Chapter IV

Emergency Excesses – Violation of Human Rights
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EMERGENCY EXCESSES - VIOLATION OF HUMAN RIGHTS

The emergency was proclaimed by the country and was declared in gross violation of the provisions of the Constitution of India and thus, was legal arbitrary and malafide. The local papers in Delhi categorically told Indira Gandhi to step down, as she had no moral right to continue as the Prime Minister of India after the adverse verdict of the Allahabad High Court. Even the Supreme Court, Justice Krishna Iyer - granted her only partial stay by suspending her functional membership of the Lok Sabha.

An editorial of the Hindustan Times, captioned "A Time to Go", ran as under:

“Mrs. Indira Gandhi’s politico-legal standing has clearly suffered significant erosion as a consequence of Justice Krishna Iyer’s interim judgement on Tuesday. The absolute stay granted by the Allahabad High Court has been attenuated by the Supreme Court. The Vacation Judge has essentially passed no more than what is termed the usual order, which is conditional stay that merely allows the person concerned to sign the register. For the rest, the member cannot participate, vote or draw the usual remuneration. In other words, while elective membership is technically kept alive, functional membership is virtually denied.”

“Justice V.R. Krishna Iyer has himself stated that legality is within the court’s province to pronounce upon, but canons of political propriety and democratic dharma are polemical issues on which judicial silence is the golden rule.” What is this but a reminder that more than the letter of the law is involved and the question of morality and propriety are at issue.

“She has even now one last opportunity to rise above the controversy and narrow legalities and redeem herself, her party

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1. Dr. Janak Raj Jai as quoted in his book "Emergency Excess"
2. Hindustan Times, June 27, 1975
and her government by resigning with grace and dignity. The country will not fall apart.

“If the final verdict is in her favour, she could triumphantly lead her party to the ensuing polls - and if victorious, return to office as Prime Minister. The alternative would be to give another twist to the debasement of standards and moral decline and risk having to depend on methods of guided democracy and populist demagogy to survive. That can do Mrs. Indira Gandhi little good. It could be disastrous for the country.”

Not only the Hindustan Times, the Indian Express and the Statesman also wrote similar editorials.

The editorial of Indian Express captioned “The Only Course”, preceded:

“The Supreme Court has rejected Mrs. Gandhi’s pleas for the extension of the unqualified stay of the operation of the Allahabad High Court Judgement which found her guilty on two counts of corrupt electoral practices. The result is that though Mrs. Gandhi can continue to be the member of the Lok Sabha until the final disposal of her appeal against the Allahabad Judgement, she cannot in the interval function as a Member of the House. Justice Krishna Iyer has ruled that she may continue in her office as Prime Minister. This is an unusual ruling and whether it has any more force than the expression of an opinion by the Court will be open to dispute”.

The editorial of The Statesman was captioned “The only Way” and was worded as under:

“The situation, as it now holds is materially different from what it was before the Supreme Court’s order. The obligation to resign, earlier justified on grounds of convention and propriety, has been reinforced by a court order that impinges on Mrs. Gandhi’s ability to act as Prime Minister. Her credibility in that role has been seriously diminished. Justice Iyer’s observation that since Parliament is not in session, the veto on the right to vote is ‘currently academic’ is unexceptionable. But he further notes that a review of this point and related issues would be appropriate if Parliament is convened or in the event of other developments. In effect the degree of Mrs. Gandhi’s disability in her capacity as

3. Hindustan Times, June 28, 1975
4. Indian Express, June 29, 1975
5. The Statesman, June, 30. 1975
Prime Minister is liable to be sharply increased as circumstances take shape in the immediate future.

The case for Mrs. Gandhi's resignation on grounds of propriety is now too familiar to bear repetition, yet it is worth pointing out that a resignation will strengthen and not damage the institution of the Prime Minister and that it is an incredible distortion to insist that if the Prime Minister steps down the legal process will thereby be short-circuited. As earlier after the High Court Judgment so now Mrs. Gandhi is free to surrender office to uphold standards that are indefinable in law but are well understood in countries where democratic liberties have survived. She can do so without damage to the law or anything resembling the public interest.”

