THE EMERGENCY

THE DARK DAYS OF DEMOCRACY

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Justice Jagmohan Lal Sinha of Allahabad High Court holds Indira Gandhi guilty of corrupt election practices.

Election to Parliament held void.

Barred from contesting elections for six years.

Judgement stayed for 20 days.
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JUNE 12 TO 25, 1975

- Rallies supporting Indira Gandhi outside her residence

- June 20: Massive rally in New Delhi. Delhi Administration and Police commandeer 1700 buses

- Special trains bring supporters from far and near
June 24: Supreme Court Justice V.R. Krishna Iyer grants “conditional stay” of Justice Sinha’s decision. Indira barred from participating in debates or voting in Parliament. Matter referred to a larger Bench of the Court.
June 25 : Opposition rally in Ramlila Grounds : Opposition Parties say Indira Gandhi must quit

Jayaprakash Narayan: The Prime Minister is moving towards dictatorship and fascism

D.P.Dhar, close associate of Indira Gandhi: The President can suspend the Constitution and set it aside. After the Constitution is suspended, a new Constitution can be imposed by turning Parliament into a Constituent Assembly

Sanjay Gandhi “summons” chief ministers, prepares arrest lists
Indira Gandhi summons S.S. Ray and says: “country requires a shock treatment”

S.S. Ray suggests imposition of “internal emergency” under Article 352.

PM meets President along with S.S. Ray and indicates decision to impose an emergency.

Tells President there is no time to summon Cabinet.
THE EMERGENCY

MIDNIGHT 25 -26 JUNE, 1975

- PM sends a letter and proclamation for President’s signature

- President signs on the dotted line

- President issues proclamation imposing an `Internal Emergency’ under Article 352 of the Constitution.
Prominent leaders of the opposition including Jayaprakash Narayan, Atal Behari Vajpayee, Morarji Desai, Madhu Dandavate, L.K. Advani, S.N. Mishra arrested.
Electricity cut off on New Delhi’s Fleet Street – Bahadurshah Zafar Marg, to prevent publication of newspapers next morning. General Manager DESU directed to cut off electricity to the newspapers.
JUNE 26, 1975

- 6 A.M: Indira Gandhi summons Cabinet and “informs” it of her decision. Cabinet “approves”. No one objects

- Home Ministry issues order imposing censorship on the media

- Home Ministry order prohibits media from publishing news about detentions

- A Chief Censor appointed
President issues an order suspending citizens’ right to move the courts for enforcement of fundamental rights guaranteed under:

- ARTICLE 14 - Equality before law and equal protection of the law
- ARTICLE 21 – No deprivation of life or liberty except by procedure established by law
- ARTICLE 22 – No detention without being informed of the grounds of detention
JUNE 27, 1975

- President’s Order suspending citizen’s right to move court for enforcement of freedoms under Article 19.

- Defence of India Act amended through an ordinance to incorporate “internal emergency” in the Act’s title and preamble and imposition of censorship every five years
Many more politicians, journalists, academics arrested under MISA.
THE EMERGENCY

June 29 to October 15, 1975

- MISA amended through ordinance several times:
  - To bar courts from applying principles of “natural justice” in MISA detention cases.
  - To say disclosure of grounds of detention not necessary, grounds ‘confidential”, should not be communicated to detenus or the courts
  - To bar representations against detention
INDIRA GANDHI: Freedom of the Press has come to mean the freedom to attack Indira Gandhi.

Newspapers prohibited from covering proceedings of Parliament and the Supreme Court proceedings in the Indira Gandhi Election Case.
SYCOPHANCY REACHES THE ZENITH

Dev Kant Barooah:

“Indira is India, India is Indira”
VIOLATION OF CIVIL LIBERTIES AND HUMAN RIGHTS

- Sanjay Gandhi’s forcible sterilization programme
- Chief Ministers assigned sterilization targets
- Persons opposing forced Family Planning arrested under DIR
THE EMERGENCY

VIOLATION OF CIVIL LIBERTIES AND HUMAN RIGHTS

- Dr. Karan Singh, Health Minister: The population problem is so serious that there seems to be no alternative to (introducing) some element of compulsion in the larger national interest.

- Turkman Gate and such other incidents – shanty towns bulldozed to clean up Delhi.

