

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# AMNESTY INTERNATIONAL COMMENTARY ON THE PROPOSED PROTECTION OF THE STATE FROM TERRORISM ACT, 2026

In December 2025, Sri Lanka's Ministry of Justice published a proposal for a new anti-terrorism law, the Protection of the State from Terrorism Act (PSTA), intended to replace the draconian Prevention of Terrorism Act (PTA), and invited public feedback.<sup>1</sup>

This document outlines Amnesty International's key concerns regarding the proposed PSTA. While welcoming the consultation process to date, Amnesty International urges the authorities to give due consideration to submissions including from individuals who have been victimised by the PTA, civil society, and other stakeholders, and to ensure the bill is assessed in line with Sri Lanka's international human rights obligations.

## 1. Offence of terrorism

Terrorism has not been defined in a consistent or comprehensive way in global treaties or other sources of general international law. While there may be widespread agreement that certain kinds of acts constitute terrorism, beyond this core agreement there is deep controversy about the outer limits of the concept. Amnesty's research demonstrates that some governments invoke broad definitions of terrorism in order to repress political opposition, as well as legitimate freedom of expression, association, assembly and other human rights.

### Insufficient precision and overly broad definition

Despite repeated revisions, each proposed law by consecutive Sri Lankan governments has continued to adopt the same overly broad approach to defining the offence of terrorism. The current draft likewise defines terrorism in broad and vague terms, creating a real risk of arbitrary application and abuse.

For example, section 3(1) of the draft criminalises certain acts done with the purpose of "infringing on the sovereignty of Sri Lanka",<sup>2</sup> without clear definition of what would constitute such intent. As previously noted, criminal offences must be formulated with sufficient certainty and precision to allow individuals to regulate their conduct accordingly.<sup>3</sup> The principle of legality<sup>4</sup> further requires that offences be defined in clear, precise, and unambiguous terms that narrowly delineate punishable behaviour.

Moreover, elements of section 3(2) are not in line with international standards. For example, section 3(2)(e)-(j) are not considered sufficiently serious since it does not meet the high hurt threshold required to be considered a terrorism offence according to international standards.<sup>5</sup> This has been noted in the UN Special Procedures communication to the Sri Lankan government on the proposed law too.<sup>6</sup>

Section 3(4) provides that "The fact that a person engages in any protest, advocacy or dissent or engages in any strike, lockout or other industrial action, **is not by itself a sufficient basis** for inferring that such person..." (emphasis added). However, this wording still permits authorities to characterise such conduct as terrorism when combined with other

<sup>1</sup> Protection of the State from Terrorism Bill available at: [https://www.moj.gov.lk/index.php?option=com\\_content&view=article&id=769:protection-of-the-state-from-terrorism-bill&catid=23:special-notice&Itemid=241&lang=en](https://www.moj.gov.lk/index.php?option=com_content&view=article&id=769:protection-of-the-state-from-terrorism-bill&catid=23:special-notice&Itemid=241&lang=en)

<sup>2</sup> Section 3(1)(d)

<sup>3</sup> Amnesty International writes to the Minister of Justice with concerns around the proposed Anti-Terrorism Act, *Amnesty International*, 1 June 2023, <https://www.amnesty.org/en/documents/asa37/6847/2023/en/>

<sup>4</sup> Universal Declaration of Human Rights Article 11(2), International Covenant on Civil Political Rights Article 15

<sup>5</sup> Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin: Ten areas of best practices in countering terrorism;

Model definition of terrorism (A/HRC/16/51) – see Practice 7; UN Security Council Resolution 1566 (2004)

<sup>6</sup> OL LKA 1/2026

factors. Despite the proposed qualification purporting to exclude legitimate civic protest, the vague and overbroad definition of terrorism offenses coupled with the limited protection of section 3(4) remains a cause for concerns.

