

# CMJA NEWS

The Newsletter of the Commonwealth Magistrates' and Judges' Association

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## EDITORIAL

The CMJA held their regional Conference this year in Georgetown, Guyana from 18-22 September 2016. We are very grateful to the Government of Guyana for their generosity and support of the Conference. We are deeply indebted to the Judiciary of Guyana and in particular Justice Carl Singh OR, CCH, The Chancellor of the Judiciary (ag) and the Local Organising Committee. The theme of the Conference this year was **"The Judiciary as the Guarantors of the Rule of Law"**, the Rule of Law being a recurring theme this year. The Rule of Law and Sustainable Development was the overall theme for both the Senior Officials of Law Ministers Meeting and the Small States Law Ministers Meeting which were held in London in the first week of October 2016 and which the Secretary General of the CMJA attended.

The CMJA also held its Annual Council Meeting during the Conference. Top of the agenda for discussion was the continuing problems faced when Members delay in paying their membership dues. Arrears in Membership dues adversely affect the work that the CMJA can undertake on behalf of its membership and the work that the CMJA does on promoting and protecting judicial independence across the Commonwealth. We would urge all Member Associations and Individual Members to pay their Membership on time and would like to take this opportunity to remind Members that dues are payable at the beginning of each calendar year, except for those who have paid a 3, 5 or 10 year membership. The CMJA does not receive any grants for its core funding so is highly dependent on members paying their fees on time. The CMJA Council also discussed a

proposal for further cooperation with the UK Civil Service College for the provision of training for judicial officers in the Commonwealth.

In May 2016, the CMJA was represented at the **International Commission of Jurists Seminar on judicial independence in Southern Africa** which took place in Harare, Zimbabwe. Justice Charles Mkandawire, Council Member for Malawi attended the Conference and spoke on judicial appointments and the Commonwealth (Latimer House) Principles.

The CMJA was also represented by the Secretary General at the Conference held in the wings of the Corruption Summit on **"Tackling Corruption Together: A Conference for Civil Society, Business and Government Leaders"** which was held at the Commonwealth Secretariat, in London, in May 2016. President Buhari of Nigeria called for an effective international initiative to deal with cross-border corruption and facilitate the return of stolen assets. He stressed the "immediate and credible threat" to economic stability that corruption poses, including large-scale oil theft. *"A main component of this anti-corruption partnership is that governments must demonstrate unquestionable political will and commitment to the fight. The private sector must come clean and be transparent, and civil society, while keeping a watch on all stakeholders, must act and report with a sense of responsibility and objectivity,"* he stated. The clear need for a multinational approach to tackling corruption was also the focus of other panellists in the opening session of the conference. Other issues discussed during this conference which brought different sectors together included sexual exploitation, bribery, nepotism and the large-scale cross-border theft

of natural resources.

The CMJA was represented by Justice John Logan of the Federal Court of Australia at the **27th Commonwealth Parliamentary Association (CPA) Seminar** held in Brisbane, Australia in June 2016 where he spoke about the Commonwealth (Latimer House) Principles and relations between the judiciary and the other branches of government.

The CMJA Secretary General participated in the **Women Leaders' Summit** hosted by the Commonwealth Secretary General, Baroness Scotland at the Commonwealth Secretariat in July 2016. A full report on the summit was included in the CMJA's Gender Newsletter circulated in August 2016 which is also available online at: <http://cmja.org/gendersection.html>.

In celebration of our **Patron's 90th Birthday**, the CMJA sent her loyal greetings on the occasion of her Birthday in April 2016. It was a privilege to receive a response from

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her (see page 9). Our celebrations continued through the Official Birthday Celebrations. On Sunday 12 June 2016, The Mall in St James's Park, London was transformed for its largest ever street party to celebrate The Queen's patronage of over 600 charities and organisations on the occasion of her 90th birthday. The CMJA was extremely fortunate and received two donated tickets. The CMJA staff were privileged to be amongst the 10,000 guests who took part in this 'street party' and though the British weather was true to form with a torrential downpour at the start of events, as soon as Her Majesty emerged, the sun started to shine.

The CMJA was also invited to send a representative to the **International Red Cross Conference** on: **"Law, Humanity and the Commonwealth"** being organised by the Rule of Law Division of the Commonwealth Secretariat. Mrs Sybil Roach Tennant JP attended the meeting on behalf of the CMJA on 13 June 2016.

The CMJA has continued to monitor judicial independence and developments across the Commonwealth as well as its advocacy work as part of the UN Support Network for the Independence of Judges and Lawyers. In June 2016, the CMJA supported the International Commission of Jurists oral statement given to the UN Human Rights Council on 16 June 2016 on **"Judicial Accountability and Attacks on Lawyers"** which co-incided with the launch of the ICJ's new Practitioners Guide on Judicial Accountability. The CMJA also supported the International Bar Association Human Rights Initiative's oral statement on **"Indicators of Independence of Justice Systems"** which was delivered to the UN Human Rights Council on 16 June 2016.

