Greetings from the Chairperson

We are pleased to share in this edition of our Gender Section newsletter a report from Emerita Professor Kathy Mack and Professor Sharyn Roach Anleu respecting the interesting discussion facilitated by Professor Mack at our Gender Section meeting on managing the boundaries of judicial work and domestic life. We are very grateful to Professor Mack for sharing her research, leading our discussion and summarizing the observations and strategies proffered by the participants in the meeting.

We also include the perspectives offered on Gender Discrimination and the Law by Judge Anisa Dhanji, UK Representative on the International Association of Women Judges, to the Senior Officials of Law Ministers meeting held in London in October 2018.

In addition to highlighting developments around the Commonwealth, we also include a report relating to the development by UNODC of a benchbook on domestic violence. We were very pleased that Magistrate Linda Bradford Morgan represented the CMJA as part of an expert group who met to work on the drafting of this benchbook.

CMJA continues to support the work of the UNODC in its creation and promotion of the Global Justice Integrity Network (www.unodc.org/ji) and I am honoured to serve as CMJA’s representative on the network’s advisory board. All judges are invited to become registered users of the network, a platform to provide assistance to judiciaries to strengthen judicial integrity and prevent corruption in the justice system. In addition, the website contains many articles of interest including a recent presentation by Judge Vanessa Ruiz, the President of the International Association of Women Judges, on the Role of Women Judges and a Gender Perspective in Ensuring Judicial Independence and Integrity.

We look forward to continuing to promote the goals and objectives of the Gender Section and welcome the contributions of the Gender Section Representatives elected at the 2018 General Assembly. We include the bios of three of those representatives in this edition.

As always, we welcome your contributions to the newsletter. Please share with us developments, challenges and causes for celebration in your jurisdiction.

Justice Lynne Leitch, Chairperson

CONTENTS

1. Greetings from the Chairperson
2. Profile: Chief Justice Twomey
3. New Gender Section Committee
4. Judicial Work and Domestic Life
5. Gender Discrimination and the Law
6. UNODC Benchbook on Domestic Violence
7. Double Discrimination in Uganda
8. News From Around the Commonwealth
Chief Justice of the Supreme Court of Seychelles. She was appointed to that leadership position in 2015 after serving as the first female judge of Seychelles since her appointment as a justice of the Court of Appeal in 2011. Of note also is the fact that she is the third Seychellois to serve as Chief Justice.

Chief Justice Twomey has impressive academic credentials holding a Diplôme de Droit Français from the Université de Paris Sud, a Bachelor of Arts in English and French Law from the University of Kent, Canterbury, U.K. as well as a Master’s Degree in Public Law and a Ph.D. from the National University of Ireland, Galway.

She was admitted as a Member of the Bar at Middle Temple, London and as an attorney at law in Seychelles and worked in the private sector as a barrister and attorney before serving as Senior State Counsel and Official Notary, Attorney General’s Chambers in Seychelles.

After returning to private practice she conducted civil and criminal litigation in all courts and tribunals and as a Member of the Constitutional Commission was engaged in the drafting of the Third Constitution of Seychelles.

In 1995 she moved to Ireland where she worked as the Regional Coordinator for Multiple Sclerosis Ireland for many years, lectured part time in the law of torts at National University of Ireland, Galway, became involved in her town council and pursued her post graduate education focusing her research in particular on comparative law. One of her research projects culminated in the 2017 publication of Legal Metissage: The Mixing of Common Law and Civil Law in Seychelles, described as a “celebration of the laws of Seychelles”.

Her educational and work experiences reflect her fluency in English, French and Creole.

On her appointment, the President of Seychelles, Mr. James A. Michel, described the Chief Justice as “a highly-qualified legal practitioner, with a wealth of experience and knowledge, which, no doubt, will be of vast benefit to the legal and judicial system in our country and the reforms that are needed”.

Unfortunately, the Chief Justice was the subject of complaints which led to an inquiry into her fitness to hold office. The inquiry concluded in October 2018 and its findings fully exonerated the Chief Justice. The conclusion of the Tribunal of Inquiry in its report submitted to the Constitutional Appointments Authority October 12, 2018 was that the Chief Justice “acted with complete propriety on all the occasions called into question”.

As Chief Justice Twomey continues to dedicate her considerable energy, skills and expertise to the duties of her office, we look forward to her continuing involvement with CMJA.

---

**Gender Section News Publication by Justice Lynne Leitch (Chair)**

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

---

**New Gender Section Committee**

The CMJA Council at their Meeting in September 2018 re-appointed Justice Lynne Leitch as Chairperson of the Gender Section.

The CMJA General Assembly endorsed the election of the following Gender Section Representatives in September 2018:

**Atlantic and Mediterranean**

Mrs Bridget Shaw (Jersey)

Bridget Shaw is the Magistrate (stipendiary) of the island of Jersey. She was appointed Assistant Magistrate in 2008 and Magistrate in 2013. She is also a Deputy Judge of the Guernsey Magistrate's Court.

