



# Commonwealth Lawyers Association

## **Statement regarding the Independence of the Judiciary following remarks at the CARICOM Regional Symposium to address Crime and Violence as a public health issue 17-18 April 2023**

As a result of recent Statements issued by two regional Bar Associations, the Commonwealth Lawyers Association (CLA) is reminded about the importance of Governments throughout the Commonwealth adhering to the well-established principle of the independence of the judiciary and of demonstrating commitment, by words and actions, to uphold the rule of law at all times.

The Statements were issued by two regional Bar Associations in response to remarks made by certain Caribbean leaders at a Caricom Heads of Government meeting in Port of Spain, Trinidad and Tobago on 17<sup>th</sup> and 18<sup>th</sup> April, called to specifically address Crime.

During discussions, remarks were made by 2 of the Honourable Prime Ministers who attended (The Hon. Mia Mottley, Prime Minister of Barbados, and The Hon. Dr Ralph Gonsalves, Prime Minister of Saint Vincent and the Grenadines). Those remarks raised concerns which were expressed in statements issued, on 27<sup>th</sup> & 28<sup>th</sup> April 2023, by the Organisation of Eastern Caribbean States Bar Associations (OECS), and the Organisation of Commonwealth Caribbean Bar Associations (OCCBA), respectively.

The CLA notes the important issues raised in these Statements from two prominent and respected Law Associations in the region.

The CLA is concerned that there is an increasing tendency for politicians to criticise the Judiciary and the legal profession and to make remarks which undermine the independence of the Judiciary and public confidence in the administration of Justice. This is pervasive across the Commonwealth and has serious implications for the rule of law. It is also contrary to Declarations and commitments made by members of the Commonwealth.

### **Latimer House Principles & UN Basic Principles**

This is the 20<sup>th</sup> anniversary year of the adoption of the Commonwealth Latimer House Principles on the three branches of Government (the Latimer House Principles) adopted by all commonwealth members in Abuja in 2003. Noting the OCCBA and OECS Statements and mindful of the role of the CLA in upholding the rule of law and supporting the independence of the Judiciary and the legal profession the CLA observes:

The Latimer House Principles state

*“Relations between parliament and the judiciary should be governed by respect for parliament’s primary responsibility for law making on the one hand and for the judiciary’s responsibility for the interpretation and application of the law on the other hand”; and*

*“An independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice”.*

The UN Basic Principles on the Independence of the Judiciary (UN Basic Principles) state:

*“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 jurisdictions to respect and observe the independence of the judiciary.”*

*“The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.”*

### **The Goa Declaration**

At the Commonwealth Law Conference held in Goa, India from 5<sup>th</sup> – 9<sup>th</sup> March 2023 over 40 Bar Leaders from around the Commonwealth met and adopted the CLC 2023 Goa Declaration on preserving and strengthening the independence of the Judiciary and on ensuring the independence of the legal profession (the CLC Goa Declaration).

The CLC Goa Declaration states:

*The independence and impartiality of the judiciary must be upheld and protected by governments, including under domestic laws, regulations, and policies.*

*The judiciary’s role and function in the scheme of separation of powers in government must be protected, and no measures should be adopted to prevent the judiciary from carrying out its function effectively or interfere with that function.*

*Judicial decisions must be respected and complied with.*

Considering the above the CLA

- **Expresses concern that any Government member, and in particular a Government Leader, should make comments critical of judicial decisions which undermine trust and confidence in the Judiciary.**
- **Calls upon all governments throughout the commonwealth to adhere to the Latimer House Principles and the Un Basic Principles and**
- **Calls upon all Government Leaders across the Commonwealth to demonstrate commitment by words and actions to at all times uphold the rule of law.**

### **Commonwealth Lawyers Association (CLA)**

**5<sup>th</sup> May 2023**

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)