This overbroad definition of terrorism lends itself to misuse by the state, including arbitrary application to acts that should not be considered as terrorism. Sri Lanka's experience - particularly related to the misuse of the PTA - demonstrates how ill-defined and overly broad offences have repeatedly been used to target both Tamil and Muslim minorities, critics, and journalists.

## **2. Extension of police powers to armed forces and coast guards**

The proposed law extends critical powers<sup>7</sup> - including search, arrest, questioning of suspects, entry into premises, and seizure of property - ordinarily vested in civilian law enforcement authorities to the armed forces and the coast guard. As noted in Amnesty International's analysis of the proposed Anti-Terrorism Act (March 2023)<sup>8</sup> submitted to the Ministry of Justice during the public consultation stage, these powers exceed the training and mandate of these forces, including authority to conduct warrantless arrests. Such powers should be reserved for civilian law enforcement bodies, such as the police, as the military is neither trained nor equipped to perform public order and law enforcement functions.<sup>9</sup>

## **3. Prolonged pre-charge, pre-trial detention without the allegations against the suspect made known to the defence**

The proposed law permits a senior police officer<sup>10</sup> to issue a Detention Order authorising pre-charge detention for renewable periods of up to two months, for a total of up to one year.<sup>11</sup> It further allows up to one year of pre-trial detention on remand,<sup>12</sup> resulting in a combined maximum of two years of pre-charge and pre-trial detention.<sup>13</sup>

The proposed law does not allow for a Magistrate to refuse the issuance of a Detention Order for up to two months – Magisterial discretion only applies for an extended Detention Order beyond that period. Further, where it is necessary to detain a suspect beyond two months (i.e. for an extended Detention Order), the police are expected to file a confidential report along with a certified copy of the Detention Order in the Magistrates Court citing the allegation against the suspect, the findings of the investigation; and reasons which require further detention.<sup>14</sup> There is no absolute requirement for this confidential report to be disclosed to the suspect and is subject to Magisterial discretion.<sup>15</sup> This severely affects the suspect's ability to prepare their defence and affects their right to a fair trial.

While suspects are entitled to bail, there is no provision for the Magistrate to dismiss the case. Under Sri Lanka's ordinary criminal procedure, Section 169 of the Code of Criminal Procedure Act allows a Magistrate to discharge a suspect at the end of the non-summary inquiry if the evidence is insufficient, providing a basic safeguard against unwarranted prosecution. The proposed law eliminates even this minimum protection: Magistrates have no authority to terminate proceedings or release a suspect on evidentiary grounds, even where continued detention is unsupported. It has become frequent in Sri Lanka for the persistent threat of prosecution to severely restricts suspects' livelihoods and freedom of movement, effectively rendering them "forever suspects" unable to resume ordinary civilian life.

## **4. Deferment of criminal proceedings and suspension of prosecution and trial offered as alternatives to a fair trial**

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<sup>7</sup> Section 19 and section 20(1)(a)-(d)

<sup>8</sup> Amnesty International writes to the Minister of Justice with concerns around the proposed Anti-Terrorism Act, *Amnesty International*, 1 June 2023, <https://www.amnesty.org/en/documents/asa37/6847/2023/en/>

<sup>9</sup> Amnesty International writes to the Minister of Justice with concerns around the proposed Anti-Terrorism Act, *Amnesty International*, 1 June 2023, <https://www.amnesty.org/en/documents/asa37/6847/2023/en/>

<sup>10</sup> Section 29(1): The Inspector General of Police or any officer not below the rank of a Deputy Inspector General of Police authorised by the Inspector General of Police in that behalf.

