

# A country with memory

## 50 Years of the Indian Emergency: Lessons for Democracy

Edited by Peter Ronald deSouza and Harsh Sethi

Orient Blackswan, Hyderabad, 2025, 338 pp., Rs 1025 (PB)

ISBN 978-93-6973-340-8

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Peter Ronald deSouza and Harsh Sethi's edited volume released to mark the 50th anniversary of the Emergency (1975-77) presents us with an important archive of the period. This act of remembering assumes special poignancy as it takes place at a time that many have characterised as an 'undeclared Emergency'. The importance of an act of remembering is gestured to in the essay by Deepak Sanan who quotes the last surviving member of the socialist militia during the Spanish Civil war as saying "a country without memory was [a] country without a soul...What were a people, or a country, with no memory and no history".

While most previous studies have focused on one particular dimension of the Emergency, this volume seeks to tell the story from many vantage points. From the changes in the legal regime, the economic roots of the Emergency, the role of a single university (Jawaharlal Nehru University), journalism during the time, to remembering the Emergency through love letters and poetry – many disciplines and perspectives ground this volume.

No generation comes to the Emergency without its own context and in this case, all contributions bear the imprint of the challenges of the contemporary authoritarian moment or the current 'undeclared emergency'. How will a reading of the past enable us to deal with the challenges of the present is the underlying motivation of the volume.

The editors see the Emergency as "a complex story of continuities and departures". Among the continuities which are delineated by Ujjwal Kumar Singh and Anupama Roy as well as K Sudarshan are the legal frameworks radiating from the Constitution itself which enabled the Emergency. The dreaded law under which political leaders, trade unionists and students were picked up was the Maintenance of Internal Security Act (MISA), which authorised detention on the mere 'satisfaction' that the individual poses a threat to national security. The egregious nature of MISA however is traced back to the drafting of the Indian Constitution and the introduction of Article 22 (4) to (7) which authorises preventive detention. Even then, these provisions had been criticised as the "undemocratic heart of the Indian Constitution", and it was argued that in adopting Article 22, the much-celebrated rights-oriented Indian Constitution had in effect sanctioned an authoritarian exercise of power.

Similarly, the provisions which authorise the imposition of an Emergency on the grounds of an 'internal disturbance', end up legitimising as constitutional authoritarian power grabs. So, in order to prevent the recurrence of another Emergency, one of the strategies the book documents is the role of constitutional amendments. It is this understanding which resulted in the tabling of the 44th Constitutional Amendment in 1978 which sought to repeal the amendments to the Constitution made during the Emergency. However the changes fell short as Article 22(4) to (7) remain in place, with even the few procedural changes that were made in the provision not even being notified. As Sudarshan

concludes in his essay, "the more things seem to have changed...the more they seem to remain the same."

That being said, the Emergency was also a departure. The prime one brought to the attention of the reader is the sheer scale of civil liberties violations — with over 100,000 persons being arrested, not to mention the regime of forcible sterilisations and demolitions. This authoritarianism of the state, while deriving its legitimacy from virtually 'lawless laws' such as MISA, failed even to adhere to the minimal procedural requirements set out therein.

**This book is particularly important in the context of the Modi government declaring the date of the imposition of the Emergency, 25th June, as 'Samvidahan Hatya Divas' — a day to commemorate the murder of democracy. For the Modi government the Emergency is a horrific event perpetrated by Indira Gandhi and remembrance of the Emergency horrors has nothing to do with the present. For the authors of this volume, on the other hand, the history of human rights violations during the last 12 years mirrors the Emergency in every way**

When this violation of even the law authorising detention was brought to the attention of the Supreme Court in ADM Jabalpur, the majority of the judges in a shocking abdication of constitutional responsibility decided that courts could not hear challenges to detention, even if unlawful, as the citizens' right to approach the courts stood suspended during emergency. The brave minority opinion of Justice HR Khanna alone held that the "Constitution and the laws of India do not permit life and liberty to be at the absolute power of the executive" and therefore upheld the decision of nine High Courts all of whom struck down detention orders under MISA on grounds of non-compliance with MISA (detention orders not being signed, there being no satisfaction of the detaining authority, etc)

A number of the contributions invoke the Khanna dissent, retrieving it from the judicial archive and turning it into a conversation about the future of Indian democracy. As Kalpana Kannabiran puts it, "how do political dissent and judicial dissent illuminate

each other on the question of personal liberty?"