Jersey is one of the British Channel Islands. It is a self-governing island (known as a Crown Dependency), with a population of approximately 100,000. Although one of the British Isles, Jersey is not part of the United Kingdom: it makes its own laws and has its own separate and independent judiciary.

The Magistrate’s Court is Jersey’s criminal court of first instance dealing with a wide range of both adult and youth cases attracting a penalty of up to 12 months’ custody. The Magistrate also presides over Jersey's lower civil court dealing with claims of up to £30,000. Bridget Shaw is the senior of the two full time and three part time Magistrates.

Bridget Shaw was born and educated in England, and graduated from the University of Durham in 1983 with a BA in Law. She trained...
and qualified as a solicitor with the commercial firm Eversheds before joining the Crown Prosecution Service to pursue a career in criminal litigation. In 1997 she moved to Jersey with her family and worked for the Law Officers’ Department [Attorney General’s office] in the island until 2008 when she was appointed Assistant Magistrate and later Magistrate.

Caribbean
Justice Carolita Bethell (Bahamas), (profile to follow)

East, Central and Southern Africa
Ms. Naume Sikohya (Uganda)

Naume was born in Uganda, Manafwa District Eastern part of Uganda in a region populated by the Bagisu people. She is married and blessed with one daughter aged 12 years old.

While at Makerere University Kampala Uganda, she pursued a Bachelor of Laws degree which she successfully completed and joined Law Development Centre Kampala for a Diploma in Legal practice a course that prepares lawyers for practical aspects of Law. She was called to the Bar as an Advocate of the High Court and to appear before all subordinate Courts of Judicature in Uganda. She worked with Legal Aid clinic as a reconciliator and Kakooza & Kawuma Advocates as a Legal Assistant before joining the judiciary as a Magistrate Grade one. While in the Judiciary she has served in several stations all as an In- charge of the station and core tasks include hearing cases, delivering Judgments and giving legal counsel and advise to the litigants. In addition to this, she has been also serving as an administrator of the Court and as well as the supervisor of all the staff under me. She is also chair the stakeholders’ meetings in her jurisdiction concerning the administration of justice. She also has the interest in acquiring more knowledge to empower herself with new skills and capacity building and as such is currently pursuing a Masters Degree in Law at Makerere University and she has also participated in a number of training courses which include; Advanced Human Rights course on Children’s Rights at the University of Pretoria, Small Claims Procedure, Mediation, Gender, The Law and practice at Uganda Judicial Studies Institute, Managerial problems and the Courts, Law and Justice as tools of Democracy by Danida Fellowship among others. She has held a number of leadership positions such as Representative of all Judicial Officers in Northern Uganda at the Uganda Judicial Officers’ Association as well as starting her second term as CMJA Gender Section Representative for the East, Central and Southern Africa Region.

Indian Ocean
Judge Kumudini Wickremasinghe (Sri Lanka)

Kumudini is currently a Judge of the Court of Appeal (second apex court) of Sri Lanka.

Kumudini was enrolled as an Attorney-at-Law in the Supreme Court of Sri Lanka in 1986. She worked as a Legal officer at De Silva and Mendis Legal Firm from 1986 to 1988. Thereafter she joined the Attorney General’s Department of Sri Lanka (AG’s Department) as a State Counsel and after serving the AG’s Department nearly two decades, she joined the judiciary as a High Court Judge in 2006. As a High Court Judge, she has delivered several landmark Judgments including the biggest fraud case in Asia (namely; “the VAT case”). She served in many stations including Polonnaruwa, Anuradhapura, Kegalle, Kandy, Colombo and Mount Lavinia. She was the first High Court Judge of Polonnaruwa and the first Presiding Civil Appellate High Court Judge of Anuradhapura.

She won a scholarship for a Master’s Degree in Theory and Practice of Human Rights which included the subjects of International Law, International Human Rights Law, Regional Human Rights Law and Philosophy and Politics of Human Rights at the University of Oslo, Norway where her master’s thesis presentation titled; “Leading towards a Safe Haven in Sri Lanka by Cancelling License to Rape” (2001/2002) obtained the highest marks. She has completed Post Graduate Diploma in Forensic Medicine and Toxicology in Faculty of Medicine, University of Colombo and also served as a visiting lecturer at the University of Moratuwa (2014-2015) and Faculty of Graduate Studies, University of Colombo (2004-2007). She was the Secretary (1998/1999) and thereafter the President of the Women Lawyers Association of Sri Lanka (2005/2006) where she represented Sri Lanka in the International Federation of Women Lawyers Conference (FIDA) and she was an invited speaker at the FIDA
conferences held in India and in UK. She was appointed as the Secretary and the Vice President of the High Court Judges Association of Sri Lanka (2012-2014).

Kumudini had been a trainer in a Programme of Training Judges of South Asian Countries on “Cybercrime” (2017) organized by the Council of Europe and the European Union.

Kumudini was nominated as the Sri Lankan Representative and was elected as the Gender Representative of Indian Ocean Region at the Commonwealth Magistrates’ and Judges’ Association 18th Triennial Conference held in Brisbane, Australia (CMJA - September 2018).

