



GENDER SECTION NEWSLETTER

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Greetings from the Chairperson



Beverley McLachlin is the subject of our profile in this edition of our newsletter. It is a pleasure to pay tribute to Canada's first female, and longest serving, Chief Justice. She served with great distinction until her retirement in December 2017. She had a remarkable judicial career devoted to the rule of law in Canada. Since her retirement she, along with Baroness Brenda Hale, the President of the UK Supreme Court, has been appointed to Hong Kong's Court of Final Appeal, appointments described as "historic". She has also published a novel, a legal thriller, which is "flying off" the shelves in Canadian book stores.

Dr. Brewer has prepared an interesting report on her participation in the Second Commonwealth Women's Forum. We have also included the Outcome Statement from the forum.

In addition, there are articles reporting on the results of the 2016 task force on Sharia Law in the UK; a 2018 report by Reporters Without Borders sharing the challenges faced by journalists covering women's rights issues; and, the recent launch of a training and awareness video by the Australian Red Rose Foundation dedicated to raising awareness of domestic and family violence.

Lastly, our News from Around the Commonwealth remains an important feature in our newsletter providing a forum to celebrate gender sensitive jurisprudence and positive legislative reforms and other initiatives in addition to marking the loss of women who championed women's rights and highlighting issues that require further advocacy.

I look forward to the opportunity for us to meet together in Brisbane, Australia in September 2018. In particular, I look forward to the **Monday 10 September 2018**

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meeting of the Gender Section, which will include will include a presentation on "**Judicial Work and Domestic Life: Managing the Boundaries**" by Professor Kathy Mack. We are most grateful to Professor Mack for agreeing to share the research she and Professor Sharyn Roach Anleu have undertaken. Professor Mack's presentation will be followed by shared discussion among the participants in small groups. We

intend to provide questions to spark discussion and hope to ultimately have strategies and other responses to share with everyone.

Please note that each of your regions are to elect a representative to the Gender Section at your Regional Meetings to take place Tuesday September 11th.

As always, I am most indebted to our Secretary General Karen Brewer and the CMJA interns for their significant contributions to the preparation of this newsletter.

*Justice Lynne Leitch,
Chairperson*

Profile



Hon. Beverley McLachlin

The Commonwealth Magistrates' and Judges' Association Gender Section is pleased to congratulate the Honourable Beverly McLachlin on her recent retirement from the Supreme Court of Canada.

She is commended for her keen intellect, tremendous work ethic, and unflagging energy and devotion to enhancing the public's understanding of, and confidence in, Canadian courts and our system of justice.

The Honourable Beverly McLachlin was appointed as a puisne judge of the Supreme Court in 1989 and as Chief Justice in 2000. She was the third female appointment to the Supreme Court of Canada and is the only female to be appointed as Chief Justice. She is also the longest serving Chief Justice in Canada's history. Prior to being appointed to

the Supreme Court of Canada, she served as a judge of the British Columbia County Court, British Columbia Supreme Court, and the British Columbia Court of Appeal. She also served as Chief Justice of the British Columbia Supreme Court after her tenure with the Court of Appeal. Prior to becoming a judge, she was a practicing lawyer and also a law professor at the University of British Columbia. She attended law school at the University of Alberta where she received the gold medal for top student.

For many years, she has been the public face of the Supreme Court, which is an institution she describes as the public's court, in Canada and around the world. She fulfilled her role with grace, dignity, an unflinching positive outlook and demeanour, and boundless energy. She is recognized as a highly capable administrator and an effective consensus builder within the Court. She also made enormous contributions to the development of law in Canada as a prolific writer and author of a substantial number of the Court's judgments. As our national paper wrote after her retirement, "her legacy, covering virtually every area of the law – from strong protections of due process for suspected terrorists and criminals, to a new legal footing for Indigenous peoples, to the resounding independence of Canada's highest Court, to the vibrant growth of the 'living tree' of constitutional rights – is now part of the country's foundations."

Canadians could not have asked for a more dedicated Chief Justice or someone more worthy of our respect and admiration. We thank her for her years of service to our justice system and our country.

Commonwealth Women's Forum

Dr Karen Brewer, CMJA Secretary General was invited to participate in the Second Commonwealth Women's Forum which took place in London in the wings of the Commonwealth Heads of Government Meeting in April 2018. She has produced the following report.

The Theme for this year's meeting was "**An Empowered future for Women and Girls**" and the **Forum Opening** included a speech by Commonwealth Secretary General, Baroness Scotland who spoke about the Commonwealth Secretariat's approach to gender equality which was central to their goals. There was a need to improve women's mediation, to open financial services to women (especially at the micro enterprise level as well as the SME level), to improve the capacity of women in economic enterprise and to end violence against women.

The UK Home Secretary, Amber Rudd, who was also responsible for Women and Equalities, spoke about the gender pay gap and the work that had been done to identify and deal with this pay gap – there is over a 70% difference overall between the pay of men and that of women. She also mentioned the fact that this year marks the 100th anniversary of the vote for women in the UK. The Department for International Development had launched its New Strategic Vision for Gender Equality (launched in March 2018).

Although the UN Deputy Secretary General, Amina Mohamed, was due to speak, she could not come in the end so her speech was read by the Head of the Gender Section at the ComSec, Amelia Kinahoi-Siamomua. This presentation outlined the fact that women do 26 times more unpaid work than men. They are not fully included in decision making. Whilst there have been successes, child marriage had declined to 12

Million across the Commonwealth, Rwanda has 60% representation in decision making, Australia has introduced a system for more participation from aboriginal women and maternal mortality rates

have also declined, there is still a long way to go. The UN/Europe

have just signed a cooperative agreement to end gender based violence worth E500 Million and a Gambian has just been named as the first UN Woman Goodwill Ambassador for Africa- Jaha Dukureh, who is the CEO of [Safe Hands for Girls](#).

