

Aim to safeguard sovereignty, unity, integrity and security

EMERGENCY PROVISIONS
PART XVIII
Article: 352 to 360

3 types

National Emergency
(Article 352)

due to War, External Aggression or
Armed Rebellion

Constitution express as 'Proclamation of
Emergency'

President can declare even before
War, External Aggression or Armed
Rebellion

State Emergency
(Article 356)

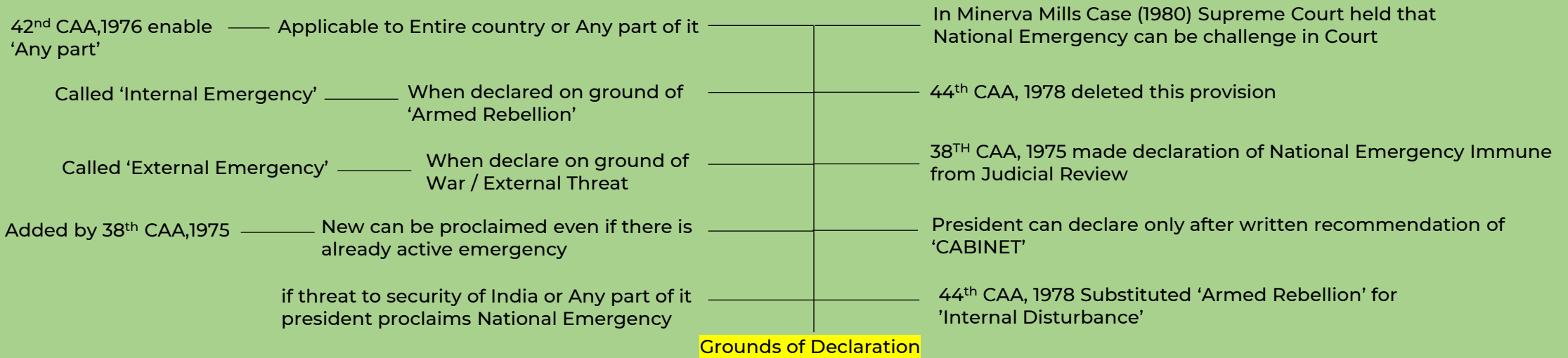
due to failure of Constitutional Machinery

Known as 'President Rule' 'State Emergency'
'Constitutional Emergency'

constitution does not use word Emergency for this
Emergency

Financial Emergency
(Article 360)

Due to financial threat



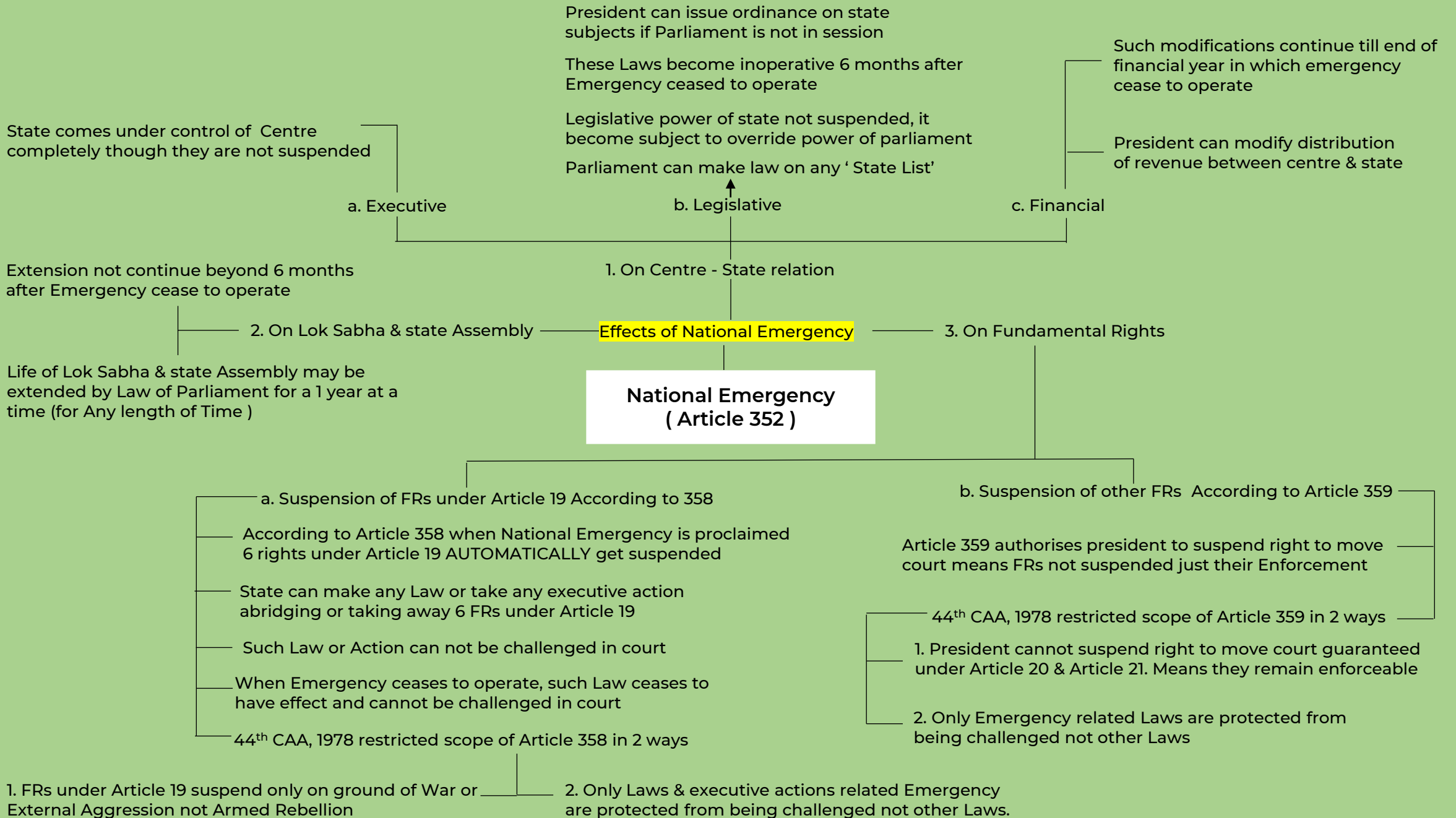
National Emergency (Article 352)