As a Judge of the Court of Appeal, she has been hearing cases of Criminal Appeals and Revisions, Expulsions, Appeals from Admiralty cases, Leave to Appeal applications from High Court, Habeas corpus cases, Writs, Tax cases, Provincial High Court Appeals and Revisions (State Land Recovery and Possession cases, Primary Court cases, Land Acquisition and Board of Review cases) and District Court Final Appeals.

Pacific
Mrs. Linda Bradford-Morgan, (Australia)

Linda graduated from the University of Queensland, Australia. She practised as a solicitor from 1985 – 2000 specialising in commercial litigation; construction law; and professional indemnity insurance (Medical Defence and Law Claims). Linda was a member of the Queensland Building Tribunal from 1994 and then Deputy Chairperson from 2000 until her appointment as a magistrate in January 2004.

In March 2016 she was appointed a specialist domestic violence magistrate presiding in Brisbane. Linda was an Executive member then President of the Magistrates Association Queensland from 2004 – 2009; Executive Vice-president of the Australian Association of Magistrates (AAM) 2010 – 2012 and 2014 to date and President of AAM from 2012 -2014. Linda was elected a CMJA council member for the Pacific Region in 2015 and Pacific Gender representative.

West Africa
Justice Sedina Agbemava, (Ghana)

Sedina was called to the Ghana Bar in 2004. She joined the Bench in 2010 after a two year stint as a law clerk to the then Chief Justice, Georgina Wood CJ and two other Justices of the Supreme Court. The experience she garnered whilst clerking was a turning point in her career and has proved to be invaluable to her work on the bench. Justice Agbemava’s career on the bench commenced from the Circuit Court where she adjudicated for six years before being elevated to the High Court in July of 2016. She currently sits in the Commercial Court in Sekondi in the Western Region of Ghana and also handles other cases of general jurisdiction. In the Circuit Court she sat in the Gender and Domestic Violence Court in Accra, which is a specialised Court dealing mainly with sexual offences, domestic violence and Human trafficking cases.

Justice Sedina Agbemava is a member of the Association of Magistrates and Judges of Ghana, a member of the International Association of Women Judges (IAWJ) and a member of the Commonwealth Magistrates and Judges Association. She is the CMJA gender representative for West Africa. Sedina loves to read, cook, swim and travel. She is also passionate about the environment and charitable causes.

Judicial Work and Domestic Life: Managing the Boundaries

By Emerita Professor Kathy Mack and Matthew Flinders Distingushed Professor Sharyn Roach Anleu, Judicial Research Project. Flinders University, Adelaide Australia website: http://www.flinders.edu.au/law/ judicialresearch/

At the 2018 CMJA Triennial Conference, the Gender Section organised a session on managing the interface between judicial work and domestic life, led by Professor Kathy Mack. Participants engaged in lively and candid discussion about their experiences of and strategies for managing work and non-work time. This was stimulated by questions used in a national survey of the Australian judiciary, combined with a presentation of research findings drawn from the survey and from interviews with Australian judicial officers.

While work-family issues have been researched in many occupations, the judiciary has not often been a focus of such research. Some of the Australian judicial survey findings suggest that managing judicial work and domestic life is an area of concern, especially for women in the judiciary. Although about half of men and women in the Australian judiciary report working after hours every day, nearly one-third of women judicial officers report spending more than 15 hours a week on domestic work compared with less than one in ten men in the judiciary. One explanation for this is that most of the men have wives who undertake the bulk of domestic work in their households, a source of support which women rarely experience. A related finding is that nearly half of women
report always feeling rushed compared with less than one in five men in the judiciary. Findings from the interview research show that judicial officers perceive work as inflexible, especially obligations to be in court and to meet deadlines, and so dominating family time and needs. In the surveys, larger proportions of women report interference in both directions, as they also experience (some) aspects of family life as inflexible. This tension is especially sharp for magistrates presiding in the lower courts, in light of the nature of the work—needing to be in court so much—and their younger age and life stage, with varied family commitments to children and other dependents, compared with judges of the higher courts.

Participants in the Gender Section were given the opportunity to consider these issues among themselves in small groups at various points in the presentation, followed by general discussion. While it was not possible to capture all the thoughts, the conversation was forthright and helpful, especially among the women attending. Comments from participants tended to focus on ways to protect home and family from work demands, reflecting the Australian research findings on the dominance of judicial work. For some, it was especially important to have a strong separation: no files at home, ‘at home is at home’, consciously isolating home and work. Another judicial officer disagreed; she works better at home, but restricts email and phone contact. Another view is that there is no such thing as after-hours work; work can and sometimes must be done at any time, so that work and family always interfere with each other, and the nature of the tension varies with stage of life. There is no one solution; sudden family crises can occur and each judicial officer must find what works for her own family, including strengthening her own skills at organising.

Management strategies mentioned include ‘training’ the family that work is important and family members need to respect her work; agreeing within the family, especially when both partners are busy, about what domestic work must be done; and perhaps even having a roster so that work, such as meal planning/shopping/preparation, is shared.