It also participated through its Member Association in Tanzania in the Seminar on **"Strengthening Judiciary Systems and African Courts to protect Safety of Journalists and End Impunity"** organised by UNESCO and the African Court on Human and Peoples' Rights in Arusha, Tanzania on 10 September 2016. The seminar aimed at fostering discussions among African judges on international standards on safety of journalists and ending impunity. This project specifically aimed at building

cooperation strategies with the African Court on Human and Peoples' Rights and other relevant players in this field, in order to raise awareness and share good practices among judges on international and regional standards regarding freedom of expression, particularly those related to the safety of journalists and the fight against impunity. The full report is available from: [https://en.unesco.org/sites/default/files/report\\_on\\_seminar\\_arusha.pdf](https://en.unesco.org/sites/default/files/report_on_seminar_arusha.pdf)

In October the CMJA participated in the East African Magistrates and Judges (EAMJA) Conference on **"Transformation of Judiciaries in East Africa for Improved Service Delivery"** held in Munyonyo, Kampala, Uganda as well as the pre-Conference seminar on Gender Equality sponsored by the International Commission of Jurists, Kenya and Equality Now.

## **"THE JUDICIARY AS THE GUARANTORS OF THE RULE OF LAW"**

The CMJA held its Annual Conference this year in Georgetown, Guyana from 18-22 September 2016. The Conference attracted 225 delegates and 30 accompanying guests from over 33 jurisdictions. The CMJA is deeply grateful to the Chancellor of the Judiciary (ag), Justice Carl Singh and the Local Organising Committee for making this a most memorable conference. The CMJA is also extremely grateful for the support and assistance provided by the President of Guyana's Office and the Government of Guyana. His Excellency the Prime Minister and Acting President, The Hon. Nagamootoo opened the Conference following a showcase of the diversity of cultures of the country which included performances by the Surama Cultural Group, the Hebrew Afro-Guyanese Cultural Group and the Nitra Geet Dance Group and the Advent Group who sang "Oh Beautiful Guyana"

In his Welcome Speech, Chancellor Singh pointed out that Guyana *"remains in a green, virgin, pristine state. So, while the developed industrialised world continues to*

*poison the environment with toxic emissions, Guyana's rainforests play a significant role as the lungs of the earth in absorbing carbon dioxide in the atmosphere and converting it and releasing into the atmosphere, life-saving oxygen and that this is the indisputable contribution we make in our underdeveloped state in this period of damaging climate change, which the world ought to recognise"*

The CMJA was very privileged to have the current President of Trinidad and Tobago, His Excellency Anthony Carmona, former judge of the International Court of Justice to speak at the Conference. In addition, Keynote Speakers included Bailiff and Chief Justice William Bailhache of Jersey who spoke to the theme of the Conference as well as Dr Dianne Douglas, Clinical Psychologist from Trinidad and Tobago who spoke on the Underlying Causes of Domestic Violence. The papers presented at the Conference were varied. Justice Patrick Kiage of Kenya and Judge Qureshi, the CMJA's Director of Programmes spoke about Balancing Anti-Terrorism Legislation with People's Human Rights. Lord Carnwath of the UK Supreme Court and Chief Judge Marshall Umokoro of Nigeria spoke about Environmental Law and Sustainable Development. Capital Punishment was also discussed for the first time at a CMJA Conference and Justice Rajendran of India and Justice Desiree Bernard, formerly with the Caribbean Court of Justice, presented contrasting views that engendered full discussions amongst the delegates. Resources, or the lack of resources allocated to the judiciary were a central topic and District Judge Kaur from Singapore, Lord Gross of England and Wales and Justice Stella Mugasha of Tanzania outlined the issues affecting their jurisdictions. Specialist meetings were also held on Cybercrime, ADR, Gangs and Organised Crime as well as the Rights of Indigenous Peoples.

In the Learning Session, Employment Judge Barry Clarke of England and Wales gave a hard hitting presentation about the dangers in the use of the internet and provided some top tips in judicial internet security (see below).

*“Nations fail when the judiciary fail to engage the rule of law at all times.... You will in fact protect your society your culture and your way of life by engaging the rule of law”*  
 President Carmona stated at the Closing Gala Dinner

Participants were also able to appreciate the Land of Many Waters and long history of Guyana with a Day Out on the Essequibo River and the opportunity to see the first Dutch military settlement on the river, Kyk-Over-Al.

**BARRY'S TOP TIPS**

1. Find out what information about you is public and remove/amend where you can. Make every effort to ensure that your home address and telephone number are not online.
2. When signing up for online services, enter the minimum amount of authentic information possible.
3. If you don't use social media, protect yourself by speaking to and educating those who do. If you do use social media, use common sense:
  - Take care of your privacy. Who can see what you post: friends, friends of friends, everyone? Don't announce your holiday plans, your new address. Be careful of the photographs you share and the information you place online.
  - Do not post anything that would

damage public confidence in the impartiality of the judiciary, e.g. political views, matters of public debate.

- Do not identify yourself as a judge. Do not discuss your cases.
  - Consider using a pseudonym.
4. Check the default settings of websites and browsers you use. Can you increase the privacy settings? Be wary of signing up to websites using your social media profiles.
  5. Change your passwords regularly. Don't use the same password for everything. Make sure they are good passwords. If you need to set security questions (e.g. the name of your first pet), make up something ridiculous.
  6. Maximise privacy on your smartphones. Turn off location

services. Don't allow apps to access all your contacts. Back up your data. Use encryption services. Use anti-virus and anti-spyware software. Keep software up to date.