On the evening of 25th June, 1975 a dramatic announcement of about 7 days Satyagrah to be launched in Delhi from June 29, 1975 was made at Ramlila Grounds. The Satyagrahis would daily march to Mrs. Indira Gandhi’s residence in small batches and court arrest to demand her resignation from the office of the Prime Minister. On the other hand the newspaper offices were busy, after having attended the JP’s future public meeting the reporters of all the national newspapers had reached their office with every very hot news.

But before the newspaper offices could press their button to bring the historic matter for people of the country, all of a sudden, the entire press area was plunged into darkness. It was under the instructions of the Prime Minister, Indira Gandhi, that the lights of the entire area at Bahadur Shah Zafar Marg went off and the newspapers could not be printed and the people of our country were deprived of the vital information of great public
importance. Power supply of the Statesman and the Hindustan Times in Cannaught Place area was also switched off in the same way.

In spite of all these efforts, aimed at ensuring that no newspaper should be able to come out the next morning, luckily two of them could manage to print and bring out supplements on the proclamation of the Emergency and mass scale arrests of national leaders. The Motherland was able to print and circulate several thousand copies of its supplement in defiance of censorship all over the capital and the neighbouring cities.

What helped the Motherland was the omission of Delhi's officials to switch off its power as they did in the case of many other papers. Blanket censorship was imposed on all newspapers. The press was gagged so that it would not raise its voice on behalf of the people against dictatorship and authoritarianism of Government.

The Government tried its best to mislead the public by saying that censorship had been imposed only to safeguard the defence of the country and the maintenance of public order. But it did not take very long for the people to realise the real motives of the Government behind press censorship.

It is a matter of great shame that the light of the newspapers remained switched off for continuously three days under the direction and instructions of the Prime Minister of India, Indira Gandhi.

Happily many top journalists had the courage and boldness to oppose the imposition of censorship. Mr. B.G. Verghese of The Hindustan Times and Mr. Nanporia of the Statesman also tried to raise a voice of protest against the
efforts to enslave the Press but they were not heeded to for want of adequate support from others in their line.

Thus an era of authoritarianism and dictatorship came into full swing and the fundamental rights (as enshrined in the Constitution of India) of the people of this great country were crushed; the subversion of democracy took birth and the law of jungle prevailed all over the country. The then Attorney General of India, Niren De is on record to say, in the Supreme Court of India before the illustrious judges, that “even if a constable shoots any citizen, he cannot be questioned in any court of law, even the Supreme Court.”

According to Inder Malhotra, a veteran journalist (Times of India 28.6.1995 under the caption - “Emergency Remembered”) Emergency was imposed at night and behind the back of Union Cabinet which meekly endorsed it the following morning.

Large scale arrests had begun, however, even before the proclamation was signed by the pliant President Fakhruddin Ali Ahmad. The exercise, conducted in complete secrecy was stunning. No less stunning was the country’s reaction, or rather the other lack of it, to the outrage.

For months India reverberated with the war cries of those vowing to fight Indira Gandhi to finish. It was against this backdrop that the press, like the people had to respond to the Emergency. Newspapers and journals with very few exceptions fell in line with remarkable alacrity, and abandoning their earlier stridency and following the rigorous censorship rules. Even those few publications which did attempt some defiance had to make their own compromises.
The most surprising though persistent myth is that the Times of India supported the Emergency. In any event, let the facts speak for themselves. On the first morning of the Emergency, our main anxiety at the Times of India under the distinguished leadership of the then Editor, Mr. Sham Lal was somehow to get the news of the arrests of JP, Morarji Desai and others to the readers of The Evening News of India as quickly as possible. But this was thwarted by the Police who entered the building and switched off the rotary presses.

While this was going on, the editor and his senior colleagues were in the board room where an emergency meeting of the members of the board of directors present in Bombay had been called. The meeting's mandate to the editor was that the Emergency having been imposed under the Constitution was the law of the land and must be obeyed.

A crucial but ignored fact is that at that time the owners of the Times of India did not actually control it. Under a court order dated several years back, the control of the paper was vested in a board of directors, headed by a judge and several government nominees. The owners were in minority on the board.

