



JUDICIARY OF  
ENGLAND AND WALES

**BARBARA MENSAH  
CIRCUIT JUDGE**

**THE LAW SOCIETY'S BLACK HISTORY MONTH**

**CHANCERY LANE, LONDON**

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Thank you for inviting me to join you and to speak at this launch of the Law Society's Black History month celebration. I feel honoured to be joining you in celebrating black achievement as part of the Black History Month.

I want touch on some of the themes and objectives of this event, those are to highlight and celebrate the achievements of black lawyers in the profession, draw attention to the valuable contribution of black lawyers to society and inspire young people to achieve their full potential in law, particularly to encourage some of you to consider judicial appointments.

To celebrate the achievement of black lawyers I would like to go back over 150 years, ago just after the Mutiny in north India and the Government of India Act of 1858 and the declaration that Indian tradition and culture would be respected, to 1859 when Ganendar Mohan Tagore, an Indian, joined Lincoln's Inn, he was subsequently called to the Bar in June 1862. According to information I have obtained from publications of Dr Clare Rider the Archivist at Inner Temple and Guy Holborn, Lincoln's Inn librarian Tagore appears to be the first ethnic minority to have been called. He was not the first recorded overseas member in Lincoln's Inn that honour goes to the Moroccan Ambassador who signed an entry on 4 March 1681. It is more difficult from the records to identify black African, American and West Indian bar students as many had European style names. But Clare Rider thinks that the first black American was probably Thomas Chester who was admitted to Middle Temple in 1867 and called in 1870. There were of course students from African countries, Sierra Leone and Ghana coming over in the late 19th century, taking the bar exams and returning to practice in their countries. From the records held by the Ghana Bar Association, for which I

am indebted to Mr Andrew Amegatcher for his research, we know that in British West Africa (for these were the days long before independence), two Sierra Leoneans living in Ghana were the first to be called to the British bar, Renner Maxwell in 1881 and Owono Renner in the 1884. The latter also memorable for starting law reporting, the Renner reports from 1915. The first Ghanaian was called by Lincoln's Inn in 1887, John Mensah Sarbar (sadly no relation) in whose name there still exists the Sarbar prize for advocacy.

For women the pioneers were equally remarkable. The first woman at Oxford University to sit Bachelor of Civil Law examination (although she could not be awarded the degree to which she was entitled for another 30 years after the passing of the Sex Disqualification (Removal) Act in 1919) was Cornelia Sorabji from Bengal in 1892. From the 1920s women were joining Inns (women had petitioned Lincoln's Inn since the 1870s without success) and were being called to the Bar although sadly not practicing for some time afterwards. Angela Holdsworth in her chapter in the Lincoln's Inn Portrait book tells the story of Gwynneth Bebb an Oxford graduate with a first in jurisprudence who applied to sit the preliminary solicitors' examinations in 1911 but was refused by the Law Society as a woman was not a "person" within the meaning of the Solicitors Act of 1843. Her appeals to the High Court and Court of Appeal were dismissed. She subsequently applied to join Lincoln's Inn and although she was admitted as a student she died the following year and so was never admitted to the Bar. The first women to be called by Lincoln's Inn were firstly Mithan Ardeshir Tata from Bombay who came to London at the age of 20 and was called in 1923 and Mercy Ashworth a former schools inspector who was 53 at the time of her call. The first female I have traced from West Africa was one Mrs Foster, also known as Christian, Dominican father and Ghanaian mother, living in Ghana who was called to the Bar in Britain in 1945 and subsequently returned to practice in Ghana.

What amazing people they must have been. Since those times we now have many people from black and minority ethnic groups qualifying as barristers and solicitors, practising in chambers, from High Street firms and City firms, in law centres, as in-house Counsel, in the civil service, taking silk, taking judicial appointments, we have minority ethnic holders of high office – Linda Dobbs in the High Court and Patricia Scotland Attorney General. Looking at the judicial statistics<sup>1</sup>, they show that as at April 2009 at circuit level there are 1 mixed ethnicity, one black and 3 Asian circuit judges out of a total of 571 and for solicitors (black and white) 83. Very poor show. However, the numbers are much more encouraging in Tribunals and even at District Judge level, I'm afraid I don't have their statistics but

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<sup>1</sup> Of those who declared their ethnicity and from whom this information was collected. Source: Judicial Database (2009)

anyone who practices in those jurisdictions and I worked in them, will see immediately that there are many more women and ethnic minority judges at those levels.

Whilst I am on minorities in the judiciary and as I am addressing solicitors, I took the trouble to look up figures for solicitors generally and found that was equally discouraging at the higher levels. The first High Court solicitor judge was Mr Justice Sachs. The first solicitor to go straight from practice (as opposed to the circuit bench first) was Lawrence Collins, now Lord Collins, Justice of the Supreme Court. The last set of statistics show that there are only two High Court solicitor judges – as the statistics are up to April this year I presume those two are Mr Justice Hodge (now sadly deceased) and Gary Hickinbottom. (The first solicitor Circuit Judge to be appointed was His Honour Judge Slack in February 1977).

I think it now is trite to mention the importance of diversity in the judiciary – it is important that the public see their own diversity of background, culture, religion and gender reflected in the judiciary: it gives them the confidence of knowing that it is not an exclusive club from which they are excluded and which will not understand them. So if it is so important why are the numbers so low?

