

CMJA NEWS

The Newsletter of the Commonwealth Magistrates' and Judges' Association

VOLUME 38

November 2015

EDITORIAL

The CMJA's 17th Triennial Conference took place in Wellington, New Zealand from the 13-18th September 2015 so in the last few months the CMJA secretariat has been concentrating on preparing for the Conference and for the Regional and General Assembly meetings which took place during the Conference and we have been busy catching up since our return to the office on 7th October. We are deeply grateful to the Judiciary of New Zealand, the New Zealand Ministry of Justice, the New Zealand Law Foundation and Thomson Reuters for their support and assistance in making the Conference a great success. The theme of the Conference this year was **"Independent Judiciaries, Diverse Societies"** and the Conference attracted over 332 participants from 41 jurisdictions.

The General Assembly agreed two Resolutions at its meeting on 17th September 2015, one on the lack of resources for judiciaries and one on the situation in Botswana- see below for details. The CMJA has continued to monitor judicial independence and development issues around the Commonwealth. There seems to have been an increasing number of incidents recently which are worrying.

The CMJA welcomed the election of new President, His Hon. Chief Magistrate John Lowndes, Chief Magistrate of the Northern Territory, Australia and the new Council.

The CMJA Secretary General also participated in the second regional consultation on the Model Law on Judicial Services Commissions being drafted by the Commonwealth

Secretariat. The first regional consultation, held in Malaysia, readers will recall, took place in the wings of the CMJA Conference in Livingstone last year. The second regional consultation took place in Malaysia in June and brought together representatives from the Asia region including the Chief Justices of Bangladesh, Sri Lanka, the Chief Judge of Malaya, and representatives from the Maldives, Singapore and Pakistan and an observer from the Bingham Centre. The third consultation for the Pacific, took place in the wings of the CMJA Triennial Conference, in Wellington New Zealand. The final regional consultation will take place in the Cayman Islands in December 2015. The CMJA Secretary General will be taking part in this consultation. The Model Law will then be finalised by the Rule of Law Division of the Commonwealth Secretariat and placed before Law Ministers for consideration at their next meeting in 2017.

It was reported in the last issue that the CMJA, CLA, CLEA and CPA were extremely excited by the prospect of helping the Commonwealth Secretariat's Good Offices Section to launch the Latimer House Toolkit developed to ensure that Commonwealth countries abide by the Commonwealth (Latimer House) Principles initially through the Training of Trainers programme. Unfortunately at the ultimate hour, the Commonwealth Secretariat decided to postpone the programme pending a study into the implementation of the Principles currently being undertaken by the Commonwealth Secretariat. The four organisations expressed their deep concern over the postponement of the launch of the Toolkit. Although the editor understands that the Toolkit

has now been edited and published, she has not yet seen the published version. The four organisations are keen for work to continue to ensure that Commonwealth jurisdictions comply with the Commonwealth's fundamental principles.

The CMJA Secretary General will be speaking at first Commonwealth Women's Forum immediately prior to the Commonwealth Heads of Government Meeting in Malta in November 2015. The theme of the Women's Forum is 'Women Ahead" Be All That You Can Be'. Dr Karen Brewer will be speaking on Women in Leadership in the Judiciary.

The CMJA will also be participating in the International Commission of Jurists Geneva Forum for Judges and Lawyers and former Director of Studies, Keith Hollis will be representing the CMJA at this event.

CONTENTS

- 1 Editorial
- 2 New President
- 2 CMJA Triennial Conference
- 4 New Members of Council
- 4 General Assembly
- 5 Judicial Independence Issues
- 8 New Members
- 8 Diary of Events

NEW PRESIDENT

His Hon. Chief Magistrate John Lowndes was elected as President of the CMJA for 2015-2018 at the General Assembly which took place on 18th September 2015. John Lowndes is the Chief Magistrate of the Northern Territory and former President of the Australian Association of Magistrates. He was elected at the General Assembly by acclamation.



CMJA TRIENNIAL CONFERENCE

The CMJA's 17th Triennial Conference on the theme "Independent Judiciaries, Diverse Societies" took place in Wellington, New Zealand from 13-18 September 2015. It was attended by 332 participants from 41 jurisdictions. The CMJA is deeply grateful to the Chief Justice of New Zealand, Dame Sian Elias, the Judiciary of New Zealand led by the Local Organising Committee Chairman, Justice Willie Young, the Ministry of Justice and especially to the Secretary for Justice and Chief Executive, Mr Andrew Bridgman and to the Deputy Secretary responsible for the Higher Courts, Mr Robert Pigou, the New Zealand Law Foundation and Thomson Reuters who were instrumental in making the Conference such a success.

The Opening Ceremony may have been one of the most spectacular that the CMJA has ever witnessed. It began with a pōhiri – a formal Maori welcoming ceremony. The pōhiri is

traditionally performed on the marae, the traditional village meeting ground in front the whareniui or carved ancestral house. Elders of the Te Ati Awa tribe, the tangata whenua or traditional owners of the Wellington district, performed the ceremony, enthusiastically supported by the children of Nga Mokopuna a Wellington Maori immersion school. Because the ceremony was performed in the Maori language, the official CMJA party (led by the CMJA President) was 'lent' two elders (one female, one male) to make brief formal replies. The children of Wellington's Kelburn Normal School just as enthusiastically supported the CMJA party.

