



# CounterBalance International

Newsletter of the International Association of women Judges and the International Women Judges Foundation  
Winter 2002, Vol.8, No. 1

## IWJF Honors ICTY Jurists

The IAWJ-IWJF responded to the tragic events of September 11 by "Celebrating Justice," the title given to a gala reception honoring three distinguished women judges who are making a singular contribution to peace and the universal rule of law by serving on the International War Crimes Tribunal for the former Yugoslavia (ICTY). Over 130 judges, lawyers and human rights advocates took part in this tribute to Justices Carmen Argibay, Gabrielle Kirk McDonald and Patricia Wald that took place at the magnificent Argentine Embassy in Washington, DC on November 15, 2001.

Argentine Minister, Ricardo Lagoria, Deputy Chief of Mission, and the IAWJ-IWJF Director Arline Pacht opened the program with brief welcoming remarks. Then Nina Totenberg, a highly-respected radio journalist, served as Master of Ceremonies and introduced the honorees.

However, Justice Argibay, past President of the IAWJ-IWJF, needed little introduction. Recently elected to serve on the ICTY, she begins a 4-year interim term in January 2002. Justice Argibay spoke of the influential role that the U.S. National Association of Women Judges played in creating the IAWJ. That singular event led her to found a national association of women judges in Argentina that now has more than 200 members.

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## Dublin Conference Celebrates A Decade of Success

Women from every corner of the globe will assemble in Dublin to celebrate the IAWJ's tenth anniversary at its 6th Biennial Conference from May 22 to 26, 2002. The Irish Women Judges Host Committee, chaired by IAWJ-IWJF President Justice Mella Carroll, have constructed a dynamic agenda with thought-provoking educational sessions reflecting the theme of "Creative Justice" and a social program that provides diverse settings for judicial interaction.

In welcoming judges to Dublin, Justice Carroll points out that "one of the most exciting aspects of past conferences has been the feeling of exhilaration at meeting so many women judges. . . . Taking part in the various sessions leads to. . . understanding of problems faced in other countries. I am confident that those who come to Dublin. . . will experience not only exhilaration, but enlightenment and empowerment, as a result of taking part in this important occasion."

### A Venerable Venue

Dublin Castle, whose origins date back to the early 13<sup>th</sup> century, will serve as the Conference venue. A modern wing of this magnificent structure provides a fully-equipped, state-of-the-art conference center, setting the stage for a truly memorable meeting.

A welcoming reception will launch the event on the evening of May 22. The weightier part of the meeting gets underway the following day with an opening address by Ireland's President, the Hon. Mary McAleese. This prominent and admired public figure began her career as a criminal law professor and more recently served as Director of Professional Legal Studies at Queens University in Belfast. Professor Angela Ward, distinguished law professor at the University of Essex and internationally recognized human rights scholar, will deliver the keynote address.

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Historic Dublin Castle - Site of the 6th Biennial Conference.



# World News Report

» **Argentina** — Dra. **Carmen Argibay** is bringing great distinction to the IAWJ, and to her country, by reason of her unanimous election to a 4-year term as an interim member of the International War Crimes Tribunal for the Former Yugoslavia. She takes her seat on the Tribunal in January, 2002.

The Argentine Association (AMJA) elected a new slate of officers, including Dra. **Estela R. Cárcamo**, President; Dra. **Hilda Kogan**, Vice-President; Dra. **Susana B. Parada**, Secretary; Dra. **María Susana Nocetti de Angeleri**, acting Secretary; Dra. **María Ernestina Storni**, treasurer and Dra. **Susana Castañera de Emiliozzi**, Vice-Treasurer.

AMJA scheduled a host of substantive educational meetings throughout 2001. In March, the organization hosted a lecture at which Dra. Argibay addressed, "War Crimes - Crimes Against Humanity." A month later, AMJA conducted a roundtable discussion at which experts examined "Women's Right to Control Their Bodies."

In May, AMJA held its seventh National Conference in Paraná, Entre Ríos, which focused on the IAWJ's priority issue: women, work and poverty. Consistent with this theme, the panels examined an array of issues such as "The Exploitation of Poverty: Prostitution;" "Gender Discrimination in the Workplace;" "Feminine Identity: Woman and Law;" "Woman, Poverty and Noncompliance With Alimony;" "Ways to Confront Poverty", "Poverty's Influence on Criminal Law" and lastly, "Women's Right to Control Their Bodies."

In September, 3 speakers reviewed a book entitled, *Judicial Administration At The Start of the Third Millenium*, and in October, Dr. Felipe Fucito spoke on "Judges, Society and Public Opinion." At its final meeting in 2001, AMJA sponsored a panel discussion addressing the ethical aspects of cloning.

» **Australia** — IAWJ Treasurer, **Jane Mathews**, retired from the federal bench, but the Australian judiciary has not lost her services as she has returned to the Supreme Court of New South Wales on senior status.

## Creative Judging

» **Bangladesh** — With support from the Minister of Justice, the Bangladesh Women Judges produced a video based on a tale written by Judge **Krishna Denath** that depicts the plight of propertyless women. The story concerns a woman who cannot find a place to live after she leaves her husband when he takes a second wife. The video is being shown throughout the country and will be exhibited at the Biennial Conference in May.

