



New Zealand Association of Women Judges

REPORT
INTERNATIONAL ASSOCIATION OF WOMEN JUDGES CONFERENCE
BUENOS AIRES 2 – 6 MAY 2018



Members of Asia / Pacific delegation: New Zealand, Samoa, Tonga, Solomon Islands, PNG and Australia

Buenos Aires was a fast-paced vibrant and dramatic destination for the IAWJ 14TH Biennial Conference in Argentina. I hope the photographs give a flavour of the energy and positive spirit of the Conference and place.

Over 950 delegates and accompanying persons from 72 jurisdictions attended the Conference entitled “*Building Bridges Between Women Judges of the World.*” The New Zealand delegation included: Justices Susan Glazebrook, Helen Cull QC and Judith Potter and Judges Bernadette Farnan, Carolyn Henwood, Andrea Manuel, Nicky Mathers, Mary O’Dwyer and Claire Ryan. Greg Kane, Simon Cunliffe, Michael Reed QC and Rachel McConnell attended as accompanying persons.

From the formal opening ceremony at the historic Colon Theatre in Buenos Aires on the first day of the Conference to the gala dinner at the end of the Conference, it was a dramatic and lively event.



The New Zealand Delegation at the Roll Call of Nations

The roll call of nations in the opening ceremony illustrated the diversity of cultures that had come together at this Conference, keen to learn and explore common issues through a variety of perspectives, from 218 delegates attending from Argentina to countries who had sent one delegate for one example, Ireland and Tonga. The New Zealand delegation was delighted to celebrate 11 Judges from Papua New Guinea, Samoa, Solomon Island and Tonga whose attendance was fully sponsored by the New Zealand Judicial Pacific Participation Fund. These Judges joined with us to represent the Pacific and we were delighted to have accomplished this as a “first” at a biennial conference from the Pacific.

On Wednesday 2 May, a group of us presented a seminar at the New Zealand Ambassador’s residence for Argentinian professionals working in Youth Justice and child welfare. We welcomed this invitation from the New Zealand Embassy because it was an opportunity for us to repay their hospitality and share some of our experience with people working in a similar field.

I attach a copy of Bernadette Farnan's report on the seminar for your interest.



Justice Elena Highton de Nolasco
Argentina

The educational sessions of the Conference were varied and included contributions from many countries. **Justice Elena Highton de Nolasco** spoke of the work of the Supreme Court in Buenos Aires to address domestic violence and the extent of the problem that is experienced in Argentina. She spoke of the initiative, led by Judges at the Supreme Court, that has opened the Office for Women. There are 170 people employed now at the Supreme Court Office for Women, on-duty lawyers, psychologists and other professionals. One of the practical tools that has been developed by the Supreme Court Office for Women are Risk Reports. These are risk assessments that are completed over 24 hours and can be used in Court in civil and criminal court hearings, for example, in deciding bail or cases where women are seeking civil protection orders. Justice Highton de Nolasco explained that the initiative was developed because the Judges had become increasingly concerned and frustrated that the police response to domestic violence was poor and at times corrupt and the Ministry of Justice initiatives were too slow. She explained that in many situations, woman only seek help as victims from domestic violence from the Court directly rather than from the police.

Another initiative that the Supreme Court in Buenos Aires has developed is the Women's Bureau. This development is a forum for capturing data, doing research and analysis on areas of discrimination against women and where there is a lack of equality of opportunity. She explained that because of the Women's Bureau research, recommendations have been made for public spaces where breastfeeding women can feed their children with some privacy. Another development has been research that has led to the analysis of bias in employment processes. The Women's Bureau is also collects data for the Femicide Register. The collection of this data began some years ago, but has now reached a point where the Femicide Register is well regarded as providing valid data on killings of women by intimate partners and of children in situations of intimate partner violence.

Justice Highton de Nolasco spoke of the impact that this data has had including on the media. She said that media reports of cases no longer refer to these deaths as “crimes of passion”. They now use the language of femicide. She spoke of the extent that domestic violence had been hidden in Argentina for centuries. She said it happens in the homes of the humblest and the wealthiest and the goal of the Supreme Court Women’s Office is to make it visible so that victims can feel safe coming forward and getting help.



