



The Law Society
of England and Wales

Diversity in the legal profession and the Judiciary

Opening of the Legal Year Roundtable (OLY) Minutes

3 October 2017



1. Introduction

On 3 October 2017, as part of the programme of activities organised for the Opening of the Legal Year (OLY), the Law Society and the Bar Council co-hosted a roundtable on "Diversity in the legal profession and the judiciary" (and women in leadership in the law) as a global theme of concern for the legal profession. This roundtable allowed for in-depth and fruitful discussions with leading lawyers and bar leaders from around the world.

Christina Blacklaws, Vice President of the Law Society of England and Wales and Fiona Jackson, Vice-Chair of the Equality & Diversity and Social Mobility Committee of the Bar Council of England and Wales, co-chaired this roundtable. The panellists were Kerry Simons, President of the Bar Council of Canada, and Hillarie Bass, Chair of the American Bar Association, who presented their work on this area.

The discussions considered the challenges faced by women members of the legal profession with the aim of finding joint solutions and identifying best practices that can be promoted both in the UK and abroad. Participants agreed that legal practitioners have a lot to offer in terms of generating thought leadership to support their fellow women lawyers who are still facing serious obstacles in their jurisdictions, *inter alia* on matters relating to: equal pay, flexible working, maternity policies, access to justice, education and training, and career progression. They also agreed that innovative ideas can catalyse transformational changes that will benefit the legal sector, making it more accessible for the next generation of female lawyers. All participants expressed their interest in being part of a core group that could follow up on specific ideas at the next OLY in 2018.



2. The Law Society's International Women and the Law Programme

The “International Women and the Law” programme is one of the five “International Rule of Law programmes” the Law Society is aiming to set up and start implementing in the next three years. These programmes aim to showcase the public interest work carried out by the Law Society, which strives to advance the rule of law and human rights, through building the legal capacity of the legal sector and judicial system in the jurisdictions where we work (see link here).

The International Women and the Law programme (IWIL) will strive to address matters relevant to women's rights and gender equality internationally within the legal sector and the judiciary. It aims to achieve the promotion and support of gender equality in the legal sector, striving to level the playing field for women, in particular female lawyers, judges and prosecutors. Activities such as exchanges, capacity building training and research could also help to strengthen the solidarity links between women lawyers in the UK with their fellow lawyers in foreign jurisdictions.

An essential component of the programme will be to deliver it in partnership with others including members of the Law Society of England and Wales, academics and other key stakeholders, such as foreign Bar Associations and civil society.

3. Summary of discussions

Christina Blacklaws opened the discussions by sharing with participants the objectives of the roundtable, which was to discuss diversity in the legal profession with a particular focus on gender and women, from the perspective of the work of the organisations present.

Christina also explained that, as the professional body for solicitors, one of the Law Society's responsibilities is to support and encourage access to the profession. The Law Society is committed to helping the legal profession to be:

- more inclusive – its composition reflecting the diversity of our society;
- more responsive – able to provide a sensitive, appropriate and highly professional service to all sections of society; and,
- good employers – recruiting on merit and offering training and development opportunities to all employees regardless of background.

She explained that the Law Society also strives to ensure that our profession reflects the population it aims to serve, regardless of their background. In the Law Society's report "Diversity Profile of the Solicitor's Profession 2015", released in October 2016, it was reasserted that a diverse profession can meet the needs of its clients more effectively. The statistics in this report show that:

- More women than men are joining the profession and now make up 48% of solicitors.
- 56.7% of Black and Minority Ethnic (BAME) solicitors are women.
- Over 50% of solicitors are the first generation in their family to attend university.

However, she also acknowledged that the report found:

- In the UK, a higher proportion of men (48%) than women (22%), irrespective of experience, were partners.
- Despite a steady increase in the number of women entrants to the profession over the last twenty years, only 28.8% of partners are women.
- People with disabilities are under represented in the profession.
- Only 11.1% of partners come from BAME backgrounds.

Christina reminded participants that 2019 will mark the centenary of women being allowed to become lawyers. For her Presidency in 2019, she intends to organise an international symposium on women in leadership, a programme of activities to celebrate international women's day, and a number of projects that will enable women lawyers to become activists. In addition, one of these programmes will match women lawyers from the UK and abroad. These activities will be informed by an impact assessment research study, available in March 2018, alongside a series of roundtables that will take place in summer 2018.