Resistance runs through the volume like a thread, illuminating not just judicial dissent, but equally the resistance by journalists, students, poets, and even lovers. The book brings to light the otherwise forgotten history of poetry written during the Emergency. Rukmini Bhaya Nair notes how 'Emergency poetry' was not confined to any one region, but was written in 13 languages from across the country from Kannada to Assamese and from Gujarati to Bengali. An Urdu poem powerfully communicates the enforced

silence which had descended across the land:

Only one tongue – a dagger – still wags  
Only one pen – a tyrant's – still moves.

However the essence of poetry is its ability to cultivate hope. As P Lankesh from Karnataka notes, "perhaps these poems will stir into life the minds of some listeners". For Nair, "these literary bodies of Emergency thought", have a "healing wholeness" and these "rhymes across time", function as "both rebuke and reminder; it meditates the hidden affective gulf between those soaring aspirations and depths of despair that we are prone to as a species".

Another poignant essay in this book – which again goes to the question of cultivation of hope, and the commingling of love and politics – is Gyan Prakash's account of the nearly 200 passionate letters exchanged between the socialist couple Madhu and Pramila Dandavate. As Madhu notes to Pramila, "writing letters is a hugely

calming activity in the loneliness of the prison. These letters are meant for other people of course, but they are also a great way to hear oneself think, to hear oneself sort one's own feelings and thoughts." Pramila, in one letter, says, "Early on in our marriage, I remember you would go away on long tours and wouldn't write to me for months. I'd be ready to cry...But now look at us! You write me every Monday without fail. Thanks to the Emergency!"

Pamela Philipose documents the spirited fight put up by some sections of the press and notes that "revisiting the fortitude and even audacity, that many journalists exhibited, even as the growing shadow of Mrs Gandhi's dictatorship loomed over them", is valuable as the current crop of journalists exhibit a "blatant kowtowing to power". In another conversation between the past and the present, Ravi Arvind Palat revisits the innovative forms of resistance of students in JNU with simultaneous poetry readings in hostels as well as silent gatherings in libraries.

In a book in which the 'wrongs' of the Emergency are the focus, a different perspective is also raised by both Kalpana Kannabiran and Gopal Guru. Kannabiran notes how, "heightened state violence also saw the unprecedented strengthening of social welfare programmes by a committed administration that acted insurgently" to take forward "the goals of Articles 17 [abolition of untouchability] and 23 [right against exploitation, including forced labour and trafficking] of the Indian Constitution". For Kannabiran, the success of "decoupling" these facets of the Emergency perhaps accounted for the return of the Congress to power, "despite its repressive rule".

Guru argues that the Emergency gave rise to a "variant notion of freedom" for the Dalits. What from the civil liberties point of view is 'excess', from the Dalit point of view may well be 'access'. For Dalits, the 'state of exception' may well be an 'opportunity' which allowed for the state to become free of the bias of 'Manu' and become a 'Weberian' state.

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For the authors of this volume, on the other hand, the history of human rights violations during the last 12 years mirrors the Emergency in every way. If the Emergency saw the use of MISA, the undeclared emergency sees the use of the Unlawful Activities Prevention Act (UAPA). Both the Emergency and the undeclared emergency have seen a war on dissenting writers, journalists, students and politicians. Prabir Purkayastha, who was arrested both in 1975 as well as in 2023, symbolises the fact that the lowest points in the history of Indian democracy is the period from 1975-77 and 2014-2026. The stifling atmosphere of fear of speaking out or offending the government is common to both. The declared Emergency lasted 19 months; the undeclared emergency is 12 years and counting!