The gravity of the situation being faced by the political prisoners and the detenus could be judged from the fact that the Superintendent of Tihar Jail, ordered a merciless Lathi Charge on the innocent political prisoners detained in ward No. 15 A (known as political ward) and got them beaten severely by the hardened convicts and the warders of the Jail. This incident took place on 2nd October, 1975 (birthday of Mahatma Gandhi - the apostle of
non-violence). There was no provocation for this Lathi Charges except that the prisoners of this ward had been pressing for some genuine demands for proper clothing, supply of utensils, better arrangements for medical facilities, proper food, proper sanitation arrangements, proper supply of water and such like things.

Choudhry Charan Singh, Prakash Singh Badal were in the next ward, i.e. ward No. 14 when this lathi charge took place. There was a wall which was common to ward No. 15 and ward NO.14.

**Baweja Comission**

After the release of the prisoners and the coming into power of the Janata Party, the Government appointed a Commission of enquiry to go into the incident of the Lathi Charge on 2nd October 1975. Mr. R. K. Baweja was appointed the Commission of Enquiries; incidentally I was one of the Advocates who appeared before this Commission. This Commission held that there was Lathi Chage and the innocent prisoners were beaten mercilessly. The Commission also recommended dome departmental action against some high officials of the jail, including the then Deputy Inspector General of Prisons, and the then Superintendent of Tihar Jail.

Choudhry Charan Singh, who was at that time the Union Home Minister also submitted his statement and an affidavit before this Commission regarding the incident of Lathi Charge in Tihar Jail on 2nd October, 1975. The statement submitted by Ch. Charan Singh, the then Home Minister reads as under:

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6. Supra Note 1

At about 21.30 on October 2, 1975, I heard a lot of commotion from the direction of adjoining ward NO. 15. I could hear people crying and shouting and it appeared to me that some were beaten. This went on for about 40 minutes. Next morning on October 3, some other inmates of the jail told me that the jail warders had beaten up a number of people in ward No. 15 and some of them had received grievous injuries and had been taken to hospital. Later R. N. Sharma (Supdt. Jail) came and saw me. At that time I was sitting along with Shri Prakash Singh Badal, Atma Singh. The Jail Superintendent stated that on the night of October 2, some political prisoners were refusing ton go inside the ward and therefore some force had to be used. He assured that nobody had received injuries.

However, subsequently I heard from some other inmates of the jail that the version of the Jail Superintendent was not true and that a number of inmates had really received grievous injuries. At this Shri Badal, Atma Singh and I wrote a joint letter to the Jail Superintendent demanding that unless proper enquiry was held into the incident we would be compelled to go on hunger strike. I am not very sure about the date. Either on 3.10.1975 or 4.10.1975 the Jail Superintendent met us again and apologised for the incident. As far as I can remember he also conceded that considerable force had been used. I do not remember whether he gave an assurance that an enquiry will be held. Shri Sushil Kumar, the then Deputy Commissioner of Delhi saw me two/three days later and gave me an impression that an enquiry would be held into the incident of 2nd October, 1975. In fact no enquiry was held.

28.12.77

sd/-

Ch. Charan Singh
Some respected citizens of this country issued a signed press release of their letter to the Prime Minister Smt. Indira Gandhi. The father of Justice Rajinder Sachhar, former Chief Justice of Delhi High Court, addressed the letter to Mrs. Gandhi. High Court. Some of the important paragraphs from that letter which was as under:

Letter from Shri Bhim Sain Sachhar and others (former Chief Minister of Punjab letter dated 23rd July 1975).

Must the monster of fear devour us again, the monster for the annihilation of which our beloved Pandit Jawaharlal Nehru had sacrificed his all – his riches, his comforts, his parents and even the dearest deity of his heart. He held fear to be enemy No. 1 of India’s destiny. It is well to seek fresh inspiration from his memorable words:

“This greatest gift for an individual or a Nation, so we had been told in our ancient books, was abhaya (fearlessness), not merely bodily courage but the absence of fear from the mind. Janaka and Yajnavalka had said, at the dawn of our history, that it was the function of the leaders of a people to make them fearless. But the dominant impulse in India under British rule was that fear pervasive, oppressing strangling fear; fear of the army, the police, the widespread secret service; fear of law meant to suppress. It was against this all-pervading fear that Gandhi’s quiet and determined voice was raised: “Be not afraid”.

