

Podcast 7 Website Transcript

Rising to the top

Contributors

LA **Lucinda Acland** - researcher and interviewer, First 100 Years

DG [Diana Good](#) who was a litigation investigations lawyer at Linklaters LLP for 30 years. Diana was also a part-time judge sitting in the criminal courts for 11 years. She chose to retire from Linklaters as a senior partner in 2008, in order to work in international development with a focus of governance and access to both justice and education. She was a founder commissioner with the UK Aid watchdog – the independent commission for aid impact and is now a specialist advisor to the International Development Committee in the House of Commons. She has also worked in access to justice and education in London as the Chair of the Mary Ward Settlement.

DL [Dorothy Livingston](#) who has 37 years' experience working in financial and banking law, EU and competition law. She was a partner at Herbert Smith from 1980 – 2008, a founder of the firm's finance division and its competition regulatory and trade department. And is now a consultant and lead of Herbert Smith Freehills Brexit focus group, and Chairman of the Financial Law Committee of the City of London Law Society. It was her photograph, as the lone woman partner in a group photograph in 1982 that was an inspiration for the First 100 Years project.

ER [Erika Rackley](#) who is Professor in Law at University of Kent. Erika's research covers law, gender and feminism with a focus on judicial diversity, the nature of judging and feminist legal history. As well as her own published works, she has co-led large collaborative projects such as the Feminist Judgement's Project and the Woman's Legal Landmarks Project, published earlier this year in 2019.

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 seventh podcast in our series, and we've reached the 1980's, a decade characterised by the premiership of Margaret Thatcher as the UK's first woman Prime Minister. It was one which saw the Falkland's War in 1982, prolonged and bitter trade union strikes, the right to buy policy on state home ownership, the privatization of nationalised industries and the de-regulation of the financial markets. It was also a decade where other women started to be visible in leadership in the public arena. For example, in the 1980's Baroness Janet Young was the first woman leader in the House of Lords, and Mary Donaldson was elected the first woman Lord Mayor of London.

In the legal sector a few women were achieving senior positions in law firms and great visibility as leaders. But there was little progress for women at the Bar. In terms of numbers, at the start of the decade women made up around 11% of solicitors, 10% of barristers and only 17% of QC's. And in 1983 only 4.5% of partners were women, and there were only 4 women High Court Judges.

In this programme, we'll be discussing what it was like to work in a city law firm in the 1980's and the process and reflections of achieving partnership. The impact of reforms to the process

of appointing QC's and judges, the effect a more gender representative judiciary would have on the quality of decision-making, and whether we should the tests for merit for senior positions to achieve greater gender equality at the top of the profession.

With me today are Diana Good who was a litigation investigations lawyer at Linklaters LLP for 30 years. Diana was also a part-time judge sitting in the criminal courts for 11 years. She chose to retire from Linklaters as a senior partner in 2008, in order to work in international development with a focus of governance and access to both justice and education.

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At the start of the decade there were around 4,000 women solicitors with practising certificates, this rose to some 12,000 by the end of the decade. Now at the start of the 1980's both you Dorothy Livingston and Diana Good were working as lawyers. Can you briefly describe what made you decide to be solicitors and your experience as junior lawyers? Dorothy?

DL I decided to be a solicitor when I was at school because I had a lot of encouragement and also a family background in the law. I then read law at Oxford, so I was sort of ready to go on, it was the easiest thing to do, and after a number of applications to firms who turned me down because I was a woman Herbert Smith who had the odd woman in their firm, did offer me articles which was very pleasing and basically that was the foundation of my career because I've been there ever since. As a junior lawyer I did have some experiences which perhaps represented my unusualness in that our office manager, a man with military background who was responsible for placing trainees, placed me with a woman wherever he could find one which was only 2 out of 4 seats and that was rather scraping the barrel I think which tells you how few women there were around at the time. I was very fortunate on qualification offered a position working with Lawrence Collins, who is a wonderful lawyer specialising in private international law, who went on at the time to break some barriers himself and one of the first solicitor QC's, one of the first solicitor judges and rose to be the only solicitor who's ever reached the Supreme Court.

