



Hon. Diane Humetewa

Judge of the U.S. District Court for the District of Arizona

by Harpreet Mahal

Harpreet Mahal: How did you decide to become a lawyer?

Judge Humetewa: I spent the

first four years after college in the U.S. Attorney's Office providing advocacy services for victims of mostly violent crimes in Indian Country. After a couple of years, I started receiving encouragement from lawyers who would say to me, "You should think about going to law school. You need to be a prosecutor advocating for these victims in the courtroom." I had never considered it before, because there were no lawyers in my family, extended family, or who I personally knew. One day I walked into my office and there were law school applications on my desk, and my supervisor said, "You really should fill these out." I did what I was told, but I never thought that I would be accepted. But lo and behold, a few months later, I was! Then I had to decide whether I was going to leave a job that I really enjoyed and embark on this new educational path, of which I knew nothing. I guess it really was not a choice that I made on my own, but something that I was coaxed into. The rest is history.

HM: When did you realize that law was the path you were meant to be on?

Judge Humetewa: I only realized law was my true calling after graduating from law school, and about a year into my first job as a lawyer. At that time, I was counsel in the U.S. Senate Indian Affairs Committee in Washington, D.C. The committee is responsible for federal policies and laws that impacted the nation's Indian tribes and native people. In doing that work, I saw how policymaking at the federal level affected Indian Country and peoples nationally—from our health care to our education systems. Before that, I understood the breadth and history of tribes in Arizona, but I had only a surface level understanding of what it meant to engage in policymaking affecting all the nation's tribes. So, the work brought me a sense of real fulfillment as well as personal enlightenment. I understood for the first time in my life that the decisions about the day-to-day lives of Indian people, such as my family, my grandparents, and those before us, were generally made in Washington, by people who were not Native American and who didn't come from these communities. I really understood the importance of the work and how careful it had to be.

Then, as a more experienced federal prosecutor, I was often sought out as a national speaker on prosecuting crimes in Indian Country, and those involving Native American cultural resources. I was one of only a handful of tribal member lawyers with that experience, so it was clear to me that I could and should use my education combined with my personal background to enhance the way justice is served in Indian Country.

HM: Were you able to find mentors early on in your career who understood your background and your experiences?

Judge Humetewa: I found mentors easily, but not necessarily ones who shared my background. For example, Senior Judge Stephen M. McNamee, who is here in this district, was the U.S. Attorney who hired me for the victim advocate position. He also encouraged me to think about going to law school. He would introduce me to other lawyers. Edwin Meese was the United States Attorney General when I was a victim advocate, and Judge McNamee made a special effort to have me and the other extern, also a Native American, meet Attorney General Meese. He would ask for our advice, and I would think, "I'm this 20-something-year-old, barely out of college, and the U.S. Attorney is asking for my opinions." So, people like Senior Judge McNamee were real advocates for my professional growth. Former U.S. Attorney Paul K. Charlton, and retired AUSA Wallace Kleindienst, a renowned prosecutor, were also very encouraging. Though they did not share my background, they welcomed my opinions, including how to work with tribal people more effectively. They encouraged my participation in the office's work and presented me with challenging work which made me more confident. Ninth Circuit Chief Judge Mary H. Murguia was also instrumental in my development as a junior federal prosecutor. As my immediate supervisor, she gave me honest feedback and provided me with many growth opportunities. These are just a few of the accomplished people who gave me time and who let me learn from them.

HM: Do you see that there are more people now that have that understanding and that can serve as mentors for future generations?

Judge Humetewa: I do. I'm encouraged by the number of law students today who are from diverse populations. There was a stark lack of diversity when I was in law school and in my early years of practice. Tribal member lawyers and mentors were rare. Yet, I found individuals who selflessly provided me with their professional guidance. Though a lack of diversity is still prevalent in private practice, and certainly on the bench, I do see the cultivation of future mentors from the educational and professional experiences that are now being made available to people from diverse backgrounds, including from once exclusive institutions. This, in turn, provides law firms and federal agencies with a more diverse pool of lawyers who can serve as mentors. When you see successful lawyers with whom you share a common culture or life challenge, that, in and of itself, can build self-confidence.

HM: During your time in law school, did you have an idea that you would want to one day be on the bench, or is that something that came later?

Judge Humetewa: Not at all. When I had the opportunity to be the U.S. Attorney for Arizona, my husband told me I should take the U.S. Attorney position if it would help me become a federal judge. Frankly, until then I had never thought about being a federal judge. It never dawned on me because I did not see people with my background appointed to federal judge positions. As a former victim advocate and AUSA, working in the very federal court in which I sit, I was familiar with the entire federal bench. All the judges were male, all of them were Anglo, and most were from generations of lawyers, or they had political influence in Arizona. But hearing my husband voice the idea, and say it with confidence, made me think for the first time that maybe it is possible. And it was. In our Sandra Day O'Connor Courthouse, there's a portrait gallery of all of the district judges appointed chronologically. I often tell law students, especially those that come from diverse backgrounds, to walk that portrait wall and observe the changes in diversity of these positions. You see when the first female district court judge was appointed, then the first Latina judge, and so on. They are encouraged by that.

