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இலங்கை சட்டத்தரணிகள் சங்கம்
BAR ASSOCIATION OF SRI LANKA

16th July 2026

Hon. Harshana Nanayakkara
Minister of Justice and National Integration,
Ministry of Justice and National Integration,
No. 19, Sri Sangaraja Mawatha,
Colombo 10.

Dear Sir,

PROPOSED CONSTITUTIONAL AMENDMENT TO INCREASE THE RETIREMENT AGES OF JUDGES OF THE SUPREME COURT AND THE COURT OF APPEAL

At the outset, we have become aware that you have not been well, and wish to convey our wishes for your speedy recovery.

We write this letter with reference to the above matter, which concerns a proposal of considerable constitutional significance and one that has profound implications to the independence of the Judiciary, the administration of justice and the Rule of Law.

At the outset, we respectfully request that you give due consideration to the serious concerns expressed regarding this proposal by the Bar Association of Sri Lanka ("BASL"), the wider legal profession, members of the Judiciary and several eminent Jurists and leading Lawyers' Organisations both within Sri Lanka and internationally.

You would recall that by our letter dated 30th March 2026, we sought clarification from you to confirm whether the Government was contemplating a constitutional amendment to increase the retirement ages of Judges of the Supreme Court and the Court of Appeal. A copy of that letter is annexed hereto marked **"A"** for ease of reference.

As no response was received, the BASL subsequently addressed the letter dated 25th May 2026 to His Excellency the President setting out the considered position of the Bar in opposition to any such proposal. A copy of that letter is annexed hereto marked **"B"**.

In the said communication dated 25th May 2026, the BASL explained that the existing retirement ages of Judges of the Court of Appeal and the Supreme Court have remained unchanged since the promulgation of the Constitution in 1978 and that no compelling institutional necessity has been demonstrated to justify altering those constitutional provisions. It was further pointed out that the recent increase in the approved cadre of both Courts substantially addresses any concerns relating to judicial capacity and workload.

President **Rajeev Amarasuriya** | Deputy President **Rienzie Arsecularatne PC** | Secretary **Nalin De Silva** | Treasurer **Pasindu Silva** | Assistant Secretary **Lakitha Wakishta Arachchi**

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More fundamentally, the BASL expressed the view that any constitutional amendment directed solely at extending the tenure of sitting Judges of the superior courts would inevitably give rise to questions concerning its purpose and motivation and that such a measure would undermine public confidence in the independence of the Judiciary, such perception being built upon both the fact of actual independence, and the public perception that the Judiciary remains entirely free from influence, favour or accommodation.

The BASL also observed that constitutional amendments affecting the superior Judiciary should never be undertaken in an *ad hoc* manner or in response to temporary circumstances. Amendments of such constitutional importance should only be introduced where there exists a demonstrable institutional necessity, transparent public justification and broad and defensible stakeholder consultation. Public confidence in constitutional governance depends upon the process adopted as much as the substance of the amendment itself.

Regrettably, we have not received any response or official observations in respect of either of the above letters.

In the meantime, this proposal has become a matter of significant public discussion and constitutional concern. It is fair to observe that the proposal has attracted unprecedented opposition from almost every sector connected with the administration of justice. The concerns expressed extend well beyond the Bar Association of Sri Lanka and include members of the Judiciary, former Judges, senior members of the profession, eminent academics and respected international legal organisations.

The concerns expressed by the above stakeholders were perhaps best encapsulated by Mr. Shyam Divan, Senior Advocate of India, Immediate Past President of LAWASIA and Vice-President of the Indian Bar Association, who recently observed:

"May I suggest a third factor which I will call the 'Smell Test'. The Bar Association, comprising so many experienced and venerable practitioners, has a keen and well-developed instinct refined over decades. When something 'smells wrong', as it does at this constitutional moment, citizens have a reliable guide in the BASL. The Bar Association knows something is amiss, something that compromises the independence of the Judiciary and the Rule of Law. The move to amend the Constitution by extending the retirement age of superior court Judges fails the Smell Test."

