

Celebrating a Century

Centenary Dinner: King's Inns, Dublin

"It's hard to be what you can't see: No longer lesser spotted"

**The Right Hon Dame Siobhan Keegan, Lady Chief Justice of Northern
Ireland**

Friday 5 November 2021

It is a pleasure to join you tonight in what is a year of reflection for the legal world on this island. This year marks the 100th year anniversary of Northern Ireland's Supreme Court of Judicature, which came into being on 1st October 1921, the same year Frances Kyle and Averil Deverell were called to the Bar here in Dublin.

At that time north of the border, Sir Denis Henry, the first Lord Chief Justice, presided over a profession where there were no women practicing. It is therefore all the more remarkable that in 1922 Frances Kyle was elected to the Northern Circuit at a meeting in Belfast, becoming the first female member.

Tonight we also celebrate the launch of the "In Plain Sight" initiative which is an apt title. The dictionary definition of "in plain sight" is "in a place where people can clearly see something." Frances' and Averil's calls to the Bar were widely reported; they publicly led the way for women to realise the possibility of a career in law, in common with so many others, which men dominated. However, in some respects while visible these women like others remained shadowed by virtue of the profession in which they operated and the times within which they lived. Thankfully now, in 2021 plain sight means just that.

The project is clear on that. It also allows for reflection on how far women have progressed through many challenges in our profession, and I think this and other initiatives provide an important prompt to think ahead about what more we need to do to achieve gender equality within the legal profession.

The past is instructive as an exposition of how hard it has been for the women who have gone before my generation. I am always struck by their pluck and resolve and their sense of responsibility. Frances Kyle herself said that "she felt that she should practice, if possible, to prepare the way for those who will follow."

The impediments were manifold for woman at this time illustrated for instance by the battle to be defined as "a person" for the purpose of professional admission undertaken by Gwyneth Bebb. I never cease to be fascinated by this story of the

indefatigable Ms Bebb which is a prelude to the Sex Disqualification (Removal) Act 1919.

In 1913 Gwyneth Bebb challenged the prohibition on women practising law. Ms Bebb was born in 1889. She studied jurisprudence at St Hugh's College Oxford and received first class marks in her examination. However given women could not receive degrees at that time and notwithstanding her undoubted talent Ms Bebb did not graduate. Undeterred, along with three other women she applied in 1913 to sit the Law Society examinations with a view to becoming a solicitor. She had her papers and fee returned and was told that she would not be allowed to take the examination as she could not be admitted as a Solicitor of the Supreme Court. So Ms Bebb and her friends applied to court for a declaration that she was in fact a person within the meaning of the Solicitors Act 1843. Yes you have heard me correctly, women were not deemed as persons for the purposes of that provision.

They lost at first instance and on appeal and those courts while recognising the obvious intellect of the women involved simply said to quote Lord Justice Swinfen Eady:

"In my opinion, it is sufficient to rest this case upon the inveterate practice of the centuries that, ever since attorneys as a profession have existed, women have never been admitted to the office, and in that opinion, that shews what the law is and has been."

Frances and Averil were two women with powerful intellects. After graduating from Trinity, Frances won the 1st Victoria Prize and then gained first place in the Bar exams obtaining the John Brooke Scholarship of £50 for three years. Her achievements meant that by tradition she was called first to the Bar, which must have been a very proud moment for her, not least given the calibre of the candidate to be placed second, JC MacDermott, later Lord MacDermott, a former Chief Justice of Northern Ireland.

Our history is important and one which I celebrate this centenary year as the 10th Chief Justice in Northern Ireland. I have just launched a legal history project which will examine the history of 100 years of law in NI including the progression of women. History reflects that it has not been an easy or accelerated path for women in law over much of the last 100 years. Frances and Averil were succeeded by Peggy Aiken and Audrey McMeekin in 1928, followed by Mary Sheil in 1930 with Enid Henry in 1931. It is fair to say that none of these women found life at the Bar very rewarding with a number leaving, some to take up post as Registry staff in the High Court. Audrey McMeekin, in 1985, recalled that:

"everyone seemed anxious to make life as pleasant as possible for the one solitary young girl in their midst, it seems probable that lack of work led her to abandon the Bar for a secure position in the Probate Registry."

While women were present on the circuit there was a rule, operative as late as 1951, which prohibited them from dining with their colleagues in the evenings. It is hard to imagine this type of dislocation now. To my great joy, Peggy Aiken, was not to be deterred. In his history of the Bar, Sir Anthony Hart recounts the story that while dutifully complying with the Bar rule and dining alone, Peggy on instruction was then collected by two members of the Bar who proceeded to a local cinema, where they sat on hard kitchen chairs with a harmonium as the musical accompaniment to continue the evening in the finest traditions of the Bar.

After that, women got going in the legal profession but progress was rather sedate as you might expect. The vital role women played during the war effort contributed to the slow process of changing attitudes towards equality. It was after the Second World War before women were again called to the Bar of Northern Ireland: Sheelagh Murnaghan was called in 1948 and Kathleen O'Brien in 1952, the only two until 1974.

Notable increases in the number of women at the Northern Ireland Bar started to occur in the 1970's. The call of 1974 included two very well-known women, Mary Lenaghan (later to become Mary McAleese) who was the first female member of the Bar Council and Eilis MacDermott, who later became the first female QC in 1989. It was around that time, in 1981, that the Bar Council accommodated their burgeoning numbers of female members in the provision of a ladies robing room; an open acknowledgment of the changing nature of the Bar.

