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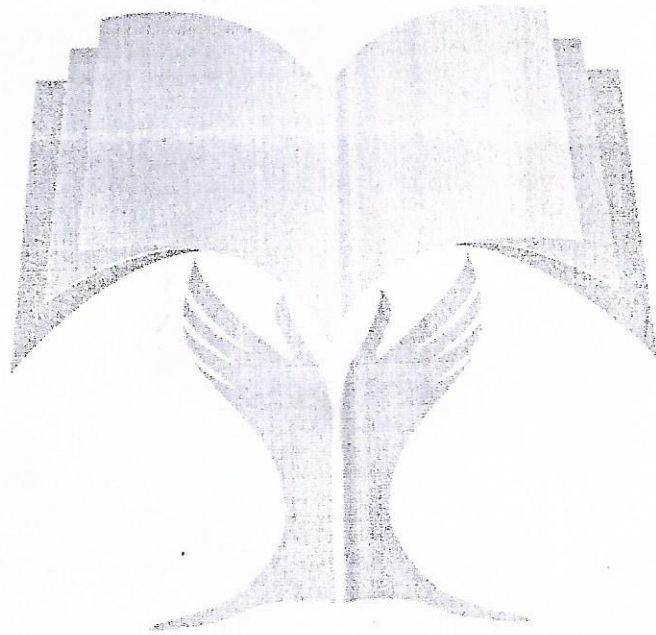
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Dr. Bapu G. Gholap



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## The National Emergency of 1975 and Its Impact On Fundamental Rights

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### Abstract :

The state of emergency declared on the morning of July 26, 1975 was a major setback to the political process in India. The fundamental rights of the people were denied. Newspapers were banned. Political opponents were strangled by harsh police action. The bureaucracy, albeit temporarily, was given a terrorist form. This changed the fundamental relationship between citizens and the nation. The Emergency of 1975 was particularly challenging for the fundamental rights of citizens. Therefore, the present study examines the Emergency and its impact on the fundamental rights.

**Key Word:** Emergency, Fundamental Rights.

### Introduction:

The Indian Constitution provides for a state of emergency. Emergency is an important provision for the security, integrity and stability of the country. An emergency is a situation in which it is difficult to run an established government. For some reason this system starts collapsing and in a vast country like India the power goes to the central government or even to the president. Such a situation is called emergency.

According to the provisions of the Indian Constitution, the President can declare three types of emergencies. There are three types: National Emergency (Article 352), State Emergency/Constitutional Emergency (Article



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356) and Financial Emergency (Article 360). State/Constitutional Emergency has been declared in India many times. National Emergency has been declared three times (1962, 1971, 1975). financial emergency has been not declared yet. The National Emergency seems to have an effect on the Fundamental Rights. Such a provision is made in the Indian Constitution. This national emergency was different from the other two emergencies because the third basis of this emergency was declared as internal unrest. The National Emergency seems to have an effect on the Fundamental Rights. Such a provision is made in the Indian Constitution. But according to critics and practitioners, the 1975 Emergency trampled on the fundamental rights of the Constitution. Therefore, the main objective of this research is to study the effects of the 1975 Emergency on Fundamental Rights.

#### **Objectives:**

1. To study the provisions of the National Emergency in the Constitution.
2. To study the provision of fundamental rights in the Constitution.
3. To study the 1975 emergency.
4. To study the effect of the 1975 emergency on fundamental rights.

#### **Research Methods:**

In the present research, the researcher has been used analytical research method.

#### **Scope and Limits:**

The present research is a study of the National Emergency which was declared in 1975 AD. The impact of this emergency on the fundamental rights has been studied by Researcher.

#### **Limitations:**

1. The present research only considers the national emergency
2. The present study examines the impact of a national emergency on only fundamental rights.

#### **Analysis:**

#### **Provisions in the National Emergency in Constitution:**

According to Article 352 of the Indian

Constitution, the President may declare a state of emergency in the event of war, foreign aggression or armed rebellion. A national emergency can be declared for an entire country or an area.

Important provisions regarding the declaration of a national emergency:

1. A national emergency can be declared for the whole of India or for any part of it
2. The 42nd Amendment to 1976 also gives the President the right to declare a state of emergency for a part of India.
3. The president can declare a national emergency if he is convinced that war, foreign aggression, or armed uprisings pose a serious threat even before they actually happen.
4. In the original constitution, the third basis for declaring a state of emergency was internal unrest, but since it was ambiguous, it was likely to have a broader meaning, so the term internal unrest was replaced by armed uprising under the 44th Amendment Act.
5. The Prime Minister alone cannot recommend to the President to declare a state of emergency, which requires the consent of the Union Cabinet
6. The 38th Amendment Act 1975 declared a national emergency outside the scope of judicial review but this provision was omitted by the 44th Amendment Act.