LA Diana Good I understand that in the past you have acted alongside Rick Mayall and Rowan Atkinson. Acting's loss was law's gain. What was your inspiration to pursue a legal career?

DG I did act with them as a student. I did want to act, but I didn't, I didn't have the wherewithal to do that I had to earn some money. And I also like Dorothy had decided that I wanted to be a lawyer at school, I was inspired by a weekend course I went on at Kingston Polytechnic where a fantastic black defence lawyer was very inspiring, but I did land up doing law at Oxford which was a more staid business, but I was very supported by Ruth Deech who became Baroness Deech in going for it. I had absolutely no connections in the law and knew no lawyers at all. I applied to Linklaters because you couldn't call it an advert, but anyhow the information that was provided said 'please do not waste either our time or yours by applying unless you consider yourself to be of outstanding ability.' And I thought well I'll show them. And my father said you've got to dressed as much like a man as you can, which was difficult of course since there was no question of wearing trousers and I remember in the interview being summoned by the receptionist who said Mr Hope – my maiden name is Hope, Mr Hope

they're ready to interview you. And I thought well I've already cracked this one. They boldly told me that at Linklaters that they had a new system which was they were going to take on – they had a quota that they would take on 1 in 7, articulated clerks would be women which I didn't think was very impressive, but I guess it was better than some firms. When I applied to Freshfields they asked me 3 questions: was I going to get a first? Was I going to have a baby? And would I describe myself as an emotional person? Which I thought were inappropriate questions, I didn't want to go there, and they didn't want me either. But Linklaters did. I mean there was a lot of sort of standard stuff which was it was very difficult to find a toilet for women and I remember at the opening drinks party for articulated clerks one partner simply refused to talk to me even though I was introduced by a fellow male articulated clerk to him he simply wouldn't talk to me. But that was actually unusual, I think mostly the partners were very supportive, I qualified into the litigation department; litigators were already an odd lot so far as city firms were concerned at the time. They'd recently moved from a satellite office on top of Woolworths in Cheapside because they weren't allowed in the main office, but they'd just been taken in to the main office so, virtue of being a litigator and a woman I was already odd, and I can remember as a trainee once being in the toilets and crying because people had said to me don't make waves you've got to compromise, and I thought if I can't be myself in this firm I'm not going to get anywhere, and I just came out of that toilet – having found it, and thought I'm going to be myself. And I have to say partners were mostly extremely supportive. When I was brand newly qualified there was a complaint made about me that I was a woman and how dare Linklaters send a woman the first I knew about this was the head of the corporate department who subsequently became the senior partner Mark Sheldon appeared in my room and said (I was about 4 months qualified) and said there's been a complaint about you that you're a woman, but he said don't worry I have told the clients, Diana Good is good, and if you don't want her you're not going not going to get anybody. And I'd never met this man and I was so impressed, and I thought this is the firm I will stick with. And It has to be said that it was a challenging time, but I think largely supportive because we were so rare that if you were prepared to go for it men would make space for you.

DL I would agree with that, I had a very supportive group of partners litigation was rather more central to Herbert Smith's practice and we were not, we were not regarded as odd. But I actually, I have never sat in the litigation department I've always been a corporate lawyer until I got more specialised. But what I did want to say was throughout the 70's I was promoted absolutely equally with all my male contemporaries, right up to the stage of becoming a salaried partner in 1980. So, there was a very conscious effort I think to be fair and to recognise ability where it existed.

LA That's really interesting. I'd like to set the scene of what it was like working in the city at the time, there were the radical policies during the Thatcher administration with the so-called 'big bang' a revolution through the deregulation of the traditional financial and banking sector and electronic trading. The number of solicitors increased in this decade by 29% overall and women solicitors increased by a huge 37%. Can you tell us a bit more about the impact it was having on the law firms, and also the particular sectors that you were working in. Dorothy?

DL It was a period of great expansion. I started the decade as a new partner still working with Lawrence Collins on a mixture of work which all had an international European Law element, but was not divided really between litigation, corporate, finance all sorts of things. By the end of the decade I had been a founder member of our financial law department, because international financial law had a big conflict of laws element in it, and that was recognised, which is why I did a lot of that work and became a founder member of the Financial Law Department. And then a couple of years later we founded a Competition Regulation of Trade Department which still which is my current home, and I was a founder member of that as well, and then I went on, to recommend that the firm opened a Brussels office which happened in 1989, and I've just been to the 30'th anniversary party.

