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**Submission for Call for Input – Use of Administrative Measures in Counter Terrorism
– Report to the Human Rights Council on Terrorism and Human Rights****Submitted by: Asian Forum for Human Rights and Development (FORUM-ASIA)**

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 organisations across 23 Asian countries. Our focus lies in safeguarding civic space, upholding fundamental freedoms, and supporting human rights defenders to protect and promote human rights in the region. This submission conveys our findings from monitoring repressive laws in Asia to inform the High Commissioner’s report on the use of administrative measures in counterterrorism, which is to be presented in the 57th session of the Human Rights Council. This submission sheds light on the pervasive misuse of counterterrorism frameworks across Asia and its detrimental effects on civic space.

Introduction

This submission explores a range of counterterrorism laws across Asia, such as India’s Unlawful Activities (Prevention) Act (UAPA) of 1967, Sri Lanka’s Prevention of Terrorism Act (PTA) of 1979, Malaysia’s Security Offences (Special Measures) Act (SOSMA) of 2012, The Philippines’ Anti-Terrorism Act (ATA) of 2020, Myanmar’s Counter Terrorism Law of 2014, the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law of 2020), and Hong Kong’s Safeguarding National Security Ordinance (Article 23). These laws, enacted under the guise of safeguarding national security and countering terrorism, have raised significant concerns due to their potential to infringe upon fundamental rights and civic space.

Many of these laws permit prolonged preventive detention/detention without trials. They have been used to suppress dissenting voices, human rights defenders (HRDs), minorities, and political opposition.

For instance, India’s UAPA has been criticised for its broad definitions of ‘unlawful activity’ and ‘terrorist act,’ which could criminalise a wide range of conduct protected under international human rights law. Similarly, Sri Lanka’s PTA has been used to stifle dissent and

target minorities, leading to calls for its repeal. In Malaysia, the SOSMA allows for detention without trial, raising serious due process concerns. The Philippines' ATA has been criticised for its vague and overbroad definitions, which could lead to arbitrary and discriminatory enforcement. Myanmar's Counter Terrorism Law has been used to target ethnic minorities and political opponents, while Hong Kong's National Security Law and Article 23 have been used to crack down on pro-democracy defenders and stifle freedom of expression.

Using counterterrorism laws to suppress political dissent and critical voices shrinks civic space. Such laws are used to target protestors, activists, and journalists, thereby suppressing people's freedoms of association, peaceful assembly, and expression. The misuse of counterterrorism laws not only infringes on the rights of individuals but also debilitates democracy at large, limiting space for dialogue, debate, and dissent. Moreover, overly broad and vague provisions of these laws create a climate of fear and impunity, foster a lack of trust in the judicial-legal frameworks, and further discourage civic participation. All these challenges highlight the importance of transparent legislation, judicial oversight, and legal safeguards in preventing the misuse of counterterrorism laws and in protecting civic space.

Counterterrorism Laws in Asia

India

India's Unlawful Activities (Prevention) Act (UAPA) of 1967 is a primary tool for national security and counterterrorism efforts. However, its indiscriminate application raises concerns about the infringement of civil liberties.

The UAPA allows authorities to detain individuals suspected of terrorism for extended periods without formal charges or trials. This particular provision, intended for pre-emptive action, has been criticised for violating a person's right to due process. Furthermore, the UAPA precludes bail for those accused of offences under Chapters IV and V of the law if there is a reasonable ground that the accusation is prima facie true, resulting in arduous efforts for bail requests and grants.

The UAPA neither has a sunset clause nor any provisions for mandatory periodic review.

As of 2022, the UAPA has an abysmally low conviction rate (2.8 per cent) despite a significant rise in reported cases (17.9% increase).¹ This suggests that a concerning number of prolonged detentions were made despite insufficient evidence, particularly in Indian-administered Kashmir, the northeastern states of Manipur and Assam, and Uttar Pradesh. HRDs, journalists, activists, and organisations critical of the government have been particularly vulnerable to such detentions.

