
7BR Part-Heard!

Reiss Palmer: Hello, and welcome to 7BR's Part-Heard, the podcast that traverses the legal landscape, examining issues across multiple practice areas, guided by the diverse expertise of our members.

I'm Reiss Palmer, Chamber's Paralegal.

We are joined today by Maryam Syed, who is here, on International Women's Day, to discuss women in law and her personal experience of life as a senior practitioner and judge from an ethnic minority background.

Maryam is a highly regarded criminal and family practitioner, heavily experienced in dealing with serious, complex and high profile cases, with a keen interest in international human rights law. She has particular expertise in complex serious criminal work, in particular homicide, sexual abuse cases, rape and historic matters, and is a Grade 4 prosecutor on both the Rape and Serious Crime Panel lists.

She sits as a part time judge in the Crown Court and the First-Tier Tribunal in the Regulatory Chamber. When appointed ten years ago, she was reported as the first Muslim women Crown Court judge and since has sat regularly in London and the Southeast in that capacity. She is also authorized as a judge to try serious sex cases.

She also has for many years provided volunteer training to NGOs, police and local authorities, and the profession generally on specific areas of criminal law and on the topics of diversity and inclusivity.

Maryam, welcome to the podcast.

Maryam Syed: Nice to be back, Reiss.

Reiss: In fact, I should say, welcome back. It's been a pleasure, we've had you on more than once. And today, as I said in the intro, we'll be talking about women, and life at the Bar for women, and in particular your experiences, as you said, as an Asian and Muslim woman. But before we get into that, I'd like to just look at some of the reports and figures. So this year marked the centenary of the first woman to be called to the Bar. The BSB in January 2021 published a Diversity at the Bar Report, and then the Bar Council in April 2021 published its analysis of data related to the Criminal Bar. And then in November, it's Race at the Bar a Snapshot Report. There were amongst these reports, a consistent theme that women, particularly at senior levels, did less well in terms of allocation of better paid work and attainment of higher positions such as QC. This was even more stark in relation to women of colour. Now, there are undoubtedly a number of different factors that are at play here, but I just wanted to see what was your take on these reports and figures.

Maryam: Well, Reiss as you say it is 100 years since Dr. Ivy Williams was called to the Bar as the first ever woman, and the first woman of colour would not follow for many years later. And just talking about the discussions that are being had at the moment in light of those reports and some of the figures, in January 2022, Barbara Mills QC, who is the co-chair of the Bar Council's Race Working Group said to the press that the next twelve months would be critical in tackling systemic obstacles at the Bar. And they were identified in, as you say, the group's landmark Race at the Bar Report. And, if I may, just give you some of the figures from that report, they found that there were just five black female QCs or silks in England and Wales. Another two were announced in the latest appointments published on the 22 December.

Another stark statistic was that a black female junior barrister with the same level of experience as a white male junior billed £18,700 a year less on average, and an Asian woman £16,400 less. So those are just an example of some of the figures across the reports. And the basic truth, Reiss, remains that the profession is still predominantly male and white, and from a certain background, at the highest levels, in terms of Silk and judiciary. It is changing, and for my part, Reiss, I feel very privileged that I am a senior Muslim woman practitioner from an Indian Pakistani background. I

am conscious that real efforts are being made to increase representation, but I'm also conscious that I'm still a rarity in terms of that. And in terms of the work that I do, I do a lot of senior heavyweight prosecution work, in particular homicide and murder. And in terms of leading that sort of prosecution work, I'm only one of a few Asian women and Muslim women to do it. There is more diversity in terms of leading work in defence areas of crime, but less so in prosecution, which actually is interesting because there is much more diversity within the pool of instructing solicitors for prosecution work, which is the Crown Prosecution Service, because in terms of its lawyers, particularly women of colour, there are many more coming through.

If I may, Reiss, just for my part, perhaps say a little bit about my story and how I've found getting to this position. For my part, I was fortunate at the start of my journey that I won a scholarship from Lincoln's Inn to afford my Bar finals, without which I couldn't have qualified. But it's right to say that unlike a number of my white counterparts, I didn't receive a funded pupillage. And so when I was training in pupillage and even as a junior barrister in practice, I had two jobs and, in fact, had those jobs until my third year of practice, I worked in a local supermarket and I worked as a librarian for my local Council in London. And even in my first year of practice, when I actually put in my first bills and got my first figures of earnings, it was right that ethnic minority barristers were being given the lower quality work.