It was a great change from generalist to specialism in that period, it was also a period of considerable expansion. The profession had lots of work, for example my firm worked on I think 3 or 4 of the major privatisations in that period and I personally was involved in gas electricity and water in two of them doing competition and regulatory law and in one of them

arranging their initial loan capital. So very different types of work but all involved with privatisation.

LA It sounds like many frontiers were being breached both commercially and legally at that time, and I know Diana you were somebody who was in the regulatory sector, and I'm particularly interested in like Dorothy you were working in commercial and corporate areas which was not a typical area for women in the law.

DL Well I was always in the litigation department and of course that meant that we had a...we did a huge variety of work and certainly at the beginning of the 80's we had an enormous variety of types of client arguably more fun than it became later on when the focus was entirely banking and finance and indeed regulatory. What we dealt with a great deal was the kind of, hostile takeover side litigation side of all the big M&A practice that was going on. There was also enormous international expansion I mean oddly enough like Dorothy; I was sent to Brussels to be the first resident partner in our Brussels office in '89 after I'd become a partner in '88. Also involved in a lot of anti-trust and competition work which I think also flowed out of that internationalisation of our client's work and the cross-border work. And on the regulatory side I likewise was involved in gas and electricity and water and all the disputes that came out of that.

The 80's There was certainly plenty of work and expansion, a huge growth in the number of partners in the firm, it happened quite slowly but then I think when I joined the firm there were about 35 partners, and by the time I became a partner in '88 I was partner 105 – yes. And then that multiplied many times after that.

DL Yes, well my reference was 61 when I became a partner, but by the end of the decade again we would be have been up towards the 100's, I think.

LA And just turning to a more personal reflection and commenting about Margaret Thatcher who was told to adapt her voice and appearance to be accepted by the electorate as a woman in power in a traditionally male world. Diana you've mentioned that your father told you to dress like a man and but indeed trousers weren't really part of what women were allowed to wear in the legal profession. Did you ever feel either of you that you had to make adjustments to your behaviour or appearance or where you aware that other women did at your legal firm?

DG There was considerable encouragement to water yourself down and keep quiet. I mean I remember when I was pregnant with my first child – I have 4 children, when I was pregnant with the first which was before I became a partner one partner saying to me I really shouldn't put myself forward to be on a Law Society committee because I wouldn't be able to cope whilst I was pregnant, and that would stand in my way of my partnership candidacy, I was absolutely furious with him I think that there was a good deal of protective behaviour if I can put it that way towards women which certainly could have encouraged you to shift your behaviour, but I guess I've always been pretty bloody minded and I just refused to do it.

DL I never felt particularly the need to change the way I behaved, I did realise that wearing my very nice trouser suit was not a good idea, particularly if I was going to be in court because a judge would have 40 fits if you turned up in a trouser suit. But basically, I didn't feel much focus on that sort of thing. I remember Margaret Mountford attracting the ire of the senior partner when she was, when he met her walking down a corridor in our extremely hot building wearing no stockings and no shoes and this occasioned a very funny memo, around the office on proper dress for ladies at all times.

DG I remember turning up to one meeting as a junior lawyer with a male senior partner and the client saying had I brought my knitting? And the partner said no Diana has come to lead this meeting I've just come to watch and but actually on the whole – as I say on the whole the partners were supportive.

DL Yes I had a similar experience going with a male partner, it was not the male partner it was the host of the meeting, which was a drinks company, who suggested because it was, this meeting was too confidential to have the tea ladies in the room, that I might like to pour the tea. We were about to get to European Law which is why I was there and I'm afraid I declined and suggested as a host he might like to. But that was one incident, and I don't remember it happening again either at a client or in the office.

LA Now your photograph Dorothy as the lone woman amongst 60 black tie male partners for the

Herbert Smith centenary celebration inspired the creation of The First 100 Years project. It's a stark reminder of just how few women made it to the senior ranks 30 years ago. I'd like to now ask you both about your experiences of becoming partners. What was the process and how did that come about? Dorothy.

