



Tamil Information Centre

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Sri Lanka: More Government Measures Necessary to Establish Democracy and Accountability

The Tamil Information Centre (TIC) welcomes the 25 August announcement of President Mahinda Rajapaksa that the State of Emergency will not be extended when it comes up for renewal before the Sri Lankan Parliament in September 2011, resulting in the termination of all Emergency Regulations. The TIC, along with several civil and human rights agencies within and outside Sri Lanka, has been campaigning against this draconian national security legislation which was used to silence critics and dissenters.

Sri Lanka has been ruled under emergency for a considerable proportion of its modern history - more than 35 years out of 63 years of independence - which has permitted serious violations by successive governments of the rights protected under the International Covenant on Civil and Political Rights (ICCPR) and other international human rights instruments. Emergency Regulations (ER) issued by the President, have the legal effect of overriding, amending or suspending any law, except the provisions of the Constitution. The declaration of Emergency cannot be called into question in any court and there is insufficient parliamentary control over the ER. The ER have been almost exclusively used against the Tamils. Thousands of Tamils were arrested each year and detained and a large number of Tamils are still in detention under the ER.

The ER allow criminalization of peaceful activities protected under domestic and international law. The ER also grant powers to state officers to acquire any property, including buildings, vehicles and machinery and force anyone to perform any work, order people to move out of areas, confine and impose restrictions on people. Arrested persons may be held for long periods without judicial oversight. The ER give immunity to state officers who commit wrongful acts when implementing the regulations. They allow confessions to the police admissible as evidence in court and erode powers of the courts in relation to deaths in the custody of the security forces.

The removal of emergency is an important step forward, but the government still has the repressive Prevention of Terrorism Act (PTA) at its disposal, which provides wide powers to the security forces. It may be recalled that when ER lapsed in July 2001 as a consequence of Parliament being prorogued, the Sri Lankan government immediately began introducing harsh regulations under the PTA.

The PTA was introduced as a temporary measure in 1979 but has become a permanent feature of the statute book. Evidence shows that since its introduction the PTA has also been used almost exclusively against the Tamils. The Act permits arrest without warrant or assigning any reason, detention of suspects for up to 18 months without being produced before court or trial or access to relatives and legal representatives. The Defence Minister's detention order is final and

cannot be called into question in any court or tribunal in any manner. Under the Act, security forces can enter and search premises without warrant or assigning any reason. It also allows restriction orders on a person's rights on residence, employment, travel and association. The PTA allows an investigating police officer the right of access to a person in custody and the right to take such person to any place for the purpose of interrogation without the presence of a legal representative and from place to place for the purpose of investigation. The law removes the discretion of courts to grant bail.

Like the ER, the PTA also allows confessions to the police admissible as substantive evidence in court, places the burden of proof that any statement is irrelevant on the accused and suspends the relevant provisions of the normal law. This has led to widespread, systematic and institutionalized torture in order to extract confessions.

The law grants immunity to the security forces by providing that no prosecution shall lie against officers for an act done in good faith in pursuance or supposed pursuance of any order or direction made under the Act. Such grant of impunity has resulted in grave violations of human rights such as torture, extra-judicial executions, rape and enforced disappearances.

The TIC believes that more need to be done in the interests of democracy and accountability in Sri Lanka, and calls upon the Sri Lankan government to take the following measures without delay:

- **Release a list of people detained under the ER and PTA;**
- **Either charge, expedite trials or release those who have been detained under the ER and PTA;**
- **Repeal the 18th Amendment to the Constitution, which has abolished term limits on the executive presidency and removed the restraints on presidential power established by the 17th Amendment, to preserve democracy and sovereignty of the people, and prevent authoritarianism;**
- **Bring to an end the role of military and the defense establishment in civilian life and civil administration; and**
- **Repeal the Prevention of Terrorism Act and re-establish the rule of law.**

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