

# CMJA NEWS

The Newsletter of the Commonwealth Magistrates' and Judges' Association

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## EDITORIAL

It is always very sad to start the newsletter with the news of the passing of one of our members. It is even more so when that person has been deeply involved in the work of the Association. In February 2018, the CMJA learnt that our former Executive Vice President and Court of Appeal Judge, Sir Henry Brooke had passed away during heart surgery. His son broke the news on Twitter and said: *"the surgeon says my Dad's heart was just too big; this won't come as a surprise to anybody who knew him"*. And this is very true. All those who had the privilege to know him were saddened to hear the news. Although he was 81 when he died, his blog and tweets were and will remain an invaluable source of information to all of us and if you haven't come across these, please look for the blog.

Since the last newsletter we have been working on the preparations for the forthcoming **Triennial Conference being held in Brisbane, Australia from 9-14 September 2018** on the theme **"Becoming Stronger Together"**. Details are now available on the conference website: [www.cmja.biz](http://www.cmja.biz) We hope to see many of you there.

In November 2017, the CMJA was represented at the East African Magistrates' and Judges' Association Meeting in Kigali, Rwanda by Regional Vice President, Chief Magistrate Matankiso Nthunya.

We reported last time that the CMJA had been working with the UNODC in relation to their proposal to launch a Global Judicial Integrity Network. Justice Charles Mkandawire participated in the regional consultation for Africa held in Namibia in October 2017 and the CMJA will be represented at the launch of the Network in Vienna, Austria in April 2018. The CMJA will also be participating in the launch. Thanks to the invaluable help of Hon. Keith Hollis, former Director of Programmes, the CMJA's proposal for a panel on the theme: **"Accountability and The Independent Judge"** at the launch was accepted. Justices Lynne Leitch and Charles Mkandawire will be speaking on the panel as well as Keith.

In February 2018, Sheriff Douglas

Allan, Chairman of the CMJA's Steering Committee and Dr Karen Brewer, Secretary General were privileged to be invited to the Opening of the Legal Year during their visit to Port Moresby, Papua New Guinea.

Justice Emmanuel Lodoh from Ghana represented the CMJA at the International Commission of Jurist's (ICJ) Geneva Forum in December 2017 when the role of traditional courts was discussed.

The CMJA held its second training course on Case Management and Ethics in London from 19-22 February 2018. The next course will be held from 9-12 July 2018 and the course is already proving popular with spaces becoming limited. Register now to avoid disappointment.

The Gambia rejoined the Commonwealth in early February and the CMJA was delighted to be the first Commonwealth organisation to hold a training course in Banjul in mid-March 2018.

Looking forward, the CMJA will be participating in the Women's Forum in April 2018 and will be participating and speaking on the panel on "Separation of Powers" being run at the People's Forum. Both fora are being held in the wings of the Commonwealth Heads of Government Meeting being held in London, in the presence of her Majesty the Queen, Head of the Commonwealth.

## COMMONWEALTH DAY MESSAGE BY HER MAJESTY THE QUEEN

We all have reason to give thanks for the numerous ways in which our lives are enriched when we learn from others. Through exchanging ideas, and seeing life from other perspectives, we grow in understanding and work more collaboratively towards a common future. There is a very special value in the insights we gain through the Commonwealth connection; shared inheritances help us overcome difference so that diversity is a



cause for celebration rather than division.

We shall see this in action at the Commonwealth Heads of Government Meeting which takes place in the United Kingdom next month, bringing together young people, business and civil society from across the Commonwealth.

These gatherings are themselves fine examples of how consensus and commitment can help to create a future that is fairer, more secure, more prosperous and sustainable. Having enjoyed the warm hospitality of so many Commonwealth countries over the years, I look forward to the pleasure of welcoming the leaders of our family of 53 nations to my homes in London and Windsor.

Sport also contributes to building peace and development. The excitement and positive potential of friendly rivalry will be on display next month as we enjoy the Commonwealth Games on the Gold Coast, Australia. Contributing to the success of the Games, alongside athletes and officials, will be thousands of volunteers.

