Greetings From the Chairperson

In September 2016 we will gather in Georgetown Guyana for the 2016 CMJA Regional Conference.

I look forward to renewing acquaintances and to meeting more Commonwealth colleagues.

Be sure to join us at the Gender Section meeting scheduled for Monday 19 September 2016 at 17.00hrs where we can discuss ideas to fulfill the aims and objectives of the Gender Section, which are set out in this newsletter.

The Gender Section needs representatives from all regions of the Commonwealth to promote the interests of judicial officers throughout the Commonwealth, one of our significant aims and objectives.

I urge all of you to consider serving as your region’s representative to the Gender Section.

In this newsletter we have highlighted the regions which are not now officially represented in the Gender Section and have also outlined the duties of regional representatives. We invite you to be in touch with Dr. Karen Brewer if you would like your nomination to go forward.

I hope you enjoy this edition of the Gender Section newsletter. To ensure ongoing publication of our newsletter we need your contributions.

We encourage you to send us your commentary, information on legislative initiatives, or an article highlighting challenges and issues in your region. I hope to see you in Guyana!

Justice Lynne Leitch

Chairperson

Objectives of the Gender Section

Aims
- To promote the interests of judicial officers throughout the Commonwealth
- To ensure wherever possible, equal access to the law

Objectives
- To provide a forum for judicial officers to be able to consider ways of redressing any gender imbalance:
  a) Gender Bias and other colleagues;
  b) Gender Bias and the Public both specifically and generally;
  c) Institutionalised Gender Bias and the Justice System.
- To exchange information among judicial officers;
- To encourage the advancement of women;
- To promote and encourage women to be aware of their legal rights;
- To address women's groups on issues relating to the law and their legal rights.
PROFILE
The Hon. Mrs Justice Norma Wade-Miller retires

Justice Wade-Miller is a proud Jamaican who has lived and worked in Bermuda for almost 40 years after studying law in London and, as a member of Lincoln’s Inn. She was called to the Bar of England and Wales followed by the Jamaican Bar and the Bermuda Bar. As she has put it, she “has embraced, and has been embraced by, Bermuda”.

Our Past President and Honorary Life Vice President exemplifies the aims and objectives of the gender section of the CMJA by encouraging the advancement of women and promoting and encouraging awareness of legal rights.

She retired May 20, 2016 after 35 years of judicial service in Bermuda as a Magistrate from 1981-1983; as Registrar of the Supreme Court from 1983-1990 and as a Puisne Judge of the Supreme Court of Bermuda from 1990-2016.

Notably, she was the first woman in Bermuda to be appointed as a Magistrate and then as a Puisne Judge. It was observed by Chief Justice Kawaley at the special sitting of the court held on the day of her retirement that she helped to “pave the way” for greater representation of women on the bench and in the legal profession as a whole.

Chief Justice Kawaley expressed appreciation for Justice Wade-Miller’s “distinctively empathetic approach”.

He described her as “a judge who emanated courtesy and respect” which had a significant impact on his development as a lawyer and also his “conception of model judicial behavior”.

As the Chief Justice noted, Justice Wade-Miller presided over a wide variety of cases in all jurisdictions of the Court before “dedicating herself to the Family Law area when the Supreme Court moved towards greater specialisation roughly 10 years ago”.

She contributed to judicial reform in Bermuda by Chairing the Justice Review Committee and the Family Law Reform Sub-Committee, which she will continue to lead after her retirement.

She promoted judicial education and spearheaded mediation training to create a pool of accredited family law mediators for Bermuda.

Justice Wade-Miller was also credited with making many extra-judicial contributions throughout her career.

A common theme in the many tributes paid to her was the belief that notwithstanding her retirement from the Bench, she will remain dedicated to judicial education and other public service.

I know that all members of the Gender Section of the CMJA appreciate Justice Wade-Miller’s warm personality and admire her commitment to justice. She is an outstanding role model for us all!

She will continue to contribute to the work of the CMJA having been made an Hon. Life Vice President of the CMJA during the General Assembly held in New Zealand in September 2015.

We are delighted to have the benefit of her continued participation in the CMJA.

Justice Lynne Leitch
Chairperson

Seeking Regional Representatives of the Gender Section

In the last newsletter issued in February 2016, we reported that the new Council of the CMJA had been elected in September 2015 in New Zealand, but that there were still vacancies in certain regions for representatives on the Gender Section Committee.

We are STILL seeking nominations for the following regions:
- Atlantic and Mediterranean
- East Central and Southern Africa
- Indian Ocean
- Pacific

CONTACT: Dr Karen Brewer at the CMJA: kbrewer@cmja.org if you would like your nomination to go forward for any of these regions.
Duties of the Regional Representative
Each Regional representative would be expected to galvanise activities within their region and promote the aims and objectives of the Section (see below for further information on the objectives)

Each regional representative would have authority to call on active judicial officers in each of the countries in their region to advance the aims and objectives or assist with information on developments on gender issues.

