

# **Women at the Bar in 2020: A Sticky Floor and Glass Ceiling?**

**Widening the Debate: Where is the Bar in terms of Ethnicity, Sexuality, Disability and Social Mobility?**

**Professor Jo Delahunty QC**

# A MEMORY TRIP to 2017 ... the brain drain

---

## THE BAR

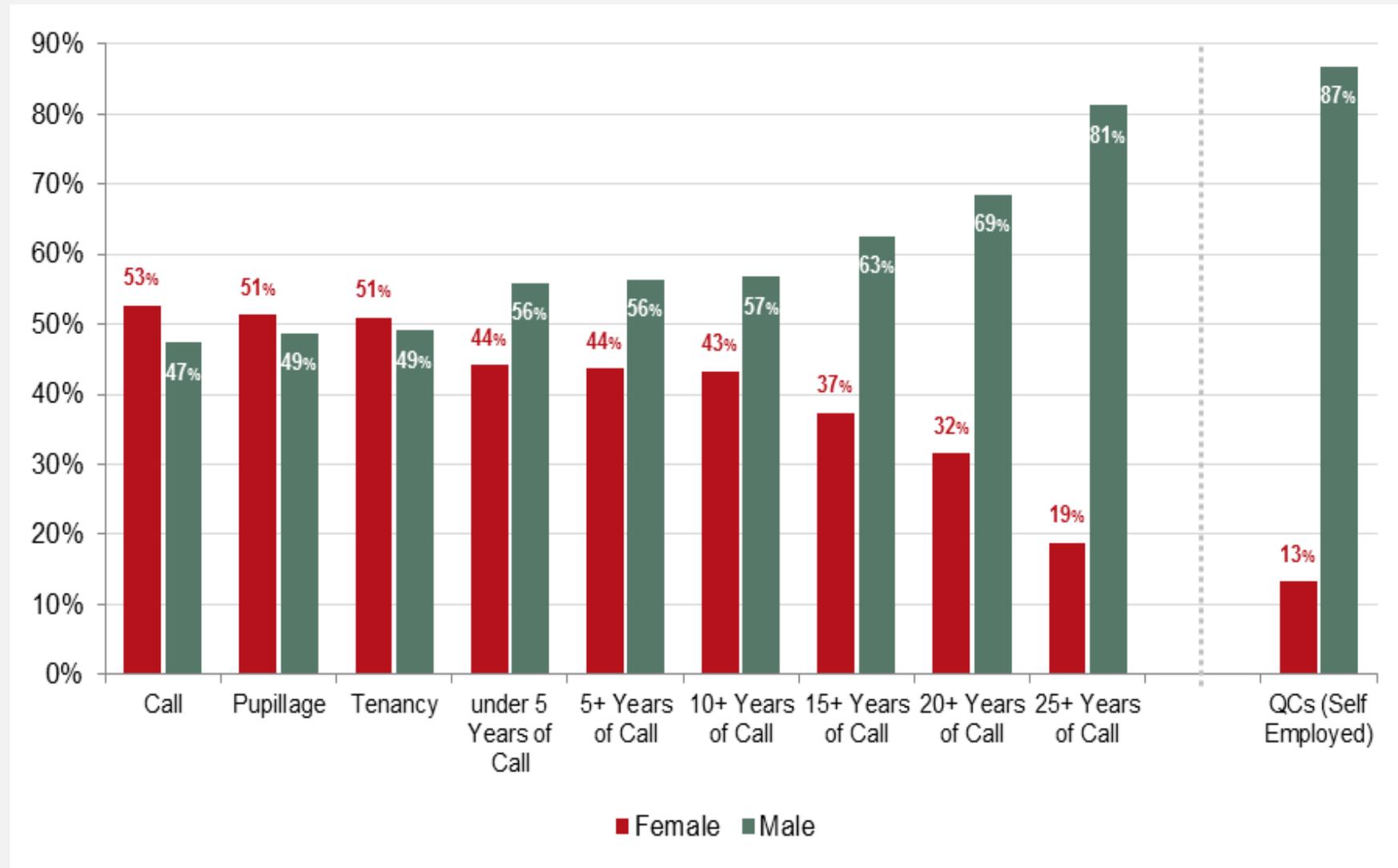
- pupillage and tenancy was **51%**
- 5 years call women comprised **45%** of the self-employed Bar
- 5 years + call this had dived to **29 %**.
- Silk : **13%**.

