



# Gender Section Newsletter



The Newsletter of the CMJA Gender Section

## GREETINGS FROM THE CHAIRPERSON



A piece on issues of inclusion and diversity doesn't always come with a note of triumph and celebration but this year, it does.

England & Wales has caught up with many other countries around the world and appointed its first woman Chief Justice, Lady Justice Sue Carr.

Her appointment does not bring an end to the necessary work to promote inclusion but it is an enormous achievement along the way. We are honoured and proud that the gender section meeting at the Cardiff conference will be one of her first engagements in the period before her swearing-in ceremony on October 1<sup>st</sup>.

She will be a great supporter and friend to the CMJA and its continuing work to promote equality of opportunity throughout our judicial systems. Equality of opportunity means achieving inclusion for all our judges and magistrates and encouraging all our magistrates and judges to offer that same level of inclusion to all we work with and for, in our respective countries.

We should use this occasion to renew our commitment to promoting inclusion and in doing that, to look at what we can do as individuals. We can, quite simply, adjust the way we behave to those around us. We could also take the more positive step of encouraging, supporting and mentoring others who need that help to achieve their potential. There will be somebody in your organisation who could achieve more with some positive assistance. Can you encourage a junior colleague, a practitioner who should think about applying for judicial office or a student whose confidence and skills you could boost with the right encouragement? It really doesn't take very much effort and the benefits and rewards are enormous.

For this appointment to be more than a symbol of equality of opportunity, we need to use it as a prompt to change the way we look at our junior colleagues and the pool of potential future judges. There are more chief justices out there, we should encourage them to reach that potential!

## NEXT GENDER SECTION MEETING

**11 September 2023**  
**City Hall, Cardiff, Wales**

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## GENDER SECTION NEWS

**Publication by  
District Judge Michelle Smith  
(Atlantic and Mediterranean  
Representative)**

**Dr Karen Brewer  
(Editor in Chief)**

*We wish to recognise the work that was undertaken for this issue by our CAPA Intern, Antony Nuccio*

## PROFILE: CHIEF JUSTICE GERTRUDE TOKORNOO

### *A Third Female Chief Justice For Ghana: A Shining Example For Africa*

*The CMJA would like to congratulate Justice Gertrude Tokornoo for becoming the Chief Justice of Ghana. She took office on 12 June 2023, following the retirement of Justice Kwasi Anin Yeboah in May 2023. The following is a Profile sent in by Justice Abena Oppong.*

The Honourable Justice Gertrude Araba Esaaba Sackey Tokornoo was sworn into office on the 12<sup>th</sup> day of June 2023 as the third female Chief Justice of Ghana within a period of sixteen years. Justice Tokornoo was born on the 11<sup>th</sup> of September 1962 to parents who were both teachers at the time. She grew up with the understanding that she was to be a lawyer so she was enrolled in one of the best girls' schools in Ghana, Wesley Girls High School in Cape Coast, where she had her secondary education and obtained her GCE Ordinary Level Certificate. She proceeded to Achimota Secondary School for the Advanced Level Certificate. She studied Law & Sociology for her first degree at the University of Ghana and completed the Professional course in law at the Ghana School of Law in 1986. She was called to the Ghana Bar in the same year. She holds an LLM in Intellectual Property Law from Golden Gate University, San Francisco, USA and a Postgraduate Diploma (PGD) in International Law and Organizations from the then International Institute of Social Studies, the Hague, Netherlands

After completing law school, Chief Justice Tokornoo did her national service with the International Federation of Women Lawyers (FIDA) and became excited about the work FIDA did with their legal clinic to help vulnerable women. This birthed in her an awareness that the most important person in the community is the weakest. She started her law practice with Fugar and Company, rising through the ranks to become a Director of Fugar and Company. She subsequently set up her own law firm, Sozo Law Consult, in January 1997 and became the Managing Partner. In 2004, she was invited by the then Chief Justice of Ghana to the bench as a High Court Judge. In October 2012, she was promoted to the Court of Appeal and subsequently to the Supreme Court, in 2019.

