

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Friday, January 16, 2013

President Mahinda Rajapakse
Office of the President
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Dear President Rajapakse;

Re: Impeachment of Chief Justice Shirani Bandaranayake

Lawyers Rights Watch Canada (LRWC)¹ is deeply alarmed by the motion passed today by the Parliament of Sri Lanka to impeach Chief Justice Shirani Bandaranayake of the Sri Lankan Supreme Court.

Despite strong criticism from members of the legal community in Sri Lanka and around the world, the Sri Lankan parliament ignored rulings from both the Court of Appeal and the Supreme Court in carrying out the impeachment motion. It is our understanding that any attempt to carry out the impeachment process against the Chief Justice is illegitimate and contrary to the Sri Lankan constitution.

LRWC joins members of the international legal community and members of the Sri Lankan bar in opposing this attack on the independence of the judiciary in Sri Lanka. In a letter addressed to the justices of the Supreme Court, a collective of Sri Lankan lawyers have requested:

...that the Judges of the Supreme Court should refuse to accept an appointment of Chief Justice (or as acting Chief Justice) or refuse to recognize any person appointed to the office of Chief Justice and refuse to sit with a person appointed as the Chief Justice as such an appointment would be contrary to the Constitution.

The international legal community has cautioned the Sri Lankan government for months that efforts to impeach the Chief Justice would be viewed as an attack on the independence of the judiciary and a derogation of the rule of law. In a strongly worded condemnation of the impeachment motion, the International Commission of Jurists has stated,

¹ LRWC is a committee of lawyers who promote human rights and the rule of law internationally by protecting advocacy rights. LRWC campaigns for advocates in danger because of their human rights advocacy, engages in research and education and works in cooperation with other human rights organizations. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

Sri Lanka's parliament and executive have effectively decapitated the country's judiciary in pursuit of short term political gain. As an immediate matter, this has precipitated a legal and constitutional crisis of unprecedented dimensions; but just as worrying are the consequences of this action, which severely erodes accountability and the rule of law in a country already suffering from decades of impunity.

The United Nations Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, also expressed her concern over the independence of the judiciary stating that “[t]he recent steps taken by the executive and legislative towards impeaching the Chief Justice appear to be the culminating point of a series of attacks against the judiciary for asserting its independence.”

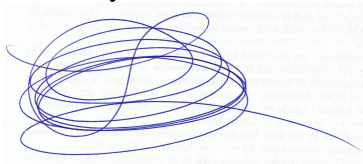
LRWC agrees with the statement issued by the Asian Human Rights Commission that “by passing the resolution to remove the Chief Justice of Sri Lanka, the government will usher in a period of serious repression, which they will have no capacity to control.” We urge you to listen to these statements by legal and human rights specialists in Sri Lanka and abroad.

LRWC calls on your government:

1. Not to execute the motion to impeach Chief Justice Shirani Bandaranayake;
2. To consult with experts on judicial independence and the rule of law in order to ensure Sri Lanka's compliance with internationally accepted procedures for maintaining judicial independence and carrying out disciplinary investigations;
3. To ensure that the independence of the judiciary is restored and respected by taking immediate measures to reinstate Chief Justice Shirani Bandaranayake;
4. To ensure that members of the legal community and human rights defenders who are critical of the impeachment process are adequately protected from intimidation, harassment, reprisals, and threats; and
5. To amend Article 107 of the Constitution to ensure that disciplinary proceedings against judges are conducted by independent commissions with the guarantee of due process.

We look forward to receiving your reply.

Sincerely,



Gail Davidson
Executive Director, Lawyers Rights Watch Canada

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