

SRI LANKA

Country Report: Anti-terrorism laws & policing

1. Country summary


- a. **Government:** Presidential system with parliamentary democracy
- b. **Population:** 20 743 000
- c. **Size:** 65 610 sq km
- d. **Region:** South Asia

e. General

Sri Lanka obtained political independence from Britain in 1948. Since 1980 the nation has been fraught with a violent civil war between the government and Tamil separatist insurgents, led by the Liberation Tigers of Tamil Eelam (LTTE), who seek an independent Tamil state in northeastern Sri Lanka. A ceasefire agreement was reached in February 2002, however despite this agreement remaining nominally in place, from early 2006 the killings, disappearances and range of other human rights abuses committed by the LTTE and government security forces rose sharply. The LTTE have been labeled a terrorist organisation by a number of international governments including India, United Kingdom, United States, Canada, Australia and the European Union.

2. Relevant legislation

- *Public Security Ordinance 1947 (PSO 1947) (Chapter 40) (Long title: An Ordinance to provide for the enactment of emergency regulations or the adoption of other measures in the interests of the public security and the preservation of public order and for the maintenance of supplies and services essential to the life of the community) (as amended by Act No. 8 of 1959; Law No. 6 of 1978 and Act No. 28 of 1988) – On 2 October 2006, a state of emergency was declared and the *Emergency Regulations 2006* were introduced under this Ordinance. The regulations have been extended each month, as required, until the present date. Among other things, the Ordinance provides that any actions taken in pursuance with the regulations have total immunity from prosecution.*
- *Prevention of Terrorism (Temporary Provisions) Act 1979 (PTA 1979) (Long title: An Act to make temporary provision for the prevention of acts of terrorism in Sri Lanka, the prevention of unlawful activities of any individual, group of individuals, association, organisation or body of persons within Sri Lanka or outside Sri Lanka and for matters connected therewith or incidental thereto) – Contains no specific definition of terrorism. Contains draconian powers to search, arrest and detain without a warrant.*

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- *Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations No. 7 of 2006 (ER 2006)* – introduced under Section 5 of the Public Security Ordinance (Chapter 40) on 6 December 2006. The Regulations contain a definition of terrorism, the first time such a definition has been articulated in Sri Lankan history. The new regulations prohibit any person, group of persons or organisation from engaging in terrorism, any specified terrorist activity, or any activity in furtherance of any act of terrorism or any specified terrorist activity. The ER introduce a string of new terrorism related offences (see below Part 4F)
 - *Prevention of Hostage Taking Act 2000* – introduced to give legal effect to Sri Lanka’s signing of the UN International Convention against the Taking of Hostages 1979. It does not allocate any enhanced powers to police or security bodies.
 - *Convention on the Suppression of Terrorist Financing Act 2005 (CSTF Act 2005)* – Section 3 contains the offence of financing terrorists or terrorist organisations, which is a “specified terrorist activity” under the ER 2006. It does not explicitly allocate enhanced powers to the police or other security bodies.
 - *Prevention of Money Laundering Act 2006 (PML Act 2006)* – Section 3 contains the offence of money laundering, which is a “specified terrorist activity” under the ER 2006. Section 7 of the Act provides police with the power to freeze assets or property reasonably believed to be involved in the offence of money laundering.

3. Law summary


History

The *Public Security Ordinance 1947* was enabled the President to make regulations, where there is a state of emergency, in the interests of public security and the preservation of public order. Proclamations declaring a state of emergency have been made frequently, the current state of emergency declared 2 October 2006.¹ Based on this state of emergency, the following activities have taken place.

On 6 December 2006, the Sri Lankan Government invoked substantive powers to police and security forces with the introduction of the *Emergency Regulations 2006*, justified as a response to escalating violence and terrorism. The specific event prompting the regulations was a suicide bombing on 27 November 2006, which targeted Defence Secretary, and brother of the President, Gotabaya Rajapaksa. Although he escaped unharmed, two of his soldiers were killed.² Renewed fighting between Tamil separatists and the government killed approximately 3,500 people in 2006.³

Overview

President Mahinda Rajapaksa warned that democracy must not stand in the way of battling terrorism and instructed that the nation had to choose between “terrorists” and the “common man”.⁴ In response, the head of the LTTE’s political wing, SP Thamilchelvan, declared that anti-terrorism laws encouraged forced disappearances, arbitrary arrests and indefinite detention, and that the Government’s decision to strengthen anti-terrorism provisions in the Emergency Regulations effectively rendered the cease-fire defunct.⁵



The President issued assurances that the Regulations would “not affect any rights in the workplace, field and university”, that he would “not allow the violation of human rights in any manner through these regulations” and that the Regulations would “only defeat the fascist thinking of the LTTE”.⁶ However this assurance did nothing to reduce national and international concerns that the Regulations would be used to justify human rights violations by police and other government security agencies.