In Indian-administered Kashmir, the UAPA has been used to stifle dissent and silence critical voices. Several HRDs, scholars, and journalists—including Khurram Parvez, Irfan Mehraj, Aasif Sultan, Aala Fazili, and Sajad Gul—face incarceration under UAPA charges. Media outlets, like The Kashmir Walla (now banned for undeclared reasons), have also been targeted. The arrest of Kashmiri journalist Fahad Shah exemplifies how the UAPA can be used to suppress criticism despite its claim to only apprehend those ‘glorifying terrorism’ or publishing ‘anti-national content.’²

The UAPA allows India’s Ministry of Home Affairs (MHA) to label organisations as ‘unlawful’ for conducting activities beyond terrorism and incitement of violence, such as threats to national sovereignty, territorial integrity, economic stability, or social harmony. These provisions are actively used by the MHA—sometimes bypassing due process—to disband organisations even without concrete evidence.³ In addition, the 2023 Supreme Court decision reinstating the ‘guilt by association’ principle further strengthens the UAPA’s reach. Being a member of a banned organisation—like the Popular Front of India and the Students Islamic Movement of India (SIMI)—is now a criminal offence. Under the UAPA, there have also been documented cases of arrests made without substantial evidence. Such arrests often lead to eventual release.⁴

¹ <https://pucl.org/wp-content/uploads/2023/05/PUCL-28.09.2022.pdf>

² For more information on individual cases: [Khurram Parvez](#), [Irfan Mehraj](#), [Aasif Sultan](#), [Sajad Gul](#), [Fahad Shah](#), [Aala Fazili](#)

³ <https://thewire.in/law/heres-why-the-governments-power-to-ban-organisations-needs-strict-judicial-scrutiny>

⁴ For instance, in 2021, after 20 years of trial, district court in Gujarat acquitted 126 Muslim activists who were arrested in 2001 and jailed for two years under the UAPA charges in the [Surat Students’ Islamic Movement of India \(SIMI\)](#) convention case.

The UAPA has been used to silence those who openly criticise the government, including academics and student leaders. In the Bhima Koregaon⁵ case, for example, only six of the 15 accused received bail.⁶ The 16th accused, Jesuit priest Stan Swamy, was denied bail despite his declining health and prolonged imprisonment. Similarly, the UAPA has been used to arrest student leaders and delay trials as seen in the case of Umar Khalid and Gulfisha Fatima.⁷ All these cases raise serious concerns over the fairness of India's judicial process.

Travel restrictions are another facet of India's counterterrorism measures.⁸ The UAPA and the Passports Act of 1967 empower authorities to confiscate and suspend the passports of individuals suspected of posing threats to national security. The confiscation can last for any duration deemed appropriate by the court. In Indian-administered Kashmir, at least 10 individuals—including academics, students, and journalists—have had their passports suspended. 70 to 90 more people are expected to be affected by such restrictions. Even individuals without criminal records have been placed on no-fly lists due to perceived security threats. Journalists Sanna Irshad Mattoo, Aakash Hassan and Zahid Rafi are among those affected, highlighting the counterterrorism measures' broader impact on mobility and civil liberties even in the absence of formal charges.

Sri Lanka

Sri Lanka's Prevention of Terrorism Act (PTA) is the country's extraordinary counterterrorism law. Although enacted as a temporary emergency measure in 1979, the law has been wielded as a tool of repression for over four decades.

The PTA allows authorities to detain individuals for up to 18 months before being produced in court. Such detentions happen without warrants, charges, or trials. The Human Rights

⁵ The Bhima Koregaon case traces back to January 1, 2018, when the bicentenary celebrations of the Bhima Koregaon battle turned tragic. The commemoration was marred by violent clashes between Dalit and Maratha groups, leading to the loss of one life and injuries to many others. Subsequent police investigations into the incident resulted in the arrest of several activists with alleged "Maoist links." Consequently, 16 individuals including prominent writers, scholars, activists, and human rights defenders were arrested.

⁶ <https://indianexpress.com/article/explained/shoma-sen-bail-elgaar-parishad-case-9253584/>

⁷ <https://article-14.com/post/2023-the-year-imprisoned-political-activist-umar-khalid-was-not-heard-by-the-supreme-court--65791f597efad>

⁸ <https://www.middleeasteye.net/news/indian-government-strips-passports-kashmiri-dissent-modi>

Commission of Sri Lanka has documented cases where the 18-month limit has been exceeded, with one individual held for 16 years. There have also been reports of custodial tortures and extraction of false confessions.⁹

The application of the PTA has not been even-handed. Dissenting voices, the Tamil ethnic minority, and Muslims have been disproportionately targeted. As of November 2023, at least nine ethnic Tamils were arrested and detained under the PTA in Batticaloa during the *Maaveerar Naal* remembrance, which commemorates those who died in the civil war.¹⁰ More than 200 Tamil political prisoners are reportedly currently held in various prisons and detention centres in Sri Lanka, with some facing charges under the PTA.¹¹ There have been multiple protests in Jaffna and Mannar demanding the repeal of the PTA and the release of political prisoners.¹²

