

## NATIONAL LAW CONFERENCE 2022



The National Law Conference 2022 (NLC'22) was held successfully from the 11th to the 13th of February, 2022 at the Blue Water, Wadduwa. The Conference took place under the theme 'Resilience, Realignment and Agility in the Legal Profession'.

The theme reflects on the need and the capability of the Legal Profession to be resilient amidst all the challenges, particularly the challenges brought about by the Covid-19 pandemic as well as the strides made with technology in the recent past to overcome such challenges.

*Continued on page 4...*

## NATIONAL SECURITIES AND EXCHANGE COMMISSION LAW SYMPOSIUM



*The First National Securities and Exchange Commission Law Symposium was held on 16th March 2022 at the Ballroom of the Galadari Hotel (L to R) - Treasurer BASL Mr. Rajindh Perera, Assistant Secretary BASL Mr. Pasindu Silva, President BASL Mr. Saliya Pieris, PC, Hon. Justice Janak De Silva, Judge of the Supreme Court, Secretary BASL Mr. Rajeev Amarasuriya, Chairman Securities and Exchange Commission of Sri Lanka Mr. Viraj Dayaratne, PC, and Chief Executive Officer Colombo Stock Exchange Mr. Rajeeva Bandaranaike.*

*Continued on page 12...*

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## MR. SALIYA PIERIS PC ELECTED AS THE PRESIDENT UNCONTESTED



At the nominations for the post of President of the BASL for the years 2022 / 2023, only one nomination was received for the post of President, and that was of the incumbent President Mr. Saliya Pieris, PC.

As there were no other nominations, at the close of nominations on 11th January 2022, Mr. Saliya Pieris was declared uncontested as the President of the BASL for the year 2022 / 2023 as well.

## MR. ISURU BALAPATABENDI ELECTED AS THE SECRETARY UNCONTESTED



At the nominations for the post of Secretary the BASL for the years 2022 / 2023, only one nomination was received for the post of Secretary, and that was of Mr. Isuru Balapatabendi.

As there were no other nominations, at the close of nominations on 11th January 2022, Mr. Isuru Balapatabendi was declared uncontested as the Secretary of the BASL for the year 2022 / 2023.

Mr. Saliya Pieris PC and Mr. Isuru Balapatabendi will assume Office as the President and Secretary of the BASL respectively for the Year 2022 / 2023 at the 1st Bar Council meeting soon after the Convocation to be held on 26th March 2022.

## BASL EXECUTIVE COMMITTEE 2021 / 2022



## BASL FELICITATION OF GOLDEN JUBILARIANS

A Felicitation Ceremony was organized by the BASL for its members who have completed 50 years at the Bar between the period of 1919 to March 2022.

This Ceremony which took place at the Hilton, Colombo on 11th March 2022, witnessed the felicitation of a significant number of Golden Jubilarians and was a highly memorable night to all in attendance.

The BASL once more extends their heartiest congratulations to all its distinguished Senior Members who have achieved this special

milestone and further wish that they would be able to render their services to the Bar for many years more to come.

The BASL also extends their sincere appreciation to the Organizing Committee of this Event Chaired by Janaprieth Fernando and Co-Chaired by Mr. Asela Rekawa and the Convenors Mr. Jayathu Wickramasuriya and Mr. Senal Mathugama and the other Members including Ms. Himali Urugodawatte and Mr. Pandula Wanniarachchi and the other members of the Committee for their excellent work and effort in organizing this important event of the BASL.



### WEBINAR 1.56 : HIRE PURCHASE AND LEASING



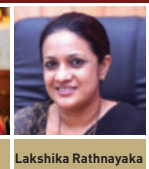
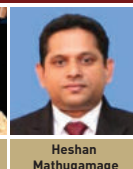
Shiranthi  
Gunawardena

Ravi Algama

Widura Ranawake

Chinthaka Mendis

### WEBINAR 1.57 : COMPANY SECRETARIAL PRACTICE



Geethani  
Athurupane

Heshan  
Mathugamage

Minidi Gamlath

Lakshika Rathnayaka

## NATIONAL LAW CONFERENCE 2022

[Continued from page 01]

The Conference was inaugurated on 11th February 2022 by the Hon. Chief Justice, Jayantha Jayasuriya PC as the Chief Guest and the Hon. Minister of Justice, M.U.M. Ali Sabry PC amidst the participation of close to 200 participants.

The Sessions of the Conference commenced on 12th February 2022, under the topic - 'The Response of the Legal System to the Pandemic' which included an Address by Hon. Justice Buwaneka Aluwihare PC, Judge of the Supreme Court.

The other topics and sessions included the response of the Legal System to the Pandemic, New Developments in Labour Law, New Developments in Investment Laws, Port City, Challenges posed to the banking and insurance practices by the pandemic, Condominium Law and Director's Liability in the face of the pandemic and Cryptocurrency, Blockchain Technology and Artificial Intelligence.

The Conference Committee also took the initiative to launch a publication at the Conference which encompasses a few short papers on topics of relevance submitted by both Senior and Junior Lawyers and this publication was edited by Ms. Charm Jayatilake and an Editorial Committee..

The BASL is sincerely appreciative of the Chairman of the National Law Conference – 2022 Mr. Janaprieth Fernando, Co-Chairman Mr. Asela Rekawa, Co-Convenors Mr. Jayathu Wickramasuriya and Mr. Senal Mathugama and other Members who assisted the Committee in this endeavour.



Organising committee NLC' 2022 and Dignitaries



## LAUNCH OF THE BASL MEMBERS' BENEVOLENT SOCIETY

The Benevolent Society of the BASL was inaugurated on 23rd of February 2022 at the Dr. H.W. Jayawardena QC Auditorium at the BASL premises. The Benevolent Fund has been a long felt need at the BASL, and many have since the inception of the BASL mooted the need for setting up of a Benevolent Fund, which was vital.

The LAWASIA–Sri Lanka 2016 Golden Jubilee Conference Committee chaired by Mr. Upul Jayasuriya PC resolved that the surplus generated from the Conference which was well in excess of Rs. 20 Million should be utilised for setting up of a Benevolent Fund at the BASL, and at the time through a letter signed by Mr. Upul Jayasuriya, PC as the Chairman and Mr. Rajeev Amarasuriya as the Convenor of the Committee, the then BASL ExCo was requested to set up this Benevolent Fund for the Membership.

The BASL hopes to allocate funds from the surplus generated by the LAWASIA – Sri Lanka 2016, Golden Jubilee Conference as the seed capital for this Benevolent Society.

With the aforesaid impetus, The BASL Members' Benevolent Fund has now come to fruition through formulation of the framework and rules and other logistics pertaining to the launch of this Society and the same having received the approval of the Executive Committee and the Bar Council, through the unstinted efforts of the BASL Lawyers'

Trust and Benevolent Fund Committee Chaired by Mr. Chandaka Jayasundera PC and Co-Chaired by Mr. Nuwan Bopage and with Mr. Upendra Walgampaya as the Convenor.

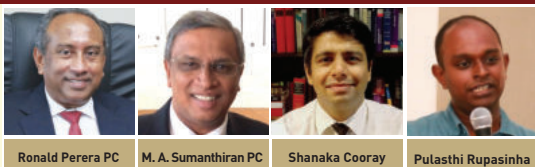
The BASL Members' Benevolent Society is governed by the Constitution of the BASL Members' Benevolent Society and is now open for Membership. The Members are encouraged to join the Society and enjoy the security and safety net it provides for the members.



The Flyer and the Application form can be found through the QR code given below.



### WEBINAR 1.58 : LAW OF DEFAMATION



Ronald Perera PC

M. A. Sumanthiran PC

Shanaka Cooray

Pulasthi Rupasingha

### WEBINAR 1.59 : MANDATORY INJUNCTIONS AND QUIA TIMET ACTIONS



Ikram Mohamed PC

Chandaka Jayasundera PC

Suren De Silva

Ayendra Wickremesekera



## ESTABLISHMENT OF THE BASL LEGAL AID UNIT AND ANTI TORTURE PROGRAMME



Following its mandate, the BASL established a Legal Aid Unit to provide legal aid services to the public. The inaugural program of the Unit is to provide legal aid to victims of custodial torture. The Unit will primarily receive complaints, provide consultations and provide legal services free of charge to aggrieved parties where necessary.

The Legal Aid Committee of the BASL organized a simple ceremony to launch this inaugural program under the Legal Aid Unit on 29th November 2021 at the Dr. H.W. Jayawardena QC Auditorium at the BASL premises.

