



Auckland Women
Lawyers' Association Inc.

PO Box 6568,
Wellesley Street,
Auckland
awla@xtra.co.nz
www.adls.org.nz

IN THIS ISSUE

- Letter from the President
 - Imrana Jalal:
2008 Dame Silvia
Cartwright Lecture
- The Evidence Act 2006:
An Assault on Victims
of Sexual Violence?
 - Post Graduate Study
- Christopher Harder – Update
 - Book Review –
*Holding up the Sky:
An African Life*
 - Careers Evening Flyer
 - Executive Profiles –
Sally Fitzgerald
Anisa Barrowclough
Farzana Nizam
- AWLA Mid-Winter Dinner Flyer
- AWLA Executive Committee
Contact Details

This issue's editor:
Sarah Carstens

NEWSLETTER

JULY 2008

From the President...

Dear Members,

Welcome to the latest AWLA newsletter. If you are like me you are starting to get a bit over the dark mornings, dark afternoons and looking forward to the brighter days and maybe a nice tropical holiday somewhere?

The AWLA has certainly been busy over the winter months. In particular our second Dame Silvia Cartwright lecture was a great success. Our speaker was Imrana Jalal who is an amazing woman. The 120 attendees were certainly inspired and motivated by this very principled woman. There is a detailed report of the successful event further down in the newsletter. Thanks once again to the incredible sub-committee who organised this event. Sarah Carstens and her team did an amazing job. Next year's lecture is being planned right now!

The executive has implemented a targeted membership drive. Our numbers are great, but there are still hundreds of women lawyers who are not members of our organisation. The exec has been very busy liaising with senior women within the profession to assist us in recruiting new members.

You will have seen that Christopher Harder has withdrawn his application

to be restored to the roll of barristers and solicitors. We like to think that this is in part due to the submissions the AWLA made to the New Zealand Law Practitioners' Disciplinary Tribunal (see our May newsletter for details).

Our mid year dinner is coming up on Thursday 24 July. We are delighted to have Judith Collins, former president of both the AWLA and the ADLS speak to us. Judith is now a national MP for Clevedon and is going to be an interesting speaker, particularly given that it is election year. We look forward to seeing as many of you there as possible.

Our careers evening is also happening on 12 August. This event is held at the University each year and is an opportunity for students to hear about the lives of those actually in the profession. While the event has always been open to everyone, this year we would like to actively encourage our members and others to attend. It is a great night and we always have fabulous speakers.

There are some fantastic articles in this newsletter, so read on and see you at the mid year dinner!

Tammy McLeod
President

July/August Events

AWLA Mid-Winter Dinner

Thursday 24 July • Romfords at Tamaki Yacht Club

Speaker: Judith Collins MP

Careers Evening

Tuesday 19 August • The Law Faculty, University of Auckland

Imrana Jalal: 2008 Dame Silvia Cartwright Lecture

By Sarah Carstens

“Imrana thinks she was maybe five years old when she became a feminist...”

“Imrana is bravely outspoken about the discrimination and injustices she witnesses in Fiji.”

What a privilege to have Imrana Jalal present this year's Dame Silvia Cartwright Lecture at the Heritage Hotel on the 5th of June. Imrana was such an outstanding speaker that I think I can safely say that we were not only delighted and inspired by her, but awed by how much one brave woman has achieved.

Imrana thinks she was maybe five years old when she became a feminist, inspired by the gender, ethnic and religious discrimination and inequalities she was surrounded by as she grew up. Imrana shared with us many moments from her upbringing which no doubt helped shape the brave, vibrant and compelling woman that presented this year's Dame Silvia Cartwright Lecture. She is the daughter of a devout family lead by a Muslim father and a catholic mother. Fortunately, her father fundamentally believed that women should be educated although confusingly for Imrana, he also had a vision of Imrana being a good Muslim wife and daughter (Imrana was raised as a Catholic). Imrana has achieved all three, and then some.

After obtaining an LLM (with first class honours) in International Law from the University of Auckland law, Imrana began to look around for ways to use her legal knowledge to improve women's rights. She has been hugely successful at this, and it is difficult to do justice to her long list of achievements in this area in the short space we have available here.

