

Documents

The Movement for Inter-Racial Justice and Equality (MIRJE) issued in December, 1993, the following statement on the emergency regulations for registering and monitoring of Non-Governmental organisations.

The Movement for Inter-Racial Justice is seriously perturbed by the manner in which the government has rushed into enacting emergency regulations for the registration and monitoring of the receipts and disbursements of non-governmental organisations.

The Commission appointed to investigate the NGO sector submitted its report to the government three weeks ago. Rather than publishing its report and subjecting it to public debate and scrutiny, as is usually the case with such reports, the government has used its emergency powers to enact a system of extensive controls over the activities of NGOs. Its excuse, as indicated in the official press release from the Presidential Secretariat, is that "the enactment of legislation is going to take time." This is not a sufficient reason particularly as the government has waited for over two years for the Commission's report.

The process of legislation has been specifically designed to give time for proposed legislation to be scrutinised by the public and by the courts where necessary and ultimately by the Parliament in which is vested the legislative power of the people. The government has now nullified all these safeguards by its resort to emergency powers.

It is also open to question whether the enactment of these regulations is justified in terms of the interests of public security or the preservation of public order which are the legitimate concerns of the emergency.

We call upon the government to publish the report, allow time for its scrutiny and to consider reactions from the NGO sector before enacting legislation and in the meantime to withdraw this set of emergency

regulations. Otherwise, its commitment to safeguard and protect fundamental rights, in this case the right to free association, will come into considerable doubt.

These measures and the other set of emergency regulations gazetted last week which appear to place serious constraints on the right to criticise the President and the government demonstrate once again the government's lack of sensitivity to the democratic process.

Reproduced below is the statement issued by the Civil Rights Movement:

The surprise news of the making of emergency regulations providing for the monitoring of non-governmental organisations is disturbing in the extreme. The Civil Rights Movement will make a study of this move after examining the text of the regulations which is not at present available. In view of the gravity of the situation, however, the Working Committee of the CRM is expressing its preliminary reaction on the basis of information available in the official press release.

The new provisions are obnoxious both on account of the manner of their coming into existence and their substance.

Emergency regulations mean bypassing the regular legislative procedure, thereby precluding not only consideration by Parliament - the normal law making body - but also public discussion and debate. The reason given in the official press release is that "the enactment of legislation is going to take time". This is exactly the point. Time to discuss proposed changes is the very essence of the democratic process. Its denial by resort to emergency powers is permissible only to meet exceptional situations related to public security, which can hardly be the case here. A mass of ordinary laws and far-reaching emergency regulations already exist to investigate and deal with

Contd. from p. 29

3. See, Chatsumaran Kabil Singh, *Role of Women in Buddhism: Daughters of the Buddha*, pp. 225-35.
4. Mahavacchagotta Sutta, *Majjhima Nikaya*, vol. 11, pp. 270-74.
5. Mahaparinibbana Sutta, *Majjhima Nikaya*, Vol. 11, pp. 162-66.
6. Pao-Chang, 1981, *Biography of Buddhist Nuns*, Osaka, and K.W. Morgan, *The Path of the Buddha*, pp. 184-85.
7. A. P. Buddhahatta, *Buddhist Teachers in India*, (Sinhalese), p. 121.
8. Pao-Chang, 1981.
9. *Daily News*, 06. 02. 1992.
10. See, "Ven. Sanghamitta and the Order of Nuns" in *Daham Ama Mahinda Commemorative Volume* (Sinhalese), Dept. of Buddhist Cultural Affairs, Colombo, 1993, pp. 121-26.
11. See, papers on the restoration of the Bhikkuni order, presented at the Second Sangha Seminar, Maharagama, 1988.
12. Vimutti symposium of the Ramanna sect, annual ordination ceremony, 1991.
13. Dr. Wellawatte Ananda, "The Life of the Mahayana Bhikshu," *Pannasara Felicitations Volume*, pp. 250-57.
14. Dheerasekera, Jotiya, 1982, *Buddhist Monastic Discipline*, p. 141.

any breaches of the law committed by NGOs. In the present instance the report of the NGO Commission of Inquiry has itself not been made available for public scrutiny before the hasty implementation of what we are told are some of its recommendations.

As for substance, the press release does not specify the definition of "non-governmental organisations", but states that funeral benefit societies and co-operative societies are exempt. Presumably, therefore, it applies to all other associations and groupings which do not form part of the structure of government. Registration is made compulsory if the yearly receipts of any such body exceed Rs. 50,000. In addition, monitoring of all receipts and disbursements by a government official is imposed if these exceed Rs. 100,000 a year. Sources of receipts, and particulars of persons to whom disbursements are made (including names and addresses) have to be disclosed. This is a most serious interference with the free functioning of organisations and therefore with the freedom of association and expression. People who make donations to legitimate causes (which may however be unpopular from a government point of view) have the right to choose anonymity; they may fear (often with cause) that its breach might result in victimisation. Recipients of disbursements are similarly entitled to their privacy (subject to reasonable existing laws such as those relating to taxation). The basic premise of the measure, which treats all non-governmental organisations as likely to be engaged in activities prejudicial to national security etc., will inhibit the

provision of services by such organisations to the detriment of a free and democratic society. It is curious and tragic that such a mind-set, reminiscent of the concept of some Big Brother to watch over all activities, should manifest itself in present times which have seen the dismantling of totalitarian regimes elsewhere.

The imposition of such provisions on organisations working in the field of human rights, whose function is to monitor the use and abuse of state power by governmental authorities, is particularly dangerous. CRM has been engaged in this task since 1971 under successive governments. These years have seen periods of insurgency, strikes, massacres, civil strife, terrorist violence, large-scale "disappearances" and extra-judicial killings. They have also seen the most atrocious and draconian emergency regulations, which CRM and other organisations have monitored and criticised. Yet never, during all these travails, has there been an attempt of this nature to interfere with the free functioning of independent organisations. That it should take place at this moment, when many felt we were approaching a period of normalcy at least in one part of the country is particularly alarming. In this context, the imposition of compulsory registration itself, which on its surface may appear innocent, is also questionable.

CRM urges the government to rethink its action, to rescind the regulations immediately, and to make the report of the NGO Commission available for proper study and debate before deciding what action on it, if any, is appropriate.

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On behalf of *Pravada* and its readers, we wish them well.

- Editors