## THE JUDICIARY

- 35% lower ranking judicial posts (such as District Judges, Deputy District Judges),
- 25% at County Court level ,
- 20% at High Court and Court of Appeal ,
- no female Heads of Division.
- 2 of 12 Supreme Court Judges

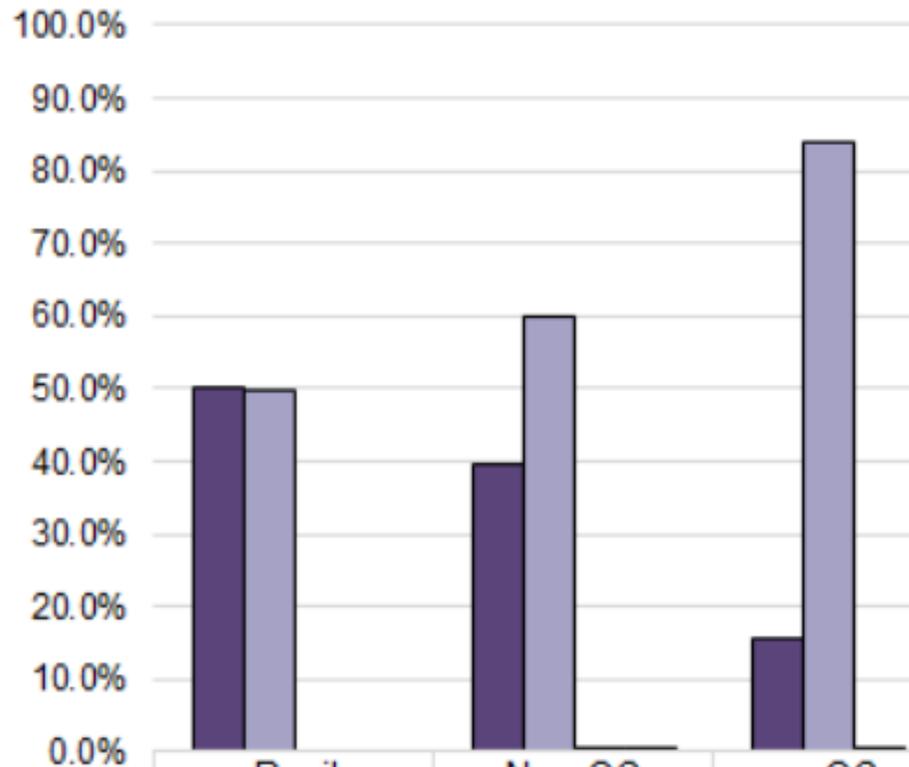


# A short trip back to 2017 ...



# What have we achieved 2 years on?

Chart 1: Gender at the Bar (%)



■ Female	50.4%	39.6%	15.8%
■ Male	49.6%	59.8%	83.8%
■ Prefer not to say	0.0%	0.5%	0.5%
■ No information	0.0%	0.1%	0.0%



# Nothing to see here .....

---

## The Western Circuit Women's Forum

- ❖ 2/3 of those who left the profession over a six-year period were women.
- ❖ Almost all the men who left became judges or retired after long careers.
- ❖ By contrast, the vast majority of women dropped out mid-career many cited the difficulty of balancing work and family life.



# Applicants to the Bar: **Social Mobility**

---

- Of those that provided information on school attended, around **33%** attended an independent school in the UK.
- compared to approximately **7%** of school children in England at any age, and **10.0%** of UK domiciled young full-time first degree entrants in the UK in 2016/17.

# Applicants to the Bar: Ethnicity

---

- The proportion of pupils from BAME backgrounds : **16.3%**
- BAME barristers at the Bar **13%**,
- BAME QCs **7.8%**.

Same trend in Dec 2017 compared to Dec 2016.

**We cannot, and should not, ignore the reality check that these stats provide: there is a real issue about recruitment and progression of BAME practitioners at the Bar.**

# Applicants to the Bar: Gender and Sexual Orientation

---



- only **43%** provided at least some information
- **7.9%** of pupils, **6.6%** of non-QCs, and **4.3%** of QCs provided their sexual orientation as Bisexual; Gay man or Gay woman/ Lesbian.
- If the data from those who did not provide information is included, **2.7% of the Bar as a whole identifies as LGB** which is in fact **higher** than that of the general population which under the ONS 2017 statistics saw 2% of the population identify as LGB.
- **% don't necessarily reflect those who are 'out' at the Bar**

# Applicants to the Bar: Disability

- There is an underrepresentation of disabled practitioners at the Bar.
- **2.8%** of the Bar had declared a disability as of December 2018.
- When excluding those that had not provided information, **5.9% of the Bar had a declared disability:**
- in comparison, estimated that around **12.4% of the employed working age population (those aged 16-64)**



