



CounterBalance International

Newsletter of the International Association of Women Judges

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Newly-Elected Leaders Plan For The Future At Midterm Meeting



Outside the Florentine Tribunal, site of the Executive Council meeting.

The Tribunale (or Courthouse) in Florence, Italy, set the stage for the May 2003 business meeting of the IAWJ's leadership. This marked the first time that the Executive Council and Board of Directors held a midterm session together, with 6 officers and 5 board members participating, joined by Executive Director, Joan D. Winship. Florentine judge, Hon. Silvia Governatori, sponsored the meeting at the Tribunale and graciously hosted the group at her home. Hon. Jane Mathews assisted with the meeting arrangements and also entertained the officers and delegates at an at-home congenial gathering.

New Leaders Take the Helm

Among the challenging business matters addressed at the meeting, the most important was the election of new officers. In accordance with IAWJ's corporate charter and Bylaws, the Board of Directors elected the following candidates to leadership positions for the current biennial term: **Hon. Laetitia Mukasa-Kikonyogo** (Uganda), formerly President-elect, advanced to the presidency; **Hon. Jane Mathews** (Australia) was chosen President-elect; **Hon. Leslie Alden** (USA) assumes the post of Vice President of Programs; **Hon. Miriam Naveira de Rodón** (Puerto Rico) was elected Vice-President of Publications; and **Hon. Fernanda Cervetti**, Tax Commission President and criminal law judge in Turin, Italy, joins the Executive Board for the first time as Secretary-Treasurer. **Hon. Mella Carroll** (Ireland) continues on the Council as Past-President.

A Matter of Money

The IAWJ leaders also focused on pressing business concerns during the intensive 2-day meeting; particularly the IAWJ's challenging financial situation. Responding to a Board of Managerial Trustees' recommendation, the Executive Council and Board of Directors agreed to propose a \$2 (US) per capita dues increase for all associations that would take effect in 2005. A position paper will be presented at the 2004 International Conference in Uganda recommending that the membership endorse the dues raise. The group reviewed the IAWJ's reorganization process, the work of the Board of Managerial Trustees, the new Bylaws, IAWJ finances, staffing of the IAWJ's administrative offices and the Association's substantive programs, especially the Jurisprudence of Equality Project, which is in the final stages of a 3-year program in East Africa and completing the first year of implementation in Central America.

Uganda in 2004

President Mukasa-Kikonyogo reported on the preparations underway for the 2004 7th Biennial Conference to take place in Kampala and Entebbe, Uganda from May 8 through 12, 2004. The chosen theme of the Conference, "Access to Justice," lends itself to many exciting programs that are especially germane to women in the communities served by IAWJ members. In light of the theme's broad relevance, the leadership body agreed to present a resolution at the Conference proposing that the "Access to Justice" theme be adopted as the IAWJ's priority issue, guiding the national associations as they develop action plans for the next biennium 2004 to 2006.



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→ **Afghanistan** — Following the fall of the oppressive Taliban regime, an Afghan Women Judges Association (AWJA) has risen phoenix-like from the ruins of a country plagued by war for 23 years. **Judge Marzia Bazul**, with the support of UNIFEM, organized the first meeting of women judges, leading to AWJA's formation in April 2002. Thirty-one of the 36 women judges in the country are members.

Judge Bazul, now the Association's Director, states that AWJA's chief goals are to overcome the social, legal and economic conditions that oppress women and facilitate women's contributions to the reconstruction of their country. To achieve these goals, AWJA is preparing a legal training program that will review Afghan law and human rights norms for women judges, lawyers and law students who were prevented from working or studying by the Taliban. English language studies and computer training also will be offered. Further, AWJA has initiated a legal advisory program for women mired in family conflicts and, to date, has counseled 170 women. Concerned with the abject condition of Afghani provincial women, AWJA also plans to mount a campaign to familiarize them with their legal rights.

→ **Argentina** — The IAWJ takes great pleasure in congratulating **Justice Hilda Kogen** on her appointment as the first woman to serve on her country's Supreme Court. The AMJA held its annual meeting in February 2003 and invited judges from Chile, Uruguay, Brazil and Ecuador.

→ **Canada** — **Judge Micheline Corbeil-Laramée**, Canadian Chapter President, reports on the membership's wide-ranging activities reflecting support for women and children whose human rights are in jeopardy. For example, the International Liaison Committee, having established a twinning project with Benin and Cameroon, funded the travel of a Benin judge to the 2002 Conference in Ireland. The Liaison Committee also donates law books to developing countries and is urging members to bring such donations with them to Uganda. The Chapter also has decided to donate a salary of \$750 to an Afghan schoolteacher for girls.

Another project—Internet training for Malian judges—will proceed in collaboration with the International Commission of Jurists. Further, the

Chapter, through the Department of Justice, has offered recycled computers to Malian judges. Apart from these philanthropic activities, the Chapter is creating its own website, considering ways to highlight the Convention on the Rights of the Child as part of National Children's Day celebrations and planning its next national convention in either 2004 or 2005.

→ **El Salvador** — It is with no less pride that the IAWJ also congratulates **Judge Mirna A. Perla Jimenez**, President of the El Salvador Association of Women Judges, on her recent election to the Corte Supreme de Justicia.



Judge Mirna A. Perla Jimenez

→ **India** — **Sujata Manohar**, Chairperson of India's Human Rights Commission and a former Supreme Court justice, was among 300 persons from 120 nations who attended a conference on "Path-breaking Strategies in the Global Fight Against Sex Trafficking" convened by the U.S. State Department and the War Against Trafficking Alliance in Washington, DC, from February 23 to 26. During the conference, experts and participants considered successful strategies to combat trafficking, including measures that the judiciary could take. Other workshops dealt with trafficked children, anti-corruption efforts, information sharing, penalties for traffickers, and victim assistance programs.

