

CMJA NEWS

The Newsletter of the Commonwealth Magistrates' and Judges' Association

VOLUME 33

April 2013

EDITORIAL

Since the last newsletter, the CMJA has been involved in a number of initiatives relating to judicial independence in the Commonwealth in particular it cooperated with the Commonwealth Lawyers Association and Commonwealth Legal Education Association and issued two statements prior to the impeachment of the Chief Justice Shirani Bandaranayake of Sri Lanka. It has continued to speak to the Commonwealth Secretariat in relation to this blatant breach of the Commonwealth fundamental values. Copies of the statements can be found on the CMJA's website.

In November 2012, the Secretary General spoke at a seminar organised by University College London on the Future of the Privy Council which was attended by members of the UK Supreme Court, Chief Justices and Judges of some dependent, crown territories and Commonwealth countries who have used the Judicial Committee of the Privy Council as their Final Court of Appeal in the past.

In December 2012, the CMJA participated in the Human Rights Day seminar organised by the UN Special Rapporteur on the Independence of Judges and hosted by Kennedy Van Der Laan held in Amsterdam.

The CMJA had been following progress of the implementation of the recommendations of the Commonwealth Eminent Persons Report of 2011, in particular the idea of a Commonwealth Charter. The Charter was agreed by Heads of Government in December 2012. The final draft included some of the recommendations made by the CLA, CLEA, CMJA in their submission to the

Commonwealth of March 2012. On Commonwealth Day on 11 March 2013, Her Majesty The Queen, Head of the Commonwealth, signed the Charter at Marlborough House, the home of the Commonwealth Secretariat.

Following the Council Resolution adopted at the Triennial Conference in 2012, the CMJA Executive Vice President and CMJA Secretary General had a productive meeting with the Commonwealth Secretary General, Mr Kamalesh Sharma in December 2012 to express their concern that stronger action has not been taken by governments to ensure that the Commonwealth (Latimer House) Principles are being respected and adhered to by governments throughout the Commonwealth with particular reference to the independence of the judiciary.

The CMJA has been assisting the Commonwealth Secretariat in relation to its mandates arising out of the last Commonwealth Law Ministers Meeting held in Sydney, Australia in July 2011. Representatives of the CMJA have participated in the Working Groups on Judicial Assistance and on Cybercrime which are due to report back to the Senior Officials of Law Ministries at their meeting in September 2013 in London.

The CMJA is currently undertaking a project to develop a Latimer House toolkit with other members of the Latimer House Working and the Commonwealth Secretariat. The Latimer House Working Group continues to advance the recommendations under the Edinburgh Plan of Action and is soon hoping to finalise a user-friendly version of the Principles.

In February 2013, the CMJA launched the completed report on the Status of Magistrates in the Commonwealth. This has been sent to Member Associations and Chief Justices. The Secretariat has also sent this to Attorneys General and Ministers of Justice of the Commonwealth with a view to assessing what progress has been made since the last Commonwealth Law Ministers 2011 when they agreed: *"to consider taking appropriate steps to strengthen their domestic legal frameworks and other measures for assuring the independence and integrity of their magistracy in compliance with the Commonwealth fundamental values, having due regard to the suggested Guidelines."* (Paragraph 8 of the Communiqué).

CONTENTS

- 1 Editorial
- 2 Commonwealth Day 2013 Message
- 2 Charter of the Commonwealth
- 5 Judicial Independence
- 6 Human Rights Day 2012
- 7 Botswana Anti-Corruption Centre
- 7 Acid Survivors Trust International
- 7 New Members
- 7 Calendar of Events

COMMONWEALTH DAY MESSAGE 2013

A Message from Her Majesty The Queen, Head of the Commonwealth

This year's Commonwealth theme, 'Opportunity through Enterprise', is a celebration of our achievements, particularly those that may have seemed challenging, daunting or even impossible, which have helped to build strength, resilience and pride in our young people, in our communities and in our nations.