Before her appointment, Chief Justice Tokornoo held many positions within the Judiciary, which include chair of the Editorial Committee of Association of Magistrates and Judges magazine, chief editor for the development of the Judicial Ethics Training Manual, vice-chair of the Internship and Clerkship Programme for the Judiciary, which programme provides internship opportunities with judges for students from law schools; chair of the E-Justice Steering/Oversight Committee, chair of the e-judgment committee (an online platform for accessing raw and unedited judgments of the courts of Ghana) and the supervising judge of the Commercial Courts in Ghana. She is also a faculty member of the Judicial Training Institute and a member of the governing Board of the Judicial Training Institute. Throughout her career on the bench and in her personal life, Chief Justice Tokornoo has championed ethics and excellence and the need to stay

true to one's identity. Until her appointment, Chief Justice Tokornoo taught judicial ethics at the Judicial Training Institute. She is a regular speaker on different platforms addressing issues on law, leadership and judicial ethics

Chief Justice Tokornoo, being fiercely independent, puts in a lot of effort to prepare to ensure that she produces excellent work. Her resolve and assertiveness ensure that the arena of engagement with her at work remained on the intellectual level and focused discussions on the quality of work, rather than comments built on gender biases. Outside of the courtroom, Justice Tokornoo is a poet and a playwright. She is the author of two anthologies - The Child and The Rainbow, and The Wise Still Hear the Birds, and several plays.

The Honourable Chief Justice is a textualist and hopes to achieve efficiency in timelines as determined by the rules of court to bring all stakeholders to the intent of the rule makers and ensure that while complying with due process, the courts (judges) act as leaders in justice delivery so that the adjudication process is not abused. In line with this, one of the first tasks she intends to undertake upon assumption of office, is to issue practice directions that would ensure coherence for all courts to become abreast with common law jurisdictions on access to justice. As chair of the various e-justice platforms, she hopes to leverage the use of technology to achieve a justice delivery process that is acceptable and a productive part of the lives of the citizenry. She also hopes to increase the quality of life of judges by making resources available to

them and set up a mentoring programme for female members of staff.

Chief Justice Torkornoo would want to be remembered for her service to Ghana and her fierce independence of mind.

**OBITUARY:  
JUSTICE STELLA ARACH-AMOKO**

The CMJA were very saddened to hear of the passing of Justice Arach-Amoko of the Supreme Court of Uganda on 17 June 2023. She had served in the High Court and Court of Appeal. She also served at the East African Court of Justice. Many of our members will remember her support for the activities of the CMJA and in particular her attendance and contributions to CMJA Conferences. She joined the Supreme Court in 2013 and was a member of the Judicial Services Commission. The Chairman of the Judicial Services Commission, Justice Benjamin Kabiito described her as “*servicing with integrity*”.

At the Special Court Sitting to Honor Hon. Lady Justice Mary Stella Arach-Amoko, on 20 June 2023, her fellow judicial officers paid tribute to her work ethic, her forthrightness but also her sense of humour humility and helpfulness to others, always happy to be a mentor to others and provide guidance to her fellow judicial officers and lawyers. While on the High Court she was at the forefront of the introduction of mediation in commercial cases. The UJOA President also described her passing as having “*lost a big lion in the fight against backlogs*”. She was one of the Founder’s of the International Association of Women

Judges of Uganda becoming their President during her time on the bench. She was also a Member of the East African Magistrates and Judges Association as well as the CMJA. She also served on the Uganda Judicial Training Committee. The Deputy Chief Justice Deputy Chief Justice Richard Buteera said in a statement that the Judiciary has lost an extraordinary jurist who has been a champion of justice.

Tributes during her the Special Court sitting were also given by the Law Society President and the Attorney-General who reminded those present she served as a member of the Bar and state attorney for 18 years before serving 26 years in the judiciary. She served in the legal system for 44 years in total in the legal system.

The CMJA sent a message of condolence to the Chief Justice, the Judiciary of Uganda and Justice Arah Amoko’s family.

In recognition of her distinguished service to the legal profession and judiciary, her state funeral took place on 21 June 2023.

