

CMJA NEWS

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EDITORIAL

We start this newsletter with the sad news that our former President and Hon. Life Vice President Justice Kipling Douglas passed away in June 2017. Many of us have fond memories of Kipling from CMJA Conferences and the CMJA will be publishing the tribute to him by the Chief Justice of the Cayman Islands in the next issue of the Commonwealth Judicial Journal. The CMJA was also saddened to hear of the passing of Hon. Robin Millhouse in May 2017, former Chief Justice of Nauru and Kiribati and former CMJA Regional Vice President for the Pacific who passed away in June as well. Both were loyal supporters of the activities and objectives of the CMJA and will be dearly missed by all who knew them.

The CMJA has been extremely busy as usual with the preparations for the Conference which was held in Dar-Es-Salaam, Tanzania in September 2017 on the theme "Building an Effective, Accountable and Inclusive Judiciary". Over 350 participants from 41 jurisdictions participated in the Conference and we are very grateful to the judiciaries and governments of Tanzania and Zanzibar for all their generosity and assistance in making the Conference such a success. Following the Conference, the CMJA Secretary General paid a courtesy visit to the East African Court of Justice in Arusha and met with the President, Justice Emmanuel Ugirashebuja, the Registrar, Mr Yufnalis Okubo and the Deputy Registrar Geraldine Umugwaneza.

In June 2017, the CMJA Regional Vice President for East, Central and Southern Africa, Chief Magistrate Matankiso Nthunya, participated in the Fourth Meeting of Representatives of Commonwealth National Committees on International Humanitarian Law (IHL) held in Windhoek, Namibia on "Generating respect for IHL: A Commonwealth perspective".

In June 2017, the CMJA issued a Joint Oral Statement with the the International Bar Association's Human Rights Initiative (IBAHRI) and others during the Interactive Dialogue with Special Rapporteur on the

independence of judges and lawyers. The Statement stressed the concerns of our organisations of *"the increasing lack of respect for the independence of lawyers, prosecutors and judges, and we encourage the Council to give lawyers and other jurists focus as human rights defenders, as key to safeguarding their independence and security. Such focus is important, as they have been subjected to threats and attacks due to the very nature of legal practice, but also, and increasingly, for their role in protecting the right to fair trial and defending individuals and causes.*

States must continuously ensure that laws and regulations fully comply and implement with the UN Basic Principles on the Independence of Lawyers, the UN Basic Principles on the Independence of the Judiciary, and the UN Guidelines on the Role of Prosecutors."

It also supported a letter to the UN Special Rapporteur by the Coalition for an Effective SADC Tribunal calling him to raise the continued concerns of those who signed the letter regarding the *"continued suspension and weakening of the SADC Tribunal – the regional human rights court in Southern Africa"*. These concerns were also raised by the CMJA in a [Joint Statement](#) with the Commonwealth Lawyers Association (CLA) and the Commonwealth Legal Education Association (CLEA) in 2012 and concerns had been raised with the former UN Special Rapporteur, Ms Gabriela Knaul. Since then several developments have taken place, which continue to undermine the functioning and independence of this human rights court.

In July 2017 and in September 2017, the CMJA issued Joint Statements with the CLA and CLEA in relation to the threats against the Chief Justice and members of the judiciary in Kenya made firstly in the run up to the elections (in August) and secondly following the decision of the Supreme Court to annul the Presidential elections in Kenya on 1 September 2017. See report below.

The CMJA secretariat also hosted a number of visits from delegations to the UK between May and September

2017. Having recently set up a separate Family Court Division in the High Court of Zambia, members of the High Court travelled to the UK to undertake a study visit, organised by the Royal Courts of Justice, and the CMJA met with them during this visit in June 2017. Mrs Sybil Roach Tennant, CMJA Council Member for England and Wales and Chairperson of the Family Court Panel in North Yorkshire spoke to the delegation during their visit. In July 2017, the CMJA hosted a visit from the Kenya Judicial Services Commission which was keen to study the model of managing tribunals in the UK since the Courts and Tribunals Enforcement Act of 2007 and how the UK managed to bring the tribunals under the auspices of the Judiciary as a whole. In early August 2017 the CMJA also met with judges from the Ghana Court of Appeal who were visiting the courts in the UK.

In October 2017, the CMJA Secretary General represented the CMJA at the Commonwealth Law Ministers Meeting held in The Bahamas.

