

CMJA NEWS

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EDITORIAL

Since the last newsletter and for most of the period between April and September 2012, the CMJA Secretariat has been heavily involved in the preparations for the CMJA's 16th Triennial Conference held at the Commonwealth Resort and Conference Centre, Munyonyo, Uganda. The Theme of the Conference was: "*Justice for Everyone: Myth or Reality?*" We are deeply grateful to the Chairman of the Local Organising Committee, Mr Henry Adonyo and all his colleagues on the Local Organising Committee for all their assistance, in the run up and during the conference. We are also deeply grateful to the Chief Justice, the Judiciary of Uganda, the Government of Uganda for their generous support of the Conference. We are also deeply grateful to the International Commission of Jurists (ICJ) at the headquarters in Geneva, their Africa office and the Kenya branch for their generous support of the Conference.

During the Conference, the CMJA also held its Regional Meetings when the new regional Council Members were elected as well as the election of regional representatives of the Gender Section. The General Assembly of the Association was held in 14 September 2012.

Staying with the theme of the conference, immediately prior to the Conference the CMJA held a workshop jointly with the Centre for Justice Studies and Innovations, the Justice Law and Order Sectors on "*Access to Justice: Dialogue with Court Users – Making Access to Justice Real: Applications of Innovations in Family Justice*".

There was also pre-Conference meeting of Chief Justices of the

Commonwealth where the Chief Justices discussed: "*Judicial Accountability: The Challenge of Judicial Productivity and Performance Management*".

Threats against judicial independence and human rights abuses have continued to rise in the last five months and the CMJA has been monitoring these issues. The CMJA Council has been concerned about the increasing lack of respect for the judiciary and judicial independence across the Commonwealth and took a resolution during the Conference on this issue. The Council also agreed to increases in the subscriptions from January 2013, the first rise since January 2010.

The CMJA has continued to monitor progress at the Commonwealth level in relation to the recommendations of the Eminent Persons Group to Heads of Government in 2012. It notes the progress made with the drafting of the Charter for the Commonwealth at the Commonwealth Foreign Ministers Meeting held in New York in September (See: <http://www.thecommonwealth.org/news/34580/34581/250284/290912cfamm.htm>) and looks forward to seeing the final version of the charter. Though it is important that the charter provides the impetus to the Commonwealth governments to comply with Commonwealth fundamental values.

At the Commonwealth Law Ministers Meeting held in July 2011, in Australia, Ministers urged the Commonwealth Secretariat to establish a "*a multidisciplinary working group of experts to review the practical implications of cybercrime in the Commonwealth and identify the most effective means of international co-operation and enforcement, taking*

into account, amongst others the Council of Europe Convention on Cybercrime, without duplicating the work of other international bodies; and that the Working Group collaborate with other international and regional bodies with a view to identifying best practice, educational material and training programmes for investigators, prosecutors and judicial officers".

The Commonwealth Heads of Government who also met in Australia in October 2011, reiterated their commitment to improve national security by improving legislation and capacity in tackling cyber crime and other cyber space security threats.

Earlier this year the CMJA was invited to be a member of the Cybercrime Working Group which was set up to:

- Firstly explore the practical implications of addressing cybercrime in the Commonwealth;

CONTENTS

- 1 Editorial
- 2 CMJA Resolution
- 2 CMJA Council Members
Justice Vertes – New President
Gender Section Members
CMJA Triennial Conference
- 2 New President's Speech
- 3 Gender Section
- 3 CMJA Conference
- 5 Judicial Independence and Human Rights Issues
- 7 Access To Justice For Court Users
- 8 New Members
- 8 Diary of Events

- Secondly identify the most effective means of international cooperation and enforcement to combat cybercrime taking into account the work of other international organisations;
- And thirdly identify best practice and educational materials for training of criminal justice officials, investigators, prosecutors and judicial officers, as well as identify suitable training programmes for investigators, prosecutors and judicial officers.

The Cybercrime Working Group has met twice so far and the CMJA is a member of the Training sub-committee. Whilst the Council of Europe has developed a training manual for judges and magistrates, the CMJA would be extremely interested in receiving feedback from you on what you consider the requirements might be in terms of training or in terms of enforcement in your jurisdiction.