The pōhiri began with the karanga or call from the senior female elders – first from Te Ati Awa. The karanga is a unique form of female call-and-response oratory in which, through invoking ancestors, and weeping for those who have passed, the leading women from each side seek to weave cultural connections between the groups who meet. When the karanga was over, the children of Nga Mokopuna performed a Haka pōhiri, or Welcoming Dance. Once on stage, the official party was invited to share breath with the hosts by pressing noses with Te Ati Awa elders, the hongī. The sharing of breath confirms that the official party and all CMJA delegates come in peace.

The CMJA is deeply grateful to the representatives from the Te Ati Awa Tribe and to the 150 children from Nga Mokopuna a Wellington Maori School and the Kelburn Normal School for making the Opening Ceremony, including the procession of the Commonwealth flags, such a memorable occasion for those attending.

Following the Powhiri, the CMJA President welcomed delegates to the Conference. In his speech he stressed the continued importance of the Magna Carta as the foundation of the rule of law in the Commonwealth and the work that the CMJA was doing in monitoring judicial independence issues across the Commonwealth. The importance of the Magna Carta was also mentioned by Dame Sian Elias, Chief Justice of New Zealand in her welcome speech who also spoke about the separation of powers. The Conference was then opened by the Prime Minister, John Key who spoke

about the work that the New Zealand government was doing in promoting good governance.

Chief Wilton Littlechild, Commissioner with the Truth and Reconciliation Commission of Canada, a Cree Canadian Lawyer, was one of the Keynote speakers at the Conference. He spoke about the work of the Commission which was set up to investigate the forcible removal of children from their families and their placement in residential schools as part of Canada's policy to integrate Aboriginal people into mainstream Canadian society and to destroy their cultural and spiritual practices and societies. The Commission's focus was on determining the truth of what happened in the residential schools with a view to laying the foundations for reconciliation and for respect for the Aboriginal peoples of Canada. Chief Littlechild outlined some of the problems faced by the children who were taken from their families and the effects on society as a result. The Report from the Commission which was published in July 2015 called on Aboriginal and non-Aboriginal members of Canadian society to have mutual respect for each other, on the Canadian government to abide by the international treaties related to Indigenous peoples and to ensure that every element of society and the legal and political systems abide by the principles set out in the UN Declaration on the Rights of Indigenous Peoples. This will require training and education especially in the legal sector. For those interested, a full copy of the report is available at:

<http://www.trc.ca/websites/trcinstitution/index.php?p=890>

Sir John Thomas, the Lord Chief Justice of England and Wales spoke on "*Judicial Independence In A Changing Constitutional Landscape*", outlining how the judiciary had changed in England and Wales over the last twenty years and how the judiciary had had to adapt to taking responsibility for the administration of justice. He also pointed to the continued lack of understanding by the public and politicians alike as to the distinctive role the judiciary played and the continual and increasing pressures the judiciary was facing in relation to resources and budgets. It was therefore essential to ensure better communication of the role and importance of an independent judiciary

through the media and other fora so that there is a better understanding of the way the courts work. Judges also need to play a role in ensuring that reforms are implemented and there are no delays in the administration of justice. He also touched on judicial diversity, with the judiciary needing to reflect the society in which it operated as well as judges need to be aware of other cultures that may come before them.

Chief Justice Margaret Ramsay-Hale, Chief Justice of the Turks and Caicos spoke about *“Recruitment, Retention and Discipline of Judicial Officers in Small Jurisdictions”* spoke about the issues of appointment of judicial officers in the Caribbean. Most countries in the Commonwealth Caribbean followed the same principles in relation to appointments and discipline. There had been a number of cases where judicial officers were dismissed but most of these had followed the constitutional frameworks, unlike some of the other jurisdictions around the Commonwealth, where the CMJA had had to intervene (e.g.: Nauru or Swaziland). The problems relating to the appointments may be a result of flawed recruitment processes. She suggested that in some cases the transparent process has taken away the ability of the Judicial Services Commissions to assess the character

and integrity of the candidates as the anonymity of the process can cause difficulties. She also pointed out that the promotion of diversity is all well and good but that this should not be at the risk of compromising on excellence.

The final Keynote Speaker was Justice Patrick Kiage of Kenya who had replaced Deputy Chief Justice Rawal and spoke about *“Sexual Violence, Exploitation and Human Trafficking: A Commentary on the Kenya Experience”*.

Other topics discussed included *Custom and the Law in the Commonwealth*, Religious and Cultural Issues in the Courts, with Deputy Chief Kadhi Rashid Ali Omar presenting the views from Kenya and Chief Judge Oluwafunmilayo O Atilade presenting the views from Nigeria. Commonwealth judiciaries are increasingly facing challenges with litigants in person on the increase across the globe. These issues were examined by Sir Salamo Injia, Chief Justice of Papua New Guinea and Sheriff Robert Dickson of Scotland. Issues in Gender Based Violence again continue to trouble judicial officers across the Commonwealth and these were discussed during the presentations given by Justice Dr Scholastica Omondi of Kenya and Justice Richard Williams of Cayman Islands. Baroness

Brenda Hale, Vice President of the UK Supreme Court and Chancellor Carl Singh, Chancellor of the Judiciary in Guyana spoke on the difficulties of *“Applying concepts of international human rights in national or domestic courts”*, whilst Justice John Logan of Australia and Justice Patrick Kiage of Kenya spoke about the topical issue on *“Closing the Borders: Current Developments in Refugee/Asylum Law”*. Dr Emily Henderson, a New Zealand barrister and Chief Justice and Bailiff, William Bailhache of Jersey spoke on the *“Options for Judges taking control of cross examinations of vulnerable witnesses”* whilst Justice Susan Glazebrook of New Zealand, Justice Vasheist Korkaram of Trinidad and Tobago and Justice Clive Plaskett of South Africa spoke about the *Use of Expert Evidence in Court*.