Zelega Julien from I am One in Trinidad and Tobago stressed the importance of ensuring that laws that discriminate against women needed to be abolished and implemented. She also stressed the importance of harnessing the power of investments to change attitudes.

Women in Leadership

The speakers at this session included Helen Clarke (former Prime Minister for New Zealand) who gave some interesting statistics:

- 7.2% of women are Heads of State in the Commonwealth (including the Queen);
- 5.2% are heads of government
- 23.3% are Members of Parliament- but it will take up to 99 years to reach overall gender parity in Parliament.

So well below the 30% gender parity rule overall. Some countries are better than others due to circumstances (Rwanda 60%- but that was because of the genocide). New Zealand was taking the lead in this area too. 38.2% of parliamentarians were women. The change to proportional representation had ensure that lists that did not include women would not get any votes.



Mary Ann Ooi Suan Kim, a lawyer in Malaysia stressed that it was important to ensure that “pink washing” [being brain washed into thinking you are not equal to a man] was removed in the business circles. Whilst Malaysia introduced in

its 2012 budget funding for the training of women in leadership, the reality was that there was still a big gap at the Board level in businesses in Malaysia.

Kitty Chelson from Broadwalk Leadership pointed out that it was essential for there to be sponsorship and mentoring of women and there was a need to ensure that more women were included in global leadership programmes and there was more mentoring at the school level of young girls through such programmes supported by governments. But companies had also a role to play Aviva and Vodafone were quite innovative in this area mentoring and support.

Canada now has a Gender Budget and everything that is spent is looked at through a gender lens.

Women in Mediation

Bineta Diop, Special Envoy for Women, Peace and Security at the African Union, from Senegal spoke about the importance of having more women mediators involved in the decision making at all stages of conflict resolution. It has been proved that agreements are more likely to succeed if there are 35% women at the negotiation tables. Unfortunately at the moment there are very few women mediators at the UN level (2%).

Hilda Frafjord Johnson, from the Nordic Women’s Mediators Network also pointed out that women also need to be involved in negotiations

as they are the main implementors of the peace agreements at the grassroot level . The problems are:

- there is a general tendency to think that “leaders of governments” (who are mostly men) are qualified to undertake negotiations when they aren’t always trained for this but they are more likely to be chosen as special envoys;
- security bias: women are not involved in the military as much
- cultural bias- a lot of the negotiations are done at the bar or outside amongst the “obys” and it isn’t easy for women to be involved in such discussions on an equal footing.

**NEXT MEETING OF
THE GENDER SECTION
10 SEPTEMBER 2018
16.00-17.00**

Brisbane, Australia

See www.cmja.biz for further info on the CMJA Conference

If you have any suggestions for subjects to be discussed at this meeting please contact kbrewer@cmja.org

DON'T FORGET THE ELECTIONS TO THE GENDER SECTION will take place during the REGIONAL MEETINGS being held on **Monday 10 September 2018**

Special Presentation from **Emeritus Prof Kathy Mack**, Flinders University on **“Judicial Work and Domestic Life: Managing the Boundaries”**

Lord Ahmad of Wimbledon, the Minister for the Commonwealth and UN who chaired the meeting, indicated that he had just launched a Women's Mediators network with a grant of £1.6 Million [#WomenMediators](#) (on twitter).

There was a joint reception at the QEII centre in the evening where H R H the Duke of Cambridge spoke and which also showcased the music and fashion of the Commonwealth (there is a Commonwealth Fashion Council which has been recently set up and Commonwealth Resounds provided the music from around the Commonwealth).

Violence against Women and Girls

This was a disappointing plenary session though the first speaker (Kate Gilmore-see below) was the best speaker.

Kate Gilmore, the UN Deputy High Commissioner for Human Rights (Australia) who stressed the importance of improving the lives of women and girls and that it was not good that it was 100 years since the political rights of women and 70 since the Universal Declaration and discrimination still persisted. Lord Bates, UK DfID Minister, spoke about the work that the UK was doing to improve the rights of women and girls.

Senator Hon. Concetta Fierravanti-Wells the Minister for International Development and the Pacific of Australia also spoke at the Opening about the importance of ensuring the eradication of gender based violence especially in the home. After the meeting we exchanged cards and I indicated that the CMJA was coming to Brisbane in September and would be seeking her assistance for Pacific participation [NB: this was before I got an email from John Logan about his linking to the Dept for Foreign Affairs]

Bishop Ellinah Wamukoya (First Anglican Woman Bishop of Africa)

spoke about the role of religious organisations and the church in supporting women's rights- though there was some questions in relation to reproductive health rights raised during the questions. Religion can play a disruptive as well as a positive role in this area.

Group Sessions

The participants in the Women's Forum divided into different groups to deal with the above and three other subjects:

- Eliminating harmful practices: Child and Early Forced Marriages (CEFM) and Female Genital Mutilation (FGM);
- Sexual and Reproductive Health and Rights;
- Eradicating all forms of Exploitation: Tackling human trafficking and child exploitation across the Commonwealth.

I participated in the Eliminating harmful practices session in particular as I wanted to ensure that the rights of widows (especially child widows) was taken into account. There was firstly a panel presentation with representatives from Forward, the Orchid Project, Girls Not Brides, Canadian government., The Commonwealth Network against Early and Child forced marriages, the Chiefs of Malawi and Commonwealth of Learning. We were then divided into small groups to discuss some of the issues concerned which we hoped would be fed into the final version of the communique.