The CMJA has also been working with UNODC (United Nations Office of Drugs and Crime) in relation to their proposal to launch a Global Judicial Integrity Network.

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LATIMER HOUSE TOOLKIT LAUNCHED AT MARLBOROUGH HOUSE

The Official launch of the Toolkit which was drafted in January 2014, took place at a meeting of the High Commissioners of the Commonwealth held at the Commonwealth Secretariat, Marlborough House in July 2017. The Commonwealth Secretary General, Baroness Patricia Scotland QC, presented the Latimer House Toolkit which is the result of collaboration with the Latimer House Working Group.



The Working Group was formed in 1997 and is composed of representatives from the CLA, CLEA, CMJA and, Commonwealth Parliamentary Association (CPA) and the Commonwealth Secretariat. The Working Group has cooperated since 1998 in advancing the fundamental values of the Commonwealth and in particular the Commonwealth (Latimer House) Principles on the Accountability of and Relationship between the three Branches of Government which were endorsed by Law Ministers and Commonwealth Heads of Government in 2003 and became an integral part of the Commonwealth fundamental values in 2005. The Latimer House Working Group have developed a number of Plans of Action emanating from the Principles (The Nairobi Plan of Action for Africa- 2005 and the Edinburgh Plan of Action for the Commonwealth of 2008). Readers will recall that the CLA, CLEA, CPA and CMJA were commissioned some time ago to put together a Dialogue Toolkit with a view to enhancing the respect between the three pillars of democracy (namely the Executive, the Legislature and the Judiciary) in the Commonwealth. This was completed in 2015. The Latimer House Working Group will continue to support the recognition and implementation of the Latimer House Principles throughout the Commonwealth and work with the Commonwealth to roll out the Toolkit.



Pictured (left to right) Colin Nicholls QC, Baroness Scotland, Dr Peter Slinn CLEA, Mark Guthrie Commonwealth Secretariat, Dr Karen Brewer CMJA, Hon. Keith Hollis, Katherine Eden-Haig CLA, Tim Daniel, Kataliana Sapolu Commonwealth Secretariat

“BUILDING AN EFFECTIVE, ACCOUNTABLE AND INCLUSIVE JUDICIARY”

This year's conference took place in Dar Es Salaam, Tanzania and attracted a record number of attendees from around the Commonwealth and beyond. The CMJA is extremely grateful to the Chief Justices of Tanzania and of Zanzibar, the Local Organising Committee led by Judge Ignasi Kitusi and the Members of the Judiciaries in both Tanzania and Zanzibar for making the Conference such a success. We are also grateful to Police Band and Jitegemee JKT Secondary School for the Entertainment they provided during the Opening Ceremony. In his Welcome Speech at the Opening Ceremony, Chief Justice Juma stressed the importance of a strong independent judiciary. The Conference was opened by her Excellency Vice President Samia Suluhu Hassan who assured judicial officers of the Tanzanian Government's commitment to the independence of the judiciary and outlined the work that the judiciary and the government were undertaking to enable the judiciary to become more effective in the fight against corruption and in reducing delays in court.

Keynote speeches were given by the Hon. Chief Justice of Uganda, Justice Bart Katureebe and by Mrs Justice Lynne Leitch's of Canada. Justice Katureebe spoke to the theme of the Conference and stressed the importance of national governments need to invest in the Judiciaries to deliver justice as a public good. Investing in the Judiciary should be treated as a national priority given the important role the Judiciary plays in society so that the Judiciary can fulfil its obligations to the public. Justice Leitch spoke on the "Challenges to Building Inclusiveness and Diversity in the Modern Judiciary". Other topics discussed included Tackling Delays and Financial and Procedural Delays as well as Corruption; Effective Problem Solving Courts; Issues of International Humanitarian Law as well as Contemporary and Futuristic Views of Judicial Accountability. The increase in public comments by politicians and the media about judges in Australia, Bangladesh, England and Wales, and Uganda to name just a few recent examples were discussed in the session on "Poor Public Image: Dealing with Comments By Politicians and the Media". Lord Justice James Dingemans spoke about the position in England and Wales whilst Hon. Justice Bamwine of Uganda spoke about the situation in Uganda. There were specialist sessions on Terrorism and Human Rights; The Role of the Judiciary in Wildlife

Management; The change of title from Magistrate to Judge and Improving Court Procedures. Delegates also discussed the issue of Coping with Emotions, Financial and Judicial Stress as well as Judicial Welfare and Conditions of Service.