Christina reaffirmed the Law Society's commitment to continue working with its Law Society member, bar leaders, law societies and bar associations from around the world to ensure that diversity within the legal profession thrives.

Lizzette Robleto de Howarth presented the Law Society's work on the "international rule of law", particularly focusing on the "international women and the law" programme. She briefly touched on the findings of the Law Society's first roundtable on "Women and the Law" that took place in May 2017 - the report of this first roundtable will be ready at the end of October. She also announced that the Law Society's draft "international women and the law" strategy will be complete in November 2017, ready for the second roundtable due to take place in the same month. She encouraged attendees to identify key challenges that are preventing women lawyers from achieving full equality and from realising their full potential in the legal sector. She also proposed establishing partnerships with the organisations attending the roundtable so as to move this agenda forward.

Fiona Jackson began by stating that, although women represent half of those who are Called to the Bar of England and Wales and 45% of those who start pupillage (vocational training), these numbers decline sharply, especially at the self-employed Bar around the traditional child-bearing age, which suggests that caring responsibilities for children in particular may impact significantly on the ability to retain a viable self-employed practice. In turn this has a damaging effect on the number of women judges and Queen's Counsel, because the judiciary and Queen's Counsel are still recruited in greater numbers from senior members of the Bar. Statistics show that 28% of judges in courts are women, in contrast with 45% of tribunal chairs. Presently a mere 20% of High Court judges and 24% of Court of Appeal judges are female. Only 14% of Queen's Counsel are women. Just over a third of practising barristers are female, and trends suggest that a 50/50 balance between men and women may be difficult to be achieved at the Bar, because of women adversely affected to remain.

The Bar Council's "Snapshot 2015: The Experience of Self-Employed Women at the Bar" showed that there are a limited number of female role models and that women barristers are not supporting in a consistent way other women in the profession. There are also poor networking opportunities for women given that the existing ones are often focused on male oriented-activities and held at times that make it difficult for those with caring commitments to attend. Women are also experiencing difficulties when supporting a family when working at the Bar, often feeling pushed into traditional "women's practice areas" of family law and sex crime. Reports of sexual discrimination and harassment within the barristers' profession have decreased. But, there was also a lack of encouragement of women to seek judicial appointments, which creates serious problems in terms of confidence and judicial make-up. The gender balance on key committees in chambers is also a serious problem given that most decisions are being made by men, which in turn affect the culture at the Bar and the ability to challenge decision with confidence. Some recommendations included: mentoring; business advice and confidence coaching; more senior and visible female role models; creating support networks; increased child-care support; better gender balance in decision-making committees at the Bar.

Following these recommendations, the Bar Council took several actions, including: focus on mentoring, especially those women barristers seeking judicial appointment or to become Queen's Counsel; establishing maternity and paternity mentoring schemes and guidance for barristers and their staff on preparing for a family career break; exploring career options and women's marketing networks; introducing model flexible working and parental leave policies for chambers; requiring an equality and diversity officer in every chambers; featuring more women as role models; extending childcare provision supported by the Bar Council; and developing a Sitting Hours Protocol limiting hours in courts and tribunals from 10:00 to 16:30. They are now looking into the issue of equal pay for equal work and pre-application judicial training.

Kerry Simons asserted that equality is central for the Canadian Bar Association (CBA), which focuses on specific categories including: women, LGBT, people with disabilities, indigenous people and visible minorities. In 1991, a CBA report entitled "Touchstone for Change" showed that women represented the 27% of lawyers of which 12% were judges and 12% provincial judges. Today, these numbers have reached 44% of women lawyers of which 40% are judges; and 40-50% provincial judges.

The CBA encourages diversity both on the bench and in the legal profession - British Columbia is leading the way to encourage individuals to self-identify categories, rather than imposing a categorisation system. With regards to diversity on the bench, the CBA organises events to encourage diversity and to share experiences from judges belonging to protected categories. During these events, participants tend to identify themselves with certain role models, which may give them confidence to progress their careers. Furthermore, the CBA has tackled the problem of low number of women in the legal profession, by challenging existing statistics. Ms. Simons explained that with the new government in Canada, a growing number of statistics are able to show the real composition of women on the bench. These demonstrate an increase in time from 30% to 42% of women amongst the applicants. Ms. Simons emphasised the importance of having good data sources in order to ensure that challenges are based on tangible evidence.

