

# Year-long detention of lawyer, poet sparks concern in Sri Lanka

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## Spotlight on minority rights, and ‘draconian’ anti-terrorism law modelled on South Africa’s Apartheid-era legislation

Daily-wage agricultural labourer Abdul Ghafoor Muhammadhu Jazeem, in Sri Lanka’s northern Mannar district, had one life goal. To ensure his children have a good education. Despite toiling for years to realise the dream, he could not be more dejected today.

On May 16, 2020, the police arrested his eldest son, Ahnaf Jazeem, a 26-year-old teacher and Tamil poet, based on allegations that his poetry collection, promoting “religious extremism”, was circulated among his students in Puttalam in the North Western Province, where he was employed.

Mr. Ahnaf Jazeem was arrested under the controversial Prevention of Terrorism Act (PTA) — that rights groups deem draconian and want replaced — and has been in custody for a year now. His case, like that of prominent Muslim lawyer Hejaaz Hizbullah — also in detention for a year — has brought to focus growing fears over minority rights in Sri Lanka, and old concerns about the 40-year-old anti-terrorism law.

The poet’s parents say they were baffled to hear their son’s name along with terrorism charges. Just after the Easter attacks in April 2019, the police came to their Mannar home — many Muslim homes in the north and the east were raided — spotted the poetry book, and asked Mr. Ahnaf Jazeem about it. “Our son explained to them in Sinhala the themes and ideas in the poems, and they left,” Mr. Muhammadhu Jazeem recalls. Little did the family know that a year later, the same anthology would get him arrested.

A reading of ‘*Navarasam*’, published in 2017, makes it evident that far from sympathising with radical Islamist ideas, Mr. Ahnaf Jazeem unambiguously condemns religious extremism, specifically the “ISIS’s cruelty” in the collection that touches upon themes ranging from war and peace, to women’s attires and patience. Tamils scholars have said they found no extremist views in his verses.

It took 10 months and multiple letters to authorities before Mr. Ahnaf Jazeem obtained access to lawyers. “Not only did we struggle to obtain access to our client, he was not produced in court for months together; no case was proceeding against him. This is all so anti-democratic,” says Sanjaya Wilson Jayasekara, an attorney appearing for the poet, whom he sees as “another victim of the anti-Muslim campaign” of the government.

## National security

The Rajapaksas came to power in November 2019, months after the Easter Sunday serial blasts, promising to bring perpetrators to justice, and strengthen national security.

For Sri Lanka’s Muslim community — constituting about 10 % of the country’s 22 million population

— the blasts, carried out by a network of Islamist radicals, was a huge blow. It escalated the discrimination and violence they had faced in the post-war decade. Targeted attacks on Muslim homes and relentless smear campaigns on social media just after the bombings, and more recent government policies, including the denial of burial rights to COVID-19 victims — that was later reversed — and a Cabinet decision to ban the face-veil, have made the community anxious.

With uncertainty hanging over their son's future, Mr. Ahnaf Jazeem's parents are unable to feel hopeful. Having braved a brutal eviction by the LTTE in the early 1990s, decades of displacement, and a rocky resettlement, his father had hoped that his children settling down would finally bring a semblance of peace and security to his life. "For all the effort I put in to educate my children and raise them as responsible citizens of this country, I must say this government has given me a big gift," says Mr. Muhammadhu Jazeem, barely hiding his sarcasm.

Religious discrimination is only one of the concerns being raised in regard to the case. The dreaded PTA's history in Sri Lanka tells numerous stories of prolonged detention without indictment, and torture.

Barring one instance when Mr. Ahnaf Jazeem was brought before a magistrate to record a statement, he has never been produced in court, although required under international human rights principles, as well as Sri Lankan law. After a year in detention, the poet has not been charged with a crime either.

