**Podcast 6 Transcript**

**Sex Discrimination Act – equality in name?**

**Contributors**

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**LA** Lucinda Acland

**HI** Harini Iyengar

**HK** Helena Kennedy

**NR** Nicola Rabson

**LA**

Welcome to the First 100 Years podcast series. Join me Lucinda Acland and guests, as we reveal decade by decade the history and lives of the women in legal sector over the course of the last century. The stories of the courageous pioneers and their struggle to practice law, the incredible rise in numbers of women who are now involved in all aspects of the legal sector and discuss the factors that are affecting the equality of opportunity and advancement to the top of the profession. First 100 years is a unique project set up to celebrate the history of women in law and inspire and promote opportunities for future generations.

We’d like to thank Goldman Sachs and Linklaters who have generously supported this podcast series.

This is the sixth podcast, and we’re half way through the centenary since the passing of the 1919 Act. We have reached the 1970s, a decade which saw an energy crisis, a financial crash and trade union unrest, inflation, unemployment leading to protests and strikes.

But significantly, it included the voices of women campaigning for equality in the workplace, protection from domestic abuse and sexual violence, reproductive and maternity rights and financial equality.

The women’s movement’s rallying cry of the ‘personal is political’ encapsulated the argument that the personal experiences of women are rooted in their political situation and structural gender inequalities**.**There are interesting historical echoes to the campaign for women to be allowed to join the profession that culminated in the 1919 Act – the property qualification for jury duty in the Act was removed in 1974, which allowed many married women to sit on juries; also a judge’s discretion for male-only juries was also removed. This was achieved after sustained campaigning by women’s activism. Women organised meetings, marches and campaigns to fight for legislation to achieve equality- and as we know, the fight still continues today.

Turning to the position of women in the legal profession in England and Wales.

During the 70s, the numbers of women solicitors holding practising certificates started from a very low 3% but jumped to 10% by the end of the decade, however the numbers of women partners is not recorded centrally, so we don’t have that data.  In 1970, 5.7% barristers were women; by 1976 it was 8.1%. But out of 300 QCs, only 5 were women and only two out of 220 High Court Judges were women - Elizabeth Lane and Rose Heilbron and despite their backgrounds in criminal law they were assigned to the Family Division.There were no women appeal court judges at all. This absence of women in the judiciary highlighted the failure to admit women into the more senior ranks. In contrast, it’s interesting to note, that the 1919 Act allowed women to become magistrates and by 1970 around 35%magistrates were women. The main difference being that women were able to start work as magistrates straight away, without professional training or financial outlay. In fact, as was discussed in episode 3, the formal training of Magistrates was something the women implemented themselves.

And ironically, the largest numbers of women doing judicial work do so voluntarily without remuneration.

In this programme, we’ll discuss some of the themes that span across the 100 years, in particular. The background to the equal pay and sex discrimination acts passed in the 1970s and their impact on women; Whether these statutory changes were matched by progress within the legal profession during this decade, and in particular the role of women themselves in law as agents of change;  the visibility of women in senior positions and public office at this time; and bringing  matters up to date in light of current debate of harassment and the gender pay gap

With me today are Harini Iyengar, called in 1999,barrister called in 1999, Bencher at Inner Temple and founding member and the No. 1 candidate for the Women’s Equality Party for the London-wide list for the Greater London Assembly elections in May 2020, and author of ‘*A practical guide to the law of gender pay gap reporting*.’

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Historical context is important in looking at the campaign for equal pay. In 1910, women chain makers formed a trade union, went on strike and won the first minimum wage agreement. In the inter-war years women tram and bus workers also went on strike. Despite the huge mobilisation of women to work during the two world wars, proving that they could do men’s work equally well, the opportunities for them didn’t last. But this did increase pressure for equality in the workplace, prompting an investigation by Royal Commission which found that gender discrimination to be unjust, but it resisted reforms on economic grounds. Interestingly three women wrote a memorandum of dissent, and one of whom was Nancy Nettlefold, who had been one of the 4 litigants in the Bebb against the Law Society case back in 1913 which had challenged the refusal to let women join the professions.

Harini Iyengar how did the Equal Pay Act come about, and what were the aims of the legislation?

**HI** Like so many changes that have helped women’s equality, I think if you look at how the Equal Pay Act 1970 came about it’s a very long story. I cover the cultural and moral origins of equal pay for equal work in my book and also the legal origins, and they’re intertwined, and as you’ve said when we look at feminist history it’s important to look both inside the law and outside the law. So in the wider society I think we can look at changing attitudes towards women. Women’s wages were not their own, they automatically belonged to their husbands until the Married Women’s Property Act of 1870, and then in the Trade Union Act 1871 is became lawful for workers to form a trade union, and those I think were key pieces of legislation laying the foundations for equal pay. And then we’ve got many women, including working class women very active in the early labour movement, including the match women strike of 1888. I think it’s lovely now that the efforts of British women for example the working-class women behind the very important Dagenham strike at Ford. But we mustn’t forget the long slow graft that women did in previous generations to lay the ground for women in the 1970’s to call for equal pay.

