

to be dissolved while providing a mechanism to let the Central Government respond to the issue specifically and locally. The imposition of local emergency is fully justified under the mandate of Article 355 read with Entry 2A of List I that is deployment of any armed forces of the union in any state in aid of the civil power and Entry 1 of List II that is public order of the Seventh Schedule. It is submitted that Art. 355 not only imposes a duty on the Union but also grants it, by necessary implication, the power of doing all such acts and employing such means as are reasonably necessary for the effective performance of that duty.

It is however necessary that a legal framework for exercising the power of "localized emergency" is provided by an independent Statute borrowing the model of the Disaster Management Act, 2005 and the **Prevention of Communal Violence and Rehabilitation Bill, 2006**. Only exceptional situations which fall within the scope of "external aggression" or "internal disturbance" should be considered for the purposes of separate legislation under the mandate of Article 355. Such situations include (a) separatist and such other violence which threatens the sovereignty and integrity of India, (b) communal or sectarian violence of a nature which threatens the secular fabric of the country, and (c) natural or man-made disasters of such dimensions which are beyond the capacity of the State to cope with. With regard to item (c) a Statute is already in place (Disaster Management Act, 2005) and in respect of situations contemplated in item (b), it is learnt that a revised Bill is being proposed. What is therefore required is a legislation to provide for Centre's role in case of separatist and related violence in a State which is in the nature of "external aggression" or "internal disturbance" contemplated in Article 355. It is important that the legislation provides for appropriate administrative co-ordination between the Union and the State concerned. It may also need consequent amendments to certain sections of the Criminal Procedure Code as well.

On Power of Union to give directions to State

Though States have raised objections to the power exercisable by the Union under Articles 256 and 257 on the ground that they are destructive of not only the autonomy of States but also inimical to the very foundation of a federal arrangement but this is no case for amendment of these provisions. It must, however, be clarified that favouring the retention of these provisions is entirely different from advocating easy or quick resort to them. Articles 256 and 257 may be viewed as a safety valve, one which may never come into play but which is nevertheless required to be retained.

The above view is substantiated by recent experiences where the Centre had to give directions on containing communal violence or insurgency in certain areas. The question that remains is about the consequence of non-compliance by a State of the Centres' directions in this regard. Though the Constitution has not provided any explicit course of action to such an eventuality, the obvious answer appears to be recourse available under Article 356 which indeed is an extreme step. In the existing scheme of things such a development is unlikely to happen which may explain why the Constitution makers avoided making remedial provision. Healthy conventions respecting the autonomy of states and restrained use of the power on behalf of the Union can go a long way to address the concern expressed by States in this regard. Another related issue is about the term 'existing laws' used in Article 256 which are in addition to laws made by Parliament to which the executive power of State shall ensure compliance. These relate to other laws including Presidential Ordinances and international treaties and customary international law applicable to the State concerned. Rule of Law demands executive compliance of all laws.

A question is raised whether the scope of Article 257 Clause (3) should be widened besides railways to include other vital installations like major dams, space stations, nuclear installations, communication centres etc. The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of Union property