In relation to diversity in the legal profession, there are several studies available and compiled by Canadian Law Societies including: the Law Society of Upper Canada, British Columbia, Ontario and the CBA. Alongside these research studies, the CBA is also committed to take action and, for that reason, forums are organised to discuss and encourage diversity in various areas of the legal profession. These forums focus on women, aboriginal lawyers, sexual orientation and gender.

The CBA also promotes exchanges with law societies to remind them of the importance to respect diversity, to share best practices, to build the business case for diversity in the profession, and to encourage availing flexible working hours. Finally, Ms. Simons stressed the importance of international mutual support, suggesting the organisation of an inter-faith ceremony during OLY to show more openness.

Hillarie Bass emphasised that at this rate, it would take the next century to achieve 50:50 representation in the legal profession. She also stated that diversity in the legal profession leads to better decision-making, promotes democratic representation, and sets strong foundations for the rule of law. The American Bar Association (ABA) has established various commissions including: LGBT, disability, and Hispanic women. The Women's Commission, for example, has been running for 25 years. Hillarie also suggested that care giving responsibility may change over time as a result of more men changing their patterns of behaviour and women are more willing to break the glass ceiling but are unable to.

In spite of the fact that diversity policies have been in place for many years, progress is still slow. Studies have shown that the majority of women are returning to work after maternity leave, but this year, an ABA study looked deeper into why women in their 40-50s are leaving the profession, so as to identify trends and solutions. There are also inherent problems of equality at senior level in the US - if 48% of women enter the legal profession, only 20% of women are at the level of upper partnership, and only below 10% of women are at shareholder level in law firms. In addition, in the US, women are usually paid less 70-80 cents on the dollar compared to men. Ms. Bass also introduced the Harvard implicit bias test and the empathy index to the roundtable encouraging participants to use it.

During the Q&A session, participants shared some of the challenges in their context within their respective countries:

The representative of the **Indian Bar/Commonwealth Lawyers Association (CLA)** stated that there are 31 judges in the Indian Supreme Court of which only 1 is a woman. In the 29 States of India, at High Court level, only 2-3% of judges are women. In local bodies and public institutions, 30% of posts are reserved for women but these posts remain unfulfilled. Women represent only 20% within the legal profession. It also seems that, once women get married, they stop practising. At the CLA, one third of the Executive Committee are women.

The President of the European Bar Federation, Sarah Chandler, shared an anecdote that, at a recent event she attended, a whole panel was made up of men and noted how common it is for women only to be invited to speak at plenary sessions rather than as keynotes. She also suggested that, in **Europe**, every representative organisation should have clear requirements regarding the election of presidents within their organisations. She encouraged exchanging best practices as well as to actively challenge inappropriate behaviour and/or practices.

In **Poland**, statistics show that there are more women judges than men but, being a judge, is not a very well paid job; but it gives security to the post-holder. Contrastingly, women represent only the 15-20% of judges in the Supreme Court. Differences between genders are very deeply rooted in many areas in Poland (e.g. education, social, etc.). Numbers of male and female lawyers are roughly equal. He suggested to identify the key challenges in order to assess the appropriate intervention to challenges these gender inequalities and stereotypes.

The representative of the young lawyer section of the **CBA** stressed the importance of being more gender aware and learning to be more sensitive to women's values. He suggested that, in his experience, teams achieve better results when they have a diverse makeup. Gender balance on the team along with having members of diverse backgrounds can help teams to identify blind-spots, which they may not otherwise have realised that can then result in a more comprehensive outlook of a situation and/or problem. He also suggested that it was important to acknowledge that women and men may communicate in different ways. Having multiple streams to enter the profession can also help to facilitate women entering the profession.

The representative of the **Law Society of Scotland** explained that, in Scotland, the old generation did not care for the needs of the LGBT and women and, as a consequence, these communities remain marginalised within the legal profession. Scottish firms have adopted flexible working in an effort to encourage more women into the profession. Today, although women represent 52% of the legal profession, there are not enough women appointed to the judiciary. There are around 400 advocates, most of whom come from the judiciary and most QCs are male. He stressed that positive discrimination is not enough as a strategy so we should seek alternative ways of getting more

women to apply to judicial posts and be motivated to pursue this career, as well as addressing inherent bias.

The President of the **Law Society of New South Wales in Australia** shared some striking statistics: 51.5% women are members of the solicitors' profession, only 25% join the bar, only 12-13% equity partners are women, and female silks are rare.