- Student activist Rajan murdered by police.
TURKMAN GATE:
April 19, 1976:

- Police Cordon off the area
- Bulldozers brought in to demolish houses as part of slum clearance operation.
- Shah Commission said 146 persons were injured in the riots. Many were killed in police firing.
THE RAJAN CASE:

- Kerala Engineering college student picked up by Kerala Police and murdered.
THE CASE OF D.P. TRIPATHI

- DP TRIPATHI was the president of JNU Students Union. On 25th Sept. 1975, Additional IGP PS Bhinder came to JNU to arrest DPT for protesting against emergency.
- He mistook Prabir Purkayastha for DPT, arrested him and kept him in jail despite his protestations.
- DPT was arrested in November, 1975 but the police did not have the courage to own up their mistake and release Purkayastha.
- Purkayastha was taken in handcuffs to Naini Jail to his exam. He was also in solitary confinement in Agra.
THE PLIGHT OF UTTAWAR VILLAGE:

- MOSTLY INHABITED BY MEO MUSLIMS
- EARLY IN THE MORNING OF NOVEMBER 6, 1976, A LARGE POLICE FORCE LED BY THE SSP AND THE DEPUTY COMMISSIONER ENCIRCLED VILLAGE UTTAWAR
- 700 POLICEMEN RAIDED THE VILLAGE UNDER SUPERVISION OF THE DC, GURGAON AND THE SSP
- POLICE RAIDED EVERY HOME, PICKED UP MALE MEMBERS AND CARRIED AWAY 550 VILLAGERS TO POLICE STATION AT HATHIN FOR INTERROGATION
- THEREAFTER, ALL THE MEN - 8 TO 80 TAKEN TO NEARBY FAMILY PLANNING CENTRES AT NUH AND MANDKOLA AND STERILISED
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

JULY - AUGUST, 1975

PARLIAMENT PASSES 38th AND 39th AMENDMENTS TO THE CONSTITUTION

- 38th Amendment
  Barred judicial review of proclamations of emergency
  Barred judicial review of ordinances promulgated by the President or Governors
  Barred judicial review of laws that contravened fundamental rights
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

39th Amendment

- Sole purpose of this amendment was to protect India Gandhi’s prime ministership by preempting the Supreme Court that was hearing her election petition.

- Supreme Court barred from hearing election petitions against Prime Minister, Speaker, President and Vice-President.

- A body to be established by Parliament to hear such petitions.
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

39th Amendment

- All laws pertaining to elections placed in the Ninth Schedule (to bar judicial review)

- All election petitions before courts to abate

- Election laws Amendment Act passed on August 5, 1975 specifically to nullify the points upheld by the judge who heard the election petition
39 AMENDMENT

- A CASE OF OVER SPEEDING TO SAVE THE PRIME MINISTER

- Fastest Constitutional Amendment in India’s History
THE EMERGENCY

HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

39 AMENDMENT

- August 7, 1975 – Thursday - Introduced in the Lok Sabha
- August 7, 1975 – Thursday - Passed by Lok Sabha after a two hour “debate”
- August 8, 1975 - Friday - Introduced in the Rajya Sabha
- August 8, 1975 – Friday - Passed by Rajya Sabha
- August 9, 1975 – Saturday – Passed by State Legislatures
- August 10, 1975 – Sunday – President gives his assent
THE EMERGENCY

HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

WHY WAS THE CONGRESS PARTY IN SUCH HASTE?

- August 11, 1975 – Supreme Court began hearing Indira Gandhi’s petition
THE JUDICIARY CAPITULATES

INDIRA GANDHI’S ELECTION PETITION

- November 7, 1975: Supreme Court validates Indira Gandhi’s election.

- Court validates retrospective character of 39th Amendment
An anti-media law is put in the Ninth Schedule to bar judicial review
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

41 Amendment Bill

- Introduced in the Rajya Sabha on August 9, 1975, two days before Supreme Court was to hear India Gandhi’s election petition. It amended Article 361:
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

41 Amendment Bill

- No criminal proceedings “whatsoever” could lie in court against a person who is or who had been the President, Prime Minister, or Governor for acts “done by him, whether before he entered upon his office or during his term of office” . Also, no civil proceedings against persons holding these offices” in respect of any act done before or after he entered office.

- Passed by the Rajya Sabha on very day of introduction.
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

42 AMENDMENT

- Introduced in the Lok Sabha on September 1, 1976. President’s assent on December 18, 1976
- AIM: To further clip the wings of the judiciary
Amendments to the Constitution cannot be questioned in any court on any ground.

Amendment of the Fundamental Rights Chapter beyond judicial review.

