

# CMJA NEWS

The Newsletter of the Commonwealth Magistrates' and Judges' Association

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## EDITORIAL

This is the first digital version of the CMJA news and we hope that you will enjoy this as much as the hardcopy we used to send out to members. Hopefully you will be able to read this on your phone or your tablet or your computer. Please feel free to give us your feedback on the issue.

The last few months have been sad ones for the CMJA with the loss of a number of Council Members and former Council Members. As we went to print in October last year we learnt of the sudden passing of our Council Member for Nigeria, Mrs Nkiruka Franklin Iguh who was also the President of the Nigerian Magistrates Association. Just after Christmas, we were informed of the passing of former Council Member and Sheriff Principal, Graham Cox from Scotland who was joint Chairman of the Edinburgh Triennial Conference in 2000. Shortly after we were informed of the passing of Mr James Tweed OBE, former Council Member from Northern Ireland and in February we were informed that our Hon. Life Vice President and Gender Section Chair, the indomitable Mrs Clover Thompson-Gordon's long struggle with illness had finally taken its toll and she had passed away. With the passing of these dedicated Commonwealth judicial officers our Commonwealth judiciary has lost some of its sparkle. They were all devoted to the aims and objectives of the CMJA and made enormous contributions to the work of the Association over the years. Full tributes will appear in the next issue of the Commonwealth Judicial Journal.

As we go to print there are only 169 Days to go until we hold the next Triennial Conference in Wellington, New Zealand. The CMJA has been working with the help of our dedicated Local Organising Committee on the Conference. The **17th Triennial Conference** will take place from 13-18 September 2015 at the Michael Fowler Centre in Wellington, New Zealand. The theme for the

Conference this year is: "**Independent Judiciaries, Diverse Societies**".

Registrations have been open since December 2014. It is the first time that the CMJA has been to New Zealand for a Conference and if you register you can look forward to a stimulating educational and social programme organised by the Steering Committee and the Local Organising Committee. **REGISTER NOW ONLINE (see [www.cmja.org](http://www.cmja.org) ) or you can contact the CMJA at [info@cmja.org](mailto:info@cmja.org) for a registration brochure.**

The CMJA will also be holding its Regional Meetings and General Assembly during the Conference and a new CMJA Council will take office at the end of the Conference. Notifications of the Regional Meetings and General Assembly have been sent out and uploaded onto the CMJA Website including details of how to nominate the Regional representatives. Only paid up individual and paid up Member Associations will be allowed to nominate representatives and vote at the Regional Meetings.

As always judicial independence issues have pre-occupied the CMJA and in December we issued two statements and continues to monitor judicial independence issues around the Commonwealth.

In February we had a visit from the newly elected President of the International Association of Youth and Family Court Judges and Magistrates, Mrs Avril Calder JP, an English lay magistrate who was presiding justice in the Inner London Youth and Family Courts for 35 years. The CMJA is currently exploring ways of cooperating with the Association to advance the Providenciales Declaration on the Child and the Law which readers will recall the CMJA agreed with UNICEF in 2009.

The CMJA has also been assisting the Commonwealth Secretariat's Good Offices Section (GOS) with the Commonwealth (Latimer House) Toolkit. Currently it is working, together with its partners on the Latimer House Working Group, to assist the GOS to

roll out a training of trainers programme of the Latimer House Toolkit (which will be published we are informed in June 2015). The Toolkit which the Working Group were commissioned to draft and which was drafted by our former Director of Programmes, Judge Keith Hollis, Dr Peter Slinn (Commonwealth Legal Education Association UK Vice President, and Chairman of the CJJ Editorial Board) and the CMJA Secretary General in 2013 will hopefully provide a mechanism to allay tensions and enhance understanding between the three branches of government, especially in countries where conflicts have arisen between the branches and in line with the Latimer House Principles.

The CMJA was represented by its Secretary General at the Commonwealth's celebrations for Women's Day this year on 6 March 2015.

As usual the CMJA was represented on 9 March at the Commonwealth Day Service at Westminster

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Abbey and at the Commonwealth Day Reception hosted by the Commonwealth Secretary General at the Commonwealth Secretariat. Our Patron, Her Majesty the Queen, Head of the Commonwealth and the Duke of Edinburgh attended the service and the reception together with the President of Malta and her spouse. The Maltese President is the Commonwealth Chair in Office, as hosts for the next Commonwealth Heads of Government Meeting in November 2015. In addition, the newly elected President of Sri Lanka and his wife attended both events. The theme for this year was “A Young Commonwealth” and over 1000 school children participated in the service at Westminster Abbey.

