

Bar conference: what do junior barristers make of the issues facing the profession?



Rehana Popal: “One of the best aspects of my work is knowing that I am making a genuine change in someone’s life”

This year has seen criminal barristers taking the unprecedented step of going on strike as a result of cuts to legal aid; a leading human rights peer and QC being investigated for alleged sexual misconduct for the first time by the House of Lords, and Rehana Popal, the only Afghan barrister in the country, being told by her instructing solicitor that the client wanted a white male barrister whom the judge was more likely to listen to.

With its programme of cost-cutting in legal aid – by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (that is under review) — and court closures and plans for online courts, it seems that the government’s preference would be for lawyerless courts.

The Civil Liabilities bill, due to come into effect in April 2020, introduces a fixed tariff for whiplash damages and also introduces a new online portal for handling claims in the absence of lawyers.

Quite apart from the cost-cutting, there are also issues about how work at the Bar is allocated within chambers and from solicitors. And the Behind the Gown initiative was set up to highlight harassment at the Bar, following the prominence of the Me Too movement. Social media has been used to highlight the problem of bullying by judges.

The theme of this year's Bar conference is "all bar one" – access, development, diversification. Here five junior barristers give their diverse views on the issues facing the Bar, including England's only Afghan-born barrister.

Rehana Popal, 29, was born in Afghanistan and came to England aged five

10 King's Bench Walk

Year of call: 2013

Practice: immigration and civil

One of the major issues facing the Bar is funding in publicly funded work. In my area of work, deep cuts in legal aid, with large numbers of individuals no longer qualifying for legal aid, has had serious consequences. With the exception of unaccompanied minors, it is very difficult for adult refugees to qualify for legal aid. It is important that the Bar is accessible to all, not just those with means.

As for diversity, the upper ranks of the legal profession is made up of those who entered the profession some time ago and therefore does not necessarily reflect those entering the profession today. The junior Bar today is more representative of the population, but it is essential that the Bar continues to attract candidates from a diverse background.

One of the reasons why the client preferred a white male barrister, was because he thought a judge would be more likely to believe a white male barrister. This, in my opinion, raises questions as to the perception of the justice system to outsiders. In order to tackle this, we need to ensure we are recruiting more BAME people and women to the Bar and to the Bench. This would demonstrate that the justice system does not harbour any bias towards any particular race or gender.

I would say one of the best and worst aspects of being a self-employed barrister is the flexible working hours. I am able to work around my schedule. Equally, this can mean working till late and last-minute returns. Specifically, in my area of work, one of the best aspects is knowing that I am making a genuine change in someone's life.

The Bar is making huge efforts to change and adapt to our ever-changing world. There has been a huge rise in awareness of mental health and wellbeing. Although work-life balance in any profession can be hard to reach, the Bar is getting better at achieving this.



Hashi Mohamed: “This is a robust profession where a thick skin is part of the job description”

Hashi Mohamed, 35, was born in Kenya to Somali parents, and state school-educated. Before the Bar he was a broadcast journalist at the BBC

No5 Chambers

Year of call: 2010

Practice: planning & environment, commercial litigation

I’m lucky to practise in areas which are not affected in the same way as the criminal Bar and publicly funded areas have been, particularly in relation to the legal aid cuts; it is no exaggeration to say some of these challenges are existential threats to the Bar in its present form. More widely, I think the issues facing the Bar include: better access, more judges with specific expertise, more efficient running of courts, increasing public confidence in the system.

Diversity is the hot topic of 2018, and plenty of noise is being made about it. However, significant and sustained work is required if we are to make (long overdue) progress. Sets have to start searching beyond their established purview for talent; more information needs disseminating about scholarships; recruiters and gatekeepers need to think carefully about their role and ensure they aren’t just recruiting in their own image.

Ultimately, this is a robust profession where a thick skin is part of the job description. Nonetheless, unacceptable behaviour cannot be tolerated anywhere – this includes from the Bench.

The Bar is not immune to harassment, but it is certainly palpable that as attitudes in society shift on this, conversations about this issue have become a priority at the Bar. The climate internally and externally of chambers needs to change, particularly ways to air legitimate grievances ought to be made more available.

The Bar is undoubtedly the best place to be constantly intellectually challenged and stimulated. However, the unsociable and demanding working hours, and the pressures which come with being gainfully unemployed are not attractive to many people.

The future of the Bar will always remain bright so long as society requires the best minds to help resolve its most intractable disputes. Technological advancements are welcome; particular opportunities to make matters run more efficiently should be harnessed quickly, though proposals like online courts are not contemplated in my area. The work-life balance remains an issue, and it is off-putting to many able people who might have otherwise sought a career at the Bar, and undoubtedly affects retention.



Caighli Taylor: “Being a barrister can leave little time for a life outside of work”

Caighli Taylor, 31

Guildhall Chambers, Bristol

Year of call: 2010, practising since 2012

Practice: crime

Cuts to legal aid, infrastructure and vital services connected to criminal justice have been disastrous. We are seeing the decimation of prisons, the police, the probation service, courts and the Crown Prosecution Service. This causes all sorts of issues which result in delays, added expense or cases just collapsing. Justice is not being done because the criminal justice system isn't a politically attractive investment, mainly because of a lack of understanding about the importance of the system to our way of life. The criminal Bar is also struggling to retain talented people, especially women and BAME barristers.

