

2001 – 2002 Family Court Report

Figure 14 in the appendix to this report shows a rather static pattern in the number of substantive applications to the Court, slightly declining from January 2001 to December 2002 with 23,487 applications filed for the year. In addition to that figure applications under the Children Young Persons and Their Families Act numbered 1,728 in 2001 and 1,856 in 2002.

Under the Mental Health (Compulsory Assessment and Treatment) Act 1991, applications numbered 4,482 in 2001 and 5,019 in 2002. Under the Protection of Personal and Property Rights Act they were 1,564 in 2001 and 1,589 in 2002. On the other hand, there has been a steady rise in applications for counselling under s9 of the Family Proceedings Act for counselling assistance without any formal substantive application (eg for custody of children) being filed.

The rate has increased from approximately 10,294 for the year ending December 2000 to 11,359 for the twelve months ending December 2002 indicating that this important opportunity for counselling free of charge and offered through this Court is known about and is in considerable demand.

Applications for dissolution of marriage have increased slightly. The trend for couples to apply jointly is more marked. Well over 50% of all applications are made in this way. Applications for protection orders under the Domestic Violence Act 1995 have decreased steadily in the rate of filing from 5,970 for the year ending December 2000 to 5,487 for the year ending December 2002.

Domestic Violence : Programmes

Programmes for respondents which are generally a condition of each protection order made, and voluntary programmes for both adult victims and children are an important part of the legislative response to domestic violence administered through the Family Court. For the financial year 1 July 2002 to 30 June 2003 \$4,251,406 was spent on these programmes.

Family Court Rules

A major project to consolidate the Family Court Rules was completed when newly drafted Consolidated Rules came into force on 21 October 2002. Previously each piece of legislation administered by the Court generally had its own set of Rules. The task involved a great deal of meticulous work undertaken by Mrs Cathy Pooke in the Ministry of Justice and exhaustive consultation with and through a Committee chaired by Judge von Dadelszen as a consultative body, followed by Parliamentary Counsel drafting the new Rules. They have adopted a direct plain language style, with simple sentence structures to make the Rules easy to read and understand which again reflect the painstaking and skilful work of the drafting counsel.

Registrars Powers

Management of individual cases involves both the Registrar and his or her officers, as well as the Judiciary through list Courts, pre-trial conferences and directions given in Chambers.

For some time the Family Court Judges have advocated for greater powers for Registrars to enhance their role as administrators and case managers, thereby also reducing Judicial involvement.

Some recommendations must await legislative support but as an immediate measure the Department for Courts in 2002 developed a comprehensive Registrar's manual and arranged training seminars throughout the country with some contribution from the Judges who strongly supported the Department in its initiative and now congratulate it on a very well executed project.

Triennial Family Court Judges Conference

The Triennial Conference of the Family Court Judges was held in Wellington from 16 to 18 October 2002.

Chief Justice Nicholson from the Family Court of Australia attended with Justices Bell, Coleman and Dawe.

In addition five Judicial officers from the Pacific also attended, Sir John Muria, Chief Justice Solomon Islands, Judge Barrie Michelsen, District Court, Palau, Judge Clarence Nelson, District Court, Samoa and Magistrates Vani Ravono and Ajmal Khan, Fiji.

The second day of the Conference was devoted to the theme "What Team Practices will make the Family Court Work Smarter". This was a day for the Court as a whole, Judges and administrators together. It opened with an address from Dr Jo Lake, Department for Courts developing the theme of partnership as a rationale for the New Zealand system of Court administration and management.

Hague Convention on International Child Abduction

In 2001 the New Zealand Central Authority made request to other Contracting States for the return of 46 children taken from New Zealand, 28 of whom were taken to Australia, seven to the United States, five to England and Wales. Other countries involved were Canada, Finland, Germany, Hong Kong, South Africa and Switzerland. There were 38 applications for children brought to New Zealand and of 19 cases heard by the Court there were 17 return orders and two refusals.

In 2002 the New Zealand Central Authority was the requesting Authority in 32 cases for the return of children taken from New Zealand. 20 of these involved Australia, four the United States. The other countries were Canada, England and Wales, Honduras and Sweden. Five applications were withdrawn; there were six voluntary returns and nine orders for return and five refusals.

The Convention was also invoked where children had been brought to New Zealand in 40 cases. 34 from Australia, four from England and Wales and one each from the United States and Scotland.

Heather Tavassoli who administers the New Zealand Central Authority and who has an international reputation for her knowledge and skill in dealing with these cases has analysed the figures noting that of the 72 return applications, 57 of the abducting parents were mothers, 13 were fathers and there were two sets of grandparents. Of the 24 cases that went to a hearing, 20 resulted in orders for return.

Of the abductions to New Zealand, all the mothers involved had family/support networks in this country. Of the eight cases where men were the abducting/retaining parents (applications to New Zealand), six of the men were either living in New Zealand (wrongful retention cases) or returning to families/support networks. The remaining two were living in New Zealand on employment contracts.

Domestic violence is still a component in the majority of defences filed by abducting women.

In 2002 there was a 26% reduction in applications under the Convention which points to its effectiveness as a deterrent. Heather Tavassoli also points to the high level of orders for return by the New Zealand Judiciary and the fact that counsel appointed by the Central Authority to prosecute cases are very senior counsel in private practice who have the respect of the Court and their colleagues.

Vietnamese Delegation

A Vietnamese delegation of ten led by the Vice President of the Vietnam Women's Union including the Principal Judge of the Civil Court at the Supreme Court of Vietnam visited New Zealand in November 2001 to study our domestic violence legislation in practice. They met with a number of Government and community agencies.

We endeavoured to show them the New Zealand response to domestic violence in its practical applications. This visit was a follow-up to the Principal Family Court Judge and Brenda Pilott visiting Hanoi in the previous year for meetings and seminars on domestic violence issues and New Zealand's response.

Both visits were funded through the Ministry of Foreign Affairs and Trade and follow a similar initiative taken in 1999/2000 for Thailand.

Personnel Appointments

Judge Annis Somerville was appointed a Family Court Judge on 2 March 2001 to sit in Tauranga. There were three appointments in 2002, Judge Ida Malosi, appointed 28 August 2002 to sit in Manukau, Judge Mary O'Dwyer, appointed 1 November 2002 to sit in Dunedin and Judge Peter Callinicos, appointed 22 November 2002 to sit in Wanganui.

Obituary

Judge Ramon Pethig from the Family Court at Wellington died in office on 24 July 2002. Judge Pethig was appointed a Family Court Judge in 1981 with a wide and varied background in family law, company, commercial, property and tax law. His own personal and family values were demonstrated in his humane, kindly and compassionate response to the numerous troubled families who came before him. He was a careful and conscientious Judge and a man whose outstanding personal qualities endeared him to very many people within and beyond the Court system.

Judge P D Mahony
PRINCIPAL FAMILY COURT JUDGE