The CMJA together with its partners in the CLA and CLEA has been working on the exhibition “Magna Carta to Commonwealth Charter” which was launched at the Commonwealth Law Conference in Glasgow in April 2015 and which is due to travel around the Commonwealth before ending up in Wellington in time for the CMJA Conference.

In early March we welcomed the Supreme Court of Guyana as the most recent Member Association and look forward to working with them to advance the aims and objectives of the Association.

## COMMONWEALTH DAY MESSAGE



**Message from  
Her Majesty The Queen,  
Head of the Commonwealth  
9 March 2015**

One simple lesson from history is that when people come together to talk, to exchange ideas and to develop common goals, wonderful things can happen. So many of the world's greatest technological and industrial achievements have begun as partnerships between families, countries, and even continents. But, as we are often reminded, the opposite can also be true. When common goals fall apart, so does the exchange of ideas. And if people no longer trust or understand each other, the talking will soon stop too.

In the Commonwealth we are a group of 53 nations of dramatically different sizes and climates. But over the years, drawing on our shared history, we have seen and acted upon the huge advantages of mutual cooperation and understanding, for the benefit of our countries and the people who live in them.

Not only are there tremendous rewards for this cooperation, but through dialogue we protect ourselves against the dangers that can so easily arise from a failure to talk or to see the other person's point of view.

Indeed, it seems to me that now, in the second decade of the twenty first century, what we share through being members of the Commonwealth is more important and worthy of protection than perhaps at any other time in the Commonwealth's existence. We are guardians of a precious flame, and it is our duty not only to keep it burning brightly but to keep it replenished for the decades ahead.

With this in mind, I think it apt that on this day we celebrate ‘A Young Commonwealth’ and all that it has to offer. As a concept that is unique in human history, the Commonwealth can only flourish if its ideas and ideals continue to be young and fresh and relevant to all generations.

The youthfulness and vitality that motivate our collective endeavours were seen in abundance last year in Glasgow. They will be seen again in a few months' time when Young Leaders from islands and continents gather to make new friendships and to work on exciting initiatives that can help to build a safer world for future generations. And last November in India, talented young scientists from universities and research institutes conferred with eminent professors and pioneers of discovery at the Commonwealth Science Conference where together they shared thoughts on insights and inventions that promise a more sustainable future.

These are stirring examples of what is meant by ‘A Young Commonwealth’. It is a globally diverse and inclusive community that opens up new possibilities for development through trust and encouragement. Commonwealth Day provides each of us, as members of this worldwide family, with a chance to recommit ourselves to upholding the values of the Commonwealth Charter.

It has the power to enrich us all, but, just as importantly in an uncertain world, it gives us a good reason to keep talking.

## JUDICIAL INDEPENDENCE ISSUES

Since the last issue, the CMJA has continued to monitor judicial independence issues across

### **MALDIVES**

The CLA, CLEA and CMJA produced a statement on the removal of the Chief Justice and Justice Adnan of the Supreme Court of the Maldives on 22 December 2014 following the decision of parliament to reduce the numbers of judges on the Supreme Court from 7 to 5 and the decision of the Judicial Services Commission that the Chief Justice and Judge Adnan should be removed. It has been alleged that the removal of the said judges was related to the political powers in play - they had been involved in cases against the current government or in dissenting judgements and attempts had been made in the past to compromise their integrity. The changes to the legislation and removal of the judges received wide publicity and the International Commission of Jurists and the UN Special Rapporteur on the Independence of Judges and followed up on this with their own statements though the government stood by its position. The Commonwealth Secretariat chose not to issue any statement on this situation and the degrading independence of the judiciary. However, in March 2015, the Commonwealth Secretary General did issue a statement when the former President of the Maldives was arrested on terrorism charges for the part he allegedly played in the abduction and kidnapping of the Chief Judge Abdullah Mohamed 2012. President Nasheed was found guilty and condemned to 13 years in prison. He is appealing the ruling by the Supreme Court. As we go to print demonstrations are being held in Male protesting his harsh sentence and lack of access to legal representation during his trial.