Parliamentary approval & Duration

- Proclamation Must be approved by BOTH houses within 1 Month (earlier was 2 months but Reduced by 44th CAA, 1978)
- If Lok Sabha has been dissolved during proclamation then proclamation survives until 30 Days from the 1st sitting of Lok Sabha after its reconstitution
- Emergency continues for 6 Months and can be extended for INFINITE period with approval of Parliament for every 6 Months (periodical approval added by 44th CAA, 1978)
- Resolution of continuance must be passed in EITHER house by SPECIAL majority (earlier it was simple majority but 44th CAA, 1978 changed)

Revocation of Proclamation

- Can be revoked by President (not require parliamentary approval)
- 44th CAA, 1978 also provided that
 - 1 / 10 of total members of Lok Sabha give written notice to speaker (or president if LS is not in session)
 - Special sitting to be held within 14 days for Disapproving continuation
- Disapproval resolution is different from approving continuation in 2 ways
 1. Disapproval required to be passed by Lok Sabha only while Approval needs to be passed by Both houses
 2. Disapproval needs SIMPLE majority while Approval needs SPECIAL majority



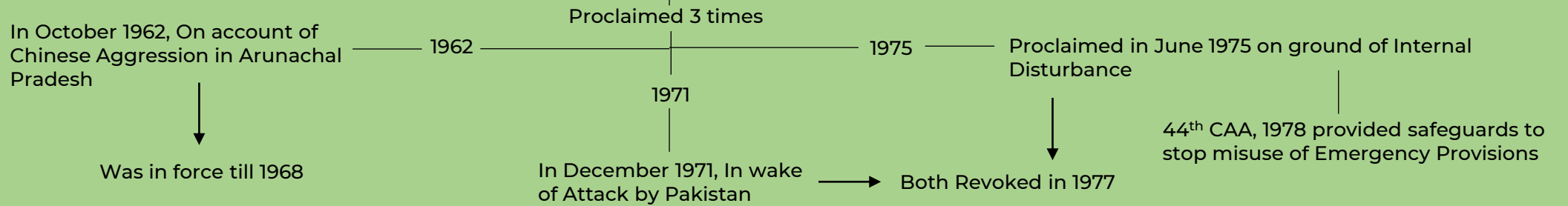
- 1. Article 358 confine to FRs under Article 19
- 2. FRs under Article 19 Automatically get Suspended
- 3. Operates Only in case of External Emergency
- 4. Suspends FRs under Article 19 during entire Emergency
- 5. Article 358 Extends to Entire Country
- 6. Article 358 suspends entire Article 19

Distinction Between Articles 358 & 359

- 1. Article 359 extends to ALL those which suspended by President
- 2. NOT Automatically get Suspended
- 3. Operates in External & Internal Emergency, Both cases
- 4. Suspends FRs for specific time period
- 5. Article 359 Extends to Entire Country or part of it
- 6. Article 359 not empower to suspend enforcement Article 20 & 21

**EMERGENCY PROVISIONS
PART XVIII
Article: 352 to 360**

Declarations of National Emergency Made so far



Article 355 imposes Duty on Centre to ensure state align with the Provisions of Constitution

Centre Takes over the Control under Article 356 in case of failure of constitutional machinery

Known as 'President Rule' 'State Emergency' 'Constitutional Emergency'

President's Rule proclaim under Article 356 on 2 grounds

1. President proclaim if state not accordance with provisions of constitution or on Report of Governor (Article 356)

2. President proclaim if state fails to comply with direction from centre (Article 365)

Grounds of imposition

State Emergency (Article 356)

Parliamentary approval & Duration

Proclamation must be approved by BOTH house within 2 months

If Lok Sabha has been dissolved during proclamation then proclamation survives until 30 Days from the 1st sitting of Lok Sabha after its reconstitution

If approved by both houses, it continues for 6 months. It can be extended for maximum 3 years with approval after every 6 months

Resolution of continuation must be passed in EITHER house by SIMPLE majority

44th CAA, 1978 put restraint to Extend President's Rule beyond 1 year
2 conditions to be fulfilled

1. National Emergency should be in operation in whole India or Any part of it

2. Election Commission must certify that Elections of Legislative Assembly of concerned state cannot be held

President's Rule may be revoked by President

Consequences of President's Rule

President rule through governor in state

He declare that power of state legislature to be exercised by Parliament

He can take all other necessary steps

President dismisses state council of ministers headed by Chief Minister

Governor carries Administration on behalf of president with help of chief secretary of state or advisors appointed by president

President either suspends or dissolves state Assembly and parliament passes state legislative bills & state Budget

Functions of concerned state High Court remain same even during President's Rule

Law made during President's Rule continue even after president's rule & can be repealed or altered or re-enacted by state legislature