We also note that according to a statement made by the Cabinet Spokesperson following the Cabinet Meeting held on 14th July 2026, the Ministry of Justice has been requested to submit its report and observations before Cabinet reaches a final decision on this proposal.

This development presents an important opportunity to ensure that any report ultimately placed before Cabinet reflects the views of the principal stakeholders in the justice sector who have the experience and insight to objectively provide feedback and response in this matter and all others who would be interested.

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You would no doubt appreciate that, over many decades and under successive Governments, it has been the established practice of the Ministry of Justice to consult the BASL on legislative and policy initiatives affecting the administration of justice. This long-standing practice reflects the important constitutional role performed by the BASL as the representative body of the legal profession and its continuing responsibility to uphold and safeguard the Rule of Law, the Independence of the Judiciary and the proper Administration of Justice.

In fact, you are aware that the BASL is represented even presently in all other justice sector initiatives.

In our respectful view, the present proposal, involving as it does a constitutional amendment directly affecting the superior Judiciary and attracting serious concerns from both the Bench and the Bar, is a matter of exceptional constitutional importance. It ought not to be considered solely through the ordinary administrative process but should instead be informed by structured consultation with all principal stakeholders.

In those circumstances, we respectfully request that you be pleased to constitute an appropriate committee comprising representatives of the Ministry, the Judiciary, the Bar Association of Sri Lanka and such other stakeholders as may be considered appropriate, for the purpose of studying the proposal comprehensively and submitting an objective report before any further steps are taken.

We further request that a delegation comprising members of the Executive Committee of the BASL together with Senior President's Counsel and Senior Members of the profession be afforded an opportunity to meet with you at your earliest convenience so that these matters may be discussed fully.

The BASL remains ready and willing to assist the Ministry in any consultative process that may be established. We sincerely hope that no further steps will be taken in relation to this proposal until meaningful consultation has taken place with the principal stakeholders of the justice sector.

We look forward to your favourable response.

Yours faithfully,

Rajeev Amarasuriya
President
Bar Association of Sri Lanka

Nalin De Silva
Secretary
Bar Association of Sri Lanka

CC : Ms. Ayesha Jinasena, PC
Secretary
Ministry of Justice and National Integration

President **Rajeev Amarasuriya** | Deputy President **Rienzie Arsecularatne PC** | Secretary **Nalin De Silva** | Treasurer **Pasindu Silva** | Assistant Secretary **Lakitha Wakishta Arachchi**

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Annexure "A"

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இலங்கை சட்டத்தரணிகள் சங்கம்

BAR ASSOCIATION OF SRI LANKA

Estd. 1974

30th March 2026

Hon. Harshana Nanayakkara,
Minister of Justice and National Integration,
Ministry of Justice and National Integration,
No. 19, Sri Sangaraja Mawatha,
Colombo 10.

Dear Sir,

RE: INCREASE OF AGE OF RETIREMENT OF THE JUSTICES OF THE SUPREME COURT AND THE COURT OF APPEAL

A recent headline article in a Newspaper reported that the government was moving to bring an amendment to the Constitution in order to increase the age of Retirement of Judges of the Supreme Court and the Court of Appeal.

The Executive Committee of the Bar Association of Sri Lanka which met on 27/03/2026 deliberated on this matter and decided that it was appropriate in the first instance to inquire from you, as the Minister of Justice and Constitutional Affairs, as to whether there was any truth or veracity to this claim made in the said newspaper.

Accordingly, we write to inquire from you as to whether there is any intention on the part of the Government to propose amendment to the Constitution in order to increase the age of retirement of Judges of the Supreme Court and the Court of Appeal.

We would be thankful for your expeditious response and we look forward to the same.

