (1971), Governors' Committee (1971), Commission on Centre-State Relations (1987) and National Commission to Review the Working of the Constitution (2002). This chapter also suggests reasonable grounds where President's Rule should be imposed.
Chapter-7, In this chapter the Judicial response to the use of Article 356 will be taken up for critical study. This chapter will also deal with the Rajasthan case (1977) and the Bommai case (1994) and other such situations.

Chapter-8, In this chapter there will be presented some observations on the justification or otherwise of the imposition of President’s Rule. The concluding chapter will also bring into focus the findings and conclusions of this research.