Judge Maguy Florestal , Haiti

Another very interesting session was entitled “Human Trafficking: The Work of The IAWJ And Its Members”. **Judge Maguy Florestal** from Haiti spoke of the work in her country against human trafficking. She emphasised two aspects: efforts to amend the law to recognise human trafficking as a specific crime: and work being done to train judges and the public sector to protect victims. She explained that progress had been made to the point where recent law change has included human trafficking as a specific criminal offence and judges have had training so that they are more aware of the issues.

A very moving contribution was made by **Justice Binta Nyako** of Nigeria. She spoke of the scourge of human trafficking of children in Nigeria and across Africa. Justice Nyako summarised the political environment, conflict and war and cultural practices and pressures in Nigeria, all of which contribute in diverse ways to the human trafficking of children and in particular, girls. She referred to the 400 girls who had been abducted by Boko Haram in 2014 (check) with only 100 returned to their families. She said that it is highly likely that many of those girls will have been trafficked out of Nigeria or babies born to them. She said insurgency and conflict was a source of human trafficking. Children growing up in camps created in areas subject to war and conflict are abused by camp officials. Many children go missing from the camps, the likelihood being that they have been trafficked out of Africa



Justice Binta Nyako
Nigeria

She spoke of the horrors of babies being born to young girls in remote parts of Nigeria where their children are taken for human trafficking or horrifically for the trafficking of organs. She urged IAWJ to continue its international work to raise issues affecting children through human trafficking so that children can be given greater protection internationally.



Judge Saida Chabilli
Tunisia

Judge Saida Chabilli from Tunisia spoke of the problem of human trafficking in her country. In Haiti slavery was abolished in 1864 but human trafficking is the modern form of slavery in that country. She gave a recent example of 192 women from the Ivory Coast who were discovered working in Haiti as domestic slaves. Their circumstances had been hidden from authorities and they were being forced into prostitution. The Palermo Convention was ratified in Haiti in 2013 and domestic law introduced in 2016. As a result, human trafficking is a specific crime and resources have been applied to the police and other agencies to support victims and prosecute offending. Tunisia's geographical location and proximity to Europe make it a destination for traffickers.

Susan Glazebrook moderated a very interesting session on "*Digital Transformation of the Judiciary and the Legal Profession: Building Digital Bridges*". A diverse panel of speakers spoke about the advantages that digital tools can give to provide better access of justice, particularly more immediate or speedier resolution of cases and wider sharing of knowledge. Electronic filing allows Judges to review cases online more quickly and provide access to justice when there are geographical barriers. **Judge Catherine Hinton** from USA spoke in favour of promoting new technology to provide speedier access to justice and easier management of trial data through electronic filing. **Judge Vivien Lopez** described herself as the first digital judge in Paraguay. She has an entirely digital electronic file management system. She says it provides the ability to access documents much more easily and in her circumstances, gives her greater flexibility. She is able to work from home at times, which assists her as she has small children.



Judge Anisa Dhanji United Kingdom

Judge Anisa Dhanji from the United Kingdom spoke of the balance that must be struck between new technology advances and real access to justice. In the United Kingdom a number of initiatives have been developed to provide speedier processes, particularly a judicial intranet where new cases, ideas and resources are collected, that all Judges can access. Training modules are now provided in a paperless way through webinars and online learning.

In the UK it is common for Judges to and lawyers work on a laptop in court. A significant advance has been for children to give evidence by AVL and victims in certain circumstances to be able to do so. Judge Dhanji spoke of probate and small claims issues now being resolved online with pilot programmes to remove these from the trial systems. She asked what kind of cases can entirely be on-screen and achieve resolutions in appropriate ways, and what is the appropriate judicial input when remote access to justice is offered. Judge Dhanji suggested that the digital revolution clearly has some downsides including whether a fair trial can be achieved when a person is not present in Court. She raised a concern about remote access degrading the quality of human interaction that is needed between a Judge and a litigant. She asked whether too much was being lost when either the Judge or the litigants were not present in Court and decisions were being made.

Judge Dhanji gave an example of a Judge who declined to sentence by video-link. When he saw the defendant in his Court and heard from him in person, the Judge reduced the sentence because individual circumstances had been explained more clearly. She suggested that when a person is present in Court the process is more likely to be dignified and more likely to be honest.

This session raised many stimulating questions and challenges. It was highly relevant to the issues that are being faced in our own jurisdiction.

