

**Speech of The Rt Hon Dame Helen Winkelmann at her swearing in as  
Chief Justice of New Zealand**

**14 March 2019**

**E Te Whare e tū nei, tena koe, e tū**

*To the house that shelters us today I greet you, stand forth*

**E te mana whenua, Te Ati Awa tēnei rā te mihi**

*To the tangata whenua, Te Ati Awa my greetings also*

**E mihi ana ki ngā mate o te wā**

*I greet those who have recently departed from us*

**Kia koutou te hunga ora; ngā mareikura, ngā manu kura**

*To those of the living; esteemed and respected guests*

**Nga mana, nga reo, mai i Ahitereiria nga hoa, nga kaimahi tae noa ki nga whanaunga kua tae mai nei**

*Honoured guests, the nationalities and in particular our Australian counterparts, friends and colleagues and family members*

**Tēnā koutou katoa**

*Greetings to you all!*

Many kind words have been said about me. I feel they are too kind. Listening to them, I have a sense that compliments are premature, as in this, the most important role I will be called upon to serve in my career, it is all ahead of me.

Mr Attorney, I believe your attendance, and the attendance of the Minister of Justice, recognises the importance of the courts in our constitutional order. I appreciate the confidence the Government has shown in me with this appointment, and the words of support you have conveyed today.

Ms Beck and Ms Davenport. Through your respective roles in the New Zealand Law Society and the Bar Association you represent the profession, and you both do so with distinction. Judges have a keen interest in a strong profession as that is critical to the functioning of the courts. I thank you for the confidence you have expressed in me.

Mr Farrelly, I am delighted you are here to speak today for those whose voices are not usually heard in our courts. I return to some of the things you have said, later.

I acknowledge and thank Kura who spoke on behalf of the mana whenua, Te Ati Awa. I also thank my tungāne, my cousin, Rikirangi Gage, of Te Whānau-ā-Apanui, who spoke on behalf of the Winkelmann whanau. You brought honour to our whānau today.

And of course, I thank the wonderful kapa haka group. The quick amongst you might have noticed the group included some of my judicial colleagues. Most of them were quite co-

ordinated! As the written programme explains, today's form of ceremony gives place to the traditions of our two founding cultures.

As I sit here, I feel the weight of the responsibility of the role I am sworn to perform. I imagine the line of Chief Justices I join, stretching back to the first Chief Justice, Sir William Martin. I acknowledge this tradition of service.

I follow in the footsteps of a Chief Justice who has been a transformative figure in New Zealand's legal system and society. Dame Sian, I am grateful for your presence in support of me today.

At a pōwhiri to mark your retirement, it was said that your footsteps in the law are sacred. I believe that to be true. I will follow the example you have set of hard work, integrity and a commitment to serve the people of New Zealand.

It is right that I feel this weight of responsibility because the role of the Chief Justice is a critical one in our democracy. As Justice Young said, the Chief Justice is the head of the judiciary, the third branch of government. The role the judiciary performs is vital for a civil society; through the application of the law, judges ensure that public power is exercised lawfully, and, ideally, that all may seek justice before the courts.

The administration of law by the courts involves the exercise of public power by judges. In the past, architects tried to convey the power of the courts with the use of Victorian Gothic architecture they borrowed from England. They put Grecian columns, Gothic arches and, in our courthouses, even Gargoyles. But as judges, we remember that it is the diligent, skilled and humane service we give to society, that is the true source of the courts' authority. We know that public power should be exercised with humility.

In my mihi I acknowledged this courthouse, which is the court for the Supreme Court, Te Kōti Mana Nui. Those who designed this house did not look to the Courts of England for their inspiration – they looked closer to home – to the kauri cone, with its interleaved petals that give the cone strength and shield the seeds inside, so that the hope for the next generation is protected.

This design is, I think, consciously a metaphor for this court, and more broadly for the relationship that courts seek with New Zealand society. It grounds this house and with it this Court, Te Kōti Mana Nui, in these islands in the South Pacific. It conceives of the justice administered here as protective of *our* people, the people of New Zealand, so that our hopes of a safe and fair society can be fulfilled.

This courthouse was purpose built for the establishment of the Supreme Court and the creation of the Supreme Court was itself the fulfilment of a vision. A vision that important legal matters, including those relating to the Treaty of Waitangi, should be resolved with an understanding of New Zealand's conditions, history and traditions. A further desire was to improve access to justice; New Zealanders should no longer have to travel across oceans to argue cases before judges, some of whom had never touched the soil of our land, or seen its rivers, mountains and forests.

The Supreme Court has begun to fulfil the vision of those who argued for its establishment. It has woven the history of our nation into important judgments concerning the status of the Treaty. It has provided access to justice. A far greater number of cases have been decided before this court, particularly in the criminal jurisdiction, than was ever possible when our final court resided in Downing Street, London.

As Chief Justice, I will preside at sittings of the Supreme Court. I look forward to working with my colleagues on this Court, and to contributing to the Court's judgments. I expect that the Court will continue to decide cases in a way fit for this nation, drawing upon the richness of our two founding cultures, and utilising the intellectual wealth and creativity to be found amongst our profession and in our diverse society.

