

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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SRI LANKA: PROPOSED COUNTER TERRORISM LAW DOES NOT COMPLY WITH INTERNATIONAL LAW

The proposed Counter Terrorism Act (CTA) intended to repeal its draconian predecessor, needs substantial amendment to be brought in line with international law.

Sri Lanka promised to repeal the Prevention of Terrorism Act (PTA) when it co-sponsored United Nations Human Rights Council Resolution 30/1 in September 2015 and to replace it with anti-terrorism legislation which would be in accordance with contemporary international best practice. Despite their commitment, the government of Sri Lanka has delayed doing so by more than three years. Amnesty International is concerned that the proposed legislation falls short in many sections from what the government promised.

The PTA was a temporary measure when it was enacted in 1979. Consecutive governments have chosen to retain it and the Act has in turn become a permanent feature of Sri Lanka's criminal justice system. It allows for suspects to be held without charge for up to 18 months, special rules of evidence allowing for confessions to be admissible in court, and for the onus to be placed on a suspect to prove to a court that a statement was made under duress. Since the armed conflict with the LTTE erupted in 1983, tens of thousands of Tamils suspected of links to the LTTE have been arrested and detained under the PTA. The Act was also used as a tool to quell dissent against government. The exiled journalist J. S. Tissainayagam who was convicted under the Act for his criticism of government is a case in point.

Amnesty acknowledges two key changes in the CTA from its predecessor. The CTA provides better safeguards against admitting coerced confessions as evidence against suspects. Furthermore, in contrast to the PTA, the proposed CTA shifts the burden of proving that any confession was made voluntarily from the suspect to the prosecuting authority.

Amnesty International is concerned by many sections of the proposed CTA, as laid out in the new commentary, *'Sri Lanka: Countering terrorism at the expense of human rights'*. Although the Bill improves on some aspects of the draconian measures in the PTA, there are many provisions in the current Bill which give cause for alarm. In sum, the commentary highlights amongst others, the following issues contained in the Bill:

- Ambiguity on critical definitions of what constitutes an offence of terrorism
- Detention without charge for up to one year
- Detention for up to 14 days without access to a court of law
- Interrogation of suspects without access to legal representation
- Prosecutorial and judicial discretion to impose sanctions prior to a full and fair trial, flouting the suspect's presumption of innocence
- The lack of a time-bound requirement to convey critical information to the suspect at the time of arrest or soon after
- The ability for officers or members of the armed forces or a coast guard officer to be able to make arrests without warrant
- Excessively long periods for arresting officers to transport suspects to the nearest Police station
- Makes no presumption in favour of bail when a person is detained
- Allows for bulk interception and decryption of electronic communication
- Permits senior police officers to place arbitrary restrictions on movement and prohibitions on the public when an overly vague offence under the Bill is likely to be committed
- Paves the way for the President to be able to make arbitrary curfew orders.

As a state party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Sri Lanka has committed to protecting human rights. Amnesty International is concerned that if the Counter Terror Bill is to become law, it will violate Sri Lanka's human rights obligations.