



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

June 30, 2017

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Your Excellency:

**Re: Impeachment proceedings against Chief Justice Sushila Karki**

I write on behalf of the Law Society of Upper Canada\* to voice our grave concern over the impeachment proceedings against Chief Justice Sushila Karki. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Sushila Karki is the first female Chief Justice of the Supreme Court of Nepal. She is known for her zero-tolerance stance on corruption in the judiciary and has been instrumental in a number of high-profile and politically sensitive decisions. Recent rulings by the Supreme Court, with Sushila Karki as its Chief Justice, have been critical in advancing human rights in Nepal, assisting victims seeking justice for the crimes and serious human rights violations committed against them.

It has come to the Law Society's attention that on April 30, 2017, the two main parties in the ruling coalition government brought an impeachment motion against Chief Justice Sushila Karki, resulting in her automatic suspension. The motion, which came on the heels of the Supreme Court's decision to overturn the Nepalese government's choice for Chief of Police, accuses the Chief Justice of delivering biased verdicts, interfering in the executive's jurisdiction, breaching the principle of separation of powers, influencing her fellow justices, and failing to fulfill her judicial duties.

On May 5, 2017, the Supreme Court issued an interim order directing Parliament to halt impeachment proceedings against Chief Justice Sushila Karki and to allow her to return to her duties. In making the order, the Supreme Court opined that the allegations against the Chief Justice were baseless and that the commencement of impeachment proceedings against her would be at odds with the spirit of Nepal's Constitution. Relatedly, the UN High Commissioner for Human Rights has stated that "the attempt to remove [Chief Justice Sushila Karki] gives rise to serious concerns about the Government [of Nepal]'s commitment to transitional justice and the rule of law".

Nepal has a history of political interference in key civil appointments such as the Chief of Police. Since the end of the civil war in 2006, the country has had nine governments, each of which sought to fill key positions with their respective loyalists. According to her supporters, Chief Justice Sushila Karki is a staunch opponent of such corruption and that her tough stance on this issue "annoyed the politicians".

In light of these circumstances, the Law Society urges Your Excellency to comply with Nepal's obligations under international human rights laws, including the United Nations' *Basic Principles on the Independence of the Judiciary*.

Articles 1 to 6 of the *Basic Principles on the Independence of the Judiciary* state:

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.
2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.
3. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.
4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.
5. Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established

procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.

6. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.

The Law Society urges the Government of Nepal to:

- a. immediately and unconditionally discontinue the impeachment proceedings against Chief Justice Sushila Karki, if this has not already occurred;
- b. immediately and unconditionally lift the interim suspension imposed on Chief Justice Sushila Karki so that she may return to her judicial duties and activities, if this has not already occurred;
- c. put an end to all acts of harassment against Chief Justice Sushila Karki and all other judges in Nepal;
- d. guarantee in all circumstances the physical and psychological integrity of Chief Justice Sushila Karki;
- e. ensure that all judges in Nepal can carry out their judicial duties and activities without fear of reprisals, physical violence or other human rights violations; and
- f. 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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