



# **STATE OF EMERGENCY 2019 Q&A**

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**After the tragic events of the 21st of April 2019, President Maithripala Sirisena has declared a State of Emergency in order to address the security situation unfolding in the country. This short document has been prepared by the Centre for Policy Alternatives (CPA) to help understand basic information regarding the state of emergency currently in force.**



# WHAT IS A STATE OF EMERGENCY?

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A clear situation of exceptional threat, danger or disaster where the government can be given powers not permitted during normal times to deal with the threat. A situation like this allows the President to proclaim a state of emergency in order to ensure national security, public order and maintain essential services.



# WHO CAN DECLARE A STATE OF EMERGENCY?

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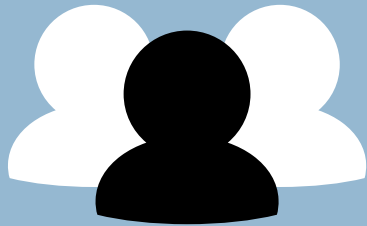
The President has the sole discretion to bring about a state of emergency, by way of a Proclamation (Article 155 of the Constitution). This brings into operation the provisions of the PSO including the power of the President to make Emergency Regulations, which may override any other law. Emergency Regulations cannot override the Constitution. The Proclamation must be communicated to Parliament, which must be summoned for that purpose. A declaration of a state of emergency cannot be challenged in the Courts.



# HOW LONG CAN A STATE OF EMERGENCY LAST?

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The President can issue a Proclamation that is valid for one month (though he may revoke it earlier). Parliament must approve this Proclamation within fourteen days – if it doesn't, then the Proclamation expires. A state of emergency can only be extended by Parliamentary approval.



# **WHAT EFFECT DO EMERGENCY REGULATIONS HAVE ON CITIZENS' RIGHTS?**

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Restrictions to be placed on certain Fundamental Rights and a number of rights stemming from other laws.



# HOW LONG CAN A PERSON BE DETAINED UNDER THE EMERGENCY REGULATIONS?

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Any person can be detained under this regulation for a period not exceeding ninety days from the date of arrest. At the end of that period, he is to be released by the OIC of that place unless such person has been produced before a competent court before the expiry of that period and is detained in a prison established under the Prison Ordinance. (Reg 21(2)) A person can be detained for a maximum period of one year. (Reg 19(1))

**DO THE  
EMERGENCY  
REGULATIONS  
PROVIDE FOR  
ANY  
OVERSIGHT OR  
MONITORING  
OF THE  
REGULATIONS  
BY AN  
INDEPENDENT  
AUTHORITY?**

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No. The regulation does not contain any oversight by an independent authority such as the Human Rights Commission of Sri Lanka

# WHEN CAN A PERSON BE DETAINED UNDER EMERGENCY REGULATIONS?

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The Secretary to the Ministry Defence can order that a person be taken into custody when he is of the opinion that it is required to prevent any person from, acting in a manner prejudicial to national security or for the maintenance of public order and maintenance of essential services or a person is acting in contravention of Regulations 44 or 25 these regulations (Reg 19 (1)). Further, an order made under this provision cannot be called into question in any court on any ground (Reg 19 (10)) Any person detained under 19(1) shall be detained in such a place as may be authorised by the Inspector General of Police and in accordance with instructions issued by him or in a prison established under the Prison Ordinance. (Reg 19 (3))



# **WHO HAS THE POWER OF SEARCH SEIZURE AND ARREST UNDER THE EMERGENCY REGULATIONS?**

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Any public officer or any member of the Sri Lankan Army, the Sri Lankan Navy or the Sri Lankan Air Force or any other person authorised by the President to act under this regulation can search, detain for purposes of search, or arrest without warrant, any person committing/ has committed or is reasonably suspected of committing an offence under these regulations. Further any vehicle, vessel or thing whatsoever used in the commission of the offence can be searched, seized, removed and detained. (Reg 20 (1))

Freedom of  
thought  
and conscience



# KNOW YOUR RIGHTS

Right to be heard  
at a fair trial by a  
competent court

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Emergency Regulations cannot  
restrict the following:

Freedom from  
torture

The burden of  
proof, and  
retroactive  
penal sanctions

The presumption  
of innocence



# KNOW YOUR RIGHTS

Fundamental rights that may be  
restricted include:

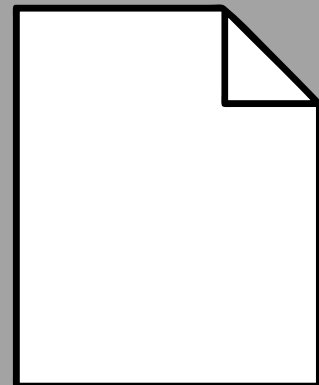
Rights to freedom  
of expression,  
assembly,  
association,  
movement,  
occupation,  
religion, culture  
and language

Equality before  
the law and non-  
discrimination

Ordinary  
procedure for  
arrests & judicial  
sanctions for  
detention

# 2019 EMERGENCY REGULATIONS

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Emergency Regulations have  
been Gazette following the 21st  
April 2019 Easter Attacks

Gazette  
No.  
2120/3

Proclamation by the President invoking  
section 2 of the Public Security  
Ordinance.

Gazette  
No.  
2120/4

The President is empowered to call out  
the Armed Forces for the maintenance of  
public order in specified areas. The  
Second Schedule of the Gazette lists the  
said areas, i.e. all 25 of the Provinces.

Gazette  
No.  
2120/5

Regulations made by the President under  
Section 5 of the Public Security  
Ordinance

# 2019 EMERGENCY REGULATIONS & THE MEDIA

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Emergency Regulations have  
been Gazette following the 21st  
April 2019 Easter Attacks

Regulation  
15

A competent authority may restrict the publication of certain matters in all of or a specified area of the country, or the transmission from Sri Lanka to a place outside. Such direction can contain incidental provisions the authority considers necessary or expedient, such as for securing that documents, pictures, photographs and films, or the transmission of matters relating to the operations of security forces including news reports, editorials, articles, letters to editors, cartoons and comments need to be submitted or exhibited to the competent authority prior to publication. (Reg 15(1)).

# 2019 EMERGENCY REGULATIONS & THE MEDIA

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Emergency Regulations have  
been Gazette following the 21st  
April 2019 Easter Attacks

Regulation  
32

By word of mouth or by any other means  
a person communicates/  
disseminate/spread any rumour which  
can cause public disorder

Regulation  
33

Printing and publishing any document  
recording or giving  
information/commenting/any pictorial  
representation/photograph/  
cinematography of any of the matters  
specified in the regulations.

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# **2019 EMERGENCY REGULATIONS & THE MEDIA**

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In addition to the restrictions on what citizens can publish, Regulation 15 (Control on Publications) can have an impact on the media. In the event that the restrictions in Reg 15(1) (described above) are contravened by a newspaper, the competent authority, after issuing one or more warnings, may order that no person shall print, publish or distribute such newspaper, or be involved in the same for a duration of time specified in the order, or that the printing press in which that newspaper is printed may not be used for all or limited purposes. (Reg 15(3)). The competent authority can also impose the same orders in the event that they are of the opinion that there is, has been or is likely to be a publication in a newspaper that is, in the opinion of the authority, calculated to be prejudicial to the interest of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community, or contains matters inciting or encouraging persons to mutiny, riot or civil commotion. There are to be one or more Advisory Committees, appointed by the President, to which persons dissatisfied with an order can make their objections to (Reg 15(8)), and the competent authority must ensure that the affected proprietor of the newspaper or owner of the printing press can also make representations directly to the President. (Reg 18(9)).