

Women Judges at the Old Bailey

By March 2022 I had been sitting as a judge for 15 years, the last 10 of them at the Central Criminal Court. That month I had my 70th birthday, and retired. When Old Bailey judges go, they get a valedictory to see them on their way. Traditionally, the event takes place in Court One, and it is always a delight because everyone turns up – other judges, the Bar, clerks and ushers, the staff, curious jurors, and Uncle Tom Cobby. I had been to more than a dozen of the things but, by definition, you only ever get to sit in the central seat once. On 11th of March it was my turn. So I sat in that great, unwieldy chair and looked around what is probably the most iconic courtroom in the world – at the dock where Crippen and Seddon sat, at the witness-box where Lady Chatterly’s Lover was held aloft, at counsel’s rows where silks have suffered triumph or disaster. I was looking at history. I was also looking at the men and women with whom I had worked for nearly half a century. And I was, I confess it, focusing on the women.

Amongst the barristers there were women with whom for over 30 years I had co-defended or prosecuted. In the Robing Room they and I had mopped up the tears of our failures. In wine bars we had celebrated each other’s successes. These were the people who, after I became a judge, appeared in front of me and made my life easy or difficult according to their brief. In the seats allotted to judges were my Old Bailey colleagues and others from the Circuit Bench and higher, with many women amongst them. There amongst the clerks and ushers were women as well as men who had looked after me for so many years that some could still remember me as a junior making my early appearances in this building.



Her Hon Wendy Joseph KC.

The people who filled the courtroom that Friday were the people who made the trials happen. And people like them had been doing the same job for centuries. Except that in the past the people weren't quite like them. They were different in at least one very material respect. If you had walked into an Old Bailey court on most days during its long and venerable history – records show the Central Criminal Court has sat in Old Bailey (though on a site adjacent to the current one) since 1674 – every judge was a man. Every barrister and member of courtroom staff was a man. Every juror was a man. Women – when they appeared at all – did so in the dock, the witness-box or in the public galleries. A woman was victim, defendant or spectator. A woman in the court room was one of the people without power.

The brief I was given for this article was to write about the first 50 years of women judges at the Bailey ... and you may be wondering when I'm going to get to it. So am I. But judges, you see, don't drop out of a clear blue sky or come down in a shower of rain. They are forged through years of work in the law – most often at the Bar. Unless you have women at the Bar you don't get them on the Bench. And for the first two and a half centuries of the Central Criminal Court's existence there were no women barristers, no women solicitors, no women lawyers.

It barely seems credible in a modern world that the 1918 Income Tax Act classified married women along with infants and lunatics as 'incapacitated persons'. The more impressive, then, that in 1919 (almost a decade before Universal Suffrage was achieved) the Sex Disqualification (Removal) Act allowed women to qualify as lawyers. The date is, of course, no coincidence. The First World War gave women the chance to show their mettle. The Suffragette and Suffragist movements brought matters to the fore. Women were making their mark in the great universities. An irresistible tide was rushing shoreward, carrying the female part of the population on its crest.

The wonderful Helena Normanton landed first. She had (unsuccessfully) been trying to gain admission to Middle Temple since before the 1919 Act was passed, and within hours of its coming into force, on 24th December that year, she reapplied and got in. On 17th January 1920 *The Times* list of successful candidates in the Bar Final examination contained for the first time the name of a woman, Olive Catherine Clapham. In May 1922 Ivy Williams was the first to be called to the Bar, followed by nine others that November. Two weeks later Monica Geikie Cobb was prosecuting a Birmingham bricklayer

for bigamy. Her appearance in the court room prompted a crisis of nomenclature – she was called Madam, Sir, My Lady and My dear. It drove her quite quickly to retire into the more ordered realms of commercial law. However, amongst her November cohort was that same Helena Normanton who forged a career for herself in the criminal courts, including – the first woman to appear there – at the Old Bailey.

