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இலங்கை தேசிய கிறிஸ்தவ மன்றம்
National Christian Council of Sri Lanka

National Christian Council (NCC) of Sri Lanka statement on proposed Anti-Terrorism Act (ATA).

The National Christian Council expresses its strong opposition to the proposed Anti-Terrorism Act (ATA), that was published in the official government gazette on 17th March 2023 and issued on 22nd March 2023, which aims to replace the Prevention of Terrorism Act (PTA). The PTA was initially enacted in 1979 as a temporary law for three years and later became a permanent law.

We are painfully aware that the PTA led to numerous rights violations, especially against ethnic minorities; the Tamil community during and after the war and the Muslim community after the Easter Sunday attacks. The PTA was also been used to take revenge on dissenters, including church workers, journalists, human rights activists, student leaders and opposition politicians who challenged, questioned and criticized governments in power. The PTA has served as a license for arbitrary arrests, prolonged detention, torture, enforced disappearances and to curtail freedom of expression an assembly and other human rights.

Successive governments promised the people of Sri Lanka and the international community that the PTA would be repealed and replaced by new legislation that would not violate the country's constitutional and international human rights obligations. The proposed ATA, however, fails to fulfil this promise and in fact contains provisions that make it as bad, if not worse, than the PTA.

How a government committed to repealing the PTA and replacing it with an Act that overcame the PTA's well documented shortcomings could introduce a Bill that fails to do so and is possibly more draconian, raises fundamental questions of accountability for which the public deserves an explanation.

The ATA contains vague definitions that may could make dissent, including protests and trade union action, acts of terrorism. The definition could also make dissenters "terrorists". It empowers the executive to decide on and enforce punishments without judicial sanction, to detain persons up to 12 months, prohibit organizations etc. This results in dramatic reduction of judicial oversight and discretion in punishing offenders, arrest, detention and restricting human rights. The ATA also grants legislative powers to the Executive President, diluting the role of legislature. ATA militarizes law enforcement and entrenches the death penalty ignoring the moratorium since 1976.

We note that many of the provisions in the ATA are similar or even worse than the PTA and that it could only lead to further rights violations. Like the PTA, the overall focus of the ATA is to strengthen the executive (including the all-powerful executive president, police, military and the Attorney General) and weaken other arms of governance that act as a check and balance on abuses by the executive, such as the judiciary and the legislature. Proposing a law like the ATA to further strengthen the executive is particularly alarming at a time when there have been widespread calls and support throughout the country to abolish the executive presidency and strengthen the judiciary.

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Many of the offences under the PTA and those in the ATA are offences under other laws in Sri Lanka. Such offences could be investigated and prosecuted under ordinary criminal law procedures, which have better safeguards for rights of victims of terrorism, suspects, accused and also offers better opportunities for fair trials than laws such as PTA and ATA. The Public Security Ordinance enables the President to declare a state of emergency and promulgate emergency regulations when necessary.. The state of emergency is however subject to parliamentary approval, providing some check and balance on the executive powers. However, ATA does not have adequate checks and balances.

Based on these, and in line with Human Rights Commission of Sri Lanka's statement on 15th February 2022, it is our position that the ATA must be withdrawn. If necessary, new offences could be introduced to the penal code, after extensive consultations within the country and with relevant international experts. Offences related to terrorism must be investigated and prosecuted based on general criminal procedure, rather than creating an almost parallel criminal procedure that appears to override the letter and spirit of the constitution and international human rights standards.

Signed:

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