In common law countries, it is common that the percentage of women judges is low, because judicial appointment follows appointment to the Bar. Although the current Chief Justice of Australia is a woman, this is considered to be very rare. She highlighted that the higher the Court, the lower the number of women in posts. This gender gap in the higher courts cannot be explained by seniority because, in the past 25 years, of those who completing law school 65% were women. The President stated that, in Australia, women in leadership are a target in the way that men in leadership are not. She shared a personal example in which she was the only representative publicly attacked for supporting LGBT marriages, despite the public statement was also co-signed by two men presidents of the BMA and the Bar Council. Australian women judges are also attacked in the media because of the decisions they make, in a way that men judges are not.

Until women are seen as equal to men in leadership roles as well as equal in taking leadership positions as men, then equality of rights will not be achieved. Until we addressed those inherent biases, we cannot fully address the issue of women in leadership.

The representative from **Kazakhstan** confirmed that formal statistics of the participation of women in the legal profession are very limited, if non-existent. Moreover, there is no work relating to women in leadership within the Kazakh Bar. Career progression for women, unequal pay, maternity leave and gender issues are key in the country. More support on this area is needed.

In closing the roundtable, **Christina Blacklaws** stated: "time is not going to solve this problem; action is required". Women are still not making it to partner status in equal numbers to men: of the approximately 30,000 partners in private practice, 72% are men and only 28% are women. As women solicitors and leaders in the legal profession we have a duty to support such initiatives, so that the change can continue at pace. By challenging the cultures that have held women back in the past, and supporting the development of new and innovative ways to do business, we can improve the efficiency and effectiveness of our organisations, the quality of legal services, and practical working conditions for women. Christina also encouraged all bar leaders present at the roundtable to share research and good practices, and to engage decision-makers from non-protected categories in this debate.

The bar leaders present agreed, in light of the positive discussions during the roundtable, to seek to agree drivers of action that they could take away to their respective bars and wider legal profession, including the IBA membership, in order to obtain and measure real progress on diversity in 2018 and beyond. They also agreed to report back at the next OLY in 2019.

Points for action:

1. Promoting visible female role models in leadership;
2. Educating about and addressing inherent bias;
3. Developing mentoring and coaching schemes for encouragement, and promotion of the GRIT (**G**rounding; **R**eflection; **I**mplementation; and **T**ransformation) model;
4. Considering regulating for change at local level;
5. Promoting flexible and adaptable working to enable better management of caring responsibilities.

Annex #1: List of Participants

No.	Name of participants	Participating Organisation
1	Christina Blacklaws	Vice-President of the Law Society of England and Wales
2	Fiona Jackson	Vice-Chair of the Equality & Diversity and Social Mobility Committee of the Bar Council of England and Wales
3	Kerry L. Simons QC	President of the Bar Council of Canada
4	Hillarie Bass	Chair of the American Bar Association
5	Lizzette Robleto de Howarth	International Programmes Manager, Law Society of England and Wales
6	Roberta Taveri	International Coordinator, Law Society of England and Wales
7	R. Santhanakrishnan	Commonwealth Lawyers Association & Indian Bar
8	Sarah Chandler	President of the European Bar Federation
9	Professor Piort Kardas	Vice-President of the Polish Bar Council
10	Preston Parsons	Canadian Bar Council's Young Lawyers
11	Graham Mathews	President of the Law Society of Scotland
12	Onyeka Onyekweli	Gender Policy Adviser, The Bar Council
13	Pauline Wright	Law Society of New South Wales
14	Sofiya Zhylkaidarova	Kazakhstan Bar Association

Annex #2: Points of discussion

1. Key gender diversity issues for your legal profession
 - a. What are the key gender diversity issues for your legal profession?
 - b. Who is responsible for gender diversity for your legal profession?
 - c. Are there any relevant regulations and/or statutory provisions and/or gender diversity policies in your legal profession?
 - d. What is your legal profession seeking to achieve with any gender diversity policies, measures and programs and have they been successful?

2. Women in leadership in the law
 - a. How women in leadership in the law can increase gender equality in the legal sector internationally?
 - b. Key challenges, constraints, and opportunities for achieving gender equality within the legal profession?
 - c. How women members of the legal profession can contribute to supporting other women lawyers internationally?
 - d. How law societies and bar associations can contribute directly to make that change happen?