As you know the CMJA launched its new website in April 2012. We hope that you will use this on a regular basis and look forward to your interaction in the Membership area and on our Messageboard.

COUNCIL RESOLUTION

The CMJA Council adopted the following resolution which was also signed by His Hon. Chief Justice Odoki, as Chairman of the Chief Justices Meeting and endorsed by the CMJA General Assembly:

The Council expressed concern that stronger action has not been taken by governments to ensure that the Commonwealth (Latimer House) Principles are being respected and adhered to by governments throughout the Commonwealth with particular reference to the independence of the judiciary; and directs the CMJA' to take such steps as it considered appropriate to ensure that the Commonwealth Secretariat continues to promote adherence to that aspect of those Principles and to maintain the momentum that was noted by the Commonwealth Secretary General at the Colloquium Meeting in Edinburgh in 2008.

CMJA COUNCIL 2012–2015

The following were elected to Council for the period 2012–2015

PRESIDENT The Hon. Justice John Vertes (Canada)

EXECUTIVE VICE PRESIDENT Judge Tim Workman, (England and Wales)

ACTING TREASURER Judge Tim Workman (England and Wales)

REGIONAL REPRESENTATIVES ATLANTIC & MEDITERRANEAN

Sheriff Michael Fletcher (Scotland),

REGIONAL VICE PRESIDENT

Her Hon. Justice Lynne Leitch (Canada),

COUNCIL MEMBER

Prof. John Howson JP (England and Wales)

CARIBBEAN

REGIONAL VICE PRESIDENT Justice

Margaret Ramsay-Hale (Turks and Caicos Islands),

Having not received any other nominations from the Caribbean Region, the Council will consider

appointment to the other two positions in due course.

EAST, CENTRAL & SOUTHERN AFRICA

REGIONAL VICE PRESIDENT Justice

Charles Mkandawire (Malawi),

COUNCIL Mrs Matankiso Nthunya (Lesotho),

COUNCIL Mr John Eudes Keitirima (Uganda),

INDIAN OCEAN

COUNCIL Justice Vernon Ong (Malaysia),

COUNCIL Mr Denis Mootoo (Mauritius),

Having not received a nomination for the Regional Vice Presidency, the Council will consider appointment to the other two positions in due course.

PACIFIC OCEAN

REGIONAL VICE PRESIDENT

Dr John Lowndes (Australia),

COUNCIL Sir Salamo Injia (Papua New Guinea),

COUNCIL Judge Richard Cogswell SC (Australia),

WEST AFRICA

REGIONAL VICE PRESIDENT Mrs

Olufolake Oshin (Nigeria),

COUNCIL Justice Francis Korbieh (Ghana),

COUNCIL Mrs Nkiruka Franklin-Iguh (Nigeria),

Mrs Justice Norma Wade Miller, remains on Council as the Immediate Past President and the Life Vice Presidents, Mr Justice Kipling Douglas, Lord Hope of Craighead, Mr Michael Lambert, Judge Sandra Oxner and Mrs Clover Thompson-Gordon, remain unchanged.

Judge Shamim Qureshi, was reappointed by Council as Director of Programmes.

JUSTICE JOHN VERTES – PRESIDENT OF CMJA

The following is the acceptance speech by Justice Vertes on his election as President of the CMJA for the period 2012–2015

“Distinguished delegates, ladies and gentlemen, friends and colleagues, it is with pleasure, pride and a hearty dose of humility that I take on the position of President.

For those of you who are not familiar with my background, I served for 20 years as a judge of the superior courts of Canada’s northern territories, I retired last year as the Chief Justice of the Supreme Court of the Northern Territories and now I serve as a part-time deputy judge of that court. I thought I would have a lot of time to reflect and relax but obviously there were some in this Association who had other plans for me. And I accept this position fully aware of the responsibility reposed in me.

Before I go any further, I wish to propose to this assembly a resolution – one that I know all of you will join me in making unanimous – a resolution of thanks and appreciation to our past President, Justice Norma Wade Miller – for her dedication and leadership of this Association for the past three years.

I thank Chief Justice Odoki and the judiciary of Uganda for welcoming us to this beautiful land and for their support of the work of this Association.

I congratulate the Local Organising Committee and the Steering Committee for a successful and stimulating conference.