Voluntary effort, by people working as individuals, in groups or through larger associations, is so often what shapes the Commonwealth and all our communities. By pledging to serve the common good in new ways, we can ensure that the Commonwealth continues to grow in scope and stature, to have an even greater impact on people's lives, today, and for future generations.

**ELIZABETH R**

12 March 2018

## CONTENTS

- 1 Editorial
- 1 Queen's Commonwealth Day Message
- 2 Meet our members
- 2 Anniversary of Universal Declaration of Human Rights
- 2 EAMJA Meeting
- 3 Forum on Traditional Courts
- 3 Judicial Independence Issues
- 5 PNG Opening of the Legal Year
- 5 Judicial Training in The Gambia
- 6 Innovative Ideas used around the Courts
- 7 CMJA's 50th Anniversary
- 7 New Members
- 7 Diary of Events.

## MEET OUR MEMBERS

### RICHARD COGSWELL

Richard Cogswell QC has been a member of the CMJA for nine years and a member of its Council (representing the Asia Pacific region) since 2012. He is from Australia and has been a judge of the New South Wales District Court since 2007. In 2016 he was additionally appointed President of the NSW Mental Health Review Tribunal. While President of the Tribunal he is not rostered to sit in the District Court.



Richard was born in Hobart, Tasmania, the southernmost and island State of Australia. He studied law at the University of Tasmania and in 1974 was awarded that year's Rhodes Scholarship for Tasmania. He studied philosophy and politics at St Peter's College at Oxford University from 1974 to 1976.

He then returned to Australia, but to Sydney in NSW rather than to his home State. For just over a year he was Associate to the Hon Sir Kenneth Jacobs, a judge of the High Court of Australia and then practised as an employed solicitor in Sydney for 3 years.

In 1981 Richard went to the NSW Bar where he developed a mostly civil practice until he was appointed a NSW Crown Prosecutor in 1991. He prosecuted many jury trials in the District and Supreme Courts and also undertook appellate work in the Court of Criminal Appeal.

In 1997, he was appointed a Senior Counsel in NSW and a Queen's Counsel in Tasmania the following year.

In 2000, Richard was appointed the NSW Crown Advocate who shares chambers with the Solicitor General. He provided advice to and appeared for various NSW government agencies in criminally related matters in the Supreme Court, Court of Criminal Appeal, Court of Appeal and the High Court of Australia.

After his appointment to the District Court in 2007, Richard sat in the civil and criminal jurisdictions in Sydney and metropolitan centres as well as on circuit in regional NSW.

The Mental Health Review Tribunal, where he has been for two years, deals with some 18,000 cases a year. The work concerns people whose mental health is so compromised that they need to be compulsorily detained and treated as well as people who commit what would otherwise be serious crimes when

mentally ill or who are unfit for trial. The Tribunal sits around the State (or by video link) in panels comprising a lawyer, a psychiatrist and an otherwise suitably qualified person.

Richard has been married to (now retired) Social Worker and Mediator Anne Collier since 1979. She has attended some CMJA conferences with him. They have two adult children.

Richard practises Bikram Yoga and meditates twice daily in a Christian tradition. He is currently Chair of the Guiding Board of the World Community of Christian Meditation. He is also Chancellor of the Anglican Diocese of Grafton in northern NSW. He and Anne like movies and travel. Richard likes cooking and reading (usually in vacation). Authors include Australians Richard Flanagan and Tim Winton, Britain's Ian McEwan and Julian Barnes and Americans Richard Ford and Paul Auster.

## 70TH ANNIVERSARY OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

2018 marks the 70th Anniversary of the Universal Declaration on Human Rights. Drafted then proclaimed in Paris on 10 Dec 1948, the Declaration has 30 articles and it the most translated document in the world, appearing in over 500 different languages. The drafters of the Declaration were conscious at the time that this was the first declaration on the rights of man (or women) since 1789. It was recognised that since the 18th century there have been great changes in the social, economic, and political framework of the world, and that there was a need for a declaration that reflected the times in order to fully grant and protect human rights.