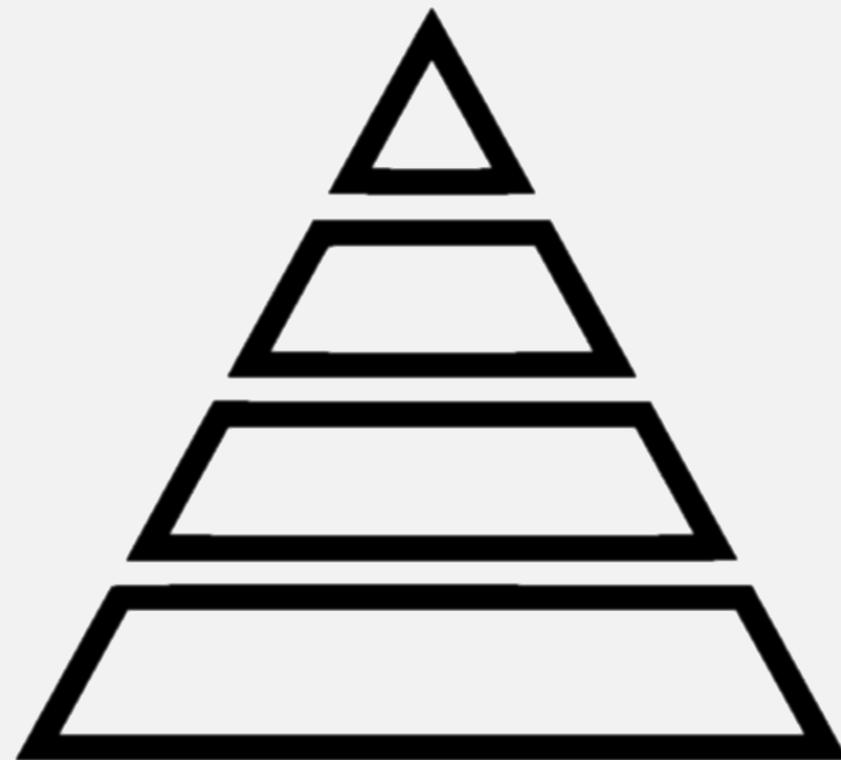
**RESTRICTED  
— AREA —**

**NO ENTRY**

# The judiciary : look not just at the numbers but the distribution

---

- 46% of tribunal judges were female
- 29% of court judges were female
  
- 11% of tribunal judges were BAME
- 7 % of court judges were BAME
  
- 2/3 of tribunal judges were from non-barrister backgrounds
- 1/3 of court judges were from non- barrister backgrounds



So...

---



*Why is the Bar and Judiciary still  
predominantly so white, middle  
class, straight and male?*

# Being female at the Bar: the problem with retention

---

Practice  
Bias



Status

Income

Parenthood

# Being female at the Bar: what's changed in 15 years?

---

## Attitudes and Attrition Factors

The Association for Women barrister's 2019 report '*In the Age of 'Us Too'?*'

- **Harassment and bullying;**
- Parenthood
- Pay
- Culture



***“You should really think about whether the Bar is right for you.”***

**(Male Judge dealing with an appeal listed in the morning, who wanted to sit on until 5.00pm, to the mother of young children who raised childcare issues)**



***“I am so sick of our time being treated as totally worthless. To xxxx Crown Court for a confiscation hearing in list with others at 10.30. Message from Judge: he wants 2 hours ‘reading time’ so will sit at 12.30. Comes in to start one hearing. I stand up and say ours is agreed. He barks ‘2.00pm’. No apology to anyone in court for the delay. The Judge came in after lunch at 2.35pm. No apology or reference to late start.”*** (Female junior 10 yrs. + call)

***“Ambitious female practitioners are often ‘guided’ towards sex offence work; surely the most grueling, and no longer paid properly.***

***How many women appear regularly in heavy fraud, terrorism and murder trials, or are part of the TC team ?***

***‘I have recently been in an 11 handed fraud in Birmingham – 18 counsel, only one woman,***

***9 handed fraud at Southwark – 15 counsel, 1 woman,***

***3 handed murder in Cardiff – 8 counsel, no women,***

***5 handed fraud at Southwark – 12 counsel, no women.’***

***In part this might be the inevitable consequence of attrition rates for women at 7 to 12 years call, but it’s not just that.”***

“It is little wonder that so many women (and men) are turning away from the criminal Bar; **the environment is increasingly hostile**. The hours are **punishing** and **unpredictable**, often late into and sometimes through the night, the **personal sacrifices are huge**, **fees are derisory**, **not remotely stacking up for the necessary childcare or breaks**, and the treatment from all directions too often is very unpleasant. Is there another profession whose pay has fallen like ours, and who have to tolerate such **awful** and **deteriorating** working conditions?

**There is a crisis.**

They can get easier, better paid jobs elsewhere, where they will be supported, be **treated with respect** and where **the conditions are flexible and compatible with family life**. Most men want this too.

“This stuff is not complicated, so let’s get on with it. There are also many in senior positions who have never changed a nappy, had years of interrupted sleep, or the daily admin of kids, and who practised at a time when the work was plenty and the fees were wow.