New Zealand Embassy Reception

On Wednesday evening, the New Zealand Embassy in Argentina held a reception for our group, our Pacific Island and PNG guests and invited guests from several countries. Ambassador Raylene Liufalani and her Deputy Head of Mission, Tane Waetford and their team hosted an excellent event and showcased the best of New Zealand hospitality to all their guests.

A report on the New Zealand Embassy reception from Andrea Manuel is attached.



The Palestinian Ambassador to Argentina and his team with Justice Susana Medina, Past President IAWJ

The Palestinian film *“The Judge”* captured the hearts of the whole conference. This wonderful film told the story of **Judge Kholoud Al-Faqih**, the first woman Judge of a Shari'a court deciding divorce, custody and domestic violence cases. Filmed in Ramallah, it traced the challenges that to do the work that she was passionate about with great warmth and humour. Andrea Manuel's report on the film is attached. The Youtube website link to the film is here. <https://www.youtube.com/watch?v=xGIKZ97juB4>



Judge “Betty” Langi of Tonga

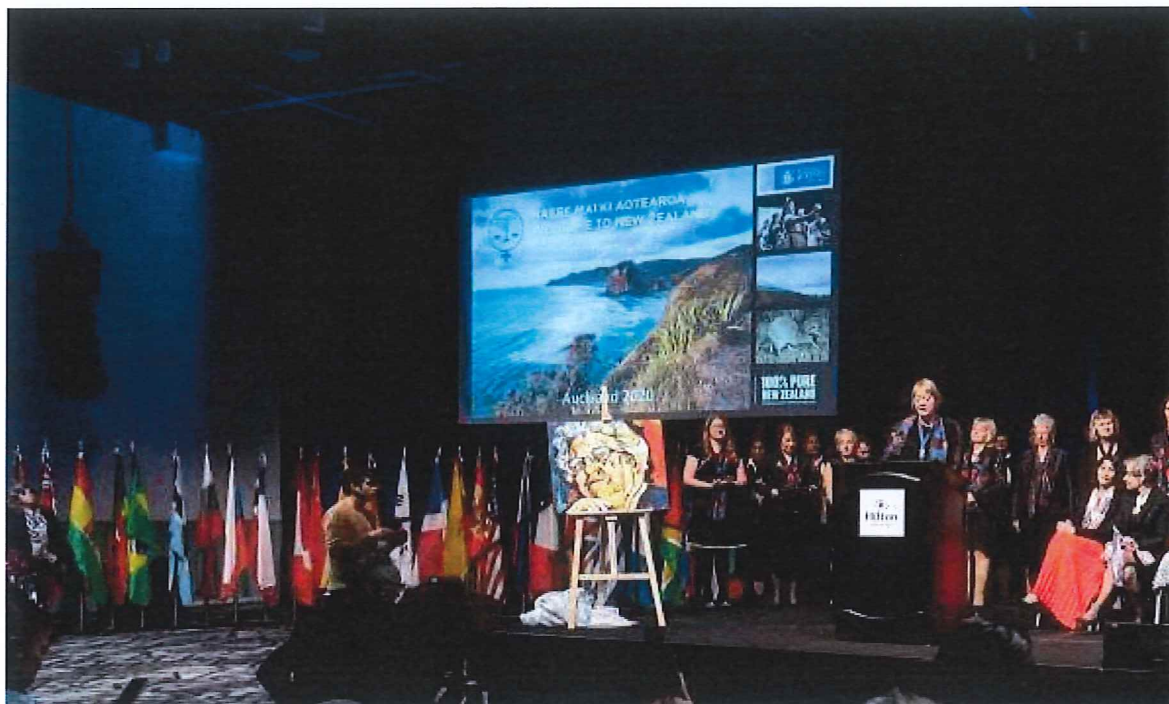
The social highlight of the conference was the gala dinner and, the wonderful display of traditional dress. **Judge Elispeti Langi** of Tonga wore Tongan traditional dress with style and pride; as you can see, she was our star.

We were delighted that the Arline Pacht Global award was presented to Justice Teresa Doherty, former Judge of the Special Court for Sierra Leone (2005-2014). Justice Doherty from Northern Ireland began her judicial career in Papua New Guinea and was the first woman appointed to judicial office in PNG. It was a very proud moment when our Papua New Guinean delegates, who had been supported to the Conference by New Zealand, were able to celebrate Justice Doherty's award with her.