» **Botswana** — While serving as the first and still sole woman on the High Court, Justice **Unity Dow** recently published her second work of fiction. (See Booknotes at p. 10)

» **Canada** — In a moving address titled, "From Many Different Stones: A House Of Justice Is Built," Canadian Supreme Court Justice **Claire L'Heureux-Dube** opened a conference presented by the Canadian Chapter of the IAWJ in Montreal last November. More than 120 participants from Canada, Africa, and North and South America attended the meeting that focused on the country's expanding obligations under international treaties and how this body of law can be used in domestic courts to further the rights of women and children.

## A Non-Reversible Trend

A number of distinguished scholars, jurists and human rights experts stressed the importance of international norms in securing a global order at the Conference's plenary sessions. As Stephen Lewis, UN Special Envoy for AIDS in Africa, noted, the momentum behind the application of international legal norms to domestic law cannot be reversed. Justice **Shirley Abrahamson** of the Wisconsin Supreme Court, further pointed out that domestic judges can draw upon international human rights principles to better inform their decision-making, since "the world is now our courtroom." Numerous workshops also were held where topics such as child abduction, trafficking in women and children, trade and commerce, and youth justice were discussed.

After addressing the participants at the closing dinner, Canadian Supreme Court Chief Justice **Beverly McLachlin** was presented with honorary membership in the CC-IAWJ.

Canadian Chapter President Justice **Karen Johnston**, with Justices **Donna Hackett**, **Margaret Larlee**, and **Marguerite Trussler** are credited with planning this exciting event.

## A Giant Step Forward

» **Chile** — For the first time in the country's history, a woman, **María Antonia Moral Villegran**, will sit on the Supreme Court. The new justice began her judicial career in 1956. While serving on the Court of Appeals in Santiago, she was unanimously elected by the Senate to her new post. At the same time, Magistrada **Monica Eugenia Maldonado Croquevielle**, became the first woman to be elected as the "fiscales" to the highest court. As one Senator put it, "Chilean justice has taken a great step forward."

» **Guyana** — Madame Justice **Desiree Bernard** writes that in May, 2001 she was appointed Chancellor and Head of the Judiciary in her country, the first woman to hold these posts, in Guyana and the Caribbean. Prior to her elevation, she served for 5 years as the first woman Chief Justice of the Supreme Court.



» **Ireland** — Justice **Mella Carroll**, pictured above with the President of Dublin City University, was appointed Chancellor and Chair of DCU's governing authority.

» **Italy** — In order to bring a well-organized presence to the 6th Biennial Conference in Dublin this May, and thereby advance the IAWJ's aims and the rights of European citizens, the Italian Women Judges Association (ADMI) hosted a European regional meeting in Turin from November 16-17. The meeting focused on "European Rights and Judicial Creativity – The Family and the Economy."

# World News Report



Women judges from France, Germany, Ireland, Great Britain, Romania and Spain attended, including IAWJ President Mella Carroll and International law professor Maria Rita Saulle, both of whom delivered keynote addresses. A number of speakers discussed legislation in their countries dealing with families and the position of women in the economy. Representatives of the Government and members of the "Consiglio Superiore della Magistratura" were present, as were other distinguished guests from Turin. At the end of the conference, ADMI representatives proposed another meeting to consider joint training programs for European judges.

» **Kenya** — Judges from Liberia, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe joined their Kenyan colleagues at the second African Regional Conference of Women Judges in Nairobi from August 6 to 8. The Conference explored "The Application of International and Regional Human Rights Instruments at the National Level." Experts examined the African Charter for Human and Peoples Rights, judicial activism to promote human rights, the impact of the International War Crimes Tribunal for Rwanda, women, children and armed conflict, rights of refugees and returnees, human trafficking, and a comparison of the Convention on the Rights of the Child with the African Charter on the Rights and Welfare of the Child.

In opening remarks, Chief Justice Benard Chunga commended the Kenyan women judges for their advocacy on behalf of women and children which led to the formation of a family division of the Kenya High Court and for bringing the Jurisprudence of Equality Program to Kenya.

At the conclusion of the Conference, the delegates approved resolutions calling for strengthening and fully domesticating the African Charter of Human and Peoples Rights so as to afford greater protections to women and children.



**Justice Kikonyogo passes the banner of Regional Coordinator to Justice Aluoch.**

Justice **Joyce Aluoch** further reports that she was elected to the newly-created Expert Committee of the African Charter on the Rights and Welfare of the Child.

» **Nigeria** — The National Association of Women Judges, Nigeria, proudly congratulates Justice **Roseline Ukeje**, founder of the Association, on her appointment as the first woman Chief Judge of the Federal Court of Appeals, Nigeria's highest court.

» **Uganda** — The National Association of Women Judges in Uganda hosted the second Jurisprudence of Equality Workshop for judges from Kenya, Tanzania, Uganda and Zimbabwe, pictured below. During the training period, an original play written by Chief Magistrate David Batema, was staged at a Kampala theater. Distinguished guests in the audience included the Chief Justice of Uganda's Supreme Court, and the Irish and U.S. ambassadors to Uganda. With funding from a Ford Foundation grant, the play is being produced as a video screenplay that will be shown throughout the country.