Each Regional Representative would submit an annual report to the Gender Section Chairperson in time for the chairperson to report back to Council on activities.

UN Secretary General’s Message for International Widows Day
23 JUNE 2016

There are some 259 million widows around the world, and nearly half are living in poverty. Widows are often stigmatized by their families and communities. Many suffer discrimination based on age and gender. Some have lived lives marked by physical and sexual abuse.

Older widows often have few economic assets, after a lifetime of hard but unpaid work. Even in developed countries, the value of women’s pensions can be some 40 per cent lower than men’s. Younger widows face other challenges, as heads of households with childcare responsibilities and very limited economic opportunities.

The 2030 Sustainable Development Agenda with its pledge to leave no one behind has a particular resonance for widows, who are among the most marginalized and isolated. On International Widows’ Day, let us pledge to make widows more visible in our societies, and to support them in living productive, equal and fulfilling lives.

Ban Ki-moon
UN Secretary General

Commonwealth Women Leaders’ Summit

The CMJA Secretary General, Dr Karen Brewer, participated in the Commonwealth Women’s Summit hosted by the Commonwealth Secretariat in London on 14th July 2016. The aim of the Summit was to bring together senior female and male leaders from business, civil society and the public sector from around the Commonwealth to discuss issues on gender equality and women’s empowerment.

The meeting was convened by the Commonwealth Secretary General, The Rt. Hon. Patricia Scotland QC. At the Opening Ceremony, the Secretary General pledged to “re-invigorate the Commonwealth’s commitments on gender equality and the global goals. This will be the first of a series of meetings we will hold together as women leaders of the Commonwealth.”

The Keynote Speaker at the Opening Ceremony was the Lieutenant Governor of Puducherry Kiran Bedi, a former Indian Police Officer, who spoke about empowering women through leadership. She believes that women need to be self-driven and in order to do this you need collaboration, care and conscientiousness. The Commonwealth is committed to assisting countries with their fulfilment of the Sustainable Development Goals (“SDG”) which were agreed at the UN General Assembly in September 2015.

SDG Goal 5 is to Achieve Gender Equality and empower all women and girls. There are a number of targets set to achieve this Goal.

A copy of the targets under SDG 5 can be found later on in this Newsletter.

The Summit split into groups to focus on three targets:
- Ending Violence Against Women and Girls;
- Women In Leadership;
- Women’s Economic Empowerment.

NEXT MEETING OF THE GENDER SECTION
20 SEPTEMBER 2016
17.00-18.00
Marriott Hotel, Georgetown, Guyana
The Working Group on Violence Against Women and Girls highlighted the fact that such violence remains a serious global challenge. Around 15 Million girls are married before they reach the age of 18, 200 million women live with FGM and 246 Million boys and girls experience some form of school related gender based violence. Priority areas for action were identified: Human Rights, Law and Policy; a need for a multi-sectoral approach to combating violence; a need to engage men and boys; advocacy and capacity and a focus on young people for prevention.

The Working Group on Leadership recommended temporary special measures (such as targets and quotas) to redress the imbalance between women and men in leadership and decision making positions; introducing leadership in schools and in sport as well as improving the systems for measuring and reporting on numbers of women in decision making roles. Education was also important and mentoring, sponsorship as well as changing culture to make it more inclusive for women was encouraged.

The third Working Group, on Women’s Economic Empowerment stressed the importance of making better use of gender-disaggregated data on women’s economic empowerment so that the Commonwealth was better informed. The Commonwealth should also encourage companies to publish their data on the treatment of women (ie:

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**SUSTAINABLE DEVELOPMENT GOAL 5**

**Achieve Gender Equality and Empower all Women and Girls**

**TARGETS**

5.1
End all forms of discrimination against all women and girls everywhere

5.2
Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

5.3
Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation

5.4
Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate

5.5
Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

5.6
Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

5.a
Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws

5.b
Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women

5.c
Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women
pay, seniority of positions filled etc..) and should promote education programmes which will ensure women have equal access to become entrepreneurs, including inter-generational mentoring and dialogue.

The results of the discussions will be fed into the Commonwealth Women’s Affairs Ministers Meeting which is to take place in Samoa from the 5-8 September 2016. The theme of the meeting is: “Gender Equality through Sustainable Development in an Inclusive Commonwealth”

MAINSTREAMING GENDER EQUALITY IN THE DEVELOPMENT OF FAMILY LAW IN A BORDERLESS WORLD: THE NIGERIAN PERSPECTIVE

The following paper is an abridged version of a paper presented at the CMJA Conference in 2011 in Kuala Lumpur Malaysia by Her Worship Ari Tobi-Aiyemo, Magistrate, Lagos State Judiciary, Nigeria.

