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## HISTORY OF EMERGENCY IN INDIA

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### INTRODUCTION

Emergency has been one of the most argued topics in India mainly because of what happened in 1975. Before 1975 the emergency was issued first on 1962 and then on 1971 both of which were issued due to act of external aggression and war like situations with China and Pakistan respectively. But what happened in 1975 single handedly led to the fall of one of the strongest and most influential political party of India, Indian National Congress. While the first two were issued to safeguard the country, the third was issued to keep power in hand, in what is known as the clash between the judiciary and the government which still is evident today.

The Supreme Court leading to the phase of the emergency defied the prime minister by holding that her election was illegal and in turn the prime minister, Indira Gandhi with the idea of keeping her power instituted a state of emergency from 1975 to 1977. This was the closest India had been to forgoing democratic nature and totally turn into a dictatorial form of governance with heavy crackdown on all spheres of life with an already overburdened economy facing the brunt of it. As we go proceed through the paper, we will see the powers emergency offers and how it can turn dictatorial and a history of how the provocation of emergency clause has affected India.

### EMERGENCY IN 1962

The emergency of 1962 was invoked mainly due to the external aggression and war like situation with the neighbouring country of China, the then prime minister Jawaharlal Nehru invoked the emergency on 26<sup>th</sup> October 1962. The prime minister however did not revoke the emergency even after a ceasefire was established a month later.

### EMERGENCY IN 1971

The emergency issued in 1962 was revoked in the year 1968 after the war of India and Pakistan 1965. The emergency of 1971 was issued by Indira Gandhi who was the then Prime Minister

of India. This emergency was issued due to the Bangladesh war which happened and resulted in the formation of Bangladesh as a new country.

The first two of the emergencies were mainly invoked due to the external aggression but the third was invoked with a reason given as 'internal aggression'.

## **EMERGENCY IN 1975**

After winning the 1971 war, Indira Gandhi simply put was unstoppable with even opposition praising her as 'Durga', but the years leading up after the war saw the decrease in popularity of Indira Gandhi mainly because of political instability and unrest after the dissolution of the Gujarat state legislature which ended in the chief minister Chiman Bhai Patel resigning.

At the same time, Raj Narain who had stood against Indira Gandhi in the 1971 Lok Sabha election from the Rae Bareilly in Uttar Pradesh challenged the outcome of the election in the Allahabad High Court. It was alleged that Indira Gandhi had used government officials for her personal election related works which was in violation of Representation of the People Act, 1951. Justice Sinha, who was presiding over the case convicted Indira Gandhi of the crimes, disqualified her from Lok Sabha and imposed a 6-year ban on her from holding any elected position. This was one of the clashes between judiciary and the government which has never ever happened before<sup>1</sup>.

The very next day, Indira Gandhi imposed emergency through the then President Fakhruddin Ali Ahmed, the reasoning given by the congress was 'internal disturbance and rebellion'. It was highly criticized by both the oppositions as well as her own followers. It was also noted that the decision to invoke Emergency wasn't discussed with the cabinet and ministers and the morning, before the impositions the ministers were informed. Indira Gandhi invoked Article 352 and Article 356 of the constitution which deals with National emergency and imposition of president's rule.

Even with all the backlash, few loyalists stood behind Indira Gandhi and the decision of invoking emergency. The then chief minister of West Bengal Siddhartha Shankar Ray and

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<sup>1</sup> <https://indianexpress.com/article/explained/recalling-the-emergency-1975-77-the-emergency-at-work/> (Last Visited 3<sup>rd</sup> September 2022).

Indira Gandhi's own son Sanjay Gandhi were two prime forces behind the implementation of emergency and supported it with all their might.

## **JUDICIARY AND EMERGENCY**

Since the Golaknath case<sup>2</sup> in 1967, it had been widely observed by many of the tendency of Indira Gandhi to control Judiciary which went against the spirit of democracy as Indira actively tried to influence and get judiciary under her control. The Kesavananda Bharathi case<sup>3</sup> which has been often noted as one of the most landmark important cases in India for the judgement that came out in the case which helps much in preserving the democracy in the country also bore witness to this Executive and Judiciary battle.