Christopher MacLennan (Assistant Deputy Minister for Global Affairs, Canada) stressed that an holistic approach to the issues was required. Gender Equality was the core commitment of the current government and was entrenched in the constitution. The G8 meeting would also be discussing this at their meeting. They had a target of 95% of any project should be gender based.

The representative from the Commonwealth network mentioned the Kigali Declaration and pointed out that women's organisations needed help in combating both CEFM and FGM. 3.9 Million women were at risk from FGM around the world

The representative of the Commonwealth of Learning (COL) pointed to the work undertaken by them in using new technology for education and training of girls especially in relation to CEFM in line with SDG4. The [Girls Inspire](#) project was being funded by Australia and they were working in Pakistan, Bangladesh, India, Mozambique and Tanzania.

The representatives from Malawi pointed out that 10% of 2 girls were married before the age of 18 and 50% only went to secondary school. Whilst legislation existed and the age of consent to be married had been raised to 18 from 15, enforcement was difficult though recently 4000 child marriages had been annulled, the clause in the legislation which allowed for marriages to take place with the consent of parents had been removed and they were working with traditional leaders to

During the Questions to Panellists, the issue of child widows was raised (as they are no longer covered by the Rights of the Child Treaty or laws emanating from this once they were married and didn't have the protections in the CEDAW convention either).

It was also pointed out by one participant that there was evidence of cross border "shopping" for FGM within some parts of the Commonwealth and this needed to be stopped.

One participant mentioned Intersexual mutilation which should be considered as a form of FGM and only two countries in the world made this illegal: Malta and Portugal.

One participant stressed the importance of giving feedback to the meetings about how the Commonwealth governments were implementing the laws and states should be held to account.

In the absence of legislation, local bye laws had been used to fine offenders and to inform communities of their duties in Malawi.

There was also evidence that early and forced marriages led to violence against women in marriage.

One participant mentioned the plight of refugees in camps where women were encouraging their daughters to be married off to ensure that they were not raped by men in the camps.

**Gender Section News
Publication by
Justice Lynne Leitch
(Chair)
Dr. Karen Brewer
(Editor in Chief)**

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Tuesday 11 September
2018 in Brisbane,
Australia**

Outcome Statement of the Commonwealth Women's Forum 2018

The Commonwealth Women's Forum (CWF) was held in London, United Kingdom, from 16 to 18 April 2018, and focused on the theme ***An Empowered Future for Women and Girls*** with the ambition of finding ways to accelerate the advancement of gender equality for sustainable development, prosperity and peace for all women and girls in the Commonwealth.

Recognising that despite the concerted efforts to transform the subordinate position of women and girls in many societies and the progress made so far towards gender equality, the advancement of the status of women and girls has been slow and uneven; investment to address the inequalities between women and men in all areas of social, civic, and economic life, including in efforts to address the impact of climate change has been low. The Commonwealth Women's Forum (CWF) calls on the Commonwealth to lead the world by creating and strengthening an enabling environment for women's empowerment, for a sustainable, secure, prosperous, and fairer society – that is free from violence and coercion, focuses on actions to mainstreams gender in all government programmes, policies and initiatives including gender budgeting.

Acknowledging that women face bias along multiple identity dimensions, including gender, race, disability, sexual orientation, gender identity and age, we must focus our efforts on those facing multiple disadvantage where progress is slowest. This is a pre-condition for the promotion of women's leadership, economic empowerment and equitable participation in all spheres, which will result in ***an Empowered Future for Women and Girls***.

The CWF congratulates the Government of the United

Kingdom for successfully hosting the second Commonwealth Women's Forum, and applaud the Heads for establishing the CWF as a permanent feature preceding the Commonwealth Heads of Government Meeting (CHOGM). The CWF applaud the first ever Joint Forum Day held with all four forums – Women's, Youth, People's and Business – which enabled cross-learning and offered an opportunity to agree actions and share best practices that can be carried forward to CHOGM. The CWF requests that the following CHOGM meetings include more joint sessions, especially plenary sessions shared by the Business and Women's Forums.

This Outcome Statement captures the key messages and asks the Heads, the Commonwealth inter-governmental organisations, associated and accredited Commonwealth organisations, businesses, development partners and civil society that featured in Forum discussions. The CWF believes the Commonwealth should act decisively and call on Heads to implement the Outcome Statement of the 2018 CWF. The following recommendations and requests are to the Heads, and will be followed up at the next Commonwealth Women's Affairs Ministerial Meeting and CWF.

The CWF requests the Heads to:

1. Accelerate actions to invest, implement and track progress of the Sustainable Development Goals (SDGs), in particular Goal 5, and other international, regional and national instruments as, to achieve gender equality and empower all women and girls in collaboration with strategic partners and the Chair of CHOGM.
2. Build on the global movement to accelerate progress to gender equity and empowerment and to use the Secretariat's convening power to bring together a high profile and visible taskforce of champions made up of both male and female leaders from political, public and private sectors at the national, regional and local levels to champion gender equality and promote women's access to leadership positions across the Commonwealth, and to hold governments and businesses accountable on reaching the

global target of 50 per cent representation across all levels of decision-making.

3. Carry out a systemic review and repeal of discriminatory laws and ensure that new laws undergo a gender impact assessment on women's rights and participation in leadership and economy.
4. Invest and increase technical and financial resources for data collection and analysis on the implementation of the SDGs and other international instruments; research; knowledge creation and sharing; and capacity building for women's effective leadership at all levels, and implementation of measures to advance women's participation across sectors.

Women in Leadership

Women's power and decision-making in the political, public and private sectors are essential to achieving gender equality, and is therefore crucial for successful implementation of the SDGs. The absence of women in senior leadership positions and their lack of participation and representation restrict opportunities to create policies that will have a broader impact and greater benefit for the whole of society as a result of the increased gender equality between women and men.