The world we live in is an interconnected community, where the legal jurisprudence in one part is not isolated; but connected, affected and influenced by the legal affairs of another part of the world. Family law across the globe is interwoven in its entirety. It cuts across the Atlantic; from the borders of Europe to Africa; from North America to South America; Antarctica to Australia; and then to Asia. What affects the family in Europe or America is not different from the challenges of the family in Asia or Africa, and this has adjoined the regional and geographical boarders between us.

Gender awareness is central in family law matters. Relations between male and female and their equal treatment are a very important part of the way any society organizes itself, and this has introduced a primary challenge to development in the world today. Traditional family life in Nigeria is more favourable to strict gender-based division of labour and social separation of sexes. Historically, there have been specific kinds of gender apartheid for separate activities within the social, economic, religious and cultural spheres of family life.

Family law is noted to present the most difficult and complex issues of gender biases, as the family is the root of gender segregation. Most recently, across the globe, there have been extensive social and legal discourses on the regulation of family life, vis a vis rights and privileges of family members: women and children especially. And this has constantly made headlines in the news. Equality in the family and equal treatment of members of the family by themselves and the law is very fundamental to the development of family law and by implication the development of societies (countries) we all live in.

A family makes a community and communities make states which by large become nations that mould the world. Thus the importance of the family in every society cannot be over-emphasised. What affects the family as a nucleus of the society should be of vital interest to all, not just those with similar culture, background, language, race or region, but also those intertwined communities of inter-racial relationships resulting from international marriages and affairs. We are in a world where inter-racial marriages and relationships have tremendously increased. And this automatically affects the development of family law jurisprudence in societies across the globe.

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Family law is noted to present the most difficult and complex issues of gender biases, as the family is the root of gender segregation. Most recently, across the globe, there have been extensive social and legal discourses on the regulation of family life, vis a vis rights and privileges of family members: women and children especially. And this has constantly made headlines in the news. Equality in the family and equal treatment of members of the family by themselves and the law is very fundamental to the development of family law and by implication the development of societies (countries) we all live in.

1. Child adoption, custody of children, child soldiers and women’s rights
2. The use of the words community and society, interchangeable instead of nation, state or country is deliberate. For the purpose of this paper, this writer believes that it is an appropriate replacement, as we now live in a borderless world.
3. For the purpose of this paper, it is the historic family pattern of man, woman and child that is our focus, though we do not decry the recent diverse definition of family which includes the gay sect
4. This has birthed family ties across the globe. Amazing how Asians are now married to Africans. This is one extreme to another.
progressive trend. First this law has had its focus on the rights of women and only recently on rights of children. In the past, the interest of men as heads of the family was presumed the focus of the law, but in recent times, the rights of men has little or no significance in this area of development. It appears that men are somewhat marginalized, as there is no known law that protects the rights of men in Nigeria. Thus, this also forms gender inequality against Nigerian men: a concern this paper has raised.

Therefore, every sector of the society, particularly the judiciary should be concerned with borderless, unrestrictive guidelines, which revolves around the developments of family law within the ambit of gender justice. A developed family law system is equal to a developed country. And such development is incomplete without gender equality. Accordingly this paper calls for a borderless thinking task of developing family law within the context of equal rights to, and amongst, respective family members. It seeks to inspire a gender-sensitive judiciary and demands abandonment of myopic thought patterns for an embrace of family life, which have diversified with current trends. Hence, in the sheets that follow, this writer makes attempts to explore gender neutrality against the backdrop of development of family law by analysing the impact of gender segregation on each member of the family with specific emphasis on a peculiar contemporary area of family law jurisprudence in Nigeria, which has developed over time, with numerous twists and turns. The obstacle to actualizing gender justice in family law would be stated and suggestions would be proffered to conclude this paper.

**THE IMPACT OF FAMILY LAW DEVELOPMENT ON CHILDREN**

Historically, justice has been denied Nigerian children, especially girls. From birth the girl child is not as celebrated as the boy child because she is taken as liability that should be betrothed someday to a rich man for money or property. The birth of a boy child is announced with pride and achievement: “bouncing baby boy” while the birth of a girl child is simply: “baby girl” with no adjective. Although this has changed over time, the roots still linger in demeanours of families.

Over the years, on various levels and degrees children have been ignored in the gender campaign. The girl child in most recent times is merged with the women in their crusade for equal rights for women and girls. This was not the case initially. But the boy child has no such luck since the men are also searching for their bearing. Presently, the on-going campaigns for the rights of the child have focused on the interest of the parents more than that of the child on the one hand, and the rights of the girl child on the other hand, as opposed to the boy child.