Women are leaving the independent Bar en masse. Demanding hours at unremunerative rates, changeable diaries and inflexible listing practices render the career unfeasible for caregivers. The Bar is also backsliding to become a career only for the rich: prospective barristers now incur studying and training costs well in excess of £50,000.

Cases are often life-changing for the people involved, and the best aspect of being a barrister is having helped someone through that. The worst aspect of being a barrister is that it can be all-consuming and leave little time for a life outside of work!

As for the future of the Bar, my view is that the introduction of more digital ways of working has been a positive thing on the whole and encourages a better work-life balance. One of the big problems with a court-based practice has been the need to attend several court centres far from home, sometimes for a quick hearing. Where it is practical to do so, appearing by video link can be a huge help to barristers - financially as well as practically. Not many can find childcare (particularly if the case is listed the day before!) for 6am when they might have to set off for court! There is perhaps still some resistance to digital systems or video-link from those who are used to the old ways of working, and there were always bound to be teething problems. But I am a fan of the technology which can make many aspects of working more secure, flexible and organised — if you put effort into learning to use it properly. There will always be a need for the availability of face-to-face legal advice for litigants and defendants in person.

Ultimately I think the problems of a lack of work-life balance, and the decreasing appeal of a career at the Bar, are inextricably linked to how underfunded the system is as a whole. It is chronically underfunded. Revisiting case-progression protocol or attempting to streamline digital systems is simply tinkering round the edges of a fundamentally broken system.



Natasha Shotunde: “Providing a voice to those in need makes the late nights and working weekends worth it”

Natasha Shotunde, 29, British-born, of Nigerian and Kenyan descent

Five St Andrew’s Hill

Year of call: 2013

Practice: mixed, including family, landlord and tenant, general civil, previously crime, extradition and some professional discipline work

The financial cuts to publicly funded work have had a devastating effect on access to justice and life as a barrister. The criminal justice system is at breaking point, which has resulted in the collapse of cases due to disclosure issues and strike action by barristers. Cuts to legal aid in family proceedings has resulted in an inequality of arms due to the rise in litigants-in-person and the cross-examination of victims of domestic abuse by the perpetrators.

A change in the perception of the Bar is one way in which we can increase diversity. It is seen as an elitist profession for the privileged few. The Bar has been working on social mobility through the Bar Council's #IAmTheBar campaign and through events such as The Different Faces of the Bar – Four Journeys into Law, which will be a live-streamed panel discussion on December 5 for those aspiring to become barristers.

Discrimination against barristers due to a protected characteristic should be challenged by all branches of the legal profession. Discussions between barristers, clerks and solicitors should take place and a commitment to eliminate the issue needs to be made all parties.

Almost everybody at the Bar, including myself, would be able to tell you of a story when a judge has been rude, condescending and aggressive towards them in court. Courtesy and respect should be provided by both barristers and judges to ensure the smooth running of the justice system and for our own personal wellbeing.

Harassment will always be considered as an important issue and it is taken seriously at the Bar. I have personally been subjected to inappropriate behaviour in the past, but did not have the confidence to report it. Initiatives such as Behind the Gown have made me more confident about speaking up against this type of behaviour.

One of the most difficult aspects of my job is trying to maintain a work-life balance. However, I view my job as a privilege. I often deal with cases involving some of the most vulnerable people in society. Providing a voice to those in need makes the late nights and working weekends worth it.

As for the future of the Bar, in terms of those who are already in the profession, the problem of retention of women at the Bar needs to be dealt with. And fair allocation of work needs to be addressed, chambers needs to be transparent on which barristers are being taken out to meet solicitors on a more individual basis rather than at formal chambers events - and ensure that everybody has that opportunity; mentoring schemes to support people in maintaining their practices should be implemented, and there should be diversity on panels who select candidates for QC appointments and the judiciary.



Hedley Nield: “Diversity at the Bar is fundamental to the future of the profession”

Hedley Nield, 41, was a solicitor and switched to the Bar aged 39

Exchange Chambers, Liverpool, Manchester and Leeds

Year of call: 2016

Practice: personal injury, clinical negligence and court of protection

As someone who joined the Bar in 2016, having been a solicitor for 15 years, I soon became aware that life at the Bar has its pressures. Demands on quality of service are understandably high and if the future of the Bar is as bright as I see it, then that quality is paramount. However, those pressures are increasingly understood and well managed.

Becoming a father for the first time in 2017 was a real test of whether the Bar could offer a healthy work-life balance. On one hand, I was and remain determined to be an active father and on the other hand I am determined to justify the expectations of excellence at the Bar. I am happy to say that such a work-life balance, with the aid of my chambers and fantastic clerking team, has proven achievable.

As for the future of the Bar, and in particular those practising in personal injury like myself, then of course there are more challenges over the not too distant horizon to be met. Not least the implementation of the Civil Liabilities Bill. However, my experience is one of a profession entirely energised to plan for and meet those challenges head on.

More generally, technology is changing the way in which we at the Bar work and for me, this is to be welcomed bringing greater efficiency and flexibility. However, it remains critical that any changes that impact on access to justice, such as online courts, are thoroughly thought out and implemented carefully.

For me, diversity at the Bar is fundamental to the future of the profession. That diversity needs to be across all spectrums be that sexuality, gender identity, economic background, ethnicity or otherwise. Excellence should be, and in my experience is, the key to joining this wonderful profession.