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BAR ASSOCIATION OF SRI LANKA

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Dear Sirs,

**UNLAWFUL DETENTION AND LACK OF ACCESS TO LAWYERS FOR
MR HEJAAZ HIZBULLAH, AAL**

We write with deep concern as Attorneys at Law regarding the very serious situation surrounding the detention of Mr Hejaaz Hizbullah, Attorney at Law in denial of his right to due access to legal counsel and his family.

We believe that as the professional body entrusted with safeguarding a conducive environment for its members to engage in professional duties freely and fearlessly, the Bar Association of Sri Lanka (BASL) should take swift, effective and meaningful action where legal guarantees of its members are denied. We call upon the BASL to consider the following and take necessary action immediately to ensure Mr Hizbullah's rights are guaranteed and due process is adhered to:

a) We refer to the attached statement by members of civil society that highlight circumstances of his arrest and detention and further note that over 8 days have passed since the arrest and detention of Mr Hizbullah. We understand that the situation has not changed up to date;

b) Neither reasons for his arrest nor provisions of law under which he is continued to be detained has been officially served upon him. This violates the basic Constitutional shield from being arrested except according to

procedure established by law and the right to be informed of the reason for the arrest (Article 13(1) of the Constitution);

c) We further understand that he has not even been produced before a Magistrate to date, in violation of the right to judicial oversight of the custody and propriety of conditions involved;

d) **Most alarmingly, Mr Hizbullah has been denied access to his family and even lawyers except for a brief 15 minutes with an attorney at law under the scrutiny of an eavesdropping CID officer.** This does not constitute due access to one's lawyer by any stretch of imagination and involves denial of due recourse to justice through proper and effective representation. Whilst there is no official confirmation as to under which law Mr Hizbullah has been arrested, no law in operation allows denial of access for the purpose of legal representation. Moreover, Section 15 read with Section 23 of the International Convention for the Protection of All Persons from Enforced Disappearance Act No 5 of 2018 requires any person deprived of liberty to have access to relatives and legal representation. This legal right continues to be violated in this matter.

The above are all very basic guarantees to persons arrested under the law. Irrespective of the merits of the case, these guarantees should be available and assured to all persons subject to a deprivation of liberty. Whilst we fully appreciate that investigations on any alleged or genuinely suspected offence should not be hampered, the authorities should proceed only and strictly as prescribed under the law. We further refer to the Constitutional provision that 'all persons shall be presumed innocent until proven guilty' which will be rendered meaningless if these basic protections are not guaranteed at the investigation stage.

We emphasise that violation of the above guarantees in respect of a member of the legal profession sends out a chilling message to other lawyers and the general public regarding the state of due process and the ability of the BASL to stand effectively for the rights of those who represent persons in high-profile cases. **A free, fearless and independent legal profession being one of the most important features of a democracy to protect rights of individuals, it is the duty of the leadership of the professional body to do its utmost to defend the ability to function as lawyers, without obstruction, fear or favour.**

We are concerned and perturbed that no firm and open stand has been taken by the BASL on this matter all this time, notwithstanding that the rights of all attorneys-at-law to undertake protection of the rights of their clients are jeopardised by this state of affairs. We earnestly urge for immediate action to remedy the situation and to restore confidence in the ability of legal professionals to practice by having access to their clients, without being shut out /obstructed by police officers or any other authority without legal basis.

We further request to be updated on the action taken on this request.