Great achievements in human history have a number of common characteristics. From climbing the highest mountain, to winning a sporting competition, making a scientific breakthrough, building a successful business or discovering unique artistic talent – these outcomes all begin as a simple goal or idea in one person's mind.

We are all born with the desire to learn, to explore, to try new things. And each of us can think of occasions when we have been inspired to do something more efficiently, or to assist others in achieving their full potential. Yet it still takes courage to launch into the unknown. Ambition and curiosity open new avenues of opportunity.

That is what lies at the heart of our Commonwealth approach: individuals and communities finding ways to strive together to create a better future that is beneficial for all.

Our shared values of peace, democracy, development, justice and human rights – which are found in our new 'Commonwealth Charter' – mean that we place special emphasis on including everyone in this goal, especially those who are vulnerable.

I am reminded of the adage, 'nothing ventured, nothing gained'. As we reflect on how the Commonwealth theme applies to us individually, let us think about what can be gained with a bold heart, dedication, and teamwork. And let us bear in mind the great opportunity that is offered by the Commonwealth – of joining with others, stronger together, for the common good.

ELIZABETH R

11 March 2013

CHARTER OF THE COMMONWEALTH

In its 2011 report, the EPG (Eminent Persons Group) recommended that there should also be a Charter for the Commonwealth. Following consultation since 2012 and input from a wide variety of organisations (including the CMJA), the Charter was redrafted and circulated to Foreign Ministers in September 2012. It was agreed by the Heads of Government and was finally issued in December 2012.

<http://www.thecommonwealth.org/files/252053/FileName/CharteroftheCommonwealth.pdf>

"The Charter reflects the Commonwealth's commitment to democracy, human rights and the rule of law. It sets out the Commonwealth's principles of tolerance, respect and understanding, freedom of expression, separation of powers and gender equality. The Charter emphasises the importance of young people and civil society, the environment and sustainable development, good governance and access to health, education, food and shelter. It recognises the special needs of small and vulnerable states within the Commonwealth."

It was at the Secretary General's Reception following the Observance on Commonwealth Day on 11 March 2013, Her Majesty The Queen made history by signing the Charter.

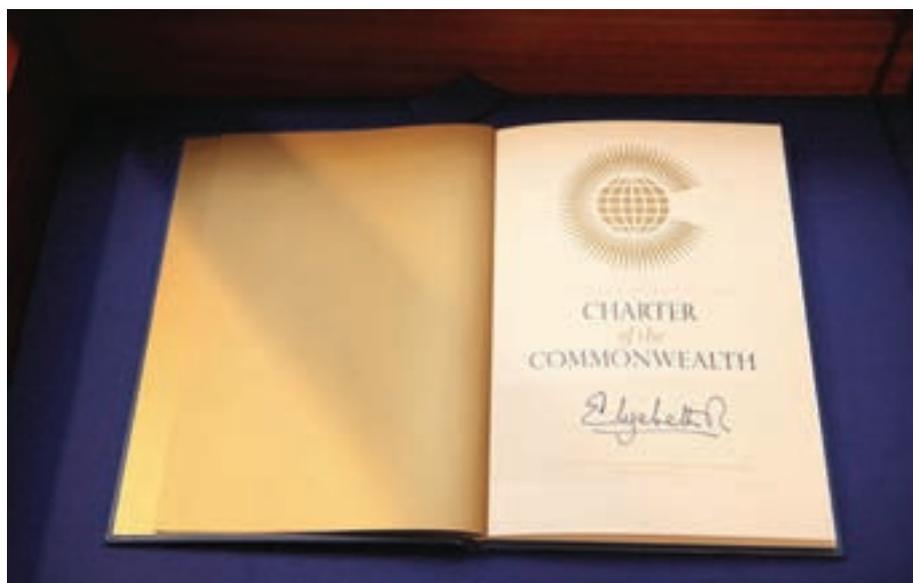
We the people of the Commonwealth:



Commonwealth Observance at Westminster Abbey, London.