### **MALAWI**

Judicial staff and judicial officers went on strike in November following the government's reneging on a previous agreement on salaries and benefits on the basis that it did not have the resources to comply with the agreement. The CLA, CMJA and CLEA issued a statement on the issue in December which was read out on radio Malawi. The judiciary and staff returned to work in January 2015 though in February they rejected a 22% increase offered by government and are now negotiating with the Parliament.

## **MALAYSIA**

On 8 April 2015, Malaysia passed new Anti-terrorism laws which allow detention without trial for up to 2 years with two year extensions after that. Human Rights Watch has deplored the re-instatement of detention without trial which was removed from the statute books by former Prime Minister Najib Razak only three years ago. Human Rights Watch representatives in Malaysia have described this as a “*a giant step backwards for human rights in Malaysia*”. The role of the judiciary in anti-terrorism cases has been removed as the Prevention of Terrorism Board, under the new legislation has the only say in these matters and decisions are no longer subject to judicial review.

In addition, though the government had agreed to repeal the Sedition Act 1948, recent amendments to the act have in fact expanded the meaning of sedition in the Malaysian context making it much harsher. In addition the Act removes the right of judicial officers to discretion when sentencing and have imposed harsher terms of imprisonment for anyone found guilty of sedition. In a recent statement the Malaysian Bar, the Advocates’ Association of Sarawak and the Sabah Law Association stated that this “*is a law that undermines genuine unity and harmony, and is counterproductive to lasting peace, strong bonds of unity and real mutual respect in Malaysia. The Sedition Act 1948 has no place in our nation, which aspires to be a modern, moderate and progressive democratic society*”. The full statement is available at: [http://www.malaysianbar.org.my/legal/general\\_news/sedition\\_act\\_revisions\\_only\\_create\\_false\\_sense\\_of\\_unity\\_malaysian\\_legal\\_bodies\\_say.html](http://www.malaysianbar.org.my/legal/general_news/sedition_act_revisions_only_create_false_sense_of_unity_malaysian_legal_bodies_say.html)

## **NAURU**

No further information has been received on the current position in Nauru although foreign journalists are still being charged exorbitant visa fees. Australia has come under criticism over the state of the refugee camps in Nauru. More recently, there have been a number of claims of violence and sexual abuse by charity workers at the camps and on 5 March 2015, refugees demonstrating on the streets of Nauru were arrested by police with a number of arrests being made by the police.

## **PAKISTAN**

On 6 January 2015, Parliament passed amendments to the Constitution and to the Army Act, 1952, to allow military tribunals to try civilians accused of

belonging to “a terrorist group or organisation using the name of religion or a sect” carrying out acts of violence and terrorism. The first judgements of these courts were delivered on 2 April when seven accused persons were convicted for undisclosed offences: six were sentenced to death and one was sentenced to life imprisonment. However, the Chief Justice of Pakistan and the Supreme Court are hearing petitions from civilians that argue that extending the jurisdiction of military courts to civilians is contrary to the right to fair trial and to international conventions that Pakistan has signed up to. The International Commission of Jurists has produced a briefing paper which is available on their website; <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2015/04/Pakistan-Q-and-A-Military-Courts-Advocacy-Analysis-Brief-2015-ENG.pdf>

## **SOUTH AFRICA**

The judiciary were still awaiting fulfilment of the government promise to hand over the management of the budget to the judiciary. Since 2013, the Chief Justice has had the overall responsibility for ensuring that the judiciary functions efficiently, including case flow management and establishing norms and standards. However, to date he has not been given responsibility for the management of the budget. The Chief Justice publicly complained of the situation in an interview on 10 February 2015.

In addition the CMJA issued a letter in December, in support of the President and Secretary of the Judicial Officers Association of South Africa (JOASA) who were being disciplined before the Magistrates Commission for bringing the judiciary into disrepute for having allegedly instigated the strike of magistrates in 2013 though they were only doing their duty and representing the views of the organisation. The hearing for the case against the President of JOASA is due to be heard on 23 April 2015. The judicial reforms (including the merger of the Judicial Services Commission with the Magistrates Commission) have yet to materialise.