The delegates also had the opportunity to visit the “Beehive” or Parliament for one of the evening events as well as the Supreme Court and were privileged too to be invited to a reception at Government House. The also had the opportunity to visit the Wairarapa region just north of Wellington and find out about the culture, history and special eco-system of New Zealand. We are deeply grateful to Visit Wellington and Visit Wairarapa for their organisation of this visit as well as the accompanying guest programme.



NEW COUNCIL

The Regional Elections for Council took place on 15 September 2015 and these elections were endorsed by the General Assembly. The new CMJA Council for 2015-2018 is composed of the following:

ATLANTIC & MEDITERRANEAN Regional Vice-President

Sheriff Michael Fletcher (Scotland)

Council Members

Her Hon. Justice Lynne Leitch (Canada)

Mrs Sybil Roach-Tennant JP (England and Wales)

CARIBBEAN

Regional Vice-President

Justice Richard Williams (Cayman Islands)

Council Members

Mrs Nicole Stoneham (Bermuda)

Mrs Sue Anne Lovell (Guyana)

EAST, CENTRAL & SOUTHERN AFRICA

Regional Vice-President

Chief Magistrate Matankiso Nthunya (Lesotho)

Council Members

Justice Patrick Kiage (Kenya)

Sheriff Katrina Walubita (Zambia)

INDIAN OCEAN

Regional Vice-President

Justice Balasundaram Rajendran (India)

Council Members:

Mrs Srinithy Nanadsekaran (Sri Lanka)

Dr Ei Sun Oh (Malaysia)

PACIFIC OCEAN

Regional Vice-President

Judge Mary Beth Sharp (New Zealand)

Council Members

Judge Richard Cogswell SC (Australia)

Mrs Linda Bradford-Morgan (Australia)

WEST AFRICA

Regional Vice-President

Mrs Olufolake Oshin (Nigeria)

Council Members

Justice Francis Korbieh (Ghana)

Mrs Yewande Olayemi Aje-Afunwa (Nigeria)

The Hon. John Vertes (Canada)

becomes the **Immediate Past President**.

In addition, Mrs Justice Norma Wade-Millar was made an Hon. Life Vice President of the Association. She joins Mr Justice Kipling Douglas, Lord Hope of Craighead, Mr Michael Lambert and Judge Sandra Oxner as **Hon. Life**

Vice Presidents of the Association.

At the Council Meeting following the General Assembly the following were co-opted

Sheriff Douglas Allan, as Chair of the CMJA's Steering Committee
Justice Charles Mkandawire (Malawi)
Sir Salamo Injia (Papua New Guinea)
Justice Winston Patterson (Guyana)

The following were re-appointed:

Mr Tim Workman CBE, Executive Vice President

Mr Patrick Latham, Hon. Treasurer
Judge Shamim Qureshi, Director of Programmes.

Mrs Justice Lynne Leitch from Canada was appointed **Chairperson of the Gender Section**.

GENERAL ASSEMBLY

The CMJA's General Assembly took place on 18th September 2015. Reports were received from the President, Executive Vice President, Treasurer and Secretary General. They are still available on the CMJA Website: www.cmja.org/generalassembly.html together with the reports from Regional Vice Presidents. In addition, the meeting was asked to consider two statements.

STATEMENT ON RESOURCES

The President pointed out that one of the recurring concerns throughout the Commonwealth that had been expressed during the Conference was the increasing constraints being imposed on institutional independence by the inadequate provision of resources to the judiciary. It was therefore proposed that the CMJA General Assembly adopt a resolution outlining concerns about the lack of sufficient resources.

The following resolution was endorsed unanimously by the General Assembly:

“RESOLUTION ON THE LACK OF SUFFICIENT RESOURCES PROVIDED TO THE COURTS

Noting that jurisprudence and international conventions recognise that institutional independence is one of the fundamental pillars of judicial independence,

Noting that in every Commonwealth country there are pressures to

reduce the cost of providing justice,

Noting that courts are expected to deliver results faster and with fewer resources, and

Noting that there is an ever increasing tension between governments who have the responsibility to fund the administration of justice and the courts that have the obligation to deliver justice,

Whereas, Paragraph IV of the Commonwealth (Latimer House) Principles on the Three Branches of Government states that adequate resources should be provided for the judicial system to operate,

The Commonwealth Magistrates' and Judges' Association notes with concern the continued lack of sufficient resources provided to the courts in many Commonwealth countries,

Therefore, the General Assembly of the Commonwealth Magistrates' and Judges' Association records that the provision of sufficient resources to the courts is a fundamental constitutional obligation of the Executive branch of government”.

