

Statement on the Arrest and Detention of Attorney-at-law Hejaaz Hizbullah

We are writing with deep concern about aspects of the arrest and detention of attorney-at-law Hejaaz Hizbullah. According to media reports on the habeas corpus application filed by Mr. Hizbullah's father Naina Hizbullah, Mr. Hizbullah had received a phone call, purportedly, from officers of the Ministry of Health (MOH) who had inquired if he had been at a certain location and requested him to remain at home as officials of MOH would visit him. Instead of officials from the MOH, officers from the Criminal Investigation Division (CID) arrived at his home, handcuffed him and interrogated him. Following that they are said to have taken him to his Law Chamber and accessed two case files as well as searched and read other material related to his legal practice. Thereafter, Mr. Hizbullah's wife, who is not proficient in Sinhala, was reportedly ordered to sign a statement in Sinhala. Following that Mr. Hizbullah was taken to the fourth floor of the CID, where reportedly Mr. Hizbullah was arrested and is still detained. Supposedly, to date, Mr. Hizbullah has not been informed of the reason for the arrest nor has he been granted access to his lawyers except in restricted circumstances for about fifteen minutes and in the presence of a CID officer.

While acknowledging the need to conduct thorough investigations into any alleged offence, in this instance, prima facie it appears that the detainee has been denied due process rights. According to facts in the public domain, the CID officers did not inform him of the reason for the interrogation or thereafter the arrest. Although the authorities failed to inform Mr. Hizbullah, his family or his lawyer of the reason for the arrest, they convened a press conference on 15 April 2020 at which they stated he was arrested in relation to the Easter attacks of April 2019.

We note that to date, to the knowledge of his family or lawyer, Mr. Hizbullah has not yet been produced before a magistrate, to which he is entitled per the Constitution of Sri Lanka and human rights norms, and it is unclear under which law Mr. Hizbullah is being detained. Media reports suggest that Mr. Hizbullah is being detained under the Prevention of Terrorism Act. If this is the case, he should have been produced before a magistrate before the conclusion of seventy-two hours or a detention order should have been issued. In the case of Mr. Hizbullah neither appears to have taken place, which could render the arrest and detention arbitrary, and hence constitute a violation of Article 13 of the Constitution of Sri Lanka.

The fact that Mr. Hizbullah has not been allowed to meet his lawyers without the presence of CID officers despite a written request submitted on the 15th April, is cause for grave concern as the right to legal representation is an important element of the right to due process, to which every person is entitled according to Article 13 of the Constitution of Sri Lanka. Unimpeded access to legal counsel is also a statutorily guaranteed right to any person arrested in Sri Lanka.

The most troubling aspect of the process of arrest is that CID officers had allegedly accessed two case files of Mr. Hizbullah, which is a severe impingement of attorney-client privilege, as well as of Mr. Hizbullah's right to practice his profession freely. Such blatant disregard of the due process rights of an officer of the Supreme Court of Sri Lanka and what appears to be his right to practice his profession freely, have a chilling effect on all legal professionals in Sri Lanka, as it creates fear they will be penalized for meeting with persons who are alleged to have committed offences as part of performing their duties as attorneys-at-law.

We call upon the authorities to respect Mr. Hizbullah's due process rights, in particular to grant immediate access to his lawyers to receive instructions, provide reasons for his arrest as well as evidence that the arrest is not arbitrary and produce him before a magistrate immediately.

We request the Hon. Chief Justice to take note of the apparent interference by law enforcement authorities in the right of an officer of the Supreme Court to practice his profession freely and make necessary interventions to ensure attorneys-at-law are able to perform their functions without fear.

