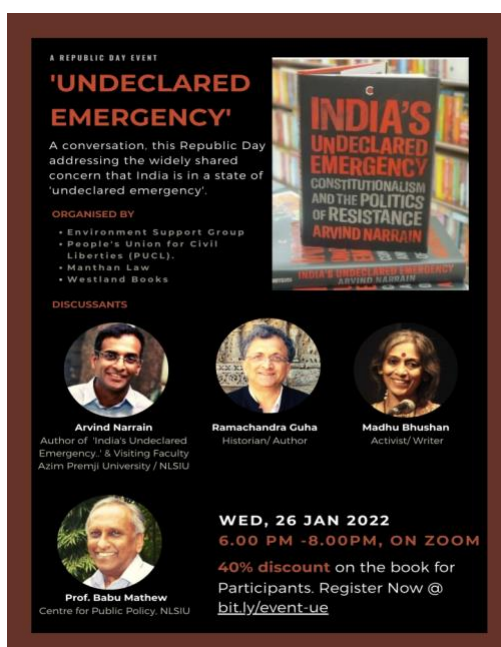


A Conversation on the Current State of ‘Undeclared Emergency’

On the occasion of the 73rd Republic Day of India, 26th January 2022

Organised by

Environment Support Group, People's Union for Civil Liberties (PUCL),
Manthan Law and Westland books



Environment Support Group in collaboration with Peoples Union for Civil Liberties (PUCL), Manthan Law and Westland books organised a conversation on the occasion of the 73rd Republic day of India on 26th of January 2022 on the theme '[India's Undeclared Emergency](#)'¹. Mr. Arvind Narrain visiting faculty at Azim Premji University (APU) and National Law School of India University (NLSIU) who has recently authored "*India's Undeclared Emergency: Constitutionalism and the Politics of Resistance*" (published by Westland Books), renowned historian and author of various books on political history of India Mr. Ramachandra Guha, social activist Ms. Madhu Bhushan and Prof. Babu Mathew of Centre for Labour Studies, NLSIU. Ms. Bhargavi Rao and Mr. Leo Saldanha of Environment Support Group moderated the event. Over 200 participated via Zoom and ESG Facebook Live. (Video links at the end of this report)



(Left to right) - (Top Row) : Prof. Babu Mathew, Ms. Bhargavi Rao, Mr. Arvind Narrain
(Bottom Row) : Mr. Leo Saldanha, Prof. Ramchandra Guha, Ms. Madhu Bhushan

Following a warm welcome by Bhargavi, in which she thanked all the paenlists for their intuitive and ready response to invitations to participate, Leo set the tone saying it is indeed encouraging to witness how people of India have stood up time and again against new laws and policy efforts that repress

¹ <https://esgindia.org/new/events/indias-undeclared-emergency/>

fundamental freedoms, are discriminatory and make some into second class citizens or non-citizens, and affect the overall quality of liberal democracy. Even though “*Everyone feels stymied.*”, he said the ‘spirit of India’ is alive and kicking as was witnessed with the massive public opposition to the implementation of Citizenship Amendment Act, the Farm Laws, and several other such controversial moves. The efforts of the police to take away this Right of Protest has been resisted peacefully despite horrific efforts to crush such democratic resistances.



Arvind Narrain discussing reasons for writing ‘India's Undeclared Emergency’ drew parallels between the 1975 Emergency and the current state of affairs in India - which he described as an undeclared state of emergency - indicative by the widespread use (or abuse) of the Unlawful Activities Prevention Act by agencies such as the National Investigation Agency (NIA). The arrest of thousands across India by NIA in what appear to be unfathomable charges under UAPA, thereby spreading a climate of fear in the general populace, harkens back to the political situation when Emergency was imposed during 1975-1977. While there was a ‘sullen and not enthusiastic’ response to the Emergency, the current situation is more challenging given widespread support for authoritarian rule.

