



Statement on the Tribunal set up in Kiribati to investigate the Court of Appeal Judges

The CMJA, CLA and CLEA are deeply concerned about the announcement of 2 September 2022 that a Tribunal, to investigate the three Court of Appeal Judges of Kiribati has been set up under Section 95 (3) of the Constitution following the decision of the Court of Appeal to quash the deportation order for Judge David Lambourne issued on 19 August 2022.

The suspension of the Court of Appeal Judges and the setting up of a tribunal to investigate judicial officers who have security of tenure under the terms of their appointment must be consistent with the rule of law, constitutional safeguards and international standards in particular the Commonwealth (Latimer House) Principles on the Accountability and Relationship between the Three Branches of Government as embodied in the Commonwealth Charter.

The Commonwealth (Latimer House) Principles provide that *'Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness'* that is to say, the right to be fully informed of all allegations, to be able to attend as well as be represented at any hearing, to make a full defence and to be judged by an independent and impartial tribunal. Members of the judiciary like other members of society may not be subjected to violations of their fundamental human rights no matter what the alleged charges are against them. Whilst Article 93 of the Kiribati Constitution provides for the suspension of judges pending an investigation, the UN Basic Principles on the Independence of Judges provide that: *"The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.....Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists."*

The suspension of all sitting judges leaves the citizens of Kiribati extremely limited in their access to justice as a result.

By virtue of its membership of the Commonwealth, Kiribati is committed to the shared fundamental values and principles of the Commonwealth, at the core of which is a shared belief in, and adherence to, democratic principles including an independent and impartial judiciary. The Associations call upon the government of Kiribati to respect the orders of the court. Any measure which is capable of being seen as eroding the independence and impartiality of the judiciary, or the fundamental rights that they are entitled to as citizens or residents of Kiribati, including members of the judiciary with security of tenure, is a matter of grave concern.

The Associations expect the Government and Parliament of Kiribati to respect the independence of the judiciary and to comply with the relevant constitutional provisions, Commonwealth Principles and other relevant international standards of due process.

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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