## **SRI LANKA**

The news from Sri Lanka has been encouraging following the election of Maithripala Sirisena as President in January 2015. The new President has indicated that he would re-instate the constitutional provisions relating to the appointment of judges which

were abrogated in 2010 and that he would sign up to the Latimer House Principles (although of course by being a member of the Commonwealth, he has already signed up to them). Former Chief Justice, Justice Peiris, was removed from his post (as he was deemed to have been appointed under the flawed impeachment of Chief Justice Shirani Bandaranayake). Justice Bandaranayake was re-instated and resigned her position the next day. Justice K. Sripavan, the most senior Supreme Court Judge was appointed as the new Chief Justice shortly after.

## **SWAZILAND**

The continued problems for human rights campaigners continue to concern the international community. In February the law firm Hogan Lovells and the International Commission of Jurists (ICJ) jointly produced a petition calling for the UN Working Group on Arbitrary Detention to issue an opinion regarding the unlawfulness of the continued incarceration of Thulani Maseko, the human rights lawyer who has been incarcerated for over a year now. “The consequences of this arbitrary action against Thulani Maseko have not only violated his rights and exacted a heavy personal toll, but have also highlighted the rule of law deficit in Swaziland,” said Wilder Tayler, ICJ’s Secretary General. Some of the fair trial guarantees that have been breached, according to the legal petition filed with the UNGWAD, include the right to be tried by an independent and impartial tribunal; right to a public hearing; right to a legal counsel; right to the presumption of innocence; right to bail; and right to protection of the law. “The use of contempt of court proceedings to suppress the right to freedom of expression is a violation of international human rights law,” said Marc Gottridge, partner at Hogan Lovells. “The right to freedom of expression is guaranteed in the Swazi constitution and international law, including treaties to which Swaziland is a party.” In March 2015 it was reported that, Thulani Maseko has been placed in solitary confinement for criticising the government in a letter to family and friends.

### **STOP PRESS:**

***Warrants have been issued for the arrest of the Chief Justice of Swaziland who is ensconced in his residence and Justices Simelane and Annadale have been arrested.***



## TONGA

Although we reported some exciting news from Tonga in the last issue, the proposed reforms to the judiciary have not yet received royal assent (since they were agreed by parliament in October 2014 and the King of Tonga has referred the proposals back to his Privy Council for further investigation.

## ZAMBIA

On 21 December, Justices Nigel Mutuna and Charles Kajimanga won their judicial review of the legality of the actions of the tribunal set up after their suspension in 2012 to hear the

case against them. Judge Siavwapa who heard the review in the judicial review had also recommended their immediate re-instatement., which duly took place.

A new government was elected in Zambia in January and former Attorney General Edward Lungu is now the President. On 27 March, it was announced that that President Lungu had dissolved the moribund Justice Chikopa tribunal and reinstated both Justices Mutuna and Kajimanga. The President has also lifted the suspension of Justices

Timothy Katenekwa and E. Sunkutu as they were cleared by the tribunals appointed to probe cases of alleged incompetence against them.

Since the election former Deputy Chief Justice Irene Mambilima has been appointed Chief Justice of Zambia to replace Acting Chief Justice Lombe Chibesakunda though her appointment has caused some controversy, following on so closely on a decision she made in court in favour of the ruling party. See: <http://www.pambazuka.net/en/category/features/93901>

## CELEBRATING WOMEN'S DAY 2015

### INTERNATIONAL WOMEN'S DAY

#### **EQUALITY FOR WOMEN IS PROGRESS FOR ALL**

A seminar on “*Equality for Women is Progress for All*” was held at Marlborough House, London. In his keynote speech Sir William Cash, MP from the UK pointed out: “What Desmond Tutu called “the greatest human rights abuse of the 21st century”, namely gender inequality, must end now. Half the world is female. Women do around 60% of the world's work, but they earn only 10% of the world's wealth and own only 2% of the land. There is no country on Earth where women have equal social and political rights to men. We have failed. So long as any nation on Earth discriminates against half its population, we have failed – that no nation should have achieved true equality is utterly unacceptable”. The speeches and discussions highlighted the Commonwealth gender priorities for the post-2015 Development Agenda. The speeches can be found at: <http://thecommonwealth.org/media/event/international-womens-day-2015>

In addition, the President of Malta, Marie-Louise Coleiro Preca launched the Commonwealth's first Women's Forum on 6th March. The Women's Forum is aimed at empowering girls and women through education, enterprise and leadership at all levels of decision making. The Forum will bring together women's rights campaigners, NGOs, government leaders, women's machineries, and powerful women entrepreneurs. It will take place at the high-level Commonwealth Heads

of Government Meeting (CHOGM) in November 2015 and the them will be: ‘*Women Ahead: Be All That You Can Be.*’ In addition to exploring and addressing the barriers women face in accessing opportunities in education, business and political leadership, it will tackle other issues, including women's health and domestic violence.

