



AN ANALYSIS OF THE EMERGENCY 1975

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Abstract

The 1975 Emergency in India was a period of political turmoil marked by the imposition of authoritarian rule. Prime Minister Indira Gandhi declared a state of emergency, suspending civil liberties and curbing freedom of expression. Thousands of political opponents were detained without due process, while censorship and government control over media intensified. The emergency provoked public outrage, leading to protests and resistance from civil society organizations and activists. The 1977 general elections resulted in the defeat of the ruling Congress Party and the restoration of democracy. The impact of the emergency on Indian democracy remains significant, emphasizing the fragility of democratic institutions and the need to safeguard constitutional values and civil liberties. Understanding this critical period in Indian history highlights the challenges faced by democracies and the importance of protecting democratic principles. This abstract provides an overview of the 1975 emergency, its consequences, and its enduring lessons in 300 words.

Keywords: 1975 Emergency India, Political turmoil, Authoritarian rule, Indira Gandhi, Suspension of civil liberties, Curtailment of freedom of expression.

I. Introduction

In the annals of Indian history, few events have left as profound an impact on the nation's democratic fabric as the 1975 Emergency. This period of political turmoil and authoritarian rule serves as a stark reminder of the fragility of democratic institutions and the essentiality of safeguarding civil liberties. In this article, we delve into the significance of the 1975 Emergency, exploring its relevance to everyone, the reasons behind choosing this topic, and our approach to examining its consequences. By understanding this critical chapter in Indian history, we can glean valuable insights into the challenges faced by democracies and the imperative of upholding democratic principles.

The 1975 Emergency in India holds immense importance for every citizen, irrespective of nationality or geographic location. It serves as a

cautionary tale, illustrating the consequences of unchecked power and the erosion of civil liberties. Democracies worldwide face continuous threats, both external and internal, that can potentially undermine the very foundations on which they stand. The emergency period underscores the need for constant vigilance in safeguarding democratic values and the rights of individuals.

The choice to explore the 1975 Emergency stems from its lasting impact on Indian democracy and its resonance in the global context. This event shook the world's largest democracy to its core, highlighting the delicate balance between governance and individual freedoms. By delving into this period, we aim to shed light on the challenges faced by democracies, the potential for abuse of power, and the enduring lessons that continue to



shape our understanding of democratic governance.

This article will examine the chronology of events leading to the declaration of emergency by then-Prime Minister Indira Gandhi. We will discuss the suspension of civil liberties, the curtailment of freedom of expression, and the far-reaching implications of these actions on Indian society. The article will also explore the resistance and protests that emerged during this dark period, highlighting the resilience of civil society organizations, activists, and ordinary citizens in their pursuit of democratic values.

By examining the 1975 Emergency, we aim to foster a deeper understanding of the challenges faced by democracies and the importance of protecting civil liberties. This article serves as a reminder that democracy is not a given, but a continuous endeavour that requires its citizens' active participation and vigilance.

II. Background before Emergency

The nation was going through a social and economic crisis before the Emergency. The situation was worsened by student-led demonstrations in Gujarat and Bihar. They were mobilizing public opinion across the country in opposition to the Congress Party and the prime minister. The strikes and protests caused economic harm and political paralysis in the nation. To find a solution for the political resistance which was unsettling, and shunning against her and the party, the Prime Minister's supporters and advisors recommended her to declare an internal emergency.

Indira Gandhi beat the opposition in the 1971 Lok Sabha Elections. Raj Narain filed a petition in the High Court of Allahabad, alleging Indira Gandhi of electoral wrongdoings.¹ She was examined before the High Court of Allahabad, the first time an Indian Prime Minister had been cross-

examined. Jayaprakash Narayan called the military forces to oppose Indira Gandhi's administration. The country was to be under a state of emergency that very night. She said that the country was in disorder and that Narayan was distressing and interrupting the country's essential functions. However, the main cause was that she had a case against her that she had been defeated in the High Court of Allahabad, so, she could not participate in the parliamentary activities for some time, and her position became perilous. In 1975 Justice Jagmohan Sinha ruled Indira Gandhi liable for exploiting government machinery during the election campaign and proclaimed her elections to be invalid. Indira Gandhi was also forbidden from running in any elections for the following six years by the High Court. The Court allowed the Congress Party twenty days to make plans to replace Indira.