The Chief Guest was Hon. Justice S. Thirairaja, PC, Judge of the Supreme Court, and H.E. Dominik Furgler, the Ambassador to Switzerland in Sri Lanka was also in attendance representing the donor who is funding this initiative.

Anti Torture Unit Help Desk : 077144004

The BASL extends its sincere appreciation to the Legal Aid Committee Chaired by Ms. Lasanthi Daskoon, Co-Chaired by Mr. Nalin De Silva, the Convenor Mr. Sanajaya Marambe and the Co-Convenor Mr. Eranda Wanasinghe and the other Committee Members in this regard.

**ANTI TORTURE PROGRAMME**  
Legal Aid Unit of the Bar Association of Sri Lanka

The Legal Aid Unit of the (BASL) provides legal aid to aggrieved parties  
Report an incident by calling / e-mailing / visiting the Legal Aid Unit of BASL

**24-hour Hotline**  
**0777144004**

The Bar Association of Sri Lanka established a Legal Aid Unit on 29th of November 2021, which is co-ordinated by the Legal Aid Committee of the BASL. The first initiative of the Legal Aid Unit is an Anti Torture Programme which seeks to facilitate access to justice for victims of torture and their families.

**The objectives of the Anti Torture Program include:**

- Providing legal aid and advice to victims of torture
- Providing access to efficient and effective legal redress to victims of torture
- Creating public awareness on custodial torture and redress available
- Providing special assistance to women and persons with disabilities
- Establish a Consultative Committee to address institutional practices relating to custodial torture

• Capacity Building for law enforcement authorities to address issues relating to custodial torture

• Capacity building for Journalists and Human Rights Advocates to gather information and report on incidents of torture

The Unit has a 24-hour hotline where a victim of torture or their next of kin / relatives / close associates on behalf of the victim can lodge complaints in Sinhala, Tamil or English. Once the complaint is lodged, legal consultations and legal services will be provided free of charge to aggrieved parties where necessary.

A victim or next of kin seeking redress for custodial torture or imminent abuse / torture in custody could reach out to the Legal Aid Unit directly via its communication channels.

*Your identity will be protected - Our service is free of charge*

Bar Association of Sri Lanka  
No. 123, Minidulu Mawatha, Colombo 12  
Email - [basl@basl.lk](mailto:basl@basl.lk)

Rajeev Amarasuriya  
Secretary



## BASL INTERVENTIONS

### INTERVENTION ON THE SPECIAL GOODS & SERVICES TAX BILL

The BASL filed a Petition challenging the constitutionality of the Special Goods and Services Tax Bill.

The BASL decided to challenge the Bill given the wide implications of the Bill on Parliament's full control of public finance and since the Bill veers from the basic structure of the Constitution which ultimately erodes the Rule of Law.

The BASL is happy to state that the Supreme Court in their determination of this Bill held that several Clauses of the Bill are inconsistent with the Constitution and that the entire Bill requires a Special Majority in Parliament and a Referendum.

The BASL is sincerely appreciative of and thanks Mr. Ikram Mohamed PC, Mr. Roshan Hettiarachchi, Mr. Pulasthi Hewamanne, Mr. Niranjana Arulpragasam and Ms. Harini Jayawardhana who appeared for Mr. Saliya Pieris PC, President BASL and Mr. Rajeev Amarasuriya, Secretary BASL (the Petitioners to the Supreme Court on behalf of the BASL) and to Mr. G.G.Arulpragasam who was the Registered Attorney-at-Law.

### INTERVENTION ON THE EXTRAORDINARY GAZETTE – RE: FORCED CONVERSION OF FOREIGN CURRENCY

The BASL filed a Writ Application seeking Interim Relief and the issuance of a Writ Orders quashing the Extraordinary Gazette Notification No. 2251/42 dated 28/10/2021 – 'Repatriation of Export Proceeds into Sri Lanka Rules No. 5 of 2021' issued under the hand of the Governor of the Central Bank and restraining the enforcement of the same.

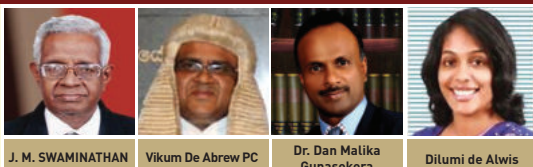
The BASL decided to challenge this Gazette not only on grounds of illegality but also inter alia on the violation of the Natural Justice of the Citizenry and the severe prejudice thereby caused due to the forced conversion / threat of forced conversion of foreign currency earnings that is mandated under the Rules promulgated by the Gazette.

The BASL is sincerely appreciative of and thank Mr. K. Kanag-Isvaran PC, Mr. Nigel Bertholameuz, Mr. Lakshman Jayakumar, Mr. Shivan Kang-Isvaran and Mr. Niranjana Arulpragasam and who appears for the Mr. Saliya Pieris PC, President BASL and Mr. Anura Meddegoda PC, Vice President BASL (the Petitioners to the Supreme Court on behalf of the BASL) and to Mr. G.G.Arulpragasam who is the Registered Attorney-at-Law.

The BASL also released several Statements / made Representations on various issues of national and international importance during the period from September 2021 to March 2022 and full text of these Statements / Representations has been previously circulated among the Membership and the same can be accessed through the QR Code given here.



### WEBINAR 1.60 : ADMIRALTY LAW



### WEBINAR 1.61 : CONFISCATION AND DISPOSAL OF PROPERTY



## JUNIOR NATIONAL LAW CONFERENCE 2021

The Junior National Law Conference 2021 (JNLC'21) was held successfully from the 3rd to 5th December 2021 at the Royal Palms Beach Hotel, Kalutara.

The Conference saw the participation of over 100 Junior Lawyers (less than 10 years of practice in the Bar) and was inaugurated on 4th December 2021 by the Hon. Chief Justice, Jayantha Jayasuriya PC as the Chief Guest amidst the participation of BASL Office Bearers.

The Conference took place under the theme 'Embracing Transformation'.

The theme reflects on how the young lawyers must be open and adapt to changes, particularly with the Covid – 19 pandemic having created 'a new normal' in terms of digitization and adaption of new changes administration of Justice where it is apparent that the Legal System and the Practice of Law in Sri Lanka is ebbing towards a complete transformation. Coincidentally, this also reflects natural progression from JNLC'19 which was held under the theme 'Towards a Digital Era in the Legal Profession'.

Four very insightful and thought provoking Sessions were conducted during the conference under the topics 'New Developments in the Legal Aspects of Capital Markets', 'Embracing Change : Digitalization of the Judicial System', 'A Perspective on Common Oversights and Errors by Junior Attorneys-at-Law over the Course of Criminal Trials' and 'Privacy as a Right: A Legislative Enshrinement of Data Protection'.

The Conference which also hosted a Gala Dinner and opportunity for fellowship afforded a safe haven for young lawyers to share their ideas and mingle with like-minded peers who have embraced transformation wholeheartedly.



## NORTHERN LAW CONFERENCE - JAFFNA 2022

The first ever Northern Law Conference exclusively for Junior Lawyers (less than 10 years of practice in the Bar) was successfully held from 18th to 20th March at North Gate by Jetwing, Jaffna as a special initiative of the Junior Bar Committee in their endeavour to bridge geographical barriers.

The BASL is sincerely appreciative of the Junior Bar Committee, and the Conference Chair Mr. Niranjana Arulpragasam, Conference Secretary Ms. Nikini Mapitigama and other Members who assisted in organizing the Conference.



### WEBINAR 1.62 : FRAMING OF ISSUES IN CIVIL ACTIONS



V. Puvitharan PC

Janaprieth Fernando

Murshid Maharoo

Shamir Zavahir

### WEBINAR 1.63 : RIGHTS RELATING TO ARREST AND DETENTION



Dr. Jayampathy Wickramaratne PC

J. C. Weliamuna PC

Shantha Jayawardena

Swasthika Arulingam



## ORIENTATION PROGRAMME FOR NEW ATTORNEYS-AT-LAW CALLED TO THE BAR

The Orientation Programme for New Attorneys-at-Law called to the Bar organized by the Junior Bar Committee of the BASL has been planned to be held in three phases and is supported by the Efficient and Effective Justice Programme of USAID.