**They all have a choice, to continue to manage an orderly decline and withering of publicly funded profession or to fight for it.”**

# Being female at the Bar: what's changed in 15 years?

---

*HOWEVER: whilst these attrition factors explain why we haemorrhage senior juniors : they don't explain why those that stay and take silk **have less visibility at the higher levels of practice than men***

Mikolaj Barczentewiz's statistics:

Only **8 of the 48 barristers** who have most frequently addressed Britain's highest court since its inception 10 years ago were women.

Only **2 of the top 10** were women.

# Being female at the Bar: what's changed in 15 years?



**THE SUNDAY TIMES**  
SUNDAY NOVEMBER 24 2019

LAW

## Karen Monaghan, QC, attacks gender bias in Supreme Court

Jonathan Ames, Legal Editor | Catherine Baksi

October 24 2019, 12:01am, The Times



Karen Monaghan said that clients often chose men to represent them because they were seen as having more gravitas

TIMES PHOTOGRAPHER JAMES GLOSSOP

**“The near absence of women silks will be no surprise to anyone who appears in the Supreme Court [...] “Men therefore appear in greater numbers [...] Those men then get a reputation for being good in the Supreme Court, as having the ear of the court and as silks who can be relied upon to perform well, so continuing the cycle.” (Karon Monagan QC)**

# Being female at the Bar: what's changed in 15 years?

---

- High Court Judge section 9(4) Appointees , November 2019, 4 of 24 are women

Hale at the Bar Conference: *“Since (Lord Sumption’s) prediction in 2015 the percentage of women judges in England and Wales has increased from 22.6% to 32% (I’m leaving out tribunals), this is an increase on average of 1.34% a year over seven years. So if this rate were to be maintained we would need fewer than 14 more years to get parity in the judiciary as a whole.”*

- It’s not just numbers but their distribution that matters. Although tribunals were taken out of the equation, positions such as that of Deputy District Judge and District Judges were not: and women make up a disproportionate proportion of the judiciary at its lower levels.
- *Why does that matter?*

**Because those who make the most significant decisions that affect the way we govern our relationships in society should reflect the society they serve...**

**Visibility  
matters**



# Being female at the Bar: what's being done to improve the slow pace of change?

## Quotas

- Judicial parity by **quotas**? Arguments both for and against the use of them.

### FOR

- A way of ripping doors open and letting people in.
- Creates and anchors institutional change.
- Not everyone comes from an equal starting position – there is not currently equal opportunity and it will not happen any time soon therefore there is the need for a catalyst.

### AGAINST

- Heavy-handed?
- Suggests to minorities they are not fully autonomous and able members of society?
- Risks judges being labelled as 'quota judges.'
- Undermines public confidence in the judiciary being appointed on merits.
- Judges should be the best available for appointment by reference to criteria which are objective and internationally recognised?

## Leslie Thomas QC



***“Equal opportunity is a very loaded concept and makes the assumption that everybody is starting from an equal position. However, it's well known that the BAME community are not starting from an equal position. Therefore if you have a system abiding by the principles of equal opportunity you're actually perpetuating a process whereby people of colour are being disadvantaged and discriminated against.”***

# Being female at the Bar: what's being done to improve the slow pace of change?

---

Baroness Hale:

“I think it's very important, both for the public and the women or minorities themselves that they are known to have been appointed on merit, and not just because they are a woman or belong to a particular minority group. If we had quotas other than the equal merit tie-breaker, **people would be able to say a person was only appointed because of the quota.** That's why I'm against it, although I do understand there is a level of frustration about the rate of progress [...] I know a lot of people who are very bothered that it might be thought they'd been appointed or promoted just because they are women – some may even be reluctant to apply because of that.”

Instead, Hale suggests ‘**affirmative action**’ should be used to encourage recruitment: “**going out and actively encouraging good women and minorities to put themselves forward, mentoring them, and devising a selection of tools that support their potential.**” She also proposes “greater movement and promotion within the different ranks of the judiciary. Again, it's about devising suitable tools to assess who has the potential to move up through the system.”



## Blue Bag

---

### I didn't retire, I resigned, says ex-Lady Justice Gloster



Dame Elizabeth Gloster has had an extraordinary legal career since she was called to the bar in 1971.

She established a stellar commercial and chancery practice and took silk in 1989, aged 39, becoming the fortieth woman QC. In 2004, the third time she was offered a post, she took up an appointment as a High Court judge, becoming the first woman to be appointed judge in the commercial court and then the first woman to lead it.