DL Well the process was rather secretive as far as I can tell you had to be nominated by somebody and you were voted on. And I must have been put up with a number of contemporaries. We had a pre-partner level which would now be called a counsel, but was then called associate rather confusingly, and I was one of those and there was several of us who were all promoted at exactly the same time, I think the firm was doing well there was a desire to expand, there was a need for another partner in my particular neck of the woods, and it was all very straightforward but it was basically just you got tapped on the shoulder and told that this was happening unless you said no and I was you know delighted to be appointed and of course delighted to realise I knew if I was appointed I would be the only woman partner, and that remained until 1983 when Margaret Mountford joined me

LA Diana?

DG Our process was that we only had equity partnerships, so we didn't have at that point a two-level partnership as Dorothy's described, so you either became an equity partner or not. I think the process was fairly clear you had to have been qualified for at least 6 years and I think you had to be at least 30, I think those were the qualifications at the time, and you had to obviously be supported and voted on by the partners. What I found is that when you were made a partner you were immediately treated like an equal; at least it felt that way. Of course, as it went on it became apparent that wasn't quite the case because it was not just the question of becoming a partner it then became a question of whether you had a senior leadership or management position and very, very, very few women got that far. I was as I said sent off to head the Brussels office, I was the first woman sent to – as we used to call them 'an overseas office' and I came back I was the first woman to be elected onto the management committee, I was the first and only woman for a long time to be voted on in due course the international board, first woman to be a group leader etc. etc. And I can remember going to a partnership retreat ...

we had a meeting of those partners across the firm who were in management or leadership positions in one shape or form and there was one of me and 60 men. And then one began to realise that things weren't as equal as they had initially appeared to be

DL Actually I think reflecting our two-tier nature it was only when you became an equity partner that you were fully accepted as an equal. That took me a little longer, when I had my first child I was sent off as if I were retiring – needless to say I didn't retire I returned. While I was on maternity leave I got a letter from the senior partner announcing that my contemporaries were moving to the next stage, but they were waiting to see how I got on, which was I guess the first occasion of discrimination based on my gender that I had experienced in the firm, and it took a couple of years to get over that, so that I was told I would become an equity partner when I was expecting my second child.

During the early 80's we began to take a lot more women as trainees and the balance in the firm as a whole changed quite a lot during that decade, which I think was um, was a real step forward.

LA And Dorothy as you've just said you've spoken about the path to promotion frequently coincides with when women are likely to be having their children. What are your reflections Diana about becoming a mother and carrying on in your career?

DG As you say the trouble is that women tend to start having children just at the point where they're most needing to thrust themselves forward to make that step into partnership in law firms, there being only that one progression, and that does make life very difficult. As I said I had my first baby before I became a partner, there was no maternity leave at all at Linklaters at that point, only one woman before me – I was woman partner number 5 and only 1 woman before me had had children, she'd taken off 2 weeks and I was asked whether I was doing to do the same? And I said if you don't lay-on maternity leave there's no way I'm going to bother

to come back to this firm so you can do something about it. And they...It was kind of typical, they did provide maternity leave, which was more generous than providing nothing, but it was only 3 months, so baby number 1 I had 3 months and came back and then was put forward for partnership. Baby number 2 again I had 3 months and then while I was in Brussels, I became pregnant with twins at which point the firm said you better come back to London. And at that point I was given 6 months off, but I did have twins and I did have to relocate country, so it wasn't wildly generous.

DL But I also think that a whole year out does make it – which is the common thing these days, does actually make it more difficult to continue your career, and what has happened is women get married much later than...than in the 70's and 80's. My daughter's generation they get married in their early 30's and they have children straight away. On the other-hand promotion to partner in a law firm has got later so the people are between 35, 36 and 40 when they're promoted, and that has made that clash between having the children and having the sort of track record which can be fairly considered for promotion much more tricky for women who wish to have families, and I think it is an impediment which firms have to work very hard to overcome

LA Diana I wanted to just ask you because I know one of the radical things that you did was to introduce part-time work at a time when that really was unheard of. Can you tell me more about that?