Following the resounding success of Employment Judge Barry Clarke's presentation in Guyana 2016 during the Learning Session, he was asked once again to make a presentation, this time the theme was: "Computers and Mobile Phones: How Judges Manage to get into Trouble". As he points out "*The smartphones in our pockets operate as digital Swiss Army knives..... These devices, and the apps on them that we use, have become our window to the wider world. These devices have, at the same time, become our main means of escaping the world: streaming of video and audio content, gaming and internet browsing. They are part of the fabric of daily life.. [However].... Given the sensitive, confidential and sometimes life-changing nature of the work judges do, they need to learn how to protect themselves. They need to develop wisdom about the way they interact with new technology. They need to educate their friends and family members too, since their use of technology and social media also creates a digital footprint that captures their judicial relatives.*].

The Closing Speech by His Excellency President Ali Mohamed Shein of Zanzibar was presented by the Minister of Constitutional and Legal Affairs, the Hon. Haroon Suleiman Ally. President Shein pointed out that the judiciary was an essential pillar of democracy and re-iterated his government's commitment to provide a conducive environment for the judiciary.





GLOBAL JUDICIAL INTEGRITY NETWORK

The CMJA has partnered with the United Nations Office of Drugs and Crime (UNODC) to advance judicial integrity across the Commonwealth. Readers will recall that the CMJA made the fight against corruption in the judiciary a priority some years ago and have promoted the advancement of the [Limassol Conclusions](#) of the Joint Colloquium held in Cyprus with the Commonwealth Secretariat since their drafting in 2002. The CMJA has previously worked with UNODC by providing input to their Resource Guide on Strengthening Judicial Integrity and Capacity. UNODC has assisted Judiciaries around the world in taking actions to enhance integrity and prevent corruption in the justice system,



including through the drafting of codes of conduct, the design of disciplinary and complaints mechanisms, the improvement of case management systems, the conduct of surveys and assessments to determine the scope, nature and prevalence of corruption and other forms of misconduct in the justice system, and the development of strategies and action plans aimed at enhancing the integrity and capacity of the Judiciary.

In 2015, Member States at the 13th United Nations Congress on Crime Prevention and Criminal Justice adopted the Doha Declaration, reaffirming their commitment to “make every effort to prevent and counter corruption, and to implement measures aimed at enhancing transparency in public administration and promoting the integrity and accountability of our criminal justice systems, in accordance with the United Nations Convention against Corruption.”

In 2016, UNODC launched a Global

Programme for Promoting a Culture of Lawfulness. The four-year programme covers specific areas addressed in the Doha Declaration, including strengthening judicial integrity and the prevention of corruption in the justice system.

One of the key objectives of the Global Programme is the establishment of a Global Judicial Integrity Network. Harnessing the expertise and experience of judges, regional and national judicial associations and other stakeholders from around the world. The Network is due to be launched in April 2018.

Currently UNODC is undertaking a survey and is seeking contributions from the CMJA membership. If you want to contribute to the Survey please click on the following link: <http://icts-surveys.unog.ch/index.php/569437?newtest=Y&lang=en>. Whilst you will need to register, all responses will be anonymous and your information will not be communicated to anyone.

NEW UK DATA PROTECTION REGULATIONS

From May 2018, the UK will be introducing new data protection rules for companies/associations which hold any personal data in order to ensure that such data is kept secure and protected. Whilst the CMJA already ensures that the data kept on Members is secure, we will need your consent to use the data in the way we need to for Membership purposes. In order to do so the CMJA will be asking all Members for a number of permissions in the email that will be sent with subscription renewals in December. We would be grateful if you could send your responses to us so that we can make sure we are complying with the Regulations.