**HK** Well it’s important to remember that there’s usually a long sort of precursor to legislation going onto the statue books, and we of course know the great story of the women at Dagenham who you know campaigned and who persuaded Barbara Castle who was then the Minister in charge of employment issues, to actually introduce the legislation. But prior to that there had been quite a lot of activity. You’ve got to remember that the early 70’s, created the second wave of feminism after the first of the suffragettes back in the beginning of the century, and I was very active in the women’s movement and there was this sort of great surge of enthusiasm to look at women’s position in society. And it was partly because the 60’s had introduced many more women into higher education um, you know it was that post-war surge and we were baby boomers and we got the chance of going to university or going into higher education in some form, and women became much more vociferous. And we’d seen the civil rights movement in the United States and started saying ‘yeah well what about us if we’re talking about equality?’ And the equal pay issue was really being argued over for some time before the legislation came through, but it was a great moment, and we imagined of course it was going to bring the change almost immediately. And here we are all this time later and part of it is I think that um, we didn’t recon with the fact that patriarchy is so embedded and the idea that you know women at work is a sort of secondary input into family income and of less value, and also that women tended not to trade unionise quite as actively, and often were in part-time work and in areas where the protections were not there for them, and so I think it’s been a long hard struggle and we’re still not there.

**LA** So Harini, what did the Equal Pay Act seek to achieve?

**HI** What the Equal Pay Act 1970 does is to insert automatically by operation of law an equality clause into every contract of employment between every employer and every individual woman in the country, saying that she won’t be paid less because she’s a woman in nutshell. She then has the opportunity to sue her employer for breach of contract if she can show that she’s being paid less because she’s a woman.

**LA** And one of the effects was to remove separate lower rates of pay for women, but instead of the equal pay for equal work and work of equal value this was limited and further it placed as you say the onus on the individual to bring the claim which put many woman at a disadvantage**.** The Act’s implementation was stalled until 1975 and it came into operation at the same time of The Sex Discrimination Act, and in a nutshell, what was that seeking to achieve?

**HI** In simple language the aims of The Sex Discrimination Act were to give women a formal legal protection against being treated less favourably at work because they were women, and to develop that claim the women needed to show a man in a comparable situation to herself so in other words a colleague at work who was being given advantages or privileges or opportunities that she wasn’t being given.

**LA** We have discussed in earlier episodes, the differential pay and promotional barriers faced by women working in the legal profession, including open discrimination.  This was still the position in the 1970s. For example, Janet Gaymer, in episode five said she received a rejection letter saying the firm was prejudiced on taking women articled clerks; another instance was a solicitor at a job interview who had good private practice experience and a small child and was told she was not considered to be serious.We have also been told that it was seen as a case of a women taking a job away from a man who needed to support a family. These seem very extreme positions.Harini Iyengar, can you set the scene for your experience training to be a lawyer and what your experiences have been in practice?

**HI** I’m the child of two immigrants from the Commonwealth who were invited to Britain to work for the NHS, and unfortunately I grew up hearing stories of race discrimination which they both experienced at work, both direct in terms of very insulting remarks, and also indirect in terms of structural barriers that stood in their way, and unfortunately in my mothers’ case I also heard stories of sex discrimination she experienced. For example, being challenged at interviews for jobs about how she was going to look after her children, being asked directly whether she was on contraception now she’d had 2 children and other outrageous questions which most employers know not to ask women today. And looking back my decision to enter the legal profession was quite random, based on who I had happened to go and shadow in different professions. I also was very lucky because they did a diversity outreach programme from the Inns. Then I studied law at Oxford at Brasenose College and that was a very difficult environment for me coming from a girl’s school which would probably be described as very feminist and I thought that that was the normal. I thought that that was normality amongst well educated people, and it was a surprise to me that not everyone shared those views in Oxford and they were regarded as progressive and sometimes eccentric views to hold. I did a two year research and examined BCL, and then I came to the bar. I did a lot of mini pupillages because I had no-one to ask about different areas of law or what the atmosphere was like, and I was lucky because using my connections from Oxford I was able to come down from Manchester and sleep on lots of different acquaintance’s sofas, and at that time I had two white shirts, and so I used to be washing and ironing them in the middle of the week. So, I was offered the pupillage in 1998 and then I undertook my training on the bar vocational course. During that year I became pregnant with my first son and it was a very difficult time for me because it really wasn’t the done thing, particularly in the tradition Indian community that I was coming from, but also at that time amongst the white British middleclass community it was definitely not the done thing to become an unmarried single mother in the middle of your pupillage, and I will always be grateful that my chambers tolerated me and have continued to tolerate me in my habit of not doing the done thing for the 20 years since then.

**LA** So Helena I know you feel you were really passionate at this time and it would be really interesting to hear your views about the implementation of the Sex Discrimination Act in 1975.

**HK** Well of course it was to end the sorts of discrimination that kept women out of you know…there were clubs and bars and places that were exclusively male, and all those environments often in which women could have the opportunity of you know making their case or finding out about employment and so on. I mean the discrimination was rampant, I have to tell you I qualified at the Bar in the 1972, and as you’ve just said it was at a time when a very small percentage of the Bar were female, it was in ’72 it was 6% and so for a working-class woman as I was coming from Glasgow to study law, I was a very rare bird and I had no connections. And the way in which people got into sets of chambers, and indeed I think into the grand law firms was through connections. I had no way of doing that, and so… and chambers used to say we don’t take women, and were very explicit about it they said this is not the place for women, women are no good at the Bar, they haven’t got the stamina they haven’t got the force of personality, really haven’t got the right timbre of voice.