**DOMESTIC ABUSE ACT  
2018 (SCOTLAND)**

*The Following is a report by DJ Michelle Smith*

The Domestic Abuse (Scotland) Bill was passed by the Scottish Parliament in February 2018.

The main provisions of the resulting Domestic Abuse (Scotland) Act 2018 were brought into force in April 2019.

The 2018 Act created a new offence of engaging in an abusive course of

conduct against a current partner or an ex-partner.

The Act also provided that the new offence may be aggravated where a child is involved.

Further changes to the law included:

- Creating a standard condition of bail for domestic abuse cases prohibiting an accused from obtaining a statement from a complainer other than through a solicitor;
- Placing a restriction on granting bail in some domestic abuse cases;
- Banning an accused person in a domestic abuse case from conducting their own defence in court;
- Allowing certain expert evidence relating to the behaviour of victims of domestic abuse;
- Applying certain special measures aimed at protecting child witnesses during trials;
- Requiring the court to consider the future protection of the victim when sentencing an offender in a domestic abuse case; and
- Directing the court to always consider making a non-harassment order (NHO) against a person convicted of a domestic abuse offence.

The Criminal Justice Committee in Scotland reviewed the legislation and how effective it has been in achieving the objectives set out by the Scottish Government. Their findings were published in May.

The conclusion of the report is that the introduction of the 2018 Domestic Abuse Act has been an important step but more action is needed in implementing the Act and tackling domestic abuse.

The report highlighted that there was strong support from law enforcement, police and women’s groups for the legislation and that its impact is now starting to show. However, concerns have been raised that this progress is too slow. It is reported that the police are called out to an average of 61,500 domestic related incidents per year. In the first year following the implementation of the legislation, there were only 252 prosecutions under the Act of which 212 resulted in a conviction. This increased the following year 2020-2021 to 420 prosecutions of which 383 resulted in conviction.

One of the concerns raised is the provision of specialist training to police officers. It was reported that in order for the training and the provisions of the Act to be at its most effective, it is important that any officer called to an incident can identify the type of situations covered by the Act, particularly of a non-physical nature. The provision of training has been noted to have been delayed due to the covid pandemic and demands of the COP26 climate change conference but efforts are ongoing to ensure it is back on track.

It was also noted that the police can respond to 140-150 reports of domestic abuse per night to Police Scotland in addition to 400 calls in relation to missing person reports. They do therefore always have the time required to sit and build a relationship with the complainants.

Criticism was also raised in relation to breaches of protective orders and it was recommended that further review should be undertaken to establish whether more can be

done. The Committee welcomed the review of the Sentencing Guidelines but also called for a review by the Cabinet Secretary to consider whether current sentencing policy gives adequate protection. Of note in the review was the evidence of Dr Claire Houghton who reported that survivors and victims of abuse have described the experience of reporting crimes and participating in trials as ‘unremittingly grim’.

Further recommendations in the report include that the Scottish government should review how the use of an aggravator in the Act is being implemented. This relates to an involvement of a child in domestic abuse cases.

Also, the report highlights the use of civil courts by abusers, for example contact and child custody disputes, as a way to further the abuse. It is recommended that the Cabinet Secretary review whether to pilot a single judge/court model when both civil and criminal matters arise. A full copy of the report can be located here:

<https://sp-bpr-en-prod-cdnep.azureedge.net/published/%20CJ/2023/5/4/dc22c15c-8bfa-4421-ad25-168abf3084ed/CJ062023R5.pdf>

## INTERNATIONAL WOMEN JUDGES’ DAY 2023



The UNODC’s Global Judicial Integrity Network organised a webinar to celebrate the International Women

Judges Day which took place on 10 March 2023. Women continue to remain unrepresented in senior positions in the judiciary across the globe. Speakers came from Guyana, Nigeria and Sri Lanka as well as other non-Commonwealth countries. Guyana had had women as Acting Chancellors’ of the Judiciary, including the current Acting Chancellor. Other women have also led the way in other jurisdictions as Chief Justices in the Caribbean. Women represent around fifty percent of judicial officers in the Caribbean and this is credited for increasing the number of women studying law in the Caribbean.