Parliament’s power to amend the Constitution is unlimited “by way of addition, variation or repeal”. (Parliament has unfettered power to preserve or destroy the Constitution.)
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

42 AMENDMENT HIGHLIGHTS

- Abolished need for quorum in Parliament and State Legislatures
  (A single MP can make law !)

- If there were any difficulties in giving effect to the Constitution as amended, the President may, by order, for up to two years, adapt or modify the provision to remove the difficulty.

- High Courts barred from issuing stay orders relating to “any work or project of public utility”
HOW A “COMMITTED” PARLIAMENT DESTROYED DEMOCRACY

**42 AMENDMENT HIGHLIGHTS**

- Courts cannot disqualify MPs found guilty of corrupt election practices.

- President can do it after “consulting” Election Commission”. Earlier opinion of E C was binding.

- High Courts cannot rule on the constitutionality of central laws.
Federalism weakened: Central forces to operate under central control when sent to a state to preserve order.

Law Minister H.R. Gokhale, who moved the 42 Amendment, was not happy with it. Asked why he did not resign from the Cabinet, he told a friend he feared Indira Gandhi would put him in jail.
THE JUDICIARY CAPITULATES

THE HABEAS CORPUS CASE

- Many detenus including Madhu Dandavate and L.K. Advani approach high courts, challenge presidential proclamation and assert their fundamental rights.

- Cases challenging the emergency and challenging unlawful detentions pile up in many high courts.
THE JUDICIARY CAPITULATES

THE HABEAS CORPUS CASE

- Attorney General Niren De says citizens no longer have the right to move the courts for protection of fundamental rights under Articles 14, 21 and 22
Niren De says president’s order of June 27, 1975 suspended citizens’ right to move the courts for enforcement of fundamental rights guaranteed under:

- Article 14 (equality before law and equal protection of the law)
- Article 21 (no deprivation of life or liberty except by procedure established by law)
- Article 22 (no detention without being informed of the grounds for it)
THE JUDICIARY CAPITULATES

THE HABEAS CORPUS CASE

- Shiv Kant Shukla V ADM (Additional District Magistrate) Jabalpur before Madhya Pradesh High Court

- High Court ruled on September 1, 1975 that its right to examine cases of habeas corpus cannot be abridged
Union Government appealed against this order and all such cases from ten high courts were clubbed together and heard by the Supreme Court. This is known as the Habeas Corpus Case. It was heard by a five-judge bench comprising Chief Justice A.N.Ray and Justice H.R.Khanna, M.H.Beg, Y.V.Chandrachud and P.N.Bhagawati.
Justice Khanna: Supposing a policeman, for reasons of enmity, kills someone, would there be a remedy?

Attorney General Niren De: Consistent with my position, My Lord, not so long as the emergency lasts.

It shocks my conscience, it may shock yours, but there is no remedy.
Counsel for Detenus: If you give unlimited powers to the executive to take life and liberty, the judiciary will lose its “sentinel” role.

Anil Diwan: The emergency has made Indians slaves.
THE JUDICIARY CAPITULATES

THE HABEAS CORPUS CASE

- S C verdict in Habeas Corpus Case – April 28, 1976

- Four judges – A.N.Ray, H.M.Beg, Y.V.Chandrachud, H.R.Bhagawati – hold that no citizen has the right to move a writ of habeas corpus in the light of the President’s Order of June 27, 1975 or to challenge a detention as illegal
Justice Beg: We understand that the care and concern bestowed by the state authorities upon the welfare of detenus who are well-fed and well-treated, is almost maternal. Even parents have to take appropriate preventive action against those children who may threaten to burn down the house they live in.”
THE JUDICIARY CAPITULATES

THE HABEAS CORPUS CASE

- Justice H.R. Khanna dissented. Law of preventive detention, of detention without trial is an anathema to all those who love personal liberty.


- Beg, Chandrachud and Bhagwati went on to become Chief Justices of the Supreme Court.
Jayaprakash Narayan: The judgement has put out the last flickering candle of individual freedom. Mrs Gandhi’s dictatorship both in its personalized and institutionalized forms is now complete.