Narrain calls to attention the resistance in the Judiciary during Emergency, particularly indicated by the extraordinary dissenting order by Justice H. R. Khanna in ADM Jabalpur case in holding the regime accountable, in contrast with current times when the judiciary appears to be compliant to the totalitarian regime. This is also evident from the negligible grant of bail to those accused by NIA and other such agencies and the lack of acquittals, a result also of the extreme lethargy in bringing such political cases to trial. He emphasised how totalitarian regimes are founded in a climate of alienation and isolation, a state where an individual feels like that “nothing they do can make any meaningful difference”. The regime in power purposefully creates such conditions to make people feel that their protest will have no historical significance. Therefore, as a political society there needs to be a sense of coming together to overcome this loneliness and isolation, to elicit and promote diverse voices. It's about telling people's stories and remaining vocal that resistance stays alive to emergency situations, he concluded.



Ramachandra Guha generously congratulated Arvind for writing the book and said his favourite takeaways were from chapters where the parallels between *The Modi Era* and *Slouching Towards a Totalitarian Future* are analysed. He found analogies between the 1975–1977 emergency and the current state of undeclared emergency, especially in how the role of Sanjay Gandhi then and Amit Shah now can be compared as equally pivotal supporting roles to the rulers, then Indira Gandhi and now Narendra Modi. The difference though is that while Indira Gandhi and the Congress controlled virtually all of India during the emergency, that is not the case now: several parts of India are now controlled by BJP.

The extraordinary celebratory resistances that have grown in recent years against the prevailing undeclared emergency, such as the youth movements, farmer’s movements, and Anti-CAA movements, has revitalised Indian democracy and established a sense of hope even in times of political despair and the pandemic. However, as we have seen in many instances in history, he argued, it is vital to find ‘viable’ political opposition to bring about structural and fundamental change.

Guha described Jayaprakash Narain’s leadership against Emergency as “*A figure of Charisma, credibility, integrity, with a heroic political past unsullied by any kind of family association of corruption is not there*”, which is altogether missing now, he said. Yet, like the electoral defeat that brought down the first authoritarian regime, “*To restore constitutionalism in India, in the*

broadest sense” in the current times, “*this regime will have to be defeated at the ballot box*” he concluded.



Madhu Bhushan focussed her response on how Arvind draws comparisons between the prerogative and normative state. She also drew parallels to how women, especially those in marginalised communities, have been suffering from emergency, either that which is imposed by the family through widespread patriarchy or by the State. Thus, she argued that merely a change in regime at the level of the State is insufficient to root out the ideology of totalitarianism and authoritarianism, and that “several revolutions of love and solidarity” are essential for freedoms to fundamentally seep into every nook and cranny of our socio-political situation. She pointed out the book not only manages to help understand “*the state of undeclared emergency that we’re living*

in” but also highlights how to deal with this situation and resist it.



Babu Mathew said that the book presents a detailed analysis of the different types of laws present during the period of the 1975 Emergency, and the current state of undeclared emergency. In that sense it is an excellent critique of constitutional crises and encourages everyone interested in constitutionalism to grasp Arvind’s excellent analysis. He elaborated upon the need of totalitarian regimes to have ideological support and argued that the same is provided to the current regime by the Rashtriya Swayamsevak Sangh (RSS) which forms a mobilising base encouraging the State to go beyond its constitutional limitations. He also touched upon the influence over the judiciary by Hindutva ideologies and pro-corporatism. He highlighted that the 1975–77 Emergency must also be acknowledged as a

period when several major pro-labour reforms were implemented, including the Bonded Labour System (Abolishment) Act, 1976; the Family Pension Scheme, 1976; the Employees' Deposit-Linked Insurance Scheme, 1976; and also the Beedi Workers Welfare Fund Act, 1976. Besides, the idea of granting 8.33% of monthly wages as bonus to workers, which in effect added an extra month’s wages, was amongst the most pro-worker schemes enacted in free India, but came during the Emergency. Thus, the period of Emergency has a chequered history, though for the large part it was a period when all fundamental rights were snuffed out and thousands incarcerated merely for speaking up their point of view, which predominantly was against the ruling dispensation.

{The unedited recording of the conversation is accessible at: <https://youtu.be/xMybuB1CNAM> and <https://www.facebook.com/groups/esgindia/permalink/10166013818860254/> }

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[Note: Westland Books has announced a 40% discount on the cover price of Arvind Narain’s book. To avail which please write to: tamrita@amazon.com]