Recognising that in an era of changing economic circumstances and uncertainty, new trade and economic patterns, unprecedented threats to peace and security, and a surge in popular demands for democracy, human rights and broadened economic opportunities, the potential of and need for the Commonwealth – as a compelling force for good and as an effective network for co-operation and for promoting development – has never been greater.

Recalling that the Commonwealth is a voluntary association of independent and equal sovereign states, each



The Commonwealth Charter.



Her Majesty The Queen signs the Commonwealth Charter on 11 March 2013.

responsible for its own policies, consulting and co-operating in the common interests of our peoples and in the promotion of international understanding and world peace, and influencing international society to the benefit of all through the pursuit of common principles and values.

Affirming that the special strength of the Commonwealth lies in the combination of our diversity and our shared inheritance in language, culture and the rule of law; and bound together by shared history and tradition; by respect for all states and peoples; by shared values and principles and by concern for the vulnerable.

Affirming that the Commonwealth way is to seek consensus through consultation and the sharing of experience, especially through practical co-operation, and further affirming that the Commonwealth is uniquely placed to serve as a model and as a catalyst for new forms of friendship and co-operation in the spirit of the Charter of the United Nations.

Affirming the role of the Commonwealth as a recognised intergovernmental champion of small states, advocating for their special needs; providing policy advice on political, economic and social development issues; and delivering technical assistance.

Welcoming the valuable contribution of the network of the many intergovernmental, parliamentary,

professional and civil society bodies which support the Commonwealth and which subscribe and adhere to its values and principles.

Affirming the validity of and our commitment to the values and principles of the Commonwealth as defined and strengthened over the years including: the Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Langkawi Declaration on the Environment, the Millbrook Action Programme, the Latimer House Principles, the Aberdeen Agenda, the Trinidad and Tobago Affirmation of Commonwealth Values and Principles, the Munyonyo Statement on Respect and Understanding, the Lake Victoria Commonwealth Climate Change Action Plan, the Perth Declaration on Food Security Principles, and the Commonwealth Declaration on Investing in Young People.

Affirming our core Commonwealth principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy, and responsiveness.

Reaffirming the core values and principles of the Commonwealth as declared by this Charter:

I. DEMOCRACY

We recognise the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live. Governments, political parties and civil

society are responsible for upholding and promoting democratic culture and practices and are accountable to the public in this regard. Parliaments and representative local governments and other forms of local governance are essential elements in the exercise of democratic governance.

We support the role of the Commonwealth Ministerial Action Group to address promptly and effectively all instances of serious or persistent violations of Commonwealth values without any fear or favour.

II. HUMAN RIGHTS

We are committed to the Universal Declaration of Human Rights and other relevant human rights covenants and international instruments. We are committed to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just and stable societies. We note that these rights are universal, indivisible, interdependent and interrelated and cannot be implemented selectively.

We are implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds.

III. INTERNATIONAL PEACE AND SECURITY

We firmly believe that international peace and security, sustainable economic growth and development and the rule of law are essential to the progress and prosperity of all. We are committed to an effective multilateral system based on inclusiveness, equity, justice and international law as the best foundation for achieving consensus and progress on major global challenges including piracy and terrorism.

We support international efforts for peace and disarmament at the United Nations and other multilateral institutions. We will contribute to the promotion of international consensus on major global political, economic and social issues. We will be guided by our commitment to the security, development and prosperity of every member state.

We reiterate our absolute condemnation of all acts of terrorism

in whatever form or wherever they occur or by whomsoever perpetrated, with the consequent tragic loss of human life and severe damage to political, economic and social stability. We reaffirm our commitment to work together as a diverse community of nations, individually, and collectively under the auspices and authority of the United Nations, to take concerted and resolute action to eradicate terrorism.