So if I may, Reiss, just give you an example, and I'm happy to give this example. I made £397 profit in my first year of practice, despite being in court every day, often twice a day. Because at that particular set, there was a particular arrangement with a particular solicitor that they would fill in the legal aid forms and claim the legal aid fee and the pupil barrister would be paid a private cheque via Chambers for £10, for which they would then have to pay a pound back in Clerk's fees. To put that in context, one of my male counterparts made £40,000 in their first year of practice, while I made £397. Now, I'm not going to lie, that sort of experience is heart breaking and there were days I would frequently go home in tears, but I've always taken the view that what doesn't kill you makes you stronger, and that you just have to be the best that you can be.

And if you will allow me to give you another example, one of the last speaking engagements, as you've kindly said, I do speak and train on inclusivity and diversity, as well as a number of different areas of law. One of the last speaking engagements I did before the Pandemic hit was to speak to a number of universities organized by the organization Cake and Counsel, which seeks to promote mentoring to women and particularly women and candidates from ethnic minority backgrounds. And if you'll allow me to tell you the same story that I told them. In that set of Chambers, I've just spoken about where I had that earnings, I was at a very early stage, taken aside by the senior male clerk, who was white and was told in no uncertain terms that I was being given deliberately the lowest paid work. And he told me, "Miss, it's not that I am racist, it's just that the punters are what they are. They would not appreciate a woman, let alone a woman of colour, let alone a Muslim lady turning up to represent them. And so it is what it is, and I'm sure you can appreciate that." And I was told that I was told to accept it. Well, that operated with a particular set of solicitors that went to a particular court, which is Snaresbrook, and suffice to say and I'm proud to say that 16 years later I walked into that court, Snaresbrook, as one of its judges.

So what I experienced back then is obviously changing, there is more support out there, there is more scrutiny in terms of diversity, recruitment, awardment of pupillage and lots of mentoring. And that's something, you know, we do within Chambers. And I have through Chambers done mentoring for one of the schools in the Grenfell area. But it is right to say that even now, when I'm spoken to by young women from ethnic minority backgrounds, particularly Muslim women who want to come to the Bar, one of the first questions that they still ask me is about racism. There is conscious and unconscious bias and looking at the figures and the reasons for it, if I may at least just touch upon some of the issues.

There has always been historically a notion that women should do women's work, which is family work or child cases or, in crime, rapes. And even now there is resistance, although it's changing to women doing work that's traditionally been considered male work. So fraud matters to do with finance and figures, because there's a thought that male clients would much prefer to speak to male barristers in respect of that. And there's also that sort of feeling sometimes in relation to the higher end of homicide work, that the established Silks, although there's movement, should do the work, and they are predominantly still white and male. So there are race and gender factors in relation to all of that Reiss that I think underpin the figures that we've seen.

Reiss: Thank you, Maryam, for sharing that. You've touched upon some of the points that I was looking at in my next question, that surrounding pay and culture. How do you feel that this has manifested itself in the profession and how has work been done moving forward to challenge these concerns, to attract and retain female practitioners?

Maryam: Well, that, Reiss, is a very good question, and a lot of it does have to do with the traditional roles, I think, of men and women in society and how they operate in the legal profession. It's right to say that women often do have to take career breaks to have children. I've been in our Chambers now for 22 years. I was the first woman to have a baby in Chambers after a long period of time. There have been many who have followed since me. And there is still very much the reality that women do have to figure out when in their careers to have children, when to have career breaks. Can you do it at the beginning? It's much more difficult to do it when you are more established because you need to maintain a practice, even if you are in practice very often, women are the primary caregivers. That can often lead to difficulties in terms of being in a less fortunate position, in terms of travelling away for cases that can have a knock on effect in terms of allocation of work. And that then has a knock on effect in terms of career progression, Reiss, because the type of work that you can do, being of the ilk, that would attract silk or judicial positions can be affected. And so that then has an interplay in relation to obviously, fees and how much you are able to earn.