The Emergency Regulations 2006 contain the following preamble:

“Notwithstanding efforts made and measures adopted in good faith by the Government of the Democratic Socialist Republic of Sri Lanka to create peace and politically resolve the national problem, the territorial integrity and the sovereignty of the Democratic Socialist Republic of Sri Lanka continues to be threatened and endangered by acts of terrorism perpetrated by certain persons and organisations, particularly with the intent of seceding from the said Republic and establishing a separate State in certain parts of the territory of the Democratic Socialist Republic of Sri Lanka.”

Along with the Emergency Regulations, the *Prevention of Terrorism Act 1979* (PTA 1979) was re-enacted in 2006. In 2004, Amnesty International and Interights expressed joint concern that the PTA 1979 provided “an incentive for interrogating officers to obtain “confessions” from detainees by any means, including torture”.⁷ This concern still stands, and arises from the fact that Section 16 of the PTA 1979 allows “confessions” to be used as evidence in court as long as they are heard by officers above a certain rank. Other concerning provisions in the legislative and regulatory regime include:

- the absolute immunity provided to police officers acting under the various anti-terrorism instruments;
- the either non-existent or extremely broad definition of “terrorist act” included in the PTA 1979 and the ER 2006 respectively;
- powers to arrest in the absence of a warrant on suspicion of ‘any unlawful activity’ (Section 6(1)(a) of the PTA 1979); and
- the ability of the Prime Minister to declare the police to be inadequate to deal with a situation and to confer police powers to search and arrest on the armed forces (Section 12 of the PSO 1947).


Notably, the Government made reference to UN Security Council Resolution 1373 as not only justifying but requiring these measures:

These regulations have been promulgated in keeping with the United Security Council Resolution No. 1373 of 2001 adopted under Chapter 7 of the United Nations Charter, under which it is obligatory to take meaningful measures to prevent and suppress terrorism.⁸

4. Provisions

a. Definition

The PTA 1979 does not provide an express definition of terrorism. However, it contains expansive definitions of the behaviour it deems to be criminal in nature, and, given the title of the Act, it might be assumed that it is identifying these acts as terrorist related activity.




Section 2 of the PTA 1979 provides that any person found guilty of the following “offences” will be liable to imprisonment for life:

- (a) causes the death of any specified person, or kidnaps or abducts a specified person, or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or
- (b) causes the death of any person who is a witness to any offence under this Act, or kidnaps or abducts or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years;

Also, any person convicted of these offences will be liable to imprisonment not less than five years and not more than 20:

- (c) commits criminal intimidation of any special person or a witness referred to in paragraph (b); or
- (d) commits the offence of robbery of the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society; or
- (e) commits the offence of mischief to the property of the Government, any department, statutory board, public corporation, bank, cooperative union or co-operative society or to any other public property; or
- (f) without lawful authority imports, manufactures or collects any firearms, offensive weapons, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or
- (g) possesses without lawful authority, within any security area, any firearms or any offensive weapon, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or
- (h) by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups; or
- (i) without lawful authority erases, mutilates, defaces or otherwise interferes with any words, inscriptions, or lettering appearing on any board or other fixture on, upon or adjacent to, any highway, street, road or any other public place; or
- (j) harbours, conceals or in any other manner prevents, hinders or interferes with the apprehension of, a proclaimed person or any other person, knowing or having reason to believe that such person has committed an offence under this Act, shall be guilty of an offence under this Act.