The primary aim and objectives of the CMJA are the promotion and protection of the independence of the judiciary and

the advancement of judicial knowledge and education. I invite you to review the reports of the Secretary General and the Director of Programmes that are contained in the General Assembly papers. You will see there a catalogue of the different education programmes and training missions that were put on over the past few years in a number of countries. You will also see where the CMJA has made interventions and representations in a number of countries where our colleagues have faced challenges to their independence and where the rule of law came under threat.

These activities take a great deal of effort and strain the resources of the Association. And no one should be under any misapprehension. Notwithstanding the success of this conference, the Association is facing a number of challenges.

First and foremost is the financial one. There are unfortunately numerous member associations and jurisdictions who do not pay their annual dues, either on time or at all. This is seriously jeopardising our ability to carry on the important work mandated by our objectives.

So I ask all of you to assist us by encouraging your courts, your judicial associations, and your governments to meet their financial obligations to this Association on a timely basis.

I also encourage all of you to communicate with me, or indeed any member of Council, with your views and opinions as to the direction this Association should take in meeting its objectives. The strength and credibility of this Association rests on the support and participation of its members. So I invite each of you to learn more about our activities and to get involved.

Finally, I ask you to consider supporting the work of the Association by making a contribution to our Endowment Fund. The fund was established a few years ago to support the endeavours of the Association. Information about the fund is available in your conference materials and on the Association's website. I acknowledge and thank Chief Judge Philips of Lagos State, for her public commitment made here earlier this week to support the fund.

It is important to remember that we are an association of Commonwealth magistrates and judges.

The Commonwealth- made up of 54 member countries with over 2 billion people worldwide- is committed to shared values – democracy, adherence to the rule of law and the separation of powers, protection of human rights, development and stability. Its ethnic, cultural and religious diversity under a single umbrella is a remarkable strength not only for the advancement of these shared values but also for the example of peaceful coexistence and collaboration it shows to the world.

This Association is also committed to advancing those shared values and it is uniquely placed to do so bringing together judicial officers of all court levels from all of the countries in the Commonwealth in an atmosphere of equality, collegiality and mutual assistance.

I look forward to serving as your President for the next three years. I ask for your assistance in promoting the objectives of the Association. And I thank you for your trust and confidence.

I wish you all safe travels back to your home and I declare this 16th Triennial Conference closed."

John Vertes, 14 September 2012

GENDER SECTION 2012–2015

The Gender Section also met during the Conference and under the newly restructured governance procedure of the Gender Section, the following were elected as representatives of the Gender Section:

CHAIRPERSON Mrs Clover Thompson Gordon (Jamaica),
VICE CHAIRPERSON Mrs Anita St John Grey (England and Wales),
HON. SECRETARY Ms Debbie LeMottee (Jersey).

REGIONAL REPRESENTATIVES
Atlantic and Mediterranean: Justice Lynne Leitch (Canada)
Caribbean: Justice Paula Mae Weekes (Trinidad and Tobago) East Central and Southern Africa: Judge Angeline Rutazana (Rwanda) Indian Ocean: Justice Chandra Ekanayake (Sri Lanka) Pacific: (vacancy to be filled), West Africa: Mrs O A Sofowora (Nigeria).



CMJA 16TH TRIENNIAL CONFERENCE

The CMJA held its 16th Triennial Conference in Munyonyo, Kampala, Uganda from 10–15th September, 2012. The theme of the conference was "Justice for Everyone: Myth or Reality?". 333 people from 33 jurisdictions participated in the meeting. Following brilliant performances by the students from the Namilyango Junior School, Mukono Municipality, including the procession of the Commonwealth flags, the Conference was opened by the Vice President of the Republic of Uganda, His Excellency Edward Kiwanuka Ssekandi. The CMJA is extremely grateful to the Ugandan Judiciary, the Justice, Law and Order Sector (JLOS), the government of Uganda for their generous support of the Conference. The CMJA is also grateful to ICJ-Geneva, ICJ-Kenya, ICJ-Africa and LawAfrica for their sponsorship of the Conference.

