

Civil Society Position on the Declaration of State of Emergency

We, the undersigned, as citizens and members of Civil Society write to express our grave concern on the President's decisions to declare a State of Emergency under Section 2 of the Public Security Ordinance in Sri Lanka.

Ostensibly, the State of Emergency was declared to ensure the Public Security and well-being through the maintenance of supplies and services essential to the life of the community in view of the prevailing health emergency situation in Sri Lanka in the context of the COVID – 19 pandemic. The President has expressed the views that he intends to stop hoarding, profiteering and the maldistribution of supplies. The President is in denial that the price of basic food is rapidly rising making it unaffordable for the general public. Furthermore, the haphazard decisions on importing and then restricting basic essential have contributed to this plight. We also cannot deny the fact that Sri Lanka faces looming food security challenges due to restrictions with imports due to depleting foreign exchange reserves that will prevent the import of food, leading to a food shortage. This is widely discussed and expected.

Sri Lanka is facing a financial crisis independent of the pandemic. Profligate spending by governments for decades has contributed to this and during the pandemic the robust printing of currency has in effect devalued the value of the rupee in relation to the US dollar. The cost of food is sky-rocketing. Lack of foreign currency reserves within the formal banking sector and rising black markets for foreign currencies have created panic among the importers, exporters and traders too.

The import and sale of food must also be reviewed in the context of several whimsical policies proposed and implemented by the government that have created artificial shortages and price hikes. Most memorable of these are the sudden bans on the import of turmeric, black gram (uludhu – basic staple for the Tamil community) and chemical fertilisers and the sudden lowering and then raising of taxes on the import of essential items such as sugar and onions. These measures are widely understood to have benefitted a cabal of crony capitalists.

In this context, the President's decision to declare a state of emergency and specifically invoke the Emergency (Provision of Essential Food) Regulation, No. 1 of 2021 published in Gazette 2243/3 dated 30th August 2021 is viewed with scepticism. Although the declaration of emergency appears to focus on stabilising food distribution, the declaration of a State of Emergency, gives the President wide powers with only limited checks and balances.

With the declaration of a State of Emergency on 30th August 2021, the President is now able to promulgate Emergency Regulations dealing with **any subject at any given time**. Given Sri Lanka's long history with emergency, other security related laws and its deeply ingrained legacy of repression, this declaration of emergency raises serious concerns.

What more does the President require by way of extraordinary powers to provide effective leadership during the pandemic? The President came into office on 16 November 2019 with a strong vote of confidence from the public, garnering 6.9 million votes. He was supported in Parliament with a base of 145 seats. Despite this, and while the country was in the throes of the pandemic, the President and Parliament invested much political energy to pass the 20th Amendment to the constitution to give the President additional powers and to remove constitutional safeguards to the use of executive powers. With these powers, the President proceeded to make key appointments forgoing the opportunity to build bipartisan consensus with the opposition. Senior posts in the public service have been filled by retired members of the armed services. The Covid-19 task force is dominated by military personnel and members of key professionals from the medical profession and the public administration

have been side-lined, making them serve as implementers rather than as policy and decision-makers.

The government has refused to invoke the Sri Lanka Disaster Management Act No. 13 of 2005 that specifically provides for the management of epidemics as they fall within the ambit of a disaster. This Act provides for the harnessing of many branches of government to develop an inclusive Council that plans to manage and mitigate the effects of such disasters. The preferred approach of the government is however, the militarised response to managing essential supplies.

The president is presently placing food security in the hands of the military. At present the emphasis is on the distribution of special food bulks including rice and sugar. A competent authority may not only seize any essential food items including paddy, rice and any vehicle transporting such items for the purpose of providing essential supplies and services to the public. This is a broad and unfettered power. The military's role in food production in the post-war context and distribution through military-controlled sales outlets has already attracted criticism for undermining local traders and businesses.

While the emphasis of the regulations is on preventing hoarding and facilitating distribution, the public is unaware of the process and outcomes of such actions. What happens to the stocks that are seized? How will the public know what will happen when stores are raided? Will all the seized supplies be given to Sathosa? Will there be a publicly available record of these actions? What are the punishments meted out to the hoarders? Will there be a court proceeding to bring perpetrators to book?

On a close observation of the Regulations, it appears that their purpose is not only limited to the purchase of foods and distributing them to the public. It also applies to the management of 'essential services.' Any perceived disruption to "essential services" from strikes to protests will be addressed as a violation of the Public Security Ordinance.

As the Civil Society Collective, we contest and condemn the view that all aspects of public administration can and should be managed by the military. These attitudes and approaches have sapped the morale of the public service and denuded it of its most talented professionals. It has reinforced a command-control culture that silences citizens and this does not augur well for Sri Lanka's democracy. In fact, this will lead our country towards dictatorial governance and the erosion of parliamentary sovereignty and democratic accountability.

We remind the government and the public that Sri Lanka was governed under emergency regulations for decades and it led to many laws being steamrolled through Parliament without due reflection and debate. The President himself is not lacking in powers to manage the many aspects of life affected. The concentration of powers must point to a concentration of responsibilities and at the end of the day the President and his appointees must explain to the people why Sri Lanka's response to the pandemic has been disorganised, why our rates of infection and deaths are spiking and why people have been left unsupported - without food, necessary health care and basic necessities.

Endorsing

Organizations

1. Rural Development Foundation
2. Law and Society Trust
3. Women Development Innovators

4. Centre for Human Rights and Development
5. Mannar Women's Development Federation
6. Women's Action Network
7. Alliance for Minorities
8. Rule of Law Forum
9. Family Rehabilitation Center
10. International Center for Ethnic Studies
11. Dabindu Collective
12. Anuradhapura District Citizen Committee
13. Rights Now Collective for Democracy
14. SAVISTHRI National Women Movement
15. Women Action for Social Justice
16. Women Centre
17. Mannar Social and Economical Development Organization -(MSEDO)
18. Centre for Equality and Justice
19. The Forum for a Plural Democracy
20. The Women and Media Collective
21. Gender, Social Capital, and Rural Community Development
22. Right to Life
23. The Centre for Society and Religion (CSR)
24. Janawaboda Kendraya
25. Prabathaya Art and Media organization
26. Movement for Land and Agriculture Reforms (MONLAR)
27. People's Alliance for Right to Land (PARL)
28. Women's Action for Social Justice(WASJ)
29. Ceylon Mercantile Industrial & General Workers Union (**CMU**)
30. Muslim Women's Development Trust
31. FIAN Sri Lanka
32. Federation of Media Employees Trade Union
33. RED Organization
34. Uva Shakthi Foundation
35. Suriya Women's Development Centre

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51. Thilak Kariyawasam
52. Anushaya Collure
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