COMMONWEALTH LAW MINISTERS MEETING

The CMJA Secretary General participated in the Commonwealth Law Ministers Meeting which took place in the Bahamas from 16-19 October 2017. The main theme of the Meeting was “Strengthening the Rule of Law Through Technology”, though a number of topics were discussed during the meeting which was attended by Attorneys General and Ministers of Justice from over 30 countries in the Commonwealth. The importance of using technology to assist in the good administration of justice was stressed by the Attorney General of The Bahamas, who chaired the meeting. Topics debated include the Rule of Law and Sustainable Development, Counter-Terrorism, Countering Violent Extremism, Implementing International Humanitarian Law, Climate Change and

Disaster Management (including disaster response laws), preventing and eliminating child, early and forced marriages, the financial and administrative aspects of judicial independence as well as the implementation of the Commonwealth (Latimer House) Principles. Ministers also received reports on Virtual Currencies, Cybercrime, restorative justice amongst other issues. The Law Ministers also approved three model laws, on Judicial Services Commissions, the Enforcement of Foreign Judgements and Money-Laundering, Terrorist Financing, Preventive Measures and Proceeds of Crime.

As a partner organisation of the Rule of Law Section, the CMJA presented a report on activities of the CMJA since the last meeting in 2014. The CMJA Secretary General stressed the importance of respect for the independence of the judiciary. Judicial officers were accountable to the constitution and the law but they also, in over 40 jurisdictions in the Commonwealth, now had guidelines or codes of conduct and the CMJA is the repository of these codes, many of which are currently being updated to take into account the impact of social media and technology.

JUDICIAL INDEPENDENCE ISSUES

AUSTRALIA

Over the last few months there have been a number of public comments about judicial officers across Australia which have caused concern. Our newest Member Association, the Judicial Conference of Australia has found itself having to issue a number of statements since February following attacks on judges and magistrates. In February 2017, it was reported that the Immigration Minister referred to Queensland Magistrates as “left-wing

softies” and “hopeless”. He attacked the President of the Administrative Appeals Tribunal in May 2017. In May 2017 the JCA had to write a letter to the Australian following a report in the newspaper that a spokesperson from the Community Advocacy Alliance had criticised the judiciary for not being accountable and stating that there should be a review of judgements by a parliamentary committee. This ignored the fundamental principles of the separation of powers and the JCA was obliged to reassert the meaning of judicial independence in the letter.

In June 2017, the Herald Sun criticized a Federal High Court Judge in Queensland for a decision made whilst he was sitting in the Administrative Appeal Tribunal.

In June 2017, the JCA was obliged to respond to attacks by three Federal MPs of the judiciary in Victoria who were in their views “soft on terror”. The MPs, having refused to apologize to the judges in question, were facing potential contempt of court proceedings. The Chief Justice of Victoria, Justice Marilyn Warren urged government lawyers to remain impartial in the face of pressures from politicians pushing the judiciary to achieve particular outcomes. The politicians finally apologised to avoid the contempt of court proceedings against them.

BANGLADESH

We reported in the last issue that the Bangladesh High Court had annulled the 16th Amendment to the Constitution. In July 2017, the Supreme Court upheld the decision of the High Court and provoked a parliamentary debate on the issue in the House of Parliament. According to reports, MPs who wanted the return to the 1972 Constitutional provisions were upset and the long debates on the issue contrary to the Bangladesh Constitution and Articles 56, 63 and 133 of the Rules of Procedure of Members of Parliament which specifically preclude any question, motion or resolution which contains



reflection on the conduct of any judge of the Supreme Court. According to eminent jurist Mahmudul Islam "Conduct of any judge of the SC cannot be discussed by the executive government or by the Members of Parliament". He stated that "The immunity under Article 78 of the Members of Parliament in respect of what they say in the parliament cannot be construed as allowing them to make any statement or comment which may directly or indirectly undermine the independence of Judges of the Supreme Court" (Constitutional Law of Bangladesh, 3rd edition, Dhaka: Mullick Brothers, 2012). During the debate, MPs misguidedly claimed that most Commonwealth countries allowed parliament the authority to remove judges, which is contrary to reality. There was also criticism of the Judges which is contrary to the procedural rules of Parliament

It has also been reported that the government had drafted a set of rules for the lower judiciary. However these have been rejected by the Supreme Court. The High Court has traditionally had control over the lower courts. The new rules drafted by government seem to give effective control over the lower courts to the President of the Republic and put members of the lower judiciary facing disciplinary action under the purview of the Ministry of Justice thus bi-passing the authority of the Chief Justice and of the High Court.

In October 2017, the media reported that Chief Justice Sindh had been accused of money laundering, corruption and moral degradation amongst other accusations, widely seen as a witchhunt against this outspoken Chief Justice. The allegations of corruption emerged after a Statement was issued by the Registrar of the Supreme Court indicating that the other judges had refused to sit with the Chief Justice.