The Advisory Council of Jurists highlighted that this provision is drafted broadly and “may unintentionally include someone with an unlicensed firearm, stealing stationery from a Government Department or engaging in minor vandalism. It may therefore



impose a severe punishment on a person who commits such an offence as a ‘terrorist’ despite the minor offence they have committed.”⁹

With the introduction of the Emergency Regulations 2006, the President announced that “we also have for the first time defined terrorism, and brought in special provisions and regulations to curb it”.¹⁰ The ER 2006 define terrorism as any unlawful conduct which:

- involves the use of violence, force, coercion, intimidation, threats, duress;
- threatens or endangers national security;
- intimidates a civilian population or a group thereof;
- disrupts or threatens public order, the maintenance of supplies and services essential to the life of the community;
- causes destruction or damage to property;
- endangers a person’s life, other than that of the person committing the act;
- creates a serious risk to the health or safety of the public or a section of the public; or
- is designed to interfere with or disrupt an electronic system; and
- which is aimed at or is committed with the object of threatening or endangering the sovereignty or territorial integrity of Sri Lanka, or any other political or government change, or compelling the government to do or abstain from doing any act. It includes any other unlawful activity which advocates or propagates such unlawful conduct.

It is a broad definition, which has the potential to encompass legitimate protest activity within the ambit of terrorism. By way of example, the mere act of intimidating a certain group within a civilian population with the aim of placing pressure on the government to make policy changes could be branded an act of terrorism.

The ER 2006 also state that engagement in any “specified terrorist activity” by any person or group of persons is an offence punishable by between 10 and 20 years imprisonment. The Regulations go on to define ‘specified terrorist activity’ as any offence specified under the:

- PTO 1979 (see above);
- PSO 1947 (Chapter 40) (see below Part F of this report for an indication of what constitutes an offence under this Ordinance, one example being the failure to attend work if that work involves the provision of a service that the Prime Minister has deemed to be ‘essential’);
- *Prevention of Money Laundering Act 2006* (Section 3);
- *Convention on the Suppression of Terrorist Financing Act 2005* (Section 3); and
- Any offences committed under the *Penal Code*, Chapter 19, Sections 114–117, 121, 122, 128 and 129.

Section 3 of the *Prevention of Hostage Taking Act 2000* defines the offence of “hostage taking” (punishable by life imprisonment upon conviction) as any person who:

- seizes or detains; and
- threatens to kill, or to injure, or to continue to detain, another person (hereinafter referred to as “the hostage”) in order to compel a third party, that is to say, any State, an International Intergovernmental Organization, any person or group of persons, to do, or to abstain from doing, any act as an express or implied condition for the release of the hostage, shall be guilty of the offence of hostage taking.



b. Arrest

Section 6(1)(a) of the PTA 1979 allows any police officer not below the rank of Superintendent (or any other police officer not below the rank of Sub-Inspector authorised in writing by the Superintendent) to, “without a warrant and with or without assistance and notwithstanding anything in any other law to the contrary ... arrest any person ... connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity”. Despite the title of the Act indicating that it is dedicated to the “prevention of terrorism”, this expansive power of arrest extends to “any unlawful activity”.

Section 12 of the PSO 1947 provides that where circumstances endangering the public security have arisen or are imminent and the Prime Minister is of the opinion that the police are inadequate to deal with such a situation in that area, he may call out all or any of the members of all or any of the armed forces for the maintenance of public order in that area. These members of the armed forces (above a certain rank) shall then have the same powers of search and arrest conferred on police officers.

Section 18 of the PSO 1947 allows any police officer to arrest without warrant any person who is committing or has committed or whom he has reasonable grounds for suspecting to be committing or to have committed any offence under Section 16 or Section 17 (violation of the Prime Minister’s Order restricting movement, and disruption of “essential services” respectively).

