Introduction

The New Zealand Association of Women Judges (NZAWJ) is in the final stages of a three year project interviewing women judges. The project has been funded by the New Zealand Law Foundation and the Ministry for Culture and Heritage. The project’s purpose is to create a national, publicly accessible record of the lives and careers of selected women judges. Such oral histories are important because women’s stories are often unheard and therefore lost.

As the recording of oral histories is a specialist discipline, the NZAWJ contracted with the highly experienced oral historian, Megan Hutching, to do the interviews. We also thought that sitting judges in particular would feel able to be more frank with an interviewer who was not a member of the judiciary.

We intend to continue the project after the end of the three year period. We hope that, with some training from our historian and the experience gained from the project so far, some of our retired judges will be able to conduct further interviews.

Objectives of the project

There are three related aims of the part of the project which is funded by the New Zealand Law Foundation:

(a) to record and assess women judges’ experiences of, and perspectives on, the law and judging;

(b) to record and assess the varied careers of New Zealand’s women judges and their contributions to the legal profession and the judiciary both in New Zealand and internationally; and
(c) to contribute to an understanding of the relatively low levels of participation of women in the legal profession and the judiciary.

For the Ministry for Culture and Heritage part of the project, there is the added aim of assessing the above matters from a Māori perspective, both in terms of the experiences of Māori judges and also from the perspective of Māori who come into contact with the courts.

**Insights on the law and judging**

Through their recollections and reflections on their working lives and backgrounds, we will learn about the role of women judges in New Zealand. This may throw some light on the controversial issue of whether women judge differently from men or at least on the extent to which they have a different perspective.

Leaving aside the issue of gender, the women judges interviewed have all made important contributions to the judiciary (including in leadership roles) and to the law generally. Some have had earlier (or parallel) careers, including in the arts, teaching and business. Many have also undertaken international roles. These contributions are important to record.

We expect the interviews will provide general insights into the nature of judging, New Zealand’s international role, the organisation of the judiciary and criminal justice initiatives. Not only will this be an historical record but the project will provide lessons for the future. Specifically, the NZAWJ believes that the insights from the judges will reveal future directions that the law should take, both procedurally and substantively. The interviews will provide a unique opportunity to explore the role judges have played in the development of New Zealand’s jurisprudence and their opinions on areas of New Zealand law that are in need of further development and improvement.

Additionally, the judges interviewed in the Ministry for Culture and Heritage part of the project will provide invaluable information on the experience of Māori and other ethnic minorities in our courts.
Women’s participation in the legal profession and the judiciary

Ensuring the full participation of women in society (including the workplace) is not just a matter of justice but also one of economic necessity.\textsuperscript{6} It is also true that, despite the fact that over the last 20 years there have been approximately as many women law graduates as men (with the number of female graduates now often outnumbering their male counterparts),\textsuperscript{7} the percentage of women judges in New Zealand is slightly below 28 per cent.\textsuperscript{8}

Matters do not seem to be improving. Only 28.4 per cent of judges appointed over the five years up to September 2009 were women.\textsuperscript{9} In 2010, only 27.2 per cent of judicial appointees were women. This dropped to 22.7 per cent in 2011. In 2012, there were only 10 appointments (roughly half that of other years) but half of these were female. However, only two of the 11 appointments made up to October 2013 have been female.\textsuperscript{10}

This is despite the fact that admission to the profession for women has ranged from 23.2 per cent in 1980, climbing to 42 per cent in 1990, 58.5 per cent in 2000 and reaching 61 per cent in 2012.\textsuperscript{11} Assuming that judges are appointed after about 15 to 20 years of practice, one would expect the number of judicial appointments of men and women to have evened out over the last five to 10 years. Successive Attorneys-General have made significant efforts to appoint women as judges and yet still the percentages lag. Those (both female and male) from ethnic minorities (including Māori) are even less well represented.

Increasing the participation of women judges (including those from diverse cultural backgrounds) is important for a number of reasons.\textsuperscript{12} The courts should reflect the viewpoints of an increasingly diverse society. Women judges can contribute new perspectives to judging and challenge deep-seated stereotypes that may distort judging.\textsuperscript{13}

The oral histories project will shed light the factors that lead to women’s success in the law and those that might inhibit women’s progression in the legal profession (and in particular those from diverse ethnic and cultural backgrounds). The research may therefore be able
to play a role in identifying measures that can be taken to ensure that gender equality at all levels of the legal profession can be achieved.

Archiving and publication

Copies of the interviews will be archived at the Alexander Turnbull Library’s Oral History Centre. Each interview will be accompanied by a recording agreement form, an abstract (detailed contents summary), a transcript of the interview and photographs (as appropriate). Also archived will be a paper on the particular judge prepared on the basis of the interview and publicly available materials.14

We propose also, at the end of the project, to complete a thematic survey of the interviews, with (if the judges give permission) audio clips illustrating the particular themes. This will be available on the Law Foundation website. We envisage that this will provide an accessible way of learning about our recent judicial history from the point of view of women judges. The thematically presented excerpts and analysis will highlight the experiences that women judges share, as well as identify any significant differences in their experiences.