The statement said Bangladesh President Abdul Hamid had called four top judges of the Supreme Court to his palace on 30 September and handed over the documents on 11 allegations against Chief Justice Sinha. It said the judges held a meeting with the Chief Justice over the charges at his residence in Dhaka and at one stage he even said clearly that he would step down if they stopped sitting with him in court. Later, on October 2, he sought a one-month leave from the President, who granted the holiday from the next day, it said.

However, it was widely reported that he was allegedly forced to go on a month's leave to Australia, though the government indicated that he was taking leave as he had been ill. Just before he issued a written statement saying: "I am completely well, but I am really embarrassed at

the way political quarters, lawyers and specially several honourable ministers and the prime minister personally criticised me with respect to a verdict recently."

On 10 November 2017, Chief Justice Sinha resigned. Dr Md Abdul Wahab Miah has been acting in his place since October.

BOTSWANA

In the last issue we reported that the Law Society of Botswana challenged the process for appointment of Judges. According to the Constitution, the Judicial Services Commission (JSC) recommends appointments to the President and the latter appoints judges "acting in accordance with the advice of the Judicial Service Commission" (Article 96). The Law Society disputed the right of the President to refuse an appointment. However the JSC had adopted a new policy following rejection by the President of previous recommendations for appointment and had provided the President with a list of potential candidates. In 2015, the JSC interviewed four candidates for a vacancy and decided to recommend attorney Omphemetse Motumise. However the President refused to appoint him. The Law Society challenged this decision in the High Court but lost. However: the Appeal Court, in May 2017, the majority decision of the judges was that the President had to appoint the person whose name was put forward by the JSC.

To date however, the President has not only refused to comply with the Court of Appeal judgement but he has also asked his Permanent Secretary to sit on the Commission. The JSC is composed of six members. The Chief Justice, the President of the Court of Appeal, The Chairperson of the Public Services Commission, The Attorney General, a member of the Law Society nominated by the Law Society; and a person of integrity and experience not being a legal practitioner appointed by the President, which has now been given to the Permanent Secretary.

According to the Botswana Gazette this appointment compromises the independence of the judiciary as the Permanent Secretary is the administrative head of the office of the President, a top adviser to the President and the head of the civil service with an executive position as a secretary of cabinet.

CAMEROON

On 31 August 2017, Supreme Court Justice Paul Ayah Abine was finally released. He had been in prison since for over six months and had been in hospital for part of that time following the worsening of his heart condition due to prison conditions. In June 2017 he was forced to retire at the age of 66 while still

in prison, despite the fact that many of his older colleagues are still sitting on the bench. Whilst it is claimed that 54 of those detained have now been released at the behest of President Biya who "gave up on the trial", many more still remain behind bars despite the fact that the President has given his assurance to seek a peaceful solution to the crisis.

INDIA

In June 2017 it was reported that the government has published a list of 22 rules in line with the provisions of the Indian financial act which removed the ability of the Supreme Court to select members and chairpersons of various tribunals. Up to now these tribunals were largely composed of retired judges from the higher judiciary however the secretary of the ministry under which the tribunal is constituted will now be in charge of the appointment of chairpersons. It's the chair person will continue to be a judge or retired judge the other members of the committee do not necessarily need to be taken from the judiciary I will be compose the benefits of the government or its nominees. The former chief justice of India justice Lodha has said that the appointment of the tribunal must come across as impartial and independent. "Panels have immense power over high-value transactions and it is important that they remain impartial. There has been widespread criticism of this development" Not only does it undermine the independence of the judiciary but it allows the executive to appoint the chair persons and members of tribunals in cases that they may be party to.

For the first time a sitting High Court judge CS Karnan was brought before the Supreme Court and charged for contempt of court in May 2017. He had accused the High Court of discrimination on the basis that he was a Dalit he had also accused a number of High Court and Supreme Court judges of corruption and sent information on this to the Prime Minister of India. Following the non appearance of Justice Karnan to answer the charges against him on 10 March an arrest warrant was issued against him in retaliation he ordered the Central Bureau of Investigation to investigate and file a report against seven High Court Judges including the Chief Justice and the Attorney General. He demanded compensation from the judges. He appeared in court on 31 March and demanded that he be restored to his judicial work. He was charged on 8 May 2017 by the Supreme Court with contempt of court. The Supreme Court in its judgement said that Judge Karnan had, by his utterances turned the judiciary into a laughing stock. Unfortunately he went missing on 9 May and was only arrested in West Bengal on 20 June 17. Two of the

judges who gave dissenting judgements pointed out that Justice Karnan's appointment to the bench had been controversial from the beginning. They indicated that there was "a failure to make an assessment of the personality at the time of recommending his name for elevation". The court also indicated that there should be a system put in place other than the cumbersome process of impeachment to deal with judges such as Judge Karnan.