And it was really only by twisting somebody’s arm and saying please give me this chance, and he said to me our chambers are not interested in having women, you’ll have a horrible time but you can come with me. It was very interesting because I persuaded a very nice man to take me on and he was a man from a Jewish background and he did tell me afterwards that he I was so kind of determined and so insistent and keen to be taken on that he said it reminded me of him and he thought I’m going to give her a chance. And it was very discriminatory, and they did make it clear that they thought that women were only good for one thing if they worked in the law and that was family law. You know you might be able to do divorce; you might be able to do things involving children but really, they did not think that your place was in the higher courts or in certainly in the criminal law. And I was with a criminal practitioner and I really got the taste for it, I just loved being in the criminal courts with him during my pupillage, and that was what got me started, but it was a very tough time for women and there were not very many of us around, and the women who’d made it were often quite tough on us, because you know that thing of they felt that they had a hard time and they felt they had to do it like the men and they didn’t want to hear you complaining, so you would just get on with it and get your head down.

**LA** It is interesting because I know from other discussions that people think if a law was brought in why aren’t the lawyers applying it within their own profession but you’ve just explained.

**HK** Well let me tell you it does take time for a law to actually have a purchase on society. I have absolutely no doubt that changing law is a very powerful tool for social change, but it does take time to see the impact of it.

**LA** There have been studies which show a correlation between low pay and female dominated areas of law, which included social welfare, employment and family law – areas in which as a 2013 Legal Service Board report pointed out, women are historically over represented. These areas are generally lower paid than the business and commercial spheres**.** Harini Iyengar, from the perspective of employment law being a relatively new area with a definite gendered emphasis, what has been your motivation to work in this area? And I do know that you have other practice areas, but I’m interested in you telling us about your experience of working in the area of employment law particularly.

**HI** For me personally I came from an interest academically in human rights, I’d written a BCL thesis about freedom of assembly and around that time The Human Rights Bill was turning into The Human Rights Act and it was a very exciting area of law. Nicola can I ask you what was your motivation to work in this area and I’m interested in you telling us about your experience of working in the area of employment law?

**NR** Well Number 1 I get slightly irritated with any area of law being associated with one or the other genders, particularly because quite often it’s used to devalue that area and your achievements as an individual within that area. But I was not necessarily – well I was not drawn to employment law per se I went into train and I did think I wanted to do family law, I sat in a seat and I had never been so bored as I was in my family law seat, I just thought actually this is not for me. I loved litigation – largely because of the person I was working with and my experience of the cases and then I sat in employment and I had a great experience doing quite a lot of litigation, it also enabled me to do advisory and corporate work, so it gave me the whole breadth it was also human, there was a contact with people you knew what you were doing impacted an individual, whether that was individually or collectively you knew you could see it, and that was quite different to my experience in corporate where you are dealing with the entity rather than the person, although of course people are impacted by corporate law as well. So that led me to choose employment law over litigation. And then from there I just wanted to do it really well. Anything I do I want to do as well as I possibly can, and I had a lot of clients, yes the…the majority of those were women um, again something that irritates me somewhat is the idea that HR is largely female, and then what you get from that is people extrapolate well it’s soft skills and then what you get from that is soft skills are easy skills actually – that’s all wrong but leaving that aside. It’s interesting because I do consider myself to be a business person who does employment law.

**HK** yes

**NR** And quite interestingly that human connection I also get a lot of that in my role as a manager of people.

**HK** yes

**NR** and I really enjoy that as well I really enjoy being able to structure the team talk to the team incentivise people to be the best lawyer within the practice as they can, and structuring it and working with people making sure that your that you care for them. I think caring for people is underestimated in the corporate world actually.

**LA** And Nicola, I’m touching on the point that you’ve described yourself as a businesswoman who deals with employment law. In your time as a partner have you noticed much deb… evolution of that um, managerial skill or is there something that you feel that you’ve been able to bring in in your time?

**NR** I think things are changing all the time, I think things are changing all the time, I don’t think there’s a moment in my partnership I think well we’ve got this all sorted or things changed significantly at one point. I think things are changing all the time, I think things are changing all the time, I don’t think there’s a moment in my partnership I think well we’ve got this all sorted or things changed significantly at one point. I think, there is a recognition at the top of most business businesses now, and some of this is by reason of the law and the gender pay gap regulations coming in, but there is a recognition that number one they’ve got to speak about it, which I think is the first thing you’ve got to get people talking about it as an issue, and then people are actually recognising that once you talk about you’ve got to say you’ve got to do something, and once you get senior people saying they’re going to do something then you can hold them to account. And I think what you’re seeing in the law firms now is an acceptance that there needs to be more women in the senior ranks and an acknowledgement that women bring a different dimension and contribute to a successful business. So, what I have seen is that we’ve got targets in place, do I think those targets are where they should be? No. But that’s good because we’re aiming to promote more women. We’ve got more women in senior ranks so there are more women to look up to and say I can be that individual, I didn’t have a mentor when I was coming through at all, once I got into the partnership there was a female partner that I got to know and that made such a difference to me, so there’s more female partners that you can get to know and see that there’s not one way through, there’s no right way there’s no wrong way. There are networks in place, there’s just more activity more discussion more acceptance that we need more women, and there are certainly more women in management positions as well.

**HK** But what’s interesting now is that it’s on the agenda it’s there, the new young women who are coming through and you Nicola and different people have made the difference in that you know that it now is a mainstream thing and that’s what’s so wonderful, here we are a 100 years on, it’s part of the mainstream discussion, what are we doing about making sure that women are not handicapped in their move to the higher ranks of law, or any area of our lives. That’s the great change.

**NR** It is but I will mention one thing that is very irritating. So, the employment and incentives team the partners in the global partnership is 30% male, which is the target for women partners. In London it’s an all-female partnership. The number of people that raise that and question it, not just internally externally as well, it’s extraordinary.