Phase I of this Programme for new Attorneys-at-Law who were called to the Bar between 13th to 16th December 2021, was successfully held on 30th January 2022 at the Kingsbury Hotel, Colombo. Hon. Justice Padman Surasena, Judge of the Supreme Court was the Chief Guest and delivered the keynote address at this event. Mr. Kalinga Indatissa PC, Mr. Rajeev Amarasuriya, Mrs. Indika Nagaratne Koththagoda, Mr. Upul Kumarapperuma and Mr. Sapumal Bandara were resource persons. Mr. Kevin Dean Director USAID, Dr. Irinel Cocos, the Chief of Party and Ms. Shirani Narayana of USAID were also present at the event.

The Second Phase of the programme was held successfully on 26th February 2022 at the Mandarina Hotel, Colombo for new Attorneys-at-Law who were called to the Bar on 15th November and between 13th to 16th December 2021. The resource persons included Mrs. Dilrukshi Dias Wickremesinghe PC, Mr. Harsha Fernando, Mr. Harshana Mataraarachchi, Mr. Chathura Galhena, Mr. Nuwan Bopage and Ms. Mokshini Jayamanne.

The Third Phase of the programme is scheduled to be held on 27th March 2022.



## MENTORSHIP PROGRAMME

The Junior Bar Committee of the BASL in collaboration with the Woman Lawyers Committee of the BASL launched a Mentorship Programme for Junior Members of the BASL below 3 years in practice to provide them with the necessary guidance and advice to develop their professional career. Hon. Justice Buwaneka Aluwihare, PC was the Chief Guest.



## JUNIOR BAR LAW JOURNALS

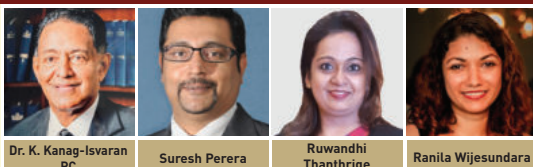
The Junior Bar Law Journal 2021 (Vol XII) was launched on 4th December 2021 at the Junior National Law Conference 2021. The Junior Bar Law Journal 2020 (Vol XI) which was delayed due to the Covid-19 pandemic, was also published and launched on 28th January 2022.

Both Journals comprise a plethora of excellent articles and contributions by the Juniors for the benefit of the whole Membership.

The BASL extends its sincere appreciation to the Members of the respective Junior Bar Committees and the Editors in Chief of both Journals for ensuring the continued publication of the series of Junior Bar Law Journals.



## WEBINAR 1.64 : LAW OF TRUSTS & THE CURRENT SRI LANKAN CONTEXT

Dr. K. Kanag-Isvaran  
PC

Suresh Perera

Ruwandhi  
Thanthrige

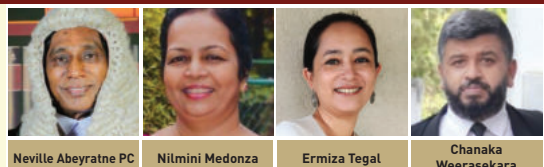
Ranila Wijesundara

## KIND HANDS PHASE II

Phase II of the Kind Hands Project by the Junior Bar Committee of the BASL was made available for Members below 5 years facing financial difficulty.

The BASL is sincerely appreciative of the Junior Bar Committee Chairman Mr. Sapumal Bandara, Co-Chairman Mr. Chandrasiri Wanigapura, Convenors Mr. Kaneel Maddumage and Mr. Sanjeewa Ruwanpathirana, and the Co-Convenor Mr. Chrishantha Elpitiya and other Members who assisted the Committee for their untiring and unstinted efforts given in initiating and organizing many events for the Junior Bar.

## WEBINAR 1.65 : MAINTENANCE LAW



Neville Abeyratne PC

Nilmini Medonza

Ermiza Tegal

Chanaka  
Weerasekara

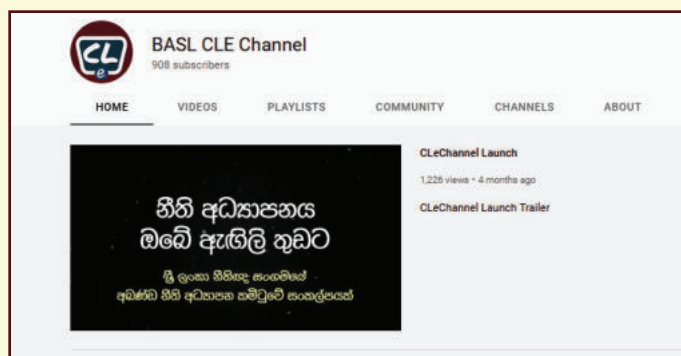
## INAUGURATION OF නීති නීති සැසි AND LAUNCH OF CLE CHANNEL

නීති නීති සැසි (Nithi Neethi Sasi) is a series of structured Continuous Legal Education Seminars to be conducted physically in different Districts throughout the country to support the Continuous Professional Development of BASL members and is organized by the Continuing Legal Education Committee of the BASL.

This programme was launched on the 13th of November, 2021 at Hotel Sundream, Hikkaduwa and Hon. Justice Yasantha Kodagoda PC, Judge of the Supreme Court was Chief Guest at this event and inaugurated this programme by giving a Guest Lecture on the topic of "Advocacy in Litigation; How to Convince a Judge" based on his experience as both an Advocate and a Judge. The Keynote Address was given by Mr. Ananda Wickramasekara PC.

During this event, the Continuous Legal Education Committee also launched its official YouTube Channel – 'BASL CLe Channel' with the aspiration of regularly publishing Videos covering a series of various topics under both Civil and Criminal Law for the benefit of the Membership and the General Public.

The BASL is appreciative of the Continuing Legal Education Committee, Chaired by Mr. Upali Mohotti PC, Co-Chaired by Mr. Jayaranga Gunasekara and Mr. Dulip Gooneratne, Convenor Mr. Harshana M. de Silva, the Co-Convenors Mr. Samith Kalhara Liyanage, Mr. Rajitha Lakshan Abeywardena and Mr. Theekshana Rathnayake and all Members who have assisted the Committee in this regard.



The 'BASL CLe Channel' can be accessed and viewed through the given QR code here and the BASL invites its Members to subscribe to the same and make use of this opportunity for Continuous Professional Development.



## නීති නීති සැසි SEMINARS

Since the inauguration of the නීති නීති සැසි (Nithi Neethi Sasi) Programme, 20 Seminars on various Civil and Criminal Topics has been conducted Island-wide at the District level as follows:

20th November 2021	-	Districts of Kalutara, Kegalle and Anuradapura.
27th November 2021	-	Districts of Kandy, Matara and Puttalam.
4th December 2021	-	Districts of Nuwara Eliya and Galle.
11th December 2021	-	Districts of Matale, Hambantota, Kurunegala and Gampaha.
15th January 2022	-	District of Polonnaruwa.
22nd January 2022	-	Districts of Vavuniya, Ampara and Monaragala.
19th February 2022	-	Districts of Badulla and Ratnapura.
26th February 2022	-	District of Batticaloa.

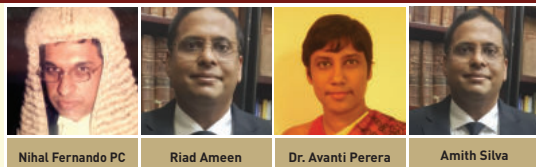


A total of nearly 2000 Lawyers have participated in these Seminars and the BASL thanks all the Resource Persons who have contributed their time and effort for these Seminars as well as all the Members who participated in the same with the aspiration of continuous professional development.

### WEBINAR 1.66 : BUDGET 2022 : LEGAL IMPLICATIONS



### WEBINAR 1.67 : LAW OF NEGLIGENCE





## WEBINARS

A new Series of Webinars titled 'Beyond Court Practice' (Series 5) was launched on 20th February 2022 to create a platform to share the journey and wealth of experience of eminent personalities who are Lawyers, but have been successful in different spheres beyond the Court Practice. It is expected that this would be of benefit particularly to our junior members where they would be able to gain invaluable insight and inspiration.

On 5th September 2021, the 100th overall Webinar was held on the topic of 'The Multifaceted Legal Sphere – Reaching the Pinnacle' with the distinguished panel of experts namely, Justice Shirani Tilakawardane, Dr. Nihal Jayawickrama, Mr. Palitha Fernando PC, Prof. Naganathan Selvakumaran and was moderated by Mr. Shehan Gunawardena, Attorney-at-Law.

On 7th of February 2022, the 150th overall Webinar was held on the topic of 'Illustrious Journeys in the Legal Practice' with the distinguished panel of experts namely, Romesh De Silva PC, Nihal Jayamanne PC, Srinath Perera PC, Ikram Mohamed PC and was moderated by Mr. Chrishmal Warnasuriya, Attorney-at-Law.

On 24th March 2022, the 175th overall Webinar was held on the topic "Celebrated Journeys : Reaching the Pinnacle" with a distinguished Panel of Experts namely, Hon. Justice Murdu Fernando, PC, Prof.

Savitri Goonesekere, Hon. Indika Demuni De Silva, PC, Ms. Chamantha Unamboowe, Attorney-at-Law and was moderated by Ms. Thushani Machado, Attorney-at-Law.

Since the inception of Webinars in the year 2020/2021, a total of 175 Webinars on various topics spanning all 5 Series have been held up to date:

The BASL extends its sincere appreciation to all Resource Persons who have shared their knowledge and experience in these Webinars, Mr. V. Puvitharan, PC for all the guidance and support provided in the organisation of the Tamil Webinar Series as well as the Women Lawyers' Professional and Career Development Committee for organising 12 Webinars in Series 4 and the many Moderators, Comperes who have supported and added a lot of value, Mr. Saranga Hettiarachchi of the BASL who provides IT support and all the other staff members of the BASL who have helped.

The BASL also sincerely appreciates the Seminars Committee of the BASL chaired by Mr. Rajeev Amarasuriya, the Convenor Mr. Pasindu Silva, Co-Convenors Mr. Pandula Wanniarachchi, Mr. Oshan Ubhayaratne, Ms. Anne Devananda and Ms. Nikini Mapitigama for their untiring and unstinted efforts given in the continuity of the BASL Webinar Series.

All BASL Webinars can be accessed and viewed anytime through the BASL Youtube Channel : <https://www.youtube.com/c/BARASSOCIATIONOFSRILANKA> and also through the Members Area of the BASL Website : [www.basl.lk](http://www.basl.lk)

BASL invites and encourage members to make use of this opportunity for Continuous Professional Development.

## ONLINE CRAFTS ACTIVITY WORKSHOPS FOR CHILDREN AND GRAND CHILDREN

For the first time ever, the BASL launched a series of Online Crafts / Activity Workshops for the benefit of the Children and Grand Children of our Members.

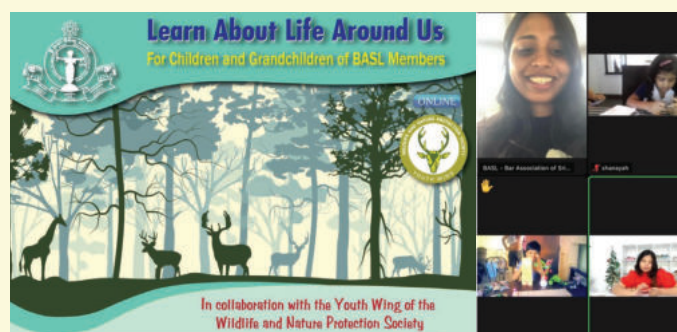
The First Workshop was held on 3rd October 2021 and aimed to encourage re-use waste materials and to teach them about the properties and possible applications of the materials used to help develop their imagination and creativity.

The Second Workshop was held on 31st October 2021 and was designed to experience cultures of the world through exciting and creative outlets, this workshop in particular was revolved around exploring African Heritage and the Maasai Lion.

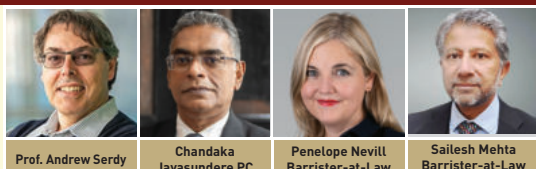
The Third Workshop of this series was held on 18th December 2021 and followed the concept of the First Workshop, albeit in a festive Christmas Theme.

The Fourth Workshop of this series was held on 22nd January and was designed to share experiences of backyard wildlife and Sri Lankan biodiversity in an interactive and fun filled manner.

These Workshops saw over 50 participants in each Workshop. The BASL extends their sincere thanks to the Ms. Thilini Senaratharachchi and Ms. Asha Liyanage, Founders and Course Directresses of Designberg for their support in conducting the first three Workshops and also to the Youth Wing of the Wildlife and Nature Protection Society and Ms. Shenali Dias for their support in conducting the Fourth Workshop.



### WEBINAR 1.68 : ILLEGAL FISHING AND WASTE DUMPING UNDER PUBLIC INTERNATIONAL LAW



### WEBINAR 1.70 : FUNDAMENTAL RIGHTS APPLICATIONS



## NATIONAL LABOUR LAW SYMPOSIUM 2021

The BASL National Labour Law Symposium 2021 organized by the BASL was successfully held on the 14th December 2021 at the Grand Ballroom, Galadari Hotel, Colombo with over 140 participants in attendance. The Inauguration Ceremony was graced by Hon. Justice Sobitha Rajakaruna, Judge of the Court of Appeal as the Chief Guest and Office Bearers of the BASL. All Members were provided the opportunity to join the Inauguration Ceremony virtually through the link communicated to them via SMS.

With the COVID-19 pandemic changing the employment and work-related issues in an unprecedented manner and with the emergence of new trends both locally and globally, this symposium provided a great opportunity to the participants to enhance their knowledge on this subject area through the presentations, discussions and the expert views provided by the eminent resource persons.

Hon. Justice Sobitha Rajakaruna delivered the Keynote address at the Symposium on the topic 'Trends that need to be Emerged in Sri Lankan Labour Laws and Practice'.

The other topics at the Symposium were: 'Curious Issues in Managing the Post COVID Work Environment', 'Age of Retirement: Can it Be Mandated?', 'Labour Law, Where to?', 'Effects of Criminal Proceedings on Disciplinary Actions', 'Reinstatement', 'Back Wages', 'Compensation and Compensation Formula', 'Restructure and Redundancy COVID 19 : Impact on Employment and Termination' and there was also a concluding Panel Discussion which discussed the subject matter in broad terms.



## CRIMINAL PROCEDURE CODE AMENDMENT BILL

In view of the observations raised by the BASL the Ministry of Justice decided to delay the presenting of the Criminal Procedure Code Amendment Bill relating to conducting cases without the physical presence of suspects/accused, until further consultations are done.

The BASL will be meeting the Criminal Law Reforms sub Committee of the Ministry in this regard.

The BASL raised concerns that the Bill would have an adverse impact on several Constitutional safeguards which were available to the people of this country and were inconsistent with several fundamental principles which had been established in the criminal procedure of the country for more than a century.

### Justice Ministry to delay presenting of CPC (Amd) Bill

- The decision had been made in view of observations and concerns raised by the BASL and Ministry of Justice-Criminal

### WEBINAR 1.71 : EXPANDING FRONTIERS OF ADMINISTRATIVE LAW



Justice A.H.M.D. Nawaz

Dr. Sunil Cooray

Manohara Jayasinghe  
Senior State Counsel

Lakmini Warusevitane

### වෙබිනාර් 2.27 : පරවශනා අයිතීන් හා සම්බන්ධ නෛතික සිද්ධාන්ත

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## NATIONAL DATA PROTECTION LAW SYMPOSIUM 2022

The Inaugural National Data Protection Law Symposium organized by the BASL was successfully held on the 27th January 2022 at the Grand Ballroom, Galadari Hotel, Colombo with over 125 participants in attendance. The Inauguration Ceremony which also featured the launch of new BASL Mobile App was graced by Hon. Justice Arjuna Obeyesekere, Judge of the Supreme Court as the Chief Guest and Office Bearers of the BASL. All Members were provided the opportunity to join the Inauguration Ceremony virtually through the link communicated to them via SMS.

This Inaugural Symposium took place in the vital context whereof new Legislative changes are being enacted in our Country in the Digital sphere, particularly the Laws relating Data Protection. The new Data Protection Law that was to be enacted will bring many challenges and opportunities for the Legal Profession and the Economy at large and this Symposium aspired to provide the opportunity to discuss, deliberate and clear up doubts pertaining to the same through the presentations, discussions and the expert views provided by the eminent resource persons.

His Excellency, President Gotabaya Rajapaksa also sent a message wherein he highlighted the fact that to reap efficient and effective benefits of a digitalised country with a digital economy and a digitalised system of governance, Sri Lanka needs to ensure that the right policies, laws and the regulatory framework are in place to protect the security of data and rights of all, whilst maintaining a fine balance between national security and the right to information which is now a Constitutionally enshrined right in our country. His message also encapsulated well wishes to the BASL and the participants of the Symposium.