→ **Israel** — **Judge Saviona Rotlevy**, chairperson of a national committee that ensures Israeli law complied with the UN Convention on the Rights of the Child (CRC), reported to the CRC Expert Committee in Geneva, Switzerland, on the work of her committee. Among the reforms proposed by her committee were bills mandating children's right to quality education and the right of rehabilitation to those deprived of their liberty. Other proposals involved children's right to

protection from corporal punishment and other degrading disciplinary measures, reforms with respect to placement in residential and foster care and regulation of biological-foster parents relations. Also, the committee prepared a model code requiring the government to establish appropriate enforcement mechanisms for children's rights. Further, the Judges Training Institute will offer a course on Children's Rights in 2003. In conclusion, Judge Rotlevy offered the following personal comment: "[F]ive years ago, the situation of children in Israel was far more promising.... An atmosphere of cooperation prevailed which promised collaboration between Jews and Arabs in all spheres of life.... In the reality of horror.... in which we unfortunately live today, many children on both sides have been victims. I can only end this presentation by conveying a great personal sorrow over the plight of the children, and hope that [they] will grow up in an atmosphere of peace and prosperity where their rights will be realized and protected."

→ **Italy** — ADMI has prepared a report documenting the organization's achievements since its inception in 1990. One of its earliest initiatives involved the submission of a proposal to the Consiglio Superiore della Magistratura (CSM), the judiciary's governing body, to accord young judges the right to select their initial worksite in their judicial districts, or alternatively, be granted priority points according to their children ages. In response, the Consiglio created a committee, including 3 ADMI members, to consider the proposal. The Committee's work led to the recent passage of a law creating a pool of substitute judges to temporarily replace colleagues during illness or maternity leave. ADMI also proposed refresher courses for magistrates, a step that would especially benefit women judges returning from maternity leave. Further, ADMI urged the appointment of a greater number of women judges to the commissions that oversee highly competitive judicial examinations and as lecturers for official training programs. Another ADMI initiative urging that a percentage of women stand for election to the Consiglio was rejected. Throughout much of its history, ADMI has published a scholarly newsletter that is distributed to 11,000 persons. Undaunted by controversial issues, ADMI recently ran a conference to consider the pros

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and cons of a government proposal to abolish the juvenile courts, a subject being heatedly debated in Parliament.

→ **Mongolia — Dugerjav Dashonolt** has succeeded **Ountsetseg Khurts** as Executive Director of the Mongolian Women Lawyers Association (MWLA). MWLA proudly reports that it has established a counseling center for women that has provided free legal assistance to 332 women. MWLA also sponsored an international conference on the role of law in combating domestic violence.

→ **Panama —** In its recent quarterly newsletter, the Panama Association of Women Judges (AMAJUP) announced the election of the following new officers: President: **Magistrate Margarita Centella**; Vice-president: **Magistrate Carmen De Gracia**; Secretaries: **Judges Gianna Polanco, Nilka Valdés, Melitza Pinzón** and **Crisbell Reid**; Treasurer and Sub-Treasurer, respectively: **Judges Elvira Vernaza** and **Graciela Dixon**, and Consultant: **Magistrate Angela Russo de Cedeño**.

On taking office, Judge Centella announced that the Association would focus on defending the independence of the judiciary, training programs dealing with the status and role of women in the administration of justice and consolidating links with national and international organizations.

→ **Pakistan —** Congratulations go to **Judge Khalida Khan** who was appointed as permanent judge of the International Criminal Tribunal for Rwanda. Judge Khan's appointment was effective on July 7, 2003 and will end on May 24, 2007.

→ **Slovak Republic —** The **Slovak National Association of Women Judges** (NASS) is collaborating with Mother Center Bambino, an NGO representing a network of 26 Centers run for and by mothers, to provide them with the information and skills needed to solve crucial legal problems. NASS has formed an expert committee that will analyze and propose strategies to overcome the legal problems identified by Mothers Centers participants. The Committee has finished the initial phase of its research on 2 key issues: child support and employment.

→ **South Africa — Judge Navanethem Pillay** was presented with the 2003 Outstanding International Woman Lawyer Award by the International Bar Association's Women's Interest Group in recognition of her professional excellence and ongoing contribution to women in the legal profession at the IBA's 2nd World Women Lawyers Conference in London in June 2003.

Judge Pillay has long been dedicated to the protection of human rights, beginning with defending important cases for apartheid victims. She also has a particular interest in the plight of abused women and has established an Advice Desk for Abused Women in Durban. Formerly President of the International Criminal Tribunal for Rwanda, and now a member of the newly-created International Criminal Court (see *supra* at pg. 5), Judge Pillay received the IAWJ's Human Rights Award at the 2002 Conference in Buenos Aires.

→ **Southern Africa —** Zimbabwe Supreme Court **Justice Elizabeth Gwaunza** writes that 14 countries in Southern Africa have taken a giant step forward by organizing the IAWJ's first regional network.

Genesis of the Network

Justice Gwaunza explained that only a handful of women from Zimbabwe and Botswana could attend the International Conference in Dublin last May where she found that issues affecting women in her region were not covered. Thereafter, with UNIFEM support, the Zimbabwe judges hosted a 2-day regional meeting in Harare attended by delegates from Botswana, Lesotho, Madagascar, Malawi, Mozambique, South Africa and Zambia.

Chief Justice Godfrey Chidyausiku set the tone for the meeting when, in addressing the delegates, he noted that "It is a sad but recognized reality that there is a gender imbalance in national judiciaries, with scales being heavily tilted in favor of men." He then proposed a number of strategies to cure this imbalance, including gender bias training for the judiciary. UNIFEM Regional Program Director Nomcebo Manzini went further, pledging continued support for the nascent network so that women in the region could be served by a gender-sensitive judiciary.

Sharing Herstory

In an introductory workshop, the participants shared personal experiences that reflected difficulties they encountered in their professional careers. For example, Justice Gwaunza related that as an employee of the Ministry of Justice, she was required to resign prior to the birth of each child, and then rejoin following the births. Zambian **Justice Manbilima** was asked by her judicial selection committee whether she would advocate women's rights if appointed to the bench.