III. Impact of Emergency on India

The citizens of India awoke on June 26, 1975, and discovered their fundamental freedoms and rights had been taken away. When Prime Minister Indira Gandhi proclaimed a state of Emergency at midnight, their beloved democracy had been swiftly and mercilessly destroyed. On this day, Indira Gandhi was adjudged to have committed election fraud. She gave her opponents the "Shock Treatment" in response to their demands for her resignation. Emergency was proclaimed by her.² One of Modern India's saddest episodes, in my opinion. She muzzled the media and turned Parliament into a rubber stamp.

Civil liberties were suspended in the days that followed, the news media was restricted, and changes were proposed to change the Constitution's fundamental essence. Draconian legislation, such as the 'Maintenance of Internal Security Act (MISA) was tightened.

¹ Kakoli Nath, 'Why was Emergency declared in India in 1975?' (2022), Finology Blog (15 June 2023, 8:00 PM) <<https://blog.finology.in/Legal-news/emergency-declared-in-1975-india>>

² Adrija Roychowdhury, 'Four reasons why Indira Gandhi declared emergency' (2018), Indian Express (20th June, 10:34 AM) <<https://indianexpress.com/article/research/four-reasons-why-indira-gandhi-declared-the-emergency-5232397/>>

The Indira Gandhi government revoked the right to go to court to enforce Fundamental Rights. The detained politicians were not permitted to meet with anybody, even families. During the Emergency, her administration gained dictatorial powers and suppressed any criticism. People's fundamental rights were violated, tortured, and harsh treatment of rebellious individuals became commonplace³. She even retroactively altered the 'Representation of the People Act' and other statutes to guarantee that the Supreme Court had no choice however to reverse the High Court of Allahabad's judgment on Raj Narain's trial. Narain was the one who called into question. In addition, efforts were undertaken to modify the Constitution.

During the Emergency, the 42nd Amendment to the Constitution was implemented. The Amendment was to limit the Supreme Court's and High Courts' power to rule on the constitutionality of laws. This amendment also confirmed the fundamental responsibilities of Indian citizens.

Articles 14, 19, 21, and 22⁴ of the Constitution were revoked with the declaration of the Emergency. The 38th Amendment prohibited judicial scrutiny of emergency declarations. The 39th Amendment removed the judiciary's ability to conduct an electoral inspection of a person elected as Prime Minister. Similarly, the 40th and 41st Amendments made additional revisions to the Constitution. People began referring to the 42nd Amendment as the "Constitution of Indira" by the time it was ratified. The 42nd Amendment was an amendment that prioritized policy guidelines over the fundamental rights of the ordinary man.

IV. Provisions

Articles 352, 356, and 360⁵ of the Constitution go into great detail about the characteristics of an

emergency. The provision of Emergency has been taken from Germany. The Constitution defines three kinds of emergencies. These are codified in Articles 352, 356, and 360.⁶

According to Article 352, "If the President agrees that a grave security threat exists, threatening the security of India or any part of her territory, whether by war, external aggression, or armed rebellion, he/she can declare emergency rule in the entire country or on any part of the Indian territory."

However, in 1977, when the Janata Party administration was founded, the Supreme Court and High Courts were restored by the 43rd Constitutional Amendment. Following this, the 44th Amendment restored the Constitution to its original form. The 44th Amendment also made a significant amendment to the Constitution, assisting in preventing a repetition of the Emergency-like scenario. The phrase "armed rebellion" replaced the term "internal turmoil" in the emergency regulations.

Article 356 of the Constitution states that "if the President or a report from the Governor of any state is convinced that a situation has developed in which the state cannot be managed in line with the provisions of the constitution, then President's rule may be exercised in that state."

According to Article 360 of the Constitution, "The President may declare a financial emergency if he or she believes that the financial stability or credit of India or any portion of the territory is threatened."⁷ In India, a national emergency was implemented during the Indo-China conflict in 1962, the Indo-Pakistan war in 1971, and 1975.