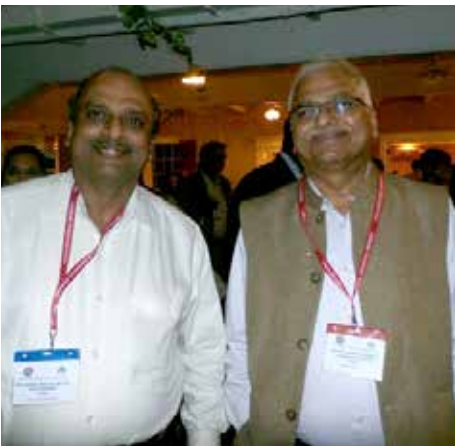
7. Be wary of using free public WiFi, which is usually not encrypted, for work use.
8. Buy (and use) a shredder.
9. Consider using more than one email address. For personal use, consider an email address that does not contain your name.
10. Treat unsolicited texts and emails warily. Do not reply. Do not open attachments if you are not confident that the source is safe.

**Finally:** Put your phones down. Tell your children to do the same. Life is too short to spend time engaging with gadgets rather than people.

**PHOTOS FROM THE CONFERENCE**



# MORE PHOTOS FROM THE CONFERENCE



# JUDICIAL INDEPENDENCE ISSUES

The CMJA has continued to monitor judicial independence issues around the Commonwealth. The following are some of the issues that have arisen since the last meeting.

## BANGLADESH

Following the report in the last issue of the Newsletter, the CMJA was informed that a law had been drafted and was given approval by Cabinet with a view to abolishing the Supreme Judicial Council which is responsible for matters of judicial discipline and ultimately the removal of judges in line with the Sixteenth Amendment to the Constitution promulgated in September 2014. However, the Sixteenth Amendment was challenged in the High Court and in June 2016, the High Court of Bangladesh judged *“It is hereby declared that the Constitution (Sixteenth Amendment) Act, 2014 (Act No. 13 of 2014) (Annexure-‘A’ to the Writ Petition) is colourable, void and ultra vires the Constitution of the People’s Republic of Bangladesh.”* The Ministry of Justice indicated that it would be appealing the decision to the Supreme Court.

## BOTSWANA

In June the CMJA, together with the Commonwealth Legal Education Association (CLEA) and Judges for Judges (Rechters voor Rechters), Netherlands issued a further statement in relation to the suspension of four judges in Botswana. It continues to monitor developments there.

The text of the Statement follows:

### **Statement on the impeachment of Justices Dingake, Letsididi, Garakwe and Busang of the High Court of Botswana.**

*Recalling that at its General Assembly on 19 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.*

*Recalling the CMJA Statement issued on 3 October 2015 in relation to the*

*suspension of Justices Dingake, Letsididi, Garakwe and Busang and the concerns expressed therein,*

*Recalling the provisions of the Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government (2003) which state that ‘Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness’.*

*Whilst not wishing to comment on current court cases which will run their normal course, the CMJA is concerned that the authorities in Botswana seem to be treating some judges more favourably than others and this gives the impression that there is a lack of equality before the law.*

*Any measure which is capable of being seen as eroding the independence and impartiality of the judiciary, or the fundamental rights to which all citizens of Botswana are entitled to, is a matter of serious concern and could undermine the international standing of the Botswana judiciary.*

*We therefore call upon the Botswana authorities to ensure that all processes followed are dealt with in a just and equitable manner to resolve the issues quickly to safeguard the good reputation of the Botswana judiciary for independence and impartiality.*

## GHANA

We reported in the last newsletter that a number of magistrates and judicial staff had been removed from office following the undercover footage released by Journalist Anas Aremeyaw. Investigations are continuing into the behaviour of a number of High Court Judges. However, in Ghana Journalists Association decided to award Anas Aremeyaw the overall Best Journalist of the Year, 2015 Award for his exposé that caused the dismissal and suspension of judges and magistrates. Two of the High Court Judges under investigation for alleged bribery are bringing contempt of court charges against the Awards Committee of this Association as there is still a case pending in the Supreme Court.

## KENYA

In June 2016, Justice Willy Mutunga retired as Chief Justice and the search began for a new Chief Justice shortly after.

In a separate issue, earlier in the year, the Deputy Chief Justice, Justice Kalpana Rawal and Justice Phillip Tunoi had appealed the Judicial Services Commission (JSC) decision that they should retire at the age of 70. Both Judges felt that as they had been appointed under the former Constitution, their age of retirement should remain 74. However they lost their case in the Court of Appeal and the Supreme Court, on which they served, could not form a quorum as a number of the Supreme Court judges had to recuse themselves. The Deputy Chief Justice and Justice Tunoi agreed to retire. Since June 2016, the Judicial Services Commission has therefore undertaken the search for a new Chief Justice, Deputy Chief Justice and Supreme Court Judge. The JSC interviewed 11 candidates for the post of Chief Justice in August and the interviews were followed by Kenyan citizens. In early October 2016, the JSC announced that it had nominated Justice David Kenani Maraga who was formally appointed on 19<sup>th</sup> October 2016. Lady Justice Philomena Mbete Mwilu was appointed Deputy Chief Justice of Kenya. Justice Isaac Lenoala was appointed a Supreme Court Judge in October

## NIGERIA

The Nigerian Department of State Security (DSS) on 7 October 2016, raided the homes of a number of senior judges in search of evidence linking the judges to corruption. News reports indicate that the DSS recovered up to 200 Million Naira in a variety of currencies (equivalent to GB£540,000). The raids took place in Abuja, Sokoto, Port Harcourt, Kano, Enugu and Gombe.

The National Judicial Council, which is responsible for the welfare and discipline of the judiciary, has been in contact with the Department of State Security and indicated in a statement issued on 13 October 2016 :

*“... That it shall continue to support the President Buhari Administration in its fight against corruption in all its ramifications in the Federation; and in cleansing the Judiciary of corrupt Judicial Officers.*

However, expresses its grave concern on the recent invasion of the Residences and arrest of some serving and suspended Judicial Officers by the Department of State Services (“DSS”); and condemned the action in its entirety.