<sup>11</sup> Section 29(1)

<sup>12</sup> Section 28(1)

<sup>13</sup> Section 28(2)

<sup>14</sup> Section 35(2)

<sup>15</sup> Section 35(3)

Rather than ensuring accountability through a fair trial before a competent civilian court, the proposed law empowers the Attorney General to defer the institution of criminal proceedings or suspend prosecution for up to 20 years,<sup>16</sup> pursuant to an agreement with the suspect approved by a High Court<sup>17</sup> using vague considerations<sup>18</sup> including State policy, national interest, and public interest. Under this mechanism, the Attorney General may impose conditions - such as public apologies, reparations, rehabilitation, or community service - as terms of the deferment.<sup>19</sup> The discretion to suspend prosecution for up to 20 years additionally leaves a suspect with the prospect of terrorism charges hanging over their lives for the entirety of that period.

This framework subverts the criminal justice system by vesting excessive discretionary power in the prosecutor and denying suspects the opportunity to have charges tested through a fair trial and violates Article 9 and 14 of the ICCPR guaranteeing the right to liberty and security of person and the right to a fair and impartial trial, and the presumption of innocence, respectively.

## 5. Extensive Presidential powers

Similar to what was highlighted in Amnesty International's 2023 analysis of a prior draft,<sup>20</sup> the draft law retains unchecked executive powers, including the authority to proscribe individuals and organisations without judicial oversight.<sup>21</sup> Notably, the sole avenue for appeal against a Proscription Order lies with the Executive itself.<sup>22</sup>

We reiterate that, under international human rights law and standards, the banning or involuntary dissolution of an organisation constitutes one of the most severe restrictions on the right to freedom of association protected under Article 22 of the International Covenant on Civil Political Rights (ICCPR). Given its gravity, such a measure may be imposed only in response to a clear and imminent threat to a legitimate interest, such as national security or public order, and must be strictly necessary and proportionate to the aim pursued, and used only where less restrictive measures would be insufficient. Any such decision must be taken by an independent and impartial court and be subject to appeal.<sup>23</sup>

The proposed law also empowers the President to impose Curfew Orders "for the protection and maintenance of national security, public security, public order or public safety"<sup>24</sup> - a power already available under the Public Security Ordinance. Such orders may restrict movement across all or part of Sri Lanka for renewable 24-hour periods,<sup>25</sup> with only a minimum three-hour gap between periods,<sup>26</sup> and may be extended for an unspecified duration. Curfew Orders are not subject to judicial oversight.

Article 12 of the ICCPR guarantees the right to liberty of movement and permits restrictions only where they are provided by law and necessary to protect national security, public order, public health or morals, or the rights and freedoms of others.

In this context, section 73 grants the Executive authority the power to issue directions on the enforcement of the Act,<sup>27</sup> purportedly to ensure effective implementation and compliance with recognised human rights norms and standards.<sup>28</sup> This amounts to a weak safeguard, leaving compliance with international human rights obligations to executive discretion rather than enforceable legal provisions.

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<sup>16</sup> In line with section 57(1)

<sup>17</sup> Section 56(1) provides that in cases where death or grievous hurt has not been caused to any person, or the security of the State or the people of Sri Lanka has not been seriously compromised or affected, the Attorney General can reach an agreement with the suspect and have it sanctioned by the High Court to defer the institution of criminal proceedings against a suspect for up to twenty years.

<sup>18</sup> Section 56(2)

<sup>19</sup> Section 56(3)

<sup>20</sup> Amnesty International writes to the Minister of Justice with concerns around the proposed Anti-Terrorism Act, *Amnesty International*, 1 June 2023, <https://www.amnesty.org/en/documents/asa37/6847/2023/en/>

<sup>21</sup> Section 63

<sup>22</sup> Section 63(5)

<sup>23</sup> Amnesty International writes to the Minister of Justice with concerns around the proposed Anti-Terrorism Act, *Amnesty International*, 1 June 2023, <https://www.amnesty.org/en/documents/asa37/6847/2023/en/>

<sup>24</sup> Section 65(2)

<sup>25</sup> Section 65(3)(a)

<sup>26</sup> Section 65(3)(b)

<sup>27</sup> Section 73(1)

<sup>28</sup> Section 73(2)