

Chairwoman's Message



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*D*ear Members and Friends,

I am the new Chair of the AWB. It is going to be a busy year and we welcome contributions from all of you. Bozzie Sheffi and I are chairing a working party on fees, and the allocation of work to senior female practitioners. Melissa Coutino, who is with the Health and Safety Executive and is a member of the Bar Council, is chairing a Committee on transferability between the employed and self employed Bar. Caroline Milroy and Modupe Thomas, chair our working party on pupillage. Their contact details appear within the newsletter, so please feel free to contact them if you would like to participate or contribute.

In addition, the Committee will be producing a paper on the new system for the appointing of QCs, and while we extend our warmest congratulations to the new Silks, the system has been the subject of criticism and we hope that those charged with the second year of Appointments will consider the criticisms that are being made and implement further reforms in order for the next list to be more balanced. We welcome the new Judicial Appointments Commission and its head, Baroness Prashar, and we look forward to a much fairer system of appointments than that which existed previously – and we hope for more women Judges and Recorders from every background!

Our Annual Dinner was a great success and was our most ambitious to date. We were very fortunate that Gordon Newman, the writer and producer of Judge John Deed, agreed to attend, with Sir Donald Sinden, Caroline Langrish and Barbara Thorne.

Unfortunately Martin Shaw and Jenny Seagrove could not attend, much to the disappointment of many, especially our President and the Chairman of the Bar, who had both put their bids in for their chosen dining companions. They had to be comforted, Laura Cox by Arlidge and Stephen Hockman QC by Bozzie. The dinner was a sell-out by the week before and we have raised a good sum for the Stroke Association, as well as having a lot of fun and the best goody bags ever!

We are grateful to our Speakers; Baroness Prashar, and Constance Briscoe whose new book 'Beyond Ugly' comes out in January 2007, and to our MC, Tony Arlidge QC, one of our male members. In addition, we thank Stephen Leslie QC for being an excellent auctioneer and supporter of the AWB.

My greatest thanks must go to the Committee for all their hard work, to my Chambers (187 Fleet St) and Bozzie's (9 Gough Square – and especially to Esther) and to Bozzie and Melissa, and the best girls ever, Caroline Milroy, Modupe Thomas, and Rebecca Lee, who deserve an award for everything they do, especially for the support they have given me and my children. We especially thank all those who bought raffle tickets and participated in the Auction.

My apologies for our absence of website. That, thanks to Moira Critchley, is to be remedied shortly, and our thanks to Bob Crowther and the team from the NatWest Legal Centre, who from next year will be sponsoring our newsletter.

If any of you need any of us, please feel free to send an e-mail. Linda Turnbull is in formal charge of mentoring, but we are all here to help if we can.

I hope 2007 is a great year for the AWB & for each of you.

With Best Wishes,

Katy Kaul

Chairwoman of the AWB



NatWest The Legal Centre

The AWB Annual Dinner 2006

Every barrister wants to be an actor and now one of them will be thanks to the AWB annual dinner 2006.

There is much to be said for a Bar event which takes place outside the Inns. The annual charity dinner of the Association of Women Barristers, held on 18 October 2006, at the Renaissance Chancery Court Hotel, emphasised the 'broad church' of the organisation: judges, practitioners, pupils, academics and the employed Bar. I for one sat between a promising pupil and a member of the CPS at the Old Bailey.

And that was just the food

The inclusiveness even extended to the menu. For once, both vegetarians and carnivores together tucked into the same things: vine leaves filled with spiced potato and lentils followed by wild mushroom risotto and cappaccio [sic] of pineapple, and ending with generous platters of gourmandises.

The occasion was a sell-out, with 165 guests including a good cross-section of the male Bar. Most memorable, though, was the appearance of three members of the Judge John Deed cast: Sir Donald Sinden, who at 83, continues to play a member of the Court of Appeal at an age only exceeded by the late Lord Denning; Caroline Langrishe, who, as Georgina Channing, Q.C. can turn her hand to any branch of the law and is a role model for those who are never intimidated by the judge; and Barbara Thorn who as 'Coop' is the ever loyal clerk who runs the show while letting the bombastic male imagine that he does.

A star turn by Kaly's friends

The new chairwoman, Kaly Kaul, began the speeches by reminding everyone of what the AWB achieves, in advising, hand-holding and telling it like it is. She then handed over to her former leader, Anthony Arlidge, Q. C., as master of ceremonies. He introduced Baroness Prashar, chair of the Judicial Appointments Commission and, in her spare time, godmother to Kaly's daughter.