The present situation looks every citizen in the face enquiringly and the old surviving freedom fighters in particular. We must respond to the call. Accordingly we propose, with effect from 9th August, 1975 and regardless of consequences to ourselves, to advocate openly the right of public association and freedom of the Press, for discussing the merits and demerits of the Government arming itself with extraordinary powers. The intention is not to embarrass authority or to cause any unnecessary stir. Our self-suffering will
just be an humble offering at the foot of the Motherland, in the breaking of
whose chains we had been privileged to play our small part inspired by the
mighty lead of the Father of the Nation.

Sd/- (1) Bhim Sen Sachhar
(2) S. D. Sharma
(3) J. R. Sahni
(4) Vishnu Dutt
(5) Kishna Lai Vaid
(6) Sevak Ram
(7) K.K. Sinha
(8) K. Sharma

20, Tughlak Crescent,
New Delhi-11
A-312, Defence Colony
New Delhi 24
Adhyatma Sadhana Mandra
Chattarpur Road Mehrauli)
New Delhi 30
WZ 1282, Nangal Raya
New Delhi 46
Najafgarh, New Delhi 43
New Delhi 24
B-79, Neeti Bagh
New Delhi 49
B-999, Shastri Nagar
Delhi 52

Immediately after the letter was addressed, all the signatories were
arrested and detained under MISA.

Letter of Mrs. Subhadra Joshi's the then M.P. from Chandni Chowk
Parliamentary Constituency to Prime Minister Indira Gandhi on 24th April
1976 is reproduced as under translated from Hindi to English.

Dear Indira Ji,

A long time ago I had sought time from you to talk to you and tell you
about the Congress and our organisation.

Much has happened since then. Perhaps you did not have the time, or
perhaps you did not want to know what happened. I am surprised.
What has happened in Turkman Gate and Jama Masjid is difficult to describe. Nothing in the past or the future can compare with it. And how needless, unnecessary it all was.

You have handed over Delhi and Delhi's Moslems - whose, houses we had guarded in the dead of night and who we had comforted to a few officers and some racketeers whose intentions and sanity you would yourself doubt if you knew the facts.

One Hindu officer has said "When our men came to know this was a Moslem block, they came down to such brutality that I personally had to run to rescue men, women and children from their hands.

The officials, hospital workers and even policemen are suffering at the hands of these people. You can well imagine the plight of the common people. Many have fled to Uttar Pradesh and Bihar. They must be telling about the happenings in the capital. Their talk will be more dangerous especially because the newspapers are censored. What will the foreign press, especially of Islamic countries, say.

I hear tomorrow it is the turn of Serai Khalil, Panditji (Jawaharharlal Nehru) and you have been especially kind to this place.

Jamil Tamb, the famous poet and Congress worker, has been thrown into goal. There are small industries in every house here. The scheme was to settle the people at the same place; I do not know what the new rulers of Delhi are planning to do. That area can be redeveloped in two phases if some official does not want to take a sadistic pleasure in sacking it.
You know the people of the area yourself.

That you will do something, the hopes are diminishing, but still it is my duty to raise my voice. It is coming from my heart. Because it is man’s nature to hope and to keep on hoping. I have written this letter so long. People at the top are a little hard of hearing.

