

Professor Suzanne Rab*

My Life in law

The Brunel Lawyer team and Dr Serena Natile spoke with Professor Suzanne Rab about her unconventional journey through the law.

1. How would you describe your current role or roles in the legal profession?

I am Professor of Commercial Law and Practice Chair at Brunel University London. I am also a full-time practising barrister. I practise EU, competition and regulatory law as a barrister at Serle Court Chambers. I qualified as a solicitor in 1999. After 15 years practising as a solicitor, including most recently as a partner and head of EU competition in an international law firm, I was called to the Bar in 2013. I have also held the role as a director with the economics and forensics teams of PricewaