



## MIGRATION and PROTECTION

Managing the Clash of International Law and Domestic Sovereignty



# IARMJ

International Association of Refugee and Migration Judges

established at Warsaw, 18 September 1997



**Wellington, NZ**  
**The Legislative Council Chamber**  
**Parliament Buildings**  
**14-16 November 2018**

### **The Biennial Asia Pacific Chapter Conference**

**“Managing The Clash Of International Law and  
Domestic Sovereignty”**

Graciously hosted by the Hon. Andrew Little, Minister of Justice, New Zealand

# IARMJ CONFERENCE: WELLINGTON, NEW ZEALAND, 15-16 NOVEMBER 2018

## PROGRAMME (correct as at 12 November 2018 - subject to change)

### CONFERENCE DAY 1 – Thursday, 15 November

7.30am	<b>Pōwhiri</b> (Māori ritual ceremony of encounter)		
8:00-8:30	Registration and coffee		
8:30 – 8:40 (10 mins)	<b>Welcome:</b> Judge Peter Spiller, Chair, Immigration and Protection Tribunal Judge Katelijne Declerck, President IARMJ, Council for Alien Law Litigations, Belgium		
8.40-9:00 (20 mins)	<b>Introduction for the Minister:</b> Martin Treadwell, President, Asia Pacific Chapter, IARMJ <b>Formal Opening:</b> The Honourable Andrew Little, Minister of Justice, New Zealand		
9:00-9:30 (30 mins)	<b>Keynote Address: Managing the clash of international law and domestic sovereignty</b> <b>Chair:</b> Judge Peter Spiller Chair, Immigration and Protection Tribunal <b>Speaker:</b> Dame Sian Elias GNZM PC QC, Chief Justice of New Zealand		
<b>Session 1</b> 9:30-10:30 (60 mins)	<b>Family Unity – balancing human rights and border integrity</b> <b>Chair:</b> Jan Redfern, Head of the Migration and Refugee Division, Administrative Appeals Tribunal <b>Speakers:</b> Justice Debbie Mortimer, Federal Court of Australia Professor Claudia Geiringer, Victoria University of Wellington		
10.30-10.45	<b>Conference photo</b>		
10:45-11:15	<b>Refreshments</b> (11.05-11.15 - IARMJ Members' General Meeting – Announcement by President)		
<b>Session 2</b> 11:15-12:15 (60 mins)	<b>Climate Change, Disasters and Protection</b> <b>Chair:</b> Judge Rolf Driver, Federal Circuit Court, Australia <b>Speakers:</b> The Honourable Aupito William Sio, Minister for Pacific Peoples, Associate Minister of Justice and Courts Bruce Burson - Senior Member, Immigration and Protection Tribunal, New Zealand Rachel MacLeod - Regional Disaster Law Adviser, IFRC		
<b>Session 3</b> 12:15-1.15 (60 mins)	<b>Statelessness – an issue for the region</b> <b>Chair:</b> Judge Judith Gleeson, Upper Tribunal, United Kingdom <b>Speakers:</b> Judge Josefina Maria San-Juan Torres – Principal District Trial Court Judge, Philippines Professor Michelle Foster – Peter McMullin Centre on Statelessness, University of Melbourne Larissa Wakim – Immigration and Protection Tribunal, New Zealand		
1:15-2:00	<b>Lunch</b>		
<b>Session 4</b> <b>(Day 1 breakouts)</b> 2:00-3:00 (60 mins)	<b>Option 1: Health cases and migration/protection</b> <b>Panel:</b> Judge Judith Gleeson, Annabel Clayton <ul style="list-style-type: none"> <li>Limits on access to health, discrimination and the boundaries of arbitrary deprivation of life</li> <li>Cruel, inhuman or degrading treatment</li> </ul>	<b>Option 2: Family Unity</b> <b>Panel:</b> Andrew Molloy, Alison Murphy <ul style="list-style-type: none"> <li>Separation of parent and child – consequences</li> <li>Nexus – how much creates “his own country” for Art 12(4) of the ICCPR?</li> <li>Respect for family unity as an international obligation</li> </ul>	<b>Option 3: Public Interest</b> <b>Panel:</b> Judge Peter Spiller, Martha Roche <ul style="list-style-type: none"> <li>Balancing adverse and positive considerations</li> <li>Risk of re-offending and the sliding scale</li> <li>International obligations</li> <li>the integrity of border control systems</li> </ul>
3:00-3:30	<b>Breakouts – reporting back</b>		
3:30-4:00	<b>Refreshments</b>		
<b>Session 5</b> 4:00-5:00	<b>Keynote: Migration Trends in the Asia Pacific Region</b> <b>Chair:</b> Bruce Burson - Senior Member, Immigration and Protection Tribunal, New Zealand <b>Speaker:</b> Professor Richard Bedford QSO FRSNZ, President of the Royal Society of New Zealand		