## WOMEN'S DAY MESSAGE FROM THE COMMONWEALTH SECRETARY GENERAL

### **Mr Kamalesh Sharma, the Commonwealth Secretary General issued the following message on 6 March 2015:**

*The Commonwealth observes International Women's Day each year to acknowledge the achievements, determination, and courage of women in their struggles for development, democracy, and peace.*

*Throughout history women have been marginalised; and frequently they have been oppressed.*

*In many places women and girls continue to be subjected to oppression and cruelty. This includes trafficking, slavery, early and forced marriage, female genital mutilation, and sexual violence.*

*Eliminating violence against women and girls, and eradicating prejudice and discrimination based on gender are imperatives to which Commonwealth member states collectively give high priority.*

*Progress towards these objectives also brings wider and far-reaching*

*benefits – as we are reminded by the Commonwealth theme for today: ‘Equality for Women is Progress for All’.*

*Our Commonwealth Charter recognises that: “Gender equality and women's empowerment are essential components of human development and basic human rights. The advancement of women's rights and the education of girls are critical preconditions for effective and sustainable development.”*

*Today we renew our Commonwealth commitment to removing the obstacles that still impede full and equal participation by women in so many spheres of economic and social activity.*

*Countries with higher levels of gender equality have higher economic growth.*

*Companies with more women on their Boards have higher returns.*

*Peace agreements that include women are more successful.*

*Parliaments with more women members make progress across a wider range of issues – including health, education, anti-discrimination, law reform and child support.*

*This year we reach the target date for achieving the Millennium Development Goals, and we move towards agreement on the post-2015 agenda and new global framework for sustainable development.*

*There is progress we can celebrate, including that fewer women in Commonwealth countries now die in pregnancy and childbirth.*

*More than a third of Commonwealth countries have exceeded the global target of 30% women at all levels of decision-making.*

*Women now hold leading ministerial*

posts in areas such as defence, finance, foreign affairs, environment, and justice.

Commonwealth countries have recorded high representation of women in parliaments.

To accelerate the rate of progress for women and girls, Commonwealth Heads of Government and Ministerial groupings are supporting a dual track approach to gender equality in the post-2015 development agenda, with gender equality both as a stand-alone goal and also mainstreamed across all other goals.

The Commonwealth Plan of Action for Gender Equality sets the framework within which our member states collaborate to address emerging challenges and to respond to global changes.

Priorities are:

- to end cycles and habits of sexual violence;
- to address discriminatory structures;
- to strengthen women's voices and representation;
- to provide decent work and equitable participation;
- through education for girls to improve their quality of life;
- through improved and equitable access to sanitation to raise the safety, dignity and health of women and girls; and,
- to involve men and boys as champions of women's rights.

In this vitally important work with the Governments and peoples of our member states, we value the collaboration and partnership of many Commonwealth organisations. These include the Commonwealth Foundation, Commonwealth of Learning, Commonwealth Parliamentary Association, and Commonwealth Youth Council.

Let us mark International Women's Day 2015 by celebrating the achievements of women, and by recommitting ourselves to working individually and collectively to advance equality, and respect for the rights of women.

It is through innovative approaches inspired by thought leadership - for which the Commonwealth is renowned, and the unique convening power of our worldwide family, that we add value at global, national and community levels and move ahead towards equality for women and progress for all.