- Imrana was instrumental in setting up this Team which won a UNICEF award for its cutting edge work in the Pacific Region in the field of human rights training. In her role, Imrana leads a team of 8 lawyers and educators who are working together on human rights issues in the Pacific Region.
- Imrana's human rights expertise has been recognised across the world and in May 2006 she was elected to the 60 member Geneva-based International Commission of Jurists, becoming the first female Commissioner from a Pacific Island country to be elected.

- Imrana was from 1999 to 2001 Fiji's Human Rights Commissioner on what was then the new Fiji Human Rights Commission, the first of its kind in a Pacific Island country.
- Imrana was the architect of Fiji's Family Law Act 2003. The Family Law Act brought about sweeping changes to Fiji's family law by focusing on children's needs and helping reduce discrimination against women.
- Imrana is the author of *Law for Pacific Women*, a legal rights handbook.
- Imrana's has been to be appointed by the ANZ Bank to a newly established Advisory Board which advises the Bank in the Pacific on how it can be more responsive to community needs.

Imrana is bravely outspoken about the discrimination and injustices she witnesses in Fiji. The stories that Imrana shared with us were truly inspiring as to what can be achieved even in the face of what must seem like insurmountable barriers – being arrested, detained, prosecuted and harassed for speaking out against injustice.

We were delighted to be able to bring to our members and guests another outstanding and inspiring woman to present the Dame Silvia Cartwright Lecture. I would like to take this opportunity to once again thank Imrana for making such an incredible contribution to our Dame Silvia Cartwright Lecture series. I hope that those who attended appreciated the lecture as much as I did and will keep an eye out for Imrana in the world news!

The subcommittee for the Dame Silvia Cartwright Lecture series is already busy working on next year's lecture, so watch out for further news items on this. The subcommittee would welcome feedback, and suggestions about the lecture, and sponsorship, so please feel free to contact us on awla@xtra.co.nz

"...despite all that women's liberation movements may have gained, watch groups for women are far from redundant."

"Justice Thomas explains how the 'one size fits all' approach of the Evidence Act 2006 compromises the vital interests of victims of sexual violence."

The Evidence Act 2006: an assault on victims of sexual violence?

A review of the Rt Hon E W Thomas' criticisms of the depreciation of sexual cases in an address to Womensfest (AUSA)

Former Court of Appeal Judge, Justice Thomas, reminds us in his recent article that despite all that the women's liberation movements may have gained, watch groups for women are far from redundant. For instance, the overwhelming majority of primary victims of sexual violence in New Zealand are women,¹ and one in five New Zealand women will be a victim of rape or attempted rape in her lifetime.² In addition to this, not only are 91% of sexual violence offences never reported to the police, of those reported less than 6% will achieve a prosecution.³

These alarming figures are even more disturbing when considered in light of the inherent disadvantage that victims of rape and sexual abuse face in the court room. Justice Thomas explains his view that the patriarchal ideology entrenched within the legal system discriminates against victims of sexual violence and how the recent changes to the Evidence Act 2006 seem to significantly worsen the status quo.

In this article, Justice Thomas outlines his two main causes for concern arising from the Evidence Act 2006. The first stems from section 32, which disallows the fact finder to be invited to infer guilt from the accused's silence either before or at the trial. It is unfair that the complainant, in order to prove the prosecution's case, is inevitably forced to give evidence, be subject to cross-examination and have doubt cast on her credibility, yet it is not open to the jury to draw inferences of the accused's failure to give evidence. The proceeding should not only be fair to the accused, but also fair to the victim.

Justice Thomas' second complaint of the Evidence Act 2006 arises from section 35(2) which renders the previous statements of a witness inadmissible unless such a statement is necessary to respond to a challenge to a witness's veracity or accuracy based on a previous inconsistent statement or claim of recent invention. This subsection essentially abolishes the recent complaint rule. This exclusion was aimed at preventing the false stereotype that rape victims would always raise a "hue and cry". Indeed, Justice Thomas points out that historically, an accused would be granted an automatic acquittal if the victim did not raise a "hue and cry" at the time of the rape. However, it is now commonly accepted that women will, more often than not, delay making a complaint, possibly for years.