And this has had a negative impact on the welfare of the child. Even though the rights of the child are to be promoted and safeguarded by the government, the Nigerian child has suffered discrimination on different levels. In divorce or separation proceedings for instance, the rights of the child is taken for granted. This affects the welfare of the child, as his or her interest is scarcely the focus. In the event that parents have unresolved issues, the child becomes a victim. The child’s right to be heard is a fundamental right that is enshrined in the United Nations Convention on the Rights of the Child (UNCRC). It includes the right to be informed and consulted. It also grants the child the right to express his or her opinion on all matters concerning him or her. For instance on issues such as custody, the gender of the child should be taken into consideration in addition to other factors. What a growing girl child experiences differ from what a growing boy child experiences and the stages of their growth and development should determine which parent would best serve their interest. Hence such interests are to be considered by the courts in deciding one-way or the other. But the debate at the moment on custody issues is about how either father or mother

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6 Child custody, child welfare, domestic violence, divorce and inheritance rights.
7 So she was not sent to school and much is not spent on her well-being
8 This is similar to the provisions of the European Convention on Human and Peoples Rights; which does not provide adequately for the rights of children.
9 This is contrary to section 1 of the child rights Act, 2003, which stipulates that the interest of the child should be the primary consideration in any issue concerning the child.
10 Section 17(30 f) of the 1999 constitution of the Federal Republic of Nigeria stipulates that the State shall direct its policy towards ensuring that children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect

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Gay rights and transgender movements.
is denied equal rights based on their sex and not on the child.11 Unfortunately, in Nigeria, this generally accepted principle of hearing the child in disputes over parental responsibilities is, however, frequently not applied in practice.12 The position is similar in Europe.13 The European court of Human Rights held in Scott v UK14 that the interests of the child are of crucial importance in cases involving the interest of parents and child.15 Issues on the welfare of a child cannot be decided solely by inference to rule of law. They require the exercise of judicial discretion that takes account of all the relevant circumstances, which may be very complex. For example, in an Australian case of Re Alex, Chief Justice Nicholson ruled that a 13-year-old biological girl was able to commence treatment for gender dysphoria.16 The Chief Justice determined that this type of medical treatment fell outside the scope of parental authority and that it is necessary to obtain court approval before commencing such treatment on a child, as the child in this case did not have sufficient understanding to consent to the treatment on her own right, given the complexities of the issues involved.17

The enactment of the Child rights Act of 2003 has introduced a lot of dimensions to the development of family law in Nigeria. It came into force as a result of the domestic implementation of both the UN Convention on the Rights of the Child, 1989 and the OAU Charter on the Rights and Welfare of the Child, 1990, with efforts of civil organizations. This law, developed on the provisions of the repealed

Children and Young Persons Act, and introduced some new areas like care and protection of children, custody issues, the rights and responsibilities of children, protection of the right of children, warship, fostering, adoption, guardianship, institutional treatment, and supervision and care.18

Although we have a fairly long way to go on the proper and adequate implementation of the Child Rights Act in Nigeria, it is a milestone in the development of Nigerian family law.19

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11 Fathers are presently denied custody rights based on their gender as it is believed women are better with children
12 Children are not regarded and respected in the traditional African setting
13 Boele-Woelki, K “What Comparative family Law should entail” Utretch Law review. CF http://www.utrechtlawreview.org/ Volume 4, Issue 2 (June) 2008 1
14 (2000) 2 FCR 560 at p.572
15 See also Hoppe v Germany (2003) 1 FCR 176 at para 49 and Yousef v The Netherlands (2000)2FLR118 at para 118
17 ibid
18 About 26 out of 36 states have enacted the Act.
19 For bringing into effect such provisions introducing new Family Courts (section 149) and accommodation for children including those in police custody. (Section 175)

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THE DEVELOPMENT OF FAMILY LAW IN NIGERIA: MEN’S PERSPECTIVE

Historically, we lived in a patriarchal society, ruled by men who made the laws and applied the laws. Family life was approached from a male perspective.20 Women were not even "persons" in law until well into the 20th century.21 Women and children were clearly disadvantaged in the days. But, with global development and the advent of women liberation, the role and responsibility of the man changed and became less defined. Then with the economic meltdown and increase in divorce rates, most women now take sole responsibility of homes and children. And this relegates the man to a less visible, and most recently discriminated position. Irrespective of the popular belief that law is patriarchal, thus women are always less socially privileged than men, there are propositions on the flipside, which see men as victims of discrimination as well. As unpopular as this may sound, in the rise are debates that the male gender are equally in need of protection so as to avoid the gradual chipping of the masculine gender off a place in the development agenda of various governments all over the world.22 An aspect of family law that has taken a somewhat interesting twist and turn on the male gender is domestic violence. Domestic

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20 The man was seen as the head of the home and the bread winner
22 Tobi, A “Bridging the Gender Gap: Myth or reality” (2008) LL.M research paper presented at the University of Lagos. Nigeria
violence is often seen as a female victim/male perpetrator problem, but the evidence demonstrates that this is a fallacy. Gone are the days when the victims of domestic violence were undoubtedly women. More men have joined the line too.  