5. The lack of economic security and resulting poverty and women's disproportionate role as care givers are some of the barriers to women's leadership and participation across sectors.
6. *Recommend* that Heads, drawing on Commonwealth good practice and experience, develop practical strategies and legislation that increases women's access to leadership from the grassroots to national and international levels, to enable meaningful political leadership, by women. Call on Heads to commit to working with all political parties and systems to increase the proportion of women candidates. This includes training, sponsorship, mentoring programmes, and access to networks and mentoring programmes such as the Commonwealth Women Parliamentarians (CWP) and the Commonwealth Women in Local Government Network (ComWLG), with particular attention given to creating

opportunities for young women and girls.

7. Violence Against Women in Politics and Elections: *Urge* Heads to promote gender equity in political parties and the selection of candidates, and ensure that models of campaign financing do not discriminate against women. Encourage Election Management Bodies to develop gender sensitive policies.
8. *Call* on Heads to commission an independent review of violence against women in political and public life and in the home and to establish a funded zero-tolerance national policy to prohibit and prevent the specific forms of election-related violence (both in the public and domestic settings, and including online violence) experienced by women voters, women candidates and their teams.
9. *Reiterate* the importance of involving men and boys in changing attitudes, social norms and behaviours to facilitate women's meaningful participation in the political, religious and private sector at all levels.

Women, Peace and Security

10. *Urge* Heads to support the implementation of the United Nations Security Council Resolution (UNSCR) 1325 through National and Regional Action Plans that incorporate strong accountability mechanisms, sustainable financing and strong disarmament provisions, and ensure stronger links and complementarity to National Counter Terrorism & Counter Violent Extremism strategies.
11. *Call* for more efforts to challenge gender norms and other injustices that contribute to women's oppression and perpetuate conflict and insecurity, and to sensitise and empower women to be actively involved in all stages of conflict mitigation and peace building, from conflict prevention to the negotiation and implementation of peace agreements.
12. *Call* for financial support to women's rights organisations and movements including the establishment of a Women's Peace and Security standalone fund within the Commonwealth

offering long-term grants to grassroots women's rights organisations to support their work on increasing women's participation in peace and security and in preventing and countering violent extremism, protecting women's rights in conflict, and undertaking relief and recovery processes that meet the needs of women and girls, including their physical and mental health

Women's Economic Empowerment

Enhancing women's economic empowerment enables women to exercise power over their lives and results in sustainable and inclusive economic growth. The approach of gender-inclusive growth is multi-faceted and requires the ending of discriminatory norms, behaviours and legislation, and gender-based violence, provision of quality education and enabling legislation and regulations which recognise women's disproportionate role as care givers.

There is a role for all levels of government to create enabling environments for economic participation of women and implementing and monitoring actual change.

13. Educate to Empower: welcome the commitments made to ensure access to a minimum of 12 years of free quality primary and secondary education, encouraging all Heads to work towards that goal; and calls for extra support to marginalised girls, including girls with disabilities, girls who have dropped out of school, and ensure that they complete secondary education and training through the adoption of appropriate policies, advocacy and strategic partnerships.
14. *Call* on Heads to increase public spending on education in accordance with country context, and urge adherence to the international and regional benchmarks of allocating efficiently at least 4 - 6% of Gross Domestic Product and/or at least 15 - 20% of total public expenditure to education by all Commonwealth countries.
15. *Endorse* the Girls' Education Framework and applaud the creation of the Girls' Education Policy Lab.

16. *Urge* Heads to commit to increasing women's access to and use of enabling technology, in particular information and communications technology; and ensure women are included in growing the digital economy
17. *Call* on Heads to promote and support women in economic development from the local to the national level; the Commonwealth can play a key role in underpinning and promoting internal trade and investments, especially for women-owned enterprises, and Commonwealth members can drive economic growth, create jobs, and ensure the prosperity of their citizens.
18. *Call* on business leaders to promote a socially responsible and accountable private sector in line with the Guiding Principles on Business and Human Rights, and implementing the UN 'Protect, Respect and Remedy' Framework, the International Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, labour, environmental and health standards, and the Women's Empowerment Principle established by UN Women and the Global Compact; and to support the proposed ILO convention 'Ending Violence and Harassment against Women and Men in the World of Work'. As change in the private sector is driven by transparency, we also call on business leaders to establish and implement reporting mechanisms to track the progress.
19. *Call* on Heads to create an enabling macroeconomic environment - including adoption of progressive tax regimes, gender responsive budgeting, investment in social infrastructure - promote decent and safe place for work; recognise, reduce and redistribute women's unpaid care work; address occupational segregation and the gender pay gap; promote protection against discrimination and a living wage for women in line with international agreements and human rights principles; and introduce and enforce existing legislations on women's access to, and control over land and other productive resources and services.

20. *Call* on Heads to lead global action on developing and implementing gender responsive trade policies and economic development in collaboration with women to ensure that women are able to benefit equally from the opportunities trade brings. Call on Heads to address the systematic barriers to women's full and equal participation in the economy, both in the formal and informal sectors including women's access to land, finance and markets, and support investment in women owned businesses. The Commonwealth could harness trade and investment opportunities through initiatives such as the SheTrades and encourage governments and businesses to join the partnership.
21. *Commit* to extending employment regulations and social and legal protection to cover women workers in the formal and informal economy including, inter alia, introduction of universal coverage and access to social protection, not linked to employment contributions.
22. *Call* on Heads to recognise the economic value of unpaid care work.

Women and Climate Change

Recognising that women are instrumental in the solutions; and that women are at the greatest risk of death from climate events and the greatest long term impact on food security, sanitation, life and livelihoods from the slow burn of climate change.