One person described the value of her drive home, which takes one hour. For her, this was a chance to unwind, and so create a transition or buffer, so that she becomes the person she wants to be at home, even if some work must be done later.

The importance of court structure, collegial and institutional support was also emphasized, for regular everyday work-family issues as well as for unexpected and unavoidable crises such as illness.

To sum up, for men and women, judicial work can expand into the family sphere, but for men, the family space more often shrinks and changes to meet their needs. For many women, family life is less flexible, domestic support is exceptional, and they must exert effort and conscious strategies to maintain the desired boundaries between family and work.

Drawing on the theme of the CMJA conference, “Becoming Stronger Together”, it is important, for women and men and their courts, to be aware of these different experiences and pressures and to work together to improve the work-life challenges faced by all judicial officers.

For more information about the research findings in relation to women and men in the judiciary and their experiences of work and family, please see:


More information can be found on the Judicial Research Project website; please feel free to contact us with any questions or comments about any aspect of our research.

Gender Discrimination And The Law: A UK Perspective

The following presentation is based on a presentation made by Judge Anisa Dhanji, UK representative on the International Women Judges Association, at the Senior Officials of Law Ministers Meeting held in London in October 2018.

It will be 100 years this year since women were first allowed to vote in the UK. Next year marks the centenary of the law which paved the way for women to become lawyers for the first time. The background to why this law was needed is interesting and has lessons for us even today. The fact is there was never any statutory barrier to women becoming lawyers.
But when a woman tried to become a lawyer she was told yes, we know that any person can be a lawyer, but we are terribly sorry to say that women are not persons! I’m not sure what women were – but clearly not persons. And the same story played out in many other countries in the Commonwealth.

So fast forward 100 years. We have of course come a long way. All Commonwealth countries now have not just women lawyers but women judges, and in some cases Chief Justices. In fact, the organisation I represent, the International Association of Women Judges or IAWJ for short, and its UK chapter is a network of 6000 women judges in more than 85 countries working to advance equal justice for women and girls. Many of the countries represented here today have been active partners, and we know you share our aspirations.

However, change has been slow. Sex discrimination and equal pay legislation arrived in this country only in 1975. Until then, working women often had to give up working when they got married and if not then, certainly if they had children. Maternity rights were a distant dream. And it was only 25 years ago that our highest court finally decided that rape within marriage was crime.

A significant driver for change in this country has been a membership of the EU and our obligations to meet EU standards and laws. Sometimes we have gone beyond the protection provided to women by other European countries. The Equality Act in 2010 is one such example, and it was a watershed in changing attitudes and in improving life for many women but much remains to be done.

What I’d like to do is to give you a quick snapshot of where the UK is in its journey towards greater equality in one area, the workplace – because that is all we have time for, and to highlight where the challenges remain. I hope that will prompt discussions about your country’s journey and that we can learn from each other.

So how are women faring in the workplace in this country? Well, the gender pay gap remains stubbornly in place. It ranges from 7.5% to women in their twenties and reaches 40% for women in their 50’s.

In an attempt to tackle this, as of just April this year, all organisations employing over 250 people have to publicly report data on their gender pay gap. It is of course a form of naming and shaming and it will affect profitability. There are no prizes for guessing where the brightest women graduates will probably choose not to work!

However, it is not going to be the silver bullet. First 99% of businesses fall below the 250 employee threshold, so will not have to publish any information. Second, there are no specific penalties for non-compliance. Third, publishing the data will not automatically lead to tackling the reasons for the gender pay gap.

Those reasons are many and complex. One real problem is the lack of transparency about pay, in most organisations, and a deep seated cultural aversion to discussing pay, even amongst friends. Try asking a British friend what he or she is paid and you will see what I mean. Chances are they will suddenly remember a phone call they have to make or an appointment they are running late for. But if you don’t know what others are being paid, how do you know if you are being paid less for work of equal value?

Employees were once able to send an equal pay questionnaire to the employer asking for details other employees pay rates and recent differential payments. This was a very efficient tool both to enable potential claimants to find out had a viable case. However, that system was abolished in April 2014 and no alternative has yet been introduced.

Pregnancy and maternity are areas where gender discrimination is rife. There isn’t time to discuss the various facets of the problem, but let me mention this. In 2016, the Equality and Human Rights Commission found that 77% of mothers said they had a negative or discriminatory experience during pregnancy, maternity leave and or return from maternity leave. 11% were either dismissed, made compulsorily redundant, or treated so poorly that they left their jobs.

Harassment in the workplace is another area of concern. A 2016 survey by the TUC (an umbrella body for trade unions), found that over half of women all have experienced some form of sexual harassment in the workplace, even though the Equality Act provides for protection against harassment. The difficulty is the reluctance of employees to report it and the lack of effective measures by employers to encourage and support individuals who report sexual harassment. The vast majority, 80%, do not report the harassment. Of those who do, very few feel it has been been dealt with satisfactorily.

There are two common themes in the examples I have given.