**What a waste  
What a woman !**

# Being female at the Bar: what's being done to improve the slow pace of change?

---



**Baroness  
Butler-Sloss**



**Lady Justice  
Black**

- **The Judicial Diversity Committee**
- **Judicial Work Shadowing Scheme**
- **Pre-Application Judicial Education Programme**

# Being female at the Bar: what of lack of advancement in practice?

---

- **Be ambitious:** apply for scholarships! Keble :  
APPLY!!
- **Be mentored:** mentoring is a moral and professional obligation if we really mean to make changes at the Bar!
- **Be role models:** lead from the top by example; ensure an acknowledgment of bias; raise awareness; affect recruitment and selection processes; support women in the workplace etc.
- **Men should not be excluded from this debate:**

Law Society's 'Male Champions for Change: Toolkit'

We  
should  
all be  
feminists

# Being female at the Bar: what of lack of advancement in practice?

## Attrition issues

## Be prepared to report bullying and abuse:

- International Bar Association's May 2019 report '*Us too? Bullying and Sexual Harassment in the Legal Profession*' conducted the largest ever survey on bullying and sexual harassment in legal profession including data from 6,980 respondents from 135 countries.
- The statistics indicated bullying was rife in workplace (one in two female respondents and one in three male respondents) and sexual harassment common...
- I spoke at its launch in the UK and have followed its procession around the world. **The cries of outrage and demands for change have traversed nations.**
- The Bar Council: **SPO** [www.spot.com](http://www.spot.com)



# Being female at the Bar: what of lack of advancement in practice?

## *Why is this needed?*

Richard Ian Miles, in October 2019 was suspended by the 5 member Bar disciplinary tribunal panel for **merely 10 months** after making gross “misogynistic” comments on a private group called ‘London floaters do as you likely’ targeted to one woman. Comments included:

“As an 18 year old I loved to stick my head between a girl’s boobs, shake it about, and go ‘blblblbrbrblblbr’. They were always impressed.”

“As an adult, I’d now go the whole way and fully chunder down her cleavage if I got the opportunity...”

“If we can’t at least find some other saggy front bottom to abuse can we at least speculate what the **evil prolapsed whore** might charge for ‘extras’? She’s **clearly got A-Levels (maybe not recognised by any exam board) and she’d only charge an extra 54p for that...but spit roasted three ways by some 1920’s bolsheviks? I reckon she’d pay.** Anyone feeling a bit Trotsky? **We’d have her crying** out in origami....**oh, doesn’t really matter so long as she’s crying....**”

“A couple of thoughts for the next Feildes Weir bash:

“1) could we rent a stunt dwarf and have a competition for the most imaginative catapult?

“2) a wicker-man competition for 9-fingered witch burning? Obviously we only get to do that once, so it would be mainly based on stylistic merit. Winner gets to incinerate her in at at the end of the evening. We could all wear Maggie Thatcher Spitting Image style masks and sing ‘The Landlords Daughter’ as she goes up. Lana Perry gets the Brit Ekland role....”

# Being female at the Bar: the way ahead

Western Circuit Women's Forum's best practice policy for Chambers to adopt: **'Back to the Bar: Best Practice Guide Retention and Progression After Parental Leave'**.

- The right to return after a generous period of parental leave –suggested period 2 to 3 years.
- An extension to the minimum flat rate rent-free period beyond 6 months – we recommend 12 months.
- An option to take all or part of the flat rate rent-free period after returning from parental leave.
- An agreement to limit a returning parent's geographical area of work if requested.
- A requirement for diarised agenda-based meetings to prepare for leave and return.
- Mentoring and Wellbeing policies and programmes in addition to parental leave and flexible working policies.
- It then gives practical advice on:
  - How to plan for leave (step by step)
  - How to plan to return from leave (step by step)
  - The review : first year after return



# BUT DIVERSITY IS NOT JUST ABOUT GENDER!

---



# Being LGBT at the Bar

---

- In 2017, Marc Mason and Dr Stephen Vaughan at UCL, '*Sexuality at the Bar: An Empirical Exploration into the Experiences of LGBT+ Barristers in England & Wales*'
- 126 survey respondents (98 male and 28 female),
- just over half of the survey respondents had experienced some form of discrimination at work or in their professional studies on account of their sexuality.
- The report found that this suggests homophobia is stronger at the Bar than in the general population because research from Stonewall shows, overall, 19% of LGBT+ employees have experienced verbal bullying because of their sexuality in the last five years.

# Being LGBT at the Bar

---

- Discrimination at Inns of Courts ?
- Discrimination in Chambers?
- Raggi Kotak: “a minefield of micro-aggressions.”
- Effect on mobility within the profession?



**What can be or is being done?**

BLAGG

FREEBAR

Middle Temple's LGBTQ+ Forum  
Simon Rowbotham's work : lead by example.