Domestic violence against men is a new phenomenon in family law. For instance, it has been reported that in Hong Kong, the rise in the rates of domestic violence against men has mirrored the rise in unemployment over that period, contradicting the widespread impression that it is always women who are left battered and bruised.  

In fact it was reported that as at 2002, 179 men in Hong Kong were victims of domestic violence.  

Hong Kong even has a refuge for abused men.  

Research in the field of domestic violence over the past 25 years has generally shown that men and women act violent in relationships at about the same rate.  

However, both men and women are meant to believe that women are more abused, so men received unequal and discriminatory treatment as victims. Domestic abuse against a man is just as abhorrent as when a woman is the victim; even though men are often, unfairly treated as second-class victims, when a complaint is made.

Cases on domestic violence against men is very rare in Nigeria, so there are no statistics, but research reveals some Nigerian men are abused by their spouses and are too shy or proud to make complaints as victims. Such cases are unreported due to the embarrassment and shame it may bring the man before the eyes of the patriarchal community he belongs, that would consider him a ‘weak man’.

However minimal such cases of domestic violence against men may be, they still exist. And it would be unjust to ignore or overlook them. After all, gender equality is supposed to be beneficial to both men and women.

WOMEN AND THE DEVELOPMENT OF FAMILY LAW IN NIGERIA

The records show undoubtedly that women are the most affected in the family where gender-based discrimination arises. Hence, this paper would spare the details on gender-based discrimination against women. The focus here is on succession and inheritance rights, which is considered the specific and most peculiar discriminative practice against women in Nigeria.

In Nigeria, there is a wide gap between law and practice with respect to intestate succession, as the laws with regard to intestacy of persons married under the Act are hardly enforced. Many states in Nigeria do not have appropriate laws to deal with intestate succession; hence the application of customary laws in distribution of real and personal property has increased. The practice in most communities in Nigeria is that when a man dies intestate, his real and personal estate is subjected to customary laws of intestate succession, which are often biased against women. These laws and practices governing intestate inheritance vary from one ethnic group to another. Under Yoruba customary law marriage, for instance, although the children, irrespective of sex are entitled to inherit their late father’s property, the wife has no right over her deceased husband’s estate, as the widows are considered part of the estate.

Similarly, in the Igbo communities, for instance, inheritance is based on the principle of primogeniture; that is, succession by the eldest son. In that region, wives do not have right of inheritance because of the customary notion that women are property and,

23 Domestic violence has been defined from a more extensive perception, to include physical, mental and emotional abuse.  
24 BBC NEWS (Friday, 13 December, 2002, 22:50 GMT) Hong Kong’s Abused Husbands.  
CF http://www.guardian.co.uk/society/2010/sep/05/men-victims-domestic-violence  
26 http://www.guardian.co.uk/society/2010/sep/05/men-victims-domestic-violence  
27 The specific story of Mr Wong was reported. He was a 70-year-old man, sick with diabetes, and he lost his job as a result. Hence his wife became violent and scratched him and hit him with a chair. When asked why he could not stop her as a man, he said he was too sick to stop her, but he would have fought back if he was healthy http://www.guardian.co.uk/society/2010/sep/05/men-victims-domestic-violence  
28 In Canada in the year 2000, statistical profile shows that 44% of domestic violence victims are men. Also in the UK, assaults on men represent more than 40% of domestic violence.  
29 Adebayo, A.A. 2014. Domestic Violence Against Men: Balancing the gender issues in Nigeria; available at article.sapub.org/pdf/10.5923.j.sociology.20140401.03.pdf  
30 Tobi, A, opcit  
31 Ezeilo,J Laws and practices relating to women’s’ inheritance rights in Nigeria: an overview, translated in www.wacolnigeria.org/lawandpractices.doc  
33 The eastern region of Nigeria  
34 ibid
language, which the Supreme Court considered could lead to criticism of all other customs that exclude women. Although this judgment killed the joy amassed from the Court of Appeal judgment, and slowed down the development of family law vis a vis rights of inheritance, justice did prevail as another opportunity presented itself to the Nigerian judiciary ten years latter and the same Supreme Court in the case of Ukeje v Ukeje, voided the centuries-old Igbo tradition that barred females from becoming beneficiaries of family estates, especially in their towns and villages.