Yours faithfully,

Signatories in alphabetical order,

- 1.A. A. M. Illiyas, PC
- 2.A. C. F. Benazir
- 3.Ahamed M. Hussain
- 4.Ahmed Imran Irfana
- 5.Althaf Marsoof
- 6.Amila Madushan Perera
- 7.Atham Lebbe Aazath
- 8.Ashan Fernando
- 9.Ayesha Prasad
- 10.B. Gowthaman
- 11.Basheer Ahamed
- 12.Bhavani Fonseka
- 13.Bianca Anandappa
- 14.Binendri Perera
- 15.Buddhinee Herath
- 16.Prof. Camena Guneratne
- 17.Chalani Edirisuriya
- 18.Charmaine Tillekeratne
- 19.Deanne Uyangoda
- 20.Delan De Silva
- 21.Dhanushan Kaneshayogan
- 22.Dinesh Vidanapathirana
- 23.Dr. Dinesha Samararatne
- 24.Dinukshi Thalgahagoda
- 25.Divya Mascranghe
- 26.Ermiza Tegal
- 27.F. Fihama Feroze
- 28.F. M. F. Rahma
- 29.F. S. A. Hassen
- 30.F. S. Ahamed
- 31.F. Maiza Azar
- 32.Faaiz Ameer
- 33.Fadia Noordeen
- 34.Farman J Cassim, PC
- 35.Fashana Afaz
- 36.Fathima Muzna
- 37.Fathima Nuzreth Rasheed
- 38.G. C. J Perera
- 39.Gehan Gunatilleke
- 40.Geoffrey Alagaratnam, PC
- 41.Hafsa Mowjood
- 42.Hamsana Vamadeva
- 43.Harindrini Corea
- 44.Harith de Mel
- 45.Heshanthi Madugalle
- 46.Husni M. Rizni
- 47.Hussain Azhar Sainoon
- 48.Imaz Imthiyaz
- 49.Imthiyaz Wahab

50. Inthikab Idroos
51. Ishara Gunawardena
52. J.N.H.M. Markar
53. Javid Yusuf
54. Jegatheeswary Muthusamy
55. Jerusha Crossette-Thambiah
56. Jiffry Abusaly
57. Jivan Goonetilleke
58. Justice Saleem Marsoof, PC
59. K. W. Janaranjana
60. K.S.Ratnavale
61. Kamani Jinadasa
62. Keshan Thalgahagoda
63. Khyati Wikramanayake
64. Lal Wijenayake
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75. M. M. F. Shafeena
76. M. M. Fathima Shamila
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78. M. Nizar Fawzul Nizaya
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80. M.C. M. Muneer
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88. Mohomed Adamaly
89. Mubarak M Muazzam
90. Muhammad Ibrahim Aminudeen
91. N G Saabir Sawaad
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93. N.K. Ashokbharan
94. Nalani Manatunga
95. Natasha Balendra
96. Nethmini Medawala
97. P. M. M. Aslam
98. Prabodha Rathnayaka
99. Prasad Sarathchandra
100. Prasansani Bandaranayake
101. Prashanthi Mahindaratne

102.Pulasthi Hewamanna
103.Rameez Basheer
104.Ravi Algama
105.Razmara Abdeen
106.Revan Weerasinghe
107.Rohan Dunuwille
108.Roshan Hettiarachchi
109.Roshana Rashid
110.Ruvini Perera
111.S A C A Sabry
112.S. Jayasuriya
113.Sabra Zahid
114.Sabry Nilamudeen
115.Samihah Ashruff
116.Sanjaya Wilson Jayasekera
117.Sanjendra Vignarajah
118.Sanjit Dias
119.Sankhitha Gunaratne
120.Sarah Arumugam
121.Sathya Efrem
122.Prof. Savitri Goonesekere
123.Sha Mohamed
124.Shabna Jiffry
125.Shaheena Mohamed
126.Shalomi Daniel
127.Shanaka Amarasinghe
128.Shanil Wijesinha
129.Sharafi Mohideen
130.Sharmaine Gunaratne
131.Shazina Weerabangsa
132.Shihar Hassan
133.Sindhu Ratnarajan
134.Sudarshna Gunawardena
135.Suhadini Wickremasinghe
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137.Suren D Perera
138.Suren Fernando
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142.Prof. Suri Ratnapala
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147.Tahira Cader
148.Thanuka Nandasiri
149.Thiagi Piyadasa
150.Upul Jayasuriya PC
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152.Uthuma Lebbe Ali Zakky
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154. Varuna Mallawarachchi
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