KENYA

In the run-up to the Presidential elections and following the decision of the Supreme Court to cancel the ballot papers from one of the companies in Dubai connected with the ruling party in Kenya the judiciary of Kenya faced unwarranted criticism and threats from President Kenyatta and senior members of the ruling party the CMJA together with the CLA and the CLEA issued [a statement in July 2017](#) calling on the parties in the election to respect the Latimer House principles. In September 2017, the Supreme Court found that there was sufficient evidence of mismanagement in the conduct of the presidential election and annulled the results of the election. Whilst the judiciary around the globe lauded the Chief Justice and Supreme Court members for their courage in their decision, President Kenyatta threatened the judiciary should he be successful in the next election.

The CMJA, CLA and CLEA issued a second [statement in September](#) calling again on President Kenyatta to stop threatening the judiciary for undertaking the duties and to respect the independence of the judiciary and the Latimer house principles of the separation of powers. The election was held on 26 October 2017 despite the fact that Mr Odinga had withdrawn from the election as he indicated that the discrepancies which existed in the previous electoral process had not been resolved by the Independent Electoral Commission since the election in August 2017. The Chairman of the Election Commission had indicated this. In fact one of the Election Commissioners resigned due to the lack of changes in the process. Her life had allegedly been threatened and she fled abroad. Unfortunately a case brought before the Supreme Court just prior to the elections in October collapsed due to the fact that only two of the judges, The Chief Justice and Justice Lenaola were available at the time of the hearing. The Deputy Chief Justice was dealing with the shooting of her bodyguard and other judges were allegedly unavailable.

A number of petitions have been filed in

the courts since President Kenyatta was re-elected on 26 October 2017. So far no petitions have been successful in the Supreme Court, this time around.

MALAYSIA

In October the Malaysian Bar Council filed a legal action in the High Court against former Chief Justice YAA Tun Dato' Seri Arifin bin Zakaria, Justice YAA Tun Md Raus bin Sharif (current Chief Justice) and Justice YAA Tan Sri Dato' Seri Zulkefli bin Ahmad Makinudin (current President of the Court of Appeal) following the announcement in August that the President had, on the advice of former Chief Justice Arifin bin Zakaria, appointed Justices Md Raus bin Sharif and Justice Seri Zulkefli bin Ahmad Makinudin as additional judges, beyond the constitutional term of retirement at the age of 66 years and 6 months. In a Resolution taken at the Extraordinary General Meeting in August, the Malaysian Bar Council indicated that:

(7) it is unconstitutional for YAA Tun Dato' Seri Arifin bin Zakaria to have advised, on 30 March 2017 (on the eve of his retirement), that YAA Tan Sri Dato' Seri Md Raus bin Sharif ("current CJ") and YAA Tan Sri Dato' Seri Zulkefli bin Ahmad Makinudin ("current PCA") be appointed, purportedly as additional judges under Article 122(1A) of the Federal Constitution, when the latter two judges were still serving as judges;

(8) Nothing in Article 122(1A) of the Federal Constitution permits an outgoing Chief Justice to advise the Yang di-Pertuan Agong in respect of any appointment of additional judges that is to take effect after he has ceased to be the Chief Justice. Otherwise, an outgoing Chief Justice may, before his retirement, advise on the appointment of additional judges that would take effect when he is no longer the Chief Justice, and even long after;

(14) The unconstitutional appointments of the current CJ and the current PCA purportedly as additional judges in the Federal Court, and to continue to hold the positions of Chief Justice and President of the Court of Appeal, respectively, beyond the age limit of 66 years and 6 months as prescribed in the Federal Constitution, lend to the inference that there is a dearth of appropriate candidates among the eminent current members of the Federal Court, who are suitable and have the necessary abilities and capabilities....

(19) The said unconstitutional appointments would result in a severe erosion of public confidence in the institution of the Judiciary, and may invite an adverse perception as to its independence and integrity; and..