To highlight what the Universal Declaration



UNIVERSAL DECLARATION OF HUMAN RIGHTS  
#STANDUP4HUMANRIGHTS

means for people in their everyday lives, the Office of the UN High Commissioner for Human Rights, in December 2017, launched a year-long campaign that will culminate in the actual occasion of the Declaration's 70th anniversary celebration

on the same day next year. The Campaign has 3 core objectives: to promote, engage and reflect. It emphasizes establishing the worth of every person, preventing violence to sustain peace, and advocating for everyone's human rights. The campaign is accessible through social media (#Standup4humanrights) and supporters can record themselves reading an article of the declaration to promote awareness. Taking action in the campaign includes pledging to stand up for human rights. The pledge, taken from the website, reads, "I will respect your rights regardless of who you are. I will uphold your rights even when I disagree with you. When anyone's human rights are denied, everyone's rights are undermined, so I will stand up. I will raise my voice. I will take action. I will use my rights to stand up for your rights." Currently 15,824 people have taken the pledge. Why not join them? Add your pledge to the list at: <http://www.standup4humanrights.org/en/index.html>

## EAST AFRICAN MAGISTRATES AND JUDGES ASSOCIATION MEETING, KIGALI, RWANDA

The CMJA was represented at the Meeting by Chief Magistrate Matankiso Nthunya, the CMJA Regional Vice President and Justice Patrick Kiage, Council Member for Kenya. The theme of this year's meeting was: "Enhancing the use of ICT for an Effective, Efficient, transparent and accountable Administration of Courts in East Africa". The topics discussed included: Court administration: best practices and challenges; Balancing Judicial independence and judicial accountability: background, institutional and individual accountability, institutional and individual independence; Fighting against corruption in the judiciary: country experience, challenges and way forward and the role of ICT in achieving a modern, effective and efficient court administration: successes, best practice, challenges and way forward. The main concern of the conference centered on the limited resources regional judicial systems have access to. Chief Justice Sam Rugege of Rwanda urged courts to handle and process court cases with available resources. Kenyan Hon. Justice Nzioka Wa Makau suggested that judicial systems should be encouraged to find new efficient and timely ways to deliver justice with the resources they have.

## TRADITIONAL COURTS

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Justice Lodoh of Ghana participated, on behalf of the CMJA, in the International Commission of Jurists (ICJ) Geneva Forum in November 2017. The theme of the forum was: **Traditional and Customary Justice Systems.**

Participants included judges, lawyers and legal experts from around the world to find ways to enforce and improve human rights standards, access to justice and rule of law in customary and traditional courts. This was the Eighth Forum ICJ had organised. The forum discussed how some customary courts, which may be a community's only practical and accessible form of justice, are not recognized by national courts. Further some courts are rooted patriarchal structures thus the rights of women and children are of concern. In order to increase the access of justice and human rights in these communities, an increase in engagement with customary courts was necessary.

Following the judges forum, the ICJ recorded a series of interviews called Voices on Traditional Justice that featured Professor Dr. Raquel Ynegyen Fajardo of Pontifical Catholic University of Peru, Karabo Ozah, deputy director of Centre for Child Law at University of Pretoria in South Africa, and Charles Dinda, senior legal advisor at the Danish Institute for Human Rights in Zambia. Each spoke on traditional courts and the need to translate international human rights into traditional justice systems. Dr. Fajardo stressed that some customary and traditional courts already reflected some international Human Rights standards and suggested that the ICJ might draft Human Rights standards for the courts that did not. Ms. Ozah argued that it was crucial that customary and traditional courts upheld International Human Rights standards as, in her experience, too many courts had fallen short in protecting women, children and LGBTQ+ rights. Mr Dinda added that in order to build knowledge around international standards, there was a need to engage with customary and traditional courts by studying their practices and understanding how they operated.