Despite a moratorium imposed by the previous government, the current Wickremesinghe administration has continued to wield the PTA to target protestors and dissenting voices, including student activist Wasantha Mudalige and lawyer Hijaaz Hizbullah. In August 2022, three student activists were detained under the PTA for protesting against the government's handling of the economic crisis.¹³ In January 2023, the Colombo Chief Magistrate discharged all charges filed against Mudalige under the PTA, stating that the Terrorism Investigation Division misused the PTA to file charges against the student activist.¹⁴

In early 2024, the newly proposed Anti-Terrorism Bill was tabled by the Minister of Justice, sparking domestic and international concerns as the bill mirrors some of the PTA's problematic aspects.¹⁵ If enacted, the proposed legislation could exacerbate Sri Lanka's existing human

⁹ <https://www.hrsl.lk/reports/331/>

¹⁰ <https://www.colombotelegraph.com/index.php/tamils-detained-for-commemorating-war-dead-9-held-under-abusive-pta/>

¹¹ <https://peoplesdispatch.org/2023/04/08/three-tamil-political-prisoners-freed-in-sri-lanka-after-14-years-of-incarceration/>

¹² <https://www.tamilguardian.com/content/protests-jaffna-and-mannar-against-sri-lankas-draconian-anti-terrorism-act>

¹³ <https://www.hrw.org/news/2023/12/06/sri-lanka-tamils-detained-commemorating-war-dead>

¹⁴ <https://peoplesdispatch.org/2023/02/02/sri-lankan-student-activist-wasantha-mudalige-released-from-prison/>

¹⁵ <https://www.tamilguardian.com/content/anti-terrorism-bill-tabled-sri-lankas-minister-justice>

rights violations, granting excessive powers to the executive while curtailing judicial oversight and stifling free speech. The bill's broad definitions of terrorism and provisions for prolonged pre-trial detention threaten to erode the rule of law and further marginalise vulnerable communities.

Malaysia

Malaysia's Security Offences (Special Measures) Act—also known as SOSMA—was enacted in 2012 as a replacement for the Internal Security Act, which was widely criticised for its broad powers of detention without trial. SOSMA aims to enhance the powers of law enforcement agencies to investigate and prosecute perceived threats to national security, such as terrorism, espionage, sabotage, and organised crime. However, some of its provisions may be misused to infringe upon a person's right to a fair trial.

In the past five years, SOSMA has primarily been utilised to combat human trafficking instead of counterterrorism activities.

Among the most controversial aspects of SOSMA is its provision for preventive detention, which allows the police to detain someone for up to 28 days without requiring presentation before a magistrate for a remand order. This has been viewed as a violation of a person's right to due process. In addition, SOSMA allows for the interception of communications in cases pertaining to security offences, raising concerns about privacy rights.

According to SUARAM, a human rights organisation, there have been 3,220 instances of arrests, detentions, and charges associated with human trafficking under SOSMA. In the past five years, the highest number of arrests and detentions under SOSMA were made in 2023, marking a significant increase from the previous average of below 1,000 cases annually.

The prolonged pre-trial detention has incited protests, both from the public and the detainees' families. In 2023, the families of 69 detainees—34 from the Sungai Buloh prison and 35 from the Alor Setar facility—staged a hunger strike to protest against the ongoing incarceration of their loved ones. Many of these detainees were the sole breadwinners for their families.¹⁶

¹⁶<https://www.freemalaysiatoday.com/category/nation/2023/08/03/families-of-sosma-detainees-end-hunger-strike/>

SUARAM-Documented SOSMA Arrests/Detention Over Five Years

Year	Terrorism	Trafficking/Immigration	Organised Crime	Unidentified	Total
2019	73	28	22	0	123
2020	13	629	184	2	828
2021	1	63	81	1	146
2022	0	73	43	0	116
2023	0	3209	11	0	3220

Malaysia Human Rights Report 2023, SUARAM¹⁷

Philippines

In the Philippines, the Anti-Terrorism Act (ATA) of 2020¹⁸ and the Terrorism Financing Prevention and Suppression Act (TFPSA) of 2012¹⁹ are two significant pieces of legislation in the Philippines aimed to counter terrorism and prevent the financing of terrorist activities.