## MAGNA CARTA TO COMMONWEALTH CHARTER



This year marks the 800th anniversary of the Magna Carta and the CMJA, CLA and CLEA have been cooperating on an Exhibition which

traces the journey from Magna Carta sealed in 1215 by King John to the Commonwealth Charter signed in 2013 by Her Majesty the Queen, Head of the Commonwealth. Magna Carta has had a lasting influence on countries where the common law is used and even beyond. The Exhibition includes quotations from the most important documents in the centuries since 1215 as well as a timeline of some of the important milestones around the Commonwealth. We are deeply grateful to Keith Hollis, Peter Slinn and Tim Daniel for all research and work in creating the panels and putting together the presentations included as oral explanations of the journey from Magna Carta to Commonwealth Charter. We are extremely grateful to Patricia McKellar (General Secretary of the CLEA), John Vertes (CMJA President), Norma Wade Miller (CMJA Immediate Past President), Charles Mkandawire (CMJA Regional Vice President for East, Central and Southern Africa), Tim Daniel (former CLA Treasurer) and Ratha Lehall (former CMJA Exec and Admin Officer) for recording their presentations so that we could include an interactive element to the Exhibition.

The Exhibition was launched at the Commonwealth Law Conference in Glasgow by the former President of the CLA, Mr Mark Stephens. The newly elected President, Alexander Ward together with the President of the CLEA, Prof David Mcquoid-Mason and the CMJA's Regional Vice President for the Caribbean, Chief Justice Margaret Ramsay-Hale jointly cut the ribbon to open the Exhibition on 12 April 2015 at the Welcome Reception for the Conference. Lexis-Nexis Publishers, who sponsored the creation of the panels which form the Exhibition, lent the organisers a number of their historic publications to enhance the exhibition. The Exhibition is due to travel from Glasgow to Osgoode Hall in Toronto, then onto Bridgetown, Barbados, to Lilongwe in Malawi, then on to Kuala Lumpur, Malaysia before



going to the CMJA's Conference in New Zealand.. so watch out for it if it is in your country. Dates and venues will be posted on the CMJA website. The CMJA will also be dedicating the next issue of the Commonwealth Judicial Journal in June to Magna Carta as well.

## STRENGTHENING HUMANITARIAN LAW: WHAT ROLE FOR COMMONWEALTH COUNTRIES?

The British Red Cross and Commonwealth Secretariat organised a seminar for Commonwealth States and interested NGOs on 9 April 2015 at Marlborough House, London on the above with the support of the British FCO. The CMJA was represented by Mrs Sybil Roach-Tennant, Dr Karen Brewer and Dr Aldo Zammit Borda, Editor of the Commonwealth Judicial Journal.

His Excellency Dr Rohan Perera, new Permanent Representative of Sri Lanka to the UN in New York, outlined the changing face of conflicts today with civilians increasingly being used as human shields. International Humanitarian Law as outlined in the Geneva Convention and protocols needed to change to suit these new circumstances where conflicts were no longer between states but involved non-international armed forces. The Commonwealth with the shared values



it had with international humanitarian law (IHL) in particular the values of humanity and dignity, had a role to play in ensuring that all states respected IHL and in particular integrated the international norms into IHL as well as working on a regional level to provide a forum for exchanges of good practice and training as well as awareness.

His Excellency Mr Eden Charles, Deputy Permanent Representative of Trinidad and Tobago to the UN in New York spoke about the Arms Trade Treaty (ATT) which came into force in December 2014. The Treaty is not a disarmament treaty but rather a treaty which would regulate the arms trade. The ATT in article 7 provides for the exporting state to make an assessment of whether or not the arms being exported:

- (a) would contribute to or undermine peace and security;
- (b) could be used to:
  - (i) commit or facilitate a serious violation of international humanitarian law;
  - (ii) commit or facilitate a serious violation of international human rights law;
  - (iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or
  - (iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.

H.E. Charles, outlined the importance of the ATT in fighting the arms trade in countries, such as those in the Caribbean which suffered disproportionately from the arms trade due to the proliferation of small arms engendered by the drug trade. States in CARICOM have had to use their valuable, limited resources, not to ensure economic sustainability, but rather towards combating criminal activity resulting from the illicit trade in small arms and live weapons. He called for the Commonwealth to assist so that all member signed and ratified the treaty and integrated it into domestic legislation so that the universality of the treaty was guaranteed. This is time sensitive as decisions were soon to be made on the establishment of a secretariat to administer compliance with the ATT

and procedures. If Commonwealth countries wanted to play a part then they needed to sign, ratify and integrate the treaty into domestic law in the next month or so to be allowed to participate in the Conference where these decisions were being taken. New Zealand had put in place model legislation in the Pacific for domestic application and the International Committee of the Red Cross (ICRC) had produced briefings and factsheets. However, CARICOM were pushing for permission for countries to be given a bit of leeway on the domestic application at least in relation to participation in this Conference and had proposed some transitional measures be put in place.