The ICJ has put together a compilation of relevant international sources. The compilation of international sources included discussions on women and children rights and the role that judges and lawyers play in enforcing international human rights standards. The report and international sources are available from <https://www.icj.org/gf2017/>. The ICJ are also thinking about extending the project to develop global

guidance on this topic, over the next several years, including through more engagement at the regional level. For instance, the African Union is conducting a process of its own about improving awareness and coordination between traditional justice systems and official judiciaries.

## JUDICIAL INDEPENDENCE ISSUES

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The Second High Level Meeting of Chief Justices of African Constitutional and Supreme Courts took place in Cairo, Egypt, in February 2018. The Meeting considered the ongoing and emerging priority issues which are affecting the judiciary in Africa. The Cairo Declaration which was drafted at the meeting stressed the importance of increasing access to justice for citizens to the courts and making these more inclusive; ensure that the Bangalore Principles of Judicial Conduct were made available to all members of the judiciary in an effort to increase standards; make efforts to build capacity of members of the judiciary to ensure better judicial independence and integrity as well as to contribute towards the attainment of the Sustainable Development Goals and to fight against terrorism amongst other issues.

### SADC TRIBUNAL

Readers will recall that the CLA, CLEA and CMJA issued a statement condemning the withdrawal of individual petitions to the SADC Tribunal in 2011 (see [www.cmja.org](http://www.cmja.org) for details). The withdrawal which was instigated by the former President of Zimbabwe, Robert Mugabe and led to the suspension of the work of the tribunal for a number of years and the change to the remit of the Tribunal. Currently, under the Protocol signed in 2014, only disputes between member states are within the remit of the Tribunal. Encouraged by the SADC Lawyers Association, the Law Society of South Africa and others (including four of the dispossessed farmers from Zimbabwe) took a case to the High Court of South Africa, claiming that by signing the Protocol that took away these rights, former President Zuma had acted unconstitutionally and ignored the vested rights of over 277 Million people. In March 2018, the Gauteng High Court declared that the President acted unlawfully when signed a 2014 protocol which effectively weakened the powers of the tribunal. The court found that it had infringed the right of South Africans by agreeing to limit the jurisdiction of the tribunal to disputes only between

member states 'and no longer between individual citizens and states, without consultation'. The decision is now going to the Constitutional Court in South Africa for ratification as it relates to "the behaviour of the President".

### AUSTRALIA

The Judicial Conference of Australia (JCA) reported a series of verbal attacks against Victorian Magistrates from as early as November 2017. According to these reports, Magistrates would be falsely accused of criticizing the government. One instance was reported 9 February 2018, A Magistrate wanted to grant bail to a person charged with culpable driving causing death. At the time of the decision, the Magistrate had to apply current bail laws and not the bail amendments coming in force 1 July 2018. It was then misreported that the Magistrate blamed the government for not releasing the amendments earlier. The JCA stresses judges and magistrates should not be collateral damage in political disputes (between the Federal and Victorian government in this case). JCA President Beech Jones stated, "*Generalized sledge of the judiciary does not add to the debate.*"

### BOTSWANA

On 23 February 2018, Mmegi-online published a report regarding the Directorate of Intelligence and Security (DIS) screening aspiring judges. The report included the sections of the application where lawyers have to sign and authorize the DIS screening in order to be considered by the Judicial Service of Commission (JSC). This screening, includes banking and taxation records; physical health and mental health; debts and liabilities obtained in the past 2 years and if there were legal proceedings for them; present sources of income. Current judges expressed their concerns on the DIS extreme involvement in the candidacy. The report had wrote, their involvement "has raised fears that the intention is to fill the bench with only DIS approved Judges who will then return the favor and protect the agents when charged." Authorities have been quoted to believe the 'policing' is 'suspiciously unconstitutional'. One had mentioned, if this application is necessary for aspiring judges then it should be necessary for established judges to be screened, as "if the JSC is going to be a policing institution, the disclosure must start with them."

### ENGLAND AND WALES

As we reported in the May 2017 issue of the CMJA News the changes to the pensions of judges in England and Wales has continued to cause concern.

