



# OLD SCHOOL TIES?

## Discrimination and the solicitors' profession

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In 1992, the Policy Studies Institute was contracted by the Law Society to undertake a six year longitudinal study looking at entry to the legal profession. We have been charting the experiences of a large representative group of people (over 3,000 in all), all of whom were law students who expected to graduate in the summer of 1993. Being longitudinal in design, the study enables us to record and map the career paths of a cohort of potential lawyers. The central aim in doing this is to uncover and explore those factors which affect patterns of entry into the legal professions in England and Wales. More particularly, we are interested in the educational and social backgrounds of those becoming solicitors and barristers; what factors influence whether or not particular individuals become lawyers; and to what extent sex, age, ethnicity, social background and other factors affect the career paths of those hoping to enter the professions.

We have just completed and published the third of the six surveys<sup>1</sup>, this particular one being conducted at the point when most respondents had graduated, had completed their postgraduate training courses (the Legal Practice Course - LPC - for solicitors and the Bar Vocational Course - BVC - for barristers) and should, in theory, have been beginning their professional training.

### Perceptions of discrimination

There was, among respondents, a general view that the profession was restrictive and traditional. This was, for example, reflected in the finding that adverse discrimination within the profession was fairly widely anticipated. Overall, almost a quarter of respondents thought that they would be discriminated against if they were to practise as a solicitor. Discrimination on the basis of sex, ethnicity, social class/background and age were all quite widely anticipated. However, though anticipated, this was not necessarily translated into a reluctance to pursue a legal career. Indeed, a third of those who anticipated discrimination said that this had made them more determined to practise.

We asked respondents who had failed to secure a training contract (previously

known as 'articles' and a key hurdle in entering the profession) why they thought this was. Over half felt they had been discriminated against. A sizeable proportion felt they had been discriminated against on the basis of their age, ethnic origin, social class and/or the type of school or higher educational institution they had attended.

### Becoming a solicitor

Four-fifths of respondents had applied for a place on the Legal Practice Course (LPC) and the vast majority who applied (approximately 90 per cent) received an offer. Although prior academic performance was important in predicting which applicants received an offer it did not explain all of the differences that existed between groups. Even when taking academic performance into account, certain types of applicant - those, for example, who attended a new university to study law - were significantly less likely than others to have received an LPC offer.

Data from the survey indicated that there was a bias against ethnic minority applicants in the allocation of LPC places. Ethnic differences persisted even when academic performance and type of

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institution of higher education attended were taken into account, and we concluded that ethnic minority applicants were disadvantaged in terms of admission to the LPC even when other relevant factors were controlled for.

Gaining a training contract, however, constituted an even greater barrier to aspiring solicitors than getting a place on the LPC. Of those who had applied over 40 per cent had not received an offer. Academic performance was important in determining who was likely to be offered training contracts but, once again, non-academic factors continued to be important. For example, applicants who

had links with the profession - either through their family and/or relevant work experience - had a better chance of receiving an offer than those who lacked such links. More importantly perhaps, having such experience was itself linked to a variety of social and demographic factors. Those from ethnic minority groups and those who had studied law at less prestigious institutions were less likely than their counterparts to have been able to gain holiday legal work experience. The practice of solicitors firms using work experience as a way of identifying suitable trainees clearly disadvantages those who had been unable to gain such experience.

Using multivariate statistical techniques we were able to take account of all the relevant factors included in the study such as academic performance, family links with the profession and work experience. Even so, it indicated that being from an ethnic minority group and/or from a less privileged background (measured by type of school attended and parental education), being female, and having attended a less prestigious institution to study law, reduced an applicant's chances of securing a training contract.

### Conclusion

The main conclusion of the study so far - and remember it has a further three years to run - is that progress along the pathway leading to a career as a solicitor is not simply dependant upon academic performance. It is also worth noting that there is an apparent bias in favour of people who take the Common Professional Examination (ie are not law graduates but have taken a postgraduate conversion course after their first degree) and those who attend old rather than new universities, and that this in itself disadvantages those from ethnic minorities and less privileged social backgrounds as they are more likely to have done a law degree and to have studied at a new university. Such findings, based as they are on rigorous research, raise important questions in the minds of all those concerned with equal opportunities within the legal profession. ■

1. Shiner, M and Newburn, T (1995) *Entry into the Legal Professions: The Law Student Cohort Study Year 3*. London: The Law Society.

