

**BRIEF REMARKS AT THE HAND OVER TO THE BARBADOS CHIEF JUSTICE
OF A DRAFT GENDER PROTOCOL**

Barbados

April 2017

Salutations

Litigants approach the court in the expectation, or at least the hope, that the judge will grant them a level playing field. The judicial function is compromised if a litigant considers that he or she is not sufficiently understood; or if the judge is, or is believed to be, partial. In my view, next to humility, perhaps the most important quality of a trial judge is impartiality.

One of the most insidious forms of partiality springs from biases that are unconsciously held; bias that may be the product of our - family upbringing, schooling, religion, the social class into which we were born and the myriad other influences that shape our world view.

What does all this have to do with a Gender protocol? A lot. Our approach to gender and gender relations is often informed by unconscious, hidden biases. If and when, for example, we think of women as submissive, home-oriented, emotional, gentle, these are all stereotypes that may have absolutely nothing to do with the female standing in front of us. Similarly, to think of men as dominant, worldly, logical, tough is likely to be a wholly inaccurate description of the male before us. Yet, some of us are prone to drawing critical inferences based on these and other stereotypes.

When judicial officers make such conclusions we are not being impartial. We are succumbing to unconscious bias and, often in the process, depriving litigants

of their constitutional guarantee of a fair trial. Precisely because people seek out the courts for justice, judges and magistrates have a supreme duty to avoid stereotyping and bias.

But, here's the paradox. If gender stereotypes are unconsciously held, if they are not the product of a deliberate intention to discriminate, how can we as judges avoid falling prey to them? This is where the establishment of this Protocol is so important. The Protocol provides an easy reference point for judges and magistrates to be guided on the standards and approaches that are expected of us when we deal with issues that are gender sensitive. One of the goals of the protocol is to train the judicial mind in ways that promote impartial adjudication in the sphere of gender and gender relations.

The Caribbean Association of Judicial Officers (CAJO) is extremely proud to be associated with this project. Naturally, we have a vested interest in the improvement of the quality of adjudication in the region. The higher that quality, the greater the respect, trust and confidence the public will repose in the judiciary. And at the end of the day, public trust and confidence define not only how well we perform but they also constitute a very reliable safeguard against attempts at encroachment on our independence.

Let there be no illusions. This protocol will not, by its mere promulgation, alter judicial behavior. Actually, in recent times I have noticed that judiciaries are publishing a significant number of protocols, guidelines, handbooks, bench books and the like. This is certainly a trend to be encouraged. But it also seems to me, and I speak now generally, that the more information we have available to us, literally at our fingertips, the more it seems that we are reading less and so are less well-informed. If I had more time I would love to explore deeper this alarming paradox. I am seriously convinced that information overload causes

too many persons to derive their authoritatively expressed opinions on the basis of tweets, soundbites and social media in lieu of scholarly and informed “protocols, guidelines, handbooks … and the like”.

Even as Magistrates and judges, one confidently expects, would not fall into this category of the not so well-informed, it is still insufficient to leave it to judicial officers to familiarize themselves individually with the content of this Gender Protocol. Instead, the document *must* be used as a judicial education tool. Training sessions must be organized to ensure that all judicial officers have a common understanding of the norms and standards expressed in the protocol, of how those standards should be applied in the courtroom and the absolute need for consciously referencing them as an antidote to the expression of unconscious bias. Promulgation of the protocol is therefore the beginning and not the end of a process and I urge the Chief Justice and the entire judiciary of Barbados to embrace this process in a wholehearted fashion. CAJO, UN Women and JURIST will gladly provide all the support you will need.

I thank you.