23. *Urge* that the Commonwealth commit to establish a fully resourced Commission directly addressing climate change in the small states as a matter of priority and all other countries in the Commonwealth. Such commission should incorporate business, civil society, religious communities, academia, United Nations programmes, professional bodies, local governments, individuals and all stakeholders.

Ending Violence Against Women and Girls

While many countries have made progress in adopting legislation to end Violence Against Women and Girls (VAWG) and harmful traditional practices including child, early, and

forced marriage (CEFM) and female genital mutilation/cutting (FGM/C), substantive challenges remain in preventing VAWG and in accessing justice and service provision. VAWG is one of the most pervasive human rights violations and has numerous damaging consequences for the welfare of women and girls preventing them from full participation in society. It also affects women and girls' families, their communities and states and, at two (2) per cent of the global Gross Domestic Product (UN Women, 2016), it has significant economic costs.

24. *Recognise* that intimate partner violence is the most prevalent form of VAWG, in places and times of conflict; call on Heads to provide technical and financial resources to end VAWG, including through development and implementation of legal reforms and changing social attitudes and structures to ensure justice for survivors.
25. *Further call* on Heads to support the Commonwealth Secretariat to build a coalition of governments, businesses, civil society, human rights and faith-based institutions, communities and individuals to prevent VAWG through the development of multi-sectoral tools, identification of strategies and initiatives to address VAWG, increase obligations on states to adhere to international standards and domestic laws and enhance the accountability and rehabilitation of perpetrators.
26. Sexual and Reproductive Health and Right (SRHR): *Acknowledge* that SRHR for women and girls was featured at CHOGM 2018 for the first time. Note that SRHR are inextricably linked to other relevant universal human rights, ensuring women and adolescent girls are able to lead healthy, empowered and productive lives.
27. *Call* on Heads to implement and uphold comprehensive SRHR for women and young people and ensure that by 2030 they have universal access to sexual and reproductive health care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes with relevant data collection, review and follow-up. Ensure adequate health service provision in accordance with WHO guidelines.

28. FGM/C: *Highlight* that 200 million women and girls globally are living with the impacts of FGM/C and a further 3.9 million girls are at risk of being cut every year. Recognise that with projected population growth, more girls will be at risk of FGM/C.
29. *Urge* Heads to take decisive actions to develop, resource and implement holistic national action plans in alignment with the SDGs in order to deliver on the international and Commonwealth commitments to eliminate CEFM and FGM/C. These should include work on education, access to community level resources, legislative and policy frameworks and better data to deliver on commitments to end both practices in alignment with the SDGs and the Kigali Declaration.
30. *Call* for more resources to support the Commonwealth Secretariat to collaborate with relevant stakeholders to consider the complex drivers and data of CEFM and FGM/C to inform strategies and actions, including supporting schemes for women of all ages, and to prioritise early programming to respond to and prevent CEFM and FGM/C, particularly in emergencies and armed conflicts.
31. Human Trafficking: *Highlight* that women and girls are also disproportionately affected by human trafficking, domestic slavery, servitude and child exploitation which is a human rights violation affecting close to 152 million children engaged in child labour, almost half of in its worst forms, while over 40 million people worldwide are trapped in slavery and forced labour; the majority of whom are women and girls.
32. *Urge* strengthening of gender sensitive collaboration and cooperation with governments, businesses, civil society and development partners at the national and international level to end human trafficking and child exploitation. Encourage endorsement of the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking.

The CWF, call on Heads to consider the above recommendations, and to focus strongly on implementation, including taking forward actions to

address gender and climate change in developing and small states towards realising the **Commonwealth Charter**, the **Commonwealth Blue Charter**, the **2030 Agenda** and achieving **an Empowered Future for Women and Girls**

Sharia Law in the UK

In 2016, a task force chaired by Prof Mona Siddiqui, Professor of Islamic and Inter-religious Studies and The University of Edinburgh, was appointed to examine the extent to which sharia law is applied or misused by sharia councils in England and Wales. The Sharia Councils, which were mainly set up by Sunni Muslims in England and Wales, do not have any legal standing and their decisions are not legally binding in England and Wales but deal with certain Islamic law and are seen as “as source of guidance for many Muslims” providing advice on issues such as religious marriage/divorce. As non- legally binding voluntary associations, they have no judicial powers and were not courts, though it was a general mis-conception in England and Wales that they did have judicial authority.

The numbers of sharia councils in the jurisdiction was not known but it was probably in the region of 80. According to the report: *“Men seeking an Islamic divorce have the option of ‘talaq’, a form of unilateral divorce that they can issue themselves. Women do not have this option, unless inserted as a term in the marriage contract (which varies from school to school) and therefore have to seek a ‘khula’ or ‘faskh’ from a sharia council.”*

The report found that the sharia councils were usually used by women seeking a religious divorce from their spouses. The review brought to light the fact that some women had only been married under religious law and therefore had to go

to the sharia council for a religious divorce and their marriage was not registered by the civil authorities in England and Wales. One of the recommendations that came out of the report was to press the government to amend the Marriage Act 1949 and the Matrimonial Causes Act 1973. These changes would bring Islamic marriages in line with Christian and Jewish marriages and would ensure that the civil registration took place at the same time as the religious ceremony. This would protect women in divorce proceedings and to protect their rights as divorced individuals and civil divorces are more likely to be accepted by sharia councils as evidence of divorce, the report suggests. In addition, the celebrants would have to ensure that civil registration took place or they could be prosecuted.

The review also recommended that there should be an awareness raising programme within Muslim communities in England and Wales to make sure that women’s rights were observed. Couples who did not register their marriage under civil registration did not benefit from legal entitlements and women in this situation could find themselves not only without financial support but also without access to accommodation, transport, pensions and other rights.