18:30-21:00 Refreshments and Conference Dinner

**CONFERENCE DAY 2 – Friday, 16 November**

<p><b>Session 6</b> 9:00-10:30 (1hr 30 mins)</p>	<p align="center"><b>PANEL DEBATE</b></p> <p align="center"><b>Human Trafficking in Asia Pacific – Challenges for Decision-Makers</b></p> <p align="center"><b>Moderator:</b> Professor Susan Kneebone, University of Melbourne</p> <p><b>Panel:</b> Dr Jay Song, University of Melbourne Thomas Harre, barrister, LawAid International Chambers Rebecca Miller, Ministry of Business, Innovation and Employment, New Zealand Frances Simmons, Migration and Refugee Division, Administrative Appeals Tribunal D/Sgt David MacGregor, Australian Federal Police</p>		
<p>10:30-11:00 (30 mins)</p>	<p align="center"><b>PANEL DEBATE - Questions from the floor</b></p>		
<p>11:00-11:30</p>	<p align="center"><b>Refreshments</b></p>		
<p><b>Session 7</b> 11: 30-12:15 (45 mins)</p>	<p align="center"><b>The Future of the Refugee Convention in the Asia Pacific Region</b></p> <p><b>Chair:</b> Linda Kirk, Associate Professor, University of New South Wales <b>Speaker:</b> Professor Guy Goodwin-Gill, University of New South Wales</p>		
<p><b>Session 8</b> 12:15-1:00 (45 mins)</p>	<p align="center"><b>Credibility and the Responsibility to Establish in Refugee/Protection claims</b></p> <p><b>Chair:</b> Martin Treadwell, Deputy Chair, Immigration and Protection Tribunal <b>Speaker:</b> Dr Hilary Evans Cameron – University of Toronto <b>Discussant:</b> Andrew Molloy, Senior Member, Immigration and Protection Tribunal</p>		
<p>1:00-2:00</p>	<p align="center"><b>Lunch</b></p>		
<p><b>Session 9</b> <b>(Day 2 breakouts)</b> 2:00-2:45 (45 mins)</p>	<p align="center"><b>Option 1: Developing Protection Systems in Pacific Island States</b></p> <p><b>Panel:</b> Bridget Dingle Brian Barbour</p> <ul style="list-style-type: none"> <li>• Characteristics of a Competent Decision-Making Authority</li> <li>• Designing an effective, efficient, sustainable and holistic system</li> <li>• Comparative Good Practice</li> </ul>	<p align="center"><b>Option 2: Social media and the rules of evidence</b></p> <p><b>Panel:</b> Louise Moor</p> <ul style="list-style-type: none"> <li>• The benefits and risks of social media as evidence</li> <li>• The boundaries of exploring electronic devices</li> <li>• Interpreting “Likes”, “Tweets” and “#hashtag”</li> <li>• The rise of “digital authoritarianism”</li> </ul>	<p align="center"><b>Option 3: Behaviour modification: no duty to be discreet</b></p> <p><b>Panel:</b> Sharelle Aitchison Sean Baker</p> <ul style="list-style-type: none"> <li>• An issue of well-foundedness or nexus?</li> <li>• The boundaries of the right not to be discreet</li> <li>• Personal choice vs intimidation</li> </ul>
<p>2:45-3:00</p>	<p align="center"><b>Breakouts – reporting back</b></p>		
<p><b>Session 10</b> 3:00-4:00</p>	<p align="center"><b>Preserving the Rule of Law in the Decision-Making Process</b></p> <p><b>Chair:</b> Judge Sebastiaan De Groot, Immediate Past President, IARLJ <b>Speakers:</b> Allan Mackey, Past President, IARLJ – Past Chair, RSAA Martin Treadwell, President, Asia Pacific Chapter, IARMJ</p>		
<p>4:00-4:30</p>	<p align="center"><b>Refreshments</b> (4.15-4.30 Chapter Annual General Meeting – bring your coffee)</p>		