Chief Justice Odoki, who welcomed delegates to the Conference in his welcome address also highlighted in his Keynote Speech, the improvements the Ugandan judicial system has made in delivering justice to its people since the 1970s. He talked about the "chain-linked programme" which has been instrumental in improving communication, cooperation, and coordination in matters relating to the judicial system. The sector wide approach has improved the skills of prosecutors and the investigation of crimes. It also has helped to restore public confidence in the administration of Justice, which is essential for progression. Chief Justice Odoki warned that since the courts are funded by the taxpayers, they could not "run away from their results". Therefore performance management, process management, and public management must be consistently improving the quality of the justice.

Lord Hope, also delivered a Keynote Speech at the Conference on why judges should be referees in the Courtroom and not mere spectators. If a judge did not control the courtroom the proceedings could spiral out of

control which was a waste of public resources. In his speech, Lord Hope gave a checklist that judges must follow to make court proceedings more productive which included: knowing the procedure inside and out, managing the case early, and identifying the key issues at the beginning of the case. The overriding aim was to ensure that court proceedings were carried out “as quickly and as economically as possible”.

Justice Kokaram of Trinidad and Tobago talked about the quality of justice. He affirmed that *“unless we transform our roles as judges and attorneys into peacemakers and facilitators we would be incapable of stemming a tide of public dissatisfaction with the integrity of the judicial system.”* The integration of mediation into the court system is necessary, however it cannot stall the process. In adopting an efficient, humanist approach to the law, judges can *“make the system of civil justice that more understandable, acceptable and relevant to the sufferers sitting on his stool at our doorsteps.”* Dr. Karen Brewer, Secretary General of the CMJA spoke on the topic *“Are Judges Still Dinosaurs? Keeping Up With Technology In The Law”* and the

growing use of technology in society, and how it was affecting the lives of judges. She focused on three main issues: How judicial officers could use technology to enhance their own development, what precautions judicial officers needed to take when dealing with technology, and how judicial officers could prepare for the new cases of cybercrime coming to all courts.

Justice John Vertes presented a power-point on sentencing in criminal cases which was extremely well-received. Justice Vertes discussed the importance of sentencing and its core principles. Highlighting these principles were deterrence, denunciation, and rehabilitation. The overarching principle is that *“In a rational system of sentencing the respective importance of prevention, deterrence, retribution and rehabilitation will vary according to the nature of the crime and the circumstances of the offender.”*

The CMJA continued its commitment to the Providenciales Declaration on the Child and the Law by ensuring that one of the sessions during the Conference focused on child rights. Ms. Silvia Pasti of UNICEF Uganda made a powerful power point presentation stressing the importance

of the way children were treated by national justice systems and how this was integral to the achievement of rule of law. She defined Justice for Children as guaranteeing fair and equal treatment of all children, free of discrimination, advancing the right of the child to express her views, protecting every child from abuse, and treating every child with dignity. Ms. Pasti claimed that there *“Can be no peace and security without tackling justice for children’s issues.”* Children constitute half or more than half of the population in many countries, therefore they could not be left out of the rule of law initiatives as they have been in the past. The CMJA was also privileged to hear a first-hand account from Dr Adrian Sutton, a prominent UK psychiatrist working with children in Uganda, about the affect of conflict on children in Uganda.



The children and teachers from Namilyango Junior School, with the CMJA Executive Vice President, Judge Tim Workman

Justice Isaac Lenoala, East African Court, and Justice Charles Mkandawire, Registrar of the SADC Tribunal

Former Council Member, Mrs Sybil Roach-Tennant JP and delegates with the Mayor of Jinja, during the Day Trip to the Source of the Nile



Descending to view the Kalangala Falls



Mr Henry Adonyo, Chair of the LOC with fellow LOC members and delegates



The Kalangala Falls



The Chief Justice and Deputy Chief Justice being honoured for their service to the Judiciary of Uganda at the Gala Dinner for the CMJA Triennial Conference, in the presence of the former President and current President of the CMJA



