

JUSTICE IN THE HEARTS OF WOMEN: IAWJ ASIA PACIFIC REGIONAL CONFERENCE 27 FEBRUARY TO 1 MARCH 2019

Introduction

We were privileged to have been nominated to attend the 2019 IAWJ Asia Pacific Regional Conference in the Philippines.

The Philippines is in South East Asia situated in the western Pacific Ocean. It is made up of approximately 7,641 islands. The 36,289 kilometres of coastline makes it the country with the fifth longest coastline in the world.

The country boasts a population of approximately 106,000,000.



The conference was held at Alona Beach on Panglao Island. This island is about 91 square kilometres located in the North Bohol Sea. About one and a half hours flight south of Manilla. The island's white sands trimmed by palm trees and beautiful blue waters made it a very attractive conference venue. It is a small but developing tourist area. Before the conference started Catriona and Christina got an opportunity to go on a boat trip to swim with the whale sharks and do some snorkeling. It was a great opportunity to explore the area which is famous for its diving and marine life. We even got to see turtles when we were snorkeling!

The conference theme was ***Justice in the Hearts of Women***. The opening speaker was the Philippine's Chief Justice Lucas P Bersamin who left these words with us:

"It should be our hearts not our minds that temper our decisions"

This set the scene for a very memorable conference.

The conference attendees were mainly Filipino judges. There are 41 female Justices in the Philippines and 907 female Judges. The other attendees were from Taiwan, Australia, South Korea, Pakistan, Papua New Guinea, and Mongolia. There was a representative from Paraguay, and Ann Goldstein who works with the International Association of women's judges in the US. It was a wonderful opportunity to meet and to talk to judges from the different countries about their experiences and how their court systems operate.

First Day

Registration and welcome reception and dinner on the beach at Alona Resort. Special messages from the mayors of Panglao and Tagbilaran cities. Presentation of awards to retirees, judges with 25 years in service, and new appointees to the Appellate Courts. Then lots of singing and dancing which was a feature of both conference dinners.

We shared a table with the NZ and Australian delegates and the delegates from PNG.



Second Day

Opening ceremonies (prayer for courts) entry parade of PWJA officers, directors and dignitaries including singing of the Philippine national anthem and Supreme Court hymn. Acknowledgement and introduction of delegates from USA, Singapore, PNG, Australia, NZ, Pakistan, Botswana, Mongolia, South Korea, Paraguay and Taiwan.

Inspirational message from the Hon Teresita J. Leonardo-De Castro (retired Chief Judge of the Supreme Court of the Philippines and former PWJA president).

Keynote speaker Hon. Lucas P Bersamin Chief Justice Supreme Court of the Philippines

- In 1937 suffrage was extended to women (13 years after it was given to men with education/property).
- First female lawyer admitted 1913.
- First female judge appointed 1944.
- Philippines rank 8th in the world gender gap ratings and is the only Asian country in the top 10.
- Philippines adopted legislation “the Magna Carta for women” in 2009 which eliminates discrimination against women and promotes the rights of women.
- In the first level of courts women already outnumber men.
- In the second level courts the 2017 data shows 381 women to 480 men (44%) but the ratio now sits at 450:415 (52% women appointees).
- In the third level (higher courts) there are 27/69 women (39%) but with 5 current vacancies that percentage could rise. The exception to this trend is in the Court of Tax Appeals where women outnumber men. In the Supreme Court women number on 2/13 (15%).
- Over all courts almost 50% of judicial positions are held by women.
- In 2018 more women applied for judicial appointment than men (54%) resulting in an increased number of appointments of women in 2018 from 36.2% to 63.79% of new appointees.
- The population of the Philippines is 52.8 women vs 53 million men. Equality of representation of the judiciary is fundamental to ensuring true equality for women as “to move forward 50% of the population needs to be engaged”.
- The appointment of women is seen as an important for the country and in terms of the Philippines contribution internationally.

Three take home messages:

1. Equal representation is important for more than the judiciary of the Philippines; it is important to the population who we represent and has international importance.
2. A specific piece of legislation which prohibits discrimination against and promotes the equal rights of women has been an important step to achieving almost equal numbers of men and women judges.
3. Encouraging women to apply has led to more women applicants and to more appointments of women.

