

‘100 years on from the Sex Disqualification (Removal) Act 1919: What is the Point of Diversity within the Legal Profession?’

Nicole Hilton
Second Year, LLB Law, Bristol University

The Sex Disqualification (Removal) Act 1919 was a paramount stride towards reaching equality of the sexes in the legal profession. This provision allowed women to participate in civil professions, including jurors, judges, and practicing solicitors or barristers. Not too long before the passage of this Act, women were granted the right to vote in Parliamentary elections by the Representation of the People Act 1918. The early twentieth century saw momentous advances in achieving equal representation in the civil procedures and practices once dominated by men. In 1922, Dr Ivy Williams was the first woman called to the English bar.¹ Queue the chain reaction. This year marks 100 years since the passage of the Sex Disqualification (Removal) Act 1919, and yet equality in the legal profession has still not crystallised. Diversity within the legal profession needs to be protected and encouraged. This essay will petition the importance of diversity not only in regards to ethnicity, race and gender, but also in fostering diverse thoughts and discussions. On a practical application, this essay will seek to improve both law firms and chambers by illustrating the value of diversity in maintaining a satisfied clientele. On a final note, the lack of diversity in the legal profession may hinder the development of fairness in removing bias from the legal system itself.

There is value in defining diversity before proceeding to explain its significance in the legal profession. The most common conception of diversity is a differentiation of race, ethnicity, age, class and gender. This essay will utilise this general definition to spring into a discus-

¹ ‘Ivy Williams’ (Inner Temple Library, 2017) accessed 18 February 2019 <https://www.innertemplelibrary.org.uk/wp-content/uploads/2017/11/Profile-Ivy_Williams.pdf>

sion on an ideal legal profession that is able to host differing views, backgrounds, and contributions in an encouraging environment. The importance of doing so is valid of a discussion.

The most common argument for encouraging diversity within any institution is the subsequent availability of differing views and insights. Such a generalised statement can be applied to the legal profession with great relevance. The legal system of England and Wales is designed to provide compensation and sanctions in a manner that is unbiased, equitable, and impartial. Lorraine Bannai and Marie Eaton discuss the need to recognise the benefits of diversity in law school and society as a whole. They further this notion by highlighting how a diverse student body is able to “enrich the profession and society by providing lawyers, role models, and leaders to disenfranchised communities and by helping the bench and bar better reflect the populations they serve.”² This discussion of diversity focused on the American legal system, but is clearly applicable to the legal system ‘across the pond’, also. The Common Law system of England and Wales relies heavily on the insights of legal professionals, especially judges and advocates. Lady Hale calls upon the *Feminist Judgments* in her “Equality in the Judiciary” Lecture. She concludes that “a different perspective can indeed make a difference, not only on so-called “women’s issues”, but on the whole range of legal issues which may come before the courts.”³ A diversity of opinions in the legal system will help to produce justice for women and minorities who feel unrepresented. If the legal system remains biased due to the lack of diversity within the legal profession, the law will be unable to cater to a dynamic society.

² Lorraine K. Bannai and Marie Eaton, ‘Fostering Diversity in the Legal Profession: A Model for Preparing Minority and Other Non-Traditional Students for Law School’ [1997] Seattle University School of Law Digital Commons 821

³ Lady Hale, ‘Equality in the Judiciary’ [2013] Kuttan Menon Memorial Lecture

In a constantly changing world, it is important for law firms and chambers to recognise the need to follow societal norms and build a loyal clientele base. A significant factor in the success of law firms and chambers is the ability to satisfy clients. For example, if a female client is searching for assistance with her divorce from her husband, she may hope to find comfort in seeing a female judge, advocate, or solicitor helping her. This is not to assume that men are not as equally capable of such a job as females, but rather suggest that the option for a client to choose who she is most comfortable to have represent her, is simply excellent customer service. The 1919 Act did change the future for women seeking to work in a legal profession, but it was only the beginning in a chain of adaptation that law firms and chambers followed. A main focus of law firms, and surely chambers too, is the ability to satisfy clients' wishes for the company to be 'forward thinking' and change to support societal norms. As reported by the Law Society, "more woman than men are joining the profession' and now make up 48% of solicitors."⁴ This statistic clarifies the real issue: female retention in the legal profession. In reality, maintaining diversity within the legal profession is a significant piece to the puzzle. Rounding out the example, it appears that the solution is not to produce quotas to create a female-dominated profession, but rather allow an opportunity for females to progress, especially when they have families of their own. The point is that diversity in the legal profession is an avenue that can secure client confidence in the ability for the company to provide the best advice and service possible. At the moment, there seems no simple way to 'fix' low female retention rates, but what does need to continue is the support given to maintaining diversity within the profession.

Finally, it is important to address that the foundation of the legal system of England and Wales is built on fairness and non-discrimination. On this issue, Lady Hale quoted The

⁴ The Law Society of England and Wales 'Diversity Profile of the Solicitors' Profession 2015' [2015]
<<https://www.lawsociety.org.uk/about-us/documents/diversity-report-october-2016/>>

Neuberger Advisory Panel on Judicial Diversity: “Judges drawn from a wide range of backgrounds and life experiences will bring varying perspectives to bear on critical legal issues. A judiciary which is visibly more reflective of society will enhance public confidence.”⁵ If the legal systems seeks to rid legal decisions from bias, then the legal profession needs to be rid of such impurities first. A large scope of legal opinion stemming from females and minorities progressing through the ranks of their respective professions, and eventually joining the judiciary, is what is necessary to removing bias and poor decision-making from the development of law. Protecting and encouraging diversity in the legal profession is important to fostering protection of a fair legal system.

Unfortunately, the 100th year anniversary of the Sex Disqualification (Removal) Act 1919 is not a year to celebrate the unconditional equality within the legal profession. Rather, 2019 will be a year of reflection on the importance of diversity within this profession. Hopefully, by answering questions about the existence of such diversity, everyone can help shed a light on possible plans companies and organisations can follow to ensure the observance of equality. The point of diversity is to spark another female equality movement similar to the 20th century female right campaigns. If women more than 100 years ago could propose change and succeed in their efforts, then there is no reason why the same will not happen again. All the world needs is confidence and expertise on issues of equality. No woman or minority group should ever feel discouraged from following her dreams of progressing as a legal professional. As the Law Society proposed, protecting diversity “is vital for the long-term success of the Law Society and the legal profession.”⁶

⁵ Report of the Advisory Panel on Judicial Diversity, chaired by Baroness Neuberger, February 2010, p 4, accessible at www.equality-ne.co.uk.

⁶ ‘Equality and Diversity’ (The Law Society) Accessed 20 February 2019