Hon. Justice Arjuna Obeyesekere delivered the Keynote address at the Symposium on the topic 'The Compelling Need to Create a Futuristic Data Protection Regime in the Digital Economy'.

The other topics at the Symposium were: 'Overview of the Data Protection Bill, including Key Features, Enforcement, and Penalties?', 'Rights, Obligations, Cross Border Data Processing', 'Intersect between Right to Information and Data Protection', 'Impact of Data Protection on Cyber Crime and Cyber Security' and 'International Dimensions and Standards Governing Data Protection Law'.

The Symposium also entailed Panel Discussions on the topics of 'Challenges and Recommendations for an Effective Implementation and Enforcement of Personal Data Protection Law', 'Data Protection by Design or by Regulation and the Future of Innovation, Trust and Competition (including impact on Capital Markets, Block-Chain, Data Analytics, AI and Virtual Currencies)' and 'International Investment, Digital Economy and Benefits to the Country at Large'.



## BASL MEDICAL CAMP #1

BASL Medical Camp #1 organised by the BASL Social Welfare Committee in collaboration with the Colombo Law Society and conducted by Nawaloka Hospitals took place at the Lounge at the Colombo High Court on the 24th of February, 2022.

A substantial number of Lawyers and Court staff utilised the services offered by this Medical Camp and further Camps are planned to be organised in the future.



### වෙබ්නාර් 2.28 : පරස්පරතා හා උණනා පිළිබඳ නෛතික සිද්ධාන්ත



### වෙබ්නාර් 2.29 : සිවිල් අභියාචනා සහ ප්‍රතිරෝධන



# NATIONAL SECURITIES & EXCHANGE COMMISSION LAW SYMPOSIUM 2022

[Continued from page 01]

The Inaugural National Securities & Exchange Commission Law Symposium organized by the BASL was successfully held on the 16th March 2022 at the Grand Ballroom, Galadari Hotel, Colombo with over 120 participants in attendance. The Inauguration Ceremony was graced by Hon. Justice Janak De Silva, Judge of the Supreme Court as the Chief Guest and Office Bearers of the BASL. All Members were provided the opportunity to join the Inauguration Ceremony virtually through the link communicated to them via SMS.

This Inaugural Symposium took place in the vital context whereof new Legislative changes has taken place to affect Capital Market reforms. Particularly the new Securities & Exchange Commission Act which has been enacted after being in the pipeline for several years has no doubt raised many questions in the minds of Legal Professionals and all stakeholders affected by the same and this Symposium aspired to provide the opportunity to discuss, deliberate and clear up such questions pertaining to the same through the presentations, discussions and the expert views provided by the eminent resource persons.

Hon. Justice Janak De Silva delivered the Key Note Address at the Symposium on the topic 'Evolution of Stock Exchanges and Capital Markets : Legal Challenges'.

The other topics at the Symposium were: 'Overview of the new SEC Act', 'Market Institutions & Market Intermediaries'.

A substantial amount of insight and knowledge was disseminated through several Panel Discussions on the topics of 'How the New Act Facilitates the Development of the Capital Market?', 'Key Changes Applicable to Market Institutions and Market Intermediaries' 'Impact of the New SEC Act on Listed Companies & Issuers' and 'Understanding the New Regime on Market Offences and its Practical Impact'.

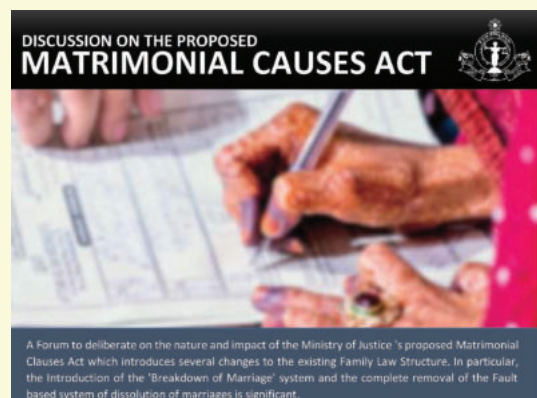


## MATRIMONIAL CAUSES ACT

A virtual discussion was organised by the Civil Law Committee of the BASL on the proposed Matrimonial Causes Bill proposed by the Ministry of Justice , and was held on the 5th of September, 2021 with over 170 participants.

This discussion was important particularly in the context where this Act will introduce the concept of the 'breakdown of marriage' into our Legal System and remove the 'fault based' concept in relation to dissolution of marriages.

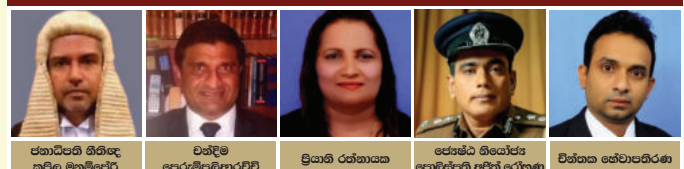
The BASL expresses its sincere appreciation to the Chairperson of this Committee Mr. Sunil Lankathilaka PC, and Co-Chairman Mr. Shivan Coorey and Convenor Mr. Migara Doss as well the resource persons who contributed to this discussion.



### වෙබ්නාර් 2.30 : අපරාධ නඩුවක සාක්ෂි මෙහෙයවීම



### වෙබ්නාර් 2.31 : මාර්ග අනතුරු සම්බන්ධ නෛතික ප්‍රතිකර්ම





## WORKSHOPS FOR WOMEN LAWYERS' PROFESSIONAL AND CAREER DEVELOPMENT

The Women Lawyers' Professional & Career Development Committee of the BASL in collaboration with Branch Associations organized several more Workshops for the year 2021/2022 under the theme 'Respect Diversity Make Changes Bloom Overnight'.

The Second Workshop was successfully held on 23rd January 2022 at Earl's Regency Hotel, Kandy in collaboration with the Kandy Bar Association and the Third Workshop was successfully held on 19th February 2022 at Sanya Mansion, Matara in collaboration with the Matara Bar Association.

The Topics covered in these Workshop ranged from: 'Professional Ethics', 'Interactive Public Speaking', 'Offences Committed Using Cyber Space', 'Mindfulness, Voice Training & Stress Management', 'Personal Grooming', 'Positive Thinking for Personal & Professional Career Development' and 'Be Your Best'.

Further, a special residential Workshop for Young Women Lawyers (those with less than 10 years practice) was organized with the support of the United Nations Office on Drugs and Crimes (UNDOC) with a view of promoting access to Justice and providing a detailed understanding of advocacy.

This Workshop was successfully held from 4th to 6th March 2022 at Jetwing Blue, Negombo.

The BASL extends its sincere appreciation to the Women Lawyers' Professional & Career Development Committee Chaired by Mrs. Indika Nagarathne Koththagoda, Co-Chaired by Mrs. Nalani Manatunga, Convenors Mrs. G.W. Lasanthi Aparajitha Ariyadasa, Ms. Vindika Subasingha, Co-Convenor Mrs. Umeshika Dalpathadu and all other Members who have assisted the Committee in this regard.



## BASL E LAW REPORTER

Issue 1 of the 'BASL e Law Reporter', which is the inaugural edition of the E-Newsletter compiled and edited by the Law Reports & Lawnet Committee of the BASL was launched on 4th September 2021 and contains a digest of decided Cases (during the period from 1st January 2021 to 30th April 2021) of the Supreme Court and the Court of Appeal with links to the full Judgements. This publication will immensely assist our Members to enhance their knowledge.

The BASL extends its sincere appreciation to the Consulting Editor of this Publication, Hon. Justice Yasantha Kodagoda, Judge of the Supreme Court, the Chairperson of this Committee Mr. Felician Fernandopulle, the Convenor, Mr. Charitha Nipuna Jayawickrama, Co-Convenor Mr. Samantha Thennakoon, Member Mr. Asela Moragolla and the Editors of this publication Mr. Mohamed Muzni Yakoob, Ms. Sanuri Wanninayake, Ms. Nimesha Wijesiriwardane, Mr. Gihan Liyanage and Mr. Vinura Jayawardena for their efforts in this regard.

