

BY EMAIL

Attorney General Sri Lanka  
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Subject: Trial of Hejaaz Hizbullah

Dear Mr Attorney General,

Lawyers for Lawyers is an independent and non-political foundation that seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. Lawyers for Lawyers has Special Consultative status with the UN Economic and Social Council since 2013.

Lawyers for Lawyers is concerned about the ongoing trial of lawyer and human rights defender Hejaaz Hizbullah. Mr. Hizbullah is a minority rights advocate and legal counsel for many Muslim victims of human rights violations.

On 14 April 2020, Mr. Hizbullah was arrested by the Criminal Investigation Department (CID) under the Prevention of Terrorism Act (PTA). No reasons for the arrest were provided to Mr. Hizbullah or his family at the time of the arrest. It has been reported that the detention order states that Mr. Hizbullah is being investigated for allegedly “aiding and abetting” the Easter Sunday bombers and for engaging in activities deemed “detrimental to the religious harmony among communities”. On 3 March 2021, Mr. Hizbullah was officially charged with “inciting communal disharmony under” under the PTA, for “advocating national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” under the ICCPR Act of 2007 and for conspiracy and abetment charges under the Penal Code.

Mr. Hizbullah was kept in pretrial detention until 9 February 2022. During this time, Mr. Hizbullah was only granted access to legal counsel on 15 December 2015 after a court order. Also, during the bail hearing of 19 November 2021, the Puttalam High Court claimed that it did not have the jurisdiction to grant bail under the PTA, and additionally pointed towards an inconsistency between the PTA and the constitution, which should be dealt with on a higher level and the legislative branch of government, according to the court. On 28 January 2022, the Puttalam High Court consequently refused to grant bail to Mr. Hizbullah, despite the Attorney General consenting to bail. It was only following a revision application against the order refusing him bail that Mr. Hizbullah was finally granted bail on 7 February 2022 and subsequently released on 9 February 2022, after a detainment of almost two years. However, the charges against Mr. Hizbullah were and have still not been dropped.

Since February 2022, the case has been postponed four times due to non-appearance of the prosecution and their failure to produce documents, even though section 21 of the PTA requires every Court to give priority to trials held for offences under the PTA. The Puttalam High Court has attempted to prioritize the hearings by fixing trial dates during court vacations. Still, the absence of the prosecutor or their failure to produce documents has caused delays. According to information received by Lawyers for Lawyers, no convincing evidence has been produced by the prosecution to this day.

Lawyers for Lawyers is concerned that the charges brought against Mr. Hizbullah are aimed at curbing his legitimate activities as an attorney.

Mr. Hizbullah is the first lawyer to have been detained for such a prolonged period under the PTA and to be prosecuted under the act. The Sri Lankan Government has continuously pledged to reform the PTA but has failed to do so up to this moment. In the meantime, several institutions/bodies (amongst which the European Parliament<sup>1</sup> and a number of Special Rapporteurs of the United Nations<sup>2</sup>) have urged Sri Lanka to reform the PTA, considering that it is a law that violates Sri Lanka's international human rights obligations.

We draw your attention to the United Nations Basic Principles on the Role of Lawyers<sup>3</sup>, in particular to Article 16, which states that:

*16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (...) and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*

In view of the above, Lawyers for Lawyers respectfully urges you to:

- Agree on 5 trial days before the end of February 2023 during which fair trial guarantees are respected, and prevent any further delays in Mr. Hizbullah's trial;
- Drop all charges against Mr. Hizbullah unless credible evidence is presented during these trial days and put an end to all acts of harassment against him, including at the judicial level;

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<sup>1</sup> European Parliament, Motion for a resolution with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law pursuant to Rule 144 of the Rules of Procedure on the situation in Sri Lanka, in particular the arrests under the Prevention of Terrorism Act (2021/2748(RSP), 8 June 2021, available at: [https://www.europarl.europa.eu/doceo/document/B-9-2021-0356\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-9-2021-0356_EN.html).

<sup>2</sup> Communication from various United Nations Special Rapporteurs, including the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, to the Sri Lankan government on the importance of meaningful reform of the PTA, 9 December 2021, [OL LKA \(7.2021\)](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26863), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26863>

<sup>3</sup> The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.



- Guarantee in all circumstances that all lawyers in Sri Lanka are able to carry out their legitimate professional activities without fear of reprisals and free of all restrictions including judicial harassment.

Thank you for your attention to this very important matter. We look forward to receiving your response and assurance that the government of Sri Lanka will give the situation of Mr. Hizbullah the attention and remedial action required by international human rights law binding on Sri Lanka. We will continue to monitor this case closely.

Yours sincerely,  
LAWYERS FOR LAWYERS