1. Dr. Asha. L. Abysekera
2. Nida Admani
3. Hilmy Ahmed
4. Dr. Indi Akurugoda
5. Dr. Harini Amarasuriya
6. Faaiz Ameer -AAL
7. Prof. Antony Anghie
8. Swathika Arulingam -AAL
9. Mario Arulthas
10. Rev. Duleep De Chickera
11. Dr. Radhika Coomaraswamy
12. Rev. Fr. Jeyabalan Croos
13. Dulan Dasanayake- AAL
14. Marisa De Silva
15. Tharanga De Silva
16. Prof. Neil DeVotta
17. Prof. Priyan Dias
18. Dinushika Dissanayake
19. Yalini Dream
20. S.C.C. Elankovan
21. Farih Fauz
22. Saadika Fauz
23. K.B.J. Fernando
24. Dr. Priyanthi Fernando
25. Rev. Fr. Reid Shelton Fernando
26. Ruki Fernando
27. Tamara Fernando
28. Rev. Fr. Terence Fernando
29. Rev. Fr. Oswald Firth

30. Anne-Marie Fonseka
31. Bhavani Fonseka
32. Nilshan Fonseka
33. V.V. Ganeshanathan
34. Ranitha Gnanarajah -AAL
35. Dr. Mario Gomez
36. Shyamala Gomez
37. Prof. Savitri Goonesekere
38. B. Gowthaman -AAL
39. Dr. Carmena Gunaratne
40. Gehan Gunatilleke
41. Prof. Arjun Guneratne
42. Dr. Kumaravadivel Guruparan -AAL
43. Jesmin Hameed
44. Anberiya Hanifa
45. Dr. Farzana Haniffa
46. Shafinaz Hassendeen
47. Sanjana Hattotuwa
48. Pulasthi Hewamanna- AAL
49. Ameena Hussein
50. Zainab Ibrahim
51. Rev. Fr. Sarath Iddamalgoda
52. Deekshya Illangasinghe
53. Muhamed Saiful Islam
54. Prof. Qadri Ismail
55. Nooru Kamaala Jainulabdeen
56. Dr. Janaki Jayawardena
57. Dr. Ahilan Kadirgamar
58. Dr. Sakuntala Kadirgamar
59. Nirupa Karunaratne
60. Prof. Wickramabahu Karunaratne
61. Chulani Kodikara
62. Herman Kumara
63. Jayanthi Kuru-Utumpala
64. Rev. Fr. Nandana Manatunga
65. Dr. Yousuf Marikkar
66. Dr. Farah Mihlar
67. Shiranee Mills
68. Muhamed Mujahid
69. Nagulan Nesiah
70. Prof. Vasuki Nesiah
71. Sr. Nichola
72. Fathima Shifana Niyas
73. Asoka Obeysekere
74. Rev. Dr Jayasiri Peiris
75. Jehan Perera
76. Sachini Perera
77. Deborah Philip
78. Maithreyi Rajasingham -AAL
79. Sanjayan Rajasingham

80. Anupama Ranawana
81. Prabodha Rathnayake- AAL
82. M.D.M. Rizvi
83. Mohammed Roshan
84. Thyagi Ruwanpathirana
85. Azlam Saleem
86. Dr. Athulasiri Samarakoon
87. Dr. Dinesha Samararatne - AAL
88. Dr. Gameela Samarasinghe
89. Kumudini Samuel
90. Dr. Paikiasothy Saravanamuttu
91. Shreen Saroor
92. Ambika Satkunanathan
93. Dr. Kalana Senaratne
94. Philip Setunga
95. Hussein Shamil
96. M. Sitralaga
97. Prof. Sumathy Sivamohan
98. Ermiza Tegal -AAL
99. Prof. Chandraguptha Thenuwara
100. Dr. Sharika Thiranagama
101. Dr Selvy Thiruchandran
102. Sandun Thudugala
103. Deanne Uyangoda
104. Anithra Varia
105. Wajid Wazeer
106. Pasan Weerasinghe - AAL
107. Ralston Weinman
108. Dr. Asanga Welikala
109. Prof. Maithree Wickremasinghe
110. Subha Wijesiriwardena
111. Dr. Joe William
112. Sherine Xavier
113. Rev. Fr. V. Yogeswaran -AAL
114. Dr. Javid Yusuf
115. Faizun Zackariya
116. Sabra Zahid
117. Zain Zaid

Institutions

1. Committee for Protecting Rights of Prisoners
2. Families of the Disappeared
3. Human Rights Office, Kandy
4. International Centre for Ethnic Studies
5. National Fisheries Solidarity Movement
6. Right to Life Human Rights Centre