HE Mrs Yvette Stevens, the Permanent Representative of Sierra Leone to the UN in Geneva spoke about preventing sexual violence in armed conflict. Today it was recognised that such violence was being used as a weapon of war and had been used for ethnic cleansing and genocide with rape being the means used of ensuring that children were of the rapist's ethnic origin rather than that of the mother. This had been seen in the former Yugoslavia. Whilst the Security Council had issued a number of resolutions on this, there were still cultural issues which arose in ensuring compliance both from states and from peacekeeping forces. There was a deep need for training for forces and those who perpetrated sexual violence in conflict situations needed to be brought to justice. A culture of impunity could not be tolerated for such violence. There were also problems in relation to the slowness of justice especially in the international courts and punishments needed to metered out in a timely way so that the impact was not lost as had been the case when Charles Taylor had finally been found guilty for his crimes in Sierra Leone, years after the atrocities had been perpetrated. The Commonwealth should ensure that the armed forces were trained and that the issue of measures to punish sexual violence should feature in any peace agreement. It was also important that women and vulnerable members of society be included as full active participants in any peace negotiations.

One of the major issues which was discussed during the seminar was how to deal with the issue of non international armed conflicts and in particular non state armed

combatants... who were not bound by the Geneva Convention or protocols. The ICRC was currently consulting with states about modalities that would be used in strengthening IHL compliance mechanisms and in ensuring that norms were complied with in detentions in non-international armed conflicts. There were however no easy solutions and the ICRC were interested in any ideas that might ensure that IHL was respected by both states and armed civilian combatants

## COMMONWEALTH LAW CONFERENCE



The 19th Commonwealth Law Conference was held in Glasgow, Scotland from 12-16 April 2015. The theme for this year's conference was: "Resources,

Responsibilities and the Rule of Law". Keynote speakers included Lord Gill, the Lord President and Lord General of Scotland who spoke about the importance of guarding against blatant and subtle erosions of the independence of the judiciary and of the legal profession. He went on to stress the importance of an open and transparent system of appointment of judicial officers and of an independent bar association. Mrs Hina Jilani of Pakistan spoke about the work that Human Rights Defenders undertake across the world and pointed out that the Rule of Law cannot be abused in underpinning unjust regimes. Dame Sylvia Cartwright, former judge and Governor General of New Zealand spoke of her experiences sitting as a judge on the Extraordinary Chambers in the Courts of Cambodia (ECCC), or Khmer Rouge Tribunal on which she sat for eight years. She pointed out that the challenges faced by judges in these courts which were a mixture of local and international judges.

With four streams and over 100 speakers, the conference covered many issues from cybersecurity and corporate governance to the recent condemnation of the use of the death penalty in Bangladesh and issues relating to the freedom of expression and information and IT surveillance, there were many interesting sessions. English Barrister Anne Marie Hutchinson spoke on International

Child Abduction and shared panel with Justice Elsie Thompson from Nigeria in order to see what could be done to stop the practice of child brides in the Commonwealth. Justice Desiree Bernard spoke on Gender Equality in the law and Justice Vasheist Korkaram spoke in the session on Mediation. Dato Cyrus Das, the former President of the CLA chaired a panel on the Latimer House Principles which included Dr Peter Slinn, Dame Sylvia Cartwright and Jarvis Matiya from the Commonwealth Secretariat. The CMJA was represented by the Secretary General who ran the joint Commonwealth Lawyers Association and Commonwealth Magistrates' and Judges' Association stand at the Conference. Dr Karen Brewer also spoke at the conference on Judicial

Appointments together with Justice Graeme Mew of Canada and Justice Rohini Marasinghe of Sri Lanka. In addition, Chief Justice Margaret Ramsay-Hale and Sir Salamo Injia from the CMJA Council also participated in the Conference.

