Sri Lankan president imposes anti-democratic emergency laws

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In a fundamental attack on basic democratic rights, Sri Lanka's President Chandrika Kumaratunga responded to the disastrous December 26 tsunami by secretly promulgating emergency regulations in 14 of the island's 25 districts. The measures, which include powers for the police, army and officials to suppress political criticism or opposition, have been in force since January 4, but were only made public on January 25.

The emergency decree was first brought to public attention, not by the United Peoples Freedom Alliance (UPFA) government, but by the Civil Rights Movement of Sri Lanka (CRM). In a statement on January 13, the CRM expressed concern that the regulations were not available, declaring that it was "imperative" that people knew under what laws they were governed.

On January 3, the day before imposing the state of emergency, Kumaratunga put the military in charge of relief operations. The Chief of Defence Staff, Admiral Daya Sandagiri, was installed as overall commander of relief operations and top officers were appointed as relief coordinators in 12 districts. The military took over the running of relief camps, which house several hundred thousand refugees, and was included in the civilian administration at the district and provincial levels.

The president has offered no justification for these extraordinary moves. The proclamation declared that the state of emergency was in the "interests of the public security," "the preservation of public order" and "maintenance of supplies or services essential to the life of the community". However, neither Kumaratunga nor the government has explained how the overriding of basic democratic rights will assist the victims of the tsunami disaster.

The Colombo press has attempted to rationalise the president's decision by highlighting grossly exaggerated reports of looting, rape and the abduction of children in the tsunami-affected areas. Such incidents have been isolated and cannot justify the imposition of sweeping emergency powers. The overwhelming response of ordinary working people has been to help the victims of the disaster through donations and voluntary work. The state of emergency is above all directed at preserving the government, which is facing widespread hostility over the glaring deficiencies of its relief operations.

The scope of the regulations is not limited to relief work. References are repeatedly made in the document to the exercising of powers "in the interests of national security" and for "the preservation of public order". In other words, the military, police and officials have been given wide-ranging powers to act over matters that have nothing to do with the tsunami and its aftermath.

Successive Colombo governments have a long history of imposing draconian emergency regulations as part of the 20-year war against the Liberation Tigers of Tamil Eelam (LTTE). The military and police have used such powers to harass and intimidate the Tamil minority and, aided by anti-terrorism legislation, to detain thousands of Tamils without trial. The latest announcement is the first time that a state of emergency has been proclaimed in response to a natural disaster.

The new regulations apply not only to the districts along the south and east coasts directly affected by the tsunami, but to the western districts of Colombo and Gampaha. The latter were largely unaffected but contain major concentrations of population around the capital. Within these areas, police, armed forces and any presidential appointee have extensive powers.

* The regulations make it an offence to cause "disaffection" among public officers; to distribute posters, handbills or leaflets "prejudicial to public security, public order or maintenance of essential services"; or to "spread any rumour or false statement" that "is likely to cause public alarm or public disorder". So vague are these provisions that anyone in any way criticising or opposing the government can be deemed to be guilty of an offence punishable by imprisonment of not less than three months and up to five years.

* Area military commanders can take over any building or premise. The "competent authority" appointed by the president can requisition any vehicle. Authorities can "require any person to do any work or render any personal service in aid or in connection with, national security or the maintenance of essential services".

* Under regulation 12, the president can declare "any service to be an essential service", making strikes and all forms of industrial action illegal. Any worker failing to carry out his or

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her duties, can be sacked, evicted from government quarters, and charged with an offence. Likewise, it is an offence to impede, obstruct or prevent a person engaged in an essential service. It is also an offence to incite, induce or encourage essential service workers not to carry out their jobs.

* The regulations provide for the "prevention of unauthorised entry" into areas taken over by the security forces or essential services. Such powers may be used to enforce a government ban on the reconstruction of houses within 100 metres of the shoreline in the south and 200 metres in the north and east. Fishermen and others are bitterly opposed to these measures, which will hinder their ability to carry out their work.

* Under regulation 16, the police and military security forces have wide powers to search, detain and arrest without a warrant any person suspected of committing certain offences under the criminal code such as abduction, kidnapping and rape. The regulation bypasses present police procedure and greatly strengthens the hand of the security forces.

* It is an offence to obstruct anyone exercising powers under the emergency regulations. It is also an offence to assist anyone guilty of a breach of the regulations. It is an offence not to report an offence to local authorities. Anyone detained is bound to answer questions. Moreover, they can be placed in the temporary custody of a policeman or military officer for up to a week.

* Any confessions and statements extracted by such methods are admissible in legal proceedings along with any book, document or paper found in the possession of the accused. Court cases involving offences under the emergency regulations have been given top priority. While there are broad provisions for detaining and trying those deemed to oppose government authorities, anyone exercising powers under the regulations is protected against all legal action, except by the attorney general.

The overriding thrust of the state of emergency is not to assist the victims of the tsunami, but to ensure the unfettered operation of the state apparatus. The regulations are aimed at anyone who criticises, opposes or obstructs the security forces and provides for their arrest, detention, questioning and prosecution without even the existing minimal legal guarantees.

Kumaratunga's decision to secretly impose such draconian measures underscores the deep crisis confronting her administration and the political establishment as a whole. The UPFA government came to power last April pledging to improve living standards and to restart peace talks with the LTTE, but has failed to do either. Even before the tsunami, the UPFA was confronting a growing hostility and anger over its broken promises.

Now, by official estimates, nearly 40,000 people have died and almost a million people have been displaced. Many of the survivors have lost family members, their homes and possessions, and their livelihoods. Overwhelmingly the victims are poor and have no alternative means of support. Some have received no assistance even a month after the disaster.

The initial shock has turned to uncertainty and anger over the inadequate and disorganised character of government relief operations. Protests have taken place over the government's ban on rebuilding close to the shoreline and the lack of assistance. The tsunami has compounded the previous social and political tensions and heightened the alienation felt by broad layers of the population, not just from the government, but from the political system as a whole.

The political establishment is well aware of the dangers of social unrest. Consequently, there has been no opposition to Kumaratunga's autocratic decisions from any political party or from any section of the media. The Janatha Vimukthi Peramuna (JVP), the second largest UPFA partner after Kumaratunga's Sri Lanka Freedom Party, has presented its own plan for "rebuilding the nation" based on a national centre with "wide powers".

The moribund left parties—the Lanka Sama Samaja Party and Communist Party of Sri Lanka (CPSL)—are also part of the UPFA. The LSSP leaders have kept silent on the emergency decree. Likewise CPSL leader D.E.W. Gunasekera, the Constitutional Affairs Minster, said nothing until Sunday when he explained that the government intended to allow the state of emergency to lapse once the situation was under control.

The conservative United National Front, the main opposition alliance, has made no statement on the emergency laws. As for the media, there has been virtually no reportage of Kumaratunga's decisions, let alone any criticisms of their repressive nature.

Under the provisions of the Sri Lankan constitution, the state of emergency has to be ratified by parliament within a month of its declaration. With ratification due by February 6 and parliament not due to sit until February 8, it appears likely that the emergency regulations will become void. But the secretive manner in which they were introduced and the lack of any opposition is a sharp warning to working people that the ruling class as a whole will not hesitate to use the most anti-democratic methods to defend its rule.

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