The government had imposed a policy whereby any new judges appointed after 1 April 2012 had to be appointed under a new scheme which has fewer benefits than previously. This policy was imposed retroactively and was considered to be violation of the terms and conditions of service of the judges in question. 200 judges took the case to the Employment Court in early 2017 and won. The Government appealed but in January 2018 the Employment Appeals Tribunal dismissed the government's challenge stating, they had "failed to show their treatment of the claimants [the 200 judges] to be a proportionate means of achieving a legitimate aim." The Government is now seeking permission to appeal in the Court of Appeal, they were given until March to submit their case.

### INDIA

On 12 February 2018, it was reported in the Times of India that four senior Supreme Court Justices had held a press conference expressing their concern that the Chief Justice of India, Justice Dipak Mishra, was misusing his powers in relation to the bench roster by not using the expertise of judges who were experienced in handling important cases effectively and alleged that his distribution of cases amongst the senior judges was biased. The senior justices argue that democracy could not survive unless these concerns were addressed and in their letter said, "It is too well settled in the jurisprudence of this country that the Chief Justice is only the

*first amongst the equals – nothing more or nothing less."*

### JAMAICA

We are glad to announce that on 1 March, Justice Bryan Sykes was sworn in as Chief Justice of Jamaica. In January 2018, Justice Sykes was named new acting Chief Justice, replacing Justice Zaila McCalla who retired at the end of January. However 97 judges from Court of Appeal, Supreme Court and Parish Courts of Jamaica gathered in early February and released a statement expressing their concerns over Prime Minister Andrew Holness' decision to appoint Justice Sykes as Acting rather than Permanent Chief Justice. The Prime Minister allegedly only appointed Justice Sykes as Acting Chief Justice pending proof of his competence for the job. The 97 judges specified that the gathering was not an act of protest against the PM but rather a declaration to clarify the rule of law and separation of powers in Jamaica. In the statement, the judges stressed that in order for justice and rule of law to be effectively distributed, a stable and strong judiciary is necessary; in other words, there needed to be a permanent assigning of the Chief Justice as leader of the judiciary. Previous Justice McCalla congratulated Sykes' swearing stating in a report, "*I take pleasure in offering my heartiest congratulations to Chief Justice Sykes. It hardly needs to be repeated that he is a judge of unquestionable integrity and ability and is eminently qualified to be confirmed as Chief*

*Justice of Jamaica."*

### KENYA

Following the election of the President Kenyatta in October 2017, there were a number of reports that state authorities were ignoring court orders issued by the High Court in Kenya. In February 2018, Chief Justice David Maraga publically stated that disregarding court orders undermined the constitution and was "not only inimical to the rule of law but is also completely at odds with Kenya's constitutional outlook." The orders that have been defied were not specified however, one instance when the court ordered the government to allow television channels to return to normal broadcasting after Mr Raila Odinga's mock "inauguration" was covered by them but this order was ignored for days. On 26 February 2018, the High Court ordered immigration authorities to let Miguna Miguna return to the country in order to petition for his citizenship. Mr Miguna had previously been charged with treason in early 2018 for swearing in Raila Odinga during the mock 'inauguration'. The High Court ordered his arrest but was ignored and Mr Miguna was forced onto a plane to Canada as he had dual citizenship.

The CLA, CLEA and CMJA issued a statement in 14 February 2018 in relation to the failure of the authorities to respect court orders (see below) and continues to monitor the situation in Kenya.

## CMJA/CLA/CLEA STATEMENT

### STATEMENT ON THE FAILURE BY THE AUTHORITIES TO FULFIL COURT ORDERS IN KENYA

The Commonwealth Legal Education Association (CLEA), the Commonwealth Lawyers Association (CLA) and the Commonwealth Magistrates' and Judges' Association (CMJA) are concerned that in recent days Kenyan Government agencies have ignored a number of court orders so that the Chief Justice has been obliged to issue a public condemnation of such non-compliance.