First, it is not that the laws themselves are directly discriminatory. That is now rarely the case. Rather, the problem is that certain laws which apply equally to men and women, affect women disproportionately. The fact is that women do have different lives. It is women who give birth, who undertake thebulk of childcare and care responsibilities, and who are usually the targets of sexual harassment, domestic violence, and sexual assault. Where laws in these areas are not strong enough, or not enforced, it is women who are affected disproportionately. The scale of the problem should not be underestimated. In 2016, there were
over 1 million females who were victims of domestic violence in England and Wales. Two women in England and Wales are killed every week by a current or ex-partner or a close relative. It is a crime that crosses all barriers of class, race and religion.

Second, laws don’t operate in a vacuum and cannot by themselves be the solution. They have to be accompanied by political commitment, cultural changes supported by a variety of institutions and services, and of course, resources and education, starting at school. If prejudices within the system mean that women fear they will not be believed, or will not be dealt with appropriately by the police, then they will not report these crimes. It is notable that only 15% of serious sexual offences and 21% of partner abuse incidents are reported to the police.

As Judges we must also play our part. It is our task to ensure that proceedings are always fair. That may mean protecting or assisting the vulnerable to give their evidence, and it may mean understanding that sending a woman who has young children to prison may destroy the family and being willing to consider other sentences. It may also mean recognising tell-tale signs for when somebody appearing in court may be a victim of human trafficking, and that when a woman refuses to give evidence, she may be operating under duress.

I began my remarks by looking at the past. Let me end by looking at the future. The #metoo movement is creating an awareness of how widespread sexual harassment is, and how profoundly and lasting the damage can be. This is acting as a spur for businesses and other organisations to put better and more appropriate processes in place to deal with complaints.

In addition, new technologies are giving rise to new problems affecting women in different ways, so there will be the need for laws to keep up. Social media, in particular, is raising new challenges. You will all have heard of revenge porn, for example. What is new is not the taking and distribution of private sexual images, but the availability of technology which facilitates these activities on a much greater scale than before. Likewise, upskirting and downblousing have become prevalent because of the widespread use of mobile phones, and existing laws will need to be amended to address these activities.

But we can take comfort that at least now women are persons and so can participate actively in debating and finding solutions for these issues!

---

**UNODC Benchbook on Domestic Violence**

The following report has been compiled by Magistrate Linda Bradford Morgan who represented the CMJA on the Expert Group drafting the above benchbook.

The United Nations Office on Drugs and Crime (UNODC) held an expert panel meeting in Vienna on 26-28 November 2018 to prepare a Global handbook for the Judiciary on Effective Criminal Justice Responses to Gender-Based Violence against Women and Girls. The draft is being finalised by the UNODC to incorporate the comments and feedback from the panel. The panel members included 16 judges from many jurisdictions including Brazil; Mexico; Tunisia; South Africa; Vietnam; Thailand; Paraguay and Lebanon.

Commonwealth jurisdictions were well represented by India, Dr Aditi Choudhary, senior judge of the Delhi Judicial Service; Vera Nkwate Ngassa, Cameroon, Lady Justice, Court of Appeal South West region Cameroon; the inspirational Justice Teresa Doherty, Justice Special Court for Sierra Leone (formerly of Northern Ireland; and Papua New Guinea ) and I attended representing Australia.

---

**NEXT MEETING OF THE GENDER SECTION**

9 SEPTEMBER 2019,
The Stanley Hotel, Port MoresbyPapua New Guinea

See [www.cmja.biz](http://www.cmja.biz) for further info on the CMJA Conference

If you have any suggestions for subjects to be discussed at this meeting please contact kbrewer@cmja.org
gender stereotypes; understanding victims’ trauma and behaviour; strategies for responding to traumatized victims; the admissibility of sexual history evidence; gender sensitive decision-making and specialised courts that incorporate protective measures for victims of gender-based violent crimes (from domestic violence to sexual assault and attempted murder). Several jurisdictions have implemented an integrated court model to incorporate effective institutional practices by judges, the courts and court administration.

Participation in this meeting was an enriching professional and personal experience. It was a privilege to contribute and to draw on the work being done in other jurisdictions to improve the delivery of services to victims of gender-based violence.

Linda Bradford-Morgan CMIA Council, Pacific Region

Double Discrimination: Employment Challenges of Women who Stutter in Uganda

By Esther Nalungi

Stuttering is a type of communication disorder affecting the fluency of speech that results in the disruption of speech. It affects communication; that is, speaking, or producing words, phrases and longer passages in spoken messages.

Communication is fundamental to so many aspects of life and nowhere is it more vital than in the workplace.

World Health Organization (WHO) considers employment as a major life area that can be affected by stuttering. It is thus unsurprising that a survey conducted by the National Association of Colleges and Employers annual Job Outlook Survey has found communication at the top of the list of items important to employers since 1999.

In particular, people who stutter are more likely to stutter during the job interview process which may affect the way that the employer perceives the applicant. Research based evidence showed that 85% of employers agreed that stuttering decreases a person’s employability and opportunities for promotion Hurst (1983) and it was associated with high rates of unemployment and discrimination in attaining employment.