Cultural performance during the Gala Dinner looking over Lake Victoria



Judges "shaking their bones" at the Gala Dinner

JUDICIAL INDEPENDENCE AND HUMAN RIGHTS ISSUES

FIJI ISLANDS

The situation in Fiji continues to cause concern. The Law Society of England and Wales Charity issued a report following a private visit by Nigel Dodds their Chairman to Fiji in November 2011. The report found that there was no rule of law no freedom of expression and that the independence of the judiciary could not be relied upon. The Chairman by-passed a strict blockade on monitoring visits of the situation in the country, which had seen representatives of the United Nations and the International Bar Association refused entry. The findings were published in the Law Society Charity's report 'Fiji – The Rule of Law Lost' early this year and accepted by the Law Society in a resolution passed by its governing Council on 17 May 2012. In May the Law Society was invited by Fiji's Director of Public Prosecutions, Christopher Pryde, to return to Fiji "to get a more balanced picture of the Fiji legal system". Though the Law Society of England and Wales has taken the issue up and declared that they are willing to

participate in a delegation to Fiji to carry out a more indepth investigation, so far there has been no follow up from Fiji. The Citizens Constitutional Forum in Fiji published a summary of the report. In July 2012 proceedings for contempt were issued against the Chief Executive and the Organisation for publishing this. The case has been adjourned until November 2012.

Former Court of Appeal Judge, Justice William Marshall, whose contract ended in June 2012, has issued a 143 page petition to President Bainimarama, claiming that the Attorney General has been the prime mover in the abrogation of the rule of law. He paints a very depressing picture of the rule of law, the lack of judicial independence and the quality of the judiciary now currently serving in Fiji. In the meantime, the Commonwealth Ministerial Action Group (CMAG) in its statement on 28 September 2012:

"...Ministers welcomed continued progress in Fiji, including completion of the first phase of voter registration and commencement of the constitutional consultation process. Ministers welcomed the broad-based national dialogue on Fiji's future taking place through that process, and commended the Constitutional Commission on its work to date.

Ministers emphasised the importance of a constitutional process which is fully independent, inclusive and without pre-determined outcomes.

Ministers expressed concern about remaining restrictions on human rights and the rule of law, and urged the Government of Fiji to address these, in order to create the environment necessary for credible constitutional consultations and elections."

THE GAMBIA

In August 2012, The Gambian government executed nine prisoners without warning to the prisoner's families, lawyers, or to the prisoners themselves. They were taken out of their cells in the middle of the night and executed via firing squad. This is the first time the Gambia has executed prisoners in 27 years. Of the nine prisoners two were Senegalese nationals and one was a Gambian woman. The Senegalese government demanded that the third Senegalese prisoner is spared. President Yahya Jammeh says that further executions of all 47 inmates will take place; many of the prisoners are former officials and top military advisors who have been incarcerated since 1994 since Jammeh took power in a coup. Activist groups believe that this is a giant step in the wrong direction for the Gambia whose

African neighbours Senegal, Ivory Coast, and Togo have all abolished the death penalty. The death penalty was abolished in the Gambia when former President Dawda Jawara led the country but reinstated in 1995 shortly after Mr. Jammeh seized power. Amnesty urged Gambian authorities to "immediately halt any further possible executions".

PAPUA NEW GUINEA

Following the controversy over the primeministership in 2011 and the arrest of the Chief Justice in March 2012 and the subsequent passing of the controversial law allowing the Papua New Guinea Parliament to remove a judge if he was deemed to be biased in their view, tension between the judiciary, government and parliament continued in PNG until the elections which were held in July 2012. Following the elections, the Prime Minister, Peter O'Neill has formed coalition government and has agreed to repeal five controversial laws introduced last year. *"The coalition government that I lead now has agreed to correct the wrongs of the recent past by repealing these controversial laws. We have done so to restore confidence in the judicial, legal, political and administrative systems and processes established by the Constitution,"* he said in a statement. Amongst these "controversial laws" is the Judicial Conduct Act 2012 which led to protests earlier in the year.

SADC TRIBUNAL

For the first time, the CMJA issued statement jointly with the Commonwealth Lawyers Association (CLA) and the Commonwealth Legal Education Association (CLEA) on the decision by the Southern African Development Community (SADC) Summit of Heads of State to negotiate a new Protocol on the SADC Tribunal and limit the mandate of the Tribunal to interpretation of the SADC Treaty and Protocols relating to disputes between Member States. The decision went against the recommendations made by the independent review initiated by SADC and submitted in March 2011 and the the *Commonwealth (Latimer House) Principles*. *"The failure of the Summit to reinstate the Tribunal in its original form, together with the decision to renegotiate the mandate, raises difficult questions as to the institutional balance and separation of powers within the various structures of SADC itself as well as wider questions*

of commitment to the principles of democracy, human rights and the rule of law, including the independence of the judiciary, as set out in the SADC Treaty itself." A copy of the full statement can be found on the CMJA's website.

