



Statement on the failure by the authorities to fulfil court orders in Kenya

The Commonwealth Legal Education Association (CLEA), the Commonwealth Lawyers Association (CLA) and the Commonwealth Magistrates' and Judges' Association (CMJA) are concerned that in recent days Kenyan Government agencies have ignored a number of court orders so that the Chief Justice has been obliged to issue a public condemnation of such non-compliance.

A democratic State based on the rule of law cannot exist or function, if the government and other state authorities ignore their constitutional obligations and fail to abide by court orders. A Court is the guardian of justice, the corner-stone of a democratic system based on the rule of law. If the State, an organ of State, or a State official does not abide by Court orders the democratic edifice will be gravely undermined.

By virtue of its membership, Kenya is committed to the shared fundamental values and principles of the Commonwealth, at the core of which are the belief in, and adherence to, democratic principles including respect for the authority of an independent and impartial judiciary. Any measure on the part of the state authorities which is seen as eroding the authority and independence of the judiciary, is a matter of serious concern.

The Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government (2003) state: *'Judges are accountable to the Constitution and to the law which they must apply honestly, independently and with integrity' '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.'*

We would urge Kenya state institutions to respect the authority of the judiciary and execute the court orders as they are legally bound by the Kenyan constitution and by Kenya's international obligations.

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Commonwealth Lawyers Association (CLA)
Commonwealth Legal Education Association (CLEA)
Commonwealth Magistrates' and Judges' Association (CMJA)

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.

www.commonwealthlawyers.com

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 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