c. Detention/custody

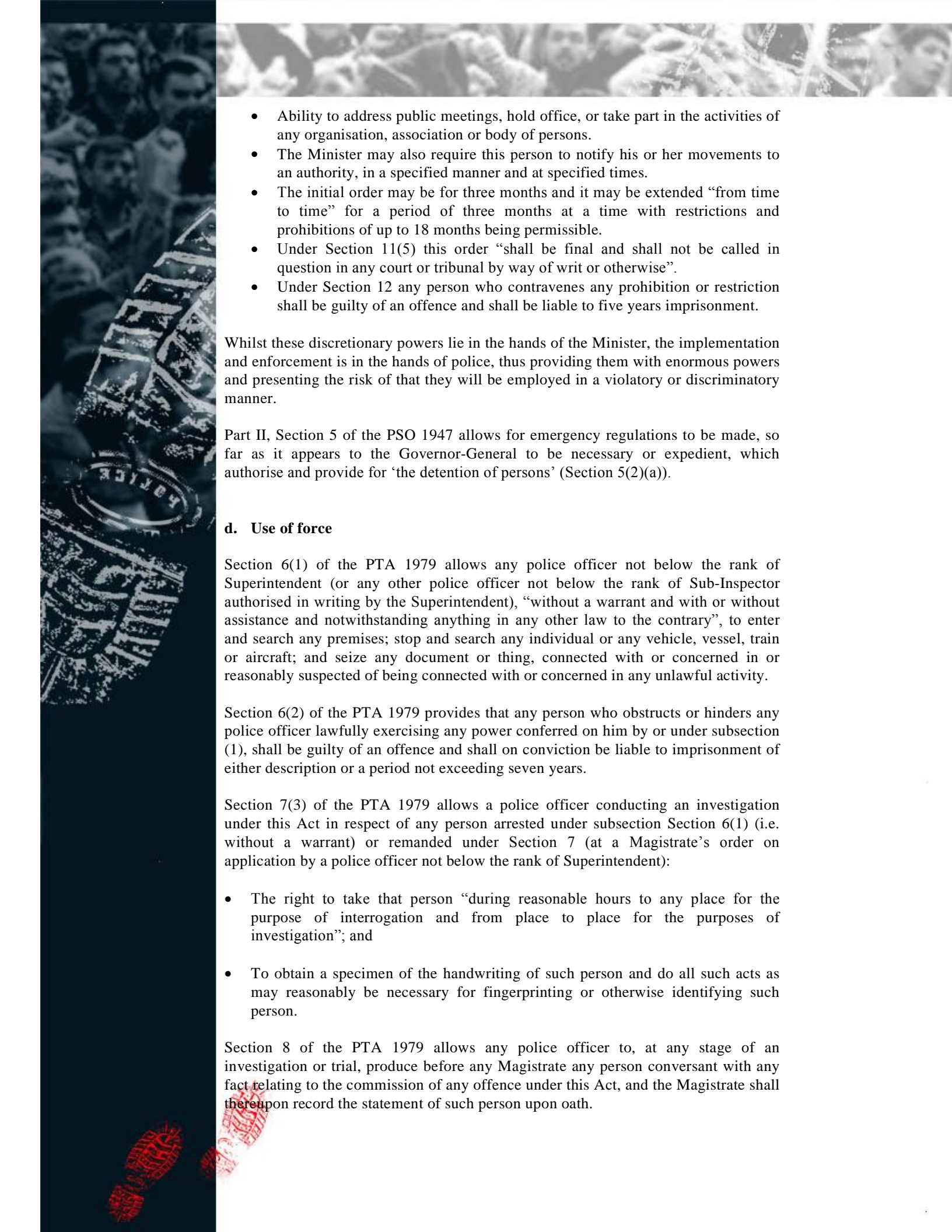
Section 7 of the PTA 1979 provides that a person arrested under Section 6(1) (i.e. without a warrant) may be kept in custody for a period of up to 72 hours. Before the expiry of this period, a police officer not below the rank of superintendent may make an application in writing, and the magistrate may then make an order that such a person be remanded until the conclusion of the trial.

Part III of the PTA 1979 deals with detention and restriction orders. Section 9(1) provides that:

- Where the Minister has reason to believe or suspect that any person is connected with or concerned in any unlawful activity, he or she may order that this person be detained for a period of up to three months.
- The place and conditions of detention are to be determined by the Minister.
- The order may be extended from time to time for a period of three months at a time with detention of up to eighteen months being permissible.
- Under Section 10 this detention order “shall be final and shall not be called into question in any court or tribunal by way of writ or otherwise”.