Participants shared another common denominator: most were active in gender causes prior to their judicial appointments. Some had already issued decisions that advanced the human rights of women and girls. Thus, **Justice Guni** (Lesotho) ruled that women could garnish the salaries of their children's fathers in maintenance cases; Justice Gwaunza held that a college could not expel a pregnant married student.

Shared Concerns

The participants also identified issues of common concern, including the disparity between the number of men and women judges on their courts; the existence of harmful traditional practices that undermine women's rights; the difficulty that women magistrates encounter when seeking promotion to higher courts; insensitive treatment by male colleagues and institutional gender discrimination. To illustrate, one judge pointed to Zimbabwe's prison system where women are compelled to serve prison sentences with their children in tow.

Benefits of An Alliance

The participants next explored steps they could take to improve discriminatory conditions confronting women. Justice Gwaunza stressed the importance of forming national women judges associations allied with the IAWJ. She also briefed the group on the value of the Jurisprudence of Equality Program that was providing Zimbabwe women judges with the tools needed to challenge discriminatory customs by reliance on human rights principles. Based on this discussion, the participants resolved to form national women judges associations wherever possible. Because some countries had few women judges, the group



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On The Record

by Joan D. Winship
Executive Director

agreed to form the Regional Network of Southern African Women Judges to be led by a Steering Committee composed of delegates from Botswana, Malawi, South Africa, Malawi, Zambia and Zimbabwe. The Zimbabwe Association, agreeing to serve as the Secretariat, will assist women judges form national associations, distribute information to Network members and coordinate presentations at the regional meeting of African women judges in Nigeria this September, and at the International Conference to be held in Uganda in May, 2004.

→ **United Kingdom — IAWJ Co-Sponsors Forum in London.** On June 30, 2003, the IAWJ cohosted a Judges Forum at the International Bar Association's 2nd World Women Lawyers Conference in London with the Commonwealth Magistrates & Judges Association and the Lord Chancellors Office. **Hon. Carmen Argibay, Hon. Leslie Alden** (IAWJ Vice-President of Programs), **Joan D. Winship** (Executive Director) participated on the panel. [See additional article on pg. 7]

→ **Uruguay — Justice Marta Battistella,** founding President of the Uruguayan Association of Women Judges, has been elevated to the Tribunal of Administrative Disputes, the 5-member Court that has jurisdiction over complaints against the government.



Less welcome news concerns **Judge Ana Lima** who resigned from the judiciary when the Supreme Court attempted to transfer her to a Labor Court after she served 12 years on the criminal bench. Judge Lima, then president of the Women Judges Association and an outstanding trainer in the Jurisprudence of Equality Program, had issued a number of decisions favoring domestic violence victims and ordered the extradition of a prominent man who was alleged to be a Basque terrorist. The U.N. Special Rapporteur for the Independence of Judges and Lawyers is investigating the matter. The Supreme Court has publicly questioned the Rapporteur's authority to intervene. ☹

This year has been one of transition for the IAWJ—a year of challenges, growth and reorganization. We are energized by these changes and optimistic about the IAWJ's future.

Most importantly, the formal legal reorganization of the IAWJ and the IWJF into a single entity now is complete. This was accomplished with the generous *pro bono* services of Siobhan Rausch of Hogan & Hartson, LLP, in Washington, DC, to whom we are very grateful.

With institutional reorganization came efforts to streamline the IAWJ's financial and accounting systems and management. To provide easier access for members' dues payments and, for the receipt of contributions, credit card capability now is available. And through the generosity of another eminent law firm, Piper Rudnick LLP, IAWJ headquarters recently moved to spacious offices in downtown Washington. The move brings many benefits, not the least of which is the added space needed by current staff to work more efficiently, the ability to house law school student interns, thereby increasing the IAWJ's staffing at no cost, and providing potential women judges unique learning opportunities.

We also are working to expand communications with, and the participation of, members. We hope that the IAWJ's new website (www.iawj.org) will become an interactive site for all with Internet access. We plan to update the IAWJ calendar and news sections on the web site, and host members' discussion groups on various topics so that this site reflects the high level of members' work and activities. This requires that members and associations keep the IAWJ headquarters well informed about their work and programs so that this information can be shared globally.

We are pleased to announce the birth of 2 new associations in Afghanistan and the United Kingdom-Northern Ireland. We are excited about regional meetings in Puerto Rico, Argentina, Southern Africa, and West Africa. We want to strengthen ties with all members and seek your help in doing this.

In these difficult economic times, the IAWJ continues to face financial challenges and, therefore, must make every effort to gain support from international organizations, governments, foundations and private individuals. We recently solicited contributions within the USA and will attempt to do the same in other countries. Like the collaborative forum the IAWJ recently held at the International Bar Association in London, we seek programs and events that will raise the IAWJ's visibility around the world.



A view of the city: Intern **Sarah Irving** (seated), Program Coordinator **Diana Ngbokoto** (left) and Office Manager **H. Thuan Do** on either side of Executive Director **Joan Winship**, confer in her new office, with a view of downtown D.C. behind them.

We look forward to seeing as many members as possible in Washington, DC this October to help the US NAWJ celebrate its 25th anniversary. Please let us know when an IAWJ member is traveling to this area, for we want to welcome you to IAWJ's headquarters, visit with you and learn more about your work and your hopes for the Association. We look forward to hearing from members via mail, email, fax or Internet. Please know we are here to work with you as, together, we move the IAWJ and its work forward with enthusiasm and optimism. ☺

Planning the Future At Mid-Term Meeting

cont'd from pg. 1

Seeking To Improve Communication

Day 2 of the meeting was devoted principally to exploring ways the IAWJ could better reach out to, communicate with and serve its members. To this end, the announcement that the IAWJ now has a revamped, attractive and user-friendly new web site was heralded at the meeting as a major step forward in enhancing contacts with and among the membership. An updated calendar, on-line copies of the newsletter and topical chat rooms are among the improvements that are designed to better knit the membership together. Further, under Justice Pi-Hu Hsu's leadership, the Membership Committee is reaching out region-by-region, and country-by-country, to expand the number of active judges in the IAWJ. The Board of Directors wants to encourage all women judges associations to join the IAWJ together as associations.

