



## **SUPERIOR COURT OF JUSTICE**

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# **MEMORANDUM**

**To:** Justice Clayton Conlan

**cc:** Justice Lynne Leitch

**From:** Justice Graeme Mew

**Date:** 11 November 2024

**Re:** Conference of the Commonwealth Magistrates' and Judges' Association ("CMJA"), Kigali, Rwanda. 8-12 September 2024

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I had the privilege of attending the CMJA Conference in Rwanda last month. Over 300 delegates attended, including an impressive 11 delegates from Canada, of whom six were federally appointed judges (Justice Malcolm Rowe from the Supreme Court of Canada, Justice Sandra Wilkinson from the British Columbia Supreme Court, Justice Dallas Miller from the Alberta Court of King's Bench, and Justices Lynne Leitch, Todd Ducharme and myself from the Ontario Superior Court).

### **Educational**

The theme of the conference was "Environmental Justice."

The opening ceremony was attended by the President of the Republic of Rwanda, His Excellency Paul Kagame.

The keynote speech was given by Chief Justice Faustin Ntezilyayo of Rwanda. He proposed that the right to a clean, healthy and sustainable environment is a basic human right. Environmental justice can be secured if a balanced distribution of environmental benefits and burdens is ensured; just procedures characterised by enjoyment of the right to access to environmental information, public participation in environmental decision-making and access to courts for

remedy and redress are guaranteed; and just recognition and respect of all (“recognition justice”) is promoted. While courts can provide environmental justice through the application of public and private law remedies — such cases might include environmental management and protection, forestry, mining, coastal and marine resources, spatial planning, water and energy resources, industrial activities, conservation of air, land and other natural resources — special environmental courts or tribunals would be better positioned to deliver environmental justice.

As an aside, Chief Justice Ntezilyayo spent a number of years in Canada during the period of political upheaval in Rwanda that resulted in the genocide of 1994. He taught at Carleton University, and he has children still living in Ottawa.

As is so often the case at these conferences, it was necessary to choose between equally interesting concurrent sessions. Two such competing sessions were on “Private Remedies in Trans-Border Pollution,” and “Public and Private Rights to a Better Environment.” At the second of these two sessions, Justice Malcolm Rowe presented a paper on “The Role of the Courts in Environmental Protection: A Canadian Perspective.”

At the end of the first day of the conference, delegates were taken to the Kigali Genocide Memorial, where the remains of over 250,000 victims of the genocide against the Tutsi people of Rwanda are interred. The museum’s stated goals are:

- a. Commemoration: To provide a dignified place of burial for victims of the Genocide against the Tutsi
- b. Education: To inform and educate visitors about the causes, implementation and consequences of the genocide, and other genocides throughout history.
- c. Prevention: To teach visitors about what we can do to prevent future genocides.
- d. Documentation: To provide a documentation centre to record evidence of the genocide, testimonies of genocide survivors and details of genocide victims.
- e. Survivor Support: To provide support for survivors, in particular orphans and widows.

The visit to the Memorial was very moving. The terror of that time was still palpable from the exhibits.

It was fitting that at the opening plenary on the second day of the conference, presentations were given on “Restorative Justice After Conflict” by Lord Justice Bernard McCloskey of Northern Ireland and Justice Geraldine Umugwaneza of Rwanda. Justice Umugwaneza’s passionate presentation was particularly memorable. She described the “gacaca” (meaning “grass”) courts which dealt with all but the most serious criminal prosecutions arising from the genocide. Between 2005 and 2012, an astonishing 1.9 million cases were heard by gacaca courts. (To put this into perspective, the population of Rwanda at the time of the genocide (1994) was around 8 million people.) The gacaca courts were based on precolonial traditional courts, used to resolve conflicts between families. The courts were held outside, and the heads of households served as judges. These courts handled not only genocide suspects accused of minor crimes, such as arson, but also some homicide cases considered “less serious.”

There were concurrent sessions on a variety of other topics, not all of which were directly related to the theme of environmental justice:

- ADR Reciprocal Enforcement with the New York and Singapore Conventions
- Case Management: Reducing Backlogs Through Problem-Solving Courts, Plea Bargaining and Using Part-Time Judiciary
- Military Justice
- Fighting Corruption in the Judiciary
- Judicial Conduct
- Regulation of Sport
- Demonstrating IT Systems in Paperless Courts
- Cross-Border Disputes in Private Family Law
- Empowering Prisoners in their Own Rights

Canadian delegates participated in a number of the conference sessions. Justice Lynne Leitch, in her capacity as President of the CMJA, spoke at the Opening and Closing Ceremonies and the Gala Dinner. She also provided delegates with an “Update on the UNODC Global Judicial Integrity Network” (see below) and chaired a “Fireside Chat,” presented by the Gender Committee, between Justice Jackeline Kamau of the High Court of Kenya and Chief Justice Mabel Agyemang of the Turks and Caicos Islands.