COMMONWEALTH JUDICIAL JOURNAL

Call for assistance

Nicky Padfield, former Editor of the Journal and member of the CJJ Editorial Board, has volunteered to write an article for the June issue of the Journal **on the impact of global financial uncertainty and austerity measures on the judiciary**. She would be pleased to receive input from members. If you would like to submit your views, experience and examples of the impact of the cuts in public spending which are being felt in your justice system, please send your responses on a confidential basis by 1 March 2016 to the Secretary General of the CMJA (kbrewer@cmja.org or by post to the address below.

JUDICIAL CRISIS IN BOTSWANA

The East, Central and Southern African Regional Meeting expressed their concern over the suspension and setting up of a tribunal to consider impeaching four judges in Botswana and asked the CMJA to consider issuing a resolution on the situation. There had been concern expressed that due process was not being followed and that this situation was not transparent or fair. Whilst further information was required, the Regional Meeting asked the Council of the CMJA to consider issuing a statement expressing the concern of the CMJA that proceedings be transparent and fair (see details below under Judicial Independence Issues).

JUDICIAL INDEPENDENCE ISSUES

BOTSWANA

In August 2015, twelve judges petitioned the President of Botswana for the removal of the Chief Justice following the move by the Chief Justice to report them to the police for receiving housing allowances whilst staying in official residence. They had challenged the Chief Justice on this issue claiming that there had been a clerical error by the court administration in this regard. In September 2015, four of the judges received notification from the President that he was suspending them and setting up a tribunal with a view to impeaching them. The grounds for impeachment however related to the fact that the judges had petitioned the President for the removal of the Chief Justice and not for any reason. On 3 October 2015, the CMJA issued a Statement on the issue (see above). It continues to be concerned about the judges. This was duly done and a statement was issued on 3 October 2015:

STATEMENT ON THE SETTING UP OF A TRIBUNAL TO IMPEACH JUSTICES DINGAKE, LETSIDIDI, GARAKWE AND BUSANG OF THE HIGH COURT OF BOTSWANA.

At its General Assembly on 18 September 2015, the Commonwealth Magistrates' and Judges' Association (CMJA) expressed its concern about

the processes put in place to impeach the Justices of the High Court mentioned above.

The setting up of a tribunal must be consistent with the rule of law and the Constitutional safeguards that are afforded to everyone in the country concerned. The judiciary like other members of society may not be subjected to violations of their fundamental human rights no matter what the charges are against them. The existence of an independent and impartial judiciary is one of the cardinal features of any country governed by the rule of law. By virtue of its membership of the Commonwealth, Botswana is committed to the shared fundamental values and principles of the Commonwealth, at the core of which is a shared belief in, and adherence to, democratic principles including an independent and impartial judiciary. Any measure which is capable of being seen as eroding the independence and impartiality of the judiciary, or the fundamental rights that they are entitled to as citizens or residents of the Botswana 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 that 'Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness' that is to say, the right to be fully informed of all charges, to be represented at a hearing, to make a full defence and to be judged by an independent and impartial tribunal. The Association urges the respect for the Constitution in relation to removal of senior judges as well as the Commonwealth fundamental values which Botswana have agreed to abide by."

The four judges challenged the suspension and setting up of the Tribunal on 6 October but lost their case in the High Court. Amnesty International and the SADC Lawyers Association issued a joint statement on 8 October calling for the re-instatement of the judges. Amnesty International's Director for Southern Africa, Deprose Muchena stated that "*The suspension of the four judges over a petition against the chief justice constitutes serious interference with their freedom of expression and is a grave threat to judicial independence in Botswana.*"

"It appears that the judges were suspended because of their criticism of the chief justice. If this is the case, it's a clear attack on their freedom of expression which undermines the independence of the judiciary."

GHANA

In August 2015, it was reported that 12 High Court Judges and 22 junior judges were suspended pending investigations into allegations of corruption. Journalist Anas Aremeyaw Anas, a former lawyer spent two years investigating corruption in the judiciary and produced a film: "Ghana in the eye of God: Epic of Injustice". He alleges that judges and court staff (some of whom have also been suspended) have extorted bribes as well as sexual favours in some cases from litigants, via intermediaries. Chief Justice Georgina Wood has suspended the judicial officers after an investigation of the Judicial Council.

LESOTHO

In September 2015, it was reported that the current President of the Lesotho Court of Appeal, Justice Mosito, whose appointment in January 2015 caused some controversy, was facing dismissal for "misconduct and inability to perform his job" under article 125 of the Constitution as he allegedly had not filed any tax returns for a significant period of time prior to his appointment. The Prime Minister issued a letter which states that: "*It has come to my notice that adverse allegations of violations of the Income Tax Act of 1993 have been levelled against you... You will agree with me that it is inimical to the administration of justice and integrity of the judiciary that the incumbent of the high judicial office of the President of the Court of Appeal be under a cloud... Consequently, I am considering whether to represent to His Majesty King Letsie III that the question of your removal from office be investigated in terms of Section 125 (5) of the Constitution...*" Justice Mosito has filed an application before the High Court seeking an order to suspend the Prime Minister's letter until the Constitutional Court has ruled on the tax allegation case. Justice Mosito is challenging his prosecution for late filing of tax returns for his previous law firm, for 19 years. The case is due to be heard on 2 November 2015.