SOUTH AFRICA

The CMJA has been monitoring the progress of the controversial "Traditional Courts Bill" which has been brought before the South African parliament. The Traditional Courts Bill would create a separate legal system for 18 million rural South Africans. The Traditional Courts Bill, as currently drafted would allow Chiefs in traditional societies, to be the judges in legal disputes amongst residents within their jurisdiction. Supporters of the Bill believe that the adoption of this Bill would free up the existing judicial system, reduce delays and ensure better productivity within the

administration of justice in South Africa. However, the rights of women, children and other vulnerable members of society would be put in jeopardy as the bill as currently drafted does not allow for these vulnerable individuals to chose which court they want their case to be heard in. In addition, traditional courts do not cater for legal representation. As the judicial officers in these traditional courts would not be legally qualified, the existing qualification requirements for judicial officers in South Africa would not apply to them. The Chiefs in the patriarchal, traditional dominated societies of South Africa are not necessarily aware or open to the idea of women's rights or the rights of other vulnerable groups in Society.

The CMJA has also been monitoring the progress of case of misconduct of Justice Hlophe, Judge President of Cape Town. As readers may

STOP PRESS: As we go to print, the Chief Justice of Sri Lanka is being threatened with impeachment and we are monitoring the situation there. The Lanka News reports that there are 11 charges in the motion presented to Parliament:

"The first charge in the motion is said to be a verdict by former Supreme Court Justice Mark Fernando where he had said in 1996 when Dr. Shirani Bandaranayake was appointed as a judge of the Supreme Court that she should not be appointed to hear cases related to the decentralization of power since she was partial to towards it. The charge is that she had violated this condition by hearing the case against the Divi Neguma Bill.

The second charge is that since there was a case filed against the Chief Justice's husband before the Magistrate's Court, she had the power as the Chief Justice to choose a magistrate to hear the case, which is in violation of natural justice.

The third charge is that she had abused her powers by appointing one of her confidantes to the post of Secretary of the Judicial Services Commission (JSC) sidelining 29 senior officials and without any transparency.

The fourth charge is that the Chief Justice had insulted parliamentary traditions by sending the verdict of the Divi Neguma Bill to the Secretary General of Parliament instead of the Speaker.

The fifth charge is that the Chief Justice had acted against her high office by forcing the Naula Magistrate Rangani Gamage to withdrawn a police complaint lodged by her saying she was being harassed by the JSC Secretary.

The sixth charge is that the Chief Justice had purchased a building belonging to The Finance Company that has been valued at Rs. 25 million for Rs. 19 million under her name through her husband, Prdeep Kariyawasam.

The seventh charge is that the Chief Justice had nine secret bank accounts that have not been stated in the assets and liabilities declaration that is handed to the Auditor General.

The Speaker is to appoint a seven member parliamentary select committee (PSC) to probe the key charges out of the 11 charges that have been leveled against the Chief Justice. Four members of the PSC are to be government representatives while the remaining three positions would be filled by the opposition. Attorney and Environment Minister Anura Priyadarshana Yapa's name has been proposed to head the PSC." Reported on 5 November 2012.

remember, in 2011, following a number of court cases the Supreme Court of South Africa instructed the Judicial Services Commission to reexamine the complaint made by all the then justices of the Constitutional Court that the Judge President improperly sought to influence the outcome of judgments, then pending before their court, in cases connected to corruption charges against President Jacob Zuma, a complaint the JSC had dismissed for spurious reasons. The complaint, and the messy four-year dispute that followed has severely affected the judiciary and divided the legal community in South Africa. In September 2012, a subcommittee, the Judicial Conduct Committee, concluded that Judge Hlophe was, prima facie, guilty of impeachable gross misconduct and recommended that a tribunal be established. In October 2012, LegalBrief Africa reported that a tribunal would be set up to hear the case.