Viewed the action as a threat to the Independence of the Judiciary, which portends great danger to our democracy; and also considered the action as a clear attempt by the DSS to humiliate, intimidate, denigrate and cow the Judiciary”.

It rejected the claim that it was not fulfilling its role sufficiently in investigating the alleged corruption of judges in Nigeria in a [statement](#) issued on 13 October 2016 especially as it has already dismissed three of the judges who were the subject of the raid. Since then, the National Judicial Institute has suspended 15 judges pending investigations into allegations of corruption.

## **MALAYSIA**

In August 2016, the Chief Justice of Malaysia Justice Tun Arifin Zakaria suggested that, in the interests of the separation of powers, the Attorney General’s role of heading the judicial part of the Judicial and Legal Services Commission of the Sessions and Magistrates Courts should be transferred to the Chief Registrar. The Judicial and Legal Services Commission overseas the appointments, discipline and promotion of judicial officers in these courts as well as the prosecution. The administrative control of both divisions is however currently within the purview of the Attorney General’s Dept. He is a member of the Commission.

The Attorney General, Datuk Seri Azalina Othman Said indicated that he would study the proposal. The Malaysia Bar Council Chairperson, Mr Steven Thiru indicated that putting judicial officers under the jurisdiction of the judiciary could resolve any perception of conflict of interest.

There have also been a number of protest about the proposed amendments to the Legal Professions Act 1976 in Malaysia. The government has included the following provisions:

- the government would appoint two members of the Bar to sit on the Bar Council to “represent the government”

- An increased quorum requirement for all general meetings of the Malaysian Bar and State Bars to 25% of their respective members
- A limitation of the number and characteristics of candidates from which members of the Bar can choose in Bar Council elections
- In practice, the disqualification of State Bar Chairs and immediate past Vice-Presidents from election as Office Bearers, and
- The Minister in charge of legal affairs will be empowered to determine the electoral rules and regulations of the Malaysian Bar.

The proposed amendments have been seen as an attempt by government to once again curtail the independence of the legal profession in Malaysia. The Malaysian Bar Council has received support from other Bars and Law Societies from around the Globe. See [http://www.malaysianbar.org.my/bar\\_news/berita\\_badan\\_peguam/expressions\\_of\\_support\\_for\\_the\\_independence\\_of\\_the\\_malaysian\\_bar.html](http://www.malaysianbar.org.my/bar_news/berita_badan_peguam/expressions_of_support_for_the_independence_of_the_malaysian_bar.html)

Former Court of Appeals judge Datuk Mohd Hishamudin Mohd Yunus urged the government to reconsider its move to table the amendments which would interfere in the independence of the Bar Council.

## **MALDIVES**

On 13th October 2016, the Maldives Government issued a statement withdrawing from the Commonwealth. [See BBC Report.](#)

This followed the Commonwealth Ministerial Action Group Meeting (CMAG) held on 23 September 2016 which examined the current state of affairs in the Maldives. In the Statement issued by CMAG, “Ministers expressed deep disappointment at the lack of progress in the priority areas that they had earlier identified, and therefore placed Maldives on CMAG’s formal agenda. Ministers agreed that, in the absence of substantive progress across the priority areas, the Group would consider its options, including suspension from the Councils of the Commonwealth, at its next meeting, in March 2017”. The full version of the Concluding Statement from CMAG is available at: <http://thecommonwealth.org/sites/default/files/inline/CMAG%20>

## [Concluding%20Statement%252c%20%2023%20September%202016.pdf](#)

Prior to the Meeting, the Commonwealth Human Rights Initiative had issued a *submission* on the problems in the Maldives.

The Commonwealth Secretary General, Baroness Patricia Scotland QC, issued the following statement following the announcement on 13<sup>th</sup> October 2016:

*“I have received news that the Maldives Government has today decided to leave the Commonwealth.*

*“The Commonwealth family at large – its member governments and its peoples worldwide – will share my sadness and disappointment at this decision.*

*“The Commonwealth Charter reflects the commitment of our member states to democracy and human rights, development and growth, and diversity. We will continue to champion these values and to support all member states, especially small and developing states, in upholding and advancing these practically for the enduring benefit of their citizens.*

*“Therefore, we hope that this will be a temporary separation and that Maldives will feel able to return to the Commonwealth family and all that it represents in due course.”*

Champa Patel, Amnesty International’s South Asia Director said at the announcement:

*“The Maldives authorities should address their own human rights situation rather than lash out at legitimate criticism.*

*“Human rights have been in a complete freefall in the country over the past few years. The government has locked up opponents through politically motivated trials and led an unprecedented crackdown on independent media. Authorities have also threatened to end a decades-long moratorium on the death penalty and carry out the first executions in more than 60 years.*

*“Instead of complaining about unfair treatment, the Maldives government should look at engaging more constructively with the international community.”*

## **SOUTH AFRICA**

In August 2016, LegalBrief Africa reported that the Constitutional Court agreed to hear the appeal by the Government against the Supreme Court ruling that the Government was in breach of the Constitution and its obligations under the Rome Statute (establishing the International Criminal Court) when it failed to detain Sudanese President al-Bashir, who was the subject of an ICC warrant, from leaving the country. The Southern Africa Litigation Centre has sought the execution of the warrant but the South African Government allowed President al-Bahsir to leave despite a court order instructing them to detain him. See [The Minister of Justice and Constitutional Development v The Southern African Litigation Centre \(867/15\) \[2016\] ZASCA 17 \(15 March 2016\)](#)

In October the South African Government followed Burundi in commencing the procedure for the withdrawal from the International Criminal Court, shortly followed by the Gambia.