The CMJA is keeping a watching brief on the situation, especially as it has been reported in the press that the former President of the Court of Appeal, Justice Michael Ramodibedi may be considered for re-appointment as President of the Court of Appeal, despite having been dismissed as Chief Justice of Swaziland on three accounts of misconduct linked to abuse of office and as well as having left the position as President of the Court of Appeal of Lesotho in 2013 before facing impeachment by a Tribunal set up to by the King of Lesotho under the same Article 125 of the Constitution.

NAURU

In early September 2015, it was reported that the New Zealand government had suspended its assistance to the judiciary of Nauru due to the continued disregard by the government of Nauru of the basic principles for the independence of the judiciary as well as human rights abuses, the suspension of many of the country's opposition MPs from the Legislature and the restrictions that were imposed on freedom of Assembly and access to the internet and social media. President Waqha of Nauru vowed to continue without the New Zealand aid that was previously provided which amounted to around \$2.3 million, of which \$1.2 million was allocated to the Justice Department. The Law Societies in both New Zealand and Australia had called for action against Nauru. In addition, a group of constitutional and international legal academics from New Zealand universities called on the Government to cut New Zealand's \$1.2 million aid funding for Nauru's justice department if the rule of law was not restored.

PAPUA NEW GUINEA

It was reported on 7 October that Papua New Guinea's chief secretary has formally requested the dismissal of Chief Magistrate Nerrie Eliakim. Chief Magistrate Eliakim headed the District Court which issued a warrant for the arrest of Prime Minister O'Neill in 2014 at the request of the fraud squad police from the Anti-corruption Taskforce Sweep. The Taskforce has since been disbanded and the police commissioner and two senior investigators have been dismissed but the fraud squad have continued

to pursue the allegations against the Prime Minister and there have been a number of court cases against the Prime Minister. The request to suspend the Chief Magistrate has been seen as politically motivated, especially as it comes hard on the heels of the attempt to ban two Australian lawyers from travelling to PNG to represent the fraud squad police in their case against senior government figures. The Commonwealth Lawyers Association issued a statement on 6 October 2015 supporting the Australian Bar Association Statement and urging the *"PNG authorities to demonstrate their commitment to the Commonwealth Charter and the Commonwealth (Latimer House) Principles on the accountability of and the relationship between the three branches of Government, by allowing their citizens the right to representation by fully qualified and locally accredited members of the legal profession."*

MALDIVES

Following the report in the last issue of the Newsletter, the rule of law in the Maldives has not improved. Following the guilty verdict in former President Nasheed's case, the Commonwealth and United Nations both sent investigative teams and found that the process condemning President Nasheed to 13 years in prison for terrorism had been flawed. The United Nations Working Group on Arbitrary Detention stated that *"[t]he deprivation of liberty of Mr. Nasheed, being in contravention of ... [international human rights treaties] is arbitrary."* And, it concluded that the government of the Maldives should *"release Mr. Nasheed immediately and accord him an enforceable right to compensation."* The government did not accept the opinion of the Working Group and has since enacted new legislation which prohibits any calls for the boycott of tourism and the imposition of any sanctions against the Maldives. The legislation, it is reported, covers any speech that might constitute *"encouragement, participation and calls in and outside Maldives for sanctions"* or *"about anything that would create fear among tourists or [those] visiting [Maldives] and spread any such information."* The penalty is up to 10 years in prison, with a fine of up to \$325,000. This is a violation of the right to freedom of expression as outlined in the Commonwealth Charter and in the

International Covenant on Political and Civil Rights. There has also been a concerted movement against non-governmental organisations with the Supreme Court, which is considered to be highly politicized, filing a treason case against the human rights institutions that apprised the UN of the Government's actions. The Supreme Court of Maldives in its judgment on 16 June 2015 submission of Human Rights Commission of the Maldives to the Second Universal Periodic Review (UPR) of the Maldives before the UNHRC as unlawful, biased and that such submission before the UPR undermined judicial independence in the country. These moves have been seen as contrary to the UN Human Rights Council Resolution No. 24/24 of 9 October 2013 which states that:

"1. Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and treaty bodies, as well as regional human rights mechanisms, bearing in mind that free and unhindered access to and communication with individuals and civil society are indeed indispensable to enable the United Nations and its mechanisms to fulfil their mandates;

2. Strongly calls upon all States to review legislation, policies and practices that have the effect of undermining unhindered access to and communication with international bodies as set forth in paragraph 1 above, and to avoid adopting any such new legislation;

SOUTH AFRICA

The CMJA, CLA and CLEA issued a joint statement on 26 June expressing their concern that the South African government had apparently deliberately ignored a North Gauteng High Court interim order preventing President Omar al-Bashir of Sudan who was attending the African Union meeting in South Africa and who is wanted for crimes against humanity from leaving the country with the result that a warrant for his arrest issued by the International Criminal Court (ICC) could not be executed. The South

Africa Government also appeared to have misled a full bench of the North Gauteng High court concerning the whereabouts of President al-Bashir so that by the time the three judges issued an order for President al-Bashir's immediate arrest he had already left the country. A copy of the Statement is available on the CMJA's website: www.cmja.org. A number of other international organisations condemned the disregard for court judgments. The South African Government maintained that current Heads of State had immunity. However, the IBA Legal Brief reported that former UN High Commissioner for Human Rights, Justice Navi Pillay stated: *'The Rome Statute is clear that there can be no amnesty or immunity for ICC crimes, no one is above the rule of law and that is a clear message'*. She said although the African Union had adopted resolutions that prevented the prosecution of serving heads of states, this did not supersede the ICC. The Chief Justice, Justice Mogoeng Mogoeng met with President Zuma in August to discuss the tensions between the judiciary and the government and the increasing criticisms which was undermining the independence of the judiciary. The ANC has now called for South Africa to withdraw from the International Criminal Court. In a statement issued in October, the Southern Africa Litigation Centre Director stated that "The stance taken by the ANC is regrettable and reflects a poor appreciation for justice and accountability... the ANC should be promoting human rights, supporting the global international criminal justice project, and showing its electorate that it does not support impunity."