#### **The period of emergency in the Constitution**

The state of emergency declared by the President requires the consent of Parliament.

Accordingly, the period of emergency is determined. The provisions in this regard are as follows.

1. It must be ratified by both Houses of Parliament within one month from the date of declaration of National Emergency by the President. Otherwise, its implementation will be terminated. (Originally, there was a period of two months for Parliament to approve it, but by the 44th Amendment Act (1978) it was reduced to one month.)
2. If the state of emergency is declared while the Lok Sabha is dissolved or the Lok Sabha



is dissolved within one month, the Lok Sabha must approve the state of emergency within 30 days from the first sitting of the new Lok Sabha, otherwise the state of emergency ceases. Of course, the Rajya Sabha must have already approved the emergency.

3. If both Houses of Parliament approve an emergency, its effect lasts for six months from the date of passing the second resolution. It can then be extended for a further six months at a time by a parliamentary resolution. This can be increased any number of times.

(This provision was dropped by the 44th Amendment to the Constitution (1978). Prior to that, once the state of emergency was approved by Parliament, it remained in force as long as the Cabinet wished.)

#### **Provision of National Emergency Termination /Revoke in the Constitution:**

**The following are provisions to revoke an existing emergency:**

1. The President may terminate the declaration of emergency at any time by another proclamation. Parliament's consent is not required to announce such an end.

2. If the Lok Sabha passes a resolution disqualifying the continuation of the state of emergency, the President is bound to end the declaration of the state of emergency. This provision was included in the 44th Amendment Act (1978). Prior to that, only the President had the power to declare a state of emergency, with no role for the Lok Sabha.

3. Another provision made by the 44th Amendment Act: If a written notice signed by at least 1/10 of the total members of the Lok Sabha is sent to the Speaker (if not in the Lok Sabha session to the President) a special meeting of the Lok Sabha to discuss the resolution (Special sitting) will be taken.

#### **Provision of Fundamental rights in the Indian Constitution**

Some rights have to be given special importance for the development of the

individual. These are called fundamental rights.

#### **Objective -**

To uphold the values of justice, freedom, equality, fraternity and democracy through economic, social, religious, cultural and educational development of the individual.

The basic rights are given in sections 12 to 35 of section 3, from section 14 to section 32. The Constitution provides for six fundamental rights - the right to equality (Articles 14 to 18), the right to liberty (Articles 19 to 22), the right against exploitation (Articles 23-24), the right to freedom of religion (Articles 25 to 28), cultural and educational rights. (Section 29-30), Right to Constitutional Remedies (Section 32)

#### **Implications for Fundamental Rights in Constitutions**

The implications for the fundamental right to a national emergency are described in Sections 358 and 359.

Article 358: Suspension of Fundamental Rights under Article 19 (Suspension on FRs under article 19) -The declaration of a national emergency automatically suspends the six fundamental freedoms of citizens under Article 19 without the need for a separate order.

Article 359: Suspension of the Enforcement of Fundamental Rights during the Emergency (Suspension of the Enforcement of FRs under Part III) That is, fundamental rights are not suspended under section 359, only the right to exercise them is suspended. Fundamental rights are alive in principle, but if they are violated, the right to exercise (retrieve) them is suspended by the court.

#### **Declaration of Emergency 1975:**

On the morning of June 26, a national emergency was declared and Indira Gandhi announced her reaction to the opposition's actions on All India Radio. Then The President of India, on June 25, 1975, under the "powers vested in him by Article 352, Sub-Article 1 of the Indian Constitution", threatened to "jeopardize India's security and create a serious



emergency." (A grave emergency exists whereby the security of India is threatened by internal disturbance). On the morning of June 26, 1975, the Prime Minister of India, Indira Gandhi, made a statement on the radio, explaining how the country's internal stability was threatened.

"In the name of democracy, it has been sought to negate the very functioning of democracy. Duly elected governments have not been allowed to function ... certain persons have gone to the length of insisting Armed forces to mutiny and our police to rebel ..... the action of a few endangering the rights of the vast majority ..... the nations' integrity demands firm action."