## Undaunted

» **United States** — New York women judges worked for over a year preparing the 23<sup>rd</sup> annual meeting that was to be held at the Marriott Hotel-World Trade Center from October 5 to 8, 2001. On September 11, New York was irrevocably altered. Refusing to be daunted, the Host Committee moved the Conference to another hotel. One of the speakers at the meeting, Judge James Gambolino, stated: "I am fortunate to be in New York today, where I made a brief presentation...to the annual conference of the National Association of Women Judges [and] had the good fortune to meet Justice **Sandra Day O'Connor**, and Chief Judge **Judith Kaye** (NY Court of Appeals)....After September 11th, I had little doubt that the conference would be cancelled. A week later, I was notified...that [it] was going forward....Incredibly, attendance at the conference grew...rather than diminishing. I see this as a symbol of support and courage by the NAWJ members nationwide."

U.S. International Director, Judge **Leslie Alden**, received first prize of \$2,500 from Lexis-Nexis Co. for the most outstanding proposal for a project to train U.S. judges to use international human rights conventions in their courts. Judge Alden generously donated the award to the NAWJ as seed money for the project.

Judge Alden also met recently with visiting Taiwanese lawyers and other professionals who are examining ways to make their judicial system more responsive to women's concerns.

Recently retired Judge **Susan Finley** reports that she and four other Drug Court experts traveled to Brazil under a U.S. State Department program, to design and offer a weeklong training course at the Gama Fila University in Rio de Janeiro, Brazil. The US Ambassador to Brazil and the Brazilian Minister of Justice opened the sessions that were attended by judges, prosecutors, attorneys, and law enforcement officials.

## Second Term for President Pillay

Presiding Justice **Navanethem Pillay**, honored with the IAWJ award for human rights at the Buenos Aires Conference 2 years ago, recently was elected to a second two-year term on the International War Crimes Tribunal for Rwanda.

# Off the record: NOW MORE THAN EVER

By A. Pacht, IAWJ-IWJF Director

After September 11, most of us felt that our world would never be the same. I wondered if this cruel catastrophe would somehow drive us apart and cause us to isolate ourselves, or would it bring us together as tragedy often does? The answer came soon: messages from members and friends around the globe poured into the IAWJ-IWJF office condemning the barbaric assault, expressing concern, sharing grief. I knew then that the members of the IAWJ had come together as one community; that disaster had strengthened the ties that already bound us.

Now, more than ever, adversity compels the IAWJ to pursue its special mission with renewed fervor. As united and concerned women judges, we can give even greater voice to our shared belief in equal justice; a justice that is profoundly rooted in universal human rights. Now, more than ever, we must remain connected so that we may fulfill our commitment to construct a world in which all people are permitted to live in peace and with dignity.

The following poem by an anonymous writer expresses the unity of the IAWJ family:

### *The Power of One*

*As the soot and dirt and ash rained down,  
we became one color.  
As we carried each other down the stairs of the burning  
building, We became one class.*

*As we lit candles of waiting and hope,  
We became one generation.  
As firefighters and police officers  
fought their way into the inferno  
we became one gender.*

*As we whispered or shouted encouraging words  
We spoke one language.  
As we gave our blood in lines a mile long,  
we became one body.  
As we mourned together the great loss,  
we became one family.  
As we cried tears of grief and loss,  
we became one soul.  
As we retell with pride of the sacrifice of heroes,  
we become one people.*

*We are one color, one class, one generation  
one gender one faith, one language  
one family, one soul, one people.*



# Dublin Decisions

On September 28 and 29, the IAWJ-IWJF officers met in executive session in the library of Dublin's High Court. In the course of the 2-day meeting, the officers approved several crucial decisions designed to strengthen and ensure the stability of the Association and its Foundation.

Specifically, the Executive Council agreed to recommend a merger of the IAWJ and IWJF so that they become one organization in name as well as practice. The Executive further agreed to submit a resolution for approval by the IAWJ and IWJF International Directors to establish a Board of Trustees whose members will carry out such strategic functions as fundraising, managing the headquarters staff, overseeing budgetary and fiscal activities and searching for a new Executive Director. To begin the task of constituting a Board of Trustees, the Officers designated Agatha Aurbach and Joan Winship, currently Chair and member of the IWJF Advisory Committee, to serve *pro tem* on the Board of Trustees until such time as a permanent Board may come into being.

If a merger is approved, the IAWJ Constitution and the IWJF By Laws will require extensive revision. Accordingly, IAWJ President Mella Carroll has appointed Judge Leslie Alden to chair a Constitutional Revision Committee. These and other important matters will be priority items to be considered at the IAWJ-IWJF business meeting in Dublin this May. ☒

## HER-STORY -- YOUR STORY

*Has your association chronicled its history yet? Only a few months remain to submit a record of your association's development. If you want your Association's story to be part of the IAWJ's saga that will be distributed at the Dublin Conference this May, then you must submit your draft to Judge Leslie Alden, US International Director, no later than April 1 at [LMA53@hotmail.com](mailto:LMA53@hotmail.com).*

### IN MEMORIAM

*Heartfelt condolences are extended to Hon. Solomy Bossa, Justice of the High Court of Uganda, on the recent loss of her mother.*