Baroness Prashar took the opportunity to explain the work and the aims of the JAC. Her message was optimistic and she was keen to spread it. The aim is to define what makes good judges and then devise the fairest and most effective method of choosing them, proportionate to the level of appointment. But in addition, the make-up of the judiciary needs to change. The Commission "must do everything to find excellence...merit and diversity across the board". She assured everyone there, "you'll be treated fairly on merit".

Constance Briscoe, an old friend of Kaly's, declared "I don't do after-dinner speeches" but she had been persuaded to talk about her autobiography, *Ugly*, which spent a long time on the bestseller list and is now spawning a sequel. "I don't regret writing it", she said. Her message was that being a barrister offers freedom. "We have a great privilege"—independence — while other women are not so privileged. The Bar was "the best place to be".

There was no such expression of reluctance by Sir Donald, who seized his moment in the limelight and to everyone's delight made the most of it.

Winding up was the AWB's President, Dame Laura Cox. Bringing the issue of representation of women in the law full circle, she recalled that when she came to the Bar, women made up about 10 percent of the profession. Now that she is on the High Court bench, she is again in a minority of 10 percent among her colleagues. There is much still to be done.

The auction in aid of The Stroke Association was a huge success. Stephen Hockman, Q. C., Chairman of the Bar, bid to have a gourmet vegan chef cook a vegan meal for him at home. Simon Carr paid a magnificent £2000 for a walk-on part in Judge John Deed. Has a star been born?

David Wurtzel

Editor of The Circuiteer

This article is featured in the Autumn/Winter 2006/07 edition of The Circuiteer



Kaly Kaul, Chair of the AWB with Tim Dutton QC, Leader of the Circuit and Vice Chairman of the Bar



Our President The Honourable Mrs. Justice Laura Cox, and Guest Speaker Baroness Usha Prashar

KIM HOLLIS QC

EQUALITY AND DIVERSITY?

HOW LONG IS THE ROAD WE NEED TO TRAVEL AND WHO WILL TRAVEL WITH US ON THE WAY?

When Mrs Justice Dobbs appointed me the first Chair of the newly formed Equality and Diversity Committee of the Criminal Bar Association not all that long ago in April 2003, she did so with the words "This is an opportunity, that you can make of it what you will, it can be as small or as huge as the tasks you set yourself, its up to you to decide". It took a few weeks before the enormity of the task that I had volunteered for finally began to dawn on me. I started to flag up issues that I felt, although relatively simple in content, would have a considerable immediate impact on the groups that I was there to represent. In particular, I wanted them to make a real difference to their daily working lives at the Bar, not only in relation to the type of work that they were offered, but also in relation to their career progression.

With this objective in mind, I addressed a workshop at the Bar Conference 2003, at which the new equality and diversity code for the bar was launched, and flagged up two areas of direct concern, the addressing of which in my view would smooth the way for women and minority ethnic career progression, with particular emphasis on those who were either contemplating or had a young family. Yes, we all know that the bar, by its very nature, at first blush seemed family-unfriendly, but I had always believed, and still do from my own experience of raising a young family and balancing my practice, that in fact it can be and should be one of the professions that is the most flexible and family-friendly especially for women, allowing them the opportunity to adequately balance all the demands upon their time in this modern world.

Due to the mere fact of self-employment, women should be able to select the burden of their workload at any given time depending on the varied other specific demands upon them of career and family. It should not be an inevitability that they are being pulled in different directions, meaning that when the strain becomes overwhelming something has to give. Particularly at the Bar, we are the first generation of women, who are really facing and learning to cope successfully with the challenges posed. We are being helped along the way by legislation and codes of practice, the Equality and Diversity Code for the Bar being a prime example, but there are more fundamental matters that need to be addressed within our individual self-employed work environment. For example, when we are pregnant, or have a young family at home, we should be able to work and travel comfortably, either by being allotted cases that allow

us to prepare from chambers or home; as opposed to the daily grind trekking around the criminal courts appearing in 1-2 day cases, with all the exhausting late night preparation that is inherently entailed, or appearing in cases that enabled us at such times to establish a routine by appearing in the same court daily. In stating the above I am not advocating special treatment, but that the scales can and should be rebalanced where necessary so that women are just given "a fair crack of the whip" as far as work allocation is concerned, when they need it.

With the above main goal of establishing a more user-friendly environment for women at the bar in mind, it was quick and simple to pinpoint two issues that needed addressing, which were in my view unanswerable and could have an immediate and dramatic effect.