When there was a Lord Chancellor's Department (LCD) I used to be invited to take part in their judicial roadshows (which I believe still continue under Ministry of Justice or Judicial Appointments Commission auspices) and from some of the questions and comments it was clear that there were many reasons for people from minority groups not applying for judicial appointment. For me personally one of the reasons it never occurred to me to aspire to be a judge was that I did not see anyone like me on the bench. And I am afraid that is still true for some – with only a handful of ethnic minority judges it is easy to miss us. Many of the delegates to those roadshows came from chambers where there was no history of judicial appointment, they did not have friends who were judges, were concerned that they did not have any or enough references, were not known to senior judges, did not have practices that took them into court or were not barristers, or did not think they were clever enough. They wanted a chance to do some judicial workshadowing, or get to speak to judges outside the court room or speak to someone about the daunting application form etc etc. One delegate even confided in me that because of his background and education (non English and overseas first degree) he was worried about joining the judiciary. I can assure him and anyone else with those concerns that having myself been often the only female and almost invariably the only black judge in courts in which I have sat, I have always found judicial colleagues to be welcoming and inclusive. Most of the other concerns are now addressed in

the new competition procedures; there is a formal work shadow scheme in place, there is no requirement to be a barrister or provide judicial referees only. I am also heartened to hear that the Law Society itself is also doing much in establishing a support group for those hoping to make applications for judicial appointment.

In the case of solicitors, colleagues have told me that it was not lack of ability or disinterest that prevented them taking up judicial appointments but it was the condition in their partnership agreements or contracts of employment which prohibited them from taking up part time judicial office. I found this to be astonishing. If it is right and continues then I think the Law Society ought to declare that unethical and ought to make it a breach of your code of ethics for partnership or employment contracts to impose a condition that solicitors cannot undertake part-time judicial posts. After all, what is the moral difference between that and an employer refusing to release an employee to go and do jury service. Not much that I can see and I invite the Law Society to do something to discourage that practice.

In my own case I was prompted to apply by a judge, Paul Heim (former Register at the ECJ, Luxembourg) who said to me one day I think you would make a good judge have you ever considered it. My response was "You what?" I was eventually persuaded to sit on a financial regulation tribunal, initially as a wing member (I did not feel I had the confidence to sit as a Chairman). I enjoyed the challenge and the experience of being the referee rather than a player and it was not long before I looked out for the next judicial post being advertised.

In fact the next post I got was as a part time Parking Adjudicator. When I went for that interview everyone in chambers thought it was hilarious. It was a new tribunal and some members of chambers thought it was a joke. Now, many years later, those same people are finding that it is not so easy to even get into that tribunal because competition is so keen. It is a tribunal which operates in a paperless environment, all documents are scanned into the computer and a tribunal which has very flexible sitting times, you can do early mornings, late evenings and even Saturday sittings. And it is a tribunal which has grown from an initial 14 of us to well over 50 part-time members. Within that membership, two of us have become Circuit Judges, Judge Usha Karu who sits at Inner London Crown Court and myself and a third was also a circuit judge with us and was earlier this year appointed as a High Court Judge, Gary Hickinbottom. Others from that tribunal sit as judges in the Immigration Tribunal and other tribunals.

If you think you would like to be a judge (at whatever level) or if you are not sure, then my message to you is come and find out about it. Contact the relevant department or contact a

judge you know and come and do a week of shadowing, to see what the reality is like. Then if you enjoy it get that application done. The process is now slightly different from when I applied in that there is an examination but that should not put anyone off. Go for it – you are as good as everyone else, you would not be here if you were not.

Since Ganendar Tagore in 1859 many more ethnic minority candidates are entering the profession. The number of those taking judicial appointments is low but growing. Change is coming. Gone are the days, I hope, when the press was interested in peripheral issues. Mota Singh, the first ethnic minority Circuit Judge had to endure a lot more interest from some quarters in whether he should wear his turban or a wig rather than his judicial ability. Elizabeth Butler-Sloss's appointment as the first female Court of Appeal judge also drew headlines of sex change for Court of Appeal Judge (because her title initially was Lord Justice Butler-Sloss it encouraged silly stories until she was entitled to be called Lady Justice). When I first sat as a deputy, I sat in the West Midlands and on my first day of sitting at a particular court I was acutely aware of people coming in staying a minute or two and then leaving and of many more looking through the glass porthole. During a lull in our list the usher had gone out to look for parties and the clerk had gone off to find the usher I found myself alone in the court room with a lady from probation who then took the opportunity, as we were alone, to ask if she could speak and said that she felt immensely happy to see me on the bench as it was the first time she had seen a female judge or a black judge. In fact in London there were many female judges sitting in the Magistrates' Court and in Tribunals but she obviously did not know that. She also explained that that was the buzz in the corridor, defendants hearing the news were saying "never" and rushing to look to see if it was true. Hopefully now questions of gender and colour are becoming non newsworthy. It is ability that counts. That is what you need and none of the qualities needed to be a judge – knowledge, fairness, independence, integrity, good communication skills, understanding people etc. – none of them depend on colour or gender.

So my message to you all is come and join me. To those still studying, to whom this event will go as part of the BHM programme, I say consider a career in the law and to those of you in practice in this room consider a judicial career. What you need is courage to make that application, perseverance and commitment in pursuing it – many do not get the post first time round, view it as a dress rehearsal and try again, and finally honesty in the sense of simply being oneself and being proud of who we are. But whatever your career path, judicial or not, if you have those 3 qualities – courage, commitment and honesty – that should take you a long way to achieving your goals.

Can I wish you success in your endeavours and the best of luck in your programme of events for Black History Month and thank you once again for inviting me to share the launch of it with you.

Thank you.

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