It was not until 1998 that a woman was appointed to the County Court Bench in Northern Ireland, an honour held by Corinne Philpott QC. It was 2015 before women were appointed to the most senior tiers of the judiciary with Madam Justice McBride's appointment and my appointment to the High Court Bench. Change is happening. As of 1 March 2021 in Northern Ireland, women make up 28.8% of the total judicial roles available in Court (excluding Lay Magistrates), an increase of 6.1% since 2013. For those salaried judicial court offices requiring 10 years' or more legal standing and recruited by the Northern Ireland Judicial Appointments Commission (NIJAC), 30.0% are female in contrast to 13.5 % in 2014. 51% of fee paid legal roles in tribunals are held by women.

All of that said, I think that there is some way to go. These figures contrast strongly with the majority of undergraduates and those at the Institute of Professional Legal Studies being women. The attrition rate strikes mostly between seven and 14 years of qualification. The number of woman reaching senior posts is not yet reflective of the entire profession. This means that the legal profession has to find ways to support and encourage woman to progress including proper support for women who need to take time out for family or other reasons and then want to return.

My own year of call provides a snapshot of career progression at the Northern Ireland Bar. I was called in 1994 along with 18 others. Of that number 11 remain in independent practice - nine men and two women. Three are Senior Counsel - all male.

Statistics are often used to compress data in a way that can be used to identify broad trends but they are often stark. At the moment 65% of barristers in Northern Ireland are male, 35% female. 14% are male QCs while 3% are female QCs.

I now chair of Northern Ireland Judicial Appeals Commission (NIJAC), and intend to maintain and build upon the existing initiatives aimed at encouraging women to seek appointment as judges. In doing so I recognise the huge contribution made to progress by my predecessor Sir Declan Morgan. These initiatives include a Women in Law seminar series, profiling women lawyers practicing in “non-traditional” areas such as commercial, criminal and insolvency as well as a mentoring scheme. NIJAC’s aim of appointing a judiciary reflective of the society it serves is hampered by the fact that the legal profession itself is not reflective of society in terms of gender. This can be seen in the number of women who are QCs or who hold senior roles in solicitors’ firms or in the senior judiciary.

On a positive note, 2021 is a year that marks the continuing development of women in the legal profession in Northern Ireland with many “firsts” being achieved by female lawyers. I recognise that my appointment was an important milestone and I hope that it has encouraged young men and woman alike to aspire to high office. Queen’s University, Belfast recently installed Secretary Hillary Rodham Clinton as 11th Chancellor of the university, the first woman to hold the office. Northern Ireland has our first female Attorney General, Dame Brenda King, DCB and a female holds the office of Crown Solicitor with the appointment of Jennifer Bell. I appreciate that we are a little behind other jurisdictions with all of these achievements but I think we are getting there.

On 6 of September 2021 I called 19 new candidates including 12 women to the Northern Ireland Bar. All were called in public, all in plain sight. On 22 of October this year I also called members of Kings Inns and the Bar of England and Wales. These events illustrate how times have changed, for the better, in that the Bar is a profession open to young men and women alike with links being maintained between the jurisdictions.

The evolving female membership of Northern Ireland’s Bar was recorded last year through the #FaceTheFuture project to mark International Women’s Day. Female lawyers were invited to have their pictures taken as part of a global photography project showcasing the diverse face of women in the law. It was run by Next 100 Years, a campaign aiming to share the achievements of women in law and shape a more equal and diverse future for the profession.

As women make up a sizeable proportion of our legal profession it is only right that they, like men, should be able to obtain senior positions. I recognise the female role models in the legal world that have gone before me and who were pioneers over the last 100 years in entering what was a male dominated profession and paving a way

for my generation. Many of these women are unknown, forgotten or unrecognised but they should be remembered today as they have contributed to progress.

As well as famous women role models there are many others to record including the quiet role models many women have had at home. There are also the women who have brought cases after the enactment of the Equal Pay Act in 1973 and the Sex Discrimination Act in 1975. I think in particular of the St Helens dinner ladies who fought for equal pay and were successful after a 2007 House of Lords decision and the Asda shop workers, who just this year were successful in the Supreme Court with their claim for equal pay with male depot workers.

A number of years ago I participated in a project at Queens entitled "You cannot be what you cannot see." The aim was to highlight the need for female role models and each of us was asked to look back and pen a letter to our former self when a student at Queens. I should say that I was privileged to be a contributor although it was difficult to think back to Belfast in 1989 when I was an undergraduate. I drifted into law like many I expect because I was good at the humanities as they were called and the choice seemed to be law or teaching. I think the advice I gave my younger self was not to worry so much and in the words of the poet Derek Mahon to think that ultimately "everything is going to be alright." I also had role models around me, although not many in law. That developed later when I saw the progression of people like Brenda Hale and Susan Denham to the highest offices.

There is a very apt introduction from Professor Norma Dawson highlighting her own experiences starting out and the inspiration she drew from Professor Clare Palley being in post. Professor Palley was the first female law professor in the UK, one who inspired so many including Professor Dawson who remarked:

"If it had ever entered my head that Law School was no place for women - it didn't - her presence and personal authority would have banished such an idea."

We should also remember that woman like men are individuals, not a homogenous group who all think and feel the same way. Take Sandra Day O'Connor appointed to the United States Supreme Court Bench in 1981 and Ruth Bader Ginsburg 12 years later. These two pioneers were also very different people in outlook and influence.

It is my hope that women continue to make strides in their profession, not because of tokenism but in reward of their ability and endeavour. As Sandra Day O'Connor said in relation to judging "a wise old man and a wise old woman will reach the same result." Society will be the richer for witnessing many capable women hold senior roles, following female trailblazers who have gone before them and who will themselves be change makers the future requires.

It is important that women are encouraged and in plain sight going forward as part of a modern legal system reflective of society. I am looking forward to being part of the continued progress which I am sure will be made. Thank you again for inviting me to be with you all tonight.