

# The Honorable Justice Susan Glazebrook, Supreme Court of New Zealand



Caroline Berube

On 2 November, during the 2012 IPBA Mid-Year Council Meeting and Seminar in Auckland, New Zealand, I was given the opportunity to interview The Honorable Justice Susan Glazebrook for the *IPBA Journal*. The following is a condensed version of the interview.

**Interviewed by Caroline Berube\***  
Managing Partner, HJM Asia Law & Co LLC

**Q:** What initially attracted you to becoming a lawyer and thereafter move across to the bench?

**A:** There had never been any lawyers in my family. So the decision to become a lawyer was made with little idea of what being a lawyer entailed. I wanted a profession and did not want to be a teacher (like many in my family). I considered medicine (and my sister took that route) but I was probably more arts than science orientated – so I decided on law as a career.

As to becoming a judge, I was asked to become one. Mine was not a usual path to the bench as I had been a commercial lawyer and not a litigator.

I was not the first in that category and not the last, but appointments are still largely made from litigators. I think the idea was to have more people on the bench who understand commercial law, those who weren't litigators but have commercial experience. It was slightly surprising and obviously flattering to be asked in such circumstances and also to have the opportunity to provide an important public service of this nature, using my commercial experience.

**Q:** What was the most interesting aspect of being the President of the IPBA from 1998-99?

**A:** The most challenging aspect of my involvement with the IPBA was actually as President-Elect when I was responsible for organizing the Auckland

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\* Caroline Berube is currently serving as the Chair of the IPBA's Publication's Committee

conference. This was a huge organizational task for all involved. Getting delegates to attend was particularly challenging because of the major financial crisis in Asia at the time, but in the end we had about 550 delegates which I was very happy about.

The most rewarding aspects of my involvement with the IPBA (and not just as President) have been the strong friendships I formed and also the cross-fertilization between jurisdictions. Involvement in the IPBA exposes participants to different legal systems, to other cultures and to different ways of doing business. This not only helps in cross-border work but can also help participants in their work within their own jurisdictions. The ideas they are exposed to from other jurisdictions can lead to finding better ways of doing things in their own.

I also very much enjoyed the representation role as President, both through visiting a number of jurisdictions and meeting with IPBA members on their home ground but also meeting with other organizations, such as the IBA and ABA. This was important in order to raise the profile of the IPBA on the world stage.

**Q:** What has been the most rewarding and the most challenging moment in your career thus far?

**A:** By far the most challenging moment in my career to date was the first criminal trial I presided over as a new judge. I had never had any criminal experience in practice. Although we had the opportunity to sit and observe other judges for a week or two and colleagues were always ready to help, nothing can really prepare you for that first solo experience.

Other rewarding aspects of my career, apart from the legal work, were appointments to the board of a major hospital in Auckland and also to the Board of Trustees of a superannuation fund. These appointments enabled me to experience things from a different perspective: that of the commercial entity as against that of legal advisor. This gave me a deeper understanding of commercial issues. I also served on a number of government advisory bodies and this was interesting too as it involved the development of policy rather than its application.

Another rewarding aspect of my career to date has been the international involvement. The crowning moment in that regard was of course as President of the IPBA. But, since being on the Bench, I have continued my international involvement and in particular in the Asia-Pacific region. For a number of years, I was on the Advisory Council of Jurists for the Asia-Pacific Forum of National Human Rights Institutions. I have also been involved with the International

Organisation for Judicial Training and am currently a board member of the International Association of Women Judges as one of their Asia-Pacific representatives. Finally, I was involved in the early stages with the World Justice Project (of which the IPBA is one of the strategic partners).

**Q:** What are your thoughts on judicial specialization as opposed to every justice/judge having a broad area of competence and expertise?

**A:** For a small jurisdiction like New Zealand it is impractical to have specialist courts in particular specialist areas, such as intellectual property, as there are too few cases to sustain such courts. Totally specialist courts in narrow areas also, in my view, risk becoming insular – there is benefit in cross-fertilization with other areas of law. There is an added danger in small jurisdictions, even if there are sufficient cases, as the law risks being concentrated in too few hands.

On the other hand, *de facto* specialization (where particular types of cases get funneled to particular judges who are perceived to have expertise) has dangers as it is behind the scenes and therefore not open to public scrutiny.

For myself, I favour a panel system similar to that in the Federal Court of Australia. Under that system, as I understand it, judges can choose to join panels on particular specialist areas and they then must undertake to educate themselves and keep current with the law. There is a fair system of allocating cases to those on the panel. There is probably merit in having rotation on panels so the law does not become stultified and concentrated in too few hands. Judges on panels continue to sit on cases in the general jurisdiction of the courts and so continue to reap the benefits of cross-fertilization with other areas of the law. My personal view is that this system means the best of both worlds: expertise and cross-fertilization.



Justice Susan Glazebrook

**Q:** What are your thoughts on how the international commercial community views the New Zealand Judiciary? In this light, what do you believe to be the most challenging points, and how should these be addressed?

**A:** New Zealand has a stable, independent judiciary which is evidenced by the latest Rule of Law Index results. New Zealand scored third out of 14 countries in the Asian-Pacific region for civil justice and ninth out of 97 countries surveyed worldwide. It also scored first in the Asia-Pacific region and sixth in the world for absence of corruption.

There have been a number of measures taken over the years to make the New Zealand court system more responsive to the needs of commercial clients, such as changes to discovery rules and case management. There have also recently been changes to the process of fixture allocations and the organization of judgment writing in the High Court, which have served to speed up the process of civil litigation. According to its 2011 report, these changes have meant that fixtures for civil trials are now available in the High Court well within 12 months of filing a claim. There are also projects on hand for electronic filing and the early identification of issues. In addition, New Zealand's judicial education programme is very well developed, through its Institute of Judicial Studies.

In my view, courts must adapt and remain relevant to commercial clients. If they do not, then they risk being sidelined. There is an obvious long term danger to the rule of law if that regularly occurs in cases of legal importance and high precedential value.

**Q:** Being established in 2004, the Supreme Court

of New Zealand is still relatively new. What excites you the most about being involved in the future development of the Supreme Court?

**A:** As a new appointee to the Supreme Court, I am very much looking forward to being involved in the continuing process of defining the role of the Court as a final court in the New Zealand context. This includes finding the proper balance between domestic jurisprudence and responsiveness to increasing globalization.

**Q:** Do you think that being a female Supreme Court judge faces different challenges than being a male Supreme Court judge? Do you think that there are additional challenges because you are a woman?

**A:** To sidestep the question a bit, I think it is important to have a diverse judiciary that, as far as possible, reflects the society it serves. Those from diverse backgrounds will have different life and professional experiences, and thus will bring different perspectives to the task of judging. These different perspectives are particularly important in a collegial court and lead to better judgments.

Having said that, I do not think that differences between judges as to the law and the application of the law arise on gender lines. Nor do the challenges differ. All Supreme Court judges, male and female, are very conscious of their responsibility to litigants and to the legal system as members of the final court.

**Q:** Any special message for our IPBA members?

**A:** The IPBA is a fantastic organization. It has, to its credit, stuck to its core business as an association of business lawyers grounded in the Asia-Pacific region. Long may it continue.