Section 11 of the PTA 1979 allows the Minister, where he has reason to believe or suspect that any person is connected with or concerned in any unlawful activity, to may make an order in writing imposing the following prohibitions or restrictions on that person’s:

- Movement outside their place of residence;
- Places of residence and employment;
- Travel within or outside Sri Lanka;
- Activities whether in relation to any organisation, association or body of persons of which they are a member, or otherwise; or

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- Ability to address public meetings, hold office, or take part in the activities of any organisation, association or body of persons.
 - The Minister may also require this person to notify his or her movements to an authority, in a specified manner and at specified times.
 - The initial order may be for three months and it may be extended “from time to time” for a period of three months at a time with restrictions and prohibitions of up to 18 months being permissible.
 - Under Section 11(5) this order “shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise”.
 - Under Section 12 any person who contravenes any prohibition or restriction shall be guilty of an offence and shall be liable to five years imprisonment.

Whilst these discretionary powers lie in the hands of the Minister, the implementation and enforcement is in the hands of police, thus providing them with enormous powers and presenting the risk of that they will be employed in a violatory or discriminatory manner.

Part II, Section 5 of the PSO 1947 allows for emergency regulations to be made, so far as it appears to the Governor-General to be necessary or expedient, which authorise and provide for ‘the detention of persons’ (Section 5(2)(a)).

d. Use of force


Section 6(1) of the PTA 1979 allows any police officer not below the rank of Superintendent (or any other police officer not below the rank of Sub-Inspector authorised in writing by the Superintendent), “without a warrant and with or without assistance and notwithstanding anything in any other law to the contrary”, to enter and search any premises; stop and search any individual or any vehicle, vessel, train or aircraft; and seize any document or thing, connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity.

Section 6(2) of the PTA 1979 provides that any person who obstructs or hinders any police officer lawfully exercising any power conferred on him by or under subsection (1), shall be guilty of an offence and shall on conviction be liable to imprisonment of either description or a period not exceeding seven years.

Section 7(3) of the PTA 1979 allows a police officer conducting an investigation under this Act in respect of any person arrested under subsection Section 6(1) (i.e. without a warrant) or remanded under Section 7 (at a Magistrate’s order on application by a police officer not below the rank of Superintendent):

- The right to take that person “during reasonable hours to any place for the purpose of interrogation and from place to place for the purposes of investigation”; and
- To obtain a specimen of the handwriting of such person and do all such acts as may reasonably be necessary for fingerprinting or otherwise identifying such person.

Section 8 of the PTA 1979 allows any police officer to, at any stage of an investigation or trial, produce before any Magistrate any person conversant with any fact relating to the commission of any offence under this Act, and the Magistrate shall thereupon record the statement of such person upon oath.



Part VI of the PTA 1979, addressing the trial of cases under the Act, might be seen as an incentive for these expansive powers of “legitimate force” to be invoked.

- Section 16, for example provides that all information obtained is admissible at trial. This is regardless of whether: it amounts to a confession or not; it is made orally or reduced to writing; such person was or was not in custody or presence of a police officer; it was made in the course of an investigation or not; or it was or was not wholly or partly in answer to any question.
- Section 18 allows any document found in the custody, control or possession of a person accused of any offence under the Act, or of an agent or representative of such person, to be produced in court as evidence against such person without the maker of such document being called as a witness and the contents of such document shall be evidence of the facts stated therein.

Part II, Section 5 of the PSO 1947 allows for emergency regulations to be made, so far as appears to the Governor-General to be necessary or expedient, which authorise and provide for:

- the taking of possession or control of any property or undertaking;
- the acquisition of any property other than land;
- the entering and search of any premises (Section 5(2)(b)-(c)).


Under Section 13 of the PSO 1947, any police officer or any member of the armed forces may, with written authorisation by the Prime Minister or any person appointed by the Prime Minister, seize and remove any gun or explosive in the possession of any person and keep it in such custody as may be determined by the person issuing such authorisation. For the purpose of seizing and removing any gun or explosive, the person may enter with such assistants as may be necessary, any premises or place in such area and search such premises or place and any person present therein.

Section 7 of the *Prevention of Money Laundering Act 2006* provides that a police officer (not below the rank of Superintendent of Police or in the absence of such an officer an Assistant Superintendent of Police) may, where there are reasonable grounds to believe that any person is involved in any activity relating to the offence of money laundering and it is necessary for preventing further acts being committed in relation to such offence, issue a freezing order prohibiting any transaction in relation to any account, property or investment which may have been used or which may be intended to be used in connection with such offence.

e. Immunity

Section 26 of the PTA 1979 provides expansive powers of immunity to both police officers and any other person for an act done in pursuance of the Act. It ensures that “no suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act or thing in good faith done or purported to be done in pursuance or supposed pursuance of any order made or direction given under this Act.”