It was important to have women in the judiciary as they usually bring with them an understanding of gender sensitivities and issues that might arise and do, in some circumstances bring some reassurance to women who come to court for the first time and can feel intimidated by the system. Women judicial officers have a role to play as agents of change. It was also essential to have women judicial officers in post so that there is equality and the court system need to move away from stereotyped biases so training is required, not only within the judiciary but also the administration of justice sector as a whole. Whilst technology put in place over the last two or three years has been useful the use of Artificial Intelligence (AI) is causing some concern. Whilst these systems should reduce bias against women, this has so far not been the case and in fact AI, due to the dominance of male coding programmers, has developed a bias against women. There was therefore a need to train the judges in these fields.



Other issues needed to be addressed in training of judicial officers with sexual harassment, sextortion, not to mention other examples of gender based violence within the judiciary need to be stamped out. And it isn't only men who discriminate against women. Women can also become prejudiced against other women in the judiciary and it is important that women support other female judges. All female judges have to work much harder than their male colleagues, according to those speaking at the meeting. It was important that education and training took into account human rights and gender issues. It was essential that the judiciary was not discriminatory to ensure that society does not lose trust in the institution.

## PROTECTING FEMALE REFUGEES FROM GENDER BASED VIOLENCE IN TRINIDAD AND TOBAGO

*Strides Made By The Courts To Protect Women Refugees From Gender-Based Violence In Trinidad And Tobago*

*Summary Of Article Written Master Sydelle Johnson For The International Association Of Women Judges 2023.*

Trinidad & Tobago was elevated to the Tier 2 Watch List in the June 2023 Trafficking in Persons Report issued by the Department of State of the United States of America. Despite this, we are making significant efforts to bring ourselves into compliance.

Trinidad & Tobago is a transit point for "Venezuelan refugees and migrants *en route* to Europe, North Africa, and elsewhere in the

Caribbean. The ongoing humanitarian crisis in neighbouring Venezuela has contributed to a large influx of refugees and migrants who are at high risk for trafficking" (2021 Trafficking in Persons Report).

Women and children represent those victims who are more vulnerable to being trafficked.

In our armoury, are The Trafficking of Persons Act in Trinidad & Tobago which incorporates the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the United Nations Convention Against Transnational Organised Crime and for matters connected therewith or incidental thereto (Trafficking in Persons Act Chap 12:10). Today, however, we have recorded no convictions in the Courts.

There is no domestic legislation in Trinidad and Tobago that is pertinent, even though we signed the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The Government of Trinidad & Tobago, developed a refugee policy, "The National Policy to address Refugee and Asylum-Seekers in Republic of Trinidad and Tobago 2014", dealing with the refugee status determination procedure which allows for the transfer of knowledge and expertise on "refugee status determination to Trinidad & Tobago through training provided by the United Nations High Commissioner for Refugees (UNHCR)." (Claim Number CV2020-04062).

In addition, there is a national inter-agency protocol for coordinated

investigation and intervention in matters involving minors.

The National Policy represents a standardised framework for the protection of refugees/asylum seekers in Trinidad & Tobago. The Courts, have had to address a number of applications made, which touch and concern the issue of migrants, refugee/ asylum seekers and has therefore developed methodologies to these issues, while recognizing the special need to address gender-based violence in the protection of rights of vulnerable migrant groups in the society.

The Court offers a myriad of services and has the tools to deal with female refugees who are victims of Gender Based Violence. The advantage of implementing specialized courts is patent. Judicial Officers are trained in gender-sensitive adjudication to prevent victims from being re-traumatized. The Courts will continue to ensure that all citizens, inclusive of female refugees/asylum seekers are protected.

*Master Sydelle Johnson*

*Master of the Judiciary of Trinidad and Tobago.*

See the full article at: [Protecting female refugees from SGBV - International Association of Women Judges \(iawj.org\)](https://www.iawj.org/protecting-female-refugees-from-sgbv/)

## POTENTIAL ABUSE OF LIBEL AND DEFAMATION LAWS TO ESCAPE PUNISHMENT

*The Following is a report by DJ Michelle Smith*

In the recent case of Hay v Cresswell, Ms Cresswell successfully defended a libel claim in relation to social media posts naming Mr Hay as her sexual attacker in an incident dating back to 2010.