The ATA—adopted in July 2020 to replace the Human Security Act of 2007—grants law enforcement agencies unfettered powers to prevent, investigate, and prosecute terrorism-related offences. However, the ATA sets a vague definition of terrorism, causing alarm for the potential abuse of detention powers. In addition, there is a lack of safeguards to protect against abuse of authority. Section 9 of the ATA criminalises incitement to terrorism with a broad definition,²⁰ while Section 29 allows for the arrest of suspected terrorists and their detention for 14 days, extendable to a maximum of 24 days, without any charges.

As a safeguard, a Constitutional Court’s decision—based on 37 petitions submitted to challenge the constitutionality of the ATA—rendered that Section 25 unconstitutional. The latter empowers the Anti-Terrorism Council to designate a person or a group as terrorists based on a request by another country and upon a determination that it meets the criteria of relevant United

¹⁷https://www.suaram.net/files/ugd/359d16_ab54282901d049e1bd30ce834f143354.pdf

¹⁸<https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf>

¹⁹ <http://www.amlc.gov.ph/laws/terrorism-financing/2015-10-16-02-51-58>

²⁰ The Section 9 of ATA reads “any person who, without taking any direct part in the commission of terrorism, incites others to commit terrorist acts through means such as speeches, proclamations, writings, emblems, banners, and other representations.”

Nations Security Council Resolutions as unconstitutional. Furthermore, the ruling revised Section 4(e) to ‘Provided, that terrorism, as defined in this section, shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights.’ However, other problematic provisions remain.

More than 600 individuals, including human rights and peace advocates, are listed and labelled (‘red-tagged’) as terrorism suspects by the Justice Department as per the law.²¹ They are at risk of facing potential charges with non-bailable criminal offences, defective warrants, perjured testimonies of military-backed witnesses, questionable preliminary proceedings, and practices of planted evidence. None of the red-tagging victims’ administrative complaints were meaningfully addressed by the government.

The TFPSA (Republic Act 10168) aims to prevent and combat the financing of terrorism. It criminalises the provision of funds or financial services to individuals or groups involved in terrorism. The law also establishes mechanisms for monitoring financial transactions and freezing assets suspected to be linked to terrorism. In August 2023, the TFPSA was invoked against Community Empowerment Resource Network, Inc. (CERNET), a registered non-governmental organisation (NGO).²² CERNET focuses on food security and supports people’s organisations in the Visayas region. The NGO was served a subpoena by the Department of Justice, accusing 27 individuals—including former council members, board members, staff, and a member of the network’s partner organisation—of providing support to the armed revolution in violation of the TFPSA. In September 2023, the Visayas Command (VISCOM) filed a complaint against CERNET over alleged terrorism financing.²³

Myanmar

In Myanmar, the military has consistently misused the counterterrorism framework to suppress political dissent and critical voices. The Counter Terrorism Law of 2014 establishes a legal structure for preventing, investigating, and prosecuting offences related to terrorism. This law

²¹ Based on documentation conducted by Karapatan Alliance, a FORUM-ASIA member, in 2023.

²² <https://www.bulatlat.com/2023/10/04/military-accuses-cebu-based-ngo-of-terrorist-links/>

²³ <https://mb.com.ph/2023/9/28/viscom-files-complaint-vs-ngo-for-supporting-reds>

allows authorities to conduct surveillance, confiscate assets, and arrest individuals or organisations suspected of terrorist acts.²⁴

The military junta, however, has manipulated the counterterrorism law and its subsequent amendments to target and detain pro-democracy defenders. Since the attempted coup in 2021, the junta has designated various individuals and organisations—including the National Unity Government (NUG) and National Unity Consultative Council—as terrorists. The law not only targets activists but also any citizen who opposes the junta.

An emblematic case is that of Shin Daewe, a 50-year-old journalist and documentary filmmaker renowned for her work on social and political issues in Myanmar.²⁵ Shin Daewe was arrested on 15 October in Yangon’s North Okkalapa township while collecting a drone she purchased online. After a two-week detention at an undisclosed location, Shin Daewe was transferred to Insein Prison and charged under Myanmar’s Counterterrorism Law of 2014. On 2024 January 10, she was found guilty under Section 50(j) of the Anti-Terrorism Law, which carries a potential life sentence for involvement in financing terrorist activities.