### BASL e Law Reporter

*eNewsletter of the Law Reports & Lawnet Committee of the Bar Association of Sri Lanka*

Decided Cases of the  
Supreme Court and the Court of Appeal  
of the Democratic Socialist Republic of Sri Lanka  
with links to Full Judgements

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Issue 1 - September 2021

*Covering period 1st January 2021 to 30th April 2021*

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Consulting Editor: Hon Yasantha Kodagoda PC,  
Judge of the Supreme Court of Sri Lanka

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Published by  
The Law Reports & Lawnet Committee of the Bar Association of Sri Lanka

Chairman : Felician Fernandopulle  
Convenor : Charitha Jayawickrama  
Co-Convenor : Samantha Thennakoon  
Member : Asela Moragolla

Editors:

### වෙබ්නාර් 2.32 : බෙදුම් නඩුවක අධිකරණය සතු විමර්ශන බලය



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### වෙබ්නාර් 2.33 : සිවිල් නඩුවක ලඝු කාර්යය පටිපාටිය



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## LEGAL SYMPOSIUM #3 – MARAWILA

The Third overall Legal Symposium of the Seminars Committee, and the first for the year 2021/2022 was successfully held on 5th to 7th November 2021 at Hotel Club Palm Bay, Marawila.

Hon. Justice Priyantha Jayawardena PC, Judge of the Supreme Court was the Chief Guest at the Inauguration of this Symposium and he delivered the Keynote Address on the topic 'The Importance of Continuing Legal Education'.

The other topics in the Sessions included: 'Debt Recovery Law', 'Bail', 'Right to Information Regime', 'Offences in Cyber Space', 'Law of Evidence', 'Maintenance Law' and 'Notarial Practice'.

An evening with music and dancing added further glamour to the event and the participants and their families had a memorable experience at this Symposium.



## LEGAL SYMPOSIUM #4 – YALA

The Fourth overall Legal Symposium of the Seminars Committee, and the second for the year 2021/2022 was successfully held on 18th to 20th December 2021 at Oak-Ray, Yala.

Hon. Justice Mahinda Samayawardena, Judge of the Supreme Court was the Chief Guest at the Inauguration of this Symposium and he delivered the Keynote Address on the topic 'The Right to Reasons in Administrative Law'.

The other topics in the Sessions included: 'Debt Recovery Law', 'Bail', 'Right to Information Regime', 'Partition Law', 'Criminal Trials' and 'Notarial Practice'.

The Yala Safari and excursion on the 2nd day of the Symposium was an exciting addition to the event and the participants and their families had a memorable experience at this Symposium.



### වෙනිනැර් 2.34 : බුද්ධිමය දේපළ



### වෙනිනැර් 2.35 : ප්‍රාථමික නඩු විධාන සංග්‍රහයේ 66 වගන්තිය





## LEGAL SYMPOSIUM #5 – POLONNARUWA

The Fifth overall Legal Symposium of the Seminars Committee, and the third for the year 2021/2022 was successfully held on 15th to 17th January 2022 at Hotel Sudu Araliya, Polonnaruwa.

Hon. Justice Yasantha Kodagoda PC, Judge of the Supreme Court was the Chief Guest at the Inauguration of this Symposium and he delivered the Keynote Address on the topic 'Judgements of Superior Courts and the Doctrine of Judicial Precedent'.

The other topics in the Sessions included: 'Lawful, Effective and Ethical Cross Examination', 'Some Aspects of Land Law', 'Right to Information Regime: Mining Information', 'Notarial Practice', 'Fair Trial' and a Panel Discussion on the topic of 'Offences in Cyber Space: Criminal and Civil Liability'.

An evening with music and entertainment added further glamour to the event and the participants and their families had a memorable experience at this Symposium.



## CAPACITY BUILDING SEMINARS FOR LAWYERS ON 'ECONOMIC SOCIAL AND CULTURAL RIGHTS'

The Bar Association of Sri Lanka in partnership with the Max Planck Foundation for International Peace and Rule of Law (MPFPR) commenced a Programme to hold six (06) Capacity Building Seminars for Members to increase their understanding of Human Rights Law, particularly the understanding on Economic, Social and Cultural Rights. Since these rights are not included as justiciable rights in the constitution, these workshops will facilitate detailed discussions on challenges in enforcing them while elaborating on both theoretical and practical elements, comparative examples and International Jurisprudence on Human Rights Law.

The First Seminar in this Series was successfully held online from 12th to 14th May 2021 for Lawyers in the Western and North-Western Provinces. The Second Seminar in this Series was successfully held online from 21st to 24th September 2021 for Lawyers in the Southern Province. The Third Seminar in this Series was successfully held at DoubleTree by Hilton, Weerawila from 22nd to 24th October 2021 for Lawyers in the Uva and Sabaragamuwa Provinces. The Fourth Seminar in this Series was successfully held at North Gate by Jetwing, Jaffna from 10th to 12th December 2021 for Lawyers in the Northern Province.



Third Seminar - Uva and Sabaragamuwa Provinces  
Held at DoubleTree by Hilton, Weerawila from 22nd to 24th October 2021

### වෙබ්නාර් 2.36 :

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### වෙබ්නාර් 2.37 :

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## ONLINE CERTIFICATE COURSES

The Third Online Certificate Course for this year was launched on the topic of 'Forensic Science' and this programme commenced on 14th October 2021 with over 170 participants.

The Fourth Online Certificate Course for this year was launched on the topic of 'Company Secretarial Practice' and this programme commenced on 18th February 2022 with over 225 participants.


The Fifth Online Certificate Course for this year was launched on the topic of 'Compliance' and this programme commenced on 18th February 2022 with over 90 participants. This is the first time the BASL organized a Certificate Course on this topic and it was conducted with the support of the Central Bank of Sri Lanka.

The BASL thanks the panel of lecturers and resource persons who have contributed their time and effort to disseminate knowledge and expertise to the participants of these Courses.

It is also pertinent to note that the Total Revenue generated for the BASL through the Online Courses was approximately Rs. 14.06 Million, and as

such this year surpassed the Revenue of approximately Rs. 11.5 Million made last year and has taken the mantle of one of the highest revenues the BASL has self-generated in the recent history

The BASL Online Certificate Courses were initiated and are being continued by Secretary Mr. Rajeev Amarasuriya and co-ordinated together with Assistant Secretary Mr. Pasindu Silva and the BASL Programme Office Staff comprising Mr. Kalinga De Silva and Mr. T. Prakalathan and with the support of the IT Division headed by Mr. Saranga Hettiarachchi and with the guidance of the rest of the members of the Management Committee.



**CERTIFICATE COURSE IN COMPLIANCE** ONLINE

**Click Here to Register**

**Areas Covered**

- Introduction to Compliance Functions
- Legal and Regulatory Framework Governing Banks
- Legal and Regulatory Framework Governing Non-Bank Financial Institutions (NBFIs)
- Legal and Regulatory Framework Governing Credit Information Bureau of Sri Lanka (CRIB)
- Legal and Regulatory Framework Governing Insurance Companies
- Anti-Money Laundering (AML) / Combating the Financing of Terrorism (CFT) Compliance
- Compliance Risk Management

**Resource Persons**

<b>Mr. J.P.R. Karunaratne</b> Assistant Governor & Secretary to the Monetary Board, CBSL <b>Mrs. R.S. De Silva Jayatilake</b> Assistant Director, Bank Supervision Department, CBSL <b>Mr. H.P.A.I. Ariyasinghe, AAL</b> Group Director, Finance Management Unit of CBSL <b>Mrs. A. Edirisinghe, AAL</b> Senior Assistant Director, Bank Supervision Department, CBSL	<b>Mr. W.A.M.S.B. Abeysinghe</b> Senior Assistant Director, Bank Supervision Department, CBSL <b>Miss. S.I. Alahandura</b> Senior Assistant Director, Bank Supervision Department, CBSL <b>Mr. R.D. Joseph</b> Senior Assistant Director, Bank Supervision Department, CBSL <b>Mrs. K. Ambagahawita, AAL</b> Senior Assistant Director, Finance Management Unit of CBSL <b>Mrs. G.S. Kamilleen</b> Senior Assistant Director, Regulatory Development Department, CBSL	<b>Mr. A.A. Pradeep</b> Senior Assistant Director, CBSL <b>Mrs. Chaya Gunaratne, AAL</b> Head of Bank - Compliance, SFCI Bank <b>Ms. Damayanthi Fernando, AAL</b> Head of Compliance, Department of Sri Lanka <b>Ms. Dilani Sooriyaarachchi, AAL</b> Head of Compliance, Senior Bank PLC and President, Association of Compliance Officers of Banks
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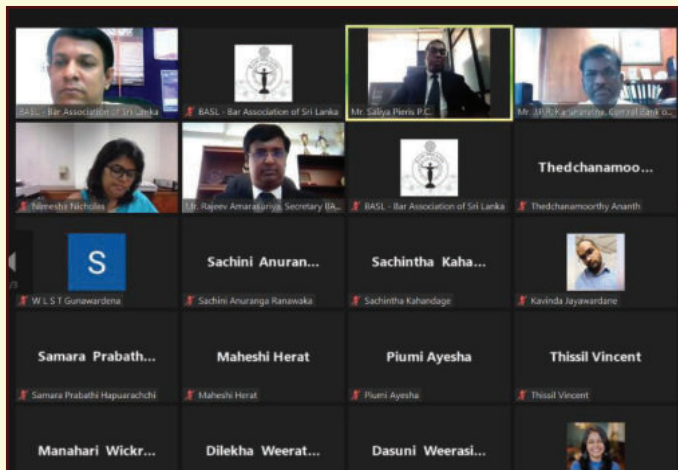
Organised with the support of Central Bank of Sri Lanka