This case is important not only in relation to the Court's ruling regarding the Public Interest defence but also to raise awareness of a potential route where abusers are using libel or defamation claims as a way of silencing their accusers.

In such libel claims, the starting point is that the claims made are untrue with the burden on the accuser to establish that they are true to the civil standard. It has been reported that survivors of abuse or violence who have publicised and reported incidents for example on social media, have then been threatened with libel action by the people identified by them as the perpetrators, in the hope that they would retract their claims. Concerns have been raised that the court procedures are in danger of being misused in such a way to silence survivors of attacks.

Such libel claims usually involve very costly legal representation and the defendants in these claims do not have the powers of investigation available to the state prosecution in criminal proceedings, in order to be able to prove that they are true. Concerns have been raised this

would deter people from reporting or raising awareness of incidents of abuse to avoid a traumatic and costly libel claim.

In this case, Mrs Justice Williams DBE found that Ms Cresswell's allegations against Mr Hay reported in her social media were substantially true. Notably she also went further in relation to the public interest defence and said that protection of other women and accountability of abusers are proper factors to be considered. She further found that survivors of abuse and violence are in a different position to journalists. In relation to the reasonableness of Ms Cresswell's belief in relation to the public interest defence, as Ms Cresswell was writing from her own knowledge of a sexual assault upon her, it would not be reasonable to expect her to seek a comment or response from Mr Hay before publication. In relation to each case, a fact sensitive evaluation has to be undertaken by the court, taking into account the particular role of the defendant in question.

Equally the fact that publishing the material was not the only way in which she could afford protection to women was not a bar to the defence. The court found that Ms Cresswell could have again gone back to the police in this case. However, the question for the court was whether Ms Cresswell's belief that publishing the statement was in the public interest, was a reasonable one to hold. In this case it was held that Ms Cresswell had conducted the checks and enquiries as were reasonable in the circumstances of the particular case. Therefore, the usual provisions in relation to fact checking employed by journalists do

not necessarily fit in cases of this type.

Of interest in this case is the adjustments and measures put in place to enable the defendant in the claim to give best evidence. She was allowed to attend the trial remotely at times when she was not due to give evidence and when she did give evidence, she was screened from Mr Hay and the public gallery.

A full link to the decision can be found here:

<https://www.judiciary.uk/wp-content/uploads/2023/04/Hay-v-Cresswell-26.04.23.pdf>

## GENDER BIAS IN THE LAW

According to a recent report conducted by the Commonwealth Secretariat, gender disparities amongst judicial officers within the Commonwealth have been steadily shrinking within the past several years. According to reports, there have been more women qualifying as attorneys and receiving judicial appointments, including the upper echelons of positions.

- In Rwanda, increased representation for women has led nearly half of all judicial positions to be women.
- In the Bahamas, women hold more than 61% of all Supreme Court appointments
- In Kenya, Lady Justice Martha Koome has become the first women to become Chief Justice.

However, there still remains significant barriers which impede women from eliminating the inequalities between them and their

male counterparts. Much of the accomplished progress result from increased representation, such as the instituted gender quotas for women in these positions. These quotas, while effective, have not and cannot ensure fully equal representation in the judiciary. There needs to be a focus on systemic change towards the social, political, and economic barriers which hinder women's opportunities to enter and succeed in the judicial branch. The full report can be found at:

<https://thecommonwealth.org/news/blog-womens-representation-judiciary-has-come-long-way-remains-far-being-equal>

## VICTIMS, WITNESSES, AND JUSTICE REFORM BILL (SCOTLAND)

The Victims, Witnesses, and Justice Reform (Scotland) Bill was introduced in April 2023.

The Bill has been described as radical and transformative by campaigners but is met with opposition from some members of the legal profession.

At its introduction, the Bill is split into six parts.

**Part 1** creates the office of Victims and Witnesses Commissioner for Scotland.

**Part 2** embeds trauma-informed practice in criminal and civil courts.

**Part 3** increases the availability of special measures for vulnerable witnesses and parties in civil court proceedings.