Firstly, the fact that women were, it seemed, being pigeonholed into both prosecuting and defending in the work-intensive, badly paid sex cases and, secondly on the South Eastern Circuit, dispensing with the preferred set system in relation to prosecution work which by its very nature, on a close examination of the composition of the main preferred sets, excluded women and ethnic minorities. The system that was being used to brief members of the bar to prosecute effectively made it exceedingly difficult for a large proportion of the Criminal Bar, especially women, with the odd outstanding exception, to pursue a career as a prosecutor / treasury counsel.

Having raised the issue of the sex cases, it was not at all surprising that a number of women approached me in robing rooms to discuss the difficulties they faced being continually, in many such cases for a large part of the working year briefed / clerked in sex cases, and how the considerable workload included lever-arch files of unused material, all of which had to be read, whoever they were representing. This inevitably affected social time available for their precious home life with their children, and eventually as important, their earning capacity. Reading unused material is not usually paid for within the graduated fee payment system. It is a positive step forward that this problem has now being acknowledged by government and in particular recognised by those who set the rates of payment under the graduated fee scheme. Under the new carter proposals the sex cases have been awarded considerable payment uplift, but that is only half the problem solved. Women are still being disproportionately instructed in the sex cases.

Here they can, and I know will, to everyone's ultimate advantage, deploy their capacity for hard work, the swift absorption of material and attention to detail, which many have necessarily developed as a result of working on the work-intensive sex cases for years. If women are given more, wider, and varied opportunities in relation to the type of work that they are asked to perform, there will be an almost automatic ability for them to develop and demonstrate the criteria that is now being looked for in relation to, for example, judicial office and silk. The Lord Chancellor will then stand a realistic chance of obtaining his diverse judiciary.

The Preferred Set system by the end of the year is also set to become an outdated institution, replaced by the grading system which will allow anyone who wishes, whatever their chambers background, to pursue a career path within the prosecution field. The new fairer grading system will enable all candidates to obtain a grade and be briefed according to their ability. It is hoped that this again will result in a levelling of the type of offences in which women are selected to prosecute and allow them to branch out into fields that have hitherto been almost closed to them. It is thus also hoped that they will be replaced by an increase in men prosecuting the sexual offences and the rebalancing of the scales will thus naturally follow.

I pose in the title to this article the question, "How long is the road we need to travel and who will travel with us along the way?" Equality and Diversity has only relatively recently, in the last few years, really come to the fore, and in that short time in relation to my initial two projects, we have had a 100% success rate. As I now realise, it is a huge area both in relation to women and minority ethnics.

We have a number of new projects in the pipeline, again which I know will directly impact on the future of women at the Bar and also, importantly, their retention.

I am determined to establish over the coming year a mentoring scheme for women at all stages of the profession. At present only very junior members of the Bar are mentored, with the help of the Inns of Court. Nothing exists at all for those more senior in the profession. Who says just because you have been at the Bar for 10, 15, or even 20 years you may not need the odd bit of advice or encouragement from someone further up the ladder in relation to your career / life balance? A particularly distressing case came to my notice recently of a female member of the Bar who has left the profession, as she was unable to balance her new young family with work. She had become so disheartened with all aspects of the profession that she just threw in the towel, having dedicated 15 years of her working life to it. That should not happen and hopefully will never happen again, without the ability to be able to speak in confidence to senior members of the profession. The present list of mentors I am compiling, those willing to help others, is growing on a daily basis. There are many other projects in the pipeline. The profession and those who support it, have demonstrated a recent positive willingness to change, we have an equality and diversity code that will be strictly enforced, that willingness should be grasped and harnessed, I for one intend to do just that, with all the help I am offered and from whatever quarter.... The glass ceiling is showing real cracks but is far from being shattered.

Kim Hollis QC

**Chair of Equality and Diversity
Committee Criminal Bar Association
Vice Chair Equality and Diversity (Race and
Religion Committee) of General Council of the Bar.**

DAME LAURA COX

The AWB - A Woman's Voice

*F*rances Gibb's report in the Times about this year's Bar Conference referred to the Chairman of the Bar, Stephen Hockman QC, as having to give the somewhat apocalyptic warning that unless those in practice at the Bar "modernised themselves and ditched archaic practices, they would not survive the reformed market for legal services". The context for this of course, as he pointed out, is that lawyers face "the biggest upheaval in their practices for more than a generation under the legal services Bill", shortly to be expected in the Queen's speech. However, in the course of what must have been a hard-hitting speech, he spoke in general terms of the need for the Bar to raise its game and for barristers to be better advocates for themselves. He rightly observed that any profession must continually demonstrate its value in the public interest and "must be prepared to accept scrutiny on a hitherto unprecedented scale".