Reiss If you will allow me to, may I just make this observation? And that has become rather stark because of the pandemic, as you will know, although there is much more return to court now and there's still a very big backlog of trials in the criminal justice system, particularly at the Crown Court. When we were working for the majority of the last 18 months, a lot of it was being done remotely. And there were lots of initiatives to try and bring the backlog down. And one of those was something called extended operating hours, which is something I've spoken about on another webinar and podcast for Chambers. And a lot of women's organizations such as Women and Criminal Law were having to lobby to say that extended operating hours would mean sitting very early or very late. And having two sittings of two different cases in one day would disproportionately affect women because they were the primary caregivers in terms of still having to maintain child care and dealing with pickups from school or, in fact, home schooling. And I spent a lot of the pandemic doing home schooling. I've also had a lot of colleagues who have confided in me that they've had to have conversations with judges about seeking remote hearings and actually making the point that they are because they're from an ethnic minority background more at risk of COVID. And they've had to actually explain that to certain members of the judiciary. And then in terms of culture, as I'm sure we all know, there is a culture of long hours. Part of what we do requires networking, can require socializing, which, again, if you have childcare responsibilities or if you are somebody who comes from a different cultural background, so you don't, for example, drink, which I don't, can still operate to your detriment. And then, if you may allow me to just finish on this topic, there still very much is very real unconscious bias in terms of day to day life at the Bar. It's much, much better, but it's not eradicated. And so if you are a woman, and if you are a woman of colour, there are still the tropes that still exist. Your male counterparts, if they take a particularly strong stance, are seen as taking a strong stance. You can, if you are a woman, still be described as difficult or prickly. There are still aspects of gaslighting that goes on. If you call it out, it's that you're playing the race card or the sex card or you're just not being terribly collegiate. And if I can say this to you, Reiss, if you are a woman of colour in this profession, and if you have attained a certain level, then believe you me, that doesn't make you thin skinned, it makes you thick skinned in terms of what you've had to experience. And so it's not something that is said lightly.

But if I can just give you one brief example and it's something that's happened to me recently, my name is Maryam, but I frequently have colleagues who call me Miriam. Now, if my name was Miriam, it's a beautiful name, I'd have no problem. But when I gently say it's Maryam, they get very defensive. It's 2022. I've had somebody call me by the name of another Asian girl in the case. And when I said that's not really appropriate in 2022, I'm afraid there are even now figures in our profession, who can get terribly defensive about it. And I do a lot of training, and one of the things Reiss, I'm sure you'll be familiar with in terms of gaslighting is DARVO, D-A-R-V-O, which stands for Deny, Attack, Reverse Victim Offender, which means that if you do raise things, then very often the response can be, well, you're attacking me or you're not being professional by raising it, but it is changing. But there are these pockets and they often exist in sort of banter. It's a phrase that we've heard across society and it does have to be challenged. And I do believe that somebody in my position has the responsibility to speak out. It is improving, but it does exist. So in terms of culture, there are these matters.

And can I finally, to answer your question, just raise something that I'm sure you'll be aware of, which is that there has been recently brought to the fore issues of harassment and bullying in the profession, both at practitioner and judicial level. And in tandem, the Bar Council has set up a number of initiatives for this. They've set up a confidential helpline speaking to members of their equality and diversity team, and have actually created a special reporting tool called Spot. And equally, the judiciary themselves have set up a judicial support network to deal with members of the judiciary who feel they've suffered. So again, there is work being done in these areas.

Reiss: From your perspective, do you think that we're on the right track or could more be done?