Where these women went, others could follow – and they did. If we hoped for a steady flow after that, we would have been disappointed. Progress was more akin to a dribble from a blocked tap. When Rose Heilbron – everyone’s heroine – was called to the Bar in 1939, of the 300 barristers on her Circuit (the Northern), only 12 were women. Throughout the ‘50s and into the ‘60s the number of women barristers rose to a barely creditable 100 or so. But those who were there were making their mark. And their eyes were on the Bench. The lower slopes were conquered first ... the magistrates’ courts and part-time sitting in the Assize Courts. In 1945 Sylvia Campbell was appointed a Metropolitan Stipendiary sitting at Tower Bridge Magistrates’ Court (ah yes, I remember it well). She was to remain the only full-time woman judge for many years. In 1946 Dorothy Knight Dix, sitting as what would now be a Recorder, was the first woman to preside over a jury trial. It seemed women might certainly be able to hold judicial positions, but they were scarcely being given the chance to prove themselves. They wanted to show they could function at the higher levels. To do this they needed, or thought they needed, to be in silk. And that proved to be problematic. It is a mark of the times that for all their skill and abilities, none was appointed KC until 1949. Then – bus-like – two of them came along together. Inevitably one was Helena Normanton and, delightfully for Gray’s Inn, the other was Rose Heilbron. The redoubtable Elizabeth Lane took silk in 1950. Had the door opened? If it had, someone slammed it firmly shut again. There were to be no more women silks for a long time.

Once, however, those few women were there, they could not be ignored, and they would not allow themselves to be overlooked. In 1962 Elizabeth Lane QC became the first full-time female judge sitting in the county court and three years later the first in the High Court. And still there was no woman judge at the Old Bailey. It wasn’t until the 4th January 1972 that a woman got her bottom on that Bench – it was inevitably Rose Heilbron’s – but it was strictly temporary. Men were to walk on the moon years before women were appointed to permanent

positions in the Central Criminal Court.

As it turned out we had flown past Mars and were on the way to Saturn before in 1976 Nina Lowry became the first woman to get a judicial position at the Old Bailey. And silk did not prove necessary to her triumph. Nina – another member of Gray's Inn – did the thing in her own inimitable way. In 1967 she had been appointed a Stipendiary Magistrate – only the third woman to hold that position. A profile of her workload in *The Times* in 1969 said: 'the learned magistrate must deal with the legal formalities of applications for drink licences; child maintenance; statements on oath by people who have lost their pawn tickets; and medical men who desire to recite their history before a justice to satisfy the Australian law on immigrant doctors'. Later her obituary in the same paper described how she dealt with a retired brigadier who walked into a house and stole a cigarette box, some Spanish mothers who sent their children shoplifting in Kensington High Street, and a West Ham supporter who used a steel-capped boot to kick a Chelsea fan. The powers-that-were seem to have thought this a perfect training for the Old Bailey. They may have been a little influenced by the years of ongoing campaigning by Helena Normanton and Rose Heilbron (who in 1974 was herself to become only the second woman High Court Judge). These women had constantly spoken out for female equality in the legal profession. They had called out prejudice wherever they saw it and provided steadfast support for the women who followed them.

Whatever it was that led to Nina Lowry's appointment to the Old Bailey, it proved to be an inspired one. I appeared in front of her many times in her long stint there and she always kept me on my proverbial and actual toes. She was an immaculate tribunal for whom everything came second to the needs of her case – including the Court of Appeal. One day I had to tell her I couldn't be present the following morning to cross-examine the complainant in a rape case because I was required 'up the road'. I did so with trembling and foreboding. I was released with reluctance and an instruction to get myself back as soon as possible because everybody would be



Her Hon Nina Lowry QC.

sitting in court waiting for me. I ran all the way from Court 4 at the Royal Courts of Justice, along the Strand, up Ludgate Hill. Upon my return she commented favourably upon the fact that I had arrived before her breathless and sweating.

She sat at the Bailey until she finally retired in 1995, the only woman amongst the 16 judges, and for most of the time she occupied both a courtroom and chambers adjoining those of her husband Richard Lowry QC. Brigadiers and boots were a thing of the past. She tried some of the most difficult cases, imposed some of the stiffest sentences, and was not beyond saying to a murderer who killed a child whilst on parole for a previous attack, that in his case 'life imprisonment should mean what it says, namely imprisonment for life'. She seemed to have been a conspicuous success – as were those women Recorders who were given the chance to prove themselves there 'part-time', including two more members of Gray's, Anne Curnow QC and Jean Southworth QC.

But after Nina Lowry retired there was no rush to appoint another woman. In 1997, however, a worthy successor took her place there. Ann Goddard was stepping into a court building that she knew intimately, having practised there for decades. She was yet another member of Gray's Inn. I had known her well at the Bar from the days when I was tail-end-Charlie in some of the many multi-handed cases that she prosecuted. She was the kindest of opponents and



Her Hon Ann Goddard QC.

another of those women who genuinely want to help and support those coming up behind her. The appointment was felt as a triumph for us all and we were to be proved right. She was a wonderful tribunal to appear in front of. She handled many complex cases. As for any judge, things didn't always go as smoothly as they might wish, but we were approaching the end of the century, and many in the world of criminal law felt it was important to have a woman on the bench at the Central Criminal Court of our country. The argument is compelling. The courts serve the country; the Bench serves the community and should reflect that community. If it is to do so effectively, it needs to draw on all the available talents – regardless of sex, sexual orientation, colour, race or

creed. Indeed, the wider the base from which it draws, the better it can do its job.