Whilst some sharia councils operated good practice there was evidence that some were discriminatory and women were being asked amongst others to make concessions to their husbands (in kind or in financial contributions), procedures were drawn out deliberately, the women were not given advice on their status or subjected to inappropriate questions etc...

In addition few if any had women on any of their boards. The Review taskforce felt, therefore, it was important that sharia councils were regulated. Self- regulation was

rejected as an option as all sharia councils are linked to specific mosques and are independent of each other. It was therefore suggested that the government put in place an over-arching organisation which would put in place a code of practice which all sharia councils would need to implement.

The code of practice should include / require at least the following:

- in matters of family law councils should confine themselves to religious marriage and divorce only;
- any matters respecting children and financial remedies must be referred to the family justice system;
- a proper understanding of the role of the family justice system and how and when to direct parties to it;
- common application forms, marriage certificates and divorce certificates;
- the promotion of standard marriage contracts to include a clause giving the wife a right to divorce;
- a common approach to fees or at least a range of fees;
- the need for safeguarding policies including how to deal with applications for a religious divorce brought by vulnerable women;
- clarification of reporting duties for example in relation to domestic violence
- the proper recognition and role of women as panel members of councils;
- the issuing of a religious divorce following a Decree Absolute in the family court;
- agreed transparent systems of record keeping;
- training and accreditation through existing schemes where a council offers mediation or arbitration services;
- preventing forum shopping among councils;
- consideration of language barriers and the provision of interpreters where required;

- there must be appeals, complaints and disciplinary procedures.

For those reasons we recommend that the state:

1. create a body to design a system of self-regulation of sharia councils, including a code of practice;
2. ensure that such a body includes both specialist family lawyers and sharia council panel members;
3. ensure that effective arrangements are in place to monitor the compliance of sharia with any such scheme

The full report is available on:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/678473/6.4152_HO_CPFPG_Report_into_Sharia_Law_in_the_UK_PRINT.pdf

Women's rights: Forbidden Subject

On 8 March 2018, Reporters Without Borders (RSF) published its report **"Women's Rights: Forbidden Subject"** which outlines the difficulties faced by journalists when covering issues related to women's rights. A copy of the report is available at:

https://rsf.org/sites/default/files/womens_rights-forbidden_subject.pdf

According to the report, 90 journalists in over 20 countries were killed, imprisoned or physically attacked for reporting on women's rights or gender issues and this since 2012. Forty other reporters have been threatened via social media. In September 2017, it was reported that Gauri Lankesh, the editor of Gauri Lankesh Patrikie, a feminist weekly which was created by her father, was shot and killed.

According to the report: *"A few weeks after the murder, the government of Karnataka, the state where it took place, said the killers had been identified but "evidence is still being collected to prove their guilt." In a press release issued at the*

time, RSF called on the Indian authorities "not to compromise in any way in rendering justice to a journalist who was completely uncompromising," and to establish a national plan of action for the safety of journalists and for preventing dangers and threats against them. This request has not as yet received any response"



In Canada in 2012, a blogger who had criticized the way portrayal of women in video games was threatened with rape and worse online. She had to flee from her home eventually due to the fact that a video game was created allowing players to "beat her up" electronically.

In Uganda, in 2017, a female journalist who criticized the government was kidnapped at gunpoint in Kampala by a man and a woman who drove her out of the city it was reported and *"shaved her head, beat her, and threatened to torture her..."* they also made her delete all of her social network posts for being too critical. They finally dumped her at an isolated location where police found her.

And of course, the investigative and anti-corruption journalist Daphne Caruana Galizia was brutally murdered by a car bomb in Malta in October 2017. Her sons who have been trying to get justice for their mother's killing and allegedly been threatened by the government following the high profile corruption investigations their mother had been involved in.

"Journalists should not have to risk their lives in order to cover women's rights in 2018 but unfortunately they do in many parts of the world," RSF secretary-general Christophe Deloire said. *"In this report, we show how press freedom's predators obstruct*

investigative reporting and coverage of women's rights by journalists, both men and women. And we offer very clear recommendations for ensuring that both halves of humanity enjoy the right to equal treatment by the media everywhere, without which we cannot talk of journalistic freedom and pluralism."

Red Rose Foundation of Australia

The Red Rose Foundation is a charitable organisation dedicated to raising community awareness about domestic and family violence related deaths in Australia.

The Red Rose Foundation launched its training and awareness video "**Deadly Romance**" at a Candelight Vigil in Brisbane on 2 May 2018. It sends a powerful message about controlling behaviour in domestic relationships as a precursor to lethality in a unique way - through the medium of dance. The video can be seen on YouTube at: <https://www.youtube.com/watch?v=Ek2ToCZYQPg>

Its lobbying and educational campaign was instrumental in the establishment of the Domestic Violence Death Review Board and the introduction of a specific criminal offence of non-lethal strangulation in Queensland. It conducts training seminars for first responders; domestic violence agencies and judicial officers. The Foundation has pioneered Strangulation Prevention Training in Australia with annual forums conducted by international medical and legal experts. It is working towards the establishment of Strangulation Trauma Centres because of the high numbers of women who do not receive appropriate medical care after surviving strangulation.

Strangulation studies have established that:
-Most strangulation cases produce minor or no visible injury -many victims suffer internal injuries (carotid dissection; laryngeal fractures) that can lead to a stroke for several months after surviving an assault that lasted only 6-15 seconds
-strangulation is a gendered crime - victims of nonlethal strangulation are 7 times more likely to be victims of intimate partner homicide -most perpetrators do not strangle to kill - they strangle to show they can kill.

