



BY EMAIL

Attorney General Sri Lanka
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Amsterdam, 23 September 2024

Subject: Ongoing trial of Hejaaz Hizbullah

Dear Mr. Attorney General,

Lawyers for Lawyers is an independent, non-political, and not-for-profit lawyers' organisations established in 1986. Its mission is to promote the independent functioning the legal profession across the world in accordance with internationally recognised norms and standards, by supporting lawyers who are at risk as a result of discharging their professional duties. Lawyers for Lawyers has special consultative status with the UN Economic and Social Council since 2013.

We would like to express our continued concern about the ongoing trial against lawyer and human rights defender Hejaaz Hizbullah, a minority rights advocate and legal counsel for many Muslim victims of human rights violations. We recall our previous joint communication ([16 June 2023](#)) and letter addressed to your predecessor ([8 May 2023](#)), H.E. Sanjay Rajaratnam. We urge you to drop all charges against Mr. Hizbullah and cease all harassment against him, as we believe he is being prosecuted in relation to his legitimate professional activities as a lawyer.

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. On 3 March 2021, Mr. Hizbullah was officially charged with "inciting communal disharmony" under the PTA, "advocating national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" under the ICCPR Act of 2007, and with conspiracy and abetment charges under the Penal Code.

Mr. Hizbullah was kept in pretrial detention from the date of his arrest, 14 April 2020, until 9 February 2022, amounting to a total of 22 months in jail. During this time, Mr. Hizbullah was initially denied access to legal counsel. In addition, 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, thus refusing the request. It was only following a revision application against the order refusing him bail that Mr. Hizbullah was finally granted it on 7 February 2022 and subsequently released on 9 February 2022. However, the charges against Mr. Hizbullah have still not been dropped and thus continue to interfere with his legitimate work.

According to information received by Lawyers for Lawyers, the proceedings to date have been marked by irregularities and the prosecution has consistently failed to present credible and convincing evidence. Notably, the CID did not possess any material justifying Mr. Hizbullah's detention under the PTA at the time of his arrest, and all witness statements were recorded at least six days after. These witness statements are marked by contradictions, inaccuracies, and material omissions.

Furthermore, during hearings on 14 July 2023 and 19 October 2023, one of the two witnesses on whom the prosecution has built its case against Mr. Hizbullah, admitted in court to making false statements. Most recently, during the last trial date of 9 August 2024, the prosecution failed to present the necessary documents. Mr. Hizbullah's next hearing is scheduled for 4 October 2024.

All in all, Mr. Hizbullah has been the subject of ongoing prosecution for over 4 years. Given the nature of the charges, the lengthy pre-trial detention, intimidation of key witnesses, and the lack of credible and convincing evidence, Lawyers for Lawyers has strong reasons to believe that Mr. Hizbullah is subject to politically-motivated criminal proceedings on spurious grounds and that his fair trial rights are severely undermined.

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 and bodies (amongst which the European Parliament¹ and a number of Special Rapporteurs of the United Nations²) have urged Sri Lanka to reform the PTA, considering that the law violates Sri Lanka's international human rights obligations.

We would like to draw your attention to the United Nations Basic Principles on the Role of Lawyers,³ in relation to the right to a fair trial as enshrined in Article 14 of the ICCPR, to which Sri Lanka is a party. In particular, Principle 16 states that:

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:

- Drop all charges against Mr. Hizbullah and put an end to all acts of harassment against him, including at the judicial level;
- Ensure that Mr. Hizbullah is afforded all the elements of a fair trial under international law; and
- Guarantee under all circumstances that all lawyers in Sri Lanka, including Mr. Hizbullah, are able to carry out their legitimate professional activities without fear of reprisals and free of all restrictions including judicial harassment, in accordance with the UN Basic Principles on the Role of Lawyers.

Thank you for your attention to this important matter. We are confident that the government of Sri Lanka will give the situation of Mr. Hizbullah the attention and remedial action required by international law.

We look forward to receiving your response. We will continue to monitor this case closely.

Yours sincerely,

LAWYERS FOR LAWYERS

¹ 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

² 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), available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26863>

³ 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.