IV. TOLERANCE, RESPECT AND UNDERSTANDING

We emphasise the need to promote tolerance, respect, understanding, moderation and religious freedom which are essential to the development of free and democratic societies, and recall that respect for the dignity of all human beings is critical to promoting peace and prosperity.

We accept that diversity and understanding the richness of our multiple identities are fundamental to the Commonwealth's principles and approach.

V. FREEDOM OF EXPRESSION

We are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes.

VI. SEPARATION OF POWERS

We recognise the importance of maintaining the integrity of the roles of the Legislature, Executive and Judiciary. These are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and adherence to good governance.

VII. RULE OF LAW

We believe in the rule of law as an essential protection for the people of the Commonwealth and as an assurance of limited and accountable government. In particular we support an independent, impartial, honest and competent judiciary and recognise that an independent, effective and competent legal system is integral to upholding the rule of law, engendering public confidence and dispensing justice.

VIII. GOOD GOVERNANCE

We reiterate our commitment to promote good governance through the

rule of law, to ensure transparency and accountability and to root out, both at national and international levels, systemic and systematic corruption.

IX. SUSTAINABLE DEVELOPMENT

We recognise that sustainable development can help to eradicate poverty by pursuing inclusive growth whilst preserving and conserving natural ecosystems and promoting social equity.

We stress the importance of sustainable economic and social transformation to eliminate poverty and meet the basic needs of the vast majority of the people of the world and reiterate that economic and social progress enhances the sustainability of democracy.

We are committed to removing wide disparities and unequal living standards as guided by internationally agreed development goals. We are also committed to building economic resilience and promoting social equity, and we reiterate the value in technical assistance, capacity building and practical cooperation in promoting development.

We are committed to an effective, equitable, rules-based multilateral trading system, the freest possible flow of multilateral trade on terms fair and equitable to all, while taking into account the special requirements of small states and developing countries.

We also recognise the importance of information and communication technologies as powerful instruments of development; delivering savings, efficiencies and growth in our economies, as well as promoting education, learning and the sharing of culture. We are committed to strengthening its use while enhancing its security, for the purpose of advancing our societies.

X. PROTECTING THE ENVIRONMENT

We recognise the importance of the protection and conservation of our natural ecosystems and affirm that sustainable management of the natural environment is the key to sustained human development. We recognise the importance of multilateral cooperation, sustained commitment and collective action, in particular by addressing the adaptation and mitigation challenges of climate change and facilitating the

development, diffusion and deployment of affordable environmentally friendly technologies and renewable energy, and the prevention of illicit dumping of toxic and hazardous waste as well as the prevention and mitigation of erosion and desertification.

XI. ACCESS TO HEALTH, EDUCATION, FOOD AND SHELTER

We recognise the necessity of access to affordable health care, education, clean drinking water, sanitation and housing for all citizens and emphasise the importance of promoting health and well-being in combating communicable and non-communicable diseases.

We recognise the right of everyone to have access to safe, sufficient and nutritious food, consistent with the progressive realisation of the right to adequate food in the context of national food security.

XII. GENDER EQUALITY

We recognise that gender equality and women's empowerment are essential components of human development and basic human rights. The advancement of women's rights and the education of girls are critical preconditions for effective and sustainable development.

XIII. IMPORTANCE OF YOUNG PEOPLE IN THE COMMONWEALTH

We recognise the positive and active role and contributions of young people in promoting development, peace, democracy and in protecting and promoting other Commonwealth values, such as tolerance and understanding, including respect for other cultures. The future success of the Commonwealth rests with the continued commitment and contributions of young people in promoting and sustaining the Commonwealth and its values and principles, and we commit to investing in and promoting their development, particularly through the creation of opportunities for youth employment and entrepreneurship.

XIV. RECOGNITION OF THE NEEDS OF SMALL STATES

We are committed to assisting small and developing states in the Commonwealth, including the particular needs of small island developing states, in tackling their particular economic, energy, climate change and security challenges, and in building their resilience for the future.