As well as presiding in the Supreme Court, the Chief Justice is also head of the judiciary. The Chief Justice leads a judiciary made up of the judges of all the courts – the Court of Appeal, High Court, District Court with its Family and Youth divisions, the Employment Court, the Māori Land Court and the Environment Court.

The work of the judges of these courts is demanding. Their decisions often have life changing consequences. Judges work in an increasingly diverse society in which there are no easy assumptions to be made about beliefs, behaviours and background.

In the fourteen years since my appointment to the High Court, I have come to know judges from all courts. I have seen the depth of their commitment to the work they do. I know that the judicial oath is something they hold fast to as they strive to do right to all manner of people according to the laws and usages of New Zealand, without fear or favour, sympathy or ill will. The judicial oath is remarkable – in only 26 words it manages to describe the basic concepts of the rule of law, outline a judicial method, prescribe a code of judicial conduct and demand of judges that they show courage.

Being head of the judiciary in New Zealand does not however, as is sometimes thought, involve making resourcing decisions. Providing resources to the courts in the form of safe and effective courtrooms and systems is the responsibility of the Executive arm of government, although the judiciary has at least a voice in those resourcing decisions.

Within existing resource constraints, the judiciary does what it can to judge in a way fit for the needs of New Zealand. Toward this end the judiciary has developed new ways of working that link the courts more closely to the community, including the Rangatahi, Matariki and Pasifika Courts, the Special Circumstances Court and the Drug and Alcohol Courts. Some of these courts were mentioned by the City Missioner, Mr Farrelly. This work, which is being developed primarily in the District Court, allows the courts to draw on the community's strength and it allows judges to connect directly to community values and knowledge.

There is one comment only that I make today about the resourcing of the courts and also in response to calls for innovation we have heard today. Certainly, innovation will come, we know that, but we must not lose sight of the fact that the effective administration of justice depends upon human interactions. Not all, but many of those interactions need to be on a face to face basis. The presence of courthouses in which lawyers can meet with their clients, and in which judges can see and talk to defendants in person is a holding thread in our justice system. Courthouses represent the presence of law in towns throughout New Zealand. The

people who work within the courts are leaders in their community. They are a source of knowledge as to how the system works, and, for those who do not have the means to pay for legal advice, a source of knowledge about the law.

Mr Farrelly spoke to us today on behalf of the community, a community he knows very well through his work as the Auckland City Missioner. It is a small departure from convention to have a person who is not a lawyer speak at a ceremonial event such as this. But Mr Farrelly was invited to speak so that voices not usually heard in our courts are represented on this day – a day on which we think and speak of our hopes and expectations for the administration of justice.

Mr Farrelly reminded us to think of those who are marginalised – marginalised because they cannot engage with the social and economic frameworks in our society, whether that is because of poverty, disability, ethnicity or the experience of trauma in their lives. Without the ability to have their voices heard in our courts, the marginalised are vulnerable to exploitation and abuse.

We frequently see those who live in poverty in the criminal jurisdiction of the courts, but seldom in our civil courts. But those in lower socio-economic brackets have very real and often complex legal needs. Lacking economic power, the poor, perhaps more than any other part of our society, need and should be afforded the laws protection.

I acknowledge what has been said today about access to justice. There are significant and troubling obstacles to the achievement of this ideal. Without knowledge of the law many do not know they have a problem with which the law can help them. The cost of legal representation is so great that it is only the well to do who can afford a lawyer to represent them in court. There are few lawyers practising civil legal aid, and fewer still in areas of need. For those who decide to go it alone and attempt to represent themselves, there is still the considerable cost barrier of court fees, and the difficulty of court procedure.

The solution to many of these problems lies beyond the control of the judiciary. But as Ms Beck said in her address, the judiciary cannot shy away from these challenges. As Chief Justice, I can use occasions such as this to highlight the issues. And where I can be of assistance, I will support the work of the profession and the community in removing the barriers that stand in the way of those who would seek the shelter of the law.

It is also the work of the Chief Justice, along with other judges, to explain the role of the judiciary as the critical underpinning of the rule of law. If this role is not well understood then society will not value the role of the judiciary.

Toward this end, today's proceedings are being filmed and live streamed. This allows the important ideas and concepts, and the expectations that have been addressed to me as the incoming Chief Justice, to be heard by those beyond the walls of the courtroom. And of course, there will exist a record of my words today. That means, that when in the future, I hand over to the 14<sup>th</sup> Chief Justice, I can be measured against the ideas and ideals of which I have spoken.

To fulfil the tasks I have outlined, I am conscious that I will need the support of my colleagues, the profession, my friends and my family. My husband Martin, and our four children are here

somewhere. I love my children dearly. They follow me through life like a Greek chorus pointing out all my faults, and follies. They certainly keep me humble. Their love, and the love of my husband, are the foundations on which my life stands.

My brothers and sister and their partners are in the gallery. Whenever our family gather we remember our father who died nearly 40 years ago, and we again feel the loss of our mother. My mother was, and is, an inspiration to me: she set an example of courage and hard work, and she taught me to believe in the importance of a fair society. I carry her with me always.

Tai timu, Tai pari. Tides must ebb and flow  
Tēnei au e pari nei!

I now close proceedings with another important tradition. You are all invited to stay for a cup of tea and some kai.

Mr Registrar, we will retire.