What, then, would scrutiny of the barrister's profession reveal, almost seven years into the twenty-first century? Of all the matters which would show themselves as ripe for reform, surely the position of women barristers would be worthy of special mention.

The recent, excellent AWB annual dinner provided me with a good opportunity to speak to many members about their practices and about the state of the Bar nation generally. Whilst there are obvious successes, the general picture was not an encouraging one. It must be a matter of real concern to everyone that so many women are leaving the profession each year, after several years of practice, because they are finding the demands of practice unacceptable and so wholly incompatible with family life.

It must also be a matter of real concern that, many years after the Bar Council's promulgation of the first Equality Code, so many women in practice are still finding themselves being steered into areas of work regarded as the particular province of women practitioners, that is, women's work! Maternity absence from chambers, return to practice and work life balance thereafter are still presenting insuperable problems for many women. Whilst so many sets of chambers now boast comprehensive maternity and equality policies, the reality on the ground seems rather different.

Too many women still describe a hostility in chambers to suggested flexible working arrangements, a devaluation of their work, a sense of isolation and a resignation on their part to never being in a position to consider promotion to silk or a move to the ranks of the judiciary.

This is all the more discouraging given the arrival of new, objective and transparent procedures for the fair selection of those to be appointed to the rank of Queen's Counsel; and given the birth of the Judicial Appointments Commission with, for the first time, the opportunity to create a more diverse judiciary. Just at the time when fairer selection and appointments procedures should be encouraging more women to consider applying for silk or judicial appointment, the numbers of more senior women practitioners eligible to apply are actually reducing.

What are the reasons for this? Is it really the product of a professional culture characterised by exclusionary norms? And, more importantly, what is being done about it? One of the strategies for positive change must be through stronger regulation by the Bar's professional body. To what extent are women actively participating in the work of the Bar Council and pressing for change? For a number of years now women have been entering the profession in equal numbers to men and are no longer a token presence. However, access to the profession begs the questions of what sort of access, to what level and with what hope of retention. Clearly structural disadvantage remains.

It is time, I think, for the Association of Women Barristers to raise its game! At this important time in the life of the profession I encourage all women barristers to join this association, to encourage and support both its work and its members, and to contribute to its voice. There is still so much to be done and the present, major changes under way provide a real opportunity for its membership to be galvanised and its voice to be heard.

Laura Cox

High Court of justice

November 2007

Meditation In The Motorcycle Museum

First Annual Conference of the Civil Mediation Council

The first annual conference of the Civil Mediation Council (CMC), held in the National Motor Cycle Museum, in more or less the geographical middle of England, showed very healthy signs of precocity in that the CMC is still a relatively youthful organisation to be steadily growing in influence and branching out in every possible direction beyond all expectations when it was founded in April 2003. The good news for women barristers (many of whom practise in areas of law either disproportionately hit by dire cuts in fees or where work is otherwise eroded by a sharp downturn in work coming to the Bar) is that mediation advocacy or practice as a mediator is now recognised as a viable bolt-on to the more traditionally mainstream barrister's practice, and it is something that women do very well. This expansionist trend in mediation is likely to continue given that the Civil Mediation Council took the opportunity at the conference to announce its work programme for the next year or so, which will include forging closer links with other species of mediation outside the civil and commercial core which has recently driven the acceleration of mediation as an integral part of the litigation process rather than an optional extra.

This follows the decisions in several high-profile cases in which litigants have been criticised and penalised by the courts for failing even to consider mediation as an alternative to fighting out disputes in court: quite a development from the early watershed of fledgling opportunities for settlement through mediation at first only encouraged rather than facilitated, let alone prescribed, in the CPR only 7 years ago.

The conference, which coincided with the start of the Second National Mediation Awareness Week in courts all over the country, heard about a number of alternative mediation perspectives: from Frances Place from Bristol on Family Mediation; Stephen Ruttle on Community Mediation; Steven C Jones from Exeter on mediation in schools and colleges; and John Kendal of Law Works Mediation about pro bono and delivering the unmet need through this means. Further, we heard from Andrew Spooner of the Midland Mediators on the regional view; Mark Jackson-Stoppa (a non-lawyer from In Place of Strife who personally does about 3000 mediations a year) and, from the DCA and Court Service, about the National Mediation Helplines which the main providers have taken it in turns to staff, providing short periods of facilitative mediation for fixed fees to resolve a whole range of cases.