DG The senior partner, and managing partner asked me – needless to say, would I look as the only woman, would I look into 'women's issues' in the firm. And what we did finally get through was flexible working for anybody, I did not think this should only be for women to have children I thought it should be for men for women with or without children, and indeed men did take it up as well although they tended to want to keep quiet about it which was a shame. It was all over the newspapers; we did this in '95...96? It was all over the newspapers, a lot of the other firms poo poo'd the whole thing and said Linklaters had really lost the plot, but then it rapidly became...became the norm.

LA Dorothy you touched on earlier about the what sounds like structural problems these days, that possibly became further entrenched which makes progress for women to partnership more difficult, and that firms should adjust their processes to take account of women taking breaks in their career so they don't discriminate against women in this way, and particularly I'm interested in your comment about having more faith in women candidates. How do you view this as being accepted by law firms in trying to address the attrition rates?

LA There are things to do with the promotion process and particularly the you know the assessment of the financial performance of partners where obviously if somebody has been...had a maternity leave you're going to be looking at older records and so on, that's one side of it. Another one is the you know the mere fact that you're absent for a period may mean that somebody else picks up the work, that person is almost always a man – not invariably, it could be another woman and that that person leapfrogs in the promotion process over someone who's been away for a bit, and there has to be a conscious effort not to let that happen, and to assess fairly, people who have been absent for a period. That's one thing. I think another thing which has been very helpful is the idea of being able to – which as modern technology allows work at home some of the time. That can make a huge difference and we encourage everybody male and female to do that 1 day a week. It helps with male attitudes because they see the benefits and it tends to reduce the attractiveness of presenteeism as a sort of badge of honour which it certainly was a very strong feature in the 90's and 2000's of the way that the firms were run, you were expected to be there all the time.

LA We're now going to look at the situation for women at the Bar. By way of background in 1980 there were only 447 women at the Bar some 10% which rose to nearly 17% by 1989. In terms of QC's we start with a paltry 17 ending with 40, so, 23 appointments within the decade. What is staggering is that Hilary Heilbron, the daughter of Rose Heilbron who was one of the first two women to be made a KC back in 1949, was made a QC in 1987, And she was only the 29th QC appointed in 38 years. Erika Rackley can you outline what was the typical promotion pathway situation at the time for a barrister and why so few women were promoted to QCs?

ER Well at the time many QC's or all QC's were still appointed by the means of a tap on the shoulder which meant that one didn't apply to become a QC rather it was suggested by senior members of the Bar or the judiciary that you might become one, and it was a system dependant on and sustaining of patronage, old boy networks and who you knew. The senior Bar and the judiciary at the time were almost exclusively male and they acted as gatekeepers, only letting a few exceptional women in, and what is certainly clear is that women barristers not only needed to be as able as their male counterparts, they often had to be considered to be considerably better. And there was a report for the Bar Council and the Lord Chancellor's department in the early 1990's that found that 60% of women barristers had faced discrimination on the basis of their sex and over 70% had considered that they'd been subject to greater scrutiny and pressured to perform because of their sex and it concluded that gender discrimination at this time appeared to be almost institutionally present, at the Bar. But in truth women were finding it difficult at all levels of the Bar. Surveys at the time reported that women found it harder to secure tenancy, and that many chambers despite the Sex Discrimination Act 1975 still operated either a no women or more likely a no more women policy, once they had, one woman in place. There were also more subtle and pernicious forms of discrimination happening, and barriers preventing women's progression including the allocation of work and the type of cases that were given to women barristers, women were caught in a double bind of being unable often to practice outside of areas that were considered to be traditional for women, and then those areas that they were able to practice in being devalued and less valued and both intellectually and financially. And there were limited incentives for these practices to change, there is still the view that, why help women build up her practice at the Bar because she's only going to marry and have children and leave it um, and certainly at this time there was no maternity leave at the Bar, the Bar Council following on from the Without Prejudice report I mentioned earlier, they introduced a maternity leave policy in 1992, but 5 years later still over a third of chambers hadn't implemented one. So often women barristers would leave to have children and come back and find they had no practice to return to, which meant that, one-woman barrister described at the time about the need to having invisible pregnancies and self-raising families. And so it was little wonder that at this time the survival rate for women at the Bar was really quite low, average about 28%, and so of course motherhood wasn't the only reason for women leaving the Bar but they certainly were leaving the Bar the upshot was the same this was inevitably going to have an impact on the number who were there going to be eligible and able to become QC's and in turn eligible and able to become members of the judiciary.