The law also allows the authorities to arbitrarily order the ‘interception, blocking, and restriction’ of mobile and electronic communications or ‘location verification’ under Section 14 (articles 79 to 85). Another notable case is that of four 15-year-old students who were convicted under the law for accessing NUG-supporting online courses.²⁶ In another case, a grandmother was charged under the law after signing up her grandchildren to NUG-linked online courses.

Hong Kong

In Hong Kong, the National Security Law of 2020 (NSL) and the Safeguarding National Security Ordinance (Article 23) have significantly broadened the scope of offences related to national security.

²⁴https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs25/2014-06-04-Counter-Terrorism_Law-en.pdf

²⁵ More information on Shin Daewe’s case can be accessed [here](#).

²⁶ <https://www.accessnow.org/myanmar-counter-terrorism-law/>

The NSL stipulates that acts of ‘secession, subversion, terrorism, and collusion with foreign forces’ carry a maximum penalty of life imprisonment. Since these offences are defined in overly broad terms, they can be easily manipulated and applied to a wide range of activities, potentially leading to politically motivated prosecutions with severe consequences.

Just two days after the NSL’s enactment, the Hong Kong Government prohibited the use of the political slogan ‘Liberate Hong Kong, the revolution of our times’ for allegedly implying ‘Hong Kong independence’ and separation from China.²⁷

From 2020 July 1 to 2023 December 31, the NSL has resulted in 286 arrests, 156 charges, and 68 convictions.²⁸ Since 2021, at least 58 organisations—including unions, churches, media groups, and political parties—have been disbanded.²⁹ Numerous news outlets, such as FactWire and Apple Daily, were forcibly closed.

Schedule 2 of Article 43 on the Implementation of the NSL allows police officers to confiscate passports and bar suspected individuals from leaving Hong Kong. This measure targets pro-democracy defenders such as Agnes Chow,³⁰ as well as journalists reporting on human rights violations and police brutality in Hong Kong.³¹

In March 2024, Article 23 was swiftly approved by Hong Kong legislators. It grants the government enhanced authority to suppress various types of dissent falling within five specific categories: 1) treason; 2) insurrection, incitement to mutiny, disaffection, and acts with seditious intention; 3) offences in connection with state secrets and espionage; 4) sabotage endangering national security; and 5) external interference. The implementation of Article 23

²⁷ <https://www.info.gov.hk/gia/general/202007/02/P2020070200869.html>

²⁸ <https://www.chinafile.com/tracking-impact-of-hong-kongs-national-security-law>

²⁹ <https://hongkongfp.com/2022/06/30/explainer-over-50-groups-gone-in-11-months-how-hong-kongs-pro-democracy-forces-crumbled/>

³⁰ <https://www.france24.com/en/live-news/20231207-a-place-of-fear-hong-kong-activist-recalls-years-of-repression>

³¹ <https://www.rfa.org/english/news/china/hongkong-media-07292021081520.html>

could potentially undermine the independence of Hong Kong's judiciary by aligning it more closely with China's national security framework.³²

Conclusion

The use of counterterrorism laws against human rights defenders is apparent in the five Asian countries examined in this submission. This underscores a worrying trend where administrative measures are being used to disproportionately target HRDs, journalists, and even ordinary citizens.

Under the guise of safeguarding national security, such laws are being used to intimidate, harass, and silence those who criticise the government.

The broad and vague definitions of terrorism under such laws—coupled with the lack of sufficient checks and balances in compliance with international human rights standards—allow the systemic abuse of power.

FORUM-ASIA urges the High Commissioner for Human Rights to scrutinise the misuse of counterterrorism laws in the above-mentioned Asian countries.

There is a need to highlight the governments' failure to uphold its obligation to promote and protect the universality of human rights while also safeguarding national security.

We urge the above-mentioned governments to reform or repeal these problematic laws in order to align them with international human rights standards. Furthermore, there is a great need to strengthen legal safeguards against the abuse of counterterrorism measures.

Likewise, such laws must be subjected to regular reviews, where civil society organisations, HRDs, and marginalised communities have due representation. Such reviews are necessary to fairly assess the impacts of counterterrorism measures on civic space as well as to ensure a comprehensive monitoring and periodic evaluation of such laws.

³²<https://adnchronicles.org/2024/04/05/hong-kongs-new-security-ordinance-tramples-upon-fundamental-rights-and-freedoms/>

Counterterrorism efforts can only genuinely contribute to achieving lasting peace and stability in Asia if and only its implementation values transparency, justice, human rights, and the rule of law.