### **Lawyer's detention**

Mr. Ahnaf Jazeem's case is not very different from that of Mr. Hizbullah, who was arrested on April 14, 2020 under the PTA. While the police earlier said the lawyer was arrested for alleged links to the Easter attacks, he was subsequently accused of promoting racial hatred, an offence under Sri Lanka's International Covenant on Civil and Political Rights (ICCPR) Act. He had spent 10 months in custody before being charged.

No court of law has ruled that the lawyer is guilty of any of the charges. He has been produced in court only once so far, in February this year. Like many others in Sri Lanka's congested prisons, he contracted COVID-19. "The biggest challenge in this case has been how the media has repeatedly vilified our client," says a lawyer appearing for Mr. Hizbullah, requesting not to be named since the case is ongoing.

Both sections of Sri Lanka's mainstream media — mostly Sinhala and English — as well as social media have frequently blown up unproven allegations against the lawyer, calling him a "terrorist" and "mastermind".

"What we are fighting keeps changing every day. First, they accused him of having links with Easter bombers, then they said he is spreading racial hatred," says Mr. Hizbullah's wife, who is still in disbelief. Fearing "more social media attacks", the family requested their names be withheld. Mr. Hizbullah's five-month-old baby has seen her father only through prison bars.

"I had my fears," says Mr. Hizbullah's mother, because "he was so outspoken and bold". Known to be an establishment critic, Mr. Hizbullah rose to prominence in 2018, in the high-profile Supreme Court case, joining a band of senior lawyers challenging the premature dissolution of Parliament by then President Maithripala Sirisena. They won the case.

### **'Repeal PTA'**

Mr. Hizbullah and poet Mr. Jazeem are among hundreds arrested and detained under the PTA. For

decades now, activists have been campaigning to repeal it, citing the chilling effect it could have on dissent, and the lapses seen in due process.

Observing that the guilt or the lack of guilt of the arrested individuals can only be determined before a court of law, Colombo-based law academic Dinesha Samararatne says: “Law enforcement authorities should be held accountable for prolonged and unreasonable detention as it does not advance the cause of victims of crime, of the accused or the objectives of a criminal justice system as a whole. This is why the PTA has to be repealed without further delay.”

The PTA, modelled on South Africa’s Apartheid-era legislation and the British laws used against Irish militancy, was enacted in 1979, under President J.R. Jayawardene. His government passed it chiefly to curtail Tamil youth’s nascent armed struggle protesting against the State’s discrimination.

It became a permanent law in 1982, and has not spared other ethnic groups. In the late 1980s, the state used the law in the island’s Sinhala-majority, to detain insurgent JVP youth.

Following the Easter Sunday tragedy, scores of suspects, mostly Muslims, have been detained under the PTA. According to police spokesman DIG Ajith Rohana, as many as 202 are currently in remand custody, while 83 have been detained for interrogation. “Most of them were arrested under the PTA,” he says. A total of 700 persons have been arrested since the attacks, but none has been charged to date.

Amid persisting calls to repeal the law, the former Sirisena-Wickremesinghe administration tried drafting a new counter-terrorism law, but failed to see it through. In March this year, the Rajapaksa government gave itself sweeping powers to detain suspects for up to two years for “deradicalisation” using the law.

President Gotabaya Rajapaksa promulgated regulations expanding the ambit of the PTA, allowing the detention of anyone suspected of causing “acts of violence or religious, racial or communal disharmony or feelings of ill will or hostility between different communities”.

Meanwhile, the police maintain that the arrests made in connection with the Easter bombings, including those of Mr. Hizbullah and Mr. Ahnaf Jazeem, are based on evidence emerging from their probe. To questions about due process in the arrests of the poet and lawyer, Mr. Rohana says: “Due process is certainly being followed in these cases. If the concerned parties of their families feel otherwise, or want to challenge our discretion, Sri Lankan law gives them the option of going to court and seeking a remedy.”

Both Mr. Ahnaf Jazeem and Mr. Hizbullah’s lawyers have filed Fundamental Rights petitions in the Supreme Court challenging their “arbitrary” arrests and “unlawful” detention, and are hoping their cases will be heard soon.

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