In addition to Justice Rowe’s presentation, I presented a paper on “Sport Regulation,” and Justice Miller chaired a session on the creation of an association for employment/industrial judges.

The delivery of the program was excellent, and there were many opportunities to exchange views and experiences and to learn from each other. The Kigali Convention Centre was a first-class venue. Our hosts provided the warmest of welcomes in their impressive and beautiful country.

### **Global Justice Integrity Network and the Nauru Declaration on Judicial Wellness**

Justice Lynne Leitch, a member of the Advisory Board of the Global Justice Integrity Network – United Nations Office on Drugs and Crime (UNODC), provided an update on the work of the Network and its resources (<https://www.unodc.org/ji/>). Her report included the announcement that the Network launched a pilot phase of a new mentorship program for women judges.

She also highlighted that pursuant to an initiative supported by the UNODC: a Declaration on Judicial Wellness had been created, which was adopted at a Regional Judicial Conference on Integrity and Judicial Well-Being, at which the CMJA was represented by Justice Leitch and District Judge Shamim Qureshi of England & Wales. The drafting committee of 18 members represented a wide spectrum of justices from the Pacific region and Australia, and further afield, including England and Wales, Ukraine, Canada, Portugal, the Caribbean, Jamaica, Singapore, and Nigeria.

The headline messages contained in the Nauru Declaration state that:

- Judicial well-being is essential and must be recognised and supported. It warrants attention and investment commensurate with other institutional priorities, such as access to justice, the upholding of judicial values, judicial training and judicial efficiency.
- Judicial stress is not a weakness and must not be stigmatised. Judicial leaders have a particular role in promoting healthy cultural messages about judicial stress and well-being.
- Judicial well-being is a shared responsibility, requiring action on the part of both individual judges and the judicial institutions.
- Judicial well-being is supported by an ethical and inclusive judicial culture. Collegial connection is a key predictor of judicial well-being.
- Promoting judicial well-being requires a combination of awareness-raising, prevention, and management activities. This approach should raise awareness of judicial well-being and judicial stress, prevent avoidable sources of judicial stress, and help manage the inherent demands of judicial work.
- Judicial well-being initiatives must suit the unique circumstances and requirements of national jurisdictions.
- Judicial well-being is enhanced by human rights. Judges are entitled to fundamental rights of freedom of expression, belief, association, and assembly, subject to their duty to preserve the dignity of their judicial office and uphold the impartiality, integrity and independence of the judiciary.

Other plenary sessions dealt with “Admissibility of Computer-Generated Evidence.”

## **Social**

A highlight of the conference was a Gala dinner held at the Convention Centre.

On the day after the conference, there was an optional excursion to the Kings’ Palace Museum and Rwesero Museum in Nyanza.

## **Membership**

The CMJA is substantially dependent on the income it receives from its individual and institutional members. The annual subscription for individual members is just £65 (\$117 at the current exchange rate). There are currently 61 Canadian members of the CMJA, of which 35 are federally appointed judges from across the country. I hope the CSCJA will encourage many more of our Canadian judges to take out an individual membership. (This can be done online at <https://www.cmja.org/individuals/>.)

## **Council Meeting**

Justice Leitch and I attended the CMJA Council meeting and subsequent lunch with Chief Justices.

## Triennial Conference 2025

The next conference, which will be a triennial conference at which elections will be held for Officers and Council Members, will be held in Banjul, Gambia, from 21-26 September 2025.

Thank you, once again, for the support that you and the CSCJA have given to Lynne, myself and the CMJA in general. At the sake of repeating what I have said before, I cannot emphasise too strongly how important that support is, and how greatly appreciated it is by the Commonwealth judicial family, which looks to Canada as a leader in judicial independence, judicial education and judicial standards.



Graeme Mew J.



CMJA President Justice Lynne Leitch signing the Visitors' Book at the Rwesero Museum



Chief Justice Faustin Ntezilyayo of Rwanda and CMJA President Justice Lynne Leitch at the Opening Ceremony