ZAMBIA

In April 2012, President Sata of Zambia suspended three Judges: Justice Phillip Musonda, of the Supreme Court and Justices Nigel Mutuna and Charles Kajimanga of the High Court for alleged professional misconduct. The judges were suspended in relation to a case related to issues arising from the demise of Zambia Airways and a loan. The three judges suspended challenged President Sata's decision through a judicial review, which acted as a stay of President Sata's decision and won their case. The International Commission of Jurists sent a mission to Zambia in May 2012. In their statement the "ICJ also noted that the matter has been handled in a manner that has created potential for a serious strain in relations between the Judiciary, the Legal Profession and the Executive in a manner that does not augur well for judicial independence and harmony in the administration of justice. The ICJ encourages all those involved to exercise restraint as the process unfolds in order to avoid a situation where the public feels that there is political encouragement to attack the judicial organ or the judiciary is forced to invoke contempt proceedings in a manner that may escalate the situation. Leadership and restraint is encouraged during this difficult time" said Justice Moses Hungwe Chihengo, ICJ Commissioner. The ICJ hopes that due process and constitutional

guarantees will be followed to ensure that the process is consistent with fairness and that it is not used to undermine the independence of the Judiciary in the Republic of Zambia, as has been the case in other jurisdictions within the region."

Following this, the then Chief Justice of Zambia, Justice Ernest Sakala and his Acting Deputy Chief Justice, Denis Chirwa went on leave, pending their retirement and the President appointed Justice Lombe Chibesakunda as Chief Justice and Florence Mumba as Acting Deputy Chief Justice. In the meantime, he also appointed Judge Lovemore Chipoka of Malawi a Head of the Tribunal to hear the case against the three judges. The government appealed against the earlier decision in the judicial review case but the case has been adjourned indefinitely. In the meantime Malawian Judge Chipoka has remained at the Zambian taxpayers expense in Zambia, and will remain there until the stay before the courts of law is resolved, it is reported.



ACCESS TO JUSTICE FOR COURT USERS – THE FAMILY COURT IN UGANDA

The CMJA supported a workshop held by the Centre for Justice Studies and Innovations in Entebbe, Uganda on 7 September 2012. The Workshop which included judicial officers, lawyers, state counsel and members of civil society was held with a view to seeing how access to justice could be made a reality in the family courts in Uganda. We are very grateful to the Commonwealth Foundation for their support of this Workshop as well as the Justice, Law and Order Sector (JLOS) and the Judiciary who provided in kind support to the Workshop.

The aims of the workshop were to:

- To foster/stimulate exchange between the Commonwealth Magistrates' and Judges' Association and the Judiciary of Uganda;
- To facilitate discussion on Family Justice delivery processes by re-evaluating procedures in, and the services of, the Family Division;

- To generate recommendations of improvements in the Court system with a view to enhancing Family Justice; and
- To bridge the gap between the public and the courts of law by strengthening mutual collaboration between them.

The workshop discussed two major issues:

- The Principles and Content of Family Legislation and Procedural Reforms; and
- Improvements in the Management of court outcomes in Family Justice;

And produced the following recommendations:

THE PRINCIPLES AND CONTENT OF FAMILY LEGISLATION AND PROCEDURAL REFORMS:

- JLOS, through the Family Justice Network, should promote a full realisation by all (i.e. advocates, judicial officers and litigants) that there is urgent need to handle family matters differently. For, by their very nature such matters call for an abiding oneness and unity of all family members. For that reason there is need for advocates and judicial officers to bend backwards to help all, explain to all, simplify or overlook any complication in the law and court procedures that might potentially destroy the desired family oneness or unity.
- Promote reconciliation in contentious matters; seek to reconcile the parties, but not to encourage them to keep warring against each other with a view to perpetuating or deepening the wedge or rift in the family. The Family Division should promote ADR and it should be integrated as a way of work in the Division and in the entire family justice system.
- Produce simplified, multi-lingual IEC materials on family justice for wide dissemination to the General Public;
- Family Justice is important and must attract the funding and visibility it deserves (note: the current 10 percent JLOS budgetary allocation to family justice is not sufficient); JLOS should be the lead champion and advocate of increased budgetary allocation. Institutional reforms within the Judiciary should also be fast tracked to ensure that allocated funds are available to the Family Division on a timely basis.

- To address the procedural reforms; JLOS Family Justice component should commission a comprehensive review of family legislation. The results of the review should incorporate extensive linkages with the “non-formal” justice structures as well as recognize them as necessary components of the “justice chain”. The participants recommended that this be integrated in the JLOS Family Justice strategy for FY 2012/13.