XV. RECOGNITION OF THE NEEDS OF VULNERABLE STATES

We are committed to collaborating to find ways to provide immediate help to the poorest and most vulnerable including least developed countries, and to develop responses to protect the people most at risk.

XVI. THE ROLE OF CIVIL SOCIETY

We recognise the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals.

We are committed to ensuring that the Commonwealth is an effective association, responsive to members' needs, and capable of addressing the significant global challenges of the future.

We aspire to a Commonwealth that is a strong and respected voice in the world, speaking out on major issues; that strengthens and enlarges its networks; that has a global relevance and profile; and that is devoted to improving the lives of all peoples of the Commonwealth.

Dated this 14th day of December 2012

JUDICIAL INDEPENDENCE

FIJI ISLANDS

In December 2012, the Constitutional commission chaired by Prof Yash Ghai, produced a draft Constitution for Fiji, following widespread consultation across the country. Leaders of political parties welcomed the draft on 1 January 2013, as it put in place procedures to ensure the rights of individuals, to reduce corruption as well as the role of military in government. However, the government rejected the proposed constitution, which New Zealand Aid helped to sponsor. The government of Prime Minister Bainimarama has decided to redraft the Constitution and has indicated he still sees a role for the military in governance, which has raised international concern. In addition, a recent February 2013 decree on "Political Parties Registration, Conduct, Funding and Disclosure Decree," gave political

parties very little time to register if they wanted to stand in the next elections, giving all new and existing parties only 28 days to register..

Following the report in the last CMJA News, the outcome of the government's case against the Fiji Times and the Citizen's Constitutional Forum (CCF) is still awaited. The Office of the Attorney General has asked the High Court to deliver a guilty verdict in the contempt of court case against CCF.

GAMBIA

In January 2013, President Yahya Jammeh defended the August 2012 execution of nine prisoners, saying that events in 2012 were based on provisions of the Constitution and Laws of The Gambia. President Jammeh stated that criticism of the Gambian government was a form of 'hypocrisy' and unnecessarily blowing the executions out of proportion. UN Human Rights Commissioner, Navi Pillay, commented that the executions were a setback for human rights.

KENYA

It is understood that the final round of vetting of judges has now been completed, resulting in 14 judges having been stripped of their judicial functions. The vetting of magistrates is now proceeding and as we go to press 4 magistrates have been removed from their judicial posts.

In the meantime Presidential elections have been held in Kenya. On 4 March 2013, Uhuru Kenyatta was elected president of Kenya. Kenyatta was indicted by the International Criminal Court (ICC) for crimes against humanity stemming from the 2007 elections. Meanwhile, the ICC prosecutor has agreed to drop charges against Francis Muthaura, also accused of crimes against humanity, on the basis of a collapsing case. As of March 2013, the ICC agreed to delay President Kenyatta's trial until 9 July 2013 to give defense lawyers more time to prepare. The trial was to take place 11 April 2013. Plans have been made to set up an international crimes division in Kenya's High Court. Chief Justice Willy Mutunga notes that the division will be set up by November 2013. The new institution will try cases stemming from the 2007-08 bloodshed, as well as other crimes breaching international law.

MALDIVES

Sir Don McKinnon, former Secretary General of the Commonwealth, continues to act as Special Envoy to the Maldives. His current remit is to assist the judiciary in their reforms and in ensuring that the Maldives comply with the Commonwealth fundamental values on the separation of powers. A report of the current political situation in the Maldives has just been published by the Raaiffe Foundation and is available from:

<http://raaiffeoundation.org/publications.html>
[http://raaiffeoundation.org/download/Ginsburg_Maldives_Democratic_Transition_Report_2012_\(Electronic_Version\).pdf](http://raaiffeoundation.org/download/Ginsburg_Maldives_Democratic_Transition_Report_2012_(Electronic_Version).pdf)

The UN Special Rapporteur for the Independence of Judges, having recently visited the Maldives, has deplored the fact that the judiciary is not sufficiently independent and the lack of understanding of "the delimitation of the respective competences" of the Parliament, the Government and the judiciary (which) had "serious implications on the effective realization of the rule of law."