IAWJ Leaders Meet With Italian Association of Women Judges

On May 24, 2003, members of the Italian Association of Women Judges (*Associazione Donne Magistrato Italiane – ADMI*) traveled to Florence for a meeting at the Florence Tribunale with the IAWJ Executive Council and Board of Directors. Approximately 20 people participated. ADMI members shared some of their history and activities with the IAWJ leadership and discussed new developments and programs of the international organization. A particularly lively discussion ensued about proposed reforms of the Italian judiciary, especially the proposal to eliminate juvenile courts. All present found the exchanges fruitful and stimulating. It is hoped that more opportunities will arise for IAWJ leaders to hold similar meetings with member associations throughout the world. [For more information about the ADMI, see their website at: www.donnemagistrato.it]

Australia in 2006

Looking forward, the Executive Council and Board agreed to hold the 8th IAWJ Biennial Conference in Sydney, Australia, in May 2006.

The IAWJ extends heartfelt condolences to Hon. Marianna Yopez, Ecuador and Hon. Adelaide Edelson, United States on the loss of their husbands.

Women Judges Win Seats On The ICTR

Human rights, women judges and the IAWJ all emerged as winners as several IAWJ members were chosen to join the International Criminal Tribunal for Rwanda at the United Nations General Assembly election on June 25. Pursuant to a 2002 UN resolution, a pool of 18 *ad litem* judges was authorized to expand the International War Crimes Tribunal for Rwanda. Six of the 23 candidates were women, 4 of whom are IAWJ members. Remarkably, all six women were elected for 4-year terms.

The IAWJ takes enormous pride in announcing the electoral success of members **Florence Arrey** (Cameroon), **Solomy Bossa** (Uganda), **Aura Guerra de Villalaz** (Panama), and **Takreed Hikmot** (Jordan). Congratulations also go to Judge Karen Hokborg who sits on Sweden's Court of Appeals and Flavia Lattanzi, a professor at the University of Rome, Italy.

In addition, on July 24, the U.N. Secretary General, Kofi Annan, announced that the appointment of IAWJ member, **Judge Khalida Rashid Khan** (Pakistan), as a permanent judge on the ICTR.

The *ad litem* positions were created in an effort to expedite the work of the Court. The additional judicial manpower is expected to allow the Tribunal to complete its work by 2008, instead of the original tentative date of 2017. We wish all the new members of the ICTR every success in this important undertaking.



Uganda's Ambassador, Hon. Francis Butagira, (l) and Deputy Ambassador Fred Beyendeza to the Nigerian Mission to the United Nations flank Justice Solomy Bossa who faces Carol Wilson, U.S. Mission to the UN, at a reception to honor and introduce her to representatives of other missions prior her election as an *ad litem* judge.

History In the Making: 7 Women Elected To ICC

2003 will be remembered as the year in which the International Criminal Court (ICC) became a reality with the February election of 18 judges, 7 of whom are women. They were inaugurated on March 11, 2003, in a ceremony both celebratory and solemn at the Hague, the Netherlands. In addressing the inaugural convocation, UN Secretary General Kofi Annan declared that “[T]hese ...men and...women representing all regions of the world and many different cultures and legal traditions have made themselves the embodiment of our collective conscience.”

The election of 7 women to the Court is unprecedented when compared to the number of women serving on other international judicial bodies. Only 1 woman currently serves on the 15-member International Court of Justice, 1 on the 16-member International War Crimes Tribunal for the Former Yugoslavia (ICTY) and 3 on the International Criminal Tribunal for Rwanda (ICTR). The IAWJ is particularly proud and pleased to note that 3 of the newly-elected judges are IAWJ members: **Maureen Harding Clark**, **Navanethem Pillay** and **Anita Usaka**. Congratulations are extended to the entire Court together with invitations to join the world's first and only International Association of Women Judges. Brief biographies introducing the ICC women judges follow.

○**Elizabeth Odio Benito** (Costa Rica), while a judge on the ICTY, presided in the *Celebici* case that set an important precedent in international jurisprudence on crimes of sexual and gender violence. She was the Special Rapporteur on Discrimination and Religious Intolerance, a delegate to the Permanent Court of Arbitration, and President of the Working Group on the Optional Protocol for the International Convention Against Torture. Justice Benito taught for many years at the University of Costa Rica Law School and has authored numerous articles on international human rights and women's human rights.

○**Maureen Harding Clark** (Ireland), currently is an *ad litem* judge on the ICTY. She practiced law for 26 years as both a prosecutor and criminal defense attorney, gaining experience with common and civil law systems. Judge Clark has lectured and advocated on behalf of victims in criminal proceedings and served as a governmental advisor on issues such as victims' rights in sexual offense cases; sexual abuse of victims in state prisons; and interviewing child victims of sexual abuse.

○**Fatoumata Dembele Diarra** (Mali), a High Court judge, also served *ad litem* on the ICTY. She graduated with highest distinction from the École Nationale de la Magistrature of Paris. Justice Diarra has extensive criminal law experience and led national and international movements to promote women and children's rights.

○**Akua Kuenyehia** (Ghana), currently Dean of the Law Faculty and Acting Director at the University of Ghana, was elected to the CEDAW Expert Committee recently. She has been a visiting scholar at schools in diverse countries and has written numerous articles on such topics as women's rights and divorce law in Ghana. Judge Kuenyehia is coordinator of the research “Women and Law in Anglophone West Africa.” The countries involved are: Ghana, Nigeria, Sierra Leone and Gambia.