**Part 4** changes the size of a criminal jury, makes rules about majority verdicts and what happens when a juror is dismissed or unable to

continue on the jury and removes the not proven verdict.

**Part 5** creates a new sexual offences court and sets out how it will operate within the criminal justice system.

**Part 6** provides automatic life-long anonymity for victims of sexual offences and gives complainers in sexual offence cases an automatic right to independent legal representation when an application is made to introduce evidence about the complainers' character. It also gives power to the Scottish Ministers to carry out a pilot of rape trials conducted by a single judge.

It is reported that campaigners support the proposed changes, which are said to be based on a significant amount of research and evidence. They are of the view that the reforms would enable more effective engagement for survivors and also lead to more justice being done.

Concerns have however been raised in relation to the impact of the change to the jury size and the potential impact on conviction rates.

The Faculty of Advocates has also opposed the plan in relation to the abolition of the not proven verdict. They submit that it removes a "fundamental" safeguard and that further modifications to the trial system would be required "to accommodate such a significant change without jeopardising reliable justice".

In relation to the proposed pilot for judge only trials for rape cases, the Law Society of Scotland has also warned of a risk compromising "fundamental principles such as the presumption of innocence and the right to a fair trial".

A full copy of the Bill can be found here.

<https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/victims-witnesses-and-justice-reform-scotland-bill/introduced/explanatory-notes-accessible.pdf>

## TAKING A POSITIVE FROM DISASTER

Many people reading this will know of Roger Coventry. He has worked tirelessly around the world, playing a huge part in upholding the rule of law and in supporting judiciaries and legal systems under threat. In early 2021 he approached me to see if there was anything that could be done to support women judges in Afghanistan.

After the civilian government had been established in Kabul, women had begun to hold positions in most professions, including the judiciary. They had qualified and they had triumphed, some reaching very senior positions. However by early 2021 they had become less secure generally and two women judges had been assassinated on their way to court. We had no idea of what was to come.

We set up a mentoring scheme. Women from the United Kingdom Association of Women Judges volunteered to act as mentors on a one to one basis. Communication was difficult and what's app was the only secure way to maintain contact. Originally the idea was simply to offer mutual support, to help build confidence and to discuss the universal problems and share the solutions that have been learned in more established systems.

By the Summer of 2021 the Taliban had begun to take over the government of the country and to seize control of everyday life for the population. Being a woman judge was no longer something to praise or be proud of publicly, it was fast becoming a potential death warrant. The women judges stopped being able to attend court. Soon they began to feel obliged to destroy their law books and burn their qualification certificates as they would identify them as targets. They had to flee their homes as their neighbours began to identify them to the Taliban. When Kabul fell they struggled to the airport or onto buses leaving the country. The bloodshed that followed was seen around the world.

The International AWJ and the IBA took up the challenge and applied all their vast resources and efforts to help these women.

But in a dozen or so homes in the UK women judges were glued to their phones maintaining contact, as best they could, with their Afghan counterparts. Calls were coming in throughout the day and night from women petrified as they hid in cellars or covered at the airport, desperately waiting to be escorted through and praying that the bomb blasts and sporadic shooting did not get any closer.

Every string we could pull and every contact we had was used to try to get help to these women. Lord (Igor) Judge, former LCJ, spoke in an emergency debate in the House of Lords in August 2021. Many other judges, and lawyers supported him when he said,  
*"A few years ago, when I was Lord Chief Justice, an international*

*meeting was held in London for women judges from all over the world. ....Lady Hale of Richmond, was presiding over it. When five judges from Afghanistan answered the roll call, the entire meeting acclaimed their pioneering courage. Today, we truly appreciate how much courage was indeed needed. There are just under 300 female judges and magistrates in Afghanistan. ....My particular concern today is for the personal safety of every one of those women judges. To establish decent foundations in Afghanistan, on the basis of our support, each one of them had the temerity—from the point of view of the Taliban, the sinful effrontery—to sit in open public courts; contrary to sharia law, to sit in judgment over men, to give judgments against men, to pass sentence on men; and to imprison Taliban terrorists, murderers and rapists. All those men are now free and will dress up their revenge as a debt they owe to their God. The peril those brave women are in is terrifying. They were our allies in the war against barbarism. We went into Afghanistan and have left Afghanistan because we act in accordance with our loyalty to our allies; we do not desert them. We must not desert those women—these allies who we have left behind."*

There is no place for politics in an article of this kind. We must not forget that not all the women judges were able to leave Afghanistan, and some remain in camps still waiting for visas or permission to enter third countries.