A result of delayed complaints in trials

for rape or sexual abuse is that the key issue is almost always the veracity of the complainant. In some cases, to exclude a prior statement made by the complainant, removes the complainant's most crucial piece of evidence. Justice Thomas uses the example of a case where a 13 year-old girl's detailed complaint to her mother of her sexual violation, was of substantial assistance in proving the truth of the girl's story. There are few who would argue the probative value and reliability of such evidence. Therefore it seems absurd to disallow such evidence in order to prevent the perpetuation of a stereotype when this problem can be otherwise dealt with.

Justice Thomas explains how the "one size fits all" approach of the Evidence Act 2006 compromises the vital interests of victims of sexual violence. He suggests that the basic adversarial structure of a trial (which includes the accused's right to a fair trial and the presumption of innocence) should not be applied to trials which are the subject of a sexual offence. Rather, a "*proceeding for a sexual offence should be more concerned to arrive at the truth*".

As Justice Thomas aptly explains in his article, "*Sexual cases could be sensibly and sensitively dealt with in separate provisions that have full regard to the unique features which set these cases apart... The defence could be required to disclose the grounds of the defence the names of any proposed witnesses in order to avoid the complainant being 'ambushed'. The circumstances in which an accused's previous convictions for sexual offences could be produced in evidence by the prosecution could also be calculated.*"

In his final paragraph, Justice Thomas challenges women's organisations such as AWLA to "*take up the challenge and press for a review of the Act and the enactment of discreet provisions which will reflect a more enlightened outlook and a desire to ensure justice for the victims, as well as the accused, in sexual cases.*" Indeed, those who question the relevance of women's organisations in contemporary society would learn much from Justice Thomas. The fact that discrimination against women has taken a more covert form over the years, simply means the fight is all the more complex, not that there is no battle to be fought.

A full copy of his article may be read at [2008] NZLJ 169.

1 Rape Prevention Education, <http://www.rapecrisis.org.nz>

2 Oxfam New Zealand, <http://www.oxfam.org.nz/whatwedo.asp?s1=what%20we%20do&s2=issues%20we%20work%20on&s3=ending%20violence%20against%20women&s4=Gender%20violence%20and%20basic%20rights>

3 The Official Website of the New Zealand Government, <http://www.beehive.govt.nz/speech/help+prevent+domestic+violence+women%e2%80%99s+day>

While there are no official statistics yet in New Zealand, in the UK the chance of obtaining a conviction is 6%. However, the Ministry of Women's Affairs is concerned at the "very low conviction rate for rape" and is currently conducting its own study in order to obtain statistics for New Zealand.

"In its submission, AWLA noted ... that the grounds upon which Mr Harder sought readmission did not include any which evidenced a particular commitment to correction of his attitude to women."

Update: Christopher Harder

By: Sally Fitzgerald

As members will be aware, in April this year, AWLA made a written submission in connection with the application by Christopher Harder to be restored to the Roll of Barristers and Solicitors. Mr Harder had been struck off the Roll in February 2006, after admitting professional misconduct in respect of a number of complaints that has been made against him. Many of these complaints appeared to evidence an attitude to women which AWLA did not consider consistent with being a fit and proper person to practice as a barrister and solicitor.

In its submission, AWLA noted its concern that the grounds upon which Mr Harder sought readmission did not include any which evidenced a particular commitment to correction of his attitude to women. While AWLA did not consider it appropriate to take a formal position on Mr Harder's restoration to the Roll, this was on the basis that the New Zealand Law Practitioners Disciplinary Tribunal ("Tribunal") ensured that (what AWLA considered to be) Mr Harder's inappropriate behaviour to women was remedied before

any restoration. AWLA therefore requested that, if the Tribunal were to restore Mr Harder to the Roll, the Tribunal set out how Mr Harder's attitude and behaviour towards women had been remedied. This was to enable this information to be passed to members of AWLA.

Mr Harder's application was due to be heard over a two week period commencing on 23 June 2008. However, as members may have seen from newspaper reports, after two days of the (adjourned) hearing, Mr Harder withdrew his application for restoration to the Roll. This was in the context of Mr Harder having sought an urgent judicial review ruling from the High Court, seeking to overturn the Tribunal's ruling on the first day of the hearing that further evidence concerning Mr Harder's behaviour could be admitted before the Tribunal. The High Court (Justice Venning) rejected Mr Harder's application.