Commencement Date	Time	Duration
9 <sup>th</sup> March 2022	3:00 PM to 5:30 PM	10 Weeks (Every Wednesday)

**Course Fee :** BASL Members above 5 yrs Rs. 13,500/- Non Members Rs. 20,500 /-  
 BASL Members below 5 yrs / Apprentices / Law Students Rs. 10,000/-

Hosted by  
**Bar Association of Sri Lanka**  
 Contact : 076 440 8335  
 BASL Programme Office for further details

**Rajeev Amarasuriya**  
 Secretary



## EXCLUSIVE OFFERS FOR BASL MEMBERS

The BASL has been able to continuously obtain many exclusive offers for the benefit of its membership through various Corporate Partners.

Members are encouraged to make use of these exclusive offers, details of which are regularly communicated (as and when they are obtained) and are also available for reference in the BASL Website.

The BASL extends its sincere appreciation to the Social & Welfare Committee Chaired by Mr. Harin Gomes, Co-Chaired by Mr. Gayan Salwathura and Mr. Rohana Muthumala, Convenor Mr. Lahiru Welgama, Co-Convenor Mr. Buddhika Thilakarathne and also the Covid Response and Health Insurance Committee Chaired by Mr. Lasitha Kanuwanarachchi, Co-Chaired by Mr. Tenny Fernando, Convenors Mr. Tharindu Rajakaruna and Mr. Ramzi Bacha.



**Protecting our BASL Members!**

**Group Life Protection that Covers:**

- An Inbuilt Cover for Critical Illness and Disability
- Maternity Expenses
- OPD including Dental Cover
- Best Annual Premiums in the Industry
- A Cover for COVID-19 Hospitalisation
- Pre Existing & Requiring Admittance Covered
- An Array of Exclusive Partner Benefits

The BASL also entered into a Strategic Partnership with Union Assurance PLC for a Group Health Cover exclusively for BASL Members.

### වෙබ්නාර් 2.38 : හාරකාර්ත්ව නීතිය



### වෙබ්නාර් 2.39 : ප්‍රමිතිවත් එරෙහි වධහිංසාව සහ නීතිය





## SRI LANKA LAWYERS' RUGBY FOOTBALL CLUB

The inaugural Rugby encounter between the Sri Lanka Lawyers' Rugby team and the Law College Rugby for the 'Kalinga Indatissa PC Challenge Trophy' was held on 28th November 2021, and the trophy was clinched by the Lawyers' Rugby team after an enthralling encounter.

Sri Lanka Lawyers' Rugby team also had another friendly rugby encounter with the Old Ben's Rugby team on 16th March 2021 and the Sri Lanka Lawyers' Rugby team emerged on top after a dominant performance. The BASL expresses its heartiest congratulations to the Sri Lanka Lawyers' Rugby team for their remarkable wins.



## THE ANNUAL LAW – MEDICAL CRICKET ENCOUNTER 2021

The Annual Law-Medical Cricket Encounter was held on the 12th of December, 2021 at the Gymkhana Cricket Club Grounds. The BASL expresses its heartiest congratulations to the Sri Lanka Lawyers' Cricket Team for their remarkable win.

Mr. Thusith Paliwatta was named the Best Bowler and the Man of the Match.



## SRI LANKA WOMEN LAWYERS' VOLLEYBALL CLUB

The recently formed Sri Lanka Women Lawyers' Volleyball Team participated in an Exhibition match against the University of Colombo Alumni Woman's Volleyball Team which was held on 22nd March 2022 at the University of Colombo Gymnasium.

The BASL extends its heartiest congratulations to the Women Lawyers' Volleyball Team for their emphatic win.



## DONATION OF TABS

The Association of Sri Lankan Lawyers in the UK (ASLLUK) partnered with the BASL to donate urgently needed Tabs to be used by O/L and A/L Students at several Child Development Centres across the Country.

The first set of 11 Tabs were handed over on the 27th of October, 2021 to Child Development Centres coming under the Probation Department in the Gampaha District at the District Secretariat in Gampaha.

The BASL extends its sincere appreciation to the ASLLUK for their support, Mrs. Dilani Alagaratnam, Chairperson of the BASL's CSR Committee and other Members for coordinating this initiative together with the Child Probation Department, CSO Collective and SOS Villages.



### වෙබ්නැර් 2.40 : මහාධිකරණයේ පූර්ව නඩු විභාග සම්මන්ත්‍රණ



### වෙබ්නැර් 2.41 : කාන්තා නීතිඥවරයන්ගේ වෘත්තීය අභිවෘද්ධිය



# JUDGMENTS

**Trans Orbit Global Logistics (Pvt) Limited vs. People's Bank.**

**S.C. Appeal No. 92/2020**

**Decided on 13th December 2021**

**S. Thurairaja PC, J; A.L. Shiran Gooneratne J, and Janak De Silva J;**

High Court of the Provinces (Special Provisions) Act No. 10 of 1996 – First Schedule Item 1 -Commercial High Court – Jurisdiction - Subject Matter Jurisdiction – Interpretation of *cause of action has arisen out of commercial transactions* – Banking Transactions Delictual or Contractual – Causes of Action relating to Banking are Commercial Transactions.

In this Appeal, the Plaintiff-Appellant [hereinafter referred to as “the Appellant”] instituted Action in the Commercial High Court of the Western Province (Exercising Civil Jurisdiction) Holden in Colombo (hereinafter referred to as “Commercial High Court”) against the Defendant - Respondent [hereinafter referred to as “the Respondent”], praying for damages in a sum of Rupees Twenty-Five Million (Rs. 25,000,000.00). The damages were claimed as a result of the alleged negligence of the Respondent and as admitted by the Appellant, was delictual in nature.

The facts in brief relate to a couple of preliminary issues of Law were raised by the Respondent with regards to the Jurisdiction of the Commercial High Court to hear this case and the maintainability of the same. The learned Judge of the Commercial High Court giving a ruling on these preliminary Issues of Law, held that the Court did not have jurisdiction to hear and determine the Action as it is not an Action to enforce any Commercial Transaction and that the Cause of Action is based on Negligence and/or Breach of Duty of Care and not on Contract. Consequently, the Action of the Appellant was dismissed.

Aggrieved, on Appeal by the Appellant thereafter, the Supreme Court granted Leave to Appeal on the following Question of Law:

“Has the learned High Court Judge misdirected himself by holding that the

Commercial High Court does not have jurisdiction to hear the Petitioner’s case?”

Janak De Silva, J allowing the Appeal and setting aside the Judgement of the Commercial High Court *inter alia* held:

1. This appeal raises an important question of Law concerning the Jurisdiction of the Commercial High Court.
2. The Commercial High Court was established to reduce the Jurisdiction of the District Court and vest exclusive jurisdiction over commercial matters in the Commercial High Court with a view to provide speedy resolution to such disputes.
3. The Jurisdiction so vested in the Commercial High Court has two components, namely:
  - (1) Subject Matter Jurisdiction
  - (2) Territorial Jurisdiction

The Subject Matter Jurisdiction is set out in the First Schedule to the Act while the Territorial jurisdiction is set out in section 2(1) of the Act. The resulting Jurisdiction is rendered exclusively to the Commercial High Court.

