

**SUBMITTED BY: FARHEEN KHAMAR
2ND SEM MAJ, REG NO. 22MARMC007**

Shri M.C. Chagla delivered a speech while inaugurating the All-India Civil Liberties Conference held in Ahmedabad on 12th December, 1975 under the auspices of the "CITIZENS FOR DEMOCRACY." The conference was presided over by Shri J.C. Shah, a former Chief Justice of the Supreme Court of India.

As M.C. Chagla speaks in light of the Emergency that was imposed on India by the Indira Gandhi Government, he brings about many ideas of democracy and how the Emergency has contradicted it. First, he speaks about the birth of a revolution and how a revolution is sparked by the birth of certain ideologies and slogans. Where the American Revolution fought to keep the 'inalienable rights to life, liberty and the pursuit of happiness', the French Revolution fought to keep 'liberty, equality, and fraternity'. In the Indian context of getting independence, and forming our own self-governed country, the Preamble boasts of 'a sovereign, democratic, socialist, republic'; which means this is the foundation of our nation, and what it strives to be, and Chagla brings special emphasis on the word, 'democratic'.

When the Americans declared independence, what it meant was to have a government that could uphold its ideals of 'inalienable rights to life, liberty and the pursuit of happiness', and any government that was not able to would simply be replaced with one that could. This is at the basis of democracy, the rule of law that must be upheld, as opposed to the rule of man. It is a democratic right to remove the government from power, and the precedents to the Emergency indicated that there were justifiable grounds for the removal of the government. Yet, the Emergency was imposed in what the Prime Minister's government justified as action against the 'internal disturbance' of the country.

Chagla mentions that no evidence was produced by Indira Gandhi against any such conspiracy going on, that made a complete 'deadlock of the country'. And yet opposition leaders were put in jail, the press was censored and people were deprived of their civil liberties. The foreign publications that referred to India as the 'largest democracy', had lost its democratic values, observed Chagla. This combination of suppression and justification became a pattern of Gandhi's rule. On October 27, 1975, a TIME Magazine article pointed out: "Despite New Delhi's undeniable lurch toward totalitarian rule and its suspension of certain civil liberties, India remains, strictly speaking, a democracy. Mrs Gandhi's harsh effort to suppress political opposition shocked observers outside India, but she did act within the bounds of India's rather pliable constitution. Even though some 30 opposition members are in jail or under house arrest, Parliament continues to function." Though the form seemed intact, this democracy was far from liberal: the article continues, "...political debate in India has been effectively silenced. Newspapers have become dull and predictable, and people seem reticent about discussing

controversial matters in public. From the beginning of the Emergency, much of the government's anger has been directed at the press.”

Chagla also points out the nature of this flaw; that the Emergency was non-justiciable legally but not politically, and that his speech was also political in this way. He also brings light on the civil liberties of freedom of speech and thought, which allows one to criticize the government. But the censorship that the government had imposed was not based on reasonable restrictions, but rather a unilateral one. And a government that does not allow dissent, will not know where it is going wrong. Liberty, says Chagla, prevails only in the event of a free press and an independent judiciary.

Although a situation like the Emergency is less likely to happen today, we can still draw lessons and parallels from history to the present context. In India, the World Press Freedom Index which shows the state of journalism in over 180 countries, shows how India has fallen several places over the years. In 2021, India held the 142nd position, which fell eight places down to 150th in the year 2022. Currently, in 2023, India holds the 161st place in the World Press Freedom Index. In 2023, India marked the end of media pluralism according to the report of 'Reporters without Borders' (the organization that releases the World Press Freedom Index report annually), when NDTV was bought by the Adani group. Additionally, when the biggest financial scam of the Adani group was exposed by the Hindenburg Research Corporation, there was little to no coverage of it in Indian newspapers. These are characteristics of a press that has concentrated ownership with the state and other powerful figures in the country. Therefore, even if there is no unilateral censorship, the press that is dependent today finds itself in a similar state of affairs.

Chagla mentions that the government believed itself to be omniscient, which is a big flaw in a democracy. A constitutional dictatorship was far worse than a dictatorship, he observed. The constitution has powers and a democracy is a rule of law. A constitutional dictatorship is ironic in a way that it is the rule of man, and the constitution is reduced to an adornment. The Congress Party President of that time had even declared 'India is Indira, and Indira is India'.

In similar circumstances today, the current Prime Minister has been idolized by his supporters to the point that any criticism against him becomes criticism against India, and would gain one the brand of being 'anti-national'. Even publications that are critical of policies, or actions of the government are seen as 'anti-national' and not knowing any better in the grand scheme of things that is the 'omniscient' government.

A recent example of a case that swayed the political landscape of the country is that of the dismissal of Rahul Gandhi as a Member of Parliament because of a defamation case. The law is that any elected representative that is sentenced to prison for a period of two or more years is subject to immediate disqualification. The background of the case goes as follows: BJP MLA Purnesh Modi was offended over the remark Rahul Gandhi made in 2019 in an election campaign near Kolar, Karnataka where he said, "Nirav Modi, Lalit Modi, Narendra Modi...how come they all have Modi as common surname? How come all the thieves have Modi as the

common surname?" and therefore he filed a defamation case. It is interesting to note that for any defamation case, there must be evidence of the personal damage caused. Additionally, it was not determined whether the statement was directed to a group of people or individual people and consequently, whether all were affected by the statement or not. Without consideration for such intricacies, the verdict had been given. This shows how serious it can get when the Prime Minister has been criticized, even when it is a Member of Parliament that has been involved. On the other hand, it is argued that as an MP he must have been more careful with his choice of words given his mass influence.

As Chagla draws a lot from Gandhian philosophy in his speech, he once again reinforces that the Emergency is not justified because 'the ends do not justify the means' -Gandhi. For a nation that was built on the freedom struggle, even then Gandhi followed the principle of non-violence and a means that would not 'contaminate' the purity of the outcome. This philosophy can be applied to many situations in the recent context; for example, during the CAA-NRC protests that took the whole nation by storm, the right to protest was sometimes prevented by the imposition of Section 144 in various cities. The right to protest is not unlawful, and many journalists, students, and activists were jailed in the process.

Chagla concludes that the country has survived thousands of years through invasions and other circumstances, and in the end, it is public opinion that holds the most power. Even under situations of unilateral censorship, Chagla maintains that public opinion can prevail and word of mouth can spread, and collective consciousness can be built to bring the necessary changes the country needs. This holds true even in today's context. If public opinion can be swayed in the right direction and if the public has access to the right sources of information, it would make the constitution and country ever more powerful; for the true power of democracy lies with the people. And the government has to be more about governance and less about government.

References and Research:

<https://www.tandfonline.com/doi/full/10.1080/13602004.2021.1997274>

<https://scroll.in/article/986204/ambivalent-to-the-core-how-the-judiciary-capitulated-or-resisted-during-the-emergency>

https://www.livelaw.in/pdf_upload/justice-d-y-chandrachud-mc-chagla-memorial-lecture28082021watermark-399518.pdf

<https://abhinemani.medium.com/the-emergency-in-india-a-democratic-diagnosis-c23dc8bfc5f2>

<https://www.nytimes.com/1975/06/27/archives/speech-and-proclamation.html>

<https://www.dailyo.in/politics/1975-emergency-indira-gandhi-june-25-black-day-of-democracy-freedom-of-speech-narendra-modi-bjp-25098>