Some readers will recall the gross misconduct complaint against Western Cape Judge President John Hlophe, which emerged over eight years ago. In a judgement at the end of August 2016, the Constitutional Court of South Africa cleared the path for the Judicial Service Commission to finally resolve the Hlophe complaint and for all the other Judicial Conduct Tribunals – which had ground to a halt because of the litigation – to proceed. Readers will recall that a complaint was made by all the then-justices of the Constitutional Court, who alleged that Justice Hlophe had sought to influence the outcome of judgments, at the time pending before the Constitutional Court, that were related to corruption charges against President Jacob Zuma. Justice Hlophe denied the allegation.

As reported in Legalbrief Africa, the Constitutional Court *“judgment related to the latest twist in the ongoing saga – litigation by the two Constitutional Court justices Hlophe was alleged to have approached, Chris Jafta and Bess Nkabinde, in which they challenged the lawfulness of the Judicial Conduct Tribunal established to investigate the complaint. Jafta and Nkabinde were expected to be the main witnesses against Hlophe*

*at the tribunal. Instead, they stunned the legal community when they turned around and challenged its lawfulness. They lost in the High Court and the Supreme Court of Appeal. Still aggrieved, they turned to their own court and applied to appeal. But their colleagues at the highest court turned them away, saying too many of its justices had a conflict of interest, and a quorate court could not be established. The two then applied for the order to be reversed or ‘rescinded’, saying it was made ‘in error’ and in their absence. But in a judgment of ‘the court’, nine of its justices said that Jafta and Nkabinde’s rescission application had no merit. The two justices had complained that their colleagues had decided their application for leave to appeal on the quorum issue but they had not dealt with that in their court papers. But the judgment said ‘an overwhelming majority’ of applications for leave to appeal were decided in judges chambers, without a public hearing. ‘This procedure is, obviously, well known to the applicants,’ said the judgment, adding that the court had treated its two colleagues ‘in the same way as it would treat any other litigants’.*

In the meantime the CMJA has also learned that the Traditional Courts Bill that was rejected by the South African provincial governments (see previous reports in the CMJA newsletters) has been placed back on the agenda of the Parliamentary Committee on Legal Affairs.

## **SWAZILAND**

In August 2016, the High Court of Swaziland declared that the Suppression of Terrorism Act, which had been used by the government to ban political groups opposing King Mswati, was unconstitutional. In summing up, Judge Mamba stated that *“The respondents (ie the government) have been found woefully wanting”* in the way they had attempted to justify the law which had been used against politicians, human rights lawyers and activists. The judges pointed out that the Act failed to define what constituted an act of terrorism and what precise damage to society the Act sought to prevent.

The High Court also struck down provisions in the Sedition and Subversive Activities Act as they limited the rights of citizens to freedom

of expression, association and administrative justice.

## **ZAMBIA**

As we go to print the CMJA has been informed that there are plans to amend the Judicial Code of Conduct Act in Zambia. The CMJA is concerned that the proposed amendments, which would put lawyers in charge of disciplinary matters for judges, are contrary to the UN Basic Principles on the Independence of Judges and the Commonwealth (Latimer House) Principles. Such provisions could lead to conflict of interest and adversely affect the terms and conditions of service of judicial officers in Zambia as well as the rule of law. We will keep readers informed of further developments.

## **TRANSFORMATION OF JUDICIARIES IN EAST AFRICA FOR IMPROVED SERVICE DELIVERY**



The CMJA was represented by its Regional Vice President for East, Central and Southern Africa, Chief Magistrate Matankiso Nthunya, the Council Member for Kenya, Justice Patrick Kiage and the CMJA Secretary General, Dr Karen Brewer at the Conference held in Munyonyo, Uganda from 31 October - 4 November 2016. The Conference was preceded by a seminar on Gender Equality sponsored by the Kenya branches of the International Commission of Jurists and Equality Now which was attended by Dr Karen Brewer and Justice Patrick Kiage.

The Conference was opened by the Prime Minister of Uganda who urged the courts to continue clearing the backlog of cases, to avoid delays and to assist in dealing with the integration of the East African Community. At the opening, the Chief Justice of Uganda,

Justice Bar Katureebe pointed out that's the judiciaries of East African still faced a number of challenges including insufficient resources. In Uganda for example they only had 50 judges for a population of 36 million. There continued to be a lack of resources for infrastructure and for the transformation, especially in the area of IT and court recording. The population was still ignorant of their rights and laws were taking too long to be passed. For example, the Administration of Justice Bill had taken five years so far and should be given priority. The Chief Justice also urged judicial officers to undertake self-examination in ensuring that all judgements were based on the facts and the laws and in order to fight the continuing threat of corruption. Other topics discussed included Walking a Successful Judicial Journey, practicability of the concept of judicial independence in East Africa; Equality and the Role of the judiciary in promoting women's access to justice, challenges in case management, and in managing the judiciary as well as managing judicial stress

The CMJA Secretary General presented a paper on "*Transformation of the Judiciaries in the Commonwealth with reference was to the Commonwealth (Latimer House) Principles*". The CMJA also attended the Annual General Meeting of EAMJA held on 2 November and Chief Magistrate Nthunya reported on recent activities of the CMJA and pleaded with those present to ensure that Member Associations paid their subscriptions to the CMJA promptly. She also encouraged those present from Member Associations to provide their reports in a timely manner to her so that she could report to CMJA Council on developments in the region more effectively.