4. The fundamental requirement for the Commercial High Court to have Jurisdiction is that the Cause of Action must have arisen out of a Commercial Transaction.
5. The words cause of action has arisen out of *commercial transactions* in Item (1) (of First Schedule to the Act) must be given a broad interpretation.
6. When the Cause of Action relates to Banking, by definition it becomes a Cause of Action arising out of Commercial Transactions.
7. The right question is whether the Cause of Action relates to Banking and not whether the cause of action is Delictual.
8. The damages are claimed for breach of an alleged Duty of Care based on the banker-customer relationship. Hence the media upon which the Appellant has instituted this Action is no doubt a Banking Transaction.
9. All Causes of Action relating to Banking in which the debt, damage or demand is for a sum exceeding twenty million rupees or such other amount as may be fixed by the Minister from time to time, by notification published in the Gazette, is within the subject matter Jurisdiction of the Commercial High Court except actions instituted under the Debt Recovery (Special Provisions) Act, No. 2 of 1990.

**BASL/REF/3/1/2022**

**D.M. Susiripala vs. D.M. Sumanawathie**

**S.C. Appeal No. 61/2014**

**Decided on 20th January 2022**

**Vijith Malalgoda PC, J; Achala Wengappuli J, and Mahinda Samayawardhena J;**

*Rei Vindicatio* Actions – Burden of Proof - Sufficient Title or Superior Title of Plaintiff to that of Defendant – Duty of Court to give regard to Defendant’s Case and Evidence – Improvements effected on Land by Bona Fide Possessor – Compensation – *Ius Retentionis* (Right of Retention) - *Ius Tollendi* (Right to remove improvements) when Compensation cannot be awarded.

In this Appeal, the facts in brief relate to the Plaintiff-Appellant-Respondent [hereinafter referred to as “the Plaintiff”] having filed Action in the District Court of Monaragala seeking a Declaration that she is the owner of the land (which is admittedly a State Land) described in the Schedule to the Permit marked P1 issued under the Land Development Ordinance, and ejectment of the Defendant-Respondent-Appellant (hereinafter referred to as “the Defendant”) therefrom. The Defendant filed answer seeking dismissal of the Plaintiff’s Action and a Declaration that he is the owner or possessor of the land. In addition, he prayed that in the event the Court is inclined to grant the reliefs sought by the Plaintiff, the Plaintiff be directed to pay him compensation in a sum of Rs. 1 million for the improvements effected to the land.

After trial the District Judge dismissed the Plaintiff’s Action predominantly on the basis that the Divisional Secretary had issued the Permit P1 in violation of the provisions of the Land Development Ordinance. On Appeal, the High Court set aside the Judgment of the District Court and entered Judgment for the Plaintiff but the Defendant was allowed to remove the buildings without causing damage to the land.

Aggrieved, on Appeal by the Defendant thereafter, the Supreme Court granted Leave to Appeal on *inter alia* following Questions of Law:

Did the High Court err in law:

- (a) When it failed to apply the fundamental principles of *rei vindicatio* actions in determining the plaintiff’s rights pertaining to the land;
- (b) When it held that the defendant was not entitled to any compensation for the improvements that he had effected on the land”.

Mahinda Samayawardhena, J dismissing the Appeal and affirming the Judgement of the High Court *inter alia* held:

1. P4 *inter alia* goes to show that the Defendant has made at least some improvements to the land despite the Divisional Secretary’s warning not to effect improvements until the dispute was settled. He effected the improvements at his own risk.
2. Only *bona fide* possessors are entitled to compensation for useful improvements and the *ius retentionis* (right of retention) is available to them until compensation is paid by the owner.
3. Even if the Defendant is a *bona fide* possessor, the Plaintiff does not want the buildings on the land perhaps because she does not have the financial capacity to pay compensation. The buildings cannot be thrust upon her and she cannot be compelled to pay compensation to the defendant. The High Court allowed the Defendant to remove the buildings. The *ius tollendi* (right to remove improvements) is available to the improver when compensation cannot be awarded.
4. What the Plaintiff in a *rei vindicatio* Action shall prove is that he was the owner of the land at the time of filing the Action and continues to be so until Judgment is entered in his favour.
5. As I held in *Wasantha v. Premawathie* (SC/APPEAL/176/2014, SC Minutes of 17.05.2021), there is no necessity to interpret the Law with excessive stringency against the Plaintiff in a *rei vindicatio* Action and if the Plaintiff proves on a balance of probabilities that he has “sufficient title” or “superior title” to that of the Defendant, the Plaintiff shall succeed.
6. As I held in *Wasantha v. Premawathie* (supra):
 

“Notwithstanding that in a *rei vindicatio* action the burden is on the plaintiff to prove title to the land no matter how fragile the case of the defendant is, the court is not debarred from taking into consideration the evidence of the defendant in deciding whether or not the plaintiff has proved his title. Not only is the court not debarred from doing so, it is in fact the duty of the court to give due regard to the defendant’s case, for otherwise there is no purpose in a *rei vindicatio* action in allowing the defendant to lead evidence when all he seeks is for the dismissal of the plaintiff’s action.
7. In the instant case, the plaintiff sought a declaration that he is the owner of the land on P1. The defendant countersued for a declaration that the defendant is the owner of the land. In such circumstances, is the court not entitled to look at the competing claims of both parties to decide who the owner of the land is? The court eminently is.

**BASL/REF/4/1/2022**



## WEBINARS

<b>இ. ச. ச வெயினார் தொடர் 3.8</b> <b>நடுத்தீர்ப்புச் சட்டம்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.13</b> <b>வங்கிக் கடன் மீட்டல் சட்டங்கள்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.18</b> <b>அரசு காணிகள் மீள் உடமை கொள்ளும் சட்டம்</b> 
<b>இ. ச. ச வெயினார் தொடர் 3.9</b> <b>உரித்து நிறுவல் வழக்குகள்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.14</b> <b>குற்ற ஒப்புதல் வாக்குமூலங்கள்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.19</b> <b>தொழிற்சட்டங்களும் நடைமுறைகளும்</b> 
<b>இ. ச. ச வெயினார் தொடர் 3.10</b> <b>கம்பனிகளும் பதிவு நடைமுறைகளும்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.15</b> <b>குடியியல் வழக்குகளில் விளக்கத்திற்கு முன்னரான நடவடிக்கைகள்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.20</b> <b>குற்றவியல் மேல்முறையீடு</b> 
<b>இ. ச. ச வெயினார் தொடர் 3.11</b> <b>முஸ்லிம் விவாக விவாகரத்துச் சட்டங்கள்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.16</b> <b>பராமரிப்புச் சட்டமும் நடவடி முறைகளும்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.21</b> <b>மேல் நீதிமன்றத்தில் முன் விளக்க நடவடி முறை</b> 
<b>இ. ச. ச வெயினார் தொடர் 3.12</b> <b>ஆரம்ப நீதிமன்ற நடவடி முறைக் கோவை - பிரிவு 66</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.17</b> <b>குற்றவியல் நடவடிமுறைக் கோவையின் கீழ் தொல்லைகள்</b> 	<b>இ. ச. ச வெயினார் தொடர் 3.22</b> <b>சித்திரவதைக்கெதிரான சட்டங்கள்</b> 

## DONATION OF BOOKS



Over 300 books from the Library of Late Justice Prasanna Jayawardena, PC were donated to the BASL Library at a ceremony on 3rd December 2021.

## BASL NEWSLETTER COMMITTEE 2021/2022

**Chairman** : Mr. Rajeev Amarasuriya  
**Co-Chairman** : Mr. Pasindu Silva  
**Convenors** : Mr. Chamath Fernando  
 : Mr. Ruvindu Bandara

The Committee extends its gratitude to Ms. Nelum Jayasinghe and Ms. Chamani Hatharasinghe for their assistance in the compilation of this Newsletter.

## REMEMBRANCE CEREMONY



The BASL organized a Solemn Ceremony in Remembrance of Members of the BASL who passed away during the period of January 2020 to February 2022, and this was held at the Dr. H. W. Jayawardena QC Auditorium at the BASL premises on 26th February. The Members were also presented the opportunity to participate this Ceremony virtually.

The video of the Ceremony is available in the BASL Youtube Channel and can be accessed by the QR code given here.



The Obituaries of our Members who passed away during this period can be accessed by the QR code given here.



## LAUNCH OF THE NEW BASL MOBILE APP



The App is available for both Android (in the Google Play Store) and iOS (in the Apple App Store) based phones. The Members are encouraged to download and make use of this facility. The QR codes given below can be used for this purpose.



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