



MEDIA STATEMENT

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Amend the PSTA and POCA Bills That Threaten Democratic Freedoms! Unite Against the Suppression of Free Media and the Curtailment of Freedom of Speech and Expression!

Journalists for Rights emphasizes that the Protection of the State from Terrorism Bill (PSTA), presented by the government, and the gazetted Prevention of Organized Crimes Bill (POCA) could place media freedom, investigative journalism, the right to information, and democratic accountability in Sri Lanka at severe risk.

Combating terrorism and organized crime is a legitimate responsibility of the state. However, laws enacted for this purpose must not unduly restrict freedom of speech and expression, the confidentiality of journalistic sources, the right to report on peaceful protests, or the right to a fair trial.

For over four decades, the Prevention of Terrorism Act (PTA) has faced severe criticism over arbitrary arrests and prolonged detentions. New legislation introduced to replace that Act must uphold human rights and democratic freedoms; it must not perpetuate or further expand the flaws of the existing law.

We highlight the following key concerns regarding the relevant provisions of the PSTA and POCA Bills:

Threats to Investigative Journalism and the Freedom to Report on Public Protests

Serious attention must be paid to the scope of the definition of terrorism under Clause 3 of the PSTA Bill, as well as to the provisions governing terrorism-related publications under Clauses 9 and 10.

When definitions of terrorism are broad or vague, they risk being interpreted in inconsistent and arbitrary ways. Under such circumstances, journalists who disclose information in the public interest regarding government actions, corruption, irregularities, and the abuse of power face the risk of criminal prosecution. The repressive climate created by this vague and vastly expanded definition of terrorism permeates the entire Bill and threatens free democratic space.



Furthermore, consideration must be given to how offences such as obstructing a public servant in the discharge of their duties could be used against journalists reporting on public protests and strikes. The inclusion of such an offence in the First Schedule of the POCA Bill raises concerns regarding the exercise of special investigative and detention powers where the relevant legal thresholds are met.

Merely being accused of obstructing official duties does not make a journalist a participant in organized crime. However, when legal definitions and powers are broadly framed, explicit safeguards are required to prevent their abuse.

Confidentiality of Journalistic Sources and Digital Privacy

Protecting the confidentiality of informants and whistleblowers is the foundation of investigative journalism. If the identities of informants who come forward to expose state corruption, fraud, and the abuse of power are left unprotected, they may be reluctant to provide information. Consequently, the public's access to truthful information will also be curtailed.

The reporting obligations under Clauses 8 and 15 of the PSTA Bill, and the consequences of violating them, must be reviewed, taking into account their impact on the professional confidentiality of journalists.

Serious concerns also exist regarding Clauses 28, 44, and 45 of the POCA Bill. The exercise of powers such as the covert interception of communications, the acquisition of telephone records and location data, and compelled access to encrypted digital devices must be subject to adequate guarantees of judicial oversight, necessity, proportionality, and the protection of fundamental rights.

If such powers expose journalists' communications and sources of information, this will undermine not only individual privacy but also the entirety of investigative journalism. Therefore, judicial authorization relating to these provisions, the specific circumstances under which such powers may be exercised, and safeguards against abuse must be explicitly stipulated.



Field Reporting, Photography, and Access to State Information

The provisions in the PSTA Bill relating to search, arrest, seizure of equipment, and the declaration of prohibited places must be reviewed, taking into account their impact on field reporting by journalists.

The ability of journalists to report on public protests, strikes, the conduct of public officials, and human rights violations is an essential element of a democratic society. Clear legal limits must be in place so that powers to search or seize cameras, mobile phones, and computers used for such reporting cannot be exercised arbitrarily.

Furthermore, the manner in which powers to declare prohibited places under Clause 61 of the PSTA Bill are exercised must be transparent. Even where a genuine national security imperative exists, the exercise of such powers must not unduly prevent the reporting of information in the public interest.

Clear limitations and safeguards are also needed regarding the publication of information on judicial proceedings under Clause 14 of the POCA Bill. Restrictions imposed to protect the fairness of the judicial process must not unduly curtail the public's legitimate right to be informed about court proceedings.

Broad Definition of Organized Crime and the Risk to Media Teams

Clear legal boundaries are required regarding the definition of organized crime under Clauses 3 and 66 of the POCA Bill, as well as the provisions of Clause 4(2).

In particular, when defining the circumstances under which organized crime legislation may be applied to an offence committed jointly by three or more persons, the nature of the group, its purpose, and the specific legal elements of the relevant offence must be carefully considered.

A news editor, a reporter, and a camera operator working together on a professional assignment, or a group of social media activists jointly publishing information, must not be construed as participating in organized crime solely on that basis.