The positive aspect of this humanitarian disaster is the strength and generosity that women judges around the world demonstrated when it was needed. We should be

very proud of them, and of all they did and continue to do. The friendships built during the terrors and hardship of 2021 are very strong and continuing.

The judges who made it to the UK are generally doing well. They are learning a new language and a new way of life. Their children are at school, girls and boys, and doing well. Some of the women have started the process of gaining new qualifications. The friendship and support of the women judges here for the women who arrived, terrified and with nothing more than they could carry, has in large measure showed that some good has come from something so terrible.

It has been a great privilege to play a small part in the work done and to have seen how much of a difference friendship and support can make.

The International AWJ also worked tirelessly to do everything that could be done to get the women out of Afghanistan and into safe countries.

## NEWS FROM AROUND THE COMMONWEALTH

*The following are summaries of various reports that the CMJA has gathered from around the Commonwealth that outline some of the developments in the field of gender and human rights*

### REGIONAL REPORTS

#### Women In The Law In Leadership

In June, the Institute for African Women in Law released their ***Women in Law and Leadership***



**Project**, a comprehensive study of women in the African legal profession. It is an intensive report of women's pathways, barriers, and facilitators to leadership positions throughout the different branches of law.

The pilot countries are Nigeria, Kenya, South Africa, and Senegal. The full report can be found at: <https://www.africanwomeninlaw.com/womeninleadership>

## Ending Child Marriages in Southern Africa

In May 2023, the United Nations Population Fund's (UNFPA) East and Southern Africa Regional Office (ESARO) and *Equality Now* published its Report: **"Ending Child Marriages in Southern Africa: Gaps and Opportunities in the Legislative Framework"**. According to the report *Tanzania and Mozambique have the largest number of child marriages* in the East and Southern Africa, with 5.7 million in Tanzania and 4.4 million in Mozambique. In fact, fifty three percent (53%) of women in Mozambique have been married before the age of eighteen. Malawi has 2.2 Million. Whilst legislation may provide for marriage over the age of 18, in a number of countries, this is not enforced or enforceable. Child brides are more vulnerable than adult brides due to the interruption in their education after marriage and their health is put at risk due to early pregnancies not to mention that the evidence points to more gender-based violence against child brides. The full report is available at:

## THE GAMBIA

The United Nations Population Fund (UNFPA) in The Gambia has launched the Gender Promotion Initiative (GPI) 2.0 Project to promote gender issues, particularly women's empowerment. The UNFPA launched the campaign on 31 May 2023, declaring its aim to enhance *"the institutional capacity of civil society organisations to promote gender equality and women's empowerment."* According to the UN Resident Coordinator of The Gambia, Seraphine Wakana, the project has received \$2.5 million in funding, over the course of the next 26 months.

## MALDIVES

In March 2023, The Judicial Service Commission in the Maldives, in collaboration with the British High Commission, hosted the first Women Judges Conference in its nation's history. The conference aimed to highlight the progress made in combatting gender-based violence, while simultaneously creating a platform to discuss the current challenges women face. During the sessions, speakers engaged in a wide assortment of topics, such the importance of diversity within the judiciary and the role of women judges in promoting access to justice. In their discussions, there was an emphasis on the need to inspire more women to pursue careers within the judiciary and the larger legal profession. Many underscored this point by delineating the gender-sensitive legal frameworks that hinder women from entering the field, as well as those that hinder progress once within.

The Maldives has made some progress with the inclusion of women in the judiciary. They now have 24 female judges.