(20) The vital nature of the roles and duties of the Chief Justice and the President of the Court of Appeal under the Federal Constitution requires the circumstances of their appointments to be beyond any constitutional controversy." The Full text of the Resolution is available from the [Malaysian Bar website](#)

TRAINING COURSE ON JUDICIAL CASE MANAGEMENT AND ETHICS

The CMJA entered into a joint venture with the UK Civil Service College to run the above course for judges and magistrates from the Commonwealth in London. We were delighted to welcome the first judicial officers to participate from Canada, Cayman Islands, Mauritius, South Africa, Kenya and Papua New Guinea from 3-6 July 2017. With judicial officers having to tackle ever more complex issues in managing cases has come the need for effective case flow management. The Course tackled these issues as well as Judicial Ethics and Independence. The participants also visited the Magistrates Court and the UK the courts, the UK Supreme Court as well as the House of Lords.

The next course will take place on the following dates:

19 – 22 February 2018

2 – 5 July 2018

If you are interested in attending please contact ade@civilservicecollege.org.uk



INTERESTING ANECDOTES FROM COURTS AROUND THE COMMONWEALTH

We have introduced a new section on interesting anecdotes from Courts around the Commonwealth, please feel free to contact us with your stories.

UGANDA: SNAKE STOPS COURT SESSION IN KYEGEGWA

In June 2017 the Ugandan Monitor reported that there was "a stampede at Kyegegwa court in Kyegegwa, Kabalore District, some 280 kilometres south of Kampala, as court litigants fled after a green snake was discovered in the magistrate's chambers.

The lunch time reptile scare happened when Grade One Magistrate Derrick Byamugisha was hearing a criminal case in his chambers at about 1pm, according to the Judiciary's Public Relations Officer, Mr Erias Kisawuzi.

Mr Kisawuzi said since the chambers of the magistrate are small, some of the litigants stayed outside.

As the proceedings were on-going, some of the litigants who were seated outside the chambers saw the green reptile climbing a chair near the magistrate's seat.

"It's at this time that the court clerk swung into action, ran out of the chambers and grabbed a big stick that he used to kill the snake," Mr Kisawuzi said on Wednesday. "There was a stampede at the court for some time following the incident and the magistrate was forced to stop the proceedings."

Asked about the environment of the court, Mr Kisawuzi said the court is housed in a rented commercial structure which is shared with other tenants.

He suspected the reptile could have come from the neighbouring houses since there is no bush near the court premises.

Mr Kisawuzi said if the courts were housed in proper premises, such

embarrassing scenarios could be avoided."

UNITED KINGDOM

The CMJA Director of Programmes claims the honour of perhaps being the first judge to sentence someone using the Facetime app on a mobile phone. The accused failed to attend court and was arrested at his house and taken to his local police station, which was over an hour's drive from the court. The police were short-staffed and could not bring him to the court until the next morning. Preferring to avoid delaying sentence for various reasons and because it was to be a suspended sentence, we arranged for his solicitor to ring defence counsel at court using Facetime. Once they could see each other, the court usher kindly assisted in holding up the mobile phone towards whoever was speaking in court. The clerk put the indictment again to the defendant and he changed his plea to guilty. The prosecutor opened the facts, defence counsel mitigated and I sentenced over the phone. I await your comments at the conference.



"Becoming Stronger Together"

CMJA 18th Triennial Conference

9-14 September 2018

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NEW MEMBERS

We welcome the following new individual members to the CMJA.

AUSTRALIA

- The Hon Justice Rachel Pepper
- Justice Nicola Pain
- Deputy President Daniel O'Connor
- Dr Bernadette Boss
- Hon Justice Brian Preston
- Judge Michael Jarrett

