

Sri Lanka: We salute the Chief Justice and her legal team for the historical decision to walk out of the PSC proceedings

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We call upon the people, in particular the judges and lawyers, to grasp the historic significance of this moment.

It is news now that the Chief Justice Shirani Bandaranayake and her legal team, led by Romesh De Silva PC, walked away from the Parliamentary Select Committee proceedings, expressing no confidence in the manner in which the proceedings are being conducted. Having followed the proceedings against the Chief Justice from its inception and having studied every step of these proceedings, the Asian Human Rights Commission salute the Chief Justice and her legal team for taking the most appropriate and honorable decision under the circumstances. They are thereby keeping with the dignity of the post of the Chief Justice as the head of the judiciary, which is a separate branch of the government.

Having watched all the aspects of this process from the beginning, we are aware that the Chief Justice and her legal team have done all they could to cooperate with the parliament and to show their good faith in wanting to participate in properly conducted proceedings, which is in keeping with the dignity of a Chief Justice and the dignity of the Supreme Court as the highest court in Sri Lanka.

Justice could never be done without respect to the dignity of the person against whom charges are made. It is at the very core of justice that a person so charged, even if they are the worst criminal in the country, is treated with dignity and the process of proceedings is conducted within the framework of rules of justice that are universally accepted. If these basic standards and norms are not respected, then it is the right of the person who is so charged to declare to the world that what is happening is not a process of justice but a process of injustice.

The parliament is the supreme body that represents the legislature, as the Supreme Court is a supreme body that represents the judiciary, which is a separate branch of government. In the relationship between the two, it is the duty of every honorable person who is representing these institutions to behave in a manner that keeps with the highest standard of dignity of both these institutes. The Parliamentary Select Committee, acting on behalf of the parliament, ought to respect every citizen through the manner in which the proceedings is conducted.

When this is not done, it is the duty of every citizen to defy injustice and show their loyalty to the highest ideals of justice, which are the only foundation of a nation. This duty falls on the Chief Justice. By walking away from the proceedings, the Chief Justice and her legal team have demonstrated their firm faith in law and their firm faith that everyone who is facing a process of justice should do so only in an atmosphere and environment in which their rights are respected.

While saluting the Chief Justice and her legal team for doing the right thing in the right manner, we wish to point out to the whole nation that it is their time now to demonstrate their firm commitment to justice and justice alone. No one is above justice; neither parliament nor the executive nor the judiciary are above the justice and above law. If the citizens of Sri Lanka do not take up their duty to uphold the principles of justice, they would themselves deserve the punishment that would follow in the natural course for those people who do not care for justice and the law.

While saluting the Chief Justice and her legal team, we wish to remind everyone that the judges in 1972 - when the constitution declared the Supremacy of Parliament against the Supremacy of Law - and in 1978 - when the Constitution declared the Supremacy of the Executive President above the law should have taken similar position of defiance and, had they done so, the country would not be in the peril that it is now. The present position taken by the Chief Justice and her legal team is of historic importance and has the potential to turn back the clock, when the country has been going in the direction of destroying the separation of powers and the independence of the judiciary. Now it is once more a historic opportunity to stand by those basic principles of the separation of powers and the independence of the judiciary, without which democracy and rule of law cannot stand.

It is now the duty of all the judges and the lawyers of Sri Lanka to show their loyalty to the law and the principal of separation of powers and the independence of judiciary on which foundation their profession stands. It is their duty to stand in support of the Chief Justice, to demand justice on her behalf. If the judges and lawyers fail this then they fail themselves, and they would have no one to blame but themselves. But we hope that it shall not be so and that the flag and the flame of justice, rule of law and democracy will find loyal support from all the judges, lawyers and, indeed, all the people of Sri Lanka.

Asian Human Rights Commission (AHRC), December 6, 2012

Link to a collection of document regarding impeachment:

<http://www.humanrights.asia/news/press-releases/pdf/ahrc-prl-052-2012>