# Being BAME at the Bar

---



In an interview with Chamber's Student,

The statistics regarding BAME individuals at the Bar “**are not good – not good at all.**” He concluded, “**At the current rate, for the BAME population at the Bar to reflect the general population would take 100 years, so I think diversity needs a helping hand.**”

“As a person with my colour skin doing the job I do, whether I want to or not, colour becomes an issue most days.” Thomas draws on examples of discrimination he faced early on: “When you go court, especially as a young barrister, **you will be everybody BUT the barrister** – especially doing something like crime. The court staff will tell you: 'That's not the row for you, that's the row for the briefs.' When you reply, 'I am the brief', they might say something like 'Oh, are you the solicitor? Are you the defendant? Are you the defendant's brother?' And so on. There is an assumption that you are everybody else BUT the barrister. **That's not because people are nasty, horrible or overtly discriminatory, that's just the unconscious bias everyone is affected by.**”

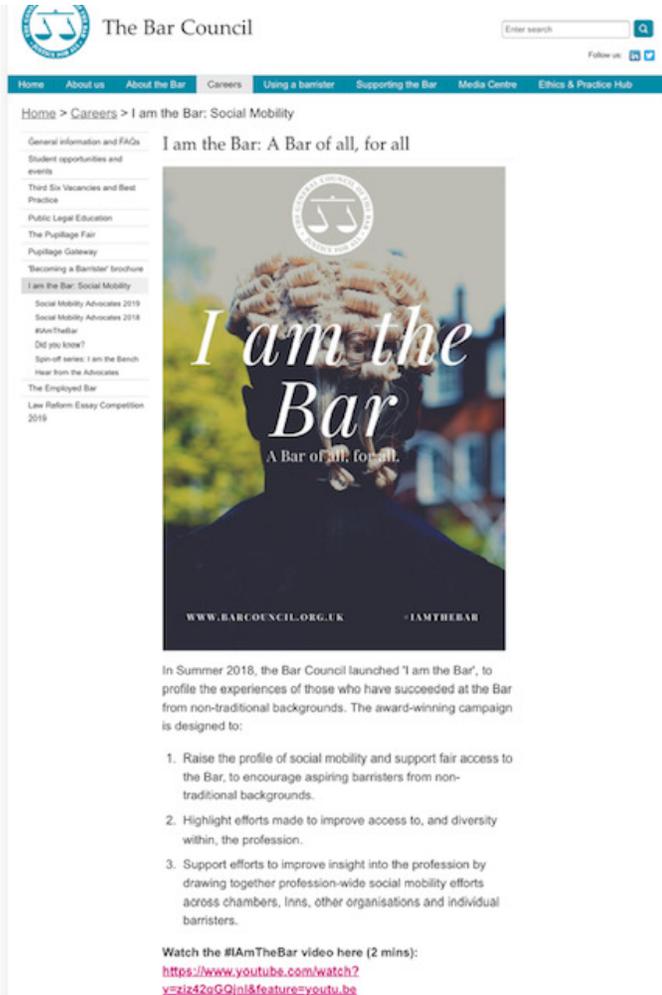
# Being BAME at the Bar

---

## What can be or is being done?

- BME Legal: a recently introduced intensive support programme calling all future barristers of African-Caribbean and low socio-economic backgrounds in need of support with the pupillage process. This provides one-to-one mentoring and tailored interactive workshops, with sessions to be held on Tuesday evenings from December 2019 to June 2020.
- Urban Lawyers: a charity which aims to inspire, provide guidance, advice and to share the experiences and knowledge from industry experts and leaders. It organises an annual career conference: “Designing your Future” which provides a forum for students to network with legal professionals, and highlight the challenges and opportunities that exist for those seeking entry or advancement in the profession.