PAPUA NEW GUINEA

In February 2013, Prime Minister Peter O'Neill's coalition government repealed two of five controversial laws that were introduced in 2012 that referred to the Judiciary. The PNG Parliament repealed both the Judicial Conduct Act and the Supreme Court Amendment Act. The laws gave Parliament the power to monitor judges' conduct, as well as eliminating the court's power to make consequential orders when determining Special Supreme Court Reference cases.

SRI LANKA

In November and December 2012, the CLA, CLEA, and CMJA issued statements regarding the proposed impeachment of Chief Justice Shirani Bandaranayke. The statements called for the Government of Sri Lanka to adhere to the fundamental values and principles of the Commonwealth, which includes the provision of an independent and impartial judiciary that can only be removed by proper process on grounds of incapacity or gross misconduct. Copies of the full statements are available on the CMJA's website.

In January 2013, the Sri Lankan Supreme Court decided that

parliament did not have the legal authority to investigate accusations of misconduct against judges and that the impeachment process against Chief Justice Bandaranayake was illegal. The Court said investigations against judges could only be conducted by a judicial body. A week later, the Court of Appeal of Sri Lanka gave a decision that also condemned parliament's impeachment proceedings against Chief Justice Bandaranayake.

Despite the rulings by the Supreme Court and Court of Appeal, parliament nonetheless voted overwhelmingly on 11 January 2013 to endorse the committee's finding and impeach the Chief Justice.

Following the impeachment, the CMJA has been in contact with the Commonwealth Secretariat and issued a letter to the Secretary General on 18 January 2013 and has been in touch with the Commonwealth Ministerial Action Group on the matter. In addition, the CMJA has issued a joint letter with the ICJ on the impeachment addressed to the Parliament of Sri Lanka.

In February 2013, the Sri Lankan government denied visas for a delegation of the International Bar Association's Human Rights Institute (IBAHRI). The delegation of lawyers had planned to assess the rule of law and independence of the judiciary within Sri Lanka, as well as meet with members of the legal community in order to conduct fact-finding missions. As of March 2013, the IBA decided to undertake a remote fact finding mission to probe the Sri Lankan judicial system. The IBAHRI has conducted two fact-finding missions in the past, one in 2001 and 2009.

Justice Bandaranayake has appealed the decision of parliament. The Supreme Court, under the new Chief Justice, former Attorney General Peiris, has adjourned the hearings as we go to press.

Geoffrey Robertson QC has issued a report on the situation of the judiciary in Sri Lanka and this is available from: <http://www.barhumanrights.org.uk/legal-opinion-geoffrey-robertson-qc-impeachment-sri-lankas-chief-justice-conducted-bar-human-rights>

SADC TRIBUNAL

Following the decision by the Southern African Development Community (SADC) Summit of Heads of State to negotiate a new protocol on the SADC Tribunal and limit the mandate of the Tribunal to interpretation of the SADC Treaty and Protocols relating to disputes between Member States, the African Union Court has been approached for an advisory opinion as to the lawfulness under the AU Charter on Human and People's Rights. The CMJA continues to monitor the situation.

ZAMBIA

On 25 January 2013, the Coalition for the Defence of Democratic Rights (CDDR) filed a complaint against the government of Zambia, and presented it to the Commonwealth. The document alleges that President Michael Sata and his Patriotic Front Party violated principles outlined in the Harare Declaration, and called for the provisional suspension of Zambia from the Commonwealth pending the outcome of an independent investigation by an appointed envoy. In March 2013, officials from the Commonwealth Secretariat traveled to Zambia to investigate claims of human rights violations.

