

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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14 January 2022

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Dear Prime Minister, Minister, Secretary and Lieutenant Governor;

Re: Arbitrary detention of human rights defender Khurram Parvez

I am writing on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of lawyers and other human rights defenders who promote international human rights law and the rule of law through advocacy, legal research and education. LRWC is a volunteer-run NGO in Special Consultative Status with the Economic and Social Council of the United Nations (UN).

Lawyers' Rights Watch Canada (LRWC) is seriously concerned about the arbitrary detention of Kashmiri human rights defender Mr. Khurram Parvez, the program coordinator for Jammu and Kashmir Coalition of Civil Society (JKCCS) and the chair of the Asian Federation Against Involuntary Disappearances. While monitoring an election in 2004, an improvised explosive triggered the explosion of Mr. Parvez' car. He subsequently had his leg amputated. Since, Mr. Parvez has been documenting human rights violations in Kashmir, such as enforced disappearances, arbitrary detentions, unmarked graves, and other violations.

Mr. Khurram Parvez was arrested and imprisoned on 22 November 2021. The charges against him under the Indian Penal Code include: criminal conspiracy, waging war against the government of India (Sections 120B and 121). The charges against him under the Unlawful Activities Prevention Act (UAPA) include: raising funds for terror, conspiracy, recruiting

persons for commission of a terrorist act, and membership in a terrorist organization (Sections 17, 18, 18B, and 38).

The UAPA contains a vague and overbroad definition of terrorism which allows the law to be arbitrarily misapplied against peaceful political dissidents, minorities and civil society groups. In 2019, the UAPA was been expanded to allow the designation of individuals as terrorists, without a trial. This has allowed these counterterrorism laws to be abused to target human rights defenders, journalists, and other members of civil society who speak out against abuses by State authorities.

The arrest and detention of Mr. Parvez and other human rights defenders appears to be aimed at silencing peaceful dissent against human rights violations in Kashmir. The National Investigation Agency (NIA) and other authorities are increasingly misusing counter-terrorism legislation against human rights defenders, activists, media outlets, and others.

In October 2020, the UN High Commissioner for Human Rights raised concerns over the mounting use of the law against human rights defenders and peaceful protesters and urged the authorities to release people arrested “for simply exercising basic human rights that India is obligated to protect.”¹ On 22 December, eight UN Special Procedures mandate holders raised similar concerns and urged that your government ensure the immediate release of Mr. Parvez and to ensure that all anti-terrorism legislation is made consistent with India’s international human rights law obligations.²

We remind your government that Mr. Parvez has previously been unlawfully arrested under similar charges. Following a 2016 report by the JKCCS on official impunity for human rights violations in Kashmir, Mr. Parvez was imprisoned for two months. Two days prior to his arrest, the NIA prevented Mr. Parvez from boarding a flight to Geneva where he was scheduled to share the findings of his report at the 33rd session of the UN Human Rights Council.

The arbitrary detention of Mr. Parvez violates internationally protected human rights guaranteed by the *International Covenant on Civil and Political Rights* (ICCPR),³ binding on authorities in India, including Jammu and Kashmir, since India acceded to the ICCPR on 10 April 1979. Several of Mr. Parvez’s internationally protected rights have been violated, including his rights to liberty and freedom from arbitrary detention (Article 9), his freedom to leave the country (Article 12.2), his freedom of expression (Article 19), his freedom of association (Article 22), and his right to due process guaranteed by Article 14, including his right to a lawyer pursuant to Article 14.3, and his right to an effective remedy (Article 2(2)).

¹ “Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India,” OHCHR, 20 October 2021, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26398>.

² “UN experts urge Indian authorities to stop targeting Kashmiri human rights defender Khurram Parvez and release him immediately, OHCHR, 22 December 2021,” available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28006&LangID=E>.

³ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

LRWC calls upon all authorities in India, including Jammu and Kashmir, to:

- Immediately and unconditionally release Mr. Khurram Parvez;
- Ensure that Mr. Khurram immediately and at all times has all necessary medical treatment and all other accommodations required by him as a person with a disability;
- Ensure the right of Mr. Parvez to immediate and confidential access to lawyers of his own choosing, and ensure at all times that he is protected from all forms of torture or other ill-treatment;
- Respect the independence, impartiality and integrity of the courts, ensuring Mr. Parvez procedural rights as required by the ICCPR, Articles 2, 9 and 14;
- Cease all judicial and other harassment against Mr. Parvez and all other human rights defenders in Jammu and Kashmir, and guarantee in all circumstances a safe and enabling environment by which they may carry out their peaceful human rights work without fear of reprisals and free from restrictions, including hindrances to international travel, in accordance with the UN *Declaration on Human Rights Defenders* and other international rules and standards;
- Ensure that the UAPA and all legislation is reviewed and amended to ensure consistency with India's international human rights law obligations.

Yours sincerely,

[signed]

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