Justice Teresa Doherty and our PNG guests

The conference concluded with the handover ceremony of the Conference Banner from Argentina to New Zealand as the host country of the 2020 Biennial Conference in Auckland. We pay tribute to Rachel McConnell who accompanied us to Argentina to promote the 2020 Conference. We are very grateful to Rachel for all the work that she did before and during the Conference to provide information about New Zealand to delegates and to promote the 2020 Conference. Against a background video presentation of New Zealand, we welcomed visitors with a mihi penned by Judge Stephanie Milroy, and in Spanish and English.



New Zealand's presentation at the closing ceremony

We are very grateful to all the Heads of Bench for their support in enabling us to attend this stimulating conference and for their continuing support.

Reports from the conference sessions are attached and more information of the work the IAWJ is available through the IAWJ website at www.IAWJ.org.

ARGENTINA

What a privilege it was to attend the International Association of Women Judges' Conference last month in Buenos Aires, Argentina.

Arriving late at night, you do not get a sense of what a vibrant, populated city Buenos Aires is. Our first full day in the city was 1 May – Argentina's Labour Day – so the streets were fairly devoid of traffic and people, apart from police cars and union rallies for the May Day celebrations. This, too, gave us a false sense of how populated this South American city is.

Buenos Aires has a series of wide, two to three lane roads, with narrow arterial roads running off them. I was surprised at how 'green' the city was, full of interesting parks including the crematorium which was on the tourist trail! These sights were interspersed with confronting poverty, including homeless families. The area around the Conference hotel venue is currently undergoing extensive infrastructure works, including roads and drains. It looked very much like Christchurch and resulted in a lot of detours when travelling around the city.

Another feature of this vibrant city which surprised me was that the taxi drivers, or even the Uber drivers, do not appear to have an extensive knowledge of their own city. They frequently got us lost, which was not helped by our limited Spanish and their lack of English.

My conference started with a visit to the New Zealand Ambassador's home for a discussion with a group interested in youth justice. The New Zealand Embassy itself is undergoing extensive renovations, which is why our session was in the Ambassador's home.

For this trip I was accompanied by Mary and Carolyn. You soon learn in Argentina that with the best will in the world, nothing is ever straightforward. The Embassy had arranged a car to collect us to go to the Ambassador's residence. The driver spoke

no English but correctly identified our group, so we felt in good hands until we seemed to be taking forever to arrive at our destination. One of our group had mentioned a meal she had enjoyed at a local restaurant (which she mentioned by name) the night before. Eventually we arrived at the restaurant, and it appeared the driver by then thought this was our destination. No explaining and mention of the New Zealand Embassy (even writing it on his cellphone's translation app) could get him to understand that we were indeed scheduled for a meeting associated with the New Zealand Embassy, not a restaurant some distance away. The driver even tried to persuade us to get out of the car. Fortunately, someone from the Embassy rang him as we must have been overdue, and we were finally delivered to the correct part of town.

The purpose of our session at the New Zealand Embassy was to discuss in New Zealand's historical and cultural context, the Family Group Conference concept and process as it has evolved over time. We were asked to discuss lessons learnt, both positive and negative, and the roles that FGC's play in respect of child protection.

As most of you will know, Carolyn has had particular interests in youth justice and the FGC process since its inception. She spoke of how the legislation came into existence, the supports available, and the rationale behind the legislation. She was assisted by a powerpoint presentation.

I spoke about how the FGC's feed into the Youth Court process, and also what it was like to attend a FGC from my perspective when I was a Youth Advocate. I also spoke of the cross-over in the Youth Court with both youth justice and care and protection which occurs in a lot of our cases.

Finally, Mary spoke about FGC's in the context of care and protection proceedings.

The attendees were a mix of officials, lawyers and social workers, all working in the youth justice or youth care and protection field.

One of the attendees, a lawyer, was also a former Government Minister who had had threats on his life.

Another, Irene Konterllnik, was involved in the Argentine ratification of the United Nations Convention on the Rights of the Child (CCRC). Previously child protection in Argentina was shaped around the notion of “abnormal situations” in open contrast with the legal principles underpinning the Convention on the Rights of the Child. Previously (before ratification) an “abnormal situation” might have been being expelled from school, being subject to violence at home or spending time on the streets, which required the state to take coercive action, combining controlling conduct and protecting children. The result could mean children and adolescents who had not committed any crime being deprived of their freedom without any open proceedings. Thanks to women like Irene and her research, following ratification, a law based on the principle of comprehensive protection was able to be developed. But it would seem in Argentina this perhaps, like New Zealand, is still a work in progress.