## NAMIBIA

On 16 May 2023, the Supreme Court issued a landmark ruling on the recognition of same-sex marriage performed outside the country's borders, in accordance with the Immigration Control Act of Namibia. The decision stated that since non-national spouses are entitled to the privileges of citizenship upon marrying a Namibian national, the state must validate same-sex marriages performed abroad for the purposes of immigration. However, the state is not compelled to recognize marriages performed domestically.

This ruling came after a five-year dispute between the Namibian Ministry of Home Affairs and two same-sex couples. One couple included a Namibian national and foreign national. The second couple were both foreign nationals who requested a residency and work permit. The Ministry denied their request, citing their marriage as invalid. The High Court ruled that the Immigration Control Act protected the immigration benefits of same-sex partners, but could not overrule a previous 2001 Supreme Court ruling, which denied a foreign national a permanent residency permit despite her partnership with a Namibian citizen. Thus, the issue remained in their jurisdiction. On appeal, the Supreme Court agreed with the appellants.

### STOP PRESS

**As we go to print with this issue, we have learnt that the Legislature in Namibia has just passed a law banning same sex marriages including those mentioned above, contracted abroad, reversing the decision of the Supreme Court. The Bill that was passed in July**

2023, makes celebrating, witnessing, promoting or propagating such wedlock a criminal offence punishable with up to six years in jail and fines of up to 100 000 Namibian dollars (\$5,500).

**NIGERIA**

A proposed bill seeking equal rights for women and people with disabilities was finally enacted in June 2023. Introduced in 2021, the bill caused controversy amongst many legislators who claimed it contradicted Islamic beliefs and socio-cultural norms. Yet, the bill has progressed despite these criticisms, making it passed several debates within the Senate. Biodun Olujimi, the bill’s sponsor, said her and her colleagues will ensure the bill’s success, finally creating a conducive atmosphere for women and people with disabilities. According to Mrs Olujimi, *“the bill seeks to address several forms of issues bedevilling men and women in their constituencies in issues of land ownership, inheritance, education, employment, and the rising tide of sexual and gender-based violence in private and public spaces of learning.”*

**SIERRA LEONE**

Earlier this year, Sierra Leone passed a landmark law promoting women’s rights in the workplace and other positions of power. The President, Julius Maada Bio, signed the **Gender Equality and Women’s Empowerment Act (GEWE)** into law, stating its importance in addressing *“the gender imbalances in this country comprehensively.”* The bill requires public and private sectors to ensure the positions of power are equitably distributed between men

and women. According to the law, women must hold at least 30% of all positions, including leadership and parliamentary roles. Moreover, it enshrines equal pay, 14-week paid maternity leave, increased training opportunities, and access to financial services. According to Sierra Leone’s President, Julius Maada Bio, this bill will create *“a stable and peaceful Sierra Leone,”* as *“we cannot afford to have women, who make up 52% of our population, not featuring prominently in politics and leadership.”*

**UGANDA**

On 21 March 2023, the Ugandan Parliament held a seven-hour session, in which representatives voted to approve the renewed **Anti-Homosexuality Act**. Revising many sections of the previously nullified version passed in 2014, this current legislation has been considered to be restrictive and oppressive anti-LGBTQIA+ laws to date. According to the Act signed into law in May, those who engage in “promoting homosexuality” or “conspiracy to engage in such” can receive a minimum sentence of 20 years imprisonment. However, those found guilty of “aggravated homosexuality” can face life imprisonment or the death penalty. There is an exhaustive list detailing the actions which qualify under this charge, some include the intentional or unintentional transmission of HIV/AIDS through same-sex relations.

**CONTRIBUTIONS AND COMMENTS**



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

at [info@cmja.org](mailto:info@cmja.org) If you have an interesting story to tell, please send these too!!

**OBJECTIVES OF THE GENDER SECTION**

Aims

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

Objectives

- ◆ To provide a forum for judicial officers to be able to consider ways of redressing any gender imbalance:
  - Gender Bias and other colleagues;
  - Gender Bias and the Public both specifically and generally;
  - Institutionalized Gender Bias and the Justice System;
- ◆ To exchange information among judicial officers;
- ◆ To encourage the advancement of women;
- ◆ To promote and encourage women to be aware of their legal rights;
- ◆ To address women's groups on issues relating to the law and their legal rights.

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