BAHAMAS

- Justice Rhonda Bain
- Ms Carol Dorothy Misiewicz

BANGLADESH

- Judge Mohammad Al Mamun
- Judge MD Sarafuzzman Ansary
- Judge Nuray Alam Bhuiyan
- Judge Biplob Deb Nath
- Judge Mohammed Azizul Haque
- Judge Tofayel Hasan
- Judge Sayed Tofazzal Hero
- Judge MD Jabid Hossain
- Judge MD Faruk Iqbal
- Judge Obeyda Khanam
- Mr Munshi Abdul Mozid
- Judge Parvez Shahman
- Judge MD Shamim Sufi
- Judge MD Akhtar UZ Zaman
- Mr MD. Ashraful Alam
- Judge Mohammed M Chowdhury
- Judge Faz-Le Khoda F.M.D Nazir
- Judge Mohammed Abu Hannan
- District Judge A.E.M. Ismail Hossain
- Judge Aminul Islam
- Mrs Ismet Jihan
- Mrs Shami Hasima Parvin
- Judge Afsana Abedin
- Judge MD Abdulallah AL Masud
- Judge S.M Arshadul Alam
- Judge Mohammad Badiuzzaman
- Mrs Manoara Begum
- Judge Md Saiful Alam Chowdhury
- Judge MD Sabbir Faiz
- Judge Alamgir Muhammad Farukey
- Judge Ferdous Jahanara

- Mrs Khairunnesa Khairunnesa
- Judge Abu Salem Mohammad Noman
- Mr Quazi Mohammed Mohsen
- Judge Niazi Nahid
- Judge SM Masud Parvez
- Judge Hasan MD Arifur Rahman
- Judge MD Atickus Samad
- Judge Fatem Jahan Sharna
- Judge Abuboker Siddique
- Judge MD Moneruzzaman Sikdar
- Judge Mohammad Kamal Sikder
- Mr M.D Mahboob Sobhani
- Judge Murad-A-Mowla Sohel
- Judge Masuda Yeasmin

CANADA

- Mr Brian Norton

CAYMAN ISLANDS

- Ms Philippa McFarlane

DOMINICA

- Miss Gail Royer

EAST AFRICAN COURT OF JUSTICE

- Justice Charles Oyo Nyawello

ENGLAND & WALES

- Mr Mark Aspinall
- Ms Joanne King
- Mr Stephen Gallacher
- Mr Ian W Tough
- Mr Philip Gough
- Mrs Carmel Wall
- Dame Maura McGowan

GHANA

- Judge Aboagyie Tandoh

INDIA

- Mr Kamallesh Gupta

KENYA

- Mrs Mercy Mwarah Deche
- Judge Mohamed Warsame
- Hon Abdiaziz Mohamed
- Hon Godfrey Hillary Odour

LESOTHO

- Ms Palesa Justina Rantara
- Mrs Litsitso Selialia

MALAWI

- Justice Annabel Mtalimamja
- Justice Micheal Atanzio Tembo

NIGERIA

- Mrs Adefolake Abimbola
- Mrs Adeola Ireti Adelaja
- Hon Justice Felicitas Joshua Ibanga
- Mrs Jummai Clara Kataps
- Mrs Vivienne Kobani- Buzugbe
- Ms Chisolum Nkolika Okafor

SCOTLAND

- Mr Andrew Normand

SEYCHELLES

- Magistrate Mariam Ng'hwani

SWAZILAND

- Chief Justice M.C.B Maphalala

TANZANIA

- Dr Paul Faustin Kihwelo
- Judge Latifa Mansoor
- Judge Atuganile Ngwala
- Mr Angelo Rumisha
- Judge Barke Mbaraka Sehel
- Judge Aishieli Nelson Marco Sumari

TRINIDAD & TOBAGO

- Mrs Betsy Ann Lambert Peterson

UGANDA

- Justice Dr Joseph Murangira
- Ms Anna Mugenyi Bitature
- Mr Aloysius Natwijuka
- Hon Bart Katureebe

ZAMBIA

- Judge Fulgency Chisanga
- Judge Mubanga Kondolo
- Judge Judith Zulu Mulongoti
- Judge Dominic Yata Sichinga
- Mrs Twaambo Shalwindi Musonda
- Mrs Nicola Ann Sharpe-Phiri
- Mr Fynold Mufwaafwi
- Professor Mulela Margaret Munalula
- Mr Obbistar Musukwa
- Mr Lameck Mwale
- Hon M.S Mwanamwambwa
- Mr Sunday Bwaya Nkonde
- Mr Nchimunya Simaubi

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MANAGEMENT AND ETHICS**

2-8 MAY

IAWJ BIENNIAL CONFERENCE

Buenos Aires, Argentina [http://www.iawj.org/news-events/
international-conferences/](http://www.iawj.org/news-events/international-conferences/)

2-5 JULY

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9-14 SEPTEMBER

CMJA TRIENNIAL CONFERENCE

Brisbane, Australia