Intersection of gender and disability.
Stuttering is recognized as a disability by the World Health Organization’s International Classification of Impairments, Disabilities, and Handicaps (WHO; ICIDH, 1980) which lists stuttering among impairments and its newer version; the International Classification of Functioning, Disability, and Health (WHO; ICF, 2001) also describing stuttering as both an impairment of the body function and of activities and participation.

Historically, women and girls have been neglected and subjected to multiple types of discrimination. However, compared to men, women and girls with disabilities face double discrimination for not only being female, but also for being disabled. However, the intersectional discrimination of women who stutter on the grounds of gender and disability remains significantly misunderstood and unaddressed.

Gender being one of the predisposing factors of stuttering in that more males stutter than females on a ratio of 4:1 to be exact. This may make it seem like it’s a male and small problem affecting very few women but it is not. In particular, women who stutter, not only face the daily challenges of being female but they also have to deal with the added difficulties which come with being a person who stutters. These difficulties are not only speech-related but they also include the often unseen but hugely disempowering emotions such as anxiety, fear, helplessness, anger, guilt, embarrassment, and frustration; which are limiting on many fronts including a person’s work-related experiences.

It’s also widely known that until the latter part of the 20th century, women were less likely to work outside the home however women’s roles have changed.

Many more women are active members of the workforce and find themselves in more competitive roles,
many involving highly demanding communicative situations for example leadership positions in the workforce, assuming work roles in traditionally male dominated fields. In fact, women who stutter have been described as ‘a minority within a minority’ because they do not only have to contend with being female in male dominated careers but also with the communicative impairment which disadvantages them discriminating them in today’s labour markets that requires effective communication skills. 13

Disability legal protection in Uganda.
The United Nations Convention on the Rights of Persons with Disabilities, 2006 (CRPD) which Uganda ratified in 2008, recognizes this discrimination based on gender and disability. 14 State parties are under a duty to establish measures which will safeguard women’s full enjoyment of all their rights and freedoms, including employment. Article 21 (2) of the Constitution of Uganda prohibits discrimination on the ground of disability and Article 32 calls for affirmative action for marginalized groups. Women who stutter are also protected under Article 36 since they are a minority. In 2006, The People with Disability Act (Disability Act) in 2006 was established in a bid to domesticate the CRPD. Section 6 of the Employment Act, 2006 equally legislates against all forms of discrimination. Under section 34, employers are called upon to protect a special category of employees such as women and persons with disabilities. These legislations together with the Constitution aim to eliminate all forms of discrimination against the persons with disabilities. However, in Uganda, disability desegregated data is virtually non-existent. 15

Additionally implementation of these laws is very low or simply lacking 16. This makes it difficult to appreciate the challenges faced by women who stutter and persons with disabilities generally. For example, The Disability Act’s aim to entice employers to employ persons with disabilities by entitling any private employer who employs 10 or more persons with disabilities to a tax discount hit a snag when it was reduced from 15% to 2%. It is reported that as of 2016 no company had applied for a tax discount. 17 And although the same Act requires employers to submit annual reports showing their compliance with the quota law to the Minister, enforcement of this measure has been largely poor since only a handful of employers comply with this requirement yet there are no penalties in place to penalize the non-complying employers. 18 As a result, no cases on discrimination on the grounds of disability or infringement of disability law have been filed in court and employers simply do not employ persons with disabilities in order to avoid adequately customizing their work places to meet the legal requirements. 19

This accommodation is a focus on physical disability which makes persons who stutter liable to discrimination in employment. Again the Disability Act defines disability as a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation. This definition follows a medical model implying that only those who meet the medical criteria are entitled to protection under the Disability Act.

The human rights approach taken by the CRPD underlines the fact that people are not disabled by their impairments but society and its barriers which fail to consider the needs of disabled persons are truly the most disabling conditions. This is a reality for women who stutter since people who stutter, maybe underemployed because of both the attitudes of society as well as their own attitudes about their speech (Klein. J.F., Hood, 2004). 20 More so, there is a common misconception that an individual who stutters is less intelligent than a typical fluent speaker which often results in discrimination and limited opportunities in life (Boyle, 2009) 21. Moreover, service provision for persons with communication disabilities is still in its infancy in Uganda. It was as recently as 2008 that a Speech and Language Therapy (SLT) degree program was established at Makerere University. And until 2011, there had only been minimal SLT presence in Uganda provided by expatriates. Pitiably, the few local SLT lack official recognition or government sector jobs in Uganda (Marshall, Wickenden, 2018).

Moreover, it has been well documented that the general public has a less positive view of people who stutter Nurses judged physicians who stuttered to be more afraid, tense, and nervous and to be less mature, intelligent, secure, and competent than physicians who do not stutter

14 Article 6
16 Ibid.
18 (Ibid)
19 (Ibid)
(Silverman)\textsuperscript{23}. College students have rated lawyers who stutter as being less intelligent, employable, competent and educated than lawyers who do not (Silverman & Zimmer 1982).\textsuperscript{24} In a study of vocational rehabilitation counselors’ attitudes toward stuttering, Hurst and Cooper (1983) found that 50% of the counselors agreed with the statement that most stutterers have psychological problems. Almost three-quarters (70%) of the vocational rehabilitation counselors indicated that employers appear to discriminate on the basis of speech problems alone and 78% indicated that stuttering appears to be vocationally handicapping.