Regulation 19 of the ER 2006 provides that no action or suit shall lie against any public servant or any other person acting under the terms of the Regulations, “provided that such person has acted in good faith and in the discharge of his official duties”.



Sections 9 and 23 of the PSO 1947 guarantee the protection of any person for any act purported to be done under any provision of any emergency regulation from any prosecution or other criminal proceeding (except by written sanction of the Attorney General). It also provides that no suit, prosecution or other proceeding, civil or criminal, shall lie against any person for any act in good faith done in pursuance or supposed pursuance of any such provision.

f. General

Policing: The Government employs not only the police and its armed forces in combating terrorism but also paramilitary groups, some of which include Tamil defectors. These groups are not fully under the control of civilian or military authorities.


State of Emergency: The PSO 1947 allows for the President to declare a state of emergency for an initial one-month period open to subsequent monthly extensions for an indefinite period.

- The declaration of a 'state of emergency' is not open to judicial review (Section 3).
- Part II, Section 5 of the PSO 1947 allows for emergency regulations to be made, so far as appears to the Governor-General to be necessary or expedient, which authorise and provide for amending any law, for suspending the operation of any law and for applying any law with or without modification (Section 5(2)(d)).
- Under Section 8 any regulation made under the Ordinance is immune from judicial review.
- Section 16 allows the Prime Minister to make an order that no person shall be in an area between such hours as may be specified in the Order, be on any public road, railway, public park, public recreation ground or other public ground or the seashore except under the authority of a written permit.
- Section 17 provides that the Prime Minister may declare a service to be an "essential service". Upon such a declaration, it becomes an offence for any person who is engaged or employed in connection with that service to fail to attend their place of work; or who, by spoken or written threat, impedes, delays or obstructs the carrying out of that service. There is a narrow exception for strikes organised by trade unions solely for the purpose of industrial action, and for people prevented from attending work by illness.

Related Offences: Section 3 of the PTA 1979 provides that acts preparatory to an offence, and aiding, abetting, conspiring, attempting, exhorting or inciting the commission of an offence are themselves offences punishable by imprisonment for between five and 20 years. Any attacks or deaths that are caused in the course of committing any offence under the Act will be punished with between five years and life imprisonment.

Forfeiture of property: Section 4 of the PTA 1979 provides for the forfeiture to the Republic of all property of a person upon conviction of offences under Sections 2 or 3.

Obligation to report: Section 5 of the PTA 1979 obliges people with reasonable cause to believe another person is preparing to commit an offence under the Act, has committed an offence under the Act or is aware of the whereabouts of someone who has committed such an offence to report this information to the police. Failure to do so is an offence punishable by up to seven years imprisonment.



Section 14 of the PTA 1979 prohibits the publication of any material relating to an offence under this Act or the investigation thereof, or of any material seen to incite religious, racial or communal disharmony. In the case that such material is published and a person is convicted of this offence, the printing press may be shut down and that person imprisoned.

ER 2006: The ER 2006 introduced a string of new terrorism related offences. Regulation 7 prohibits:

- The wearing, display, hoisting, or possessing of any uniform, dress, symbol, emblem relating to terrorism or terrorist activities;
- The summoning convening, conduct or participation in a meeting relating to terrorism and terrorist activities;
- Harboursing, concealing or assisting a member or cadre of an organisation engaged in terrorism or terrorist activities;
- Promoting, supporting, encouraging, advising, assisting or acting on behalf of any person, group, groups of persons or an organisation which acts in contravention of Regulation 6 of the ER 2006; and
- Organising or taking part in any event of any person, group, groups of persons or an organisation which acts in contravention of Regulation 6 of the ER 2006.

Regulation 6 of the ER 2006 prohibits engaging in terrorism; any specified terrorist activity; and any other activity in furtherance of any act of terrorism or specified terrorist activity committed by any person, group or groups of persons.