HUMAN RIGHTS DAY 2012

As aforementioned, the CMJA participated in the Human Rights Day 2012 seminar organised by UN Special Rapporteur on the Independence of Judges, Gabriella Knaul, and hosted by Kennedy Van Der Laan. The theme of the 2012 Human Rights Day meeting was: ***"Independence of lawyers, judges, and prosecutors: Monitoring, reporting and the need for legislation."*** Amongst the guests attending were representatives from the Dutch based organisations: Lawyers for Lawyers; Judges for Judges (Rechters Voor Rechters) and the International Prosecutors Association as well as representatives of the Bar and judiciary of the Netherlands.

Gabriella Knaul made a presentation about her work and the activities of the UN Special Rapporteur. She informed those attending that she advised the Human Rights Council on issues of concern as well as visiting countries where there are concerns relating to the implementation of the UN Basic Principles on the Independence of Judges and of Lawyers. From these

WIDOWS RIGHTS INTERNATIONAL

Widows Rights International (WRI) have received a small grant to enhance their networks of activist widows groups and lawyers dealing with cases related to harmful cultural mourning rites, and the inhumane treatment of widows. It is gathering information with a view to sharing good practice in improving the rights of widows. If you are (or know) a group, lawyer or judicial officer working in this field in particular in Sub-Saharan Africa, WRI would like to hear from you so that it can build up a repository of good practice and lessons learned and case law. If you can assist, please contact: administrator@widowsrights.org with this information.



visits, Mrs. Knaul recommends action to be taken in the countries concerned. Mrs. Knaul has also produced a report on the independence of prosecutors and has collaborated with the International Association of Prosecutors on a set of principles for the independence of prosecutors.

The Seminar also included reports from lawyers on the front line in Russia, Chechnya and Caucases who shared their experiences of having to flee their countries for defending their clients condemned in many cases through evidence obtained by torture.

The CMJA Secretary General spoke about judicial independence issues in the Commonwealth and the CMJA report on the status of magistrates.

In addition, those attending were brought up to date with local issues in the Netherlands. A debate took place about whether or not judges should be regularly vetted or checked to ensure that their conduct in their professional and private life could not be used against them to corrupt the administration of justice. Presently, prosecutors are vetted every five years, but there continues to be controversy about the potential vetting of judges.

BOTSWANA ANTI-CORRUPTION CENTRE

In February 2013 it was reported that Botswana had launched the Commonwealth's first regional anti-corruption centre. Botswana Vice-President, Dr. Ponatshego Kedikilwe, says the centre will provide ongoing training for officials from across the continent, as well as for officers from local oversight bodies. The centre will also provide accessible support to agencies battling against increasingly sophisticated corruption practices. Over the next four years, the Commonwealth has pledged £1 million to fund the centre's flagship programmes. The centre also hopes to promote long-term sustainable economic growth within member states. Vice President Kedikilwe signed a tripartite agreement with the Government of Botswana, the Association of Anti-corruption Agencies in Commonwealth Africa and the Commonwealth Secretariat, which was represented by Commonwealth Deputy Secretary-General Mmasekgoa Masire-Mwamba at the opening.



ACID SURVIVORS TRUST INTERNATIONAL

The following article was written by Jaf Shah, Executive Director, Acid Survivors Trust International (ASTI)

COMBATING ACID VIOLENCE

Acid violence is the deliberate use of acid to attack another human being. 80% of victims are women.

Many attacks target women because they spurn sexual advances or marriage proposals. Unsurprisingly acid attacks tend to occur in countries where there is significant gender discrimination and weak controls on the availability of acid. Acid is a cheap and easily available weapon. It can disfigure in seconds, resulting in devastating physical and psychological trauma. Acid violence is not linked to a particular country, religion or culture. Countries with a high number of attacks often possess a set of common characteristics. These include a weak judiciary and policing systems, poverty,

and gender discrimination. Countries with high levels of acid attacks include India, Bangladesh, Colombia, Pakistan, Nepal, Cambodia and Afghanistan.

