



The Law Society of
Upper Canada | Barreau
du Haut-Canada

February 23, 2017

H.E. Uhuru Kenyatta
President of Kenya
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Your Excellency:

Re: Harassment of lawyer Simon Lilan

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the harassment of lawyer Simon Lilan. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

It has come to our attention that Simon Lilan received death threats and experienced other forms of harassment as a result of his advocacy on behalf of the late Kenyan politician Mark Too.

As we understand it, on the belief that his client Mark Too had been assassinated, Simon Lilan sought and obtained an injunction to halt Mr. Too's burial until Mr. Too's body had been examined by independent pathologists. When the injunction was subsequently revoked, Simon Lilan threatened to seek new orders to have the body exhumed. For "[his] stand on the death of Mr. Too", he reportedly received death threats from "powerful people [who] want to finish [him]".¹

The harassment appears to have been so severe and the threat to his safety so tangible that Simon Lilan felt compelled to go into hiding on January 9, 2017. When he came out of hiding on January 20, 2017, he explained that he went into hiding after being followed by two vehicles whose "occupants were not up to any good" and after receiving calls from senior politicians who wanted him to drop the case. The police reportedly did nothing when he turned to them for protection. Relatedly, when his office was burgled on January 17, 2017, the local police stated that their preliminary investigations showed no signs of a break-in.

¹ Lawyers' Rights Watch Canada, "Kenya: Immediately Investigate and Remedy Enforced Disappearance of Lawyer Simon Lilan | Letter" (14 January 2017), online: <http://www.lrwc.org/kenya-immediately-investigate-and-remedy-enforced-disappearance-of-lawyer-simon-lilan-letter/#_ftn2>.

While in hiding, Simon Lilan sought asylum from foreign embassies and civil rights organizations. His safety and security continue to be at risk.

The Law Society is concerned that the harassment of lawyer Simon Lilan is related to his human rights work.

The Law Society is deeply concerned about Simon Lilan's situation and urges Your Excellency to comply with Kenya's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

The Law Society urges the Government of Kenya to:

- a. put an end to all acts of harassment against Simon Lilan;
- b. guarantee in all circumstances the physical and psychological integrity of Simon Lilan; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours truly,

Paul B. Schabas
Treasurer

**The Law Society of Upper Canada is the governing body for more than 50,000 lawyers and 8,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

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