

Joint Statement with LAWASIA concerning the Fiji Law Society

The Commonwealth Lawyers Association (“CLA”) and LAWASIA note the Fiji Law Society’s Media Statement on 1 June 2025, and express deep concern over developments in Fiji which appear to target the Fiji Law Society (“FLS”) through the possible arrest and prosecution of its President, Mr. Wylie Clarke, and immediate past President, Ms. Laurel Vaurasi.

On 5 Sept 2024, Mr. Clarke and Ms. Vaurasi, in their capacity as FLS officers, attended the offices of the Fiji Independent Commission Against Corruption (“FICAC”) in respect of the arrest of Ms. Barbara Malimali, who was then newly appointed as FICAC Commissioner, by her Acting Deputy Commissioner and staff. Their actions were taken in light of FLS’s concerns regarding the Commission’s independence and impartiality, which threatened its institutional integrity and public confidence in the proper administration of justice in Fiji.

Subsequently, a Commission of Inquiry (“COI”) was established to inquire into Ms. Malimali’s appointment as FICAC Commissioner. The COI’s report was delivered in May 2025. It would appear that on the recommendations contained in the report, the President, on the advice of the Prime Minister, suspended and later revoked, Ms. Malimali’s appointment as Commissioner.

The FLS has expressed concerns regarding the constitutionality and legality of these actions and further highlighted that the COI’s report has not been made public, nor has it been shared with the individuals identified and aggrieved by it, thereby depriving them of the opportunity to review, respond and/or challenge its findings in accordance with principles of basic procedural fairness.

Recent reports raise concerns that Mr. Clarke and Ms. Vaurasi may face charges for obstructing justice and/or perverting the course of justice in connection with the events on 5 Sept 2024. The preferring of any such charges would be abhorrent as this would be contrary to international standards and norms that safeguard the role of lawyers and bar associations.

The Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba, in 1990, state at paragraph 16:

“Governments shall ensure that lawyers

(a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ... and

(c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.”

The Commonwealth Charter, which comprise core commitments of all Commonwealth members, affirms that *“an independent, effective and competent legal system is integral to upholding the rule of law, engendering public confidence and dispensing justice”*.

The Commonwealth (Latimer House) Principles on the Three Branches of Government, further underscore that:

“An independent, organized legal profession is an essential component in the protection of the rule of law”.

The Commonwealth Bar Leaders Declaration on Preserving and Strengthening the Independence of the Judiciary and on Ensuring the Independence of the Legal Profession (known as the “Goa Declaration”), which was signed and approved by Bar Leaders from the Commonwealth on the occasion of the Commonwealth Law Conference in Goa in 2023, emphatically states:

“Lawyers must be free to perform all their professional duties without threats, intimidation, hindrance, harassment or improper interference or influence. Lawyers must not suffer or be threatened with any criminal prosecution, civil action, or sanctions of administrative, economic, or other nature for the discharge of their professional functions in accordance with recognized professional and ethical standards.”

In 2019, the LAWASIA Council passed a resolution acknowledging both the importance of an independent legal profession in the interests of the rule of law and the administration of justice and the role of law associations in protecting and advancing the welfare of lawyers and the legal profession in the public interest. It reaffirmed its commitment to the United Nations Basic Principles on the Role of Lawyers, and its support for the role of law associations in protecting lawyers against any “threats, intimidation, hindrance, harassment, interference, inappropriate restrictions, prosecution, administrative or other sanctions” which might impede them in discharging their professional functions.

These principles affirm the critical role of Bar Associations, such as the FLS, in safeguarding democratic institutions and the rule of law, and promoting good governance. FLS must be allowed to exercise its mandate independently, without fear or favour.

FLS has a duty to uphold the rule of law and to protect public confidence in the integrity of public institutions. Officers of the FLS have been subjected to appalling personal attacks from public figures clearly designed to have a chilling effect on the legitimate role of lawyers to hold decision makers to account. The possible arrest and prosecution of Mr. Clarke and Ms. Vaurasi would therefore constitute an attempt to prevent FLS from discharging its duties, and this would be a grave encroachment on, or infringement of, their independence.

The CLA and LAWASIA call upon the authorities in Fiji :

- to be publicly accountable in their decision making
- to adhere to the rule of law, and the international norms and standards on the independence of the legal profession and bar associations
- to respect the role and independence of the FLS, and to enable the FLS to discharge its statutory functions
- to ensure that its officers are able to perform their duties free from intimidation, interference, or reprisal

Commonwealth Lawyers Association (CLA)

The Law Association for Asia and the Pacific (LAWASIA)

10th June 2025

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

LAWASIA is an international organisation representing 35 jurisdictions in the Asia Pacific region with the principal object of promoting and protecting human rights and the rule of law. <https://lawasia.asn.au/>