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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by The International Humanitarian Society for Development Without Borders, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2023]

* Issued as received, in the language of submission only.



The Proposed Anti-Terrorism Act of Sri Lanka

Sri Lanka ended its 25-year Civil War in May 2009 and since then the country enjoyed widespread peace and tranquility until a controversial terrorist attack on the 21st of April 2019. The Sri Lankan government was widely blamed for the failure to prevent this terrorist attack as it was alleged that the Government was repeatedly alerted by various foreign intelligent agencies but that the Government didn't take measures to prevent this Terrorist attack. Nevertheless, since 2009 Sri Lanka has been enjoying relative peace, but it was hit by a serious economic recession, which it is now slowly recovering. Sri Lanka needs all the support it can get from the international community, hence there is a dire need for the Sri Lankan Government to work with the international community. It has to proactively undertake human rights preservation measures and live up to the promises it makes to safeguard Human rights and proper Governance processes in implementing the Rule of Law, which it has been falling short of for over 4 decades. Sri Lanka has a sour history with serious war crimes and human rights abuses of Minorities, Journalists, Lawyers, Politicians, and various religious figures mainly connected to minority religions.

The Government of Sri Lanka published its proposed Anti-terrorism Act (ATA) by gazette on 17TH March 2023. This act was portrayed as a reform to the notorious Prevention of Terrorism Act (PTA) of 1979 which is famous for misuse by Law enforcement authorities and previous government officials. The powers this ATA carry will be undoubtedly used to suppress domestic human rights activism, media freedom, exercising protection Laws of the public as well as any political opposition in Sri Lanka, particularly concerning the minority community. The gross misuse of the PTA in the last decades bears testimony to the potential of the new ATA in causing serious and profound human rights violations by the Sri Lankan Government and its Law enforcement authorities in the future. The prospect of the ATA seems dreadfully worse than that of the PTA in the sense that it gives non-defined expansion to the definition of 'terrorism-related' activities. This would expand the powers of extraordinary detention and interrogation of numerous innocent members of the Minority public, Human rights activists, Media personnel, Politicians in the opposition as well as religious figures. This would directly impinge on Freedom of speech as well as the right to peaceful gatherings to protest against human rights violations and abuses undertaken by various government and law enforcement officials.

A huge concern of the PTA was the extraordinary detention powers, without the right to legal representation. ATA seems to be expanding on this serious limitation to access to justice by the detainees. Section 31 of the proposed ATA gives powers to the Deputy Inspector General of Police to give Detention Orders, whereas this was only allowed for the Minister of Defense in the PTA. In a country where positions of authority is determined and promoted by the Party in power, most of the Deputy Inspector General posts are chosen by the very Government which perpetrates abuse. This essentially means that this gives unlimited powers to the perpetrating Government to abuse anyone who is against its activities.

The Attorney General can push an innocent accused under Section 71 of the proposed ATA to suspend and defer the institution of criminal proceedings against any persons alleged to have committed an offence under this Act, for a period not exceeding twenty years. This would naturally put a huge amount of pressure on the accused to admit guilt even if they are not guilty so that they can avoid a potentially 20yr detention. In a country where most accused are poor or powerless, this detention pressure will be sure to serve injustice.

Section 82, 83, 85 and 100 of the proposed ATA allows the President extraordinary powers to implement or obtain restraining orders from the High Court to invoke a restraining prohibition or suspension order on any Organization which the President feels is a threat to the National security regardless of whether there is reasonable evidence for this. This executive power can be openly misused by the Government in power to ban any person from joining any public activities in the country or any activities of Human Rights, Political, Social, Welfare or Religious Organizations. The president may also implement rehabilitation programs on anyone under these powers and the rehabilitation acts are undefined at this point. These prohibitions will be for a year with the potential for further extension year by year.

From the outset, this raises serious concern amongst the international community about whether this ATA in making is a calculated strategy of the current government to control its political as well as executive activities to suppress fair and just activities of other Political parties, Media Freedom, Freedom of speech and the rights of the Minorities. We fear that at a time when the country is struggling to bounce back from its economic downfall, the ATA is certainly likely to repel any international cooperation and supports to rebuild the country's economy.

It is time to build an inclusive Sri Lanka with high human rights values, the rule of law and a new approach to dealing with global terrorism with international cooperation in its legislative as well as human rights policy. Therefore, The UHRC would like to invite the President of Sri Lanka and his Defense Ministry to seriously consider abolishing the PTA and review the proposed ATA for such an act to produce a positive outcome to the terrorism problem by implementing protection of Human Rights, implementation of internationally recognized processing powers of people involved in suspected terrorism-related activities as well as bring about transparent processes with access to the legal system to those accused of wrongdoing. This would not only serve justice to all of its citizens but also portray Sri Lanka as a country with very high moral values. This will show Sri Lanka to the rest of the world as a country which respects the value of Human Rights and the Rule of Law, which are the highest spirit of Democracy.

Le conseil universel des droits de l'homme, NGO(s) without consultative status, also share the views expressed in this statement.