LA And so yes turning to look at judicial appointments there were only 4 women High Court judges in 1979, and we had to wait until 1988 before there was a woman – Elizabeth Butler-Sloss who we've heard from in episode 5 who was elevated to the Court of Appeal. She remained the highest-ranking woman in the judiciary until 2004 some 16 years later. It was estimated in the late 1970's that less than a quarter of all women barristers of 10-year call had been appointed to the bench, in contrast to half of men with equal seniority. Erika what were some of the reasons given and the general approach, towards women judges at the time?

ER Well, explanations for the absence of women in the judiciary typically fall into two categories, either it's that there aren't enough women in the pool and we simply have to wait for women to trickle up into that pool, and it's a matter of time to ensure that women are getting into the judicial pipeline. Or, there's something wrong with the process by which judges are appointed and selected so the first explanation really was quite popular in the 1980's this trickle up argument was both the sort of explanation for why women weren't there but also the solution, and it's a solution which is rather convenient because it requires you to do not much more than wait for things to happen, and it had many high profile supporters: Lord Taylor in 1992 when he was Lord Chief Justice boldly said that he thought that there would be substantial number of appointments to the judiciary within the next 5 years which would redress the obvious imbalance in the judiciary. Leaving aside the obvious kind of gravitational difficulties with things trickling up there, it also assumes a level playing field within the professions and this is something that we know simply isn't true. It ignores deep-seated institutional cultural barriers preventing women, from progressing. As to the appointments

process there was also at this time much criticism of the process by which judges were appointed it was largely – although not completely mirrored that of QC's, so it was still largely particularly for the senior judiciary by invitation only, it was a closed process and what was known more commonly as secret soundings, by which people unknown people were asked by other unknown people what they thought of um, certain people and this was deeply problematic, it's a licence to discriminate, as before it depended on notice, being noticed and being known and even in '92 a retired Law Lords openly said that you know when it came to appointing judges they looked for chaps like themselves, and certainly there was enormous potential for cloning and, research by the Association of Women Barristers in 1996 found that in the previous 10 years a third of appointments to the High Court and above had come from just 2% of sets of chambers which seemed to really speak to the smallness within which appointments were being, made. And one consequence of this was that research found that under-represented groups, particularly women and BAME candidates began to opt out, what was the point of engaging with a process that was so discriminatory towards them

LA So Erika change did arrive in 2004 with the Independent Queen's Council Selection Panel; this was established followed by the Judicial Appointments Commission the JAC in 2006. What were the processes that were put in place and what would you say has been the outcome?

ER both were committed to ensuring that the appointment processes were open and transparent, that there was in fact an application process and they introduced qualifying tests, application forms, interviews, role-plays, the things that you might expect to have to do when you apply for a particular job. It was very clear that appointments were going to be made on merit, having regard to the need for diversity. The Judicial Appointments Commission despite its name is a recommending commission, so it recommends people for judicial appointment, it doesn't in fact make appointments um... But nevertheless in many ways it was quietly revolutionary it did have some, it has had some impact on the change of the number of women in particular on the benches has increased and so since it started in 2006 the number of women in the High Court has doubled, and so there are more women there are more BAME candidates, there are more solicitors. There's certainly been an improvement, but there's not been a flood, it's not and certainly not always in proportion to the pool, especially once we consider what that pool is and we start to think of the pool of potential judges being more than simply QC's and we start to think of potential judges being partners in law firms, academics and so on and so, the fact that women law students have outnumbered their male counterparts since the 1970's and we're not anywhere near yet, equal numbers in the judiciary suggests that there's more work to be done by the JAC.

DL It's noticeable that there's still a form of discrimination in relation to the judiciary which, tends to my mind tends to undervalue solicitors, particularly who've been working in high, in complex areas of the law Lawrence Collins became a judge many years ago round about 2000 I think and between then and 2018 I believe there was not another solicitor appointment to the High Court Bench. And that is really quite shocking considering what city lawyers could contribute to the bench. And I think we should think about other forms of discrimination from time-to-time, and not focus entirely on discrimination on grounds of sex.