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*The IAWJ-IWJF also extends its sympathy to the family of Dr. Stanley Rubin, a career officer with the U.S. Information Agency, who passed away while in the prime of life. Dr. Rubin, a good friend to the IAWJ, approved funding that permitted many U.S. women judges to travel abroad to pursue professional goals.*

# The Faces of Courage

## *A Letter From Judge Radmila Dragicevic, President of the Serbian Association of Judges*

*[Judge Radmila Dragicevic Dacic, President of the Serbian Judges Association, sent the following message describing in her own words the abusive conditions facing the judiciary during former President Milosovich's reign, and the remarkable resolve of the women judges and youngsters who resisted them]*

"As you know the regime of Slobodan Milosevic fell a year ago. [Since then,] many things have [happened] involving the judiciary. In the last few years [of the Milosevic regime], the judiciary merely executed the will of the politicians. The executive branch controlled the judiciary, and any serious legislative reform was systematically blocked. Issues of financial autonomy and personal safety of judges depended on the will of the Executive. The election of judges did not depend on merit but on being politically suitable. Some judges who engaged in a serious battle for an independent and impartial judiciary, faced various forms of opposition from authorities: They were accused of being "traitors and foreign hirelings" and threatened with dismissal, although judges are supposed to have lifetime tenure.

In July 2000, I was dismissed along with 20 colleagues. It was a completely unlawful procedure in retaliation for an open letter expos[ing] the situation of judges and the control the Executive exercised over them. However, in March 2001, a new Serbian Parliament overturned these... dismissals and I regained my position.

### **The Struggle Continues**

The struggle for an independent judiciary and rule of law still goes on. What is very important in this fight is that the women judges are taking the major role. In Serbia there are about 2600 judges, 70% of whom are women. The reason for this is that wages are very low and male judges often leave the profession to take more lucrative jobs. It is essential to revive the dignity of the Serbian courts. To accomplish this will take knowledge, endurance, patience and financial resources. The women judges are playing a very active role in depoliticizing and decentralizing the judiciary, and establishing the rule of law.

Here in Yugoslavia...we are facing the need for big reforms in the judiciary, and the judges are very active in it ....through the Judges Association of Serbia.... The women are the most active [and] have shown much bravery....so they are mainly the presidents of the courts. The president of the Serbian Supreme Court is also a woman.



Under the former regime it was not so easy to be brave because it was dangerous. For example, whenever we would go to the meetings of the Judges Association governing board we thought that we might get arrested, for they treated us as a terrorist group.

### **Judges and Students Take to the Streets**

A few of us joined the street demonstrations too, which very often ended with police [violence]. It is strange to have judges on the streets, but in totalitarian regimes that may be the only way. It was on 5 October of last year when we had a street revolution and overthrew Milosevic.

During that regime, we had student movement resistance. Even youngsters of 14 years...organized many beautiful and imaginative performances against the regime. But, they were also badly persecuted by police, and tortured in all sort of physical and psychological ways.

At that time, I joined an NGO for humanitarian law and traveled through all Serbia talking with members of the resistance. Since I am a criminal law judge, I informed them about their rights with the police and published a handbook about their chief rights in pre-trial processes. It proved to be very important because the youngsters could stand up more bravely and with dignity and tell the police about all their rights. It helped them not to fear so much, because knowledge is the best way to gain courage.

Once when we traveled to one of those meetings, we almost were arrested, and the free media and foreign radios and TV informed about it. It all helped to show the brutality and absurdity of the regime.

I hope I can attend the IAWJ Conference in Dublin and speak about these things, particularly the bravery and achievements of many women judges.

Greetings from,  
Radmila Dragicevic

# ICTY Justices Honored

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## Speaking With Mind and Heart

Both Justices Gabrielle McDonald and Patricia Wald, offered unique insights into the daily reality of working on the ICTY. Justice McDonald turned to one of her most important cases, *Prosecutor v. Tadic*, to illustrate the conditions under which the justices labored. The case took 6 months to try and produced a 7,000 page transcript with 300 exhibits. In 1997, Tadic was found guilty of war crimes and crimes against humanity, resulting in a 20-year sentence. The verdict was the first determination of individual guilt in connection with serious violations of international humanitarian law by an international court and the first ever judicial condemnation of the “ethnic cleansing” policy. However, because the Tribunal had only one courtroom, other trials could not proceed concurrently, leading the media to harshly criticize the Court’s slow pace.

Justice McDonald suggested that while the ICTY’s purpose is to give meaning to heretofore seldom-used human rights principles, it should not be viewed as a remote intellectual forum, but rather as a body that deals with real people who have suffered enormously. She pointed to the moving testimony of one of the 27 witnesses in the Tadic case who, in muted tones, described the loss of two sons. As he and his elder son were being herded onto buses for transfer to one of the infamous Serbian prison camps, his son was drawn out of the line and summarily executed. While in the camp, he was ordered to bring his second son to an interrogation. When his son reluctantly complied, he called to his father to take care of his children. That was the last time he ever saw his son.

## How Could This Happen?

Another Muslim witness testified that his Serbian neighbor, who had the keys to his house, as he had keys to his neighbor’s, and had served as best man at his wedding, was the same person who terrorized him. When Justice McDonald asked him how this could happen, the witness, who was a Principal of a large multiethnic public school, could not answer.