Ann Goddard retired at the age of 70 because the law required her to do so. She wanted to go on sitting – to go on serving; and could have done so but for a freak of historical timing. In the past she could have sat till she was 72. In the present she could have sat till she was 75. But in 2008 she had to go, and she was much missed.

You might have hoped that her departure would spur the system to find another woman to fill gap she left behind her. There were some wonderful women out there, but again no one seemed to be in a rush. The Bailey soldiered on with its contingent of male judges until the accident of timing that ended Ann Goddard's on the bench did the same for a whole lot of other Old Bailey judges too. In the years 2011–12 five of them fell to retire and over the ensuing 18 months the system (by then the Judicial Appointments Commission) set about finding five replacements to take the place of the departing. It is the happy fact that of the five new appointments, two were women. The first took her place in April 2012 – me. I was the third woman to sit as a full-time Old Bailey judge. The start of the happiest of decades there.

I came from Snaresbrook where I had taken up my first appointment at the very end of 2007. Snaresbrook was the busiest of courts, with a huge throughput of work. It was a wonderful training ground. Amongst my large cohort of fellow judges there were both men and women, but when I moved to the Central Criminal Court, the picture was very different. I found myself amongst 15 other judges, all delightful, all white, all rather over middle-age and all male. This wasn't without its problems. By then it had been some years since anyone had to address a female full-time appointment on the Old Bailey Bench. Although the numbers of women barristers and solicitor advocates appearing had noticeably increased, a woman judge there was still a passing wondrous thing. It was four years since Ann Goddard had last sat there, and the words 'My Lady' didn't come easily to some of the older school who appeared in its courtrooms.

It is the custom at the Bailey, as elsewhere, that with the arrival of a new judge, the most senior barrister in the case upon which the new appointment first sits, utters appropriate words of greeting. It runs along the lines of 'Welcome' and 'hope this is the beginning of long and glorious reign' – though 'brace yourself' might be more appropriate. Fitting words were spoken, but the QC who spoke them – nameless of course – simply could not get his head round 'My Lady'. His brain was

hard-wired to ‘My Lord’. The first time he did it, I feigned deafness. The second I feigned confusion. The third I looked long and hard down my cleavage. He never made that mistake again. And neither did anyone else.

By the end of the year, I had been joined by the most admirable of colleagues, Rebecca Poulet KC. There had never before been two women simultaneously appointed to sit at the Old Bailey. It was – for us at least – an important moment. And, as it turned out, the beginning of a sea-change. As the number of permanent judges there was reduced – at times to as low as 12 – the number of visiting judges, who came for stints of between three weeks and three months or longer, began to include more and more women. Each was a fine and worthy addition, even if we only had them for short stays.

When I had first arrived, the then Recorder – in setting out how things worked in his court building – had told me I must fit in. And, of course, he was right, because I was different. But a lot of water had flowed under the Bailey bridge in the years since then. Women had begun to make up a significant proportion of the appointments to the High Court Bench and to the Court of Appeal. There were women – most admirable women – in the Supreme Court itself. Ten years after I arrived at the Old Bailey, no one would ever think of telling a woman to fit in, because by then women were ... they are ... as much part of the fabric as anyone else. And this time The Old Bailey was ahead of the curve. By the time I retired, there were 14 full time judicial positions at the Central Criminal Court and in 2021 we reached parity, having seven men and seven women on the Bench. Inevitably retirements will alter figures and percentages. But amongst those with whom I have sat as friends and colleagues, were not only Rebecca Poulet KC, but also Sarah Munro KC, Anne Molyneux, Angela Rafferty KC, Rebecca Trowler KC, Anuja Dhir KC and Alex Durran. We – all of us – hold a watching brief for the future.

So, although it has taken a while, we are here now. And we won’t be going away. But none of us takes this progress for granted. We look back to those upon whose shoulders we have been privileged to stand – amongst them, Ann Goddard and Nina Lowry, Rose Heilbron and Helena Normanton. And we look forward to all those wonderful women judges who are to come.

Master Wendy Joseph