Sierra Leone made history on 24th March 2020; it became the only country in the world to declare a 12-month state of public emergency to contain the corona virus pandemic. No other country has imposed such a long period of a state of emergency to contain the virus. So, what does this mean for the enjoyment of your human rights?

A state of emergency means that the fundamental human rights enshrined in Chapter 3 of the Constitution that protect your basic dignity and freedom no longer apply. The president now has authority to “make regulations and take such measures as APPEAR TO BE NECESSARY AND EXPEDIENT” without having to worry about constitutional safeguards or judicial oversight. The powers conferred on the President during a state of emergency are listed in Section 29 (5 &6) of the 1991 Constitution. They include but are not limited to detaining you, seizing your property and suspending any law which the president in “his opinion” considers necessary. These broad and unfettered powers pose heightened threats to your human rights, especially if you are a journalist, opposition supporter or civil society activist. For instance, when there was no state of emergency, police required a search warrant issued by a magistrate to enter and search your property. Now, they don’t need any such warrant.

Save for its vague wording, there is nothing unusual about the state of emergency clause in our constitution. Constitutions throughout the world have state of emergency clauses that allow the president to take measures that are strictly necessary to deal with existential threats. The major problem with this clause in our constitution is that it is open to abuse. There is overwhelming evidence to show that governments have traditionally hidden behind it to perpetuate egregious human rights violations, especially against dissenting voices. The TRC Report alluded to how President Joseph Momoh exercised his state of emergency powers “in a dictatorial and abusive fashion.” Quite recently, we saw how in 2014 the Government of Ernest Bai Koroma abused the state of emergency declared to combat Ebola to silence opposition and stifle protests. For example, police killed 18-year-old Ibrahim Jimmy on March 23rd, 2016 following a protest concerning the closure of Njala University. During the same period, the then government jailed both Jesmed Suma, the leader of National Progressive Democrats Party and Mohamed Kamaraiba Mansaray, leader of Alliance Democratic Party.

International Human Rights Law has sought to address this tendency of presidents to abuse their unfettered powers during state of emergency by requiring states to provide written justifications for any derogations from international human rights norms. Article 4 of the ICCPR allows states to make derogations from their international human rights obligations during a state of emergency, only if such derogations are proportional and strictly necessary.

There is no evidence yet that the current president would abuse his enormous powers under the state of emergency to abuse your human rights. But to be on the safer side, you should be proactive to prevent against any potential abuse. One thing you could do is to call on government to fulfil its obligations under Section 29 (17) of the Constitution that requires the setting up of an independent and impartial tribunal that would review the detention of persons held beyond 30 days during the state of emergency. You should also call on your elected parliamentarians to exercise their powers under section 29 (10) of the Constitution to refuse renewal of any state of
emergency measures that are not necessary to contain the corona virus. If you fail to do this, just know that your human rights are under threats.

*Alimamy Sultan Koroma holds an LLM in International Human Rights Law from the University College Dublin, Ireland. He is a Barrister and Solicitor who specializes in Constitutional Law, Criminal Law and International Human Rights Law. Email at sultanalimamykoroma@gmail.com*