



THE BLACK SASH

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TO: The Technical Committee on Fundamental Rights.

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The Black Sash wishes to register its grave concern with regard to the suspension of rights in a State of Emergency, according to Section 35 of the tenth draft of the Chapter on Fundamental Rights in the Interim Constitution.

1. Our concern arises out of the possibility that certain fundamental rights connected with the holding of a fair and free election may be suspended in a State of Emergency. These rights include the freedom of Expression (section 15), the Right to Privacy (section 13), the Right of Assembly (section 16), the freedom of Association (section 17) and most importantly of all, Political Rights (section 21). Even if a State of Emergency were declared in a limited geographical area of the country, it would have the effect of rendering the election not free and fair in that area.

2. Section (4) (), permitting detention of up to 14 days prior to review in a court of law, is too long. There is no guarantee against rights in detention. The permissible period of detention prior to court review, should be severely curtailed even under a State of Emergency.

3. We acknowledge that certain rights in this chapter may have to be limited or even suspended in a valid State of Emergency. However, we see no justification for the suspension of the protections in the equality clause (section 8). We note that the United Nations covenant on Civil and Political rights (article 4), expressly forbids any discrimination on the basis of race, colour, sex, language, religion or social origin, even in a valid State of Emergency.

Jenny Dorsey

For Black Sash National Executive and Black Sash Legislation Watch.