○**Navanethem Pillay** (South Africa), former President of the ICTR, had a seminal role in the trial leading to the historic judgment in the Akayesu case in which acts of sexual violence were found to constitute genocide.

Previously, Judge Pillay was an acting judge on South Africa's High Court. She was the first woman to practice law in Natal Province, South Africa, representing anti-apartheid activists and defending the rights of political prisoners.

○**Sylvia H. de Figueiredo Steiner** (Brazil), served on the Sao Paulo Federal Court for the past 7 years following a career as a federal prosecutor. She was a delegate to the ICC negotiations and is an active member of the Judges for Democracy Restoration and the Justice and Peace Commission. Judge Steiner worked with many NGOs for over 30 years and has written extensively on issues relating to human rights and domestic implementation, children in the justice process and the ICC.

○**Anita Usaka** (Latvia), a long-time IAWJ member, was appointed to the nation's Supreme Court in 1996. She also is a professor at the Department of State Law and an Associate Professor at the Latvian Department for Fundamental Studies. Before her elevation to the bench, she served as Executive Director of UNICEF's Latvian branch. She has lectured and published extensively in such fields as public law and administration, international and comparative law and human rights. 🇷🇺



A memorable milestone: The 7 women justices elected to the ICC include: from l. to r. and bottom to top, Anita Usaka, Fatoumata Diarra, Akua Kuenyehia, Maureen Clark, Sylvia Steiner, Elizabeth Odio Benito and Navanethem Pillay. (photo credit: ICC-CPI/Wm. Van Cappellan)

UN May Provide Powerful Tools For Reform

IAWJ members, **Judges Mary Ann Hedlund** (Norway) and **Shireen Avis Fisher** (US), provide insights into the benefits that could flow from two United Nations conventions: one that concerns trafficking of women and children has not yet come into force; the other, currently in the drafting stage, deals with International issues affecting child support.

The Trafficking Convention and Protocols

Judge Hedlund explains that the Convention is accompanied by two supplementary protocols addressing the prevention and punishment of trafficking of women and children and a second that proscribes the smuggling of migrants, were adopted by the UN General Assembly almost 3 years ago. Forty nations must ratify the instruments before they come into force, but to date, only 32 nations have completed the ratification process. Consequently, forceful international measures that would require that state parties criminalize trafficking, provide protective services to trafficked victims and cooperate in information exchange and border security programs remain unexecuted. Trafficking in women and children continues to expand on a global scale, affecting as many as 4 million persons. Estimates of the crime's profitability are enormous, exceeded only by the suffering of its victims.

Invited by the Permanent Bureau of The Hague Conference on Private International Law as the IAWJ's representative, Judge Shireen Avis Fisher joined delegates from more than 50 nations at the Hague this May to take part in the first special session held to develop a new convention on international recovery of child support. **Judge Jan Marie Doogue**, another IAWJ member and head of the New Zealand delegation to the Special Session, was selected Chair of the working group that will draft the preliminary document to be presented at the next session. A final treaty should be ready by 2005.

Judge Fisher identified a number of issues that are likely to arise during the treaty-drafting process that may be of special interest to the IAWJ; namely, the need to protect the identities and secure the safety of domestic violence victims in treaty proceedings; free legal support for creditors; the relative merits of a judicial versus an administrative process; whether the treaty should apply solely to enforcement matters or also cover modification of support orders; limits on judicial discretion; the scope of debtors' defenses; the use of technology in presenting evidence and the extent to which courts of different nations should communicate. ☺

The treaty drafting process can be followed on The Hague website at <http://www.hcch.net>, work in progress link. IAWJ members are encouraged to express their views on issues that should be taken into account in such a treaty by contacting Judge Fisher at shireenfisher@aol.com.

Uganda In 2004: Will You Be There?

Are the dates May 9 through 13, 2004 clearly noted on your calendar? Will you be among the hundreds of women judges coming from every corner of the globe to take part in the IAWJ's biennial conference at the gracious Imperial Hotel on the shores of Lake Victoria in Entebbe, Uganda?

The Conference theme, "Access to Justice," gives rise to issues that are at the very core of the IAWJ's interest in overcoming the legal-judicial obstacles that impede women's search for equal justice. Consistent with this theme, panels of experts will examine the local, national and international roadblocks that impede women's access to justice and involve the audience in seeking solutions to remove those barriers.

Be prepared for a full social agenda designed to provide members from Canada to the Cameroon, from Iceland to India with opportunities to exchange ideas, share information, make new friends and visit with old ones. In addition, following the Conference, safaris led by experienced guides will be available. An astonishing array of wildlife awaits the visitor: no one should leave Uganda without seeing the vast herds of elephants, giraffes, zebras, elands, hippopotamuses, chimpanzees and 550 species of tropical birds that inhabit a land Winston Churchill described as the "Pearl of Africa."

A registration form will soon be available at www.iawj.org.

Inaugurating the U.K. Association

More than 60 women judges from all parts of the United Kingdom gathered at the Royal Courts of Justice in London on June 30, to inaugurate the U.K. Association of Women Judges. Organized by IAWJ member, **Lady Justice Brenda Hale**, the new members reviewed a draft Constitution and elected provisional officers. A delegation composed of Hon. Leslie Alden, Vice-President of Programs; Hon. Carmen Argibay, Past-President; Hon. Shireen Fisher and Executive Director Joan Winship attended the meeting to welcome the new association's members to the IAWJ's ranks. Following the meeting, the Nuffield Foundation graciously hosted reception and dinner for the entire group. ☺



Celebrating the IAWJ's newest association: Right Honourable **Elizabeth Butler-Sloss** (left) and Baroness **Onora O'Neill** (right) enjoy a cheerful moment with Lady Justice **Brenda Hale**.