So if advocacy work is dying back in those areas of the law where women have traditionally congregated, there are golden opportunities now for training as a mediator, and/or learning how to handle mediation advocacy. When one door closes another does indeed usually open, and with a vast increase of mediation work being forecast, there should be no regrets for the loss of some of the poorly paid advocacy in the lower courts because this could easily be replaced with the growth of mediation. The Bar Council also maintains a list of mediators and where applicable their specialisms. Training is available from the main providers: ADR Group (the oldest, based around a core panel of solicitors, but also training barristers of any Call), CEDR (expensive courses and a trend to recruit older more experienced practitioners including retired judges – Lord Woolf leads their judicial panel); ADR Chambers UK which imports a Harvard-trained team three times a year; the Chartered Institute of Arbitrators; the Regents Park College of Psychotherapy and Counselling and several others which are less well-known, including Clerksroom (based in Taunton but now with a London office in the Strand) which offers cost-effective refresher courses as well as those for new mediators.

Costs vary, but the court-based schemes from which cases may be passed round through the National Mediation Helplines provide steady work for mediators at fixed fees and further opportunities for counsel to act as mediation advocates.

It is a new facet of practice which bears further investigation. One member of the AWB who has already built up a practice is one of our Vice Presidents, Cherie Booth QC. It is clear that there are many new areas in which to develop mediation, such as employment disputes, where only the “foothills” of this vast expanse have been covered so far. Further, the costs of the dispute as well as the substance may be susceptible to mediation. At the conference Philip Naughton QC, who has been in mediation since the late 80s, posed the question of whether there should be one overarching body for all mediators and, with the many strands of the mediation community which the conference brought together, one feels that this cannot be far away.

Ambitious AWB members should consider getting in on the ground floor.

Frances Burton

Barrister and Mediator (ADR Chambers UK Limited)

The AWB extends a huge thank you to everyone who generously donated gifts for the auction, raffle and goody bags.

Our thanks to: Guy Berriman from Coldplay for donating two platinum and one gold disc; to Gordon Newman for donating a ‘walk-on’ part in the next series of Judge John Deed; to Stephen Hockman QC for donating wine with him; to the Honourable Mrs Justice Laura Cox for donating a day with her at the High Court; to Nigel Field of the LSC for donating coffee with him; to Kim Hollis QC and Liz Marsh QC for donating themselves! Ben and the trainers at the Fitness Lounge for donating a three-month membership for the Vibrogym and a day pass for everyone attending; to Tamarai in Drury Lane; to Chor Bizarre in Mayfair, for providing dinner for two at both restaurants, and a glass of champagne / a discount at each establishment respectively; to Jeroboams Chancery Lane for donating a magnum of champagne; to Madeleine Hamilton, Chancery Lane, for donating a Paul Smith gift; Jacquie Rufus- Isaacs from Unlisted London for donating a manicure party for three and a voucher for products for each guest; famous Vegan Chef Nanico of Veganmundo for donating dinner for four and his partner for donating a makeover day; Elemis for donating £30 of products for each guest; Aveda in Marylebone for donating shampoo and conditioner for each guest; the photographer Sally Haworth for donating a beautiful and valuable photograph;

Balance in the Kings Road for a treatment; Calmia in Marylebone for another treatment; Modupe Thomas’s mum for donation of a couture cake; Dee Connolly for her famous Irish trifle for 12; Rebecca Lee for her handmade truffles; Marks and Spencer in Covent Garden for donating a hamper; Jeweller, David M Robinson, for donating a £250 voucher; Daniell Besso for donating cashmere for every guest; Mrs. Jennifer Montagu for donating a box at the Royal Albert Hall to see Madam Butterfly; Grace Boateng for donating a treatment; the Sanctuary for donating a treatment; Lamberhurst Vineyard for donating wine; Emma Bridgewater in Marylebone for a cake plate; Jonathan Houghton, for providing everyone with scented candles; Esther for arranging for each guest to receive a scented candle; Martin Lee from Law- Mooney Lee and Cook Solicitors for donating signed pictures of two Chelsea players; Andrew Trollope QC and 187 Fleet Street for sponsoring the menu and donating pencils and post-it notes for every guest; Stephen Leslie QC for donating a week at his villa in Spain; and Patrick Flanagan from Attridge Law Solicitors, for being our photographer.

Katy Kaul and the Committee.

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