In a separate development, it appears that the Traditional Courts Bill has been resurrected. Readers will recall that two years ago, the proposed bill was set aside amidst criticism from opposition parties, women's rights groups and provincial governments as it was deemed unconstitutional setting up a parallel system which would disenfranchise many vulnerable members of society. In March 2015, the Justice Minister, Michael Masutha confirmed that a revised version would be brought before Parliament. Constitutional objections raised were that it: violated people's right to choose their culture; violated women's rights to equality; ignored the doctrine of the separation of powers; infringed the right to legal representation, particularly

in criminal matters; potentially removed the property rights of some; failed to comply with the rights of communities to be consulted in the making of law; and infringed many other constitutional protections. It is generally understood that President Zuma promised traditional leaders that he would get the bill passed so that he could ensure their electoral support. The South African government has also indicated that it would curtail the consultation time on the Bill. The South African Parliament called for the re-introduction of the Bill on 11 August 2015

SWAZILAND

Following the Stop Press Report in the last issue that the Chief Justice and two judges had been arrested, the CMJA followed events as they unfolded in Swaziland. Chief Justice Ramodibedi ensconced himself and his family in his house in Mbabane for 28 days and refused to allow police access so that they could arrest him. The CMJA, CLA and CLEA issued a statement calling on the Swazi government to ensure that due process was followed (see www.cmja.org for the full statement) as did the SADC Chief Justices' Forum. The International Commission of Jurists, together with the CMJA and Judges' for Judges (a Netherlands based organisation with similar aims as the CMJA) and the Africa Judges and Jurists Forum sent a mission to Swaziland. The mission which included Justice Charles Mkandawire, CMJA Regional Vice President for East, Central and Southern Africa at the time, observed that there were *"serious structural deficiencies in Swaziland's justice system that need to be addressed systematically and in a structured way to ensure the country meet core rule of law principles"*. Mission leader retired Judge Chinhengo of Zimbabwe observed: *"There is a need for officials from all branches of government to adhere to the rule of law. The effect of denied justice and in Swaziland has made many victims. Its effect on the community has been devastating, as it has served to undermine respect for human rights and trust in the judiciary to act as a check on the other branches of the State"*.

The Mission managed to mediate between the Chief Justice and the Swazi Government. The government was persuaded to allow the Judicial

Services Commission to investigate and hear the case against the Chief Justice who was accused of misbehaviour and misconduct. Whilst there were 23 charges against him initially these were reduced to 3 and the Judicial Services Commission found Chief Justice Ramodibedi, in absentia, guilty of three charges of misconduct and he was dismissed as Chief Justice. He is appealing the decision and has returned to Lesotho.

On a more positive note on 30 June 2015, the Supreme Court of Swaziland ordered the release of the human rights lawyer, Thulani Maseko and the journalist Bhekithemba Makhubu. They had been in prison since their arrest for contempt of court in May 2014 after raising concerns in the Nation about the lack of independence of the judiciary in Swaziland. The State agreed that it had no case against them and they were set free. It has been reported that Mr Makhubu is currently suing the government for unlawful detention. In addition, the President of the People's Democratic Movement in Swaziland, Mario Masuku and the Secretary General of the Youth Congress, Maxwell Dlamini were released from prison in July 2015 following their arrest in May 2014 for having participated in a May Day celebrations in Swaziland.

NEW MEMBERS

We are delighted to welcome as new members the following:

AUSTRALIA

Ms Julie Ward
Judge Stephen Coates
Ms Linda Bradford- Morgan
Judge Shenagh Barnes
Mr Michael Carey
Justice Philip Donald McMurdo
Justice Margaret McMurdo
Justice Philip Morrison
Mr Noel Francis Nunan
Judge Orazio Rinaudo
Mr Simon Mark Young
Hon John Hatzistergos
Mrs Janine Ruth Logan

BAHAMAS

Mrs Carolina Bethel
Deputy Chief Magistrate Andrew Dwayne Forbes
Registrar Donna Dora Newton

BERMUDA

Ms Aura lee Cassidy
Ms Nicole Stoneham

CAMEROON

Mrs Laura Aniya Marfa

CANADA

Mr David St Pierre
Mr John Gill

CAYMAN ISLAND

Justice Richard Williams

COOK ISLAND

Mrs Tangianau Taoro

ENGLAND & WALES

Miss Natsai Manyarara
Mr Peter Ward
Mr Simon Bryan
Ms Angela Woolnough
Mr Babatunde Akinyanju
Lady Brenda Hale
Ms Alison Harvey