Yours
Subhadra

**Misuse of Powers during Emergency:**

The Calicut Regional College student Mr. P. Rajan died in unlawful police custody at Kakayam police Camp on March 2, 1976, as a result of continuous Police torture with iron and wooden rollers. This was admitted in the returns filed in the form of affidavits by respondents, including the former Chief Minister, Mr. K. Karunakaran, before the Division Bench of the Kerala High Court.7

Counsel after counsel expressed the fear that during Emergency the executive may whip and strip and starve the detenu and if this be our judgement even shoot him down. Such misdeeds have not tarnished the records of free India and I have a diamond bright, diamond hard hope that such things will never come to pass.8

Furthermore, we understand that the care and concern bestowed by the State authorities upon the welfare of the detenus who are well-housed, well-fed and well-treated, is almost maternal.9

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7. The Times of India, May 24, 1977
8. Per Chandrachul J., in A.D.M. Jabalpur v. Shiva Kant Shukla, AIR 976, SC 1207
The powers of detention cannot be left to the assumed fair exercise of power by competent authorities. Even the judiciary fell into error when the Supreme Court in a habeas corpus case observed:

"In view of the Presidential Order dated June 27, 1975, no person has locus standi to move any writ petition under Article 226 before a High Court for habeas corpus or any other writ, or order or direction to challenge the legality of an order of detention on the ground that the order is not under or in compliance with the Act, or is illegal or is vitiated by malafides factual or legal or is based on extraneous consideration."\(^{10}\)

Nani A Palkhiwala - Opposes Emergency:

Nani A Palkhiwala was the Counsel of Mrs. Indira Gandhi and he argued her case *Indira Gandhi v. Shri Raj Narain* and obtained a conditional order from the Supreme Court against the judgement and order of Allahabad High Court. Later he returned the brief of Mrs. Indira Gandhi and did not argue her appeal before the Supreme Court. He had written an article on the Proclamation of Emergency in this country which is being produced as under:\(^{11}\)

"The Allahabad High Court had, in the month of June 1975, decided that the election of Mrs. Indira Gandhi to Parliament should be set aside. This meant that she would cease to be a member of Lok Sabha. With a potential risk to her Prime Ministership, Mrs. Indira Gandhi filed an appeal in the Supreme Court.

Her application for interim relief was argued by me on June 23, 1975. Justice Krishna Iyer heard the application and passed the order of interim relief on the next day. The interim order was that pending the hearing and final disposal of the appeal. Mrs. Gandhi could continue to sit in the Lok Sabha and participate in the proceedings in that House like any other member, and could also continue to be the Prime Minister of India. The

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10. AIR 1976, SC 1207
11. Indian Express, 25 June 1995
evening of that very day (June 24, 1975), I saw Mrs. Gandhi at her residence and told her that the interim order was very satisfactory and she should not worry about the case since the judgement of the trial court did not seem to be correct on the recorded evidence.

On the plane which I boarded to return to Bombay, I had a strange encounter which can be explained on the basis of preordination or precognition. You may call it clairvoyance or by any other name. I have related this meeting in the introduction to my book “We, the Nation”.

To my great surprise, the Emergency was declared on the night of June 25, 1975 (It continued till the late hours of March 20, 1977). I would like to bring to the surface of my mind some of the recollections of those 21 months of suffocation, formally called the “Emergency”, which are indelibly etched in my memory.

On the twentieth anniversary of the Emergency, let me, first of all, reiterate the nation’s gratitude to the men who suffered in diverse ways and whose sacrifices made the restoration of freedom possible.

The first name which springs to my mind is that of Jayaprakash Narayan. Not since the time of Gandhiji, has moral force-personified by a frail individual – triumphed so spectacularly over the forces of evil. He changed decisively the course of history. One life transformed the destiny of hundreds of millions.

It was Jayaprakash who talked of “total revolution”. He wanted to shake the people out of their apathy and lethargy and make them realise that they are the inheritors of resplendent heritage which holds them together, despite their differences in caste and creed, region and language. I had the good fortune to have a long chat with him in Delhi before he administered the pledge at Rajghat on March 24, 1977 to the Members of Parliament “to uphold the inalienable rights to life and liberty of the citizens of our Republic.”

Unfortunately, Jayaprakash passed away in October, 1977 and India has remained without true leadership since then.
Only next to Jayaprakash, I would place Rammuth Goenka as the most feared opponent of the Emergency.

Most newspapers, like most people, capitulated. The two national English papers which stood up were the Indian Express and the Statesman.

