
Mrs. Justice Anita Allen, President of the Court of Appeal attended the 2013 Women and Justice Conference and Senior Roundtable on: Women in the Judiciary held at the United Nations Headquarters in New York on 10th – 12th December 2013, which had as its theme: “State Responsibility for Eliminating Violence Against Women: The Due Diligence Principle and the Role of Judges.”

The President was invited and sponsored by Cornell University’s Law School, which also co-sponsored the Conference along with Avon Global Center for Women & Justice, The Foundation for Women, The Virtue Foundation, The Dorothea S. Clarke Program in Feminist Jurisprudence, and the University Of Miami School Of Law, Human Rights Clinic.

Women jurists from around the world including judges from the United States, South Africa, Ghana, Kenya, Tanzania, India, Nepal and the Caribbean Court of Justice participated. Also attending were NGO’s involved in the global thrust to eliminate violence against women.

Some of the topics considered by the Conference were: “Women’s Rights as Human Rights: 20 years after Vienna”; “State Responsibility to Act with Due Diligence to Eliminate Violence Against Women: Victim Care & Services”; “State Responsibility to Act with Due Diligence to Eliminate Violence Against Women: The Role of Judges”; and on the last day of the Conference a Senior Roundtable was held where the female judges discussed various topics such as “Protection and Prevention” ; “The Cultural or Religious Arguments”; “The Case law of the European Court of Human Rights”; “Investigation, Prosecution, Punishment and Reparations”.

The recent case of Jessica Lenahan v The United States, a decision of the Inter-American Human Rights Commission, featured large at the Conference. That case turned on the failure of the United States to exercise due diligence to protect the petitioner and her children from acts of domestic violence. It involved a woman who, despite having a restraining order from a court in Colorado against her former husband, had her three daughters kidnapped from her front yard by him. She reported the incident to the police who failed to take any action to track down and apprehend the former husband. Some hours later, he drove to a police station and fired on the police. The police returned fire killing him. When the firing ceased, the three girls were found dead in the car, killed either by their father, or by the police. No proper investigation was done by the state to ascertain the cause of the children’s deaths.
Lenahan sued the state of Colorado and failed in the US courts, including the Supreme Court in her attempts to have the state found liable for its failure to prevent violence against her and her children and to protect them from such violence. She successfully petitioned the Commission which recommended, inter alia, that an investigation of the children’s deaths be undertaken by the state to discover the cause and time of their deaths; that she be given reparations for her loss; that the United States adopt legislation at both the federal and state levels making mandatory the enforcement of protection orders and create effective implementation mechanisms; that protection orders be accompanied by adequate resources destined to foster their implementation; that regulation for training of law enforcement and the justice system be put in place; and that policies and institutional programs aimed at restructuring the stereotypes of domestic violence victims and to promote the eradication of socio-cultural patterns that impede women and children’s full protection from domestic violence be enacted.

As was discussed at the Conference, the case illustrated that protection orders are not the panacea for preventing violence against women, in as much as they often inflame the situation and expose women to greater danger of violence. It was accepted by all that more mechanisms need to be put in place to follow up on women who are granted protection orders, and to do what is necessary to lessen the danger to them in such circumstances.

The presentations and discussions on all topics were both insightful and interesting and served to sensitize and heighten the awareness of the participants to the awesome responsibility that states have to prevent violence against women, to protect women from violence, to punish perpetrators of violence against women and to compensate victims for their loss.

The Conference also served to make the participants aware of the issue of gender bias when dealing with cases involving violence against women. It acknowledged the problems of patriarchal societies in which men are supreme and women their subordinates; and considered how judicial bias can contribute to an environment which fosters violence against women. The conference shared the need for judicial training to ensure the absence of gender bias in judicial proceedings.

Mrs. Justice Allen found the Conference enlightening, which served to further heighten her awareness of gender bias. She also made very valuable contacts with some of the NGO’s participating, and learned of the existence of international resources available for judicial research and training on the topic of gender bias.