**Conclusion**

Clearly the above validates the International Classification of Functioning, Disability and Health (HCF) validating definition of disability as a complex phenomenon, reflecting the interactions between features of a person’s body and features of the society in which he or she lives requiring that Uganda reforms its laws to protect women who stutter from society’s truly disabling conditions.

Moreover despite Uganda’s generous disability legal frame work, there is need for strong legal enforcement measures in place in order to make a headway in eliminating discrimination against women who stutter in Uganda. This is especially true because women’s roles have drastically changed with more entry in the work place where so many jobs now require good communication skills. This doubly disadvantages women who stutter discriminating them in employment as they not only have to deal with the daily challenges of being mothers, care givers etc. but they also have to deal with demanding careers prioritizing effective communication, an attribute most of them are unlikely to possess. In as much as the labour markets are often a tough entry for persons with disabilities, men with disabilities are reported to stand a double chance of finding employment than women with disabilities, for women who stutter it is a double challenge and all forms of discrimination need to be deterred since Uganda ratified the 1979 Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) whose import is to eliminate all acts of discrimination against women. To this end, eliminating the factors that hinder women’s participation in the labour market continues to be one of the vital instruments to enhance women’s empowerment, particularly in developing countries such as Uganda.

**News from Around the Commonwealth**

**Pacific**

In December 2018, senior civil servants responsible for domestic violence legislation and representatives from national domestic violence taskforces and committees representing 11 Pacific countries agreed to establish a regional working group to help address domestic violence issues. The regional consultation which led to the agreement was organised by the Pacific Community’s (SPC) Regional Rights Resource Team (RRRT) in partnership with UN Women Fiji Multi-Country Office, and supported by the Government of Australia and the Government of Sweden.

In August 2018, the Pacific Community (SPC) and the UK government launched the Pacific Commonwealth Equality Project in Tarawa, Kiribati. The aims of the Project are to improve Pacific Commonwealth countries implementation of international human rights obligations. The countries covered will support projects on human rights activities in Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu from 2018 to 2021.

**Gambia**

In November 2018, the Minister of Justice of the Gambia. Mr Aboubakar Tambadou announced that a Sexual and Gender Based Domestic Violence Unit had been opened up at the Ministry of Justice.

The unit is to examine issues of sexual and gender-based violence across the country, investigate and fast track justice for victims. It also has an outreach responsibility in sensitizing the population to the issues, rehabilitating and counselling victims of violence.

**Guyana**

In January 2019, the Caribbean Court of Justice (CJJ) overturned a Guyanese ruling that banned Transgender women from cross-dressing. The CJJ stated that Section 153 (1) (XLVII) of the Summary Jurisdiction (Offences) Act was unconstitutional. The parties who brought the case to the court, indicated that the Section was too vague and in actual fact prohibited every man who appeared in “female attire” and every woman who appeared in “male attire,” in any public way or public place “for any improper purpose,” liable to a fine of not less than $7,500 or more than $10,000.

The CJJ upheld the appeal decision and stated that the law resulted in transgendered and gender nonconforming persons being treated unfavourably by criminalising their gender expression and gender identity and violated their right to protection of the law against discrimination. For further information on the case see judgement: McEwan v. AG of Guyana - Nov. 13, 2018

---


\textsuperscript{24} Ibid.
India
Controversy arose in Kolkata in November 2018 when the management of a shopping Mall told a woman that she should not be breastfeeding her child in the mall but should do “home chores” at home. The mother was told on Facebook, after she used social media to complain, that she should have organised her day better or used the toilets in the shopping mall to feed the baby. However, she pointed out that washrooms were unsanitary and often badly maintained. In a separate case, a public interest litigation was filed in July 2018 before a Delhi court by a parents of a nine month old child, claiming that the lack of clean and proper facilities for breastfeeding infringes the child’s right to privacy and to dignity of life. The case is due to be heard in February 2019.

Kenya
Many countries have been trying to remove the discriminatory nature of dowries and gifts to the families of brides. However, in January 2019, it was reported in the Nation that a magistrate’s court had agreed that a dowry could be considered as a debt. This could have far reaching consequences on the status of women in Kenya not to mention court action by fathers in law in the future. Although in a previous judgement dating back to 1917, the judge had indicated that dowries were tantamount to purchasing a wife rather than being part of a condition for marriage, the magistrate in this case indicated that the groom had to pay the debt to his father in law which amounted to: ten heads of cattle, two goats, Sh10,000 and two blankets.

***************

In November 2018, it was reported that the Parliament in Kenya had deferred a vote on the controversial gender equity bill as the quorum of MPs had not been reached. The Constitution provides that no more than two-thirds of any elected or appointed body can be of the same gender. However only 22% of seats in Parliament are currently held by women. The Constitution of Kenya (Amendment) Bill, 2018 on gender representation seeks to amend Kenya’s constitution so as to provide for the special nomination seats for women in an attempt to bridge the gender gap in Parliament.