GHANA

Mr Justice Francis G Korbieh

ISLE OF MAN

Her Honour Clare Faulds

JERSEY

Mr Timothy Le Cocq

KENYA

Mrs Irene Marcia Kahuya
Mrs Manuela Wanjiru Kinyanjui
Justice David Shikonera Majanja
Hon Peter Mulwa
Hon Rashid Ali Omar

KIRIBATI

Hon Bernadette Mee Eberi
Sir John Muria

MALAWI

His Worship Thompson Robert Ligowe
Hon Rachel Sophie Sikwese

MALAYSIA

Datuk Alexandra Chin

MAURITIUS

Mr Kheshoe Parsad Matadeen
Mrs Hima Nalini Matadeen

MOZAMBIQUE

Justice Mahloe Mongane Almeida

NEW ZEALAND

Judge Charles Stuart Blackie
Justice Mark Leslie Cooper
Judge Bruce Corkill
Judge Colin John Doherty
Justice Susan Glazebrook
Judge Duncan George Harvey
Judge Stephanie Milroy
Judge Mary O'Dwyer
Judge David Graham Smith

NIGERIA

Magistrate Olusegun Ayilara
Hon Justice Folashade Oluwatoyin
Aguda- Taiwo
Mrs Yewande Aje- Afunwa
Mrs Olubunmi A Akokhia
Justice Funmilayo Atilade
Hon Justice Folashade Janet Bankole- Oki

Justice Philip Imoedemhe

Chief Magistrate Ayibatari Mirin- Johnson

Dr Grace Ukeje

PAPUA NEW GUINEA

Justice Ambeng Kandakasi
Justice Ellena Vitata Batari
Justice Derek Richard Hartshorn
Justice Don Sawong

SOLOMON ISLAND

Sir Albert Rocky Palmer

SRI LANKA

Judge Gayantha Hemachandra
Judge Srinithy Nandasekaran

UGANDA

Hon Justice Henry Peter Adonyo
Justice Mugisha Linda Tumusiime

VANUATU

Chief Justice Vincent Lunabek
Judge Saksak Abraham Oliver

ZAMBIA

Mrs Roydah Chinungi Kaoma
Judge Gregory Phiri

MEET OUR MEMBERS

We are starting a new section in our publications to introduce our members to each other. If you are interested, please send us a short paragraph (no more than 500 words) about yourself, your interests (both judicial and personal), your experiences as a judicial officer. These will be considered by the Editors of both the newsletter and journal for publication. Please also include a recent photo of yourself

DIARY OF EVENTS

2016

19-20 MAY

Finance and Banking Master Workshop

Limassol, Cyprus

Organised by the Commonwealth Lawyers' Association

Go to <http://www.clawworkshops.com/> for details

18-23 SEPTEMBER 2015

CMJA CONFERENCE

"The Judiciary as Guarantors of the Rule of Law"

Georgetown, Guyana

Details to follow on www.cmja.biz, the new CMJA conference website

NEW RATES FOR MEMBERSHIP

Starting in January 2016, the Council have agreed a new system for individual membership rates. They are as follows:

If you are a salaried judicial officer at any level the rates will be:

Annual	£45.00
Three Year	£110.00
Five Year	£180.00
Ten Year	£350.00

If you are an unpaid lay judicial officer (JP or Lay Magistrate) or retired the rates will be:

Annual	£35.00
Three Year	£85.00
Five Year	£140.00
Ten Year	£270.00

FEEDBACK / CONTRIBUTIONS

We welcome feedback and contributions. Please send these to:

CMJA,
Uganda House
58-59 Trafalgar Square
London WC2N 5DX

Tel: 0207 976 1007
Fax: 0207 976 2394
Email: info@cmja.org

CMJA ENDOWMENT TRUST

Providing funding for the Commonwealth Magistrates' and Judges' Association's activities and supporting judicial officers around the Commonwealth



For over 40 years, the CMJA has been working towards achieving respect for the rule of law, fundamental values and the respect for human and people's rights across the Commonwealth.

CMJA ENDOWMENT TRUST WANTS TO RAISE £1,000,000 And the Trust needs your help!

This money will be used:

- To enable the CMJA to support the magistracy and the judiciary by providing moral and practical support to judicial officers facing improper challenges to their independence.
- To help the CMJA to give advice and training and to provide judicial mentoring so that judiciaries across the Commonwealth can improve standards.
- To strengthen the ability of the CMJA to fulfil its functions of upholding the Rule of Law throughout the Commonwealth.

Total Donations received to July 2015

£72,357.50p

HOW YOU CAN MAKE A DIFFERENCE

The Endowment Trust is seeking contributions across the Commonwealth from those individuals and organisations willing to support the work of the Commonwealth Magistrates' and Judges' Association in seeking to uphold the Rule of Law across the Commonwealth and to support magistrates and judges in the Commonwealth.

DONATIONS AND ENQUIRIES

Kindly make your Donation to the CMJA Endowment Trust when you register for the CMJA Conference in Wellington. Just enter the sum you wish to **donate in the box on the Registration Form for Voluntary Contributions to the Endowment Fund** and send this with your payment for the Conference.

Alternatively you can send your donation by cheque in GBPounds Sterling, cash, charity voucher, credit card, bank transfer or money order, or by calling the Secretary on the number below. Cheques and Money orders should be made payable to the CMJA Endowment Trust.

