



## **Proposed Anti-Terrorism Act (ATA) – Preliminary Comments**

### **Centre for Policy Alternatives (CPA) September 2023**

The Centre for Policy Alternatives (CPA) notes the publication of the [revised Bill](#) of the proposed Anti-Terrorism Act (ATA) gazetted on the 15<sup>th</sup> of September 2023. A [previous version](#) of the Bill was gazetted on the 22<sup>nd</sup> of March 2023. CPA issued a [statement](#) raising several concerns relating to that version of the Bill followed by a submission of [key concerns](#) in response to the notice issued on 2<sup>nd</sup> May 2023 by the Ministry of Justice calling for submission of proposals on the ATA.

CPA notes that several revisions have been made to the initial version of the proposed ATA, such as the removal of the death penalty as a form of punishment and changes to the provisions concerning Detention Orders (DO) with the revisions providing the power to the Secretary to the Ministry of Defence to issue a DO for an initial period of two months. However, the revised bill continues to include problematic provisions, such as the overbroad framing of the offence of terrorism, authorising prolonged detention without charge including with extended remand periods, excessive powers granted to the executive to the detriment of the judiciary and fundamental rights, and perpetuating militarization. In particular, CPA is concerned with the provisions relating to curfew orders, which are patently unconstitutional and which seek to further expand the power of the Executive President. Further, CPA notes that the proposed ATA is the latest attempt to expand the power of the Executive President, contrary to the demands of the people to abolish the office evidenced most recently with the *Aragalaya* in 2022. Despite the demands for greater political accountability and a change in governance, the proposed ATA entrenches powers with the executive including broad powers to proscribe organisations, issue restriction orders and regulations and stipulate prohibited places.

CPA reiterates its concerns regarding the problematic process of the government's belated and rushed efforts to extensively amend the ATA, particularly the limited scope for inclusive consultation and transparency in drafting the ATA. In this regard CPA notes with concern that the Human Rights Commission of Sri Lanka (HRCSL), which has a statutory responsibility in such a process, had to [write to the government](#) in order to obtain a copy of the Bill. Genuine consultation

requires inclusivity and transparency in consulting communities / individuals who have been directly impacted by the use of such laws as the Prevention of Terrorism Act (PTA), including long term detainees and their next of kin, in order to understand the impact of the PTA, the torture, and abuse it has facilitated. Despite the call for public submissions, the failure to correct some of the most problematic provisions of the ATA indicates to the process being a token effort than genuinely making the law-making process inclusive.

Moreover, the ATA is introduced in a context where anti-terror laws have been used and abused in Sri Lanka, which raises critical concerns as to how the proposed ATA may also be prone to such practices in a culture harbouring abuse and impunity. Such a culture coupled with limited transparency in the lawmaking process, offers little confidence to the people regarding the intentions of such proposed laws.

In view of the aforementioned concerns, CPA calls upon the government to withdraw the proposed ATA, and reiterates that any new process for drafting an anti-terror law should be transparent, accountable and be the product of a robust consultative process between all the relevant stakeholders and in adherence to international standards. In this regard, CPA expresses its continuing willingness to engage in a genuine transparent and consultative process.

A comprehensive report by the CPA on the proposed ATA will follow shortly.