

Old wine in new bottles: continued risks of state abuse under Sri Lanka's draft Counter Terrorism Act

The government of Sri Lanka is currently in the process of replacing the Prevention of Terrorism (PTA), a draconian piece of law that is often described by rights activists as a license for state oppression, with a new Counter Terrorism Act (CTA). In this infographic, we highlight some of the serious problems with the proposed legislation.

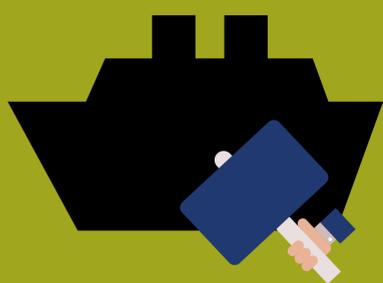


Broadly defined offences

The definition of 'terrorism' in the Act is extremely wide and not based on any recognised or accepted international model. It includes, for example, talking or writing that causes harm to the "unity, territorial integrity or sovereignty of Sri Lanka". The Act also includes an array of 'other offences' which are vaguely defined and wide in application - including, in essence, forms of hate speech, and the gathering or supplying of 'confidential information' that could have an adverse effect on national or public security. Some examples of situations where an offence may be committed are outlined below.

SCENARIO:

"A dock worker involved in a strike over a public sector pay dispute joins a picket line preventing supplies from entering or exiting the dock."



IMPLICATIONS UNDER THE ACT:

"He has i) caused the obstruction of essential supplies; ii) when the purpose of the conduct is to compel the Government of Sri Lanka to do something (increase pay for dock workers.)"

OFFENCE?



"As an act of protest on behalf of a peaceful secessionist movement, a person defaces a statue of a former President."



"She has i) intentionally caused damage to cultural and historical property; ii) when the purpose of the conduct was to cause harm to the unity of Sri Lanka." [1]



Risk of torture

In July 2017, the UN Special Rapporteur on Human Rights and Counter-Terrorism described the provisions contained within the current PTA as "foster[ing] the endemic and systematic use of torture" in Sri Lanka. Yet the draft CTA contains various similar provisions which would ensure that this effect continues, for example by:

- > Permitting police officers to take suspects out of remand custody, without a time limit or restrictions on where he/she may be taken.
- > Making confessional statements to police admissible at trial.



Restrictions on access to legal counsel

With regards to a suspect's right to independent legal counsel whilst in custody, the draft CTA is linked to the proposed amendment to the Code of Criminal Procedure Act. This amendment places limits on the right in circumstances where access by the legal counsel is deemed "prejudicial to the investigation being conducted."

It effectively gives officers in charge of police stations total discretion as to whether this fundamental right is observed.



Wide-ranging police powers

The draft CTA provides police with a number of extraordinary powers that are not subject to the tests of reasonable cause and necessity, and which are not constrained by effective oversight from the judiciary.

These include powers to:

- > Compel a physical investigation of any person.
- > Compel any person to give their fingerprints.
- > Enter and search any premise or vehicle.
- > To take any vehicle into custody.



* This infographic, and much of the analysis and scenarios contained within, is based on the findings of an independent legal analysis of the CTA published by the Foundation for Human Rights (FHR), an organisation to whom the Sri Lanka Campaign is not formally affiliated. That analysis can be read online at: <http://bit.ly/2tbGMQI>