Laws need to limit the availability of acid, prosecute and punish perpetrators, provide adequate redress to survivors and support their economic and social empowerment. In 2011 and 2012 respectively, the governments of Pakistan and Cambodia introduced specific legislation relating to acid violence.

CAMBODIA

On 28 January 2013, Phnom Penh Municipal Court sentenced Be Soeun to five years in prison for intentional violence using acid and ordered him to pay 10 million riel (US\$2,500), after he threw battery acid on the face, chest and back of his ex-wife when she told him she planned to remarry. Be Soeun was the first person prosecuted under Cambodia's acid control law.

PAKISTAN

The government introduced a minimum sentence of 14 years in jail and a fine of one million rupees (\$10,000) in 2011 for those found guilty of throwing acid. The conviction rate rose from an average of six percent before the amendment to 18 percent in 2012.

These are encouraging signs that real progress is being made, even if immense challenges remain in the implementation of law.

INDIA

In India, there is public and media outcry over the high levels of violence against women. This has prompted the National government to take action. Arising out of directives from the Supreme Court, National Commission for Women, and Law Commission of India, the Criminal Law (Amendment) Bill 2012 was introduced to the Indian Parliament in October 2012 to provide harsher penalties for perpetrators of sexual assaults and acid violence. This has been very recently superseded by Criminal Law Amendment Ordinance 2013.

Promisingly, some states, notably Uttar Pradesh and Goa, have taken the lead to issue local instructions regarding payment of compensation to survivors and their families.

BANGLADESH

Bangladesh was the first country to adopt specific laws criminalising acid violence and limiting the accessibility of acid through the introduction of licenses. Since the law was introduced, reported acid attacks over a 10 year period have dropped from 496 in 2002 to 80 as of October 2012; a reduction of almost 75 percent over a 10 year period. This must serve as an inspiration for a global effort to eradicate this horrific form of gender-based violence.

NEW MEMBERS

The CMJA is very pleased to welcome the following new members:

Mr Justice Terence Shultes
The Hon Hugh McLean
Hon William Goodridge
CANADA

Chief Magistrate Anne-Marie Smith
BELIZE

Mrs Frances Annobil
Mr Paranjit Mander
Mrs Riffat Akram
Mr Dale Crombie
Mrs Joyanna Lovelock
His Honour Geoffrey Kamil CBE
ENGLAND & WALES

Dr Colin Henry
NEW ZEALAND

Mrs Habibat Basiru
NIGERIA

Judge Deepali Wijesundera
SRI LANKA

RT Hon Dr Patrick Matibini
ZAMBIA

CALENDAR OF EVENTS

13–14 April 2013 – Cape Town – South Africa

Commonwealth Association of Law Reform Agencies (CALRAS) Conference – for more details: www.calras.org

14–18 April 2013 – Cape Town – South Africa

Commonwealth Law Conference – for more details: www.commonwealthlawyers.com

23–26 September 2013 – Jersey – Channel Islands

CMJA Annual Conference, "Is Your Latimer House in Order?" – for more details: www.cmja.org

Commonwealth Magistrates' and Judges' Association Annual Conference



“Is Your ‘Latimer’* House in Order?”

Radisson Blu Waterfront Hotel
Jersey, Channel Island

23-26 SEPTEMBER 2013

Register Now! Limited to 150 Delegates only!

ANNOUNCEMENT

COMMONWEALTH JUDICIAL JOURNAL

The Editorial Board is seeking new Members for the Board. If you are interested in assisting, please send a short paragraph about how you will be able to contribute to the future of the Journal to the Secretary General at the address shown. Articles always welcome – please see Call for papers on the CMJA website

Commonwealth Magistrates' and
Judges Association

Uganda House
58-59 Trafalgar Square
London WC2N 5DX

Tel: 0207 976 1007

Fax: 0207 976 2394

Email: info@cmja.org

Published with the assistance of the
Commonwealth Foundation