A democratic State based on the rule of law cannot exist or function, if the government and other state authorities ignore their constitutional obligations and fail to abide by court orders. A Court is the guardian of justice, the corner-stone of a democratic system

based on the rule of law. If the State, an organ of State, or a State official does not abide by Court orders the democratic edifice will be gravely undermined.

By virtue of its membership, Kenya is committed to the shared fundamental values and principles of the Commonwealth, at the core of which are the belief in, and adherence to, democratic principles including respect for the authority of an independent and impartial judiciary. Any measure on the part of the state authorities which is seen as eroding the authority and independence of the judiciary, is a matter of serious concern.

The Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government (2003)

state: 'Judges are accountable to the Constitution and to the law which they must apply honestly, independently and with integrity'.....'Best democratic principles require that the actions of governments are open to scrutiny by the courts, to ensure that decisions taken comply with the Constitution.'

We would urge Kenya state institutions to respect the authority of the judiciary and execute the court orders as they are legally bound by the Kenyan constitution and by Kenya's international obligations.

**14 FEBRUARY 2018**

**Commonwealth Lawyers Association (CLA)**

**Commonwealth Legal Education Association (CLEA)**

**Commonwealth Magistrates' and Judges' Association (CMJA)**

## OPENING OF THE LEGAL YEAR IN PNG



Sheriff Douglas Allan, Chairman of the CMJA Steering Committee and Dr Karen Brewer were privileged to attend the Opening of the Legal Year in Port Moresby, Papua New Guinea on 5 February 2018. The Opening of the Legal Year is an important calendar event in Port Moresby with a Judges Parade March which starts about a kilometer from the court house or venue for the ceremony (this year the Bethel Tabernacle of Praise). The procession was led in by the Combine Band with the Royal Papua New Guinea Constabulary Police, the Papua New Guinea Defence Force, the Papua New Guinea Correctional Service. The Judiciary was led in by the Chief Justice, followed by the legal fraternity of Port Moresby and looked on by members of the community.

In his speech before the church service, Chief Justice Sir Salamo Injia urged law enforcement to apply rule of law to international standards stating, "You and I are the front-liners to deliver that mission to ensure Papua New Guinea applied that rule of law to international standards". According to the Chief Justice, given the economic growth in PNG, the number of justices required to handle cases has increased. The National newspaper reported that the judiciary needs around 80 to 100 judges in order for cases to be dealt with efficiently. Sir Injia called for justice members to have a good conscience and deliver justice and carry their duties to the best of their abilities in the meantime.

Unlike other jurisdictions, in addition PNG holds a number of Openings of the Legal Year around the country around this time of the year. The National newspaper reported on at least two provincial openings of



the legal year during the time Douglas and Karen were in PNG. Justice David Canning, in his speech in Riwo Village outside Madang, encouraged members of the judiciary and legal fraternity to take their mental and physical fitness seriously in order to discharge their duties properly. Justice Terrence Higgins in East New Britain urged lawyers, judicial officers, staff and police forces to fight against corruption and to respect the rule of law.

## JUDICIAL TRAINING IN THE GAMBIA



The CMJA was privileged to be the first Commonwealth Association to organise a programme of training in the Gambia from 20-22 March 2018 since the Gambia returned to the Commonwealth at the beginning of February 2018. We are deeply grateful to the UK Cabinet Office and the British High Commission in Banjul, for their support of the programme on "**Case Management, Judicial Ethics and Independence**". The programme was organised at the request of the Hon. Chief Justice, Justice Hassan B. Jallow, with the Judicial Training and Research Institute of the Gambia headed by Justice Awa Bah. We are also very grateful to Sir Peter Thornton, Judge Michael Walker and Judge Robert Zara for their contribution to the programme as facilitators and trainers as well as the UK Civil Service College

who agreed to the CMJA using some of the materials from the existing course.

The course brought together judges from the Supreme Court, Court of Appeal and High Court as well as the principal magistracy over two and half days. The aim was to support and strengthen the capacity of magistrates and judges in the Gambia by drawing on the latest thinking and best practice concerning their roles and remit and by providing the judicial officers involved with an opportunity to explore together ways of applying that knowledge in the Gambian context.