By Magistrate Linda Bradford-Morgan

News from Around the Commonwealth

AFRICA

According to Carmel Ricard (the reporter on A Matter of Justice for Legalbrief Africa) "*War is being waged in the southern African region: against women. That's the conclusion you could come to from regularly reading court decisions in this part of the continent.*" She reported on four cases from Namibia. The first related to a policeman who had tortured and murdered a man who had slept with his wife (*S v Ilukena*). *He was found guilty of diminished criminal responsibility as his wife had committed adultery and due to the "injury to his masculinity and his pride" ! In the second, the man claimed his wife had committed suicide though she had been strangled with a rope (S v Eksteen).* His sentence of 20 years was reduced after the court indicated that "crimes of violence against women were on the rise". In the third case, the man stabbed his girlfriend in a frenzy and locked her in her house to die.

According to Carmel Ricard, there were also a number of cases in South Africa around the same time (April

2018) and there has been a rise in domestic violence and killings there too.

Justice Amy Tsanga of Zimbabwe has described such crimes as "gender-based torture" when sentencing a man for murdering his wife of 36 years using an axe and metal bar. The Matter of Justice report goes on to quote Justice Tsanga (see report below). She went on to remind the authorities to respect and protect women's rights and not to ignore women when they came to report threats.



In a ground breaking judgment, High Court Judge Lot Moroka in May 2018, ruled against allowing a damages claim for adultery. In his judgement he indicated that Botswana was bound by the African Charter on Human and Peoples' Rights and stated that marriage was a "contract of equals". However, Carmel Ricard expresses her doubts about the final words of the judge who explained that there were alternative remedies that could be used (such as restraining orders). For the full report on A Matter of Justice see:

<http://legalbrief.co.za/story/ruling-against-archaic-adultery-delict-tarnished-by-remedies-suggestion/>



In May 2018, the Kenya High Court has ruled against a petition which would have allowed divorced couples to claim ownership of assets that had been acquired before the relationship. The Federation of Women Lawyers in Kenya had campaigned for the clause in the Marriage Property Act to be declared unconstitutional, and couples to be

entitled to an equal share arrangement. However, according to a BBC Report the judge hearing the case indicated that ‘a person cannot walk into a marriage and then walk out with more than what they deserve’.



Kiribati

In January 2018, the Kiribati Women and Children Support Centre was launched to “better support women and children who are affected by violence. We want to ensure the Centre provides quality services while ensuring women and children feel safe and confident to come to us and seek support,” according to the Coordinator Ms Teretia Tokam. The Centre has been created thanks to support from the Kiribati Family Health Association and funded by the Australian Government's aid program's Pacific Women Shaping Pacific Development initiative, including funding for technical support and training provided by UN Women and the Fiji Women's Crisis Centre.



Nigeria

Following the report in the last Gender Newsletter, about the controversy that erupted in Nigeria when the Nigerian Law School, the denied Muslim law graduate, Amasa Firdaus, we are pleased to inform readers that in July 2018, Ms Firdaus was allowed to wear her hijab during her graduation ceremony at the Nigerian Law School (see report: <https://cityvoiceng.com/hijab-girl-amas-firdaus-joins-1561-others-to-graduate-from-nigerian-law-school/>)



Papua New Guinea

In 2015, the PNG government launched the Sorcery and Witchcraft Accusation Related Violence National

Action Plan (Sorcery National Action Plan) to address violence in these cases. As part of the National Action Plan, the Queensland University of Technology, in partnership with the Centre for Social and Creative Media at the University of Goroka, is researching and developing communication strategies to change attitudes. The project which is funded by the Australian government wants to reduce violence related to accusations of sorcery across the Pacific using alternative methods of communications such as photography, story-telling, and film. The University of Goroka has already been involved in such creative means of communication for advocacy projects in the past.

A number of digital stories have been created as a result and circulated around PNG. These can be found at the Yumi Sanap Strong facebook page:

<https://www.facebook.com/pg/yumi-sanapstrong/posts/>



Tonga

The CMJA was deeply saddened to hear of the sudden passing of Ms Susan Faletau, Chief Executive Officer of the Ministry of Justice of Tonga in March this year. Susana had worked in the Ministry of Justice for a number of years, having previously worked in Foreign Affairs and for the Prime Ministers Office. She was a great promoter of the Commonwealth (Latimer House) Principles and supporter of judicial independence. She also an advocate for women's rights and equality and one of her more recent projects was the launch of the Women's Crisis Centre in Nukua'lofa in December 2017. In an interview in December she indicated that “the government will be offering legal aid in advising victims of domestic violence and we will give advice on how to proceed with action against the perpetrators. We will also include within that advice, if the case goes

further and the women or the family need further protection, we will help them you know to move on in life. We will be providing the legal services to help them move on. For example if it does come to custodial legal action after these court cases then we will provide those legal services as well for those survivors.” Susana will be missed especially her contribution to women's rights in Tonga and the Commonwealth.



Trinidad and Tobago

Over the last two years, the Caribbean Association of Judicial Officers (CAJO), along with UN Women and the JURIST project, have been promoting the establishment of Gender Protocols among Caribbean judiciaries. These protocols are aimed at providing guidance to judicial officers on aspects of how to adjudicate in a gender sensitive manner. The generic protocol formulated by the group is being adapted to different jurisdictions around the region. The Trinidad and Tobago's Judicial Education Institute has recently launched the final version of its protocol. The protocol is aimed at all judicial officers and “*simply represents suggestions on the best practices to be adopted when faced with inequality as a result of gender or any other source of discrimination. It seeks to provide the Judicial Officer with guidance on how to approach adjudication in a manner that will allow for more than just a strict application of the laws.*”

The Gender Protocol for Judicial Officers calls for a gender perspective in determining the rights and responsibilities of individual components of society and how the laws affects individuals, especially the more vulnerable members of society. There should be no discrimination on the basis of sex, gender, and /or sexual orientation. Judicial Officers, the

Protocol indicates, have a responsibility to ensure access to justice and equality of treatment for all before the courts and where this doesn't happen, to seek to remedy this inequality.