Maryam: We are moving in a positive way, but there is clearly more that could absolutely be done. There have been some recent figures, particularly in relation to the judiciary. Women constitute 39% of barristers, 52% of solicitors and 76% of Chartered legal executives. And as of the 1 April 2021, 34% of court judges and half of tribunal judges were women. That's increased, but remains much, much lower in senior court appointments, for example, High Court and above, where it's 29%. As at the 1 April 2021, Black, Asian and ethnic minority individuals together constituted 15% of barristers. As of the 1 April 2021, 5% of judges were from Asian backgrounds, 1% were from black backgrounds and 2% were from mixed ethnic minority backgrounds. And I've spoken to the Judicial Appointments Commission on a number of occasions who are acutely aware that they are not where they need to be and that there is a real issue. The judiciary are doing work through workshops, mentoring and assistance programs. They are trying to deal with the issue. They are acutely aware that they are not properly representative. We do certainly in the Crown Court have a number of women Head Resident Judges, but there are very few from ethnic minorities across the board, whether male or female. And obviously the figures get starker when you move to the High Court. Organizations like the Society of Asian Lawyers, the Black Lawyers Network, Women in Criminal Law are just examples of those who are really trying to work to improve the situation to educate, the Inns of Court are doing what they can. For example, Inner Temple for Black History Month showcased over 90 profiles of prominent black and Asian members of the Inns from across the globe. They're offering training on equality and diversity and unconscious bias. And Chambers, there are more female Heads of Chambers, which is, I think, important. More women sitting on the important committees and Chambers are actively looking at allocation of work and recruitment. So it is moving, but whether it's moving entirely in the right direction at the speed we would like it, some would argue it's too slow.

Reiss: And I think when we hear about the experiences that you shared with us and there's lots of other stories out there that we've seen, be it on the legal Twitter sphere or in robing rooms, there is definitely, I think most can agree, everyone can agree a lot more that could be done.

Moving now, to your experience as one of the first Asian Muslim women judges, what is your view about diversity in the judiciary? I know you've just touched upon this, but how is that being improved?

Maryam: Well, I've touched upon some of the programs, but actually, Reiss, it's a very good question you've just asked. The reality is that there does remain in those who are often making the selection, although they have real training, there is an examination of the work and there can be unconscious biases that remain in those who make those choices. Although that is being carefully looked at. But perhaps the most basic point is that until you have proper representation and a representation of opportunity to actually get into those cases that actually qualify and get you noticed to make those applications for Silk, and in particular the judiciary, then those sorts of opportunities for advancement still remain out of reach. We've had a whole group of new Recorders just announced, there were a lot of women and members of the ethnic communities within those who were appointed.

But from the figures I've just given you, we are still a long way from where we need to be and Reiss, if I may say this to you, just from my own experience, for my part, it's always been the case that you can't aspire to be what you cannot actually see. So visible representation matters, and it's to reflect a wider society and to allow those who have the talent to come forward and shine and demonstrate their merits. This is now, as you've said, my 10th year as a Crown Court judge. Apart from another colleague, I think I'm still pretty much the only Muslim woman Crown Court Judge. There's very few of us, although it's now improving, particularly with the most recent Recorder appointments. I know for my own part, when I applied ten years ago, I had white male counterparts saying, "Oh, Maryam, you're going to get it. You

tick all the boxes.” Well, I did get it, but I didn't get it because I ticked all the boxes. I got it because I demonstrated my aptitude and my ability to do it. And we are making inroads and there is a real awareness and a desire to change. And for my part, I'm very proud to be the most senior woman from an ethnic minority in these Chambers. I'm very proud to be a judge who has sat for ten years and to do the senior level of work that I do. But, Reiss, I'm not going to say it hasn't been difficult and that I haven't faced obstacles and that there are still matters that arise even now where better education would benefit. But I think if you stand up for yourself and others, that's why I came into this profession, then we can move to a much more representative profession, and to your point, judiciary. We're not there there's much more to be done, but we are making inroads in that regard.

Reiss: Thanks, Maryam, that was very eye opening and I think a lot of our listeners, particularly our applicant listeners, will appreciate your candid and open responses to my questions today. I'm grateful for you sharing that with us today. Thank you.

Maryam: Always a pleasure to talk to you.

Reiss: Thank you to our listeners, we hope you enjoyed this week's episode and Maryam's perspective of life as a woman at the Bar. As part of our inclusivity campaign, all podcasts are now being transcribed and the written text can be found alongside the corresponding episode on Chamber's website.

Until next time, thank you and goodbye.

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