In withdrawing his application for restoration to the Roll, Mr Harder stated that it had become apparent that it was too soon for him to seek reinstatement to the Roll.

BOOK REVIEW

Holding Up The Sky: An African Life by Sandy Blackburn Wright

This is a wonderful autobiographical piece that is easy to read while at the same time providing the reader with an insight into a different culture and way of life. The story is essentially an account of Sandy Blackburn Wright's experiences in Africa over a fifteen year time period (1988–2003).

We first meet Sandy as an innocent, idealistic 22 year old whose world view has forced her to seek out those in need and who as a result, travels to Africa to volunteer with an agency seeking to change young peoples views of apartheid.

As a blonde, white Australian girl she receives privileges that she is at first embarrassed to accept, even more so given that she make numerous black friends and lives with black families. She quickly comes to the realisation that Africa is a much more dangerous place than that she ever envisaged and, indeed, there are numerous occasions where through quick action she manages to avoid a disastrous outcome.

Sandy manages to capture the reader

and at times you feel as though you are actually part of the history that is being described. The story is never bland and is an exciting read for those who are interested in the release of Nelson Mandela and the events that occurred in South Africa around the time of the demise of apartheid.

What I found extremely relevant was Sandy's comments on the nature of black African families whom she lived with. What the family lacked in material possessions they made up for with love, generosity and an enthusiasm for succeeding in life against all odds.

Through her community development work she meets a black man who is to become her husband and together they seek to educate those who are in the process of rebuilding the nation post apartheid.

Needless to say, I will leave you at this point so as not to ruin the book for you. It is a great read and I recommend it thoroughly.



Auckland Women
Lawyers' Association Inc.

Careers Evening 2008

Tuesday, 19 August 2008

The Law Faculty, University of Auckland

Speakers will start @ **6.00 pm** in the Stone Lecture Theatre
Wine and nibbles @ **7.00 pm** in the Staff Common Room

This year, we will have four speakers, who will speak about their different career paths and experiences based on the common phenomena of having a law degree.

Afterwards take the opportunity to chat with the speakers and other women practitioners from the AWLA executive.

STUDENTS: join AWLA on the night for the discounted price of \$10.00

FREE for Students

\$5.00 charge for members **\$10.00** charge for non-members

Sponsored by:

MinterEllisonRuddWatts
LAWYERS

Executive Profiles

Sally Fitzgerald



Sally Fitzgerald is a partner in the litigation team at Russell McVeagh, in their Auckland office. Sally joined the AWLA this year. Prior to re-joining Russell McVeagh as a partner in December 2007, Sally had spent approximately 12 years working overseas (London and Sydney), as well as with another national law firm in New Zealand.

Anisa Barrowclough



Anisa Barrowclough is a Year One solicitor in the General Litigation team at Russell McVeagh. She attended Waikato University where she completed a Law degree and an Arts degree in English Literature and Philosophy. She is currently responsible for the AWLA Mentoring Programme along with Katrina Winsor.

Farzana Nizam



Farzana joined the AWLA executive this year as the student representative. She is currently in her final year of study at Auckland University, studying towards her conjoint law (honours) and commerce degree. Farzana enjoys reading, travelling and doing yoga in her spare time.



Auckland Women
Lawyers' Association Inc.

AWLA Mid-Winter Dinner

AWLA invites you to a Mid-Winter Dinner to hear our guest of honour, Judith Collins MP, speak about her experiences in both the law and in politics.



FUNCTION DETAILS:

Thursday 24 July 2008, 6.30pm for 7.15pm dinner
Romfords, Tamaki Yacht Club, 30 Tamaki Drive, Mission Bay (between Kelly Tarlton's and Mission Bay).

Members: \$65; Non-members: \$75, Students: \$35 (only a limited number of student tickets are available).

Ticket price includes complimentary drink on arrival and a buffet meal.
A cash bar will be operating.