IMPROVEMENTS IN THE MANAGEMENT OF COURT OUTCOMES IN FAMILY JUSTICE

JLOS should develop a Family Justice Strategy that should critically examine the present legislation; outcomes; institutional structures and family justice demands to generate a long term strategy for reform and harmonization of family justice content and service delivery. This should reduce overlaps in institutional mandates; harmonize demand and supply and ensure allocation of resources to where they are most needed.

In the immediate a paper outlining the state of the family division and its immediate strategy to improve access to services—(clear case backlog; fast track pending cases address outstanding issues of post grant management etc) will be internally prepared with the support of the Centre of Justice Studies and Innovations. This will be reviewed and presented internally and externally to solicit and lobby for more resources to the Division.

An ADR strategy should be designed for the Family Division; Mediation Rules specially adapted to the needs of the Family Division should be put in place (note: the Family Division mediation rules should not “disappear” in the so-called system-wide Mediation Rules).

As the Family Court system is resource strapped, this has constrained its performance and it was also recommended that:

Improve coordination between the Division, the sections of the Judiciary that manage resources and the Justice, Law and Order Sector.

In the medium term, Special family magistrates directly accountable to the Family Division should be “dispersed” through the entire court system to

handle family-related matters as and when they arise; this should be integrated in the Family Justice Strategy.

A “Heart & Mind” campaign for court users, advocates, judiciary staff to enhance speed and efficiency in the family justice execution environment should be undertaken; should be accorded priority in the Family Justice strategy speed/ efficiency, collective action, sensitisation and public education of people (to register their customary marriages for instance) need to be undertaken.

The CMJA looks forward to assisting, where possible in the realisation of these recommendations.

NEW MEMBERS

The CMJA welcomes the following new individual members:

AUSTRALIA

- Mr Clive Kitchin
- Ms Lesley Fleming

CAMEROON

- Justice Tayi Tasi Theophilus

JERSEY

- Jurat Lesley Milner

KENYA

- Hon Angela Njeri Thuku

NIGERIA

- Miss Nyekpunwo Wanjoku
- Mrs Juliet Abieyuwa Anabor
- Mr Sulyman Abdullah
- Mrs Cecilia Igwe Bakare
- His Worship Nkiruka Franklin-Iguh
- Hon Justice Olusola Williams
- Mr Ibrahim Galadima
- Mrs Rosemary Ibanibo
- Chief Magistrate Aisha Ahmad
- Magistrate Aminu Isa
- Mrs Mercy Ene
- Deputy Chief Registrar Edem Okokon
- Mr Sikiru Owodunni
- Mrs Rita Irele-Ifijeh
- Magistrate Mukaila Fadeyi
- Mrs Joy Ugbomoiko

SCOTLAND

- Sheriff Katherine Mackie
- Sheriff David Mackie

SEYCHELLES

- President Justice Francis Edward Macgregor

SRI LANKA

- Judge Priyasth Dep
- Judge Deepali Wijesundera

TANZANIA

- Judge Sophia- Adelaide Wambura

TRINIDAD

- Master Margaret Mohammed
- Justice Vasheist Kokaram

UGANDA

- Justice Jane Frances Kiggundu
- Justice Geoffrey Kiryabwire

ENGLAND & WALES

- Mr Timothy Thorne
- Mr Glenn O'Hara
- Judge Mark Sutherland-Williams
- Mr Lewis Glen
- Judge David Roderick Owen-Jones
- Judge Nahar Bird
- Mr Graham Hunt Rose

ZAMBIA

- Hon Collins Kawasha Lundah

DIARY OF EVENTS

2013

17–20 March – Sydney – Australia

World Congress on Family Law and Children's Rights – Further details are available from:

<http://www.lawrights.asn.au/>

13–14 April – Cape Town – South Africa

Commonwealth Association of Law Reform Agencies (CALRAS)

Conference – For details contact the Hon General Secretary

Email: thesayers@hotmail.com

15–18 April – Cape Town – South Africa

Commonwealth Law Conference – For further details check:

<http://www.commonwealthlaw2013.org/>

ANNOUNCEMENT COMMONWEALTH JUDICIAL JOURNAL

The Editorial Board is seeking new Members for the Board.

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

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