The fact that there’s all these male teams all over the city, that never gets raised, but you know the fact that there’s an all-female team.

**HK** oh there’s something weird about that.

**NR** I think there’s an issue. It is interesting I mean we haven’t got there by any means at all but the fact that it’s so clearly on the agenda and young women are not putting up with stuff that previous generations did where we just had to get on with it, and that is fantastic and I am absolutely side by side with them and I really do feel disappointed when I hear older women not being supportive of young women isn’t it miserable?

That is I think that is a real indictment on those women, I have come across a few women in my career where they have not been supportive, indeed you could even say they have been actively unsupportive.

**HK** I recently published a new book on women in the law and um, I was waiting for the…there was going to be an event in a bookshop, and a woman came and saw I was there and I saw her looking at me and then she came up to me and she said in a very highhanded way, she said I want you to know that I’m a lawyer and I have never known a day’s discrimination in my life as a lawyer. And I said well that really is lucky and I'm glad for you, but you tell that to some of the young women coming through now or young black women or young women from minorities or you know, and I can assure you that it isn’t the same story for everybody. But it was just that that business of feeling you know that somehow this was a lie, that when young women complain about what happens to them that they’re being you know snowflakes and it’s not true, there’s still discrimination.

**LA** Why do you think that might have happened? Do you think it’s possibly because, I mean one of the things we’ve uncovered since with the earlier stories that women, some of the early women felt they had to be as much like the men as possible and so not perhaps disrupt this sort of ideal of what a barrister was, and so it worked if they played the game but if you challenged that then then you stood outside. Do you think it was a case of that?

**HK** Yes You’ve got to remember that for the most part, you had to learn to play the game in the way that the men did if you were going to succeed as a woman and, and so we all, you know my generation we all learned to play the game and do it that way. And then you know we would sort of declaim it – I mean certainly I was disclaiming against it, but I was very conscious that I had to make sure that I was doing it as well as if not better than my male colleagues. And I think there are a group of women who you know, there is that queen Bee syndrome which is that it’s rather nice to be the special woman who people say is exceptional you know, that so and so and so on, of which she is absolutely in a class of her own she’s not like you know, and that’s why she should be promoted. Something very seductive about that to a woman to be seen in that way and she’ll look around and think well I am special and perhaps these other folk are not quite as special as me. You know you can be you know drawn in to that way of thinking. But there are also ways in which women started to be successful had to think as the men did and had to measure success and what was an attribute um, as you know. You’d often hear women saying I don’t want to be made a judge unless it’s on merit you know and of course you have to then say but who decided what is meritorious? Who decides what the standards are? Who decides what’s good? And recently a young woman came to me and she had been trying to get an appointment to a fairly you know the first step on the ladder to becoming a judge and someone had said that she didn’t have enough authority. What does that mean? Did it mean she had a loud voice and was able to say sit down you know to people who were who were being a nuisance, it was just so, it was so ill-defined and you know it’s because the picture of a judge is male.

**LA** Now I wonder whether that’s one of the root causes is the 1919 Act women were allowed to join so they were allowed to join what the status quo was rather than it being OK what does it mean to have women coming in and opening up it seems to me that there’s….there’s a little bit of that legacy coming through**.** Professor Mossman has written in ‘The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions’ the ethos surrounding professions in the public sphere having its roots in the male 19th century notions, dominated by men: male networks, family, education, class and social practices, and the profession seemed to be resistant for a number of reasons and these persisted even after women were admitted in a number of forms. You know women’s academic ability could not be challenged, they were getting through degrees they were reaching the academic standards, but we do now that there were blatantly ridiculous excuses about there not being lavatories in chambers or firms as to why they couldn’t progress, or the wives wouldn’t like it. And actually, a personal favourite is from one of the Inn’s where they said there won’t be enough cheese if women join.

**HK** Really, we were the cheese eaters?

**LA** And you mention there Helena he pupillage by the 1970’s was difficult but wasn’t so much the problem the bigger problem was getting a tenancy which is obviously when people start to establish a practice and earn their money. Could you tell us a bit more about that?

**HK** Well of course we were very dependent on there was a system where everyone was self-employed but there’s a clerk system, and the clerks um, you know used to um, put briefs in people’s directions, they didn’t want women in there because they felt you know women were not a…. They used to talk about their stable of runners and riders you know, and they…they used to say that a woman wasn’t a good bet because the chances were you know she would go off and get married and she wouldn’t….she might have children and so on and you certainly didn’t want that. And so, you know they would ask people quite blatantly you know have you got a boyfriend and are you planning to get married and all sorts of things. So when I finished my pupillage I got together with some friends who were in other sets of chambers and we set-up the first equal set of chambers, there were 3 men and 3 women and one of the women was a gay woman and an out gay woman, and we set-up a set of chambers and we managed – I have to ashamedly tell you, or I’m not ashamed at all, I’ve pinched from the noticeboard in Middle Temple Lane a little notice saying ‘two rooms suitable for annexe’, and I’ve pulled it off the noticeboard so nobody else applied for them, and we turned those two rooms in 7 Stone Buildings in Lincoln Inn into a little new set of chambers, and let me tell you it has grown and grown um, and while I’ve gone off and set-up other chambers it is now a big set of chambers in Lincoln’s Inn fields, Garden Court.