**Emergency period - 1975 to 1977**

At midnight on June 25 and 26, 1975, a state of emergency was declared and arrests were made immediately. In Delhi alone, about 83 people were arrested that night. The next day (June 26, 27) 250 people were arrested. On this day, Lok Nayak Jayaprakash Narayan was in the guest house of 'Gandhi Peace Foundation', from where he was arrested and kept in a government rest house in Sona, Haryana. Morarji Desai was also arrested and brought to Sona. Ashok Mehta, Chandrasekhar, Rajaraman, Pilu Modi, K. R. Malkani (editor of Motherland) was also arrested. Atal Bihari Vajpayee and LK Advani were arrested in Bangalore. Economist and Jana Sangh (today's BJP) member Subramaniam Swamy went underground when he heard the news of his arrest, followed by Nanaji Deshmukh and George Fernandes, the leader of the Opposition. The power supply to the newspapers was cut off. As a result, the newspapers of June 26 could not come out. The Ordinance was immediately repealed and the MISA (Maintenance of Internal Security Act-MISA) was enacted and all those who directly or indirectly opposed the state of emergency were arrested under the MISA. Between June 25, 1975 to March 18, 1977, 34,630 people were arrested under MISA, of which 6,244 were interned. In addition, 28,386 people were evacuated under

the Misa emergency section (16-A). When the state of emergency was lifted in 1977, 17,000 political leaders were imprisoned across the country.

#### Provisions of the National Emergency Period of 1975

1. By order of the President dated June 27, 1975, the right of citizens to file suit in court for the implementation of fundamental rights under Articles 14, 21 and 22 of the Constitution was pending.
  2. The defence of India Act was amended and implemented in all countries till the state of emergency was declared.
  3. Those arrested under 'Misa' will not be granted bail. He will also not be able to appeal against the arrest in court
  4. No one will be able to meet the detainees if the reason for their arrest is confidential.
  5. The Press Council of India, the central body of the media, was disbanded and all cases in which the Press Council of India was a party were adjourned.
  6. Newspapers were forced to seek pre-publication government approval. In addition, many restrictions were imposed on newspapers.
  7. The Representation of the People Act was amended. Accordingly, the President will consult the Election Commission regarding the election of the President, Vice-President, Prime Minister and Speaker of the Lok Sabha and will assign the responsibility of investigating the matter to the Election Commission.
  8. With the passage of the Prevention of Publication of Objectionable Matters Act, 1976, no defamatory text can be published against the President, Vice-President, Prime Minister, Speaker of the Lok Sabha, Governor. Similarly, copies of text published in violation of the law will be confiscated and the government will have the right to close down any publishing house.
  9. Personal defamation, ban on writing and publishing against government order etc.
- Conclusion:**
1. No legal action was taken when declaring a national emergency.



2. Strict restrictions were placed on newspaper freedom.
3. The principle of equality was completely obliterated before the law.
4. Anti-government rhetoric was considered treason.
5. No legal action was taken when declaring a national emergency.
6. In national emergency of 1975, Anti-government dissidents were illegally arrested, restricting the freedom of expression of the people.
7. The voice of the opposition was suppressed by the government.
8. Protests and rallies were banned.
9. Freedom of life was not guaranteed.
10. Every anti-government movement was suppressed by giving extra powers to government officials.

For all of the above reasons, the 1975 national emergency became controversial in history. Many political thinkers and historians of the time have expressed adverse views on this emergency. During the Emergency, many restrictions were placed on the fundamental rights of the Constitution. The opposition was strangled. Many political leaders at the time described the "national emergency as a travesty of democracy."

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## Sport: A Major Factor in Modern Life

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#### Abstract :

This study deals with the interaction of sports and the society. Even this study focus on the theme that every sports person, coach or even amateur needs to understand the relation between the sports and the issues that humans encounter in their daily interaction with other people. The paper highlights many issues, including politics, race, and religion in sports. Using an issue oriented approach, the author analyzes every issue to determine the role sports plays in the society. Many people are classified according to their condition, opportunity and capability. Moreover, numerous sporting activities are influenced by religious beliefs, social class ideology, sexuality, age and nationality. Commercialization of sports, on the other hand, has led to members of the community being discriminated based on their social status, nationality race and educational background. Moreover, there exists the issue of reaffirmation of sports as an important idea and belief in the society.

#### Introduction:

Development of mass sports and its place in modern society is a topical issue of great importance. Popularization of physical culture, sports and healthy lifestyle plays an important role in society in any country. Speaking about the role of sport in modern society, it can be argued that sport is a continuous social