BOOK NOTES

📖 **Impact of Legal Aid: Ecuador.** Under the aegis of the World Bank's Legal and Judicial Reform Practice Group, IAWJ consultants **Anne Goldstein** and **Marcela Rodriguez**, working with expert economists, produced a report that evaluates the impact of legal aid clinics in improving the quality of life of poor women in 2 Ecuadorian cities. Relying on quantitative and qualitative evidence, the report shows that women who had legal aid representation were more likely to receive child support payments, less likely to be targets of domestic violence after separation and developed a more positive outlook toward the judicial system and greater self-esteem than did unrepresented women in similar circumstances. The World Bank, February 2003, 1818 H. St. NW, Washington, DC 20433; fax: 202-477-6391; e-mail: ljr@worldbank.org.

📖 **Violence against Women: The Health Sector Responds** is the product of field research by the Pan American Health Organization (PAHO) and its partners in 10 Latin American countries. The book first sets forth PAHO's early findings about women's health, the extent of gender-based violence and the 1994 launch of a pilot project in Central America to address the problem. Using an integrated approach involving all relevant sections of the various communities, the PAHO project helped create more than 150 anti-violence networks throughout Latin America. Part two of this work summarizes a recent evaluation of the project including women's descriptions of the violence they endured and their community's response to their needs. Lastly, the book outlines the lessons learned in Central America and how PAHO's strategy may be applied in other communities around the world. Contact PAHO's online bookstore at <http://publications.paho.org> (order code: OP 12), or fax 001-(301) 206-9789 or PAHO/WHO offices in Latin America.

📖 **Challenging Human Rights Violations: Using International Law In U.S. Courts** by F. Martin, Saskatchewan College of Law, Canada. This book explains how international law can be used successfully in U.S. courts to challenge human rights violations such as differing death penalty sentences and governmental failure to prevent crimes such as rape committed by private persons. Relying on model briefs used by human rights organizations and U.S. lawyers, this work anticipates many new issues that will arise as international human rights practice becomes recognized as an advantageous approach to protecting U.S. civil rights and liberties. Transnational Publishers, Inc. Ardsley, NY ISBN 1-57105-167-8, \$95.

📖 **International Criminal Evidence** by Judge Richard May, Presiding Judge of the UN International War Crimes Tribunal for the Former Yugoslavia, and Mareieke Wierda, former ICTY legal officer. This work provides an in-depth analysis of the law of evidence before international criminal tribunals, addressing such topics as admissibility, hearsay, and other procedural matters. Transnational Publishers, Inc. Ardsley, NY ISBN 1571051449, \$115.

📖 **CIRDDOC Public Education Series, 1 –16.** These booklets, by the Civil Resource Development and Documentation Center, an NGO working to promote Nigerian women's human rights, address issues of concern to women living under customary law. Of special interest are: Women & Customary Rights of Inheritance; Inheritance Rights of Women in Africa and Child Marriages as Child Abuse. Papers on the domestic application of international human rights norms presented at a CIRDDOC Judicial Colloquia also are available. Fourth Dimension Publishers, PMB 01164, Enugu, Nigeria; fax: 234 042 0456904; e-mail: info@fdpbooks.com.

📖 **The Domestic Application Of The Convention On The Elimination Of All Forms Of Discrimination Against Women: Practices In Courts.** This useful paper by French judge and IAWJ member, **Guillemette Meunieier**, provides a broad overview of CEDAW's application in domestic courts. The author examines the ways in which CEDAW may be invoked in national courts even where implementing legislation has not been enacted. She then reviews cases in which diverse courts have applied CEDAW's provisions constructively to resolve women's rights violations in areas such as gender discrimination, violence, marriage and family relations, property and inheritance, immigration and employment law. Copies are available by contacting IAWJ headquarters.

Useful Human Rights Web Sites

📖 <http://www.law-lib.utoronto.ca/Diana> — The Women's Human Rights Resources Web Site, under the aegis of the Law Library, University of Toronto Faculty of Law, is a comprehensive source of materials bearing on international women's human rights via the Internet. The site contains citations to scholarly articles with the full text of selected items, documents, conventions, UN and NGO reports, case law, legislation with links to the full text where available, and other research guides.

📖 www.law.harvard.edu/programs/annual_review — Annual Review of Population Law. This excellent database, produced jointly by the Harvard Law School and United Nations Population Fund, contains summaries and excerpts of legislation, constitutions, court decisions, and other government documents from every country in the world relating to population policies, reproductive health, women's rights and related topics.

📖 <http://www.icc-cpi.int/> — The International Criminal Court has redesigned and greatly expanded its official website, available in English and French. The site includes information on organs of the Court, victims issues, witness protection, referrals to the Court and coming events. 🌐

Making A Difference: Promoting Women's Rights Under Muslim Law



By Ayesha Imam*

**In December 2002, Dr. Ayesha Imam and BAOBAB, an organization she founded, were honored by the International Centre for Human Rights and Democratic Development, in recognition of BAOBAB's work in defending women's human rights under Muslim and customary law in Nigeria. Dr. Imam's acceptance speech is excerpted below.*

Introducing BAOBAB

BAOBAB is best known...as an organization that defends women's rights under Muslim laws and practices. However...BAOBAB also participates in national and international campaigns...on issues of gender justice, and runs training workshops in leadership skills for women. BAOBAB also supports women and girls in fighting to redress rights violations in individual cases, ranging from domestic violence to forced marriage, rape, sexual abuse, or achieving custody and maintenance rights for their children.

Until 1999, Muslim law in contemporary Nigeria relating to marriage, divorce, child custody, maintenance and inheritance was largely unwritten and uncodified. However, in 1999, some Nigerian states began passing new Sharia statutes. These laws did nothing to improve economic and social conditions. In practice, the 12 "new Sharia" states in Nigeria have done little more than elaborate and execute punishments for offenses such as theft, *zina* (adultery or fornication) and drinking alcohol.