The Opening Ceremony which was also attended by the Rt Hon. Minister of Justice, Mr Aboubacar Tambadou and the British High Commissioner, Her Excellency Sharon Wardle.

In her Keynote presentation at the Opening, the CMJA Secretary General stressed the role that the Gambian judiciary had played in the CMJA for over 40 years until it left the Commonwealth. She indicated that she hoped the Gambian judiciary would soon re-join the CMJA and received assurances from the Chief Justice that they would. The Hon. Minister of Justice stated that "Effective training will go a long way in improving the capacity of the judiciary and the training will enable the judiciary to move from strength to strength." He also re-iterated his commitment to improving terms and conditions of service of the judiciary.

The British High Commissioner in her statement indicated that the training was the beginning of the start of fruitful corporation between the judiciary and the Commonwealth, including its Member States.

In his speech on Opening the course, Chief Justice Jallow indicated that training for the judicial officers was symbolic



of the return of The Gambia to the Commonwealth of which it had been an ardent supporter for most of its existence as an independent nation. He indicated that this also included the acceptance and promotion of the Commonwealth fundamental values. He explained that these principles of good governance provided the most appropriate and effective framework for the resolution of socio-economic and political challenges of the transition and for the future.

He indicated that The Gambia was currently grappling with important and diverse challenges at the core of which were the restoration and consolidation of the respect for the rule of law, protection of human rights and adherence to the principles of democracy and was looking to its Commonwealth colleagues for support on resolving the challenges.

He revealed that as The Gambia Judiciary were striving to consolidate its independence and improve its efficiency; its faces several urgent needs amongst which are adequate and efficient personnel, reformed procedures and practices, improved working methods, better equipment, infrastructures for the courts and improved working conditions for judicial officers.

The Chief Justice said the judiciary would continue to draw on its local resources and on the generosity of friends particularly from the Commonwealth and its members with whom The Gambia shared common heritage and value system to assist in this regard. The Chief Justice also indicated that he was re-launching the Judicial Training and Research Institute and legislation was currently going through the National Assembly at the moment to ensure its



proper establishment as a separate entity.

The course held covered the Principles of Judicial Independence, in particular the issues that the CMJA had been working on in relation to institutional independence as well as the Scope and Application of the Principles of Judicial Ethics. Sir Peter Thornton, former Court of Appeal Judge of England and Wales and former Chief Coroner, ran sessions on judgement writing and on leadership in the judiciary whilst Judge Walker ran sessions on civil case management. Judge Zara was in charge of the sessions on criminal case management and best practice in this area including improvements that do not currently require major changes to any rules of procedure or legislation.

The facilitators also paid a courtesy visit to the Chief Justice at the end of the course and visited the Supreme Court and High Court with Justice Bah.



## INNOVATIVE IDEAS USED IN COURTS AROUND THE COMMONWEALTH

### ENGLAND AND WALES

#### Eye Tracking Technology used in Court

In February 2017, a former church chorister rendered immobile by motor neurone disease has been helped to fulfil his dying wish – to give courtroom evidence against his abuser using eye-tracking technology. The eye-tracking technology is similar to the screen used by Cambridge physicist Stephen Hawking to communicate. In what is believed to be the first time Eye-gaze equipment has been used for cross-examination in a British court, the accused, a retired Anglican vicar, was convicted of three counts of indecent assault dating back to the 1970s. The victim, who was a young boy when the offences occurred, had his evidence recorded and was then questioned by lawyers at Bournemouth crown court via video link as he lay in a hospice bed in London. Sadly the victim did not hear the outcome of the trial as he died before the jury reached their guilty verdicts. The trial had been transferred to Bournemouth to assist the defendant who had advanced Parkinson's disease.