***************

In January 2019, Citizen TV in Kenya reported that a Rastafarian father was suing a school in Kibra who had sent his daughter, a new student at the secondary school, and instructed her to “shave her dreadlocks off”. He tried to appeal to the school authorities pointing out that dreadlocks were part of their religion but this was not accepted. His case has now been escalated to the High Court.

Mozambique
In December 2018, it was reported that the Ministry of Education had revoked a 2003 Decree banning pregnant girls from attending schools during the daytime but only allowing them to attend at night. The original decree had been put in place as it was claimed that the pregnant school girls were experiencing violence at school as a result of their pregnancy and were then dropping out. However, civil society at the time were concerned about the safety of girls travelling at night to and from school. “Education for All Movement” pointed out that the decree was contrary to the constitution and particularly the right of girls to education. The spokesperson for the Movement indicated that: “There are still many challenges to guarantee gender equity in access to education, and to combat the various forms of violence against girls, inside and outside school, ranging from sexual harassment to forced marriages” but was glad that this was a first step forward.

Tanzania
In September 2018, The Citizen reported that the Speaker of Parliament had banned women MPs wearing false eyelashes or nails from Parliament. This ban was put in place after a report by the Deputy Minister for Health to Parliament claiming that false eyelashes and false nails caused health issues and that the hospitals had reported that they were receiving 700 women in casualty caused by these enhancements every year.

South Africa
The controversy over Muslim marriages in South Africa continued. As previously reported in Volume 5, the Constitutional Court ruled in June 2018 that the state should recognise Muslim marriages. In August 2018, the Western Cape High Court ruled that the state was obliged to introduce legislation to recognise Muslim marriages. The Women’s Legal Centre has been campaigning for some time for this recognition in order to protect the rights of Muslim women who do not have the protection of the law or access to the courts. However, the government was appealing the decision of the High Court as it was already in the process of researching an all encompassing law that would deal with the recognition and dissolution of all religious marriages; as the Western Cape High Court’s finding had implications on all other religious marriages which have not been registered as secular marriages in terms of the Marriage Act and finally because there a pending case before the Constitutional Court had been resolved by dissolution of the marriage in question thus negating any legal recourse.

***************

In October 2018, Legalbrief Africa reported on the case Dalasile and Others v Mgoduka and Another in which Judge Jolwana of the High Court decided that a husband who had not paid the full lobola to his
wife’s family (bride price) could not bury his wife and declared the marriage null and void. He went further to instruct the relatives of the wife to bury her under her maiden name on the grounds that she had “never been handed over officially to her husband’s family as a bride.

United Kingdom
The CMJA was delighted to learn of the news that one of its long-time supporters, Lady Justice Arden DBE had been elevated to the UK Supreme Court in October 2018. She became only the second female Supreme Court Judge. We wish her well in her new position.

Uganda
In November 2018, it was reported in News 24 that Uganda had begun trying stalled sexual violence cases, including many of child rape, in an effort to provide long-overdue justice for victims. In August 2018 UNICEF’s Survey on Violence Against Children reported that 35% of girls reported some form of sexual abuse during childhood, U: 211000 sexual violence cases were reported between 2015-2016. Although under Ugandan law, rapists can be sentenced to death, the judges sitting in the special courts set up in six towns in November 2018, agreed that they would only issue life sentences for those found guilty of such crimes. High Court Judge Gadenya Paul Wolimbwa who was coordinating the initiative indicated that it was difficult to try the cases in ordinary courts due to the stigma attached to rape victims who were discouraged from testifying. In addition, he indicated that the budget had not been available to deal with these cases and it was important to ensure that the victims of such crimes get redress. Funding was made available from by United Nations Population Fund (UNFPA) to clear the 1000 outstanding Sexual and Gender Violence cases between November and December 2018.

Zambia
In November 2018, Legalbrief Africa’s Matter of Justice reported on a case where two men were accused of instigating the mob killing a woman whom it was claimed had used witchcraft against a child who had died. The first court who heard the case decided that the two men who were found guilty of murder should be condemned to life imprisonment instead of death as they had believed that the child had been killed by witchcraft.

In her report in Matter of Justice, Carmel Ricard, pointed out that the two men found guilty appealed the decision of the first court believing it to be too severe. The Supreme Court which heard the case on appeal, was dubious of their claim that they believed the woman who had been murdered had been a witch as none of the traditional customs to deal with witchcraft had been followed either at the death of the child or before. There was also not evidence that linked the dead child to the woman who was killed. The Supreme Court reversed the decision of the previous court and found the two men guilty of murder and condemned them to death. The full judgement can be found at: Donald Taulo & Another v The People

Comments? Contributions?
We would like to hear from you. If you have comments, suggestions, ideas, or concerns please send us an e-mail at info@cmja.org If you have an interesting story to tell, please send these too!!
“Parliamentary Democracy and the Role of the Judiciary”
8-12 September 2019

REGISTRATION NOW OPEN
Port Moresby, Papua New Guinea

www.cmja.biz