**LA** I think Helena you have said it was also radical that you paid your clerk a salary?

**HK** Yes, we did.Because what we realised was that if the clerks were all getting you know 10% of your earnings and sometimes even more than that then they were going to choose the people that they thought were going to be the best bet to increase their earnings, and they didn’t think women were going to do that for them, and they certainly. We also were into the business of representing those who were not so well represented, and so we were… looking after battered women and poor folk and juveniles and so on, and so there was not real money in that so um, we know there would be a drive to take us away from the very work that we wanted to do, and if people get a percentage of your earnings then they might have other purposes when they chose, when work is selected um, when the phone call comes in do they take this or do they take the better paying thing? So, we wanted to be in control and so we paid salaries and we still have done and in fact that’s because much more of a regular thing at the Bar nowadays.

**LA** You joined the Bar Council, in the 1980s can you tell us about your motivation to do that and what it was like? Well in the late 70’s I with some other people we wrote a book called ‘The Bar on Trial’, and it was about trying to modernise the Bar and it was published in 1978 and I wrote the chapter on women and um, in fact a set of chambers, the head of a set of chambers threatened to sue me for libel because I told the story which was a true story of…of you know a women being told that you know she wasn’t a good bet and therefore she shouldn’t apply to the set. But what happened then was that um, I was saying look at the numbers, look at the problems that women are having getting into sets of chambers getting tenancies and why where so few women being appointed to judicial appointments and so on. And….and so I went to see the head of the Bar to talk about it and he said Helena the only way that you’re going to get this kind of change is you have to come stand for election and come onto the Bar Council. And so, I did. And at that moment at the same time, was created I think it was probably the early 90’s The Association of Women Barristers and that came out of those arguments. But the 80’s was a moment where there was denial that there was discrimination, and then in 1991 I wrote that the book that talked about the Bar and so on, and lots of young women all will say that it was important to them that it was written in that they thought I’m going to be a lawyer too. And Nicola is nodding at me and she told me before that it was one of the influences.

**NR** No um, Helena’s book, I mean your book was so important to me, my dad I was 17 and he’s always been instrumental in me and incredibly supportive in me. He never…I never...He never questioned anything um in relation to what I could do. So, I was brought up with this sense of support, I could do what I wanted, and I wanted to be a lawyer, and this book the book comes out from Helena Kennedy QC ‘Eve was Shamed’ and my father buys it for me.

So I get to the end of this book and I think of course I can be a lawyer, and I’m going to go and be a lawyer and I think there’s two things about that – the importance of one women who I didn’t know, I’ve only met her today, in my decision-making, and also the importance of a man. So, having that champion behind me telling me - of a different gender, now obviously that’s my dad but in a workplace it’s equally important to get vocal men who support you and support what you want to be as a woman.

**HK** It’s lovely when I hear from young women that the book made a difference for them um, but, but I do think that this business of the rule of men in empowering women is so important

**LA** We’ve certainly heard in earlier podcasts about how the pioneering women always had to rely on other men friendly men, male legislators to get the Act through because obviously at that time they weren’t able to do that and certainly we have heard of other women who’ve had male mentors so it is what you say is absolutely right. And now turning to a sort of wider topic of networks if we can um, and you touched on the Bar Council and the Association of Women Barristers being set-up, actually that’s some 70 years later than the Association of Women Solicitors being set-up. Nicola can you tell me about your experience of networks? And as a champion of networks today?

**NR** I mean my personal experience actually I wasn’t involved in networks as I was coming through, largely because I was too busy doing my job and trying to raise the children as well, so but there also weren’t that many networks, so I think they are important places, I think they give you a space where you’re safe and you can go and discuss issues together. They’re the people that can make the greatest difference and the quickest, so I set-up an Ally Network at Linklaters in relationship to LGBT and that network has mobilised executives. The range of people at Linklaters to support our colleagues, and that makes a big difference not only to the group because they see this champion they see these people that support you, but also from an education perspective um, you can suddenly start to educate individuals who don’t have that characteristic as to what it means what it feels like, experiences, what the differences are, how you can make it different.

**LA** Harini Iyengar what has your experience been of women’s network in the legal profession?

**HI** My experience has been that the absence of women’s networks early in my career was badly felt by me. One of the things that happened to me then as a lone parent I did have my first baby during the middle of my pupillage and I returned to work after 4 months and I worked very hard and I was really lucky because I got my tenancy. I then over the next few years had 2 more children and when I returned to work in 2012 after my third and final maternity leave. I really wanted to fill some of the gaps that I’d experienced, to fill them for younger women. I got involved as a mentor with City Mothers which then became City Parents, and I found that very fulfilling because I can’t change my own experiences now, but I wanted to change things for the younger generation of mothers both at the Bar and in other city jobs. And then a major event for me was that the Temple Women’s Forum was founded, Middle Temple initially founded it and then Inner Temple decided to come in. I went to one of the early meetings and was really impressed. We always have networking drinks afterwards, and at one of those events some very junior barristers were talking to me and when they found out that I had 3 children they were quite surprised and they said somebody like you should be on the committee, and we would like to hear from people of your generation not just from the very senior judges. And because of that reverse mentoring from someone who was very junior in a commercial chambers I wrote an email saying that I’d like to offer my services to the Temple Women’s Forum and then I had an interview and I was given a place on the steering group. And that has been a really wonderful experience for me; it’s allowed me to connect with a lot of women from different generations across the bar in different areas of practice, with a really wide range of social backgrounds, races, sexualities and different life experiences.

**LA** It’s interesting that you mention reverse mentoring because that’s certainly a really active, positive thing that many law firms are taking on board because the generational difference and maybe the cultural different experiences, they have no concept of, so I’m pleased you mentioned that.