#### Video courts

England and Wales have recently introduced a pilot scheme of Video Courts. These Courts will allow anyone to view and be involved in live hearings by computer at any location of choice. It is hoped this method will allow people to attend court without taking off work thus saving time and money spent traveling and waiting for cases. Further, anyone with health problems may be able to avoid travel difficulties. Courts currently allow victims and witnesses to give testimony by video. Full Video Court trails are being tested with tax proceedings then will evolve to include more cases.

### GHANA

#### Prison Courts

The following summary is taken from an article written by Justice Constant Hometovu for the Ghana Magistrates and Judges Association newsletter.

In October 2015, Nsawam Medium Security Prison established a High Court. Former Chief Justice Georgina Woods stated the Court establishment was a 'major step to ensure that the guaranteed rights of prisoners are protected. The Court cases dealt include motions for extension of time to appeal; motion for bail pending trails; challenging conviction or for mitigation of sentence The Court is a 5 minute walk from the main prison facility and its first sitting was on 14th October 2015. Since then, there has been

an increase in resources provided to the prisoners of Nsawam. The number of legal practitioners who represent prisoners has increased to about 30% of those who appear in Court (some lawyers are undertaking this work on a pro bono basis). Prison School Teachers draft motions and appeals for those who are unrepresented. The High Court does face some challenges: delays in procuring the appeal records from the trial courts and inadequate representation of the prisoners. The court also reported recently that it lacked office resources including a photocopier, printers, fax machines and internet access. Despite this, the Prison Court is a positive step in expanding the 'Justice for All' programme. In a report, the Special UN Rapporteur on the Independence of Judges and Lawyers recommended the expansion of the programme geographically to promote the access to justice, as well as a widening of the remit of the court so that all cases can be dealt with.

## NEW MEMBERS

We welcome the following new individual members to the CMJA.

### **AUSTRALIA**

- Hon Chief Justice Charles Sweeney

### **BAHAMAS**

- Justice Indra Charles

### **BOTSWANA**

- Judge Tapiwa Boingotlo Marumo

### **CANADA**

- The Hon Kristine Eidsvik

### **ENGLAND & WALES**

- Dame Maura McGowan
- Mrs Eva John
- Mr Simon Corello

### **FALKLAND ISLANDS**

- Chief Justice James Lewis

### **CAYMAN ISLAND**

- Justice Marlene Carter

### **GHANA**

- Ms Jane Harriet Akweley Quaye
- His Worship Felix Datsomor
- Ms Sedina Agbemava

### **INDIA**

- Justice Dr. Vineet Kothari

### **PAKISTAN**

- Mr Abdul Ghafoor Memon

### **SEYCHELLES**

- Dr Mathilda Twomey

### **ZAMBIA**

- Mrs Mugeni Siwale-Mulenga

# CMJA'S 50TH ANNIVERSARY 2020

**The CMJA will be celebrating its 50th Anniversary in 2020. We are looking for interesting anecdotes from our Membership to celebrate this eventful occasion. Do you remember participating in any events that were memorable? In what way? How has your membership helped you in your career in the judiciary? Have you any funny /interesting stories to tell about your experiences with the CMJA?**

**Have you any ideas about how we should be celebrating this momentous event?**

**We would love to hear from you.**

**Please send the information to the Secretary General by email or by letter.**

**Uganda House, 58-50 Trafalgar Square, London WC2N 5DX  
email: [kbrewer@cmja.org](mailto:kbrewer@cmja.org)**

## 2018 DIARY OF EVENTS

**9 – 14 SEPTEMBER 2018 - Brisbane, Australia**

**CMJA TRIENNIAL CONFERENCE, "BECOMING STRONGER TOGETHER"**

**17 APRIL 2018**

**COMMONWEALTH PEOPLE'S FORUM (IN THE WINGS OF THE CHOGM)**

Panel session "Separation of Powers" curated by the Latimer House Working Group. London, United Kingdom.  
Organised by the Commonwealth Foundation (by invitation only)



# “Becoming Stronger Together”



## CMJA 18<sup>TH</sup> Triennial Conference

9-14 September 2018

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

REGISTRATIONS NOW OPEN



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australia's new world city

