



**Commonwealth**  
Lawyers Association



## Statement on the Rule of Law in Samoa

We, the undersigned organisations, are deeply concerned about challenges to the rule of law in Samoa following the general election held on 9<sup>th</sup> April 2021.

Decisions made by the Courts have been unduly criticised in a manner which has had the effect of eroding the independence of the judiciary. The Samoa Law Society in a Statement expressed concern about media comment concerning the Courts:

*“Recent publications in the news media have contained derogatory statements questioning the independence and integrity of Samoa’s Judiciary. The statements in question disparage Samoa’s Superior Court, just as it is being called upon to carry out its Constitutional function of interpreting and applying the law as it relates to the 2021 General Elections.”*

The Statement of the Samoa Law Society continued:

*“The Samoa Law Society wholeheartedly echoes the sentiments expressed by Chief Justice Satiu Simativa Perese recently; namely that “the role of the Judiciary as the Independent Branch of Government is to do right ... without fear or favour, affection or ill will.”*

**We support** the Samoa Law Society’s endorsement of the independence of the Judiciary and its expression of confidence in the Judicial Officers to act independently, impartially and fairly in the discharge of their duties. We also unequivocally stand with the Samoa Law Society’s efforts to uphold and preserve the rule of law.

The Commonwealth (Latimer House) Principles on the Accountability of and Relationship between the Three Arms of government were adopted by all Commonwealth member nations in Abuja in 2003. These Principles have become part of the Commonwealth Fundamental Values and are referenced and affirmed in the Commonwealth Charter.

Principle IV states:

*An independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice. The function of the judiciary is to interpret and apply national constitutions and legislation consistent with international human rights conventions and international law.*

The UN Basic Principles on the Independence of the Judiciary were adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985

Principle 1 states:

*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.*

And Principle 4 states:

*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.*

**We support** the judiciary of Samoa in exercising its vital role to decide cases arising from the prevailing conflict.

Regarding media statements Principle IX b. of the Latimer House Principles states:

*“Government's transparency and accountability is promoted by an independent and vibrant media which is **responsible, objective and impartial...**”* (emphasis added).

Principle 5 of the *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance* endorsed by the CLA and CLEA provides: *'The media have a responsibility not to undermine the authority or independence of the judiciary...'*

**We call upon persons holding public positions and the media:**

- to refrain from making statements, or taking action which would impair the independence of the Judiciary;
- to respect the principles of separation of powers, and the role of the judiciary as a check and balance of the exercise of executive and legislative powers; and
- to respect and abide by decisions of the courts; and
- to uphold the rule of law, consistent with the Commonwealth fundamental values and international standards

16<sup>th</sup> June 2021

**Commonwealth Magistrates' and Judges' Association (CMJA)**

**Commonwealth Legal Education Association (CLEA)**

**Commonwealth Lawyers Association (CLA)**

NOTE TO EDITORS:

The **Commonwealth Magistrates' and Judges' Association** is a not for profit organisation, registered in the UK, whose aims are to promote judicial independence, advance education in the law, the administration of justice the treatment of offenders and the prevention of crime in the Commonwealth. It brings together judicial officers of all ranks from all parts of Commonwealth and provides a forum for the promotion of the highest judicial standards at all levels. [www.cmja.org](http://www.cmja.org)

The **Commonwealth Legal Education Association** is an international non-profit organisation which fosters and promotes high standards of legal education in the Commonwealth. Founded in 1971, it is a Commonwealth-wide body with regional Chapters and Committees in South Asia, Southern Africa, West Africa, the Caribbean and the UK. [www.clea-web.com](http://www.clea-web.com)

The **Commonwealth Lawyers Association** is an international non-profit organisation which exists to promote and maintain the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession, with the highest standards of ethics and integrity, serves the people of the Commonwealth. [commonwealthlawyers.com](http://commonwealthlawyers.com)