Justice McDonald stated that while President of the ICTY, she spoke to many groups in the United States in an effort to make the war in Bosnia and Croatia real. However, she found little understanding as events in the former Yugoslavia apparently seemed too remote. She wondered if the September 11 tragedy would alter this, finally forcing people in the U.S. to understand that everyone must be accountable.

## A Noble Experiment

Justice Patricia Wald was also well-known to the audience as a 20-year member and then first woman Chief Judge, of the U.S. Court of Appeals for the District of Columbia. Just returning from 2 years at the Hague, she described the Tribunal as “a noble experiment and [a] most rewarding, important experience.” She also acknowledged that there were a number of frustration.

For example, Justice Wald pointed out that while her entire judicial career was on an appellate bench, her ICTY assignment was to a trial court. Further, her 2 colleagues on the panel were from civil law judicial systems where the evidentiary rules are quite different from those of common law systems with which she is familiar. Therefore, the justices had to negotiate the rules as questions arose. Moreover, her fellow judges were French-speaking, whereas her last formal exposure to French was in high school. Since the prosecutors generally spoke English, and witnesses typically spoke either Serb or Croat dialects, everyone was at the mercy of translators who followed strict rules about the length of time they would work before being replaced.

Justice Wald indicated that she was involved chiefly with 2 trials, each of which lasted over a year. In one case, a general was charged with thousands of Muslims’ deaths at a notorious prison camp. His culpability was not a foregone conclusion since he was nowhere near the killing grounds. However, he was convicted on the basis of radio intercepts of talks among the General’s bosses. Justice Wald said these bosses were the real criminals although they have not yet been apprehended. Similarly, in a second case, 5 low-level officers — prison guards and shift commanders — were accused of treating prisoners brutally at another infamous camp. Here too, Justice Wald said that the difficulty lay in finding proof that the defendants actually engaged in the violence. A police chief with authority over the prison guards killed himself before being arrested, while the camp commander has not yet been apprehended. Without precedent to guide them, the Tribunal had to determine whether guards could be convicted as war criminals when they did little more than contain prisoners who were forced to subsist without food, hygienic conditions or shelter. In a 300 page opinion, Justice Wald’s panel devised the “common purpose” theory; that is, people can be held liable if found to have contributed to a common purpose. This issue has not yet been resolved on appeal.

## Prosecuting The Most Guilty

Justice Wald further explained that with so many defendants now awaiting trial, there is insufficient space to hold them and only three courts in which they can be tried. One solution was to add a number of *ad litem* judges, but they, too, will face translation problems and other logistical hurdles. Fearful that it will be impossible to prosecute everyone by the projected completion date of 2012, Justice Wald proposed that the ICTY and eventually, the International Criminal Court conserve their limited resources by handling only the most serious crimes. Lesser offenses, she suggested, could be tried in national courts.

## Where are the Women

Justice Wald lamented the dearth of women on the Tribunal. While noting that very talented women serve on the ICTY prosecutorial staff, she also observed that they were generally at the lowest rungs of the hierarchy. In the most recent ICTY election, only one woman was nominated for a seat on the Court. She was glad to see, therefore, that 5 of 12 *ad litem* justices are women.

In conclusion, Justice Wald credited the ICTY for the progress it has made in giving flesh to the international human rights concepts. While the ICTY has paved the way for the ICC, she cautioned that all of the problems have hardly been resolved. □



Justice Observed - Nina Totenberg introduces (from l-r) Judges Argibay, McDonald and Wald.

# Coming Events . . .

## February 27 - March 3:

The International Federation of Women In Legal Careers, The International Federation of Women Lawyers (FIDA) and the IAWJ-IWJF are considering how and in what circumstances the 3 organizations can collaborate on matters of mutual concern. To date, the IAWJ-IWJF have agreed to publicize events of the other two groups and exchange general mailings.

In keeping with this cooperative spirit, IAWJ is pleased to announce that FIDA is sponsoring its first regional conference in Kuala Lumpur, Malaysia from February 27 to March 3 at Hotel Istana, Kuala Lumpur, Malaysia. The meeting will address the Rights of the Child with special attention to the sale and prostitution of children. Mrs. Puan Sri N. Saraswathy Devi, FIDA Vice President for Asia, is chairing the host committee. Those interested in attending are asked to contact FIDA, c/o N. Saraswathy Devi, Advocates & Solicitors N° 47, the Haul Sultan Ismail Kuala Lumpur, 50250, Malaysia.

## March 4 -15:

The Commission on the Status of Women (CSW) will hold their annual meeting at UN headquarters in New York, where the following thematic issues will be considered: Eradicating poverty by empowering women; and environmental management and mitigation of environmental disasters.

## May 22-26:

The IAWJ-IWJF Sixth Biennial Conference will take place in Dublin, Ireland.

# Books Abroad



**Books Abroad** – Women judges of Ghana donated more than 1000 volumes of legal material to their Supreme Court library that they received from the US NAWJ and the IAWJ-IWJF as part of FLAG, the Furthering Legal education Around the Globe project.