It took several years to get family law in Nigeria to this proactive state of development where the rights of children and women have taken front role in government agendas. We are happy at the progress, no doubt! But it is slow and part of the reason for this snail speed and the obstacle to development of this area of law is the wrong perception of the courts. Some Judicial Officers hold preconceived and possibly biased stereotypical notions about gender and family matters because of their idiosyncrasies and cultural diversities. Hence the gap between genders increase.

There cannot be development in family law, without gender equality; we are in a borderless world and that gives us the liberty to explore the approaches to family law issues from other jurisdictions so as to develop ours. The society cannot develop without the law and the law cannot develop without the Judicial Officer. And a Judicial Officer whose thought pattern is restrictive would not do much in the development of the law. This paper resounds duty call on Judicial Officers to leave their comfort zones, be prepared and get involved with complex and dynamic issues evolving in other parts of the world. There is the need for alliance of gender justice in family law. The exposure of our different judicialities, developed or under-developed, to the progressiveness of family law from a gender-based perspective, is of particular importance to democratic development.

SUGGESTION

A more popular approach to preferring recommendations would be to state the roles of all stakeholders, but this is not the intention of this paper. Charity is said to begin at home, so the focus here is the judiciary. There is a tendency to throw blames on the legislator and the executive, but it is this writer’s opinion that the government has done enough to get the courts moving.

The exposure of our judicial officers, both in the law and in the society, to the roles of all stakeholders, will help for a better understanding of the roles of the judge. Judicial Officers to leave their comfort zones, be prepared and get involved with complex and dynamic issues evolving in other parts of the world. There is the need for alliance of gender justice in family law. The society cannot develop without the law and the law cannot develop without the Judicial Officer. And a Judicial Officer whose thought pattern is restrictive would not do much in the development of the law. This paper resounds duty call on Judicial Officers to leave their comfort zones, be prepared and get involved with complex and dynamic issues evolving in other parts of the world. There is the need for alliance of gender justice in family law. The exposure of our different judicialities, developed or under-developed, to the progressiveness of family law from a gender-based perspective, is of particular importance to democratic development.

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interpretation of these laws one-way or the other would create the efficacy desired in the development of family law. The role of the courts in this regard cannot be overemphasised. We have to reform the manner in which we resolve family law cases. We have to critically examine our prejudices. We have to recognize that the existence of “gender bias” impedes the development of family law and then we have to move forward from that point to sensitively address the needs of all members of the family be they men, women, girls or boys. Our family law systems should be the epitome of justice and fairness. The family is society and a developed society leads to democratic development. Certainly no woman or girl should face any form of gender bias within the system; neither should any boy or man have to overcome stereotypical assumptions of judges, lawyers and the community.

We are in a global village; it doesn’t take long for one clan to feel the impact of what happens in another; after all they are all part of ‘same geographical base”47. The challenges African communities are faced with today were once at the doors of western communities. In a matter of time, what the Asian communities or American communities face as a challenge would spill over to the African community and in a matter of years we would all be sharing the same stories and experiences. Then, only then would our borderless trains of thought be engaging.

As Judicial Officers, we cannot forget that we are pivotal to democratic development; we cannot depend on the legislators to make laws, but rather, we should influence the law by our considerate verdicts that affect every day experiences. Whether we admit it or not, we are a major solution to the welfare and equal treatment of members of the family which evolve to society. The law is interpreted from the eye of the individual Judge rather than from the blindfolds of the statute of justice we bow to in our various, highly esteemed courts. The thoughts in this paper find solace in the words of Lord Woolf48 during his keynote address at the 13th Commonwealth Law Conference held in Melbourne. I quote:

“The role of the judiciary, individually and collectively, is to be proactive in the delivery of justice.... I am referring to the judiciary who day-by-day in each of our jurisdictions is responsible for providing justice to members of the public. It is my contention that all judges in every jurisdiction are, by the way they undertake their responsibilities, contributing to the quality of justice internationally...Today, no country is cocooned from its neighbours. Human beings do not live in hermetically-sealed containers. While we remain citizens of our individual nations, what happens in any part of the globe can affect us all. We not only have a global economy, we are part of a global society...”

My thoughts precisely!

47 Legally speaking

48 Lord, Chief Justice of England and Wales

We are in an era where gender inequality has eaten deep into the fabrics of society and like cancer it has spread into various parts and is defacing the essence of democracy. Hence in a borderless world with a common goal to ensure justice and democratic governance, judicial officers have more work to do. The responsibilities and expectations are humongous. Millions of deprived victims turn to us for help and we cannot let them down because we feel the peculiar circumstance is alien or strange to our culture, beliefs or practices. We must always be prepared, as the saying goes, what goes around comes around. It is just a matter of time. Once upon a time, outside the boarders of Nigeria, to be precise September 11, 2001, terrorist blew the Pentagon and World trade centres in the United States of America. Little did we know years later, a bomb blast would be a recurring practice within Nigerian boarders. So we must always be proactive as Judicial Officers.