Regulation 8 of the ER 2006 prohibits any transaction including contributions, providing, donating, selling, buying, hiring, leasing, receiving, making available, funding, distributing or lending materially or otherwise to any person, group, associate or cadre engaged in terrorism or any terrorism related activities. There is an exemption from criminality of transactions approved under the regulations that are for the purpose of facilitating the development of a peaceful political solution, termination of terrorism or specified terrorist activity, maintenance of supplies and services essential to the life of the community or for any other lawful purpose by any Sri Lankan, international governmental or non-governmental organisation, done in good faith and with the written permission of the Competent Authority appointed for the purpose.¹¹

Regulation 9 of the ER 2006 prohibits the provision of any information detrimental or prejudicial to national security to any person or group of persons engaged in or known to be engaged in terrorism or terrorism related activities.

Regulation 13 of the ER 2006 makes conspiring to commit, attempt, abet, or engage in any conduct in preparation to commit any listed offences an offence in itself, punishable by seven years imprisonment.

The ER 2006 makes it an offence to engage in “any specified terrorist activity” (Regulation 6). The Regulations later define “specified terrorist activity” to include an offence under Section 3 of the Convention on the Suppression of Terrorist Financing Act 2005. Section 3 provides that:

any person who, by any means, directly or indirectly, unlawfully and willfully provides or collects funds, with the intention that such funds should



be used, or in the knowledge that they are to be used or having reason to believe that they are likely to be used, in full or in part, in order to commit,—

- (a) an act which constitutes an offence within the scope of, or within the definition of any one of the Treaties specified in Schedule I hereto ;
- (b) any other act, intended to cause death or serious bodily injury, to civilians or to any other person not taking an active part in the hostilities, in a situation of armed conflict, and the purpose of such act, by its nature or context is to intimidate a population or to compel a government or an international organization, to do or to abstain from doing any act,

shall be guilty of the offence of financing of terrorists or terrorist organisations.

The Regulations also define an offence under Section 3 of the *Prevention of Money Laundering Act 2006* to be a “specified terrorist activity”. Section 3 sets out the offence of money laundering which entails knowingly engaging directly or indirectly in any transaction in relation to any property which is derived or realised from any unlawful activity.

5. Examples

a. Definition

The International Federation of Journalists (IFJ) shares reservations with the Free Media Movement (FMM) with regards to the introduction of new public security and anti-terrorism measures in Sri Lanka. IFJ and FMM have urged the government to “clarify the language and implications of the regulations.” According to FMM, the broad language used in the new regulations does not carefully define the limits to the laws. The lack of an unambiguous and consistent definition has heightened the risk of censorship and breaches of press freedom and individual rights.”

http://www.freemediasrilanka.org/index.php?action=con_all_full&id=42§ion=news_in


b. Detention/ Custody

Journalist Maunasamy Parmeswaree of Mawbina newspaper was arrested and detained for more than 3 weeks on the 22 November 2006 by the Terrorist Investigation Division (TID) of Police. There is no evidence supporting her involvement in terrorist activities and she has not been brought before any court. She was held under the anti-terrorism legislation, which allows for prolonged detention without any charge.

http://www.freemediasrilanka.org/index.php?action=con_news_full&id=398§ion=news

In 2005, Amnesty International reported that approximately 40 prisoners remained in detention under the PTA 1979 in December 2004. The Report also recorded the case of Nallaratnam Singarasa who was detained under the PTA 1979 in 1993 and sentenced to 50 years’ imprisonment in 1995 for crimes including conspiracy to overthrow the government. Nallaratnam Singarasa claimed that while in detention he was tortured and forced to put his thumbprint to a confession written in Sinhalese, a language he did not understand. This confession formed the main basis for his conviction. In July 2004, a decision on the complaint brought by Nallaratnam Singarasa’s under the Optional Protocol to the ICCPR was reached by the UN Human Rights Committee. The Committee concluded that the rights of Nallaratnam Singarasa had been violated and that he should be given an appropriate remedy such as “release or retrial and compensation”.

<http://web.amnesty.org/report2005/lka-summary-eng>



Two journalists from the weekly Sathdina Sinhala were taken into custody on 5 November 2006 by military personnel. The journalists were later handed over to the police by the military, where the “police questioned them for 5 hours and stripped their camera of film and confiscated photos of a picketing campaign by Telecom employees.” It was later reported that “Asoka Fernando, the deputy photo editor of The Sunday Leader, was assaulted and had his camera smashed by police officers at a temple in Pannipitiya on November 28.” Fernando was detained until the following afternoon by the police on the outskirts of Colombo. He also sustained minor injuries. All this was due to the recent changes in the anti-terrorism legislation.

http://www.freemediasrilanka.org/index.php?action=con_all_full&id=40§ion=news_in

c. Human rights versus counter terrorism?