*We wish to thank all those who opened their hearts and emptied their pockets in contributing so generously to the IAWJ and IWJF in 2001.*

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Marna Tucker, Esq.**

## Dublin Conference Celebrates A Decade of Success

*continued from pg. 1*

Chief Justices Beverley McLachlin and Ronan Keane, of Canada's and Ireland's Supreme Courts, respectively, will respond to Professor Ward's provocative talk. Ireland's Past President, and current UN High Commissioner for Human Rights, Mary Robinson, will round out the program with an important address on Saturday, May 25.

In keeping with a popular practice at previous conferences, a moot court argument involving a hypothetical case that poses gender issues of international significance, particularly to women judges, will be presented to a tribunal composed of distinguished IAWJ justices from around the world. And as customary, members will participate in the plenary business meetings as well as in lively regional caucuses.

Of course, the Conference would not be complete without the gala banquet on Saturday, May 25. Once again, the Human Rights Award will be presented to honor a person who has made a major contribution to women's rights.

Justice Carroll extends a warm invitation to all, to come to Dublin, a "friendly city, small enough to get to know in a few days," which leaves time "to see...a bit of Ireland as well." □

### **MOVING ON...**

The IAWJ-IWJF have a new home. Please  
note our new contact information:

4435 Wisconsin Ave., NW  
Suite 407  
Washington, DC 20016

tel: 202.244.9619  
fax: 202.244.9389  
email: office@iawj-iwjf.org

## **NOT SO SILENT AUCTION**

*Once again, the ever-popular Silent Auction will be a featured attraction at the Biennial Conference in Dublin. Everyone is encouraged to donate gifts. Contributions typifying the arts and crafts of a member's country are especially welcome. The varied items will be on display and written bids accepted for several hours prior to the banquet on Saturday evening, May 25. The lucky bidders will be announced at the banquet.*

*The Host Committee urges all those attending the Conference to bring their donations and those of other contributors with them to Dublin as there is insufficient space to store them in advance. The Committee further asks that donors observe the following guidelines:*

- Donations should have a value of at least \$15.00.
- Descriptions of each donation should be typed or clearly written on 4 by 6 inch file cards, including the amount of the starting bid.
- Descriptions should be mailed no later than May 15 to Silent Auction Chair person, Judge Catherine Murphy at 28 Palmerston Gardens, Dublin, Ireland, or faxed to Justice Mella Carroll at 353-1-497-8419.

*Examples of donations that have been exceptionally popular in the past include such items as art work, books, tablecloths, hand-knit sweaters, jewelry, evening bags, vases, picture frames, scarves, ties, gift certificates, and even use of vacation homes. Please donate generously – each gift will be a valued source of income for the IAWJ.*

### **\$\$ - DUES DUE AGAIN - \$\$**

Congratulations to IAWJ members who set a record in 2001 by paying dues in greater numbers than ever before. Let's do even better in 2002, not only by paying the amount owed but by forwarding the sum in a timely manner. IAWJ rules require payment by March 31.

By membership vote at the Buenos Aires Conference, the dues owed by each national association increases slightly in 2002 to \$6.00 (U.S.) per member. Thus, a national association with 20 members would transmit a lump sum payment totaling \$120 dues for individual members remains \$15 annually.

Lump sum dues payments may be sent by wire transfer to the IAWJ at Bank of America, account number 001933207050, ABA number 054001204. Please include a \$10 fee for each \$100 transferred. Certified checks or international travelers' checks may also be sent to IAWJ headquarters.

**VI CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF WOMEN JUDGES  
Dublin -- Ireland**

**May 22<sup>nd</sup> - 26<sup>th</sup>, 2002**

**REGISTRATION & ACCOMMODATION BOOKING FORM**

Only one delegate per form (**Please type, or print** using black, not blue, ink)

FAMILY NAME..... FIRST NAME..... Title.....

ORGANISATION/AFFILIATION.....

POSTAL ADDRESS: Street.....  
City.....  
State/County..... Postal/Zip Code.....  
Country.....

TELEPHONE: *Include country code:* Office..... Home.....  
Fax..... E-Mail (please print).....

I will be accompanied by: (2)..... (3).....

**ACCOMMODATION:** I/We require accommodation for.....people as follows:  
.....Single room(s) .....Twin room(s) Other (please detail).....

Arriving on May..... Departing on May..... No. of Nights.....  
Hotel Preferred: 1<sup>st</sup> choice..... 2<sup>nd</sup> choice.....  
3<sup>rd</sup> choice..... 4<sup>th</sup> choice.....

If *Guest-House Accommodation* is required please indicate if room with or without , private bathroom is preferred

**PAYMENT**

1. By Cheque or Bank Draft drawn on a prime Irish bank payable to VI Conference of IAWJ
2. By Bank Transfer to Account No. 73546014, Reference IAWJ Conference, (Branch Code 93 10 12), at Allied Irish Bank, 1 Lower Baggot St, Dublin 2, Ireland. Attach a copy of your bank's slip to this Registration Form to enable us to identify your payment.
3. By Credit Card (Access/Master Card or Visa Card only accepted).  
The Dublin Secretariat must impose a 2% administration charge on all Credit Card Payments.  
Type of Card..... Card No..... Expiry Date.....  
Print Name of Card Holder.....Signature of Card Holder.....

Please Ensure Payment is Net of All Charges To Us. Any Bank Charges Deducted from Your Payment By The Bank(s) Will Be ReInvoiced Out

**PAYMENT TO COVER:**

ONE IAWJ Member Delegate Fee 500.00  
.....Accompanying Person(s) Fee @ 85 *per* accompanying person .....