**Ancillary:**

1. Please arrive at Parliament **by 7.15am** to go through security and gather in the foyer **at 7.25am** on Thursday 15 Nov 2018 for the pōwhiri, so that the tangata whenua (people of this place) can welcome manuhiri (visitors) to the marae (meeting house grounds). Discreet photography is permitted. Please do not be late.
2. Parliament Buildings is a high security area. There will be bag inspections and scanners on entry. You will be provided with a bar-coded sticker for entry and exit.
3. All presentations are in English. If you have interpreting needs, you may wish to enquire of your nearest embassy/High Commission, to see whether they can assist.

# WORKSHOP PROGRAMME

## Select Committee Rooms, Parliament Buildings, Wellington

WEDNESDAY, 14 NOVEMBER 2018 – 9:00-5:00

### INTRODUCTORY / REFRESHER WORKSHOP: Marin Treadwell (ph: +64 21 331 231) and Bridget Dingle

8:15-8:45	<b>Check-in and coffee</b>	
8:45 – 9:00 (15 mins)	<b>Welcome:</b> Martin Treadwell, Deputy Chair, Immigration and Protection Tribunal	
9:00-10:00 (1 hr)	Refugee law	International law, the human rights framework and the Refugee Convention
10:00-11:00 (1 hr)	Refugee law	“Being persecuted” A well-founded fear...
11:00-11:30	<b>Morning tea</b>	
11:30-1:00 (1 hr, 30 mins)	Refugee law	The Convention reasons Exclusion Cessation / Cancellation
1:00-2:00	<b>Lunch</b>	
2:00-3:00 (1 hr)	Complementary Protection	Torture Arbitrary deprivation of life Cruel, inhuman or degrading treatment or punishment
	Migration	Statelessness Deportation
3:00-3:30	<b>Afternoon tea</b>	
3:30-5:00 (1 hr, 30 mins)		Hearing and determining a claim

### ADVANCED WORKSHOP

**Convenors: Bruce Burson (+64 21 777 657) and Professor Michelle Foster**

8:15-8:45	<b>Check-in and coffee</b>	
8:45-9:00 (15 mins)	<b>Welcome:</b> Bruce Burson, Refugee and Protection Stream Manager, Immigration and Protection Tribunal	
9:00-11:00 (2 hrs)	Article 1D and refugee status determination Bruce Burson and Rebecca Bartholomew	
11:00-11:30	<b>Morning tea</b>	
11:30-1:00 (1 hr, 30 mins)	The Statelessness and Refugee regimes: History and Intersections Michelle Foster	
1:00-2:00	<b>Lunch</b>	
2:00-3:00 (1 hr)	Refugee Protection for Stateless Persons: Country of nationality and related issues Michelle Foster	
3:00-3:30	<b>Afternoon tea</b>	
3:30-5:00 (1 hr, 30 mins)	Statelessness and 'Being Persecuted' Michelle Foster	