

16 September 2026

LAWASIA STATEMENT REGARDING THE PROCEEDINGS CONCERNING THE PROPOSED 22ND AMENDMENT TO THE CONSTITUTION OF SRI LANKA

LAWASIA, the Law Association for Asia and the Pacific, reiterates its longstanding commitment to the rule of law, judicial independence and the proper administration of justice.

LAWASIA refers to its Statement Regarding the Extension of the Retirement Age of Judges in Sri Lanka dated 30th June 2026, in which it expressed concern regarding the proposal to amend the Constitution of Sri Lanka to extend the retirement ages of Judges of the Supreme Court and the Court of Appeal. LAWASIA emphasised, in particular, the implications of such ad hoc reform for judicial independence and the need for transparency, consultation and stakeholder engagement.

The proposal has since proceeded as the Twenty-Second Amendment to the Constitution Bill, and its constitutionality has been challenged before the Supreme Court of Sri Lanka. Concerns regarding the proposed amendment and judicial independence have also been expressed by the Commonwealth Lawyers Association, the International Association of Judges and the United Nations Special Rapporteur on the Independence of Judges and Lawyers.

LAWASIA has taken note of the Report of the Commonwealth Lawyers Association dated 7 September 2026, following the visit of its President to Sri Lanka to observe the proceedings before the Supreme Court.

LAWASIA emphasises that the concerns expressed in this Statement relate to the procedure followed in those proceedings. LAWASIA does not express any view on the merits of the constitutional challenges or the substantive arguments advanced by the parties.

LAWASIA notes with serious concern that applications for the recusal of the Chief Justice and for the petitions to be heard by a Full Court comprising all sitting Judges of the Supreme Court were declined. The CLA report records that no reasons were given for the dismissal of those applications other than that the Court had jurisdiction to hear the matter. The recusal application had been made in circumstances where the Petitioners contended that the Chief Justice would be the first Supreme Court Judge who could benefit from the proposed amendment.

LAWASIA also notes the concerns raised regarding the composition of the five-member Bench. With the exception of the Chief Justice, the four Judges immediately senior to Justice Achala Wengappuli; Justice Yasantha Kodagoda, Justice A. H. M. D. Nawaz, Justice Shiran Gooneratne and Justice Janak De Silva were not included in the Bench.

LAWASIA recognises that seniority is not, of itself, determinative of the constitution of a Bench and does not question the competence of the Judges who heard the petitions. Nevertheless, in proceedings of such exceptional constitutional significance, the basis upon which a Bench is

constituted should be transparent and discernible and capable of maintaining public confidence in the institutional impartiality of the Court.

LAWASIA expresses further serious concern that, following the oral submissions of the Interveners and the State, the Petitioners were not afforded an opportunity to make oral submissions in reply, although they were permitted to tender written replies by 3.00 p.m. the following day. The opportunity to respond meaningfully to material submissions made against a party's case is an important aspect of procedural fairness.

LAWASIA emphasises that judicial independence is not confined to the substantive outcome of judicial proceedings; it extends to the integrity of the process by which judicial decisions are reached. This is especially important where proceedings concern a constitutional amendment directly affecting the tenure of serving Judges.

Scrutiny of judicial procedure should not be regarded as an attack upon judicial independence. On the contrary, judicial independence must be safeguarded both in fact and in public perception, and procedural fairness, impartiality and transparency are essential to maintaining public confidence in the Judiciary.

LAWASIA therefore reiterates its Statement of 30th June 2026 and calls upon all institutions concerned to uphold the highest standards of judicial independence, natural justice, procedural fairness and transparency.

The rule of law requires not only an independent judiciary, but a judicial process which commands public confidence as fair, impartial and transparent.

A handwritten signature in black ink, appearing to read 'TL Yap', with a stylized flourish extending from the end.

TL Yap

President

LAWASIA, The Law Association for Asia and The Pacific