Minister Marian Elena Wapenka Electoral Tribunal of Paraguay – Women as catalysts in nation building and development

- The women of Paraguay have an incredible history of rebuilding the nation after war through repopulating (including sharing men) to ensure pregnancies and undertaking numerous tasks including those traditionally undertaken by men. They are credited with the birth, preservation and reconstruction of Paraguay.
- They are now undertaking key roles in government, the military, municipal office and the judiciary, roles previously only occupied by men.
- The Superior Electoral Court of Justice is undertaking a work programme with the aim of strengthening leadership skills with a qualitative contribution in levels of female representation in decision making positions.
- There are three key axes of this work: political empowerment of women; visibility of their work and the production and analysis of statistical data.
- A recent programme implemented is the formation of a School of Political Training for women leaders. This is a free course requiring completion of 11 modules over 66 hours. In 2018, 88 women were selected to attend and 73 graduated. The third course is currently in progress and the demand is such that in 2019 six further courses are being run with eight more to be offered by the end of this year.
- The graduates of the school have established the Network of Political Women of Paraguay. Of those first graduates a number are running for political office in the municipal elections in 2020 including as mayoral candidates and on representative committees.
- In order to reach real equality in the political and electoral sphere there must be promotion and consolidation of women's participation and a safeguarding of female political representation especially within the electoral system. These are seen as a fundamental means of strengthening democracy in Paraguay.
- "If we want to be a truly democratic nation we must first organise our home upon the basis of perfect equality."

Two take home messages:

1. Equal engagement, representation and decision making is fundamental to a true democracy.
2. Women may need to be encouraged to undertake specific educational programmes and receive other support to feel willing or able to engage in these areas which have traditionally been male domains.

Hon Maria Rowena M San Pedro with reactors Hon Justice Dame Susan Glazebrook and Hon Robyn Tupman – "The pitfalls of technology and its effect on women and children"

Her Honour Judge San Pedro provided a number of statistics which highlighted the prevalence of cell phone and electronic device ownership throughout the world.

She then linked it to the increasing prevalence of cyberstalking, online sexual harassment and the rise of love scams in the Philippines (Boso Boso) as it is called.

She highlighted the need for legislation to keep up with our technological environment and the need for practical education around keeping yourself safe with technology.

Our Justice Glazebrook and Judge Robyn Tupman from Australia responded. Unfortunately, due to time pressures there was only a brief opportunity to hear from them.

Both highlighted the link between poverty, inequality and pornography, in particular child pornography. Justice Glazebrook illustrated this by the fact that all that is required to create pornography is a camera and a room. Justice Glazebrook also highlighted the difficulty in the world of prepaid sims and international connectivity with detection.

Both judges highlighted the need to try and address the underlying issues of poverty and inequality. That needed to be a high level of intercountry communication and strong legislative response to try and address issues.

Take home message:

1. It is an increasing worldwide issue.
2. It requires a strong legislative response but also social change particularly to address the issue of child pornography.

Hon Geraldine C. Fiel-Macaraig Ass Justice Court of Appeals and Hon Yi-Ju Hu (Taiwan HC) and Hon Mikyung Lim (Seoul Central District Court) – “Victim blaming for sexual crimes”

- There is no such thing as “a normal behaviour of a “real victim” of a sexual violence crime” – how someone reacts depends on their personality and the specific situation they find themselves in.
- That victim blaming is a reflection of underlying harmful stereotypes such as an allegation of rape is easily made but hard to dispute, that allegations of rape require independent corroboration, and that delay can appear the witnesses’ credibility.
- Jurisprudence can trigger a desirable change in societal perceptions and understanding.

Her Honour **Judge Yi Ju Hu from Taiwan** responded explaining the Taiwanese experience and changes that are taking place.

She commenced by illustrating that the Chinese symbol for woman reflects what has traditionally been a patrilineal culture being a kneeling woman in front of the man. That that is supported by females in history being viewed as a submissive figure.

She described the ideal victim as being too attractive, having some sexual history and been impaired by alcohol historically.

She talked about the changes that are happening in the Taiwanese judicial system being gender equality education, shift in legislation and the “me too” movement reaching Taiwan.

Judge Hu provided statistics around reporting and conviction rates which indicated that the conviction rates for rape are 7% below that of normal conviction rates.