After the verdict was passed in Kesavananda Bharathi was passed, Indira Gandhi appointed A N Ray as the Chief Justice of India who was also the part of the minority judgement on the case. A N Ray superseded other 3 senior most judges to get appointed as the Chief Justice of India. These are certain ways in which Indira Gandhi tried to establish her influence on judiciary.

## **AFFECT OF EMERGENCY -**

The affect of emergency has been widely debated in the recent history, it has been known has the beginning of the downfall of the political party which Indira Gandhi belonged to, that is the Indian National Congress. It has also been described as a dictatorship inside the world's largest democracy with many people calling it the closest endangerment Indian democracy has ever faced.

The most and immediate affect was that the state legislatures were rendered useless with president's rule over all of the Indian territory. The fundamentals rights of the people were revoked and people were imprisoned for petty crimes and without the fundamental rights almost any form of dissent to the rule was met with swift and rapid action by the government. It has been recorded that at least 1.1 lakh people were arrested within the third emergency

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<sup>2</sup> 1967 AIR 1643, 1967 SCR (2) 762.

<sup>3</sup> (1973) 4 SCC 225; AIR 1973 SC 1461.

period. And at least 11 million people were sterilized<sup>4</sup>.

Political non followers, oppositions and politicians were imprisoned without committing any crime, they were released after the emergency was ended but over the years this imprisonment has acted as a point of conflict between BJP and congress, the two most prominent national political parties in India.

As soon as the emergency was announced the very next day, major newspaper outlets dedicated their editorials in order to criticize the implementation of the emergency and demanded its withdrawal right away.

Criticisms also came through media and popular culture such as poems, stories and cinema. Examples such as the works of Rohinton Mistry, "A Fine Balance" and "Such a Long Journey," deal with the tumultuous times of the emergency and expose the ill fuelled intentions of the government and the crimes committed on the populace, particularly the Parsi minorities in India<sup>5</sup>.

To put it bluntly, there was a total disruption of democracy and democratic processes. Indira Gandhi and Fakhruddin Ali Ahmed kept extending the emergency at the end of six months for six more months until it came to an end on March 21, 1977<sup>6</sup>.

## **CONCLUSION**

The emergency powers give all the powers in the hands on the president and hence the president has all the ingredients to turn the lawful authority into an illegal dictatorship. Emergency provisions in a democracy were introduced and added into the constitution with good intention in order to make sure that it should be easy to govern the country in the times of crisis, But the gross misuse by the Indira Gandhi's government is something which can't be forgotten easily. It's a living reminder that if there's ill intention then the people in power can use the law to benefit themselves into acquiring something they want and power is one expensive tool in

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<sup>4</sup> <https://www.hindustantimes.com/books/review-india-s-first-dictatorship-the-emergency-1975-77-by-christophe-jaffreot-and-pratinav-anil-101639055022286.html> ( last visited 3<sup>rd</sup> September, 2022)

<sup>5</sup> <https://www.india.com/education/emergency-in-india-during-1975-criticisms-and-revoking-emergency-1581722/> (last visited 3<sup>rd</sup> September 2022).

<sup>6</sup> <https://www.hindustantimes.com/india-news/june-25-on-this-day-in-1975-indira-gandhi-imposed-the-emergency-what-remains-of-its-legacy-101624589306289.html> ( last visited 3<sup>rd</sup> September 2022).

every country. Hence, emergency provisions help enable powerful political authority and also helps them acquire power over a whole country.

Hence, emergency provisions provide a gateway to authoritarianism and dictatorship, it's a provision in democracy which can within span of days make democracy ineffective and help set up a different kind of governance.

Even though the emergency invoked by Indira Gandhi ended, it also led to the ousting of Sanjay Gandhi and Indira Gandhi from the parliament and the aftermath of the emergency and the fresh elections helped to set up a new and fresh government with new politicians assuming powers.

However, article 20 and 21 of the fundamental rights are protected even in times of emergencies<sup>7</sup>.

Hence, this memory serves us as a remainder to make sure that there is a need for strict laws and regulations which govern the implementation of the emergency provisions, it is also necessary that these provisions are not implemented until and unless its one of the rarest of the rare circumstances. It's important to safeguard democracy even when there is a centralised authority acting on the reasoning of security.

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<sup>7</sup> Basic Structure Doctrine.