# Social mobility Advocates : I Am The Bar



The Bar Council

Home > Careers > I am the Bar: Social Mobility

## I am the Bar: A Bar of all, for all

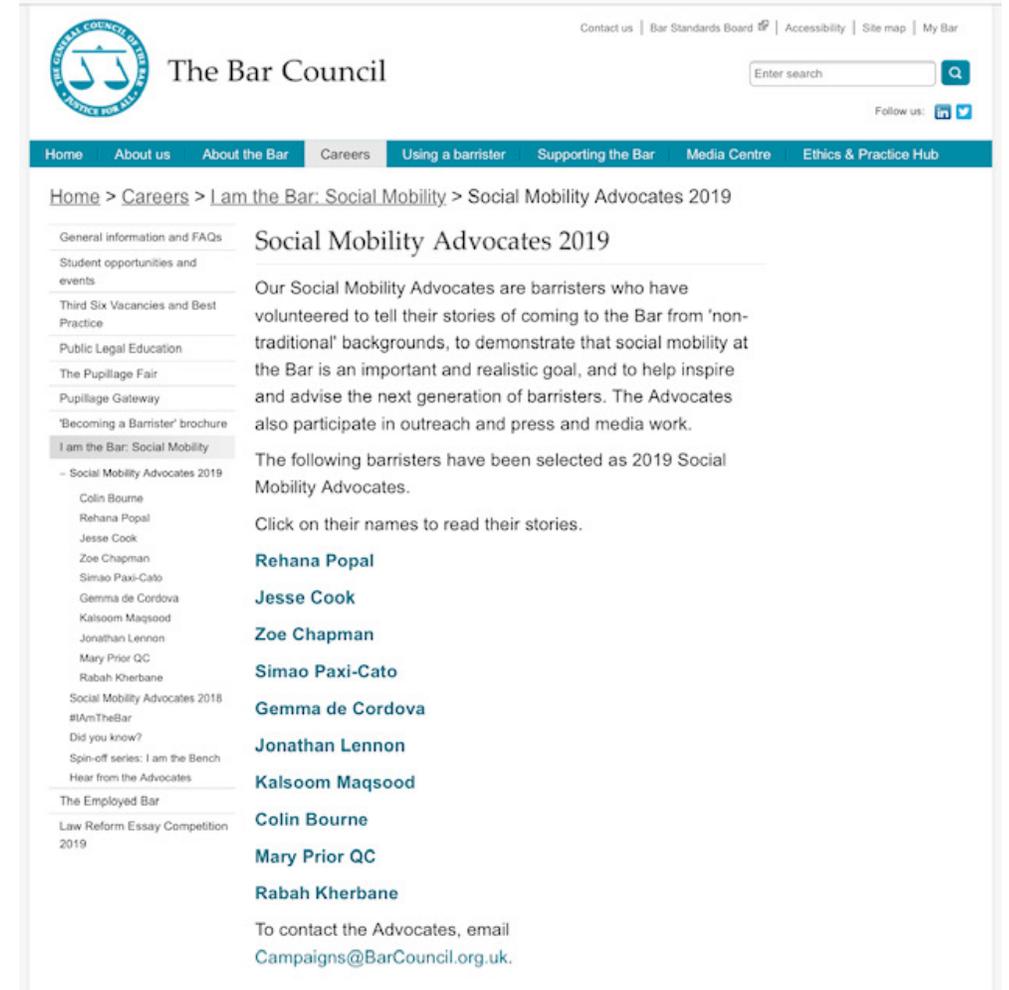
In Summer 2018, the Bar Council launched 'I am the Bar', to profile the experiences of those who have succeeded at the Bar from non-traditional backgrounds. The award-winning campaign is designed to:

1. Raise the profile of social mobility and support fair access to the Bar, to encourage aspiring barristers from non-traditional backgrounds.
2. Highlight efforts made to improve access to, and diversity within, the profession.
3. Support efforts to improve insight into the profession by drawing together profession-wide social mobility efforts across chambers, Inns, other organisations and individual barristers.

Watch the #IamTheBar video here (2 mins):  
<https://www.youtube.com/watch?v=xz42oGQjnl&feature=youtu.be>

The times  
they are a  
changing....

.....  
Because  
they MUST



The Bar Council

Home > Careers > I am the Bar: Social Mobility > Social Mobility Advocates 2019

## Social Mobility Advocates 2019

Our Social Mobility Advocates are barristers who have volunteered to tell their stories of coming to the Bar from 'non-traditional' backgrounds, to demonstrate that social mobility at the Bar is an important and realistic goal, and to help inspire and advise the next generation of barristers. The Advocates also participate in outreach and press and media work.