**The EAMJA Conference adopted the following resolutions :**

- For the transformation of the East African Judiciaries to be achieved, its independence must be secured by adequate funding and by enhanced human resource.
- East Africa Judiciaries should develop manpower exchange programs to benchmark and share experiences for citizen-centric quality service delivery.
- The East African Judiciaries' judicial performance standards

*should include: clear transformation and framework policy guidelines; strategic and work plans; case management systems; and information and communication strategies that are all aligned to build public confidence in the administration of justice.*

- The East African Judiciaries' Training Institutes should be strengthened to provide Continuing Judicial Education (CJE) and develop judicial education and training programmes for judicial officers both on the job and newly appointed judges (orientation) as well as other professional courses related to court administration and case management, in order to enhance the officers' capacities to improve service delivery.
- The East African courts should in their decisions, as far as practicable, apply international and regional instruments, which specifically address the cultural and belief systems that undermine women's and children's rights.
- The East African Judiciaries should endeavor to attain the sustainable development goals for the Agenda 2030, particularly Goal 16.
- The East African Judiciaries in their work and outreach programs should also endeavor to transform the societies in which they operate.

## THE RULE OF LAW AND SUSTAINABLE DEVELOPMENT



The CMJA was represented at the **Senior Officials of Law Ministers Meeting** and the **Meeting of Small States of Law Ministries** which were held in London at the Commonwealth Secretariat at the beginning of October 2016.

The CMJA presented a report to both meetings on its activities and work. It was also involved in the presentation in the wings of this meeting on the Latimer House Toolkit given by two of the three authors of the toolkit, the CMJA's former Director of Studies, Hon. Keith Hollis and Dr Peter Slinn, Vice President, Commonwealth Legal Education Association. The Latimer House Working Group continues to press for the roll out of the Toolkit the object of which is to encourage better understanding and respect through a dialogue between the three branches of government and which contains detailed commentaries and questions which assist those participating in the dialogue to make critical evaluations and analysis of the Principles as they apply to the particular jurisdiction in question and to ensure that difficulties that may arise between the three organs of state are resolved in a timely and effective manner.

At the last Commonwealth Law Ministers Meeting held in Botswana in 2014, Ministers agreed that:

*"As a paper by the Latimer House Working Group was not presented by Senior Officials to Ministers, due to the fact that Senior Officials could not reach a consensus on the paper, it was agreed that, rather than as a separate agenda item, Ministers could raise the Commonwealth (Latimer House) Principles in their discussions throughout the agenda wherever relevant. Ministers later, during the presentation of the report by the Commonwealth Magistrates' and Judges' Association (CMJA), agreed to mandate the Secretariat to prepare a paper on the implementation of the Latimer House Principles in the Commonwealth for consideration at the next Law Ministers' Meeting. In preparing the paper, the Secretariat should consult widely with member countries and with the Latimer House Working Group."*

Whilst the CMJA and the Latimer House Working Group did provide initial input for the drafting of this paper, Senior Officials were asked at their meeting to consider whether or not to pass the responsibility for the implementation paper to the Commonwealth Ministerial Action Group. Senior Officials felt that whilst CMJA should consider the Principles in any issues that might arise before them, that Law Ministers, as the initial drafters of the Principles still retained a responsibility to see these



implemented and asked the Rule of Law Division to draft the paper in preparation for the next Law Ministers Meeting to be held in the Bahamas.

Following on from the Senior Officials Meeting, the Law Ministers of Small Countries and Jurisdictions took place. The focus of the discussions were topics around the theme of the Rule of Law and Sustainable Development including advancing the Sustainable Development Goals in Small States, Disaster Response Laws, Climate Change and National Law, The Arms Trade Treaty which engendered an in depth discussion on what the Commonwealth should do about the illegal trade in guns and the consequences of this trade, Cybercrime, Independence of the office of the Director of Public Prosecutions and Restorative justice in small states.