The thoughts above should not be waived as imaginative escapade but rather seen as judicial prophecy. Family law has moved on from a place of biological sex roles to generated sex roles. The former is without choice while the latter is by choice. Now, this is the challenge to the Judicial Officer who has to preside over conflicts arising from the latter. How do we deal with it? We cannot deny it; neither should we avoid it. Where the rights, privileges and opportunities of members of the family are denied, the essence of the law and by implication the courts, would fail. So however we pursue democratic development, it would be a wild goose chase if
we ignore equal rights, equal treatments and equal privileges of the components of the family, irrespective of their gender.

News from Around the Commonwealth

The following are some interesting developments in Women and Girls Rights around the Commonwealth.

**CANADA:**

**Ontario Gender Diversity Initiatives**

Female inequality in the workplace is not a new topic of discussion. However, the conversation has shifted in Canada over the last few years to focus not only on the wage gap, but also equal representation of female employees in position of power. Last fall, newly-appointed Prime Minister Justin Trudeau made headlines around the world when he formed Canada’s first gender-balanced cabinet. And earlier that year, the Government of Ontario implemented new securities regulations for TSX-issuers to encourage more female representation on the boards of publicly traded companies by requiring them to annually disclose how many women are hired on their boards and in executive positions. However, in spite of these progressive changes, Canada still lags behind many developed countries in gender parity in leadership roles.

According to the Catalyst report on “Gender Diversity on Boards in Canada: Recommendations for Accelerating Progress” commissioned by the government of Ontario, 50% of TSX-listed issuers have zero women on their boards, and woman only make up 20.8% of board members in all Canadian stock index companies. Many European countries, on the other hand, have the highest percentage of women on corporate boards. The report highlights that this success has a direct correlation to countries where the government takes an active role in encouraging the hiring of women in corporate leadership roles. Norway, Finland, and France, the top three countries with largest percentage of women on corporate boards, all have government legislated quotas aimed at enforcing female representation on corporate boards.

As a result of the findings and recommendations made in the Catalyst report, in June 2016 the Ontario government announced a new gender diversity target for provincial organizations in order to ensure greater female representation in leadership roles. The goal is that by 2019, women will make up at least 40% of all appointments to every provincial board and agency. Additionally, private businesses are encouraged to set their own targets. By the end of 2017, all issuers without any women on their boards should set a target to appoint at least one woman, and all other corporations should set targets to appoint women to 30% of their board positions. These targets should be achieved in 3 to 5 years.

The response has largely been positive; however, concerns have been raised that these changes may not be enough. Ontario still does not have a mandatory government-legislated quota imposed on private companies, like many successful European countries have implemented, and expected levels of success are still unsure. If significant progress towards the target goals are not evidence, the Catalyst report recommends that

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more rigorous legislative or regulatory approaches should be considered.\textsuperscript{53}

MALAWI:
In July, the President of Malawi, Peter Mutharika has announced the introduction of tougher legislation against sex offenders, in a crackdown on sex crimes in the country. In particular, the government will take action against the “sexual hyenas”, who are paid to have sex with young girls and widows as part of a inhumane “cleansing rituals”. This follows the sentencing of a “sexual hyena” with HIV in August 2016 who admitted to having sex with over 100 young girls/widows. He was condemned to 27 years in prison.

TANZANIA:
In July 2016, the High Court ruled that the 1971 Marriage Act which allows for girls to marry at 15 (with parental consent) or at 14 (with the permission of a court) were unconstitutional. You can now be put in prison for up to 30 years in Tanzania (which has one of the highest rates of child marriage in the world) for marrying primary or secondary school age girls. Whilst campaigners welcomed this move, it is unlikely to make a difference if parents continue the cultural practice. Girl brides are more likely to be miss out on education and according to Girls Not Brides are more likely to suffer childbirth injuries. The High Court ordered the Government to amend the Act to increase the marriageable age to 18. However the Government is appealing the decision.

In a report from the Thomson Reuter Foundation (August 2016) it is reported mobile technology is being used to map land enabling widows and others to own property. See report on http://news.trust.org/item/20150825091334-odfc4
According to this report: “Women in Ilalasimba now have greater security for their property, as 30 percent of land has been registered in their names, USAID officials said. Another 40 percent has been registered jointly to men and women, and 30 percent to men alone.”