1,11,000 persons were detained during the emergency under MISA and DEFENCE OF INDIA ACT.
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ASSAULT ON THE MEDIA

- 42nd AMENDMENT
- PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT REPEALED
- PREVENTION OF PUBLICATION OF OBJECTIONABLE MATTER ACT
- PRESS COUNCIL ACT REPEALED
42nd AMENDMENT

- Amendment to Fundamental Rights not open to judicial review
- Parliament’s power to amend, alter, repeal Constitution is supreme
- President can alter/ amend Constitution through executive order for two years
ASSAULT ON THE MEDIA

- MY EXPERIENCE IN THE INDIAN EXPRESS, BANGALORE
- WHEN I WAS A CORRESPONDENT OF INDIAN EXPRESS IN 1970s, DURING THE EMERGENCY BY EDITORIAL BOSS WAS THE IGP OF POLICE.
- IGP HAD SOME SPs, INSPECTORS AND INFORMATION DEPT PEOPLE TO VET OUR COPIES
- ALL OUR REPORTS, EDITORIALS AND OPINION PIECES HAD TO GO TO THE IGP. HE WOULD CUT AND CHOP AND CHANGE IN ORDER TO ENSURE THAT NOT A WORD WAS WRITTEN AGAINST INDIRA GANDHI AND HER GOVERNMENT
The Emergency

The Case of Navin Chawla

- Tihar Jail could accommodate 1273 prisoners. But Indira Gandhi arrested 3500-4000 political prisoners and sent them to Tihar.
- Navin Chawla, Secretary to the Lt. Governor of Delhi became an unconstitutional authority.
- The Jail Superintendent told Chawla there was no place for new prisoners. Chawla ordered that cells be built with asbestos roofs for the new prisoners. He asked Jail Superintendent to "bake" certain persons in these cells and to throw some "troublesome detenues" (read opponents of the emergency) into the lunatics’ cell!
The Lt. Governor told the Shah Commission that his Secretary Navin Chawla had enormous powers when it came to throwing people in jail!

The commission observed that “though Shri Navin Chawla had no position in the jail hierarchy, he was exercising extra statutory control in jail matters and sending instructions on all matters including the treatment of particular detainees.”
The Shah Commission indicted Navin Chawla for having been “authoritarian and callous” and for gross misuse of power “in cynical disregard of the welfare of citizens”.

Further, it declared that he was “unfit to hold any public office which demands an attitude of fair play and consideration for others”.

So the Shah Commission declared Navin Chawla to be “Unfit to hold any public office which demands an attitude of fair play and consideration for others”.

When Indira Gandhi returned to power in 1980, she had copies of the Shah Commission burnt.

Her successors did prayaschit for The Emergency by appointing Mr. Navin Chawla, the man who had no commitment to democracy, as an Election Commissioner in 2005. He later became the Chief Election Commissioner!
WHY SHOULD WE BE ANGRY?

- India came under a fascist regime for 21 months during the Emergency.

- The perpetrators and their supporters – be they politicians or bureaucrats or judges have had no remorse.
WHY SHOULD WE BE ANGRY?

- Therefore, those who care for the Constitution and the democratic way of live, should never forget, never forgive.

- For India’s sake and for the sake of Democracy, we must remain angry.

- Why? Because there has been no Prayaschit.
ARE WE EMERGENCY PROOF?

- PEOPLE ASK WHETHER WE ARE NOW EMERGENCY PROOF:
- YOU WILL GET THE ANSWER WHEN YOU SEE THIS EVENT AND THE PERSONS ON THIS PLATFORM.
- THE PRESIDENT OF INDIA’S BIGGEST POLITICAL PARTY AND THE PARTY’S GENERAL SECRETARY ARE HERE TO CONDEMN THE DARK DAYS OF THE EMERGENCY AND TO REINFORCE THEIR COMMITMENT TO THE CORE VALUES OF OUR CONSTITUTION AND OUR DEMOCRATIC WAY OF LIFE
- WHAT BETTER PROOF CAN THERE BE THAN THIS?
IN THE CONSTITUENT ASSEMBLY DR. AMBEDKAR HAD WARNED US AND SAID:

- NO MAN SHOULD BE GRATEFUL AT THE COST OF HIS HONOUR
- NO NATION SHOULD BE GRATEFUL AT THE COST OF ITS SOVEREIGNITY
- IN A NUTSHELL, THIS IS THE LESSON OF THE EMERGENCY
NEVER AGAIN, NEVER AGAIN, NEVER AGAIN

- MY ARTICLE ON THE EMERGENCY APPEARED IN THE PIONEER ON TUESDAY, THE HEADLINE SAID
- NEVER AGAIN, NEVER AGAIN, NEVER AGAIN
- WHENEVER I REMEMBER THAT NIGHTMARE CALLED THE EMERGENCY, THAT IS WHAT I SAY
- NEVER AGAIN, NEVER AGAIN, NEVER AGAIN