HM: How has your time as a victim advocate before law school shaped how you view the justice system today?

Judge Humetewa: It gave me a real-world view of how the federal courts actually work, and particularly how the federal courts interface with Indian Country and its populations. I saw the disconnect that is built into the system of justice for Native Americans, and how far removed the process is from their communities. Victims and witnesses would ask why their case was in federal court and not tribal court. I had a desire to learn more about that. So, I took federal Indian law and tribal courts classes in law school, and then sought the externship in the U.S. Senate Indian Affairs Committee.

I continue to see that for many Native Americans, our federal justice system is still too far removed. They do not necessarily feel included in the process. As a prosecutor, my early experiences with victims helped me hone my casework to be sensitive to their culture and communities and drove me to encourage tribal awareness and participation in the process. But today, I still see that our federal justice system for many Native Americans, is still too far removed. As a district judge, I have tried to focus on how our courts can be more accessible to Indian tribes and citizens. It's an ongoing process.

HM: Did your time as an appellate judge for the Hopi Tribe help inform how you view judicial process or provide any perspective on judicial process that can be applied more generally?

Judge Humetewa: It taught me how to develop case law based on Hopi custom and practice when there is no written law. I was fortunate to be mentored by the late chief justice at the time, Emory Sekaquaptewa, the first Hopi law school graduate. He recruited several federal judges who were his classmates, the late District Judges Robert C. Broomfield and Paul G. Rosenblatt, to help develop the Hopi tribal court. It was his vision to infuse Hopi custom, practice, and tradition into the law whenever possible.

At the Hopi Appellate court, we did what our earliest Supreme Court justices did: develop common law in the absence of written law. This enabled me to understand the tensions that arise when you have a constitution, like the Hopi Constitution which was drafted by federal agents, that conflicts with Hopi custom and practice. Those experiences emphasized the importance of each written word in writing the common law as precedent, and how to write so our reasoning could be understood by the people. It also prepared me for my eventual sittings with the Ninth Circuit Appellate Court, which is similar to our Hopi Appellate Court process. I learned the nuances of collaboration.

HM: Do you have any advice for diverse law students and newer lawyers?

Judge Humetewa: Embrace your time in law school. I treated law school like an obstacle to overcome. The law school process intimidated me, so I did not appreciate the journey, and it wasn't as enjoyable as it could have been. My advice is to participate in the organizations and do not box yourself into an area of law or career path just because others expect it of you. Be mindful that your current classmates may be your future colleagues or adversary in law, so get to know them. Visit state, tribal and federal courts, especially if you want to be a litigator. And consider that your first job as a lawyer is part of your ongoing legal education. We learn many subjects in law school, but mastering the practice of law takes time.

HM: How did you get involved in the Federal Bar Association? What drove your involvement in the Federal Bar Association's diversity and inclusion efforts?

Judge Humetewa: As a law student, I had the opportunity to attend the Indian Law Section of the Federal Bar Association's annual conference. It was the first time I met Indian lawyers who were also members

of the FBA. They were welcoming and encouraging. I met Lawrence Baca, a renowned U.S. Department of Justice lawyer, Walter Echo-Hawk, who worked at the Native American Rights Fund, and others. That was my first real exposure to the FBA, and I learned why it was relevant to Native practitioners and Indian Country. The federal courts are directly involved in the lives of my community and federal lawyers represent tribes and tribal people. The work I sought to pursue was predominantly federal, so it made sense to observe these practitioners and to pay attention to what the FBA was doing.

I became involved with many of the diversity efforts by invitation. We judges are isolated. So, the FBA provides a meaningful way to stay connected with what's going on with federal court practitioners, and to contribute to the federal bar. My involvement also tends to focus on diversity and the challenges of underrepresented populations in the law profession, many of whom are interested in public service, with federal agencies or Indian tribal governments. But because the FBA consists of people who practice in the federal courts, they have a genuine interest in evaluating its processes and procedures, as well as addressing ways to improve the practice of law in the federal courts for everyone.

HM: Are there specific diversity and inclusion efforts that you would like to see in the future from the Federal Bar Association?

Judge Humetewa: A challenge for every federal bar chapter is how to develop opportunities to appear in federal court. There are few opportunities for novice lawyers, and fewer still if you are not a federal prosecutor or defender. Additionally, it is rare to have Native lawyers appear in federal court. This makes it more difficult when it comes time to serve as an officer of the FBA, as a Representative of the Circuit, or to be considered for future judicial positions. So, developing paths to federal practice is key. Cultivating mentors from federal practice would help. In Arizona, we also have opportunities for pro bono work for self-represented individuals, including incarcerated persons. So, I would like to see newer lawyers and those with diverse backgrounds provided with opportunities to appear in federal courts.

I tell those whom I swear in to practice in our district court to consider joining the local FBA and to make efforts to attend the monthly luncheons. It will give them an idea of what's going on in our federal courts and what's happening among the federal bar members. Participation in the FBA can make the practice of law in federal courts less intimidating. And I believe that personal participation helps to build a better legal community. ☺



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