LA what still in your view could be addressed to bring about quicker progress?

ER The list would include weakening the grip of the senior judiciary on the process, there needs to be more done within the professions to ensure that they, judges are being chosen from a pool as diverse as possible both, in relation to the professions, in terms of securing the promotion of women within the professions but also the support of women and other non-traditional candidates that wish to go for, judicial appointment. We could remove barriers to non-traditional candidates such as the de facto requirement of needing fee paid work, we could look to whether certain professional qualifications that exclude certain groups particularly academics from joining the bench, whether they are necessary to become a judge, we could remove return to work restrictions, we could encourage and advertise part-time posts. But there's a sense now where perhaps some of the easy gains have been won and actually what we're needing now is another – perhaps not so quiet revolution in the context of judicial appointments in order to kind of tip the balance further.

LA Erika you've jointly edited with Professor Rosemary Auchmuty, who is interviewed in our very first podcast, a commentary of 92 legal landmarks for women. They remind us how recently as the 1980's, women had legal limitations placed upon them, and they sought to redress this by legal means.

ER Yes, so the Women's Legal Landmarks project was a collaborative project involving a large number of lawyers, historians, activists and others, and our purpose was really to demonstrate the role that women have played agitating for and informing and bringing about legal change and informed both us non-lawyers and lawyers. And what the landmarks demonstrate is that legal change rarely happens without the determination of a committed group of women and who know that law matters and law reform matters, that too often the changes to women's position in law are presented as though the laws were enthusiastically passed through a willing parliament or judges suddenly decided that they were going to come to a particular decision that would benefit women, when in fact most of the change was grudging, law reform was often met with resistance and opposition. And of course there have been always been many male allies who have championed women's rights, and there's still many men in the law now who are proud to call themselves feminists and have joined women in pushing for change, but the change has never come without a struggle, and I think this is what's really interesting in the landmarks that we meet in the 1980's in our collection is that a number of them relate to money and property and as such can be seen as almost the final chapters of campaigns that had begun earlier in the 19th century which were campaigns to allow women to keep their own earnings which was successful in 1870 or the married women property acts of the 1880's when enabled married women to obtain and to hold their own property independently of their husbands. And so what we saw time and time again in our project was that we'd have a legal landmark for women – even one as significant as the Married Women's Property Act, and that was not the end of the story, that change only comes about throughout continued lobbying and continued argument and so it was only in the 1980's that the law, the last remaining instance of coverture which is the idea that married women's legal and financial personality is subsumed into that of her husband, that that long-standing feminist target was finally, overturned and coalesced with official policy. But it takes longer and continued determined efforts to change the culture, societal culture and so on, and changing the law is not enough and what you need to have is still continued agitation and challenge in order to reflect that.

LA Aside from being solicitor's barristers and judges, there were other ways that women have had an impact in shaping legislation. In 1984 Brenda Hale became the first woman and youngest person appointed to The Law Commission, placing a woman at the heart of legal reform working on a number of areas involving children, divorce and mental capacity. She was also a Professor of Law at Manchester University, and the increasing number of women teaching law and rising through academic ranks is significant, not only in their presence – in what remains a male dominated profession, but also in the creation of gender-focused areas of academia, one of which is feminist legal studies. Erika, can you tell us about your experience as a woman Law Professor, and in particular your involvement in The Feminist Judgement Project?

ER So the first woman or professor in the UK was Claire Palley, who was appointed to Queen's University Belfast in 1970. By 1988 just 8 had joined her. And by the time – as late as 1997 69% of law school still had no women professors, and that was when I was a student. Happily, since I've become a law professor, I've always been surrounded by other women law professors. This doesn't mean that I haven't had the experience of being the only woman in the room I have but it does mean that I haven't experienced what my colleague and predecessors experienced in the 1980's which a suspicion and an antagonism towards feminist legal scholarship which was considered to be too personal too political too polemical to be scholarship, it didn't have the detached objectivity that was needed of scholarship, and it was devalued. So, the Feminist Judgments Project was a practical academic manifestation of what I think is one of the strongest arguments for judicial diversity which is that diversity of opinion informs and improves justice. There had been a Women's Court of Canada a couple of years earlier where a group of Canadian feminist academics had got together, and re-written