SOUTH AFRICA
In August 2016, the IBA’s Legabrief Africa reported that: The Limpopo High Court (Thohoyandou) ruled that women in polygamous marriages had equal rights and that the Customary Marriages Act discriminated against them. The case drew on the information put forward by the Women’s Legal Centre Women’s Legal Centre and declared that section 7(1) of Recognition of Customary Marriages Act, inconsistent with the Constitution and invalid; and held that ‘until such time that legislation is passed to govern the proprietary consequences of customary polygamous marriages that occurred before the Act was passed, the wives who are parties to such marriages shall have joint and equal rights of management and control over and in the marital property of their husbands’. For a full report see: http://www.wlce.co.za/images/press%20releases/WLC_Customary%20Marriages%20Act_Limpopo%20Ruling_020816%20press%20release.pdf

PACIFIC
According to a report produced by ABC News in Australia (2 June 2016) reported that domestic violence has become epidemic in the Pacific region:

In the Solomon Islands
• Nearly two out of every three women aged 15 to 49 experienced violence from their current or former partner and about 18 per cent of women experienced non-partner violence
• Source: Secretariat of the Pacific Community

In Vanuatu
• Three out of five women had been physically and sexually abused by their husband or partner
• Source: Vanuatu Women’s Centre and National Statistics Office
In Fiji

- Sixty four per cent of women who had ever been in an intimate relationship experienced physical and/or sexual violence by a husband or intimate partner in their lifetime
- Every day 43 women are injured, one is permanently disabled, and 71 lose consciousness
- Source: *Fiji Women's Crisis Centre*

In Papua New Guinea

- There is a lack of accurate national statistics on the rate of gender-based violence in PNG
- Organisations such as Human Rights Watch and Medicins Sans Frontieres have detailed "shockingly high" rates of family and sexual violence
- Source: *MSF* and *HRW*

**Building A Safe House On Firm Ground:**

**Key Findings from a Global Values and Preferences Survey Regarding the Sexual and Reproductive Health and Human Rights of Women Living With HIV**

In April 2016, the Salamander Trust is a registered UK charity seeking to transform the way we think about HIV produced the above survey.


The visual summary report which follows was prepared by *Krutika Patil* Judicial Law Clerk (Southwest Region) of the Superior Court of Justice, London, Ontario, Canada.

**Gender Section Committee**

Justice Lynne Leitch  
(Chair, Council)

Mrs Nicole Stoneham  
(Vice Chair, Council)

Ms Debbie LeMottee  
(Secretary)

**Regional Representatives:**

Caribbean
Justice Carolita Bethell

West Africa
Mrs Olubunmi Ayobowale Akokhia

Representatives still required for
- Atlantic and Mediterranean
- East Central and Southern Africa
- Indian Ocean
- Pacific

(Contact the CMJA Secretary General on kbrewer@cmja.org to send in your nomination)

Further information about the Gender Section and its aims can be found on the CMJA’s website at:  
[www.cmja.org/gender](http://www.cmja.org/gender)

**Ideas? Suggestions? Comments? Contributions?**

We would like to hear from you. If you have comments, suggestions, ideas, or concerns please send us an e-mail at info@cmja.org

If you have an interesting story to tell, please send these too!
Summary: Building a safe house on firm ground - Key findings from a global values and preferences survey regarding the sexual and reproductive health and human rights of women living with HIV

Participants: 945 respondents from 94 countries

Estimated that 50-55% of people living with HIV globally are women

Respondents from a diverse range of backgrounds

including women who are heterosexual, use drugs, do sex work, are indigenous, lesbian, bisexual, trans or Intersex, are single, in stable relationships, have been circumcised etc.

Respondents call for safety in healthcare

- support to address interpersonal violence
- reduction of stigma and discrimination within health services
- adopt a holistic women-centred approach
- gender equality in all policies and practices

Meaningful involvement and protective laws

- women with HIV should be encouraged and supported to join local, national and international health committees, to shape high quality services
- human rights should be embedded in protective laws and policies that create safe environments for women living with HIV

WHO commissioned the consultation

Salamander Trust was selected to work in partnership with the Department of Reproductive Health and Research at WHO

Experience with violence

- 59% of respondents have experienced violence from a sexual partner or spouse
- 53% of respondents have experienced violence in health settings
- 66% of respondents have experienced fear of violence

Mental Health

- over 80% of respondents reported experiences of depression, shame, and feelings of rejection
- over 75% reported insomnia and difficulty sleeping, self-blame, very low self esteem, loneliness, body image issues, or anxiety, fear and panic attacks, whether before, as a direct result of, or after, diagnosis.

Respondents views on how to prevent violence

- strengthen laws and policies to protect the rights of people living with HIV
- strengthen legal protections around all forms of violence against women
- recognize and address marital rape and date rape
- remove laws which criminalize same sex practices
- remove laws which criminalize sex work