



**Commonwealth
Lawyers Association**



Statement concerning the Independence of the Judiciary in Sri Lanka

The Commonwealth Lawyers Association (CLA), the Commonwealth Magistrates' and Judges' Association (CMJA) and the Commonwealth Legal Education Association (CLEA) are very concerned about the Government of Sri Lanka's refusal to comply with the court order to release the funds allocated for local elections which had been approved by Parliament. As result the elections could not be held. They are deeply concerned by the subsequent referral by the Speaker of Parliament of the three Supreme Court Judges responsible for the decision to the Parliamentary Committee on Ethics and Privileges.

The Preamble to the Constitution of Sri Lanka recognizes, *inter alia*, that the independence of the judiciary is an '[...] *intangible heritage that guarantees the dignity and well-being of succeeding generations of the People of Sri Lanka [...]*'. The judiciary is entitled to exercise judicial powers free from any interference or influence by the executive and by the legislature. The judiciary plays a crucial role in ensuring accountability amongst all organs of state.

The decision of the Speaker of Parliament to refer the three Supreme Court judges to the said Committee, in respect of the said Order they made, is an attempt by the legislature to interfere with the judiciary.

The Commonwealth (Latimer House) Principles on the Three Branches of Government, which are integral part of the Commonwealth Charter and which Sri Lanka has agreed to abide by, state that:

"Judiciaries and parliaments should fulfil their respective but critical roles in the promotion of the rule of law in a complementary and constructive manner."

It further states that:

"Best democratic principles require that the actions of governments are open to scrutiny by the courts, to ensure that decisions taken comply with the Constitution,....."

The United Nations Basic Principles on the Independence of the Judiciary provide that:

"It is a duty of all governmental and other institutions to respect and observe the independence of the judiciary ... The Judiciary shall decide matters before them, on the basis of facts and in accordance with the law, without any ...threats or interference."

On 5th March 2023, the Commonwealth Bar Leaders unanimously passed the Goa Declaration on "Preserving and Strengthening the Independence of the Judiciary and on ensuring The Independence of the Legal Profession" that declares:

"The judiciary's role and function in the scheme of separation of powers in government must be protected and complied with and must not be reversed or nullified, except in accordance with law and applicable domestic legal procedure in compliance with international legal standards "

The Associations urge the Government of Sri Lanka to respect the independence of the judiciary by abiding by the said Order of the Supreme Court. The Associations further urge the Speaker of the Parliament to do likewise and to withdraw the reference to the said Committee and requests Parliament to cease all proceedings before the said Committee.

4th April 2023

Commonwealth Lawyers Association (CLA)

Commonwealth Magistrates' and Judges' Association (CMJA)

Commonwealth Legal Education Association (CLEA)

NOTE TO EDITORS

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

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. Website: 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. Website: www.clea-web.com