## THE CMJA'S PATRON'S NINETIETH BIRTHDAY CELEBRATIONS

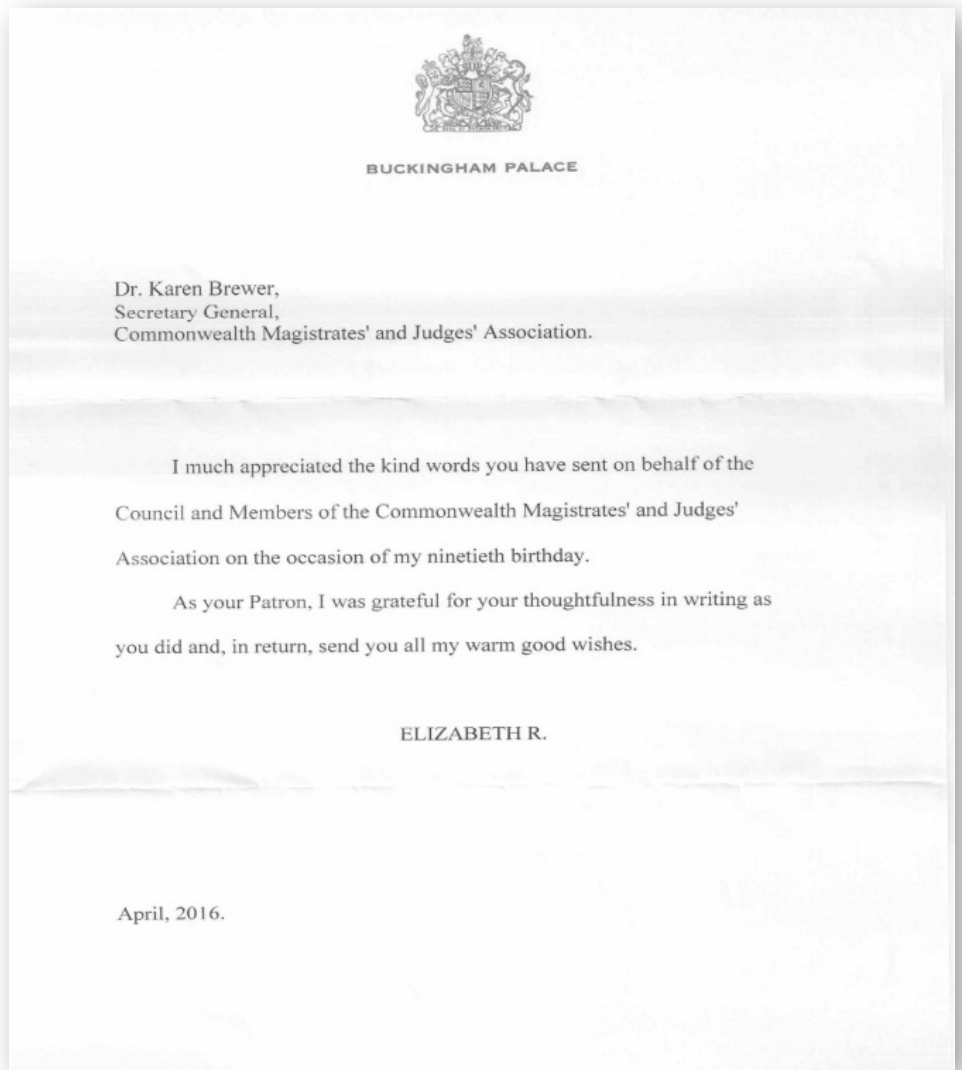
### LETTER FROM HER MAJESTY THE QUEEN

The following letter was received from her Majesty the Queen, Head of the Commonwealth and Patron of the CMJA in response to a letter sent on the occasion of her 90<sup>th</sup> Birthday in April 2016:

### THE PATRON'S LUNCH



The CMJA Secretary General and the CMJA Executive and Admin Officer were privileged to attend the Patron's Lunch thanks to an anonymous donor





who bought tickets for some of The Queen's charities for the event. We arrived early in torrential rain but this cleared. Guests enjoyed hamper-style lunches at tables positioned along the full length of The Mall. They were entertained by the spectacular parade that was designed to encapsulate memories from the decades of Her Majesty The Queen's reign.

Her Majesty The Queen was joined by the Duke of Edinburgh and other members of the Royal Family to celebrate the occasion. Their Royal Highnesses, The Duke of Cambridge and Prince Harry were Joint-Presidents of The Patron's Lunch; honouring the dedication shown by Her Majesty to so many charities and organisations.

The day itself, delivered an electric festival-themed atmosphere that was enjoyed not only by the lunch guests on The Mall, but also by the general public who braved the weather to join the festivities at the large screens situated in the Royal Parks; Green Park and St James's Park.

Her Majesty gave the following speech during the Party:

*"To everyone here today and to those holding street parties elsewhere, I would like to say thank you for the wonderful support and encouragement that you continue to give me. I hope these happy celebrations will remind us of the many benefits that can flow when people come together for a common purpose as families, friends or neighbours and I pay tribute to the commitment, selfless devotion and generosity of spirit shown by the hundreds of charities and voluntary organisations represented here*

*today. You are an example to us all. I much appreciate the kindness of all your birthday wishes and have been delighted and moved by the many cards and messages I have received."*

Any monies received from the Patron's Lunch after deductions of expenses will be distributed to Charities which have Her Majesty as Patron.

## MEET OUR MEMBERS

In November 2015 we informed readers that we were 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. In the meantime meet our Regional Vice President for the Caribbean:

### MR JUSTICE RICHARD WILLIAMS

Although I was born in Kuala Lumpur, Malaysia I hold British nationality and am a Turks and Caicos Islands Belonger. I was called to the Bar in England and Wales in 1988 where I practiced as a member of the Family Bar until early 2001 when I moved to the Caribbean to head the litigation department of a local firm



of attorneys. Since my most recent appointment in 2001 I have been serving the Cayman Islands as a Judge of the Grand Court. The Chief Justice has tasked me with the case management of cases in the Family Division.

I am also an International Hague Convention Network Judge (Specializing in Family Law). The role of a member of the International Hague Network of Judges is to be primarily a link between his or her colleagues at the domestic level and other members of the Network at the international level. There are two main communication functions exercised by members of the Network. The first communication function is of a general nature (i.e. not case specific). ... The second communication function consists of direct judicial communications between two sitting judges with regard to specific cases. The objective of such communications is to address any lack of information of the competent judge, who, for example, may be seized of a return application under the 1980 Child Abduction Convention and may have questions about the situation and legal implications in the State of the habitual residence of the child.

In late 2001 I took up my first judicial post which was as Senior Magistrate, Vice and Acting President of the Family Court for St. Vincent and the Grenadines. In 2002 I was appointed as the Resident Magistrate and Coroner for Providenciales, Turks and Caicos Islands, becoming Chief Magistrate in 2004. In 2008 I was appointed as Judge of the Supreme Court of the Turks and Caicos Islands. I had the honour of heading the Local Organising Committee for the CMJA's Triennial Conference held in Providenciales in 2009.