At present we are uncertain as to any further publications that the NZAWJ may undertake but it is envisaged that the material in the Turnbull Library will be available for future researchers. Examples of existing research projects concerning women judges include research advocating for a gender diverse judiciary, which draws on the experiences of women judges in five different jurisdictions;15 and the Feminist Judgments Project, which has produced alternative feminist judgments in significant legal cases.16 The New Zealand project also contributes to an international collection of women judges’ oral histories, as similar projects exist in other countries including Australia17 and the United States.18

Themes emerging

From the interviews recorded so far, we can identify three emerging themes. The first theme is the judges’ commitment to using their legal skills to serve society. Many judges made significant contributions, over the course of their careers, to a number of areas, such as academia, radio broadcasting, resource management, youth justice, criminal justice,
human rights education, and arts and theatre. For some of the Māori judges, their legal knowledge was crucial not only to support the causes of their own iwi, but also to develop Māori jurisprudence as judges. Overall, the judges emphasised that there is no single pathway to success in the law. What is important is being open-minded about new opportunities, pursuing meaningful goals and being courageous in accepting new challenges.

The second theme is the loneliness experienced by the judges both at law school and in the legal profession. This sense of alienation was especially acute for some of the Māori judges, who had few Māori peers at law school. Beyond law school, the tendency to pigeon-hole women lawyers was evident in legal practice. Some women recalled that their male colleagues inadvertently made sexist comments or gave responses revealing the gendered stereotypes that they held.

As a response to this sense of isolation, many judges helped to form support networks. This is the third theme. Some women helped to establish regional women lawyers’ associations, and, when they were appointed as judges, became involved in the International Association of Women Judges, and went on to create the New Zealand chapter of the international association (the NZAWJ). Several judges were among the first few women to join the committees of regional and national law societies, once male-dominated, and some rose to the highest ranks of these organisations. A number of the Māori judges returned to university to create culturally-appropriate programmes and mentoring for Māori, which helped to boost the number of Māori graduates.

**Conclusion**

The women judges’ stories give context to the statistics showing that women’s participation in the highest levels of the legal profession remains the exception rather than the norm. Each of the judges interviewed has broken new ground for women, encouraging younger generations of women to flourish. In making room for the stories of women judges (told in their own voices), the oral history project celebrates the vitality and enthusiasm of female
pioneers in the law. Their stories remind us of how far women have come and give hope for young women and men to strive for equality and success.

1 Judge of the Supreme Court. I would like to thank Supreme Court clerk, Elizabeth Chan, for her invaluable assistance with this report. I am also grateful for the input of Dame Judith Potter. The views expressed are my own and not those of the Supreme Court.

2 The project is directed by a committee co-convened by Dame Judith Potter and the author. Judge Rosemary Riddell, Judge Dale Clarkson and Judge Annis Somerville are the other committee members.

3 The New Zealand Law Foundation (www.lawfoundation.org.nz) is the only funder of independent legal research in New Zealand. Its funding covered the interviews of 12 senior women judges and retired judges. An interview of the first woman judge in New Zealand, Dame Augusta Wallace, was conducted by a family connection before Dame Augusta passed away, and has been made available as part of the Women Judges’ Oral History Project.

4 The Ministry for Culture and Heritage (www.mch.govt.nz) funding covered interviews of five judges of Māori heritage and/or who have worked extensively with Māori.

5 See the comments of the researchers in a similar oral history project in Australia: Hollie Kerwin and Kim Rubenstein, ‘Reading the Life Narrative of Valerie French, the First Woman to Sign the Western Australian Bar Roll’, in Founders, Firsts and Feminists: Women Leaders in Twentieth-century Australia, Melbourne, 2011, pp 174-175.


7 As noted by Jane Glover, ‘Women on the Bench’, NZLawyer, issue 134, 16 April 2010. In Gill Gatfield, Without Prejudice: Women in the Law, Wellington, 1996, p 450, it is noted that 1989 was the first year in New Zealand where the number of women law graduates was slightly higher than male law graduates (including Bachelors, Honours, Masters and PhD graduates). 1989 was also the first year where female law students slightly outnumbered male law students.


9 Glover, above n 7, was provided with judicial appointment figures over the previous five years from the Ministry of Justice in September 2009.

10 These figures were manually calculated from press releases made by the Attorney General, who is responsible for appointing all judicial officers (www.beehive.govt.nz).


13 Mary-Ann Hedlund and Susan Glazebrook, above n 12, pp 3-4.

14 The papers that have been prepared to date have been written by former Court of Appeal clerk Yasmin Moinfar and Supreme Court clerk Elizabeth Chan.


18 See, for example, the Iowa Women Judges’ Project (www.lib.uiowa.edu).