Every newspaper had a Censor installed in the office who masqueraded as the editor and decided what should or should not be published. I vividly recall the day, early in the Emergency, when Mr. V.K. Narasimhan, the Editor of the Indian Express, had written an editorial which the Censor did not allow to be published. Mr. Narasimhan, with the concurrence and support of Ramnathji, published the paper with the space for the editorial left blank, so that the discerning reader might understand what was happening in the newspaper world.

During the Emergency, I used to meet Ramnathji off and on. And I can say quite truthfully that I have never met a proprietor of a newspaper who had the courage and the public spirit of Ramnathji. He was a dedicated citizen who used his enormous power, as the proprietor of a national newspaper, for what he believed to be the good of the country. He acted on his conviction that the press should never be a poodle of the establishment, but should act as the watchdog of democracy. He believed that a courageous and independent press is the noblest servant of society, along with a courageous and independent judiciary.

Ramnathji was against any form of tyranny by the state. He always adhered to the unshakable belief, which he shared with Bernard Levin, that barbed wires will rust, stone walls will crumble, and the tyrant's club will shatter in his first.

During the 21 months of the Emergency, when most papers and journals capitulated, Ramnathji asserted his independence at colossal personal cost. The Government launched innumerable criminal prosecutions against him and his companies in different courts of India; but he faced the onslaught with terror-like tenacity.

To the best of my memory, about 166,000 persons were detained without a trial in different parts of India for an indefinite period. Even their close relatives were not told about the place where they were detained. The
people detained without a trial included prominent figures like Jayaprakhas Naraya, Morarji Desai and Kuldip Nayyar – and the humble and nameless who will never be known to the roll-call of honour. A hundred thousand petty tyrants mushroomed all over the country.

I come to the next question. What has happened before – can it happen again? The answer is – undoubtedly yes.

No period in the history of our Republic is of more educative value than 1975 to 1977. George Santayana said “Progress far from consisting in change, depends on retentiveness. Those who cannot remember the past are condemned to repeat it”. If our basic freedoms are to survive, it is of vital importance that we remember the happenings during the Emergency when the freedoms were suspended

Countries which were integral parts of India in the days gone by – Pakistan, Bangladesh and Burma (Myanmar) – have gone through periods of authoritarian rule; and so have highly advanced countries like Germany which had a Constitution which guaranteed freedoms of the type we still enjoy today. (Hitler amended the German Constitution just as Mrs. Gandhi did in India and deprived the people of their freedoms).

Self-knowledge would dictate that we recognise three defects in our national character – lack of discipline and public spirit, lack of sense of justice and fairness, and lack of a sense of moderation and tolerance. It is these three defects in our character which made a cultured Prime Minister like Rajiv Gandhi say publicly, more than once, that he would not hesitate to reimpose the Emergency if the circumstances demanded such a course of action, although it must be said to his credit that during the dark days of the Emergency, he kept himself totally aloof from the tyranny which stalked the land.

The danger of a re-imposition of the Emergency is greater for a country like India where the society is feudal and caste ridden. I do not think casteism was ever more pronounced in the history of our Republic than during the recent past.

Today, India presents a picture of a great nation in a state of moral decay. The noble processes of our Constitution have been trivialised by the power-holders, the power-brokers and the power-seekers. Elections have been
reduced to a horse race by contesting politicians—the difference being that
the horse is highly trained.

When we look around India today, we can hardly recognize it to be the
same country in which a dozen different civilizations of incredible nobility
flourished over the last 50 centuries. This is the only country known to
history where men of knowledge and learning had precedence over kings.
What a sad contrast between Sri Aurobindo’s vision (Mother India is not
a piece of earth, she is a Power, a Godhead) and the cesspool of degradation
to which professional politicians have reduced this country.

I should like to reaffirm my firm conviction that it is not the Constitution
which has failed the people, but it is our chosen representatives who have
failed the Constitution. Dr. B.R. Ambedkar poignantly remarked in the
Constituent Assembly that, if the Constitution which was given by the
people unto themselves in November 1949 did not work satisfactorily at
any future time, we should have to say, not that the Constitution had
failed, but that man was vile.

On June 25, 1975, along with the already existing external Emergency,
internal Emergency was declared and the provisions of MISA were used in a
most ruthless manner against the political opponents of Indira Gandhi. The
total picture of what happened during Emergency will not be and cannot be
obtained.