Muslim Law Is Not Absolute

Unfortunately, claims are made that the Sharia acts of 1999-2002 perfectly implement a universal, God-given code. Therefore, to raise any defects (and, therefore, the possibility of removing those defects) is labeled unIslamic and tantamount to apostasy; such claims clearly are false since these codes did not come into existence until many decades after the revelation of the Qu'ran and the Prophet's death. Hence these laws (collectively referred to as Sharia or Islamic law) cannot be divine revelations from Allah.... It follows that Sharia is subject to progressive development and change.

Reflecting diverse societies, Muslim schools of legal thought and laws are diverse. For instance, orthodox Shia Sharia permits daughters who have no brothers to be residual heirs, while the

Maliki School does not. Hanafi Sharia allows a woman to choose a husband without her father's permission, Shafi sharia does not. The schools also vary in their attitudes towards ...fertility - some permit family planning and/or abortion while others do not....

Wide variations exist in Muslim legal thought. For example, the Qu'ran permits but does not require polygamy. Some believe that polygamy should be banned; others argue that monogamy is clearly preferred. In still other societies, including Nigeria, there is fierce insistence that polygamy is not only permitted; it is required. The Qu'ran also permits, but does not require, slavery; yet, current Muslim legal law no longer permits this practice. Thus, Muslim law need not be accepted without question by all Muslims.

Sharia's Harmful Effects on Women

Regrettably, unthinking acceptance of laws that have not changed since the 10th century dominates most Muslim societies, including Nigeria. The fiction that Muslim law is unchangeable... has particularly detrimental consequences for women. Criminal legislation under new Sharia Acts in Nigeria omits ...some of the important safeguards for women such as the doctrine of *shubhat* proscribing convictions where there is an element of doubt, or the requirement of repeated and voluntary confessions if 4 eyewitness of impeccable character have not witnessed the sexual act

Women Held to Impossible Standards

Further, by postulating that pregnancy outside marriage is, in itself, evidence of adultery, the new Sharia Acts...hold women to a different standard of evidence than required for men. Pregnant women are required to...prove their innocence, but men are not. Unless the prosecution offers independent evidence of rape, such as the testimony of 4 eyewitnesses, men can simply walk away from their acts. While adultery necessarily involves two persons, more women than men have been charged with and convicted of this offense. Women have been sentenced to death for adultery, although the well-established doctrine of the "sleeping embryo" whereby a child born to a woman within a set period after the end of her marriage...is assumed to be the child of that marriage.

Similarly, under Sharia law women who claim they have been raped must produce male witnesses.... But, how many rapists wait for an audience....? Thus, the victim is likely to ...be convicted both of non-marital sex and false testimony in failing to produce the requisite witnesses.

Further, practices lacking any legal basis are being imposed on Muslim women in the name of 'sharianisation'. They include the imposition of dress codes and attempts to compel them to sit at the back of public vehicles. Many of these practices are enforced by extra-legal groups of male vigilantes - sometimes openly supported by the state government.

BAOBAB'S Contribution

Refusing to be intimidated as being anti-Islam or by threats of violence....BAOBAB has led the way by seeking reversal of the discriminatory Sharia acts and redress for victims. Baobab also is assembling a legal strategy team of Muslim lawyers, rights activists and scholars....In addition, BAOBAB researches and draws upon its international links to acquire information about similar cases in other jurisdictions, and raises funds to cover the costs of appeals, legal fees, transport, counseling, and provision of 'safe' houses. BAOBAB also collaborates with a wide range of women's and human rights activists; indeed, the whole Nigerian human rights movement has been working in solidarity on this issue. To date, none of the death sentences by stoning for adultery has been carried out. They either have been quashed or still are on appeal.

BAOBAB has worked consistently to encourage public discussion of the foregoing issues...and end the climate of fear. It has launched a series of workshops at which ordinary Muslims from different walks of life and parts of the country meet for several days to examine the Qu'ran, consider some 30 issues of special concern to women (e.g. choice of marriage partner, right to inheritance, divorce, leadership skills, reproductive rights,...promotion of women's rights...). In so doing, participants are empowered...to work toward a progressive vision of Muslim law. ☺



LANDMARKS



Brazil: The Brazilian Supreme Court affirmed a lower court's denial of a writ of *habeas corpus* to a defendant convicted of rape and gross indecency. Such a judgment would not be especially notable were it not for a remarkable concurrence by **Judge Ellen Gracie Northfleet**, the first and only woman on the country's highest court, and an early participant in the IAWJ's Jurisprudence of Equality Program.

Justice Northfleet explains that her opinion was prompted by concern about a serious conflict in the Court's prior decisions as to whether rape in its simple form, that is, rape unaccompanied by the aggravating elements of serious bodily injury and death, should be considered a heinous crime justifying severe penalties. Answering this question in unequivocally affirmative terms, Justice Northfleet issued a comprehensive and scholarly treatise on the nature of rape and its horrific consequences, even in its "simple" form.

Justice Northfleet's analysis begins with a review of the professional research that establishes the extent to which rape, perpetrated against women and children, is grossly under-reported. She cites one authority, *inter alia*, who states that although the true incidence of sexual crimes is unknown, each year, 12 million women are believed to be the victims of sexual violence worldwide. Justice Northfleet reviews the scientific literature that details the severe physical and psychological consequences suffered by rape victims, and the extent to which such wide ranging and devastating effects may linger.

In summing up, the Justice emphasizes the impossibility of dealing with sexual violence issues without reference to scientific data, adding that whether or not rape is classified as simple, and even if it were to be excluded as a heinous crime, the evidence proves "there is no such thing as a rape that does not cause severe damage to the victim."


Justice Northfleet is not content to lay the matter to rest without commenting on the need to control this crime. She suggests that the police, prosecutors and judiciary all have a role to play and must take creative measures that assure an effective legal process. She further submits that the legal profession must become more aware of gender-related issues. In this regard, she commends the Brazilian Federation of Women Magistrates that, under the leadership of Judge Shelma Lombardi de Kato, has presented a series of seminars that highlighted the need to enforce international conventions guaranteeing women's human rights. The Justice concludes that by rejecting the contention that simple rape is not a heinous crime, the Supreme Court has signaled that the Brazilian state is not engaged in mere rhetoric, but is intent on effectively protecting women and children against such violence and punishing its perpetrators with the severity that the law and society demand.