The Constitution says only the President of India has the authority to declare an emergency in India, with the written approval of the Union

³ Mohammed Ayoob, 'Revisiting the Emergency' (2019) The Hindu (20th June, 3:55 PM) <<https://www.thehindu.com/opinion/op-ed/revisiting-the-emergency/article26935023.ece>>

⁴ Constitution of India, arts. 14, 19, 21, 22.

⁵ Constitution of India, arts. 352, 356, 360

⁶ Mayank Kulshrestha and Tanmay Singh, "The Legitimacy of Emergencies under Article 352 and Grounds for Proclamation in India" *International Journal of Law Management & Humanities* Vol. 5 Iss 5; 14

⁷ Prakhar Srivastava and Mukund Sarda, "A study of the emergency provisions in the Indian constitution, the emergency of 1975 and the possibility of recurrence thereof" *Journal of Law & Humanities* Vol. 7

Cabinet. This guideline was not observed in 1975. Though it was not agreed by the Union Cabinet, President Fakhruddin Ali Ahmed signed Indira Gandhi's proclamation of emergency. The Emergency showed us that when a government in a democracy turns dictatorial, people find answers. Indira Gandhi had a clear mandate in the elections conducted before the emergency in 1971.

V. Conclusion

The Indian Emergency of 1975 serves as a potent reminder of the significance of sustaining democratic values and safeguarding individual liberty. It serves as a historical turning point that calls for our focus and introspection, not just in the context of India but also for democracies all over the world. Several pertinent laws and recommendations can aid in strengthening democratic institutions and defending individual rights considering the emergency's effects.

The state of emergency made clear the necessity of strong checks and balances within the administration. It is essential to increase the judiciary's independence and guarantee its objectivity. The misuse of power seen during the emergency may be avoided by upholding the rule of law and making sure that no person or organisation is above the law.

Civil freedoms must be fully protected by the law. Adopting legislation that specifically protects the freedom of expression, the right to peaceful assembly, and the right to dissent can operate as a barrier to intrusions on personal freedoms. A culture of democratic governance may also be fostered by legislation that encourages openness and accountability within governmental organisations.

A thriving civil society that actively promotes democratic ideals and holds those in authority responsible must also be fostered. It is essential to support and defend the efforts of NGOs, human rights groups, and activists to guarantee that many views are heard and represented. A better democratic basis may be

achieved by promoting open lines of communication among citizens and a culture of discourse.

A thriving democracy depends critically on awareness and education. People can have a better awareness of their rights and obligations as citizens through fostering civic education and political literacy. Emphasizing democratic principles, critical thinking, and the significance of active participation can enable people to make significant contributions to the democratic process.

It serves as an effective reminder of the brittleness of democratic institutions and the requirement for ongoing vigilance. We can enhance democratic foundations and ward off authoritarian impulses by passing and upholding pertinent legislation that safeguards civil freedoms, bolstering checks and balances, and cultivating educated and involved citizens. We may use the lessons from this turbulent time to direct our efforts to maintain and build democracies and ensure a fair, inclusive society.

VI. Reference

1. Kakoli Nath, 'Why was Emergency declared in India in 1975?' (2022), Finology Blog (last accessed on 15th June 2023 - 8:00 PM) <<https://blog.finology.in/Legal-news/emergency-declared-in-1975-india>>
2. Adrija Roychowdhury, 'Four reasons why Indira Gandhi declared emergency' (2018), Indian Express (Last accessed on 20th June - 10:34 AM) <<https://indianexpress.com/article/research/for-reasons-why-indira-gandhi-declared-the-emergency-5232397/>>
3. Mohammed Ayoob, 'Revisiting the Emergency' (2019) The Hindu (Last accessed on 20th June - 3:55 PM) <<https://www.thehindu.com/opinion/op-ed/revisiting-the-emergency/article26935023.ece>>



4. Mayank Kulshrestha and Tanmay Singh,
"The Legitimacy of Emergencies under Article
352 and Grounds for Proclamation in India"
*International Journal of Law Management &
Humanities* Vol. 5 Iss 5; 14
5. Prakhar Srivastava and Mukund Sarda,
"A study of the emergency provisions in the
Indian constitution, the emergency of 1975 and
the possibility of recurrence thereof" *Journal of
Law & Humanities* Vol. 7

