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Established 1962

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Celebrating 50 Years of Trust & Integrity

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BY REGISTERED POST

(Copy by Hand and Fax to 2777227/2777508)

Hon. Chamal Rajapaksa
The Honourable Speaker
Parliament Secretariat
Sri Jayewardenepura
Kotte.

Honourable Sir,

We are instructed by our Client, Hon. Dr. Shirani A. Bandaranayake.

As you are no doubt aware, our Client has withdrawn from the proceedings of the Select Committee and the reasons have been given.

We write to request you to defer any further action until an independent and impartial panel is appointed to inquire in to the allegations.

Our Client is absolutely innocent of the allegations and is convinced that she will be exonerated of any wrongdoing by an independent and impartial tribunal.

Our Client re-iterates that the charges are baseless and groundless and can easily be refuted. The issue is of broader and of wider relevance than our Client's rights and affects the integrity and independence of the judiciary.

Thus in the interests of the judiciary and in the interests of the country and in the interests of our Client, we request that our Client be given the opportunity of vindicating herself before an independent and impartial tribunal.

The people of the Country (the Sovereign) have an inalienable right that their Chief Justice be given, a fair trial by an independent and impartial tribunal in keeping with the universally accepted rules and norms.

We annex herewith for your ready reference, the proposal contained in the draft Constitution of the year 2000 with regard to the procedure for removal of the Judges (Chief Justice).

Thus, we request you to defer from taking any further steps until an independent Committee is appointed to inquire in to the matter.

Yours faithfully,



**THE CONSTITUTION
OF THE
REPUBLIC OF SRI LANKA
BILL**

CHAPTER XVIII

THE JUDICIARY

THE INDEPENDENCE OF THE JUDICIARY

151. (1) The Chief Justice shall be appointed by the President of the Republic by warrant under the hand of the President.

Appointment
&c. of Judges of
the Supreme
Court and the
Court of Appeal.

(2) Every other Judge of the Supreme Court, the President of the Court of Appeal and every other Judge of the Court of Appeal shall be appointed by the President of the Republic by warrant under the hand of the President after ascertaining the views of the Chief Justice.

(3) The Chief Justice and every Judge referred to in paragraph (2) of this Article—

(a) shall be an attorney-at-law who is a citizen of Sri Lanka and who, in the opinion of the President, has reached eminence in the legal profession, the judiciary or the academic field of law and has maintained high standards of conduct and professional rectitude ; and

(b) shall hold office during good behaviour, and shall not be removed except by an order of the President made after an address of Parliament supported by a majority of the total number of Members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehavior or incapacity.

(4) A resolution for the presentation of such an address shall not be entertained by the Speaker or placed on the Order Paper of Parliament unless —

(a) notice of such resolution is signed by not less than one-third of the total number of Members of Parliament and sets out full particulars of the alleged misbehavior or incapacity ; and

(b) an inquiry has been held —

(i) in the case of the Chief Justice by a committee consisting of three persons each of whom hold, or have held, office as a judge in the highest court of any Commonwealth country;

(ii) in the case of any other judge referred to in paragraph (2) of this Article, by a committee consisting of three persons who hold, or have held, office as a Judge of the Supreme Court or the Court of Appeal created and established by the Constitution, the 1978 Constitution or any other law,

and appointed by the Speaker to inquire into allegations of misbehaviour or incapacity made against the Chief Justice or such Judge, as the case may be, and such committee has found that the allegation of misbehaviour or incapacity has been established against such Judge.

(5) Parliament shall by law or by Standing Orders provide for all matters relating to the presentation of such an address including the procedure for the passing of such resolution, the holding of inquiries by a committee appointed as provided for in sub-paragraph (b) of paragraph (4) of this Article for the investigation and proof of the alleged misbehavior and incapacity and the right of the Chief Justice or such Judge to appear before and be heard by such committee in person or by representative.

(6) Every person appointed to be or to act as Chief Justice, President of the Court of Appeal or a Judge of the Supreme Court or Court of Appeal shall not enter upon the duties of office as Chief Justice, President of the Court of Appeal or Judge until the person makes and subscribes, or takes and subscribes, the affirmation or oath set out in the Fifth Schedule, before the President.

(7) Subject to paragraph (8) of this Article, a Judge of the Supreme Court shall be entitled to hold office until the Judge reaches the age of sixty five years and a Judge of the Court of Appeal shall be entitled to hold office until the Judge reaches the age of sixty three years.

(8) Any such Judge may opt to retire on completion of such period of service as would entitle the judge to the grant of a pension under the Minute on Pensions or resign from office by a writing addressed to the President, prior to reaching the age of retirement.

Salaries of Judges of the Supreme Court and the Court of Appeal.

152. (1) The salaries of the Judges of the Supreme Court and of the Court of Appeal shall be determined by Parliament and shall be charged on the Consolidated Fund of Sri Lanka.

(2) The salary payable to, and the pension entitlement of, a Judge of the Supreme Court and a Judge of the Court of Appeal shall not be reduced after appointment, and the pension entitlement of a Judge of the Supreme Court and the Court of Appeal shall not be less than the salary drawn by the Judge at the time of retirement.

Acting appointments.

153. (1) If the Chief Justice or the President of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of the office for any period by reason of illness, absence from Sri Lanka or any other cause, the President of the Republic shall appoint another Judge of the Supreme Court or of the Court of Appeal, as the case may be, to act in the office of Chief Justice or President of the Court of Appeal, as the case may be, during such period.

(2) If any Judge of the Supreme Court or of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of the office for any period by reason of illness, absence from Sri Lanka or any other cause, the President of the Republic may appoint another person to act as a Judge of the Supreme Court or Court of Appeal, as the case may be, during such period.

Embassy of the United States of America

Colombo

PRESS RELEASE

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U.S. Embassy Urges Transparency and Due Process

December 7, 2012: The United States Embassy remains very concerned about the state of the Sri Lankan judiciary and the impeachment process of the Chief Justice. We urge that the Government of Sri Lanka and the Parliamentary Select Committee investigating the Chief Justice ensure any investigation be conducted transparently, guarantee due process, and is conducted in accordance with the rule of law.

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