But even what has come out is revolting and awe-inspiring. It has been
found out that at the instance of the Prime Minister and her son, hundreds
and thousands of people were arrested without following even the norms laid
down in MISA. If any magistrate demurred in issuing warrants of arrest, he
himself was threatened with arrest under MISA. Amnesty International, in its
report of 1977, has this to say about India at that point of time:
"The MISA and the Defence of India Rules in particular, had been used extensively to detain peaceful opponents of the Government after the declaration of National State of Emergency on June 26, 1975. On June 26, 1976, the first anniversary of the declaration of the State of Emergency, Amnesty International made a public appeal to the Indian Government to mark the occasion by declaring a general amnesty for the at least 40,000 political prisoners, who, the organisation estimated, were being held without trial. On February 20, 1977, Defence Minister Bansi Lal stated that 'no political persons were in jail', but in early March, the Janata Party claimed that as many as 30,000 political prisoners were still being held in various parts of the country. Official Government statistics published after the new Government took over showed that on March 19, 1977, 17,754 political detainees were still being held under the Preventive Detention provisions of the MISA alone. These figures exclude an unknown but large number of political prisoners then held under the Defence of India Rules.

"More and more reports that political prisoners were being ill-treated in detention or tortured after arrest, reached Amnesty International from all over India during 1976. The organisation received a signed statement about treatment after arrest from Jasbir Singh, one of three students from New Delhi, who was arrested on June 23m 1976, and said he had been beaten for five days after arrest in order to force him to confess to having engaged in subversive activities. He had been made to swing from a pole, to which his hands and feet were tied, as a result of which he started vomiting blood. Another well-documented case reported was that of Lawrence Fernandes,
who was seriously beaten for several days, threatened with being killed and
deprived of food for three days if he would not disclose the whereabouts of
his brother George, who was in hiding. According to his mother’s signed
statement, she found him on May 26, looking dead, unable to move as a result
of beatings by the police. His left side is without use as if crippled and both
his left leg and hand are still swollen’.

Kuldip Nayar\textsuperscript{12}, who to prison during Emergency, gave a description
of tortures inflicted on political prisoners during Emergency. To quote from
his book “The Judgment” –

“Tortures of various types were carried out – stamping on the bare body
with heeled ‘ammunition’ boots; severe beating on the soles of feet;
rolling of heavy police lathis over shinbones, with a constable sitting on
the lathi; making the victim crouch for hours in a fixed position; beating
on the spine slapping both ears till the victim lost consciousness; beating
with the butt of rifle; inserting live electric wires in the crevices of the
body; stripping and making satyagrahis lie on slabs of ice, burning the
skin with cigarettes or wax candles; denying food, water and sleep, and
making the victim drink his own urine; suspending him in the air with
his wrists tied at the back and putting him up s an ‘aeroplane’. (The
victim’s hands were tied behind the back with a rope which was taken
over a pulley attached to the ceiling and the victim was pulled up a few
feet above ground. He thus dangled in midair, hanging from his hands,
tried at the back).

“All this was done systematically – a team of ten to twelve constables
would encircle a detenu and try one type of torture or the other. If it left
visible marks on the body or affected the prisoner’s physical condition,
the police did not produce him before a magistrate for fear of reprimand.
If a search warrant was issued, the police would shift the victim from

\textsuperscript{12. Mainstream. November 1979}
station to station. MISA came to the authorities rescue since no judicial relief was available to those arrested under it."

Paradoxically, the highest Court of the land hearing a habeas corpus petition gave an astounding judgment on April 28, 1976, declaring that habeas corpus was not available to citizens of this country during that period. The judges did not stop at that. In spite of affidavit after sworn affidavit brought before them by responsible counsel indicating brutal torture of detainees, Y.V. Chandrachud, the then Chief Justice of India, wrote in his judgment Counsel after counsel expressed the fear that during emergency, the executive may whip and strip and starve the detenu, and if this be our judgment, even shoot him down. Such misdeeds have not tarnished the record of free India and I have a diamond bright, diamond-hard hope that such things will never come to pass.