She talked about the changes that are underway within the interviewing and court process such as trained police officers to assist with assessing victims’ mental health and whether they require some additional support. Giving evidence by closed-circuit television, and what are called safe harbour rooms for victims which provide a better environment for them when they give statements.

Judge Lim from Seoul, South Korea

Judge Lim provided two recent Supreme Court decisions from career which had been critical of the lower courts a perception of victims and which had highlighted in quite strong words of the need to avoid stereotypes when it came to victims.

She discussed a handbook which has been prepared and distributed amongst the judiciary and career to give them guidance and education on gender sensitivity and victim blaming but highlighted that there is still a lot of work which needs to be done.

Take home points:

1. In comparison New Zealand is advanced in its recognition of the dangers of gender sensitivity and victim blaming.
2. That the steps that are being taken particularly in Taiwan are very similar to the steps being taken in New Zealand to make the victims experience through the justice process less painful.

Hon Angelene Mary Quimpo- Sale – “Cross-border parental abduction”

- General introduction to The Hague Convention and assumptions underlying at time it was drafted.
- Philippines acceded on 1 June 2016 and that is when the Hague Convention entered in to force but there has not been ratification domestically.
- The Department of Justice is the Central Authority in the Philippines.
- The current proposal is to appoint Hague Courts in the Family Court which will be designated by the Supreme Court to hear such cases
- But accession to the Convention is not enough. It is not self-executory and the Hague Convention cannot contravene current domestic law so there needs to be new domestic legislation enacted.
- The DOJ is required to prepare and finalise legislation to implement the HC including budgetary requirements (legislature); draft executive order (executive) and special

rules of court to govern Hague cases (judiciary) and to provide drafts to the government branches for their comment.

- The target dates for submissions to government branches are in the first quarter of 2019.
- The current Philippine law provides parental authority to the mother of a child under 7 years regardless of the child's status as legitimate or illegitimate.
- In the meantime, the judiciary are establishing communication lines between the Hague Convention network of judges and ASEAN member states and hope to use a judicial portal where all official representatives can access and communicate about Hague related matters.
- The Australian Family Court Judges will provide training in these cases.
- The judiciary are also working at establishing inter country family mediation to settle family disputes.
- Until ratification, cases involving abduction to the Philippines (usually by mothers leaving Japan or USA) are dealt with in the criminal and civil jurisdictions (for example through a writ of habeus corpus being sought to have a child returned and what usually happens is the police and special forces are used to uplift a child and return them the country they came from).

Her Honour Judge Sajjad spoke about the Pakistani position that although very recently legislation has been passed Pakistan is not yet a signatory to The Hague Convention.

Two take home messages:

1. Despite acceding to The Hague Convention this has not yet been ratified and is not currently supported by domestic laws and processes in the Philippines.
2. There are some great ideas about the sharing of information for training judges and managing these types of cases, but further assistance will be required:
 - a. This could be a popular topic at our 2020 conference as a break out session; and
 - b. There may be further support and assistance needed on an informal basis when the Hague Convention is ratified to assist with the implementation of it and sharing of information about jurisdictions.

Ann Goldstein

Ann Goldstein who is based at the International Association of Women Judges office in New York spoke about her role in setting up a judicial network within the IAWJ which had an inner and outward function to advocate various countries to ratify the Hague Convention but also to provide education programs, inter country communication in respect of human trafficking and to seek funding opportunities.

Conclusion

Final comments: Great place and great people. The Filipino judges were extremely hospitable, and the conference provided a great insight into the Filipino culture. The gala night where everyone got dressed up in their national costume was truly magnificent. Below are some photos of Susan and judges in their national costumes to give you an idea of the effort everyone went to.

Full credit to Susan for excellent paper and leadership and cheerleading/promoting the 2020 conference.

There were some aspects of the presentations which only had a limited impact on our judicial lives and unfortunately no papers were distributed for the presentations, so it was difficult to get the full impact of the content together with background discussion when the presenters were presenting. However, they were minor distractions to what was a wonderful opportunity to be part of this conference and to experience the IWAJ in action. Thanks to Mary and to head office for their support and giving us the opportunity to attend.





Judge Cook

Judge Doyle

Judge Harrison