



Statement on the appointment of the Attorney General as Acting Chief Justice in Kiribati

Further to our previous statements on the situation of the judiciary in Kiribati, the CMJA, CLA and CLEA are seriously concerned about the most recent developments, namely the appointment of the Attorney General as Acting Chief Justice.

This appointment raises some fundamental concerns. It is a conflict of interest to have the Attorney General, appointed in the present circumstances, as Acting Chief Justice. Having signed indictments, it would not be appropriate to then have the same person act as Judge in such cases or in any matter in relation to which she gave advice as a Law Officer to the government. This does not comply with the Basic Principles on the Independence of the Judiciary. The effect of this would be that the people of Kiribati would not enjoy the right to a fair trial heard by an impartial and independent tribunal, an inalienable right under the Universal Declaration of Human Rights

Furthermore, the present situation is a blatant breach Commonwealth fundamental values including the Commonwealth (Latimer House) Principles on the Accountability and Relationship between the Three Branches of Government as embodied in the Commonwealth Charter.

There are good reasons why acting appointments should not be made and why Judges should have security of tenure. Acting appointments (particularly at a senior level) can create the risk of government influence on judges and interference with independent judicial decision-making, especially when judicial office-bearers do not have security of tenure.

The present situation arises from the position of Judge David Lambourne whose tenure has been suspended and from the suspension of Chief Justice William Hastings. We urge the government and parliament of Kiribati to comply with the judgment of the Court of Appeal of 19 August 2022.

We note the requirements set out by the UN Special Rapporteur on the Independence of Judges and Lawyers in his communication of 17 August 2022 which called for the re instatement of Judge Lambourne under the terms of his initial appointment as well as to reinstate the Chief Justice.

Kiribati has committed to the shared fundamental values and principles of the Commonwealth. At the core of these values is a shared belief in, and adherence to, democratic principles including an independent and impartial judiciary. We acknowledge that issues will arise which create challenges, and we respect the independence of Commonwealth members to make decisions, but these should be in accordance with the shared values and international standards.

We call upon the Government of Kiribati to respect the orders of the Court in the litigation involving Judge Lambourne, to reconsider the appointment of the Attorney General as Acting Chief Justice and to demonstrate respect for and uphold the independence of the judiciary, Commonwealth Principles, and other relevant international standards of due process.

3 November 2022

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

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

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. www.commonwealthlawyers.com