**HI** I think that if we want to see cultural change and we hope that it’s happening, it’s going to happen probably with the youngest people and if we don’t connect with the youngest people and understand their points of view, we won’t be part of the cultural change.

**HK** I remember I was the head of an Oxford college and the number of women who are the heads of colleges at that time was small and so we used to have a regular breakfast once every term and we used to gather together. It was interesting because I found that women were much more inclined to talk about the problems they had.

**NR** Can I pick up on one thing that you say there which I think I personally think is very important and I try to be like this with my colleagues and women, is I try to be honest and as open as I possibly can in relation to where I failed, where I found it very difficult, where I’ve had challenges that I actually haven’t got right or hadn’t got through, because I do always think there’s a danger when you’re a junior person looking at a senior person that you think they got there quite easily without many problems along the way or actually, they’ve always enjoyed it etc. So, I think it’s quite important to be open and human about the issues you’ve faced when you’re speaking with…

**HK** One of the things that I do think we have to talk about in terms of the legal profession is um, that um, it is hard with children

**LA**I think that’s absolutely right you know; women often find it’s at this point when they have children that they’re facing decisions that men don’t have to in the same way. And certainly, historically in terms of career absence, parental responsibilities and their career ambitions as a whole. I think the point you make Nicola about being authentic visible person day-to-day is really powerful, not just subscribing to a list or a network. If people can see how you’re managing day-to-day and are honest about various things that happened that is that is terrifically powerful and I think in that way women don’t perhaps even know that they are visible agents of change, but just by being there and sticking at it it’s important. And I think this leads me on to talking about when Timewise named you as one of the power part-timers because you had your first child in 2002, when you were still an associate. What was your experience of that time?

**NR**  Well amazing in many ways. So, I had just commenced my career at Linklaters and I was pregnant and I was quite worried about telling them I was pregnant I have to confess but I was delighted I was pregnant. But it never crossed my mind that I wouldn’t return to work; you know people say did you have a choice? I didn’t have a choice because it was never a possibility that I wouldn’t work for me.

**HK** It was the same for me.

**NR** I just didn’t you know, didn’t consider it. But what I did consider was the fact that I did want to work part-time, I wanted to work 4 days and I knew that from the beginning of my pregnancy actually. And so I approached my head of the team and said I was pregnant and said at the outset I want to work part-time, and you know openly I would be prepared….I would have been prepared to leave had they not allowed me to and I was you know fortunate at that time they said yes. But it wasn’t that easy in that he said but said I had to have a different phone, have to have a phone in my home where my work phone was diverted to, so no-one knew I was working part-time, and it was on a Thursday I was meant to ‘not work’. I had a colleague Kate Varah who’s now the Executive Officer at the Old Vic actually, and she approached me after – when I was pregnant with my second because I had them relatively swiftly, and said I’d really like to do a job-share. Ideally she wanted to do work outside of the law in 2 days in our corporate responsibility unit and 3 days in the employment team, and so we put together – again we never thought about the possibility they might say no we just said right what have we got to do to get this through? We produced a presentation and presented it and then we worked a job-share for a period, she then left and then I had a male job-share partner, and then I went back to 4 days. But again I know I’ve used the word privilege already but I do feel that I was privileged to be able to work those patterns. I don’t think you should underestimate. I think people can be naïve about what it means to work part-time, so quite often I would be working on my non-working day, but for me at least and I think it’s an individual question whether or not it’s acceptable to you, for me that was acceptable because I just wanted to be there occasionally to pick-up my children from school at the end of the day and do the ‘normal’ stuff that some parents were able to do. And then now I am full-time again

**LA** So it’s communication and trust and transparency about what anyone’s up to is important, so there has been a shift from just basically being seen in the office. And it’s something that will allow women to progress in a way that they have historically had to play the male ideal.

**LA** I’m interested in hearing about how you all perceived yourselves as lawyers being agents of change?Harini Iyengar you are a Governing Bencher for Inner Temple. This is a senior role what does that entail and how do you see women as being Benchers as having an impact in practice.

**HI** I’m so happy to be a bencher, and what it means to me is that all the hard work I did as a member of the steering group of The Temple Women Forum got recognised when I became a bencher, because the main thing I think I’ve contributed to the Inn is as a member of that steering group, and also I’ve been involved with the oral history project. And I hope that’s opened up a conversation with other women who are saying you know she’s a bencher, I can maybe relate to her more than the stereotype in my mind of who a bencher is, and I’ve also tried to open conversations up straightforward conversations about if anybody is interested in becoming a bencher that I would be ready to talk to them about how it happened for me, and if there’s anything I could do or any introductions I could make to make it happen for them.

**LA** I’m struck that you still refer to yourself or have to refer to yourself as a Master of the Bench.

**HI** I’ve got a coat peg with a label saying Master Iyengar, I must confess I took a photo of that.

**LA** Excellent, and I also know from work that First 100 Years have done is that the first female bencher ever appointed was in 1965, which was Elizabeth Lane to Inner Temple, and as was customary when somebody was appointed to be a High Court Judge but that that wasn’t without its controversy, that even though she’d jumped through the requisite hurdles there was still a debate about whether she should become allowed to join that echelon.