On 6 December 2006, the President made a public broadcast announcing the reintroduction of the *Prevention of Terrorism Act* and a series of accompanying regulations. He stated:

“We should make a firm commitment not to allow anyone to take these new regulations lightly. Whatever one's status may be, supporting terrorism is act of enmity towards both the country and the nation. We are not ready to allow that. Similarly, there is no room anymore to assist terrorism directly or indirectly, and talk about democracy. This is because they use this democratic space to design the destruction of the entire society. The democracy that creates an opportunity for terrorism is a joke. It is no simple joke but a deadly joke.”¹²

¹ See Advisory Council of Jurists (May 2004) Asia Pacific Forum of National Human Rights Institutions, *Final Report on the Reference on the Rule of Law in Combating Terrorism* (Kathmandu), p. 122.

² “Sri Lanka introduces tough anti-terror laws” (6 December 2006) *Hindustan Times*, http://www.hindustantimes.com/news/181_1860615_001302310000.htm.

³ “Tamil lawmaker criticizes tough anti-terrorism act” (8 December 2006) *Taipei Times*, <http://www.taipetimes.com/News/world/archives/2006/12/08/2003339587>.

⁴ “Mahinda tells Sri Lankans: Choose your side in the war” (7 December 2006) *Tamilnet*, <http://www.tamilnet.com/art.html?catid=79&artid=20584>.

⁵ Paul Tighe and Anusha Ondaatjie (10 December 2006), *Sri Lankan Army, Rebels Trade Blame as Fighting Kills Civilians*, <http://www.bloomberg.com/apps/news?pid=20601080&sid=a.JigyFoDHsM&refer=asia>.

⁶ President Mahinda Rajapaksa (6 December 2006). See Walter Jayawardhana, ‘President Rajapaksa, Introducing a New Crackdown on LTTE Terrorism, Says Supporting Terror will be Considered Enmity against the Nation’ for the text of the President’s address <http://www.lankaweb.com/news/items06/081206-3.html>.

⁷ Amnesty International (4 November 2004), *Amnesty International Press Release: Sri Lanka – Free Nallaratnam Singarasa*, AI Index: ASA 37/006/2004, <http://web.amnesty.org/library/Index/ENGASA370062004?open&of=ENG-LKA>.

⁸ President Mahinda Rajapaksa (6 December 2006). See Walter Jayawardhana, ‘President Rajapaksa, Introducing a New Crackdown on LTTE Terrorism, Says Supporting Terror will be Considered Enmity against the Nation’ for the text of the President’s address <http://www.lankaweb.com/news/items06/081206-3.html>. See also Ministry of Defence, Public Security, Law and Order, Sri Lanka (7 December 2006), ‘New regulations will not affect CFA’ http://www.defence.lk/new.asp?fname=20061206_09.

⁹ Advisory Council of Jurists (May 2004), Asia Pacific Forum of National Human Rights Institutions, *Final Report on the Reference on the Rule of Law in Combating Terrorism*, Kathmandu, p. 30.

¹⁰ President Mahinda Rajapaksa (6 December 2006). See Walter Jayawardhana, ‘President Rajapaksa, Introducing a New Crackdown on LTTE Terrorism, Says Supporting Terror will be Considered Enmity against the Nation’ for the text of the President’s address <http://www.lankaweb.com/news/items06/081206-3.html>.

¹¹ See Ministry of Defence, Public Security, Law and Order, Sri Lanka (7 December 2006), ‘New regulations will not affect CFA’ http://www.defence.lk/new.asp?fname=20061206_09.

¹² President Mahinda Rajapaksa (6 December 2006). See Walter Jayawardhana, ‘President Rajapaksa, Introducing a New Crackdown on LTTE Terrorism, Says Supporting Terror will be Considered Enmity against the Nation’ for the text of the President’s address <http://www.lankaweb.com/news/items06/081206-3.html>.