



BY AIRMAIL

President Mahinda Rajapakse
Presidential Secretariat
C/ Office of the President
Temple Trees 150, Galle Road
COLOMBO 3, **SRI LANKA**

Fax: (+94) 11 472100 / (+94) 11 2446657 /
(+94) 11 243 0590
Email: lalith@icta.lk

Amsterdam, 16 September 2014

Re: Threats of Mr. Upul Jayasuriya, President Bar Association of Sri Lanka (BASL) and death threats of three other attorneys at law, Namal Rajapakshe, Manjula Pathiraja and Lakshan Dias on 4 August and on 13 September.

Your Excellency,

The Dutch Lawyers for Lawyers foundation would like to draw your urgent attention to express collegial concern about a few recent cases that came to our attention: the threat of the president of the Bar Association of Sri Lanka, attorney at law **mr. Upul Jayasuriya** at 15 July, the intimidation of attorney at law **Mr. Lakshan Dias** at 4 August, and the death threat of two other attorneys at law **mr. Namal Rajapakshe and mr. Manjula Pathiraja** on 13 September.

Upul Jayasuriya

Upul Jayasuriyahas has, since his election as a president of BASL, frequently taken up issues of rule of law, independence of the judiciary and threats to democracy including threats to media freedom and freedom of expression. He made speeches in public about land evictions, the control of civil society organizations and the attitude of the authorities against Muslims.

At 15, 16 and 17 July, Upul Jayasuriya had made a complaint with the Thalangama police regarding an incident where two unidentified motorcyclists had roamed around his residence located in the Thalangama area. He was followed by unidentified persons on two motorcycles while he was returning from Hulftsdorp on July 15. They had roamed around his residence in a suspicious manner, and have been spotted by several neighbours. A complaint in this regard was registered at the Thalangama police station. The BASL has got reliable information that the men who followed Upul Jayasuriya were from the State Intelligence service (SIS).



Because the police refused to provide the necessary security measures for Upul Jayasuriya, the case was brought to the Chief Magistrate Court. While the case was upheld in order to get more information, the Ministry of Defence had informed the police that there was no need for special personal security as there was no threat on the life of Upul Jayasuriya according to investigations. The court relied on this conclusion. So far, no person has been arrested and no security measures have been provided to Jayasuriya by the national police.

Namal Rajapakshe, Manjula Pathiraja & Lakshan Dias

Mr. Rajapakshe, Mr. Pathiraja and Mr. Dias have frequently appeared for victims of human rights violations across the country, irrespective of ethnic and religious backgrounds, often pro bono. They appeared in series of sensitive cases challenging arbitrary actions of all organs of the Government, including the Defence Authorities. They have made themselves available for emergencies at all times and days. While upholding the highest traditions of the legal profession, all three of them have been well respected and committed human rights defenders who have been taking forthright and courageous positions on issues of democracy, rule of law and human rights in Sri Lanka.

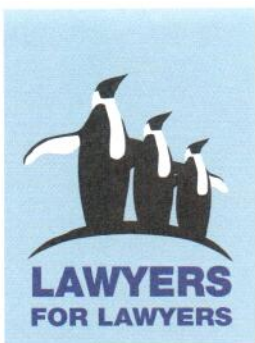
On 4th August 2014, Attorneys Mr. Rajapakshe, Mr. Pathiraja and Mr. Lakshan Dias were intimidated by a group of thugs inside the Maradana Police station, in front of the Head Quarters Inspector. The three of them were making representations on behalf of their clients, on the breaking up of a peaceful private meeting and criminal trespass. Mr Rajapakshe had made a complaint regarding this incident on 5th August 2014. No actions have been taken by the Police in respect of this intimidation.