**HI** I think the visibility as well as the membership of women in the Inns of Courts is really profound. I was very lucky because Brasenose college did a project, the junior common room did a project to show images of women when they were commemorating 40 years of women being allowed to be admitted to the college, and I was one of the lucky women voted to have her portrait taken, and Bill Knight the photographer came to take my portrait and it was the first time that had happened to me and I was very nervous, and I had a discussion with him and also the archivist at Inner Temple, I really wanted me to be shown as a barrister in the Inn, and we couldn’t really find a nice portrait of a woman looking feminine which is how I feel as a barrister and as a human, I couldn’t find a portrait anywhere in the Inn of a woman looking feminine and when eventually the portrait of the Lady Justices went up which is now in hall, and Liz Gloster who’s been an informal mentor to me is one of those women depicted, and I’ve been lucky to get to know the other women depicted. That was very profound and symbolic to me, and I know that younger women entering that hall for the first time feel very differently when they see that picture of senior women, and those women also chose to dress in a modern way not in a way that hid the fact that they were feminine women.

**LA** And that’s a nice update from your description of your experiences doing your mini pupillages where you felt there was a definite rigid you know hallmarked this is what a barrister looks like and it’s good that we’ve been able to move on from that

**HI** Yes it’s really lovely to see those changes in the profession.

**LA** Harini Iyengar your career combines practicing as a barrister and your public political life as a founding member of the Women’s Equality Party. Can you tell us about your…your experience of what lead you into this public arena and how where you motivated if at all by your experience of being a woman lawyer?

**HI** I was very naïve when I came to the bar because I had been brought up at… school and at Oxford on this ‘you go girl’ kind of philosophy which is it you just have to study and be the best academically, you just have to have a great CV and improve your skills and then all opportunities will come to you. And as I practiced for longer, I realised that it was really not that straightforward, a lot of marketing and relationships were involved and I needed to improve my ability to compete on the who knows who side of things. Also my experiences as a woman as a mother as a lone parent as a barrister, second generation immigrant barrister, these showed me that there are also structural barriers to me and I couldn’t any longer just look at what the most successful white male role models had done, it took too long I think for the penny to drop for me that I couldn’t have the kind of careers that my role-models that were older white men had had because our lives were totally different.

When the Women’s Equality Party was founded I went to the policy launch in October 2015, and I was really blown away by the good quality of the policies, and in particular on equal pay, the women who presented the policy at that policy launch was a woman solicitor whom I regarded very well, and I couldn’t imagine that here was a real political party that had such an expert policy on equal pay, and it was equally expert in other areas.

I then took part in the most amazing selection exercise I ever had whereas somebody who didn’t have any networks in the party I was able to compete on the basis of not only what I’d achieved professionally but also my life experiences were valued and there was a space for me to show what I’d learnt from my life experiences as a whole.

Every time I've stood for election for The Women’s Equality Party my childcare has been paid, and it’s the first time in my life anyone ever acknowledged that I had childcare expenses and that they were high. And I feel so nurtured and supported in that environment, and I hope that I’ve done my best to gain from all the opportunities that were given to me. I stood for parliament in 2015, I stood for Hackney Mayor and two local council seats in 2018 and last week I was really thrilled to learn that I’ve been selected as our no.1 candidate for the London-wide list in the Greater London Assembly elections for May 2020, and we are all hoping very much that because of the system of proportional representation, that will be an opportunity for me actually to get elected.

**LA** Sounds very exciting.Despite the fact that we’ve had for nearly 50 years now legislator against discriminatory practices in the workplace for harassment and to address gender pay gap, these still blight the lives of many women and in the legal sector too. Helena Kennedy you’ve said in your book that the #MeToo movement is a form of civil disobedience of sorts. Can you explain why you say that women turn to social media to try and voice their views?

**HK** Social media has provided a space which in fact has been in many ways rather supportive for women who have experience abuse because, you know there’s a sharing of experience.

And so it’s been positive in that respect, but it has also created this space in which women that felt let-down by the law have now found a mechanism for taking down men who’ve abused them, bosses who have humiliated them, and sometimes it’s not even sexual or sexual touching it’s something humiliating them about their size, about you know and commenting on their clothing and commenting on the size of their behinds or their breasts or whatever, asking them about their sexual lives with their boyfriends and asking them the sort of questions that are crossing boundaries. And so, women have found a way of using social media and the internet to call down you know abusers – often anonymously on their part and so I’m saying it’s a form of civil disobedience because it’s saying the system hasn’t worked for me,

I don’t want to see men being pulled down in the way that it’s happening, because every so often there’ll be somebody pulled down who really has been pulled down unfairly because you know somebody has made it up about them or has, totally misread their conduct or whatever, and so It’s as discomforting to me as a lawyer but I also understand why women do this and are turning to the internet for it, so it is civil disobedience it’s throwing a brick through the window of the law courts and the legal system.

**NR** It’s also good that the regulators have got involved in this space as well you know so you will have seen probably that the Financial Services Regulator the FSA has become very vocal in relation to this, it is openly saying culture matters, it is saying that financial, s non-financial misconduct is equally important as financial misconduct and it wants to know about that type of misconduct in the businesses that it regulates. That’s important too that there’s 3rd parties looking at these businesses and saying we will take action in relation to that business if we find out this conduct is happening there. That makes a difference to the way businesses are run.

**LA** I think that that’s right because just looking at the legal sector, to have clarity about what is, permitted it just has to be done. I think Nicola you have had two involvements with the Linklaters Listen Up campaign focusing on whistleblowing and also as you mentioned the Women Inequalities Committee on sexual harassment has looked at various other regulatory authorities and they’re going to be taking that further.