.....Accommodation Deposits @ 150 *per person* (full payment required with bookings after April 22<sup>nd</sup>, 2002)

.....Ticket(s) for the Friday, May 24<sup>th</sup>, sightseeing tour. Full prepayment required.

	1 <sup>st</sup> Choice	2 <sup>nd</sup> Choice	3 <sup>rd</sup> Choice	
Dublin City Tour A @ 26	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Dublin City Tour B @ 34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Literary Tour of Dublin @ 36	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
North Dublin & Malahide Castle @ 22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....

Total : \_\_\_\_\_  
Plus 2% for credit card payments: \_\_\_\_\_

**Signed:**.....Date:..... **Total Enclosed:**

Please Note That We Are Unable To Process Any Registration Without The Necessary Registration Fee


**Please Return Completed Form Together With Necessary Payment To:**  
**VI Conference of the International Association of Women Judges**  
**C/o Conference Organisers Limited, Clifton House, Lower Fitzwilliam Street, Dublin 2, Ireland**  
**Tel: (+353-1) 662 0125 Fax: (+353-1) 662 0126 E-Mail: info@conferenceorganisers.ie**




# BOOK NOTES


## ***Battered Women and Feminist Lawmaking*** by Elizabeth Schneider.


This important book traces the legal process that brought the pervasive severity of domestic violence to public attention and led the U.S. Supreme Court to incorporate feminist arguments into law, especially in the case of battered women who kill their assailants. From the perspective of law as a vehicle of social change, Schneider also examines criminal prosecution of batterers and civil rights remedies afforded by the Violence Against Women Act. \$29.95 Yale University Press.


 ***Far and Beyond*** by Unity Dow . This contemporary novel relates the ongoing struggles of Mara's family, offering fascinating insight into modern African life, and the cultural cataclysm that enables families to live in poverty, wear NIKEs and die of AIDS. The author, the first woman High Court Justice in Botswana, co-founded the Women and Law in Southern Africa and brought the landmark case that invoked CEDAW to overturn a discriminatory nationality law in Botswana. \$17.95 paperback, Spinifexpress.



 ***Chile, Pinochet, and the Caravan of Death*** by Patricia Verdugo. The author, a Chilean journalist, offers compelling evidence and witness testimonials about the "caravan of death" killings; that is, mass executions of political prisoners at the outset of General Augusto Pinochet's 17-year dictatorship in Chile. These massacres terrorized Chile and crushed the country's long-standing tradition of civil government and respect for law. The "culture of fear" that absorbed the country throughout the difficult years of the dictatorship is meticulously recorded in this account that features first hand reports of military and civilian witnesses. This updated edition describes Chile's own judicial hearings to strip the former general of immunity from prosecution.

 ***The Mobilization of Shame: A World View of Human Rights***, by Robert Drinan. S.J. As ordained Jesuit priest, lawyer, former U.S. Congressman, professor at Georgetown University Law Center and member of IWJF's Advisory Board, Father Drinan offers a singular perspective on the human rights movement and its prospects for the future. He follows the movement from the birth of the United Nations to such recent events as the indictment of Milosevic. The author also examines wide-ranging issues such as women's worldwide struggle for equality, U.S. adherence to customary international law, the global revolution in the rights of children, the right to food, to religious freedom, the human rights of prisoners and legitimacy of the death penalty, protections against torture and other cruel or inhuman treatment and South Africa's truth and reconciliation commissions. \$24.95

 ***Subject to Debate: Sense and Dissents on Women, Politics and Culture***, by Katha Pollitt. The 88 provocative, witty and brilliant essays on topics such as abortion, affirmative action, school vouchers and poverty, were originally published in the author's column in *The Nation* from 1994 to 2000. Her new introduction critiques feminism today and calls for renewed activism against social injustice. \$14.95, paperback, Modern Library.

 ***The Graves Are Not Yet Full***, by Bill Berkeley. In this well-written gripping account, the author, who has reported on African affairs for more than a decade, focuses on recent examples of tyranny and civil disorder in Liberia, Zaire (now Congo), Sudan, Rwanda, Uganda, and South Africa. His central thesis dispels the myth that Africa's problems are the result of "age-old hatreds" or "tribal conflicts." Instead, he provides evidence that anarchy and violence are tools used by the tyrannical African "Big Man" to secure power, and often reflect the international politics of colonialism and the Cold War. In a final chapter he sees some hope in the work of the International War Crimes Tribunal for Rwanda. He particularly commends the landmark decision issued by Presiding Justice Navanethem Pillay, holding that the massive rape of Tutsi women was a human rights violation.

### **Other Resources:**

**[www.iawj-iwjf.org](http://www.iawj-iwjf.org):** Visit the IAWJ-IWJF's updated and refurbished web site. Find out who's who and what projects are underway. Learn about the activities of other national associations and of the IWJF. Forward comments and suggestions; add information about your national association. The web site offers a unique opportunity to share information with some 4,000 other judges throughout the world.