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# CRIMINAL LAWYERS

## Hamlet without the Prince?

Robert Colover

Next time you go to a conference or seminar have a good look around at your fellow participants. You will probably spot concerned academics, eager caring professionals from police, social services and probation, a Home Office representative or two, a smattering of lay magistrates, and maybe, if you are very lucky, a circuit judge. Pause for a moment to think of those groups that are not represented. Offenders and victims occasionally turn up, prison officers, equally rarely, but the largest gap is surely left by the legal profession. When have you ever heard solicitors or barristers contribute to a discussion about the very places in which they work, or the results of their best endeavours, defending or prosecuting? When has a legal presence ever properly contributed to the debate that should involve the people working right at the heart of the criminal justice system?

Is there any other profession that practises without regard to academic research into the results of its actions? Practising lawyers ought to contribute to the discussion that exists outside the Temple. Only one working lawyer of either discipline was at the AGM of the British Society of Criminology this year; this is not something that either profession should be proud of.

### Cause and effect

The science of crime involves a study of all its causes and effects. This can include matters as diverse as the political debate about unemployment and crime, and the impact of punishment. The results of sentence passed in court and the effect they have on defendants, their families and victims are part of everyday debate. Each aspect deserves a degree of investigation. The role that the legal professionals play in practice does not appear to be complemented by any participation on an academic level. Academic criminologists are in regular contact with other disciplines. Probation officers, police and prison governors, all enjoy regular access to academics. The absence of practising lawyers leaves a gap which is far too wide.

One benefit arising from an interest



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in criminology for the practising lawyer is that it enables practitioners to see where their work fits into an overall pattern. Standing back, to view the wider perspective can be a useful exercise. This does not mean a de-personalisation of the lawyer-client relationship, simply a realisation that the lawyer's work takes place in a wider world.

### Criminal lawyers generally enjoy talking. It is, after all, what a lot of them do for a living.

Just as an interest in criminology can lead to an appreciation of the wider perspective for lawyers, so contact between academics and practitioners can lead to their reconsidering the reality of work in court. A practising lawyer's contribution to the discussion of criminology need not be limited to personal recollections, but can be used to flesh out academic bones. It is not unknown for academic assumption and discussion to bear little relationship to what takes place in the courtroom.

Some come to legal practice having had a few terms' study of criminology as part of a law degree. Their recollections fade, and over the years their impressions from practice will cloud their previous interest. A few may have done postgraduate work in the field, but the numbers are very small. For the rest, it is not even a 'them and us' situation. It is an 'I do my job and go home' situation. It is not a deliberate isolationist policy but

simply perhaps an historical accident.

### Stopping the rot

How can this situation be reversed, how can contact be established, how can interest be kindled? One answer might be the personal touch. You may from time to time come across a criminal barrister or solicitor; go up to them; talk to them; make them feel guilty about the debate they are missing out on. Encourage them to believe that their presence and views would be welcome at whatever is next pencilled in to your diary under ISTD or similar meetings. Stimulate the debate and encourage them to air their views. Criminal lawyers generally enjoy talking. It is, after all, what a lot of them do for a living. They may hold myopic views, they may hold balanced views, but surely their increased presence at the kind of meetings mentioned would fulfil a useful function.

The legal profession has little to lose, and a lot to gain, by meeting its counterparts. It is surely important for all parts of the criminal justice system to have equal access to, and input from, those whose work is relied on so much. Could this also bring the real world closer to those ivory towers? Go out and spread the word in those draughty magistrates' court corridors, those legal watering holes, and other places lawyers gather en masse. Tell them they have nothing to lose but their ignorance of criminology, a science they contribute to, without even realising it.

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