

# The Legal Implication on the Recent Ban on Social Media in Sri Lanka After Deadly Easter Attacks

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**Abstract** - Social media has made its way into almost every area of human life. Social media is a form of electronic communication through which users create online communities to share information, ideas, personal messages, and other content. As a result of the recent deadly blasts occurred followed by the Easter attacks in Sri Lanka, the social media took a new appearance and lot of news were spreading rapidly through these social media. Then Sri Lanka decided to block social media in order to curtail the spread of false information and ease tensions. It seems to be a violation of the rights included in the Sri Lankan constitution of 1978, as the Article 14 freedom of expression. In addition, Sri Lanka Telecommunications Act No.25 of 1991 too mentions about the duty of the Telecommunication Regulatory Commission to protect and promote the interests of consumers, purchasers and the public interest. This statute along with Sri Lankan Penal Code contain penalties for the violation of the right to information and expression. But one could think there is no violation of rights as this ban was imposed by the Executive president of Sri Lanka. And also as this issue occurred in the Emergency Situation a reasonable man could observe that it is not an unlawful action taken by the Executive president. The main concern in this paper is to observe the current Sri Lankan law applicable to social media and to conclude whether this ban on social media is an arbitrary action of the Sri Lankan Executive government.

**Key Words-** social media, executive president, Sri Lanka Telecommunications Act, rights

## I. INTRODUCTION

The social media stands as a tool for interacting people with each other. Millions of people scattered around the world fall under one unique context under social media. The arbitrary ban on this social media by the Sri Lankan president created lot of hardships to the users of this social media. The citizens who had no knowledge about the legal situation behind this issue feared to raise their voice. Even

though the Sri Lankan Constitution secures the right to information and freedom of expression in its fundamental rights chapter, the Article 33(1) of the same constitution gives the power to the executive president to do any act not being inconsistent with the provisions of the constitution if he required or authorized to do. Therefore a controversial situation arises in one's mind. The constitution, Penal Code and legislative bodies such as Telecommunications Act No.25 of 1991 could be used to analyze the legal implication behind this recent ban on social media.

This paper is done to determine whether this ban on social media by the president is an arbitrary action and whether he can be sued or not. It also helps to identify the loopholes in existing Sri Lankan law on social media. An analysis on the existing laws on social media in Sri Lanka could be done to observe whether it is efficient when compared with the international laws on social media.

## II. METHODOLOGY

The type of methodology chosen for this study is qualitative approach. The researchers use the constitution, penal code and statutory bodies such as Telecommunications Act No.25 of 1991 and Right to information Act No. 12 of 2016 as the secondary sources to collect the required data for the study. The data obtained from these sources will be discussed in detail.

The Sri Lankan constitution of 1978 in chapter 3 mentions about the fundamental rights enjoyed by a Sri Lankan citizen. Under that Article 14 states that every citizen is entitled to the freedom of speech and expression including publication and Article 14A mentions about the right of a Sri Lankan citizen to access information. Therefore according to these articles the ban on this social media seems unlawful. This ban was took place at a time where the Emergency situation was prevailing. Under Article 155 of the Sri Lankan constitution the president could easily activate the public security ordinance. And Article 33(1) too

states the power of the executive president to do any act that is inconsistent with the provisions of the constitution.

Under the Penal Code of Sri Lanka, the hate speech could get you arrested under sections 219A & 219B of the penal code. The Article 119 deals with the punishment of assaulting president with intent to compel or restrain the exercise of any lawful power. The statute provides an imprisonment for a period which may extend to two years and shall also be liable to fine. Through social media a lot of rumors were spread insulting the government as well as its rulers and this condition also had a considerable impact on this ban too.

Under the Sri Lanka Telecommunications Act No.25 of 1991 a Telecommunications Regulatory commission was formed with its major objectives of, ensuring a reliable and efficient national and international telecommunication service in Sri Lanka and protecting the promoting the interests of consumers, purchasers and other users. Under this act offences and penalties have been mentioned separately. Section 45 states about the penalty for transmitting or receiving messages. It says, a person who, knowing or having reason to believe that a telecommunication service is being provided in contravention of this act or any regulations or rules engages in the transmission, acceptance of such a message shall be guilty of an offence and shall be liable to fine not exceeding ten thousand rupees and in default of the payment of such fine to imprisonment for a term not exceeding three months.

The Right to Information Act No.12 of 2016 gives the right for citizens to access the information of affairs of several organs and institutions of the government in public nature. Under section 7 of this act it is the duty of public authorities to maintain and preserve information which would facilitate the right of access to the information and in this affairs in digital and modern technology can be used. A question arises whether the content present in social media is a kind of information or not. This act interprets the term information including any material which is recorded in, in any form including opinions pictorial work, sound recording, videotape. This act also imposes the instances when right to access of information may be denied. Such instances are if the information is personal or if it causes unwarranted invasion of privacy of persons, the public authority is not liable to disclose the information without the written consent of the person of whom the information is related. The same act mentions that information that prejudice to the defence of the state or its territorial integrity or national security may not be disclosed by the public authorities.

### III. RESULTS AND DISCUSSION

This ban was imposed due to the spread of rumor by various parties. But citizens who were not engaged in such activities had also to suffer because of this ban. This is unfair and cause injustice to innocent users of social media who use it for their private purposes. Due to this ban innocent users could not communicate with their loved ones for days. In countries like China, they have totally banned the use of social media. That is lawful as under the country's internet censorship policy it has been prevented the users from accessing proscribed websites from within the country. But the absence of such laws in Sri Lanka context seems this ban unlawful.

Since our presidency is executive in nature, even his actions during the Emergency Regulations cannot be questioned. But in foreign countries like UK, have legal ways to challenge the authority. One such concept is the concept of Judicial Review of administrative action. But in Sri Lanka such an opportunity is not given to the judiciary.

The penal code contains laws related to hated speech. Through social media a lot of such speeches were issued by ISIS terrorists, but still the government has not look into that matter. It remains doubtful to us whether the Sri Lankan government directly supports the terrorists or not.

With this ban it was unsuccessful to achieve the objectives of the Telecommunication Regulatory Commission, to protect and promote the interests of the consumers and to ensure a reliable and efficient telecommunication system in domestic and international context. Accordingly, this commission could be considered as a failure as it was unable to perform its functions. This is a loophole in the legal system of Sri Lanka.

The information shared in the social media after the Easter attacks did not have any privacy concern. They were spread in order to make aware the public about the current condition of the issue. This ban on social media seem to be a violation of this section 5 of the Right to information act no.12 of 2016. A reasonable man could think that this social media ban took place under the same section as the spreading of recent news about the bombs blasts were a threat to the existing government. But it is not always correct. The recent issue of conduction of large number of abortions to Sinhala women by a Muslim doctor to make Sinhalese extinct was first revealed by a government newspaper. If media were not existing, the issue might remain unknown to the general public forever.

### IV. CONCLUSION

Sri Lanka being a country having an executive presidential system fail to challenge the arbitrary actions of the executive president. The recent ban on social media is against the current laws on social media in Sri Lanka. But there is no fixed law under Sri Lankan legal system to

declare this ban as unlawful. Laws should be framed in order to prevent such an arbitrary act in future and the existing laws should also be modified and codified for the assurance of the rights of the users of social media.

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