Uganda: *Uganda v. Matovu*, High Court of Uganda, per Justice E.S. Lugayizi (2002). The accused, indicted for defilement, that is, carnal knowledge of a girl under 18-years of age, denied the offense, maintaining that the 16 year-old complainant fabricated the charge due to a grudge she had against him.

Justice Lugayizi first outlined the applicable evidentiary rules; in particular, one that is invariably applied in cases involving sexual offenses, which provides that where the evidence offered by the complainant is uncorroborated, the court must be satisfied that victim was truthful before basing a conviction in her testimony. To illustrate the application of this rule, Justice Lugayizi cited a 1997 case in which the court stated:

"... it is dangerous to convict on the uncorroborated evidence of the [woman or girl] because human experience...has shown that...for all sorts of reasons and sometimes for no reason at all, women and girls tell a false story which is very easy to fabricate but extremely difficult to refute...."

Contrary to the rule's rationale that women are liars especially in matters involving sexual offenses, Justice Lugayizi observed that "this court had found no empirical evidence that women are greater liars than men or more likely to lie than tell the truth in sexual matters. He then concluded that the rule "discriminates against women who are...the most frequent victims of sexual offenses, and is, therefore, inconsistent with Uganda's international obligations under various conventions, including CEDAW article 1 as well as article 1 of Uganda's Constitution that mandates equality among all men and women. Accordingly, he held the above-cited rule null and void. He then convicted the defendant, finding that the prosecution met all the elements needed to establish defilement.

Uganda: *Simon v. Uganda*, Dec. 14, 2001. A referral from the Supreme Court to the Constitutional Court posed the question of whether a sentence of six strokes of the cane contravenes the terms of Article 24 of the Constitution which provides that "no person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment." After reviewing a number of cases on the same point from other Commonwealth nations, and the European Convention on the Protection of Human Rights, the Court found strong support for the view that the infliction of corporal punishment on adults by organs of the state is degrading or inhuman and inconsistent with civilized values. Accordingly, by a 3 to 2 majority, the Court ruled that a sentence of 6 strokes of the cane is inconsistent with Article 24 of Uganda's Constitution. 

* *Digests of the decisions briefed above, as well as summaries of other cases relevant to human rights principles will be included in the IAWJ's web site, www.iawj.org, at its human rights link.*

Coming Events

September 6-10, 2003: Cape Verde Hosts IWFLC 18th Congress

The International Federation of Women In Legal Careers (IWFLC), will focus on "Women, Peace and Safety—Women's Human Rights" at its 18th Congress to be held in Praia, the tropical capital of Cape Verde. IWFLC, founded in 1928, includes women lawyers, judges, law students and academics, as well as members of NGOs and other legal-judicial organizations. To register please e-mail Congress Chairperson Judge Maria Gomes: Maria.Gomes@paljust.gov.cv or didaly27@yahoo.com.br. Registration fee is USD \$300 for members and \$325 for non-members.

September 21-25, 2003: Nigeria Plans Third African Regional Meeting

Following in their Ugandan and Kenyan sisters' footsteps, the Nigerian Women Judges Association is preparing to host the third African regional conference.

October 8-12, 2003: US NAWJ Welcomes Judges Worldwide To 25th Anniversary Meeting

NAWJ celebrates its 25th anniversary at its Annual Meeting at the Mayflower Hotel in Washington, D.C. NAWJ members look forward to their IAWJ sisters joining them in exploring the challenging issues that flow from the conference theme: "Justice in America—Justice in the World." The meeting will mark 15 years since women judges from some 30 nations participated in the NAWJ's 10th annual meeting. The International Association of Women Judges evolved from that historic event.

Educational programs will explore such timely topics as the application of international law to domestic cases in various countries; the status of civil rights and civil liberties in the United States in the aftermath of September 11, and the burgeoning challenge of girls in the justice system. A full social calendar also is planned that includes a reception at the U.S. Supreme Court and a gala dinner with women lawyers from the Washington area.

A registration form is enclosed, but it also is possible to register on the NAWJ's web site: www.nawj.org. A limited number of hotel rooms are available at a conference rate and must be reserved separately from the registration. Some financial help may be available for those who could not otherwise attend.

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IAWJ Launches New Website

The IAWJ is proud to announce its new website, www.iawj.org. We have been hard at work building a site that both addresses members' needs and raises the visibility of the IAWJ on the Internet. Not only does the site have the usual information for the public about the IAWJ, its mission, history, leadership and programs, but there is also a section primarily designed for our members. We now have the capability to hold online moderated discussions and look forward to initiating our first discussions by October. We are seeking ideas from members for topics and hope that you will feel welcome to join the discussions, which will be limited for a designated time and open only to IAWJ members. Through its resource section and links to other organizations doing similar work, you will have access to current cases and other legal-judicial information. A message board allows members to post messages and the IAWJ will post upcoming events and news through special Calendar and News sections as well as copies of the IAWJ newsletter, *CounterBalance International*. Visitors and members to the site can join the IAWJ, pay dues, register for the upcoming Uganda 2004 conference, and make donations using credit cards.

Wonderful things are happening at the IAWJ; members of the IAWJ, both individuals and associations, are doing very important work daily. The web will help us increase our communications with you and tell the IAWJ story to the world. We hope you will begin to visit the IAWJ site often as a source of IAWJ information, a place to share with your IAWJ colleagues and a resource for you in your work. ☺

Grateful Thanks

to all those members who have paid their dues in a timely manner for 2003. Special thanks also to the generous individuals and organizations who have made special contributions to the IAWJ's mission and programs this year.

Moving Onward and Outward

Through the generosity of a prominent law firm, the IAWJ now is housed in larger quarters in the heart of Washington, DC. Be sure to revise your address book with the IAWJ's new contact information:

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