Uganda

The Supreme Court of Uganda has recently rejected the “cautionary rule” in a horrific incest case where a young girl was raped over a period of 2 years by her father. The father who had been convicted appealed to the Supreme Court who upheld his conviction and sentence to 14 years in prison. The Supreme Court also indicated that the cautionary rule “discriminatory, illogical and unconstitutional”. However, it did “warn” itself of the dangers of taking into account “uncorroborated evidence of a complainant in a sexual assault case”. One of the Supreme Court Judges, Justice• Tibatemwa-Ekirikubinza issued a separate, concurring judgment on the case.

The full analysis of the issues can be found in [A Matter of Justice](#).



South Africa

Draft Bill to fix unconstitutional law on marriage

In May 2018, the South African Justice Dept. invited public comments on the proposal to amend the Recognition of Customary Marriages Act of 1998 so that women who entered into polygamous marriages before the Act might gain access to property rights. In 2017, the Constitutional Court declared the Act unconstitutional and gave Parliament 24 months to change the discriminatory articles in the Act.

[Draft Recognition of Customary Marriages Amendment Bill, including call for comments](#)

Constitutional Court invalidates Section in Wills Act on polygamous marriages

In the meantime the Constitutional Court of South Africa have declared invalid the Section 2C(1) of the Wills Act related to the rights of surviving spouses in polygamous marriages. In [Moosa and Others v Minister of Justice and Correctional Services and Other](#) the court indicated that the Section should include every husband and wife of a monogamous or polygamous Muslim marriage married under Islamic law.

Proposed abortion law changes rejected

The South African Parliament in May 2018, rejected a proposed Bill which would force women wanting an abortion to undergo an ultrasound and mandatory counselling. The Bill proposed by Cherrylynn Dudley MP following advice from Doctors for Life. The Bill which was considered by the National Assembly's Health Committee was rejected on the basis of the increased costs that would incur as a result but also as it provided barriers to accessing healthcare if termination was being sought.



United Kingdom

England and Wales

In May 2018, the English newspapers reported that a group had been sent up “Behind the Gown” to look at sexual harassment at the Bar and in the Courts. According to a recent survey 40% women have indicated that they were victims of sexual harassment. According to the Group, barristers chambers and courts were plagued with sexual harassment and bullying.

Northern Ireland

In June 2018, the UK Supreme Court ruled on the question of whether or not to change the law in Northern

Ireland to allow abortions. The Northern Irish Human Rights Council stated that denying abortion to women in Northern Ireland contravenes the European Convention on Human Rights and in particular the right to a private and family life (Article 8). Other parts of the UK abolished the anti-abortion law in 1967 but it was retained in Northern Ireland. The Belfast High Court in December 2015 had indicated that the law was incompatible with the ECHR but in 2017 this decision was overturned by the courts and the UK Supreme Court dismissed the appeal stating that NIHRC had no standing and therefore the Supreme Court had no jurisdiction to decide on the incompatibility question though the judges did indicate that the right was incompatible with the right to a private and family life as outlined in the European Convention on Human Rights and called upon MPs to consider the issue.

*In a referendum in May 2018 held in the Republic of Ireland in May 2018, 69% of the population voted to repeal the part of the constitution which banned abortions.

Zimbabwe

Although Zimbabwe is not a current member country of the Commonwealth, the Editor felt that this story from Zimbabwe was worth mentioning.

A judge in Zimbabwe has slammed fatal domestic violence against women as 'gender-based torture'. Sentencing a man who savagely murdered his partner the judge, Amy Tsanga, said women were '*clobbered, booted, strangled, stabbed or slashed to death*' by their partners. *Such attacks so often happened in their own bedrooms that these spaces had become 'a deadly environment' for women*". In her A Matter of Justice column on the Legalbrief site, Carmel Rickard writes about this and other similar cases finalised in the courts of the southern African region in the first half of April alone, and says

there seems to be a 'war against women'.

Seeking Regional Representatives of the Gender Section

Duties of the Regional Representative

Each Regional representative would be expected to galvanize activities within their region and promote the aims and objectives of the Section (see below for further information on the objectives) Each regional representative would have authority to call on active judicial officers in each of the countries in their region to advance the aims and objectives or assist with information on developments on gender issues.

Each Regional Representative would submit an annual report to the Gender Section Chairperson in time for the chairperson to report back to Council on activities.

Further information about the Gender Section can be found on the CMJA's website at: www.cmja.org/gender

IF YOU WANT TO REPRESENT YOUR REGION OR PLAY AN ENHANCED ROLE IN THE GENDER SECTION, PLEASE CONTACT:
Dr Karen Brewer, Secretary General at the CMJA:
kbrewer@cmja.org

CLOSING DATE for Applications for The Gender Section Representation:
24 AUGUST 2018

Current Gender Section Committee

Justice Lynne Leitch
(Chair, Council)

Mrs. Nicole Stoneham
(Vice Chair, Council)

Ms. Debbie LeMottee
(Secretary)

Regional Representatives:

Mrs. Cordella Bart-Stewart,
Atlantic and Mediterranean

Justice Carolita Bethell,
Caribbean

Ms. Naume Sikohya,
East, Central and Southern Africa

Mrs. Linda Bradford-Morgan,
Pacific

Mrs. Olubunmi Ayobowale
Akokhia,
West Africa

Ideas? Suggestions? Comments? Contributions?

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.



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:
 - a) Gender Bias and other colleagues;
 - b) Gender Bias and the Public both specifically and generally;
 - c) 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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9-14 September 2018

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Places still available