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BAR ASSOCIATION OF SRI LANKA  
இலங்கைச் சட்டத்தரணிகள் சங்கம்

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27<sup>th</sup> March, 2014

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Dear Sir,

We shall be thankful if you could kindly make arrangements to publish the following statement in your Newspaper.

Yours faithfully

Sanjaya Gamage  
Secretary  
Bar Association of Sri Lanka

**STATEMENT ISSUED BY THE BAR ASSOCIATION OF THE SRI LANKA**

**INAPPROPRIATE NAMING AND PORTRAYAL OF LAWYERS ON A RADIO PROGRAMME OF "NETH FM" IN A MANNER THAT CONSTITUTES AN IMPEDIMENT TO THE ABILITY TO FREELY AND FULLY DISCHARGE PROFESSIONAL DUTIES AS AN ATTORNEY-AT-LAW**

The Bar Association of Sri Lanka notes with grave concern, that a radio programme broadcast on 24<sup>th</sup> March 2014 over "Neth FM" titled "*Latest Conspiracy of LTTE Diaspora*" has wrongfully and most inappropriately identified and portrayed certain members of the legal profession as part of a conspiracy of an alleged LTTE Diaspora.

This portrayal is unacceptably linked to their appearance in court cases and provision of services as Attorneys-at-Law to persons allegedly involved in and/or accused of involvement in certain illegal activities related to terrorist interests/activities.

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In the said programme, which is part of a series called "Balumgala", Attorneys-at-Law (and Members of the BASL) Mr. Mahinda Jayawardena, Mr. Priyantha Gamage, Mr. Samantha Perera and Mr. Luxman Perera have thus been named and represented in a manner that clearly jeopardizes their personal safety and poses an undue impediment to their ability to freely extend their services to those seeking their services as Attorneys-at-Law.

It is noted with grave concern, that the said scurrilous broadcast (which remains published on the website of the said "Neth FM" – www.nethfm.com) also evidently maligns, vilifies and wrongs the said Attorneys-at-Law by *inter alia* seeking to impugn their character and good names, for having discharged their duties as Attorneys-at-Law.

The seriousness of the impropriety of the said publication is most evident, having regard to the following matters which the Bar Association of Sri Lanka is mindful of, as the professional association to which all members of the legal profession of Sri Lanka belong.

The unwarranted insinuations conveyed by the said radio publication amounts to an obstacle placed on the rights of persons to seek professional legal services and the rights of Attorneys-at-Law, who are required by law to make their services available to all who seek their services without exception, including any persons suspected or accused of any involvement in terrorist activity. In fact, the provision of professional legal services to those seeking same, is not merely a 'right', but also a 'duty' of every Attorney-at-Law.

As the Bar Association has consistently maintained and constantly publicly emphasized, the following are provisions of law that clearly set out the scope of the rights and duties of all Attorneys-at-Law of the Supreme Court, and constitute the law of the land:

**The Constitution:** provides through **Article 13(3)** and **13(5)**, a fundamental right to any person charged with an offence to be represented by an Attorney-at-Law at a fair trial, a presumption of innocence until proven guilty and **Article 12(1)** provides for equality before the law and equal protection of the law.

**Section 41, Judicature Act No. 02 Of 1978:** guarantees *inter alia*: (a) a right to every Attorney-at-Law, the right to assist, advise, appear for and represent clients in courts, institutions for administration of justice and quasi-judicial bodies/functionaries; and (b) a right to every person to have such services provided by an Attorney-at-Law.

Furthermore, **Rule 5 of the Supreme Court (Rules of and Etiquette for Attorneys-at-Law) Rules 1988** which is part of the law of the land, stipulates that an Attorney-at-Law should not refuse to act on behalf of a party or person in any matter or proceeding before any Court, Tribunal or other Institution for the Administration of Justice or in any professional matter at his/her fee, and may refuse to act only if in the opinion of such Attorney-at-Law, there are any special circumstances affecting professional independence or that render him/her unable to conscientiously accept same.

The ability of those of the legal profession to provide legal services to all who seek their professional assistance is essential to the rule of law and democracy. Accordingly, it is the duty of the leadership of the nation and the legal profession to ensure that no threat or obstacle is allowed to be placed in the way of the ability of the legal profession to discharge its lawful functions and duties free of intimidation, unmerited ridicule, defamation and oppressive treatment.

The attention of H. E. the President, the Government and law enforcement authorities is drawn to the fact that it is pertinent to take effective steps to prevent the maligning of Attorneys-at-Law

by any person(s) that would impede and/or discourage and/or hamper Members of the Bar in the discharge of their duties and the exercise of their rights. It is such malignment that the said radio programme has inflicted through the said scurrilous publication.

In the circumstances, the BASL notes with grave concern that it is of paramount importance to take immediate steps to have the said unsatisfactory situation remedied on an urgent basis, not merely to protect the professional rights of the aforementioned Attorneys-at-Law, but in the best interests of the Bar as a whole and the public of our country. An immediate and equally prominent unconditional apology by the management of "Neth FM" and all those concerned in the making and broadcast of the said scurrilous publication and early steps to redress the grave harm inflicted by the scurrilous assault on the good names of the mentioned Attorneys-at-Law (including the immediate removal of the said programme from the Neth FM website) are warranted forthwith. The persons responsible for causing the publication ought to be dealt with for effectively trying to obstruct the course of justice.

I call upon H. E. the President, the Government, Inspector General of Police and relevant authorities and institutions to ensure the physical safety and ability of the above named Attorneys-at-Law to continue to discharge their duties without fear or favour as legal professionals, by making suitable arrangements to secure their personal safety.

I further call for the taking of immediate and meaningful steps to prevent recurrence of such inflammatory publications or any other steps to interfere with the professional functions, rights and duties of the Bar, in the future.

The Bar Association condemns in no uncertain terms, the said assault on the free exercise of the professional rights and duties of the said Attorneys-at-Law and emphasizes its unequivocal support to Mr. Mahinda Jayawardena, Mr. Priyantha Gamage, Mr. Samantha Perera and Mr. Luxman Perera to continue to perform and provide their professional duties and services as Attorneys-at-Law to all, without exception and without fear or favour.

  
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Sanjaya Gamage  
Secretary,  
Bar Association of Sri Lanka

27<sup>th</sup> March 2014