Thank you,
Yours faithfully,

Rajeev Amarasuriya
President
Bar Association of Sri Lanka

President Rajeev Amarasuriya | Deputy President Rienzie Arsecularatne PC | Secretary Chathura A. Galhena | Treasurer Pasindu Silva | Assistant Secretary Sarinda Jayawardena

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Annexure "B"

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இலங்கை சட்டத்தரணிகள் சங்கம்

BAR ASSOCIATION OF SRI LANKA

25th May 2026

His Excellency Anura Kumara Dissanayake,
President of the Democratic Socialist Republic of Sri Lanka,
Presidential Secretariat,
Colombo 01.

Your Excellency,

ALLEGED MOVE TO INCREASE THE RETIREMENT AGE OF THE JUDICIARY INCLUDING THE COURT OF APPEAL AND THE SUPREME COURT

The Bar Association of Sri Lanka (hereinafter referred to as "BASL") notes with grave concern reports in the public domain that the Government is considering the introduction of an amendment to the Constitution to increase the age of retirement of Judges of the Court of Appeal and the Supreme Court.

It is the considered view of the BASL that the age of retirement of the judges of the Court of Appeal and the Supreme Court which has stood at 63 years and 65 years respectively from the promulgation of the 1978 Constitution, should not be changed arbitrarily and that such a change is neither necessary nor desirable.

To do so will result in the loss of public confidence in the integrity of the legal system and of the Government's commitment to preserve and protect the rule of law and the independence of the judiciary. Members of the public are likely to question the motives of the Government in bringing in a Constitutional amendment solely for this purpose.

Your Excellency is no doubt aware that the cadre of the Judges of the Court of Appeal was increased from 12 to 20 Judges (including the President of the Court of Appeal) and that of the Supreme Court from 11 to 17 Judges (including the Chief Justice) by the 20th amendment to the constitution certified on 29th of October 2020. With such enhancement, workwise, there cannot be a real requirement to extend the retirement ages of these judges.

Your Excellency is aware that altering the retirement age of judges of the apex courts would have to be done through a Constitutional amendment. For many years Sri Lanka's Constitution has been subject to ad hoc amendments, sometimes in order to cater to the political needs of the government in power and often contrary to the interests of the rule of law, the independence of the judiciary and the judiciary.

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Extending the retirement age of the sitting Judges of these Courts at this point of time is likely to be viewed by the public as a blatant attempt to interfere with the judiciary. We believe that to go ahead with such an ad hoc move will also be an affront to the Honourable Judges of those courts.

If the Government goes ahead with such a move it will set a dangerous precedent for future Governments too to introduce ad hoc amendments to the Constitution in respect of the functions of the judiciary.

The independence of the Judiciary and the public confidence reposed in it, are indispensable pillars of the Rule of Law and the democratic framework of our Republic. In that regard, it is of paramount importance that the Judiciary must not only remain independent in fact, but must also be seen by the public to be wholly independent, impartial, and free from even the slightest perception of influence, favour, accommodation, or impropriety.

The Bar Association of Sri Lanka is therefore constrained, in the discharge of its duty to uphold and safeguard the Rule of Law and the independence of the Judiciary, to respectfully express its serious concern regarding any such proposed amendment, which is neither in the interests of the judiciary and nor of the people.

In the circumstances, the BASL respectfully urges Your Excellency not to proceed with any proposed constitutional amendment seeking to increase the retirement age of the members of the Judiciary including Judges of the Court of Appeal and the Supreme Court.

We remain confident that Your Excellency will give due consideration to the importance of preserving and protecting the independence, integrity, dignity, and public confidence in the Judiciary, which is essential to the maintenance of the Rule of Law and democratic governance in Sri Lanka.

Thank you,
Yours faithfully,

Rajeev Amarasuriya
President
Bar Association of Sri Lanka

Nalin De Silva
Secretary
Bar Association of Sri Lanka

President
Rajeev Amarasuriya
Deputy President
Rienzie Arsecularatne PC
Secretary
Nalin De Silva
Treasurer
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