



No. 356/2021

Ref: HR/50

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to refer to the latter's Note Verbale No. AL LKA 2/2021 dated 08 July 2021 forwarding a joint communication from a group of special procedures mandate holders.

The Permanent Mission wishes to transmit herewith the comments of the Government of Sri Lanka (GoSL) on the above joint communication.

The Permanent Mission requests that the attached GoSL comments, sent within the period of 60 days, be published along with the joint communication of the special procedures, as indicated in the text of the joint communication, when the Special Procedures Branch proceeds with such publication on the communications reporting website, as well as in any other report that would contain the joint communication.

An acknowledgement of receipt of this note and the attached comments would also be appreciated.

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 07 September 2021

Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights
Geneva



Government of Sri Lanka response to the Joint Communication received from seven UN Special Procedures Mandate Holders concerning the detention of Mr. Hejaaz Omer Hizbullah (AL/LKA 2/2021)

1. The Government of Sri Lanka (GoSL) wishes to refer to the Joint Communication (AL/LKA 2/2021) dated 08 July 2021, submitted by seven Special Procedures Mandate Holders, seeking clarifications and information concerning the detention of Mr. Hejaaz Omer Hizbullah.
2. The Government of Sri Lanka (GoSL) wishes to make the following observations:
 - i. A Fundamental Rights Violation petition has been filed on behalf of Mr. Hejaaz Omer Hizbullah. The Supreme Court has been apprised of the reasons for the arrest of Mr. Hizbullah (Ref. SCFR 93/2020). This Fundamental Rights violation petition has not been pursued by the lawyers of Mr. Hizbullah to be supported for leave to proceed before the Supreme Court to date.
 - ii. The Writ Applications filed on behalf of Mr. Hizbullah before the Court of Appeal have been withdrawn.
 - iii. High Court Puttalam Case No. 78/2021: Mr. Hejaaz Omar Hizbullah was served indictment on 15.7.2021. The disclosures of the witnesses were handed over. Section 7 notice was given under Evidence Special Provisions Act.
 - iv. Case is to be mentioned to ascertain whether defence had received all relevant material. Mr. Hejaaz Omar Hizbullah was represented by a team of lawyers including Presidents Counsel. The next court date is 03.09.2021.
3. With regard to the additional matters raised, the GoSL wishes to make the following observations:

Revisiting the PTA

- i. A Cabinet Sub-committee, and an Officials Committee to assist the Cabinet Sub-Committee, were appointed to revisit the PTA in order to address the gaps in existing counter terrorism legislation and ensure that Sri Lanka's counter terrorism legislation balances measures to safeguard national security with Sri Lanka's international human rights undertakings and international best practices in this regard. The Officials Committee, comprising of officials from the Ministry of Justice, Attorney General's department, Foreign Ministry, and representatives of the Police and armed forces, has commenced its consultative work. The Officials' Committee is to submit a report to the Cabinet by the end of this month.

- ii. With regard to the PTA, the Government is intensifying and expanding the consultation process by including all stakeholders such as civil society, professional associations such as Bar Association of Sri Lanka and academic institutions such as faculties of law in national universities. The Government will ensure a non-partisan approach in this endeavor.
- iii. On 24 August 2021, H.E. the President appointed an Advisory Board in terms of Section 13 of the PTA, chaired by retired Chief Justice Hon. Asoka de Silva Esquire and two other members. Any person who has been issued a Detention Order or a Restriction Order under the PTA, or any person representing him/her, can make representations to this Advisory Board, who may then advise the Minister on the Order issued. This Board therefore, presents an opportunity for those detained or restricted under the PTA to request a review of the Order.

Allegations on hate speech and discrimination against minorities

- iv. Article 12 (1) of the Constitution of Sri Lanka guarantees to all persons equality before the law and equal protection of the law. Meanwhile Article 12(2) guarantees the fundamental right to non-discrimination on the grounds of "race, religion, language, caste, sex, political opinion, place of birth or any such grounds." It must be noted in this context, that Article 12(1) read in conjunction with Article 12(2) ensures that the grounds of non-discrimination are non-exhaustive, and thereby ensures compliance with the Covenant.
- v. The Government does not condone any act of religious hatred or intolerance, and maintains a zero-tolerance policy on any such acts, and has taken measures to combat same.
- vi. In addition to the provisions of the Penal Code, the International Covenant on Civil and Political Rights (ICCPR) Act No.56 of 2007, criminalizes advocating religious hatred that constitutes incitement, discrimination, hostility or violence. Section 3(1) of the ICCPR Act provides: "*No person shall...advocate national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.*"
- vii. The laws are strictly enforced against those committing violence against religious groups and those practicing hate speech.
- viii. Action has been taken to investigate and take legal action against perpetrators of alleged attacks on religious minorities, with parallel measures aimed at preventing tensions through awareness programmes.