Furthermore, at around 6:20 pm on 13 September 2014, two unidentified men wearing jackets and helmets covering their faces entered the legal offices of Namal Rajapakshe in Kelaniya, Colombo district. One of the men, who was armed with a gun, cornered Namal Rajapakshe and threatened that he and Manjula Pathiraja would be killed should they appear in any more "unnecessary cases". They were allegedly told that they must keep 'two coffins ready for them', if they were to appear on those cases. They particularly mentioned several cases where Mr. Rajapakshe and Mr. Pathiraja had appeared against a controversial Buddhist monk, who received the backing of the Defence Authorities in the recent past. The two intruders had then fled on an unidentified motorcycle. Mr. Rajapakshe made a complaint at the Peliyagoda Police Station bearing number CIB/III - 230/123.

Actions to be taken

As non-governmental organization in special consultative status with the United Nations Economic and Social Council (ECOSOC), L4L promotes adherence to United Nations (UN) human rights treaties and other instruments in our work with lawyers and lawyers' associations in several countries. In particular, we emphasize compliance with the UN Basic Principles on the role of lawyers (Basic Principles)¹.

¹The UN Basic Principles on the Role of Lawyers provide a concise description of international norms



As a member of the UN, Sri Lanka has obligations to ensure to all people within its territory the equal enjoyment of the personal and advocacy rights protected by the *Universal Declaration of Human Rights (UDHR)* and the *International Covenant on Civil and Political Rights (ICCPR)*. Discharge of these obligations entails ensuring everyone the right to legal representation guaranteed by the ICCPR². It is widely accepted that in order to ensure the right to legal representation, States must adopt and maintain effective measures to ensure the safety and independence of lawyers and the freedom to engage in advocacy without reprisals. The Basic Principles describe specific State duties widely accepted as necessary to ensuring the right to representation through ensuring the independence and safety of lawyers and protecting lawyers from interference by state and other actors. Compliance with the basic Principles is a fundamental precondition to fulfilment of the requirement of every state to ensure effective access both to enforcement of rights and the legal representation required for effective enforcement and remediation.

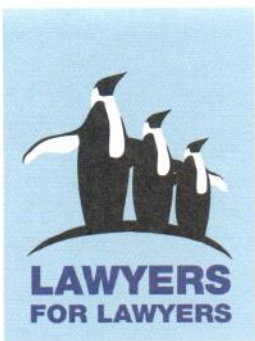
Within the light of the above mentioned cases, we refer especially to the paragraphs 16 and 17 of the Basic Principles on the Role of Lawyers, that state that the government is under an obligation *"to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference" and "shall not suffer, or be threatened with, prosecution of administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics"*. Also, *"where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities"*.

Furthermore, the paragraphs 24 and 25 state that *"lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference, and that "Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics"*.

Considering these paragraphs, we urge you to conduct proper investigations in the cases above, and bring the perpetrators to justice. We call on the authorities of Sri Lanka to honour Sri Lanka's international human rights obligations, to ensure the personal and professional safety of **Mr. Upul Jayasuriya, mr. Namal Rajapakshe, mr. Manjula Pathiraja, and mr. Lakshan Dias**, as well as of all possible colleagues who would face

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.

²Article 14 ICCPR



similar threats in the nearby future. We urge you also to enable them to carry out their professional duties while not being intimidated and hindered in doing so. It is especially disappointing that security is yet to be provided to the president of the professional bar organisation that represents more than 14.000 lawyers in Sri Lanka.

Lawyers for Lawyers would like to thank you for your attention to this very important matter. We will continue to monitor this important matter closely.

On behalf of the President of Lawyers for Lawyers, Phon van den Biesen,

Sincerely,

Lawyers for Lawyers

Adrie van de Streek
Executive director

Copies of these letters were sent to:

- Mr. Sarath Palitha Fernando, Attorney General
- Mr. Gotabaya Rajapaksa, Secretary to the Ministry of Defence
- Justice Priyantha R.P. Perera, Chairman, Human Rights Commission of Sri Lanka
- H.E. Mr. Ravinatha P. Aryasinha, Ambassador, Permanent Mission of Sri Lanka to the United Nations in Geneva
- H.E. MR. BUDDHI K. ATHAUDA, Ambassador of Sri Lanka to the Netherlands / Permanent Representative to the OPCW