The Hon. Michael Kirby, former Federal Court Judge of Australia gave the closing Keynote Speech and spoke about the Eminent Persons Group (EPG), the development of the report submitted to Commonwealth Heads of Government in 2011. He called on the Commonwealth to return to what it was: a forward looking organisation and he expressed his and all the members of the EPG's disappointment that the suggestion of having an independent Commonwealth

Commissioner of Human Rights, Democracy and the Rule of Law had not received the anticipated support from the Commonwealth Secretary General. It was important that the Declarations became a Magna Carta for the Commonwealth and did not remain as mere pieces of paper.

The Commonwealth Legal Education Association's Moot competition which was run in conjunction with the conference was won by law students from the University of Toronto, Canada who were in the final with students from Bond University, Australia. Former President of the Bar Association of Sri Lanka, Mr Upal Jayasuriya was awarded the Rule of Law Award sponsored by Lexis Nexis at a dinner on 13th April 2015.

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## NEW MEMBERS

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### MEMBER ASSOCIATIONS

We are delighted to welcome the **Supreme Court of Guyana** as the newest Member Association of the CMJA.

### INDIVIDUAL MEMBERS

We welcome the following new members as individual members of the CMJA:

#### AUSTRALIA

Justice Berna Collier

#### BANGLADESH

Judge Abu Zafar Md Kamruzzaman

#### CANADA

Ms Paula Konstantinidis

Judge Gurmail Gill

The Honourable Simon Ruel

Mr. Justice Marc Richard

### ENGLAND & WALES

Mrs Carolyn Mellanby

Judge Katherine Southby

Mr Michael Malone

Mr Jason Tucker

Mrs Anne Harrison

Mrs Helen Alison Gilbertson

Mr. Jeremy Paul Crompton

His Honour Judge Keith Raynor

His Honour Judge Martin Picton

Judge Zafar Gondal

### FIJI ISLANDS

Mr. Andrew J. See

### GHANA

Justice (Mrs) Rosetta Sophia

Bernasko-Essah

### INDIA

Justice Balasundaram Rajendran

### KENYA

Ms Anastasia Ndung'u

Hon Catherine Wanjugu Mburu

Miss Christine Mukami Njagi

### MAURITIUS

Mrs Deviyanee Beesoondoyal

Ms Diya Beesoondoyal

### PAKISTAN

Ms Kusar Sultana Hussain

Mr Muhammad Hussain Syed

### SCOTLAND

Sheriff Kieran Anthony McLernan

### SIERRA LEONE

Justice Emmanuel Roberts

### SWAZILAND

Judge Qinisile Mabuza

### UGANDA

Judge Billy Kainamura

Justice Elizabeth Musoke

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## DIARY OF EVENTS

**13-18 September 2015**

Wellington, New Zealand

**“Independent Judiciaries, Diverse Societies”**

CMJA 17th Triennial Conference, see [www.cmja.org](http://www.cmja.org) for details

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**19-23 October 2015**

London, England and Wales

**“Challenging Corruption in Legal Systems:**

**A workshop to train trainers”**

run by Workshop Director, the Hon. Keith Hollis for Public Administration International (PAI).

See <http://www.public-admin.co.uk> for further details.

## NOTICE OF REGIONAL MEETINGS

*(during which the Election of Regional Council Members and Gender Section Representative will take place)*

We hereby give you NOTICE that the CMJA Regional Meetings will take place on

**Tuesday 15 September 2015**

At 15.45hrs

At

The Michael Fowler Centre  
Wellington, New Zealand

## NOTICE OF GENERAL ASSEMBLY

*(during which the Election of the Presidency will take place)*

We hereby give you NOTICE that the CMJA General Assembly will take place on

**Thursday 17 September 2015**

At 13.45hrs

At

The Michael Fowler Centre  
Wellington, New Zealand

**ONLY MEMBER ASSOCIATIONS AND INDIVIDUAL MEMBERS WHO HAVE PAID THEIR ANNUAL SUBSCRIPTIONS AND ARREARS SHALL BE ALLOWED TO SUBMIT NOMINATIONS FOR REGIONAL COUNCIL MEMBERSHIP AND VOTE AT THE REGIONAL MEETING**

Further information can be found on the CMJA's website at: [www.cmja.org/generalassembly.html](http://www.cmja.org/generalassembly.html)



## CMJA 17<sup>th</sup> TRIENNIAL CONFERENCE

*“Independent Judiciaries: Diverse Societies”*

13<sup>th</sup> – 18<sup>th</sup> September 2015, Wellington, New Zealand

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

