

Sri Lanka's draft Counter Terrorism Act: a license for continued state oppression, intimidation and torture

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The Sri Lankan cabinet's approval of the new Counter Terrorism Act (CTA) is further confirmation of the state's unwillingness to meet its obligations on human rights, to its citizens and the international community.

The draconian Prevention of Terrorism Act of 1978 has been used by successive Sri Lankan governments to quash dissent and penalize resistance to the state. It has been employed disproportionately against Tamils, including journalists, political activists and human rights defenders. The PTA permits arbitrary arrests and prolonged detention without charges being brought against suspects. Detention can, in effect, be extended indefinitely. The national human rights commission says 111 individuals remain in detention but the actual number of detainees remains unknown. At least 5 people have been on remand since 1997, without their cases moving forward. One person spent 15 years in prison before he was charged. Under the auspices of the PTA, countless Tamils have disappeared into the prison system. Many of their fates remain unknown. A UN Special Rapporteur visiting in May 2016 found that severe forms of torture of detainees continued.

The current Sri Lankan government committed in UN Human Rights Council (UNHRC) Resolution 30/1 of October 2015 to repeal the PTA and replace it with anti-terrorism legislation in line with "contemporary international best practice". Subsequently, the EU Parliament Trade Committee (INTA) wrote to Prime Minister Ranil Wickremesinghe on April 7, stating their expectation that the government table legislation to replace the PTA, in "full compliance with international standards", prior to the granting of the GSP+ trade concessions.

The latest draft is a failure in these respects. Rather than reining in the PTA's overly broad definition of terror, the CTA expands upon it, criminalising any activities that threaten the "unity" of Sri Lanka. Troublingly, this offense includes gathering information to supply to a third party deemed to represent a threat to the state's unity, as well as using words "either spoken or understood" to negatively affect it. Under this definition, the potential for local activists collecting and transmitting information about human rights abuses being accused of engaging in and being tried for terrorist activities is real. Sri Lanka's past history bears witness to such uses of the PTA and emergency regulations. Calls for federalism or self-determination have been litigated under the 6th amendment to the constitution (which similar to the CTA criminalises speech that threatens the unity of the country) – which in turn will have a chilling effect on free and fair debate regarding a constitutional settlement to the ethnic conflict.

The Sri Lankan state has exploited the similarly broad language of the PTA to crack down on activities by journalists and activists. The CTA leaves the door open for future abuse. This is a concern not only in the near term, with regards to the current government, but also in the long term. A harsh and restrictive terrorism law offers a ready-made tool of repression and intimidation for successive regimes.

It remains the position of the undersigned that any alleged terrorist activity should be prosecuted and punished under the ordinary criminal law of Sri Lanka. But while we demand a full repeal of the PTA, any potential replacement to the PTA must at the very least be in line with international standards. We call on both the Human Rights Council and the EU not to disregard the clear signal the draft legislation sends about Sri Lanka's willingness to meet its obligations under HRC 30/1, and the conditions outlined for the reinstatement of GSP+, respectively. The government of Sri Lanka, for its part, must immediately withdraw this legislation and - at an absolute minimum - revise its contents in line with international standards.

Signatories:

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