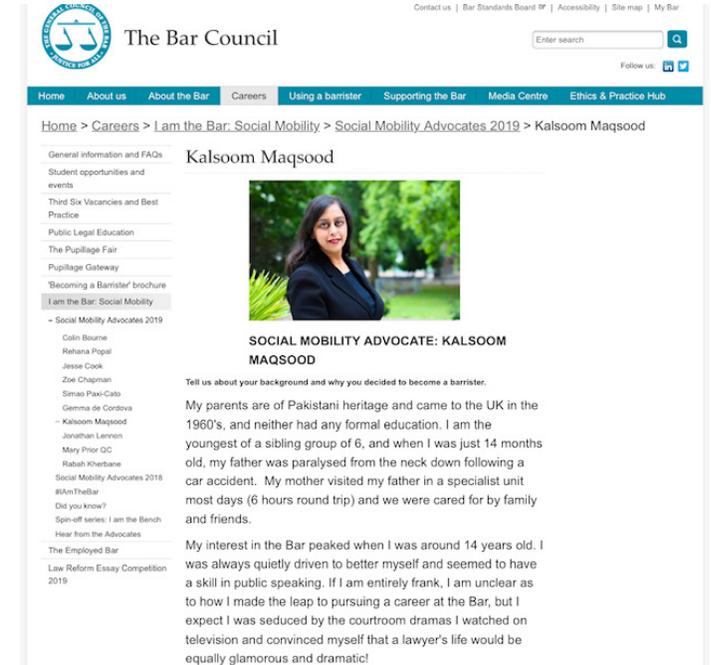
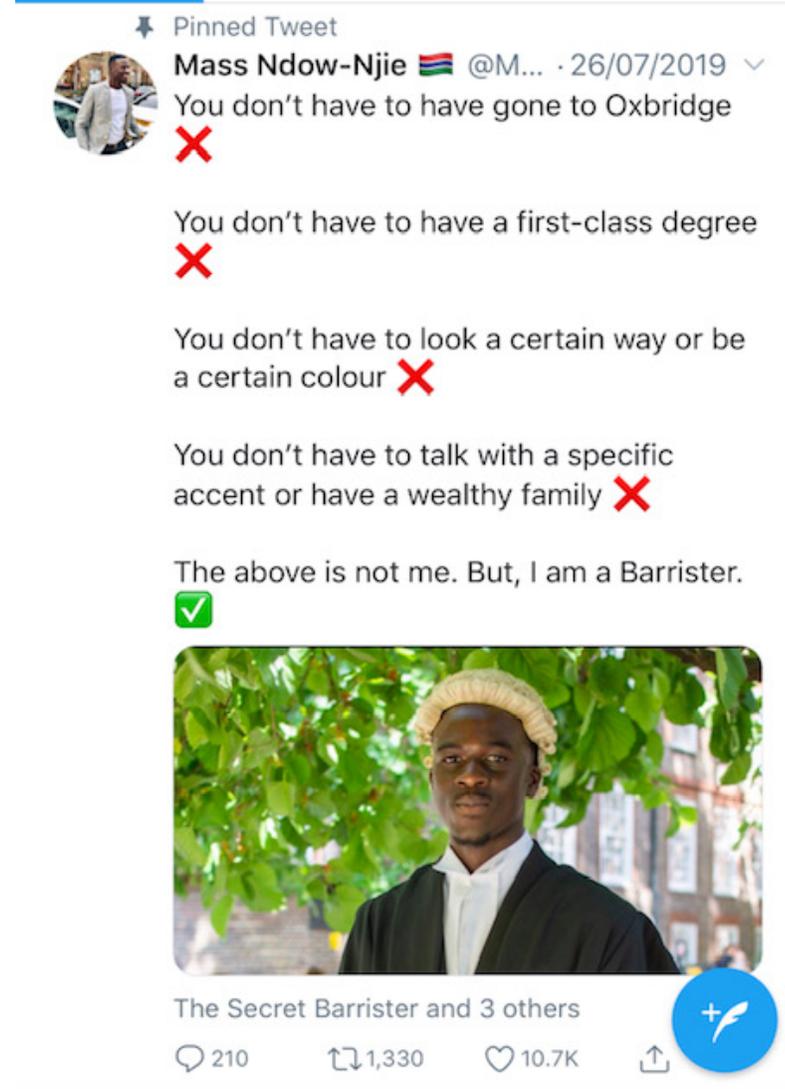
The following barristers have been selected as 2019 Social Mobility Advocates.

Click on their names to read their stories.

- [Rehana Popal](#)
- [Jesse Cook](#)
- [Zoe Chapman](#)
- [Simao Paxi-Cato](#)
- [Gemma de Cordova](#)
- [Kalsoom Maqsood](#)
- [Jonathan Lennon](#)
- [Mary Prior QC](#)
- [Rabah Kherbane](#)

To contact the Advocates, email  
[Campaigns@BarCouncil.org.uk](mailto:Campaigns@BarCouncil.org.uk).

# I am the Bar : they are it's future



# The Winds of Change?

---

DIVERSITY MATTERS

VOICES MATTER

VISIBILITY MATTERS

**The guiding principles of our law are justice, fairness and equality. If we believe in them at the Bar and in the Judiciary, we should agitate and act to achieve change to ensure that fairness and equality are visibly embodied within our ranks.**



dana denis-smith @ddenissmith · 1h  
Such a pleasure to be at the premiere of @First100years film of the life & work of judge Khatun Sapnara, bencher @middletemple & amazing #womaninlaw th...



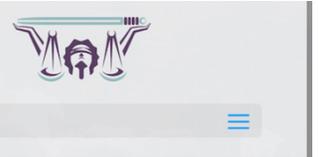
Through our work, we allow aspiring barristers and solicitors to discover the legal profession in a way they may not otherwise be able to. We are passionate about improving social mobility and diversity in a field that has historically been limited to a few.



**Inspirational Women of the Year Awards 2019**

**Barrister of the Year Finalists**

- Elaine Banton
- Poonam Bhari
- Kate Brunner QC
- Professor Jo Delahuty QC
- Rehana Popal
- Professor Suzanne Rab



**Association of Women Barrister**

Justice, Equality,  
Empowerment

**Letting others take the strain of the campaign for equality and diversity isn't good enough.**

**Every senior member of the Bar and Judiciary has a responsibility to lead the way.**

**Don't just say you agree. Show you agree**

**Deeds not just words**

**Now**