ANNEX #3. Speakers biographies

Hillarie Bass – President, American Bar Association

Hillarie Bass is Co-President of international law firm Greenberg Traurig and a prolific trial attorney with a 30-plus year career.

At Greenberg Traurig, she serves on the firm's Executive Committee and previously served an eight-year term as national chair of its 600-member litigation department. Hillarie is also the founder and former chair of Greenberg Traurig's Women's Initiative.

Hillarie has successfully represented high-profile corporate clients in jury and non-jury trials involving hundreds of millions of dollars and was inducted into The American College of Trial Lawyers. Hillarie is widely recognized for her pro bono work on behalf of two foster children that led to the elimination and declaration as unconstitutional of Florida's 20-year ban on gay adoption.

Mentoring others in the legal field and giving back to the community has always been a top priority for Hillarie. She has led top legal and community organizations. She has dedicated herself to supporting the mission of the ABA for more than 30 years. She has served as Chair of the ABA's Section of Litigation, where she spearheaded the creation of a Task Force on Implicit Bias in the Justice System. Hillarie serves as Vice Chair of University of Miami's Board of Trustees. She was formerly Chair of the United Way of Miami-Dade County and a member of the ABA Commission on Women.

Speaking following her election she spoke about promoting equal access to justice and accepting and adapting to technological innovation as key issues for the legal profession in America.



Christina Blacklaws, Vice President, The Law Society of England and Wales

Christina Blacklaws studied Jurisprudence at the University of Oxford and qualified as a solicitor in 1991. A family lawyer by background, she has successfully run and managed both large scale high-street and virtual law firms. Christina set up the Co-operative Legal Services family law offering in 2011 and then moved into the role of director of policy.

Christina is Director of Innovation at a top 100 firm, Cripps LLP and is responsible for strategic change and operational management.

Christina has an extensive record of high-profile representative roles, which currently includes a public appointment as an executive member of the Family Justice Council.

She is a long-standing member of the Law Society's Council, representing the Women Lawyers Division; the author of numerous articles, a well-known speaker and lecturer and a frequent media commentator.



Fiona Jackson, Barrister, 33 Chancery Lane and Vice-Chair of the Bar Council's Equality and Diversity Committee

Fiona Jackson practises in the areas of domestic and international fraud and money laundering, international mutual legal assistance and international regulatory work, proceeds of crime and tracing, civil and criminal asset recovery, business crime and compliance issues.

She has represented a wide range of prominent defence and prosecution clients, companies and individuals, including prosecuting authorities and investigation and regulatory agencies such as the Competition & Markets Authority, Financial Conduct Authority and Medicines and Healthcare Products Regulatory Agency, as well as a variety of police forces, foreign governments and receivers, in cases before the House of Lords, Court of Appeal, High Court and Crown Court.

Fiona is ranked in Chambers & Partners 2014-2017, which notes that "she is conscientious, approachable, very down to earth, and very hands-on." "Smart and personable, she doesn't have the nerd factor that some have in this field. She is professionally top drawer." "An excellent advocate who is reliable, extremely hard-working, commercially aware, user-friendly and very approachable." "She has a deep-rooted understanding of how all of these areas of law work." Acquisition International presented her with its 2013 award for Sustained Excellence in Recovering Bribery Assets - UK.

Her experience ranges from cases involving worldwide and domestic restraint, receivership, confiscation, significant cash seizure and asset forfeiture, to major fraud, money laundering and business crime trials. Fiona is often instructed because of her ability to offer advice and representation on a case, from advising upon, defending and prosecuting or applying for pre-charge/pre-action restraint and freezing proceedings at the very outset to dealing with confiscation issues and linked asset/civil recovery proceedings at the conclusion of a case.



Kerry L. Simmons QC – President (from September 2017), Canadian Bar Association

Kerry L. Simmons, Q.C. is a managing partner of Cook Roberts LLP in Victoria, B.C. where her practice focuses on estate litigation, employment law and family law.

In 2012-13 she served as president of the British Columbia Branch of the CBA where she was an outspoken advocate for access to justice and access to legal services in rural and small communities throughout the province.

As Chair of the Governance Transition Task Force, Kerry is helping the CBA make the changes in its governance structure to a one which supports our Strategic Direction to serve members in ways that work for them. Kerry will take over as President for 2017-18 in September.



Lizzette Robleto de Howarth (Law Society's International Programmes Manager)
Roberta Taveri (Law Society's International Co-ordinator)
30 October 2017