

Restrictions on Freedom of Speech in Emergency Law Provisions

- Governments to refrain from including definitions of prohibited activities that are vague, ambiguous and imprecise in emergency laws which lead to a chilling of the freedom of expression and information. For example, the now lapsed Emergency Regulations 2006 created the offence of engaging in “terrorism” or “acts of terrorism” (Regulations 6 and 20) and criminalizes certain activities, transactions and communications with persons or groups committing terrorist offences (Regulations 7, 8 and 9)
- Refraining from restricting freedom of expression in overbroad ways, such as the prohibition of possessing or distributing information “prejudicial to national security” with the extent of that prohibition undefined, powers of prior censorship and the criminalization of incitement to overthrow the Government. Examples as follows;
 - i) Regulation 9 of the Emergency Regulations 2006 made it a criminal offence, punishable by up to 10 years imprisonment to “provide any information which is detrimental or prejudicial to national security” to anyone engaged in “terrorism” (as defined in Regulation 6).
 - ii) Regulation 18 (1) (vi) of the EMPPR 2005 enabled the Secretary to the Minister of Defence to make an order imposing upon a person restrictions on association or communication, and in relation to “dissemination of news or the propagation of opinions”, to prevent that person acting “in any manner prejudicial” to national security, public order or the maintenance of essential services.
 - iii) Regulation 27 of the EMPPR 2005 made it an offence to distribute leaflets that are “prejudicial” to public security, public order or essential services.
 - iv) Regulation 28 of the EMPPR 2005 stated: “No person shall, by words of mouth or by another other means whatsoever, communicate or sprad [sic] any rumour or false statement which is likely to cause public alarm or public disorder.”
 - v) Regulation 29 of the EJMPPR 2005 made it an offence to print, publish or comment on any pictorial, photographic or cinematograph film of the activities of any proscribed organization, any matters relating to Government investigations of a terrorist movement, any matter relating to national security, or “any matter likely, directly or indirectly to create communal tension”.

- vi) Regulation 33 of the EMPPR 2005 made it an offence to possess “any book, document or paper containing any writing or representation which is likely to be prejudicial to the interests of national security or to the preservation of public order or which is likely to arouse, encourage or promote feelings of hatred or contempt to the Government, or which is likely to incite [sic] any person directly or indirectly to take any step towards the overthrowing of the Government [...]”
 - vii) Regulation 15 (1) EMPPR 2005 provided that a “competent authority” may “take such measures and give such direction” as necessary to prevent and restrict publications in, and transmission outside, Sri Lanka of matters which “might be prejudicial to the interests of” national security, public order or essential services, or of matters “inciting or encouraging” persons to “mutiny, riot or civil commotion”, or to “commit breach of any law”, which may be prejudicial to public order or essential services.
- Repeal of Section 14 of the PTA which enables the Minister of Defence to order the prohibition of certain publications or in the minimum, stipulate that the operation of Section 14 be strictly subjected to the tests of necessity and/or expediency and/or proportionality;