**[www.endvaw.org/rgw](http://www.endvaw.org/rgw):** The Johns Hopkins University Center for Communication programs and the U.N Development Fund (UNIFEM), have launched a new web site dedicated to comprehensive collection of the latest materials related to violence against women. The site includes journal articles, reports, training materials, brochures, posters and links to other professional organizations that work to end gender violence.

***Understanding Sexual Violence: The Judge's Role in Stranger and Nonstranger Rape and Sexual Assault Cases.*** This self-directed educational video with study guide for judges, focuses on dealing fairly with sexual assault cases. It provides information about how victims react during and after the assault, rape-related post-traumatic stress disorder, sex offenders, their sentencing and treatment and jurors' attitude toward rape. Video and Instructor's Guide binders \$60 and \$45 respectively. NOW Legal Defense and Education Fund; fax: 212-1066; e-mail: [njep@nowldef.org](mailto:njep@nowldef.org). □



# LANDMARKS



## The Comfort Women Cases

### *Comfort Women Vindicated*

*The Women's International War Crimes Tribunal sat in Tokyo from December 8 to 10, 2000 to address Japan's culpability for the military's use of "comfort women" during World War II. After hearing testimony from 35 survivors, former soldiers, officers and experts, the Tribunal delivered preliminary findings in December 2000 - the Court issued a final judgment a year later at the Hague, finding that the Japanese State, including the late Emperor, Hirohito, and other high ranking military and government figures, were guilty of crimes against humanity. Justice Gabrielle Kirk McDonald read a summary of the 240 page judgement, that is excerpted below.*

\*\*\*\*\*

The summary initially outlined the victims' testimony about the beatings, burnings and sexual torture they suffered. The Court found that constant sexual abuse and horrific conditions of detention resulted in malnutrition, disease, illness and death. Many did not survive or were killed. Survivors endured ostracism and hostility.

The Tribunal weighed and rejected each of Japan's defenses. Thus, in response to Japan's contention that the statute of limitations bars judicial intervention, the Court ruled that the statute is inapplicable to crimes against humanity. The Tribunal also held that the crimes were *ultra vires*; that is, they were illegitimate functions unprotected by the immunity doctrine. Further, the Court reasoned that the defendants had to know about these crimes given the State's intense regulation of the comfort stations.

Japan's assertion that it fully complied with international peace agreements that provided for lump sum payments and waiver of all other claims was also rejected. The Tribunal found that the victims' claims never were considered, that payments were made to governments, not survivors, and that the peace agreements were politically motivated to ensure U.S. influence in Japan during the Cold War. The Tribunal ruled that in such circumstances, crimes against humanity cannot be waived. The Tribunal further observed that Japan's statements of regret were to heads of state, not the survivors and that efforts to compensate the survivors was deficient in that funding was from private contributions, not official compensation.

Acknowledging that its decision is not legally binding, the Tribunal pointed out that it focused world attention on the comfort women's plight and brought pressure on the Japanese government to atone. To this end, the Tribunal recommended a series of remedies including reparations, personal apologies to the survivors, erection of memorials to honor the victims, returning remains to requesting families and educating the public to the historical truth. The Court further urged the United Nations to compel compliance with its judgment.

### *Case Dismissed*

*Hwang Geum Joo v. Japan* (US District court for DC. 2001) This case was brought by 15 Asian women, on their own behalf and others similarly situated, seeking reparations from the Japanese government for their sexual enslavement and torture by the Japanese military before and during World War II. Treating the facts alleged as true, the Judge found that the plaintiffs, known as "comfort women," were abducted and imprisoned in "comfort stations," facilities either built or seized near the front lines and regulated by the Japanese government. There, the women were repeatedly raped, tortured and beaten. Only an estimated 25 to 35% of the women survived, and those who did suffered serious health effects. Soldiers paid access fees based on the woman's nationality, part of which went to the military. Japan initially denied operating a comfort station system, claiming that the women all were prostitutes. Finally in 1992, the government publicly apologized but has never admitted full responsibility nor paid reparations to the victims.

### Motion to Dismiss Granted

The Court granted Japan's Motion to Dismiss the Complaint on 2 grounds: that Japan was protected from suit under the doctrine of sovereign immunity and the case presented a non-justiciable political question.

In so ruling, the Judge first found that the plaintiffs failed to prove that Japan intentionally waived its entitlement to sovereign immunity by engaging in commercial activity that directly affected the U.S. In reaching this conclusion, the Judge reasoned that such acts performed by military officers are not those engaged in private players in the market anymore than requiring ransom for kidnap victims makes that a commercial activity. While he recognized that the conduct might be considered a war crime or crime against humanity, he found that it did not serve a military purpose and, therefore, did not constitute commerce.

### A Political Issue

The Judge next ruled that the case presented a non-justiciable question. Relying on Supreme Court precedent, he observed that the doctrine of non-justiciability applies when there is need to give finality to the acts of political departments and satisfactory criteria for a judicial determination is lacking. The Court then concluded that the case did not lend itself to judicial resolution since the harm was inflicted some 60 to 70 years ago against a government that had settled all war claims with the U.S. as well as with the Philippines, China and Korea.

The case is on appeal to the U.S. Court of Appeals for the District of Columbia.

### **Counterbalance International**

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including articles for World News Report, Book Notes and/or Landmarks, are welcome and should be submitted to IAWJ-IWJF headquarters by **July 1, 2002**

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