**NR** Well the Listen Up campaign was something I did in relation to the wider world, so that was about putting the focus on no, just getting people to speak up and raise concerns but making sure people were trained so that they heard the concerns and knew what to do with them when they actually heard about them, because unless someone raises an issue and nothing is done with it then you’ve failed, then you might well need to use social media. So that was really focusing in on making sure that people were able to hear what concerns were being raised and then using the right processes, going to the right places to ensure that they were dealt with. And then when you’re advising it’s quite interesting isn’t it cos obviously I advise my clients in relation to these things but also I’m a partner at Linklaters so co-owner of a business and um, we know also have a hotline to ensure that we find out about issues raised within our own business and know what to do with them.

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It is the business of women feeling that for far too long they’ve been silenced and haven’t been able to find you know people to listen to the horrible things they’ve experienced and….and um, we’re now breaking all of that down. Is… It seems to me that these things exist much more readily inside the hierarchical organisations you know or…or professions or systems you know, where you can’t….your....your….your movement upwards is going to depend on the goodwill of people, or getting briefs as a barrister depends on the goodwill of solicitors and so therefore you aren’t going to slap somebody’s wrist too…too often if you think that work is going to freeze. And so there are those problems and….you know when we’re talking about working in teams and working together and so on it….you know people know each other and there’s trust, it changes the atmosphere and when the financial services authority is talking about cultures there are cultures in certain workplaces that are – which allow this kind of thing to go on, and where the sort of the men laugh together. And I think that you know, what I’m saying in my….you know I’ve been saying in my most recent writings on this is that you know we rely….mean have got to step forward on this and start calling out their part….their colleagues and so on saying that that’s no good Joe…you don’t talk about women like that and….and start saying that this is unacceptable because it’s….we’re all you know….we’re all seen as complainers about it, it’s got to be name calling at other men. And I think that is beginning to happen…

**HK**

**IN** And I think….and that will change the culture, but in there….there are certain areas and particularly when they’re hierarchical or if its police forces or armed forces or….or you know organisations in which you’re really dependant on the goodwill of somebody senior to make your career happen for you and then you are silenced. So the…..I mean that problem, you must know all about this, is the use of non-disclosure agreements has really been a mechanism for shutting women’s traps on all this you know you’re not going to….go out of this job you know, you’ll then get a pay-off but you’ve got to keep silent on it. And then we don’t know the extent of it.

**NR** I agree I mean the NDA issue is a big issue I think, I mean it’s being consulted on at the moment and how that’s going to be managed, clearly you need to be able to have an agreement in place just as much for the individual who’s raised the complaint as the entity that’s settling, but nevertheless that has been an issue in the manner. It is incredible what was contained in some of those NDAs. You’d agree the extent of control that was exerted to ensure that that women never raised that issue with anybody – even their doctor.

**HK** Yes they weren’t allowed to…..the end to the agreement it would be if you ever seek counselling you have to get consent you know from the other side of the agreement you know the…the….the company that you were leaving, you’ve got to get their consent before you can have counselling from a therapist because you’re…you’re….you’re struggling with the whole way in which you feel it’s affected your sense of self-confidence, the way in which you sometimes women have you know real, real trouble with the things that has happened to them

**NR** And it shows you how important the lawyer is you know, in order for it to be a valid settlement agreement the individual has to have a lawyer representing them, now for that lawyer to – a lawyer representing the individual that allowed their client to sign-up to an agreement that contained that individual to that extend, I mean clearly it needs to be dealt with by the Law Society and regulations.

**HK** I mean that’s not a lawyer who’s been respectful of the human rights of their clients and recognising that there could be a need as they go forward and it shouldn’t be constrained by whether Harvey Weinstein is going to permit it to happen.

**LA** Well it’s an abuse of power isn’t it in its grossest form.

Nicola the gender pay gap in Britain remains one of the highest in the European Union with women earning 15.5% less than men. The continuing difference between men and women is the most dramatic example of inequality for women. In the Law Society survey there was a striking 60% of respondents who said they were aware of gender pay gap in their place of work. Indeed some of the city law firms heavily criticised. What do you think Nicola is the situation now?

**NR** I mean you know the regulations are very clear so the gender pay gap regulations you don’t have to include partners in that if they’re not employees, and so lawyers by their very nature want to comply with the regulations and went out and disclosed the gender pay gap without including the partnership data. Now for me it is blindingly obvious that the purpose of the gender pay gap is to look at what the pay gap is, not working out who doesn’t get caught by the regulations, so Linklaters did disclose what the pay gap including the partners, because obviously if you take the partners outside the gap is much smaller – well it’s not necessarily that small but it is much smaller, and I think my view on this is the law firms should be disclosing the gender pay gap including the partners, I think that’s very simple. I think all professional services should, and I think the regulations should be amended to make that clear.

Going forward the gender pay gap, as I said right at the beginning, it’s about putting it on the board agenda, it’s putting it at the top of the business, it’s making people aware of the fact that there is this gender pay gap and then articulating what are you actually going to do to make a change in relation to this, why is it that your lowest paid group of people are predominantly women – look at it, understand it. Why is it that you’re predominantly male at the partner level? What can you do to change that in the short-term the medium-term and the long-term? Put those goals in place, articulate them put them out there in the public domain and then be held in account. And so I think the fact that the gender pay gap has got this conversation happening is a good thing happening I would like to see it widened beyond gender and indeed it will be at some point, it’s not the only characteristic that matters but it is obviously important but it’s a good thing all-in-all.

**LA** Well thank you to our guests, Harini Iyengar, Helena Kennedy and Nicola Rabson and to you for joining us. You can subscribe to our podcast at First 100 Years via our website, iTunes or Spotify, and do follow our news of our events on Twitter. And we’d also like to thank again our sponsors Goldman Sachs and Linklaters. Goodbye.

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