However, in the absence of clear limits on how the scope of offences included in the First Schedule of the POCA Bill operates alongside the definition of organized crime, unwarranted legal risks may arise for media teams, trade unions, and civil society organizations. Particular consideration must be given here to:

- the potential consequences of bringing certain offences under the Online Safety Act (OSA) within the scope of the POCA Bill;



- the impact of including offences relating to copyright and intellectual property in the First Schedule; and
- the risk of investigating offences related to peaceful protests, trade union activities, and media reporting under organized crime legislation.

Where even a relatively minor offence may be treated as an organized crime to invoke special investigative or detention powers, clear safeguards must be enacted to govern the scope and exercise of such powers.

Executive Detention Orders, Bail, Access to Legal Counsel, and Confessions

Judicial oversight and the right to a fair trial are essential whenever personal liberty is restricted. Provisions governing detention orders, the production of suspects before a court, and bail in both the PSTA Bill and Clauses 20–25 of the POCA Bill must be formulated to protect the independence of the judiciary and the rights of suspects.

Vesting executive officials with the power to issue detention orders and restricting the discretion of magistrates in respect of such orders raise serious questions regarding personal liberty and judicial oversight.

Furthermore, the provisions under Clause 47 of the POCA Bill rendering confessions made before an Assistant Superintendent of Police or a higher-ranking officer admissible as evidence must be reviewed, taking into consideration the risk of coerced statements and the right to a fair trial.

In drafting such legislation, it is essential to protect the right to legal counsel, the ability to challenge the legality of an arrest before a court, and the presumption of innocence.

Provisions imposing liability on the directors and management of media institutions must also conform to fair legal principles regarding individual culpability, knowledge, and responsibility. Otherwise, media institutions risk being driven towards undue self-censorship.



Our Position and Demands

Depending on their scope and manner of enforcement, the aforementioned provisions of the PSTA and POCA Bills may conflict with the fundamental rights guaranteed by the Constitution.

The imperative to ensure national security and combat organized crime is not a licence to silence the media, restrict the right to information, or expand executive powers without judicial oversight. Therefore, to safeguard the rule of law, human rights, and democratic freedoms, we call upon the government to take the following measures:

1. Withdraw or amend provisions that threaten fundamental rights: Review the provisions in the PSTA and POCA Bills that could unduly restrict freedom of speech and expression, personal liberty, the right to a fair trial, or the right to information, and either remove or fundamentally amend them.
2. Protect the confidentiality of journalistic sources and digital privacy: Introduce clear legal limits, judicial oversight, and safeguards against abuse for powers relating to the acquisition of communications and digital data, as well as access to encrypted devices, under Clauses 28, 44, and 45 of the POCA Bill. Reconsider the potential impact of Clauses 8 and 15 of the PSTA Bill on the confidentiality of journalistic sources.
3. Protect media teams and peaceful civic activities from the misuse of organized crime legislation: Amend Clauses 3, 4(2), and 66 of the POCA Bill to provide clear safeguards so that media institutions, editorial boards, trade unions, social media activists, and civil society organizations cannot be treated as organized criminal groups solely on the basis of their legitimate activities. Reconsider how offences under the OSA, copyright offences, and offences related to peaceful protests may be applied under the POCA Bill, to prevent an unduly broad application of the law.
4. Uphold judicial oversight and the right to a fair trial: Review the provisions relating to executive detention orders and mandatory remand, and protect the independence and discretion of the judiciary regarding arrest, detention, and the granting of bail. Amend the provisions governing the admissibility of confessions as evidence under Clause 47 of the POCA Bill, as well as those concerning the liability of responsible officers of media institutions, to ensure compliance with the principles of a fair trial.
5. Implement democratic media reforms: Repeal the Prevention of Terrorism Act (PTA). Ensure the meaningful participation of media organizations, trade unions, legal scholars, and civil society organizations when reviewing laws that affect media freedom and fundamental rights, including the Online Safety Act (OSA).



We also reiterate that, while the constitutionality of these Bills falls to the Supreme Court to determine, the grave concerns we raise extend beyond strictly constitutional questions and pose a fundamental challenge to the survival of free democratic space.

A Free Media Is an Essential Condition of Democracy

Protecting media freedom is not merely about protecting the professional rights of journalists; it is about safeguarding the people's right to know, public scrutiny of state power, and democratic accountability.

Therefore, we urge the government to reconsider the provisions of the PSTA and POCA Bills that affect human rights and democratic freedoms, and to amend them in accordance with international human rights standards and the Constitution of Sri Lanka.

Let us unite to safeguard a free media, the right to information, and the rule of law!

[Executive Committee – Journalists for Rights](#)