AWLA Mid-Winter Dinner, Thursday 24 July 2008

Please RSVP by Monday 21 July 2008

Name/s: _____

Employer: _____ No of Persons Attending: _____

_____ Students at \$35 = _____
(NB: only a limited number of student tickets are available)

_____ Members at \$65 = _____

_____ Non-members at \$75 = _____

Cheque enclosed for \$ _____

Please make cheques payable to 'AWLA' and send to PO Box 6568, Wellesley St, 1010 Auckland

Paying via Internet Banking

Please credit your payment to:

Name of Account: The Auckland Women Lawyers' Assn Inc
Bank: BNZ Auckland Branch
Account Number: 02-0100-0147026-00

Please insert your name and "Mid Winter" in the particulars section before making the transfer, and let us know the date it will go in so that we can trace it as your payment.

AWLA EXECUTIVE COMMITTEE 2007 – CONTACT DETAILS

NAME	CONTACT DETAILS	ADDRESS	NAME	CONTACT DETAILS	ADDRESS
Tammy McLeod President	Tel: 915 4386 Fax: 915 4389 Mobile: 021 711 320	Davenports Harbour 331 Rosedale Rd PO Box 302 558, Albany, Auckland tammy.mcleod@davenportsharbour.co.nz	Kate Lane	Tel: 353 9992 Fax: 353 9701	Minter Ellison Rudd Watts Lawyers PO Box 3798 Lumley Centre 88 Shortland Street Kate.lane@minterellison.co.nz
Sarah Carstens Vice President	Tel: 374 4059 Fax: 374 4147 Mobile: 027 268 9029	ANZ National Bank Ltd ANZ Centre 23–29 Albert St, Auckland sarah.carstens@nbz.co.nz	Ling Yip	Tel: 277 7949 ext 702 Fax: 576 7201	David Rooke Law PO Box 51 230, Pakuranga ling@davidrookelaw.co.nz
Sharyn Larkin Treasurer	Tel: 818 1071 Fax: 818 4966 Mobile: 021 107 7974	Presland & Co PO Box 20 310 Glen Eden Auckland sharyn.larkin@mylawyer.co.nz	Rachael Reed	Tel: 336 7500 Fax: 336 7629	Meredith Connell PO Box 2213 Level 17, Forsyth Barr Tower 55–65 Shortland Street rachael.reed@meredithconnell.co.nz
Hyo-Jung Kim Administrative Assistant	Mobile: 021 97 97 42 Tel (Hm): 575 3533	AWLA PO Box 6568 Wellesley St Auckland awla@extra.co.nz	Ruth O'Brien	Tel: 915 4384 Fax: 915 4389	Davenports Harbour 331 Rosedale Rd PO Box 302 558, Albany, Auckland ruth.o'brien@davenportsharbour.co.nz
Katherine Burson	Tel: 977 5112 Fax: 977 5083	Simpson Grierson Private Bag 92518, Auckland Level 27, Lumley Centre 88 Shortland St, Auckland katherine.burson@simpsongrierson.com	Sarah Pidgeon	Tel: 358 2555 Fax: 358 2055	Buddle Findlay PO Box 1433 Pricewaterhouse Coopers Tower 188 Quay Street sarah.pidgeon@buddlefindlay.com
Sally Fitzgerald	Tel: 367 8000 Fax: 367 8163	Russell McVeagh PO Box 8, Auckland Vero Centre L30, 48 Shortland St, Auckland Sally.fitzgerald@russellmcveagh.com	Katrina Winsor	Mobile: 027 472 0806	Russell McVeagh PO Box 8, Auckland Vero Centre L30, 48 Shortland St katrina.winsor@russellmcveagh.com
Anisa Barrowclough	Tel: 367 8840 Fax: 367 8163	Russell McVeagh PO Box 8, Auckland Vero Centre L30, 48 Shortland St, Auckland Anisa.barrowclough@russellmcveagh.com	Farzana Student Rep		fniz002@ec.auckland.ac.nz

2008 PORTFOLIOS

Membership & Promotion:	Sarah Carstens & Kate Lane
Mentoring:	Anisa Barrowclough & Katrina Winsor
Legislative Watch:	Katherine Burson
Scholarship & Writing Prize:	Ruth O'Brien & Ling Yip
Student Representative:	Farzana