Warm regards, Bernadette

IAWJ CONFERENCE: REPORT 1

Andrea Manuel

“The Judge”

“The Judge” is a documentary following the fortunes of an inspirational Sharia Judge in Palestine. Kholoud Al-Faqih is a lawyer, wife and mother who manages to persuade the Chief Justice to appoint her and another woman to the Sharia Court, which hears family cases. While women had sat as Judges in the Criminal Court since the 1970s, no woman had ever been appointed to the Sharia Court before. Islamic scholars were at odds about whether or not it was forbidden, with the Hanafi school of thought at least open to the idea of women presiding in the Sharia Court. Faqih used this argument to win the Chief Justice over.

Her path to appointment is not smooth. Nor is her path after appointment. The viewers see the women Judges being excluded from functions to which all the male Judges are invited. Not only the authorities, but members of the legal profession and the wider community confide doubts to the camera about a woman’s suitability to sit as Sharia Judge. A woman would be too emotional, some say. She would not be impartial, others say, and would side with the woman, not the man.

Soon after Faqih's appointment a new Chief Justice is appointed and she and her colleague are sidelined into administrative work. Deeply discouraged, Faqih describes her constrained duties as "a living hell". For reasons which are something of a mystery to Faqih (and to the viewers as well) no more women are being appointed to the Sharia Court. Changes are made, with the candidates required to sit an examination which only male applicants seem to manage to pass.

Despite this, the tone of the documentary remains optimistic. By the end of the film, the women Judges have resumed hearing cases. Faqih is mainly shown in her professional role but we also see her at home with her family; preparing the evening meal, plaiting her daughter's hair and seeing her children off on the school bus. Everything of course takes place against the backdrop of the Islamic faith. The sun sets and rises against a dusty Palestinian landscape.

Faqih herself is warm and engaging. But it is not until she visits her elderly parents and her father talks to the camera that the viewer gains some insight into what makes this woman so determined. Her elderly father clearly loves and values all his children, but when he raised them he particularly stressed the

importance of his daughters obtaining an education and making their way in the world.

“The Judge” told the story of just one woman Judge, but the themes ran through the lives of all the women watching in the audience. We laughed and exchanged glances as we watched it. Some of us rolled our eyes at parts.

“The Judge” is a highly effective piece of storytelling and a reminder that despite language, culture, religion and whatever else makes us different there are issues which are the same for all of us as women Judges.

IAWJ CONFERENCE: REPORT 2

Andrea Manuel

The New Zealand Embassy Reception

On the evening of 3 May 2018 we attended a New Zealand Embassy reception at the Museo Fortabat a Coleccion de Arte Amalia Lacroze de Fortabat. The embassy building was being refurbished, hence the venue.

The Museo Fortabat houses the art collection of Mrs Fortabat, the long-time chairperson and chief stockholder of the largest cement manufacturer in Argentina.

Her collection of about 250 works is hung in a modernist concrete building overlooking the docks in the Puerto Madero district. Highlights include a roof with a system of mobile aluminium awnings that open and close with the sun's position. Mrs Fortabat specifically requested this design feature because "I've always wanted to look at pictures and the stars at the same time". While we did not get the opportunity to look at both the artworks and stars at the same time, we were given the opportunity to look at the artworks and drink champagne at the same time.

The reception was hosted by Justice Glazebrook, who headed our delegation to the IAWJ, and Ambassador Liufalani, who is the New Zealand Ambassador to Argentina. Our invitations had arrived about a fortnight earlier. They promised an evening of foreign glamour and excitement. And so it proved to be. We were warmly welcomed and fed and watered with delicious food and local wine. After the formalities were completed, we were at liberty to tour the museum (which included our group waiata). The artworks were truly wonderful to behold. There were seven galleries featuring portraits of the Fortabat family, landscapes, international art, modern art, figurations and a gallery devoted to Antonio Burnier, the noted Argentine painter and muralist. However wonderful the venue, it was the hospitality and typically New Zealand welcome which most impressed us.