I have been fortunate to have been able to act as an advisor to UNICEF, Barbados Office in relation to two of their projects namely the "Organization of Eastern Caribbean States Family Law and Domestic Violence Legal and Judicial Reform Project" and the "Moving the Agenda for Children forward In the Eastern Caribbean Project"

I have had the privilege of being a council member of the CMJA since 2006 and a Regional Vice President (Caribbean) 2009-2012 and from 2015 to date.

## NEW MEMBERS

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### **AUSTRALIA**

Miss Penelope Wass  
Mr Greg Smith  
Judge John Birch  
Mr Rodney Oates

### **BARBADOS**

Mr Graveney Bannister  
Mrs Wanda Menorva Blair

### **BELIZE**

Ms Patricia Arana  
Ms Shona Griffith  
Mr Justice Courtney Abel

### **CANADA**

Mr Justice Thomas Heeney

### **DOMINICA**

Justice Birnie M.E Stephenson

### **ENGLAND & WALES**

Mr Nicholas Patrick Rimmer  
Tribunal Judge Patrice Wellesley-Cole  
Mr Matthew Biggs JP  
Judge Barry Clarke  
District Judge Christopher Denis Falvey  
Ms Therese Kamara

### **GHANA**

Justice Emmanuel Kwami Ayebi  
Justice Kwasi Dapaa  
Justice Victor Jones Dotse

### **GUYANA**

Ms Charlyn Romana Artiga  
Ms Fabayo Azore  
Judge Jo- Ann Barlow  
Justice James Royburn Bovell-Drakes

Justice Jonette Cummings  
Justice Alison Roxane George  
Judge Dawn Christine Gregory  
Justice Nareshwar Harnanan  
Justice Franklin Holder  
Justice Sandra Kurtzious  
Magistrate Judy Latchman  
Ms Rushelle Amanda Liverpool  
Chief Magistrate Ann Elizabeth McLennan  
Mrs Marisa Anita Mittelholzer  
Magistrate Alex Moore  
Mr Clive Adolphys Nurse  
Ms Nicola Pierre  
Justice Brassington Reynolds  
Judge Melissa Ann Robertson  
Mr Sunil Scarce  
Her Honour Priya Sabrina Sewnarine- Beharry  
Mr Navindra Anand Singh

### **INDIA**

Mr Sanjay Kishan Kaul  
Justice Venugopala Gowda

### **JAMAICA**

Mr Raymond Villiers

### **JERSEY**

Jurat Jeremy Joan Ramden

### **KENYA**

Magistrate Abdilatif Salau Malampu  
Hon Benson Musyoki Nzakyo  
Hon Joseph Maloba Were

### **LESOTHO**

Hon Madam Nthomeng Justina Majara

### **NAURU**

Justice Mohammed Shafiullah Khan

### **NIGERIA**

Chief Magistrate Nureni Kuranga  
Chief Magistrate Sherifat Olanipekun  
Magistrate Mary Ajibola Afolayan  
Magistrate Kola Aluko Mohammed  
Hon Justice Godwin B Briki- Okolosi  
Hon Justice Sunday Olorundahunsi  
Mr Obebi Alfred- Eto  
Hon Justice Sika Henry Aprioku  
Judge Igbo Patricia Braimoh  
Her Worship Ilanye Diane Brown-Akagha  
Mr Amobi Davidson  
His Worship Baitimizimo Florizel Obiri  
Miss Esther Okere  
Hon Justice Chioma Ada Okirie

### **SCOTLAND**

Mrs Iulia Toch JP  
Mr Gordon Hunter JP

### **TANZANIA**

Justice Stella Esther Mugasha

### **TRINIDAD & TOBAGO**

Mrs Lisa Ramsumair-Hinds  
Hon Justice Halcyon Yorke-Young  
Justice Malcolm Peter Holdip  
Ms Avason Quinlan

### **UGANDA**

Justice Barishaki Cheborion  
Magistrate Caroline Kabugho  
Ms Elizabeth Ogwal Akullo  
Her Worship Kisakye Mary Kaitesi  
Her Worship Janeva Natukunda  
Chief Magistrate Godfrey Kaweesa  
Chief Magistrate Samuel Munobe  
Hon Boniface Wamala

## DIARY OF EVENTS

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### 2017

#### **20-24 MARCH**

“Thriving in a Global World, Building The Rule of Law”  
Commonwealth Law Conference, Melbourne, Australia.  
For details see <http://commonwealthlawconference.org/>

#### **22-23 MARCH**

“Educating the Commonwealth Lawyers of the Future”,  
Commonwealth Legal Education Conference, Melbourne, Australia.  
For details see: <http://www.clea-web.com/events-conferences/melbourne-2017/>

#### **24-28 SEPTEMBER 2017**

“Building an Effective, Accountable and Inclusive Judiciary”  
CMJA CONFERENCE, Dar Es Salaam, Tanzania.

Further details to follow shortly on [www.cmja.biz](http://www.cmja.biz)

# Next CMJA Conference



## CMJA CONFERENCE

24-28 SEPTEMBER 2017

Dar-Es-Salaam TANZANIA

[www.cmja.biz](http://www.cmja.biz)



*“Building An Effective, Accountable And Inclusive  
Judiciary”*



## Karibu Tanzania

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