For further enquiries contact:

Dr Karen Brewer, Secretary,

CMJA Endowment Fund, Uganda House, 58-59 Trafalgar Square, London WC2N 5DX United Kingdom

Tel: + 44 207 976 1007 Fax: + 44 207 976 2394 Email: kbrewer@cmja.org Website: www.cmja.info

Charity Registration No: 1145708

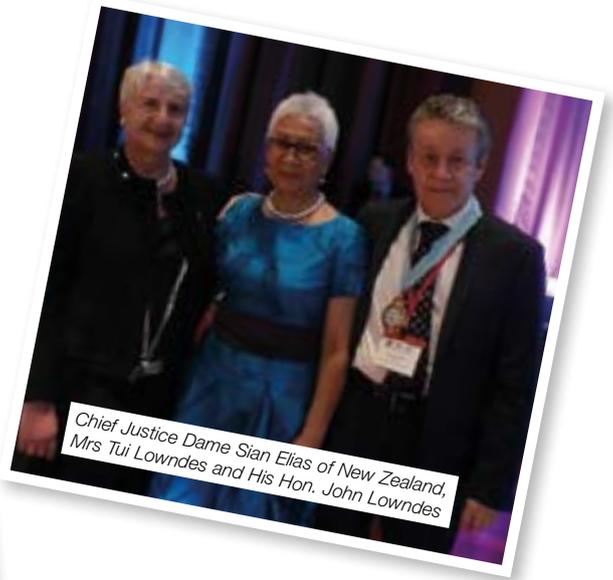
SOME PHOTOS OF DELEGATES AT THE CONFERENCE

Some photos of the Opening Ceremony





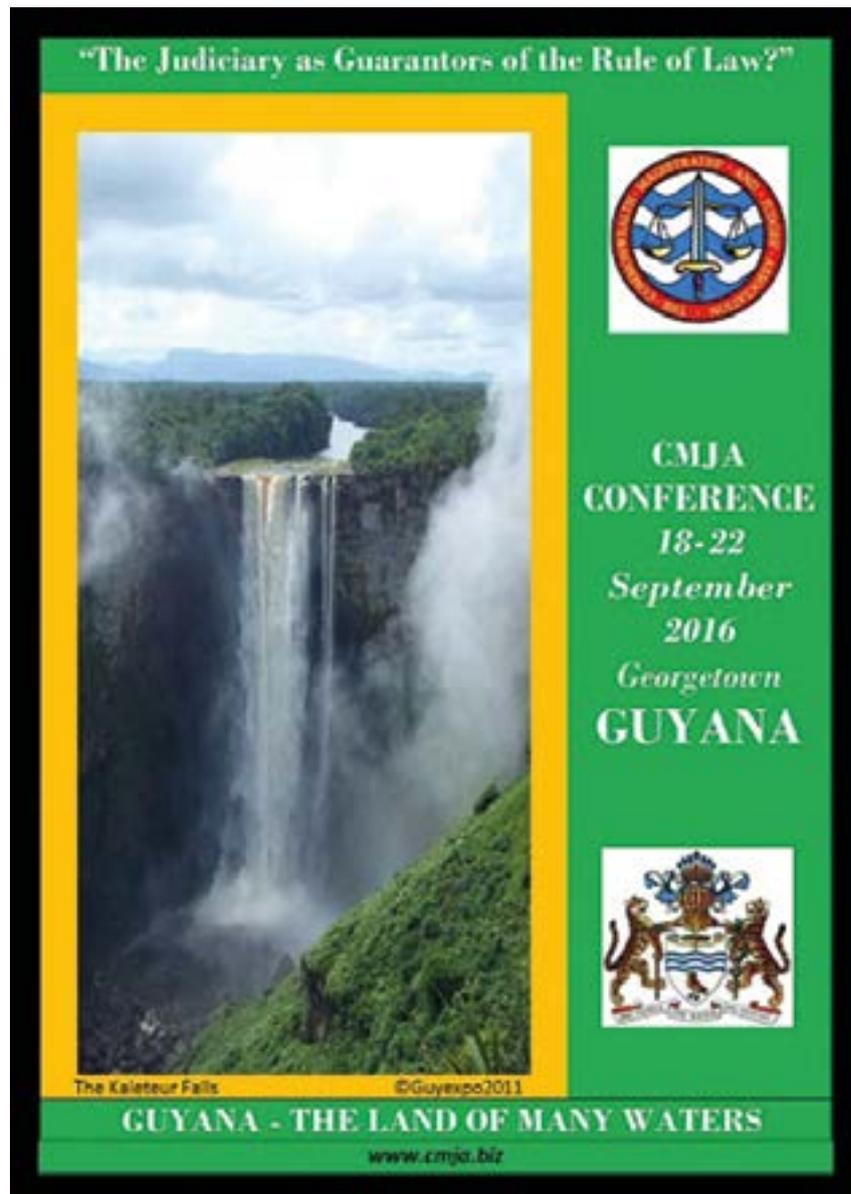
Magna Carta to Commonwealth Charter exhibition at the Conference



Chief Justice Dame Sian Elias of New Zealand, Mrs Tui Lowndes and His Hon. John Lowndes



Next CMJA Conference



Save The Date

18-22 September 2016

More details to follow shortly