Inter-Parliamentary Union
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Sri Lanka

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)

© Courtesy Mr. Rishad Bathiudeen's family

LKA-77 – Rishad Bathiudeen

Case LKA-77

Sri Lanka: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

Qualified complainant(s): Section I.1(a) of the Committee Procedure (Annex I)

Submission of complaint: May 2021

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing: - - -

Recent follow-up:
- Communication from the authorities: August 2021
- Communication from the complainant: November 2021
- Communication to the authorities: October 2021
- Communication to the complainant: November 2021

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

Mr. Abdul Rishad Bathiudeen, a leading Muslim opposition member, was arrested on 24 April 2021 under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, on accusations of having aided and abetted the suicide bombers, allegedly linked to the Islamic State, who caused the deaths of close to 300 people on Easter Sunday, 21 April 2019. The attacks were on churches and hotels and targeted the Christian community in Sri Lanka.

At the time, Mr. Bathiudeen was Minister of Industry and Commerce. One of the entities that came under the purview of his ministry was the Industrial Development Board (IDB), which, *inter alia*, was responsible for selling scrap metal to businesses and for issuing related export licences. It turns out that a

company, Colossus (Pvt) Ltd, managed by a director who later became one of the suicide bombers, purchased scrap metal and sought to obtain an export licence from the IDB, and that some of the money obtained thereby may have been used to finance the terrorist bombings.

According to the complainant, Mr. Bathiudeen was in no way involved directly in the process of authorizing the sale of scrap metal or the issuance of export licences, these powers having been delegated to others in the ministry. Moreover, the complainant underscored that Mr. Bathiudeen had no relations whatsoever with the director of Colossus (Pvt) Ltd. In this regard, the complainant also points out that, in addition to a ministerial investigation committee, a parliamentary select committee and presidential commission of inquiry found no evidence incriminating Mr. Bathiudeen with regard to the suicide bombings. The complainant states that Mr. Bathiudeen has been targeted with criminal proceedings for his opposition to the current President, Mr. Rajapakse, and owing to anti-Muslim sentiment in the country in the aftermath of the Easter Sunday attacks.

According to the complainant, upon arrest, Mr. Bathiudeen was not shown a warrant nor was he later charged. Mr. Bathiudeen immediately submitted a Fundamental Rights Application challenging his arrest and detention. According to the Secretary General of Parliament, inasmuch as the matter was of direct concern to parliament, in line with the procedure in place, the Speaker had been informed at the time of Mr. Bathiudeen's arrest by the competent authorities. Mr. Bathiudeen's Fundamental Rights Application was before four different Supreme Court judges, with each one deciding to recuse themselves. On 14 October 2021, the Forts Magistrate Court granted Mr. Bathiudeen bail, but still considered him a suspect in the investigation.

On 4 October 2021, Sri Lankan prosecutors indicted over 20 suspects along with the alleged Islamic State "mastermind" of the suicide bombings in the Colombo High Court. These individuals are said to have had direct involvement with the suicide bombers. There are still many others, possibly amounting to 300 persons, who are reportedly still being held without charge or prosecution in connection with the Easter Sunday Attacks.

It should be noted that Mr. Bathiudeen is also a suspect in another legal case that is not part of the complaint before the IPU Committee on the Human Rights of Parliamentarians.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. Notes that the complaint concerning Mr. Rishad Bathiudeen is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under Section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns an incumbent member of parliament at the time of the alleged facts; and (iii) concerns allegations of arbitrary arrest and detention, lack of due process in proceedings against parliamentarians, and violation of freedom of opinion and expression, which are allegations that fall within the Committee's mandate.

2. *Thanks* the Secretary General of the Sri Lankan Parliament for his communication and cooperation;

3. *Is concerned* that Mr. Bathiudeen was detained for six months under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, in the absence of the prompt processing of his Fundamental Rights Application;

4. *Is also concerned* that no official information has been made available to show on what concrete factual basis Mr. Bathiudeen is considered a suspect in the investigation, which may only give weight to the statement by the complainant that there is in fact no case against him;

5. *Calls on* the competent authorities, therefore, to either swiftly charge Mr. Bathiudeen, if solid and credible evidence is available, or to abandon the case against him; and *wishes* to receive specific information on this point;

6. *Is deeply concerned* that the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, has not been abolished or amended as recommended on many occasions by United Nations human rights mechanisms and despite previous commitments made by the Sri Lankan authorities; *recalls* in this regard that the Act allows arrests for unspecified “unlawful activities” without warrant and permits detention for up to 18 months without the authorities bringing the suspect before a court, and that this has led to multiple abuses; *calls on* parliament, therefore, to use its powers to carry out a full review of this Act and to abolish or amend it in line with Sri Lanka’s international human rights obligations; and *wishes* to receive information in this regard, including on whether parliament wishes to receive IPU assistance to that end;

7. *Requests* the Secretary General to convey this decision to the parliamentary and prosecuting authorities, the complainant and any third party likely to be in a position to supply relevant information;

8. *Requests* the Committee to continue examining this case and report to it in due course.