judgements and we adopted this idea. So, we all came together to write judgements at the time which they had originally been decided as if they had been decided by feminist judges, we wanted to put feminist legal theory and thought into action. And so what the judgements wanted to do was to demonstrate that there are different ways of looking at cases that are equally plausible and can be made, and since then Feminist Judgments Project has gone global, there's been projects in Australia and New Zealand and the US and Africa and India, and there's been off-shoots involving children's rights and medical ethics. I guess to answer the question as to whether judges can be both judges and feminists you don't actually really need the academic argument, you just need to look at Lady Hale who is openly a judge and a feminist, and who writes real life feminist judgements a lot of the time, and has done during the course of her career.

We saw the project as being about, being a political project in the sense of really wanting to demonstrate the impact that feminists could have on how decisions were made, and to show that this wasn't something that was needing to be kind of worried about or was going to be problematic, and one of my favourite experiences of using these judgements is where I use them in a teaching scenario and gave the original judgement and the feminist judgement to the students without telling them which was which, and had a now infamous comment from one of my students that the you know the feminist judgement wasn't as ranty as he thought it was going to be, and in fact the original judgement had far less law in it than the feminist judgement, and it really helped the students begin to see about the way in which judgements are written and how judges come to decision-making.

LA Well this is a key element about when you bring different and diverse people to the table you get a different perspective, and I'm wondering what you think about putting these feminist values in a different perspective and how that could be incorporated in the decision-making process for senior appointments in law firms and also for judicial appointments and what this would look like?

DG Well, I think there is a very serious problem. I think that the years that have passed in which we've all patiently waiting um, for change to come have demonstrated that it's all happening too slow, and as I say I think it's slipping back. I've always thought that absolutely fundamental to any of this is there should be sufficient, proportion of women in senior leadership positions in whatever sector you're talking about, for there to start to be real change. When I started addressing these 'women's issues' at Linklaters in 1993 I think I'm right in saying that there 11% of the partnership were women The first woman partner at Linklaters was made up in 1981 so as I say by 1993 it had gone to 11%, but one could say that wasn't bad progress but it wasn't nearly enough.

By the time I left the firm in 2008 we got the proportion of women up to 23% of the firm, and I felt it still needed to go much further. I was invited to go back and speak at retired partner's dinner 4 years ago and I was dismayed to discover that the proportion of partners had fallen down to 17%, and when I started asking around, how other firms were doing it was all at about 15%/16%/17% - that is not enough. I spoke at that dinner to about 250 partners and pointed out that the firm had just produced a book on 75 years of Linklaters, it was absolutely full of photographs of men – not surprisingly for the first period of the firm, but when there was a section about what were the huge changes in the 1980's, it was all about big bang and so on and so forth, there was absolutely nothing about the fact that women had started to come into the firm, and out of all of these photographs in the book only one of them contained a photograph of a woman partner, who was there because she was part of some charitable work the firm had been involved in and just one of a group. And the fact is all these women who've not made it as partners in law firms and not made it in, I can speak for law firms rather than the Bar, but they haven't left to go home and look after the children, they have left to do other things and they've largely left to go in-house, based on the perception, I may say it's probably perception rather than reality, but they will have more scope for a balanced life going in-house. That means they become law firm's clients, and women general council or women in senior positions in corporates, they don't only want to work with women but they definitely don't want only men to turn up at a beauty parade which happens over – or used to happen over and over again.

And in fairness the firm has taken a really serious approach to this, and I gather that they are now at 20%. But it's simply not enough to have this fundamental effect, and I think that something more than waiting has to happen. I've never been in favour of quota's and the risk of women being regarded as second-class citizens because somehow, they've made it through when they didn't merit it, quite clearly decisions need to be made on merit, but it means that the decision-making process has to change

LA Well thank you to our guests, Diana Good, Dorothy Livingston and Erika Rackley, and to you for joining us. Our next episode will be looking at intersectionality in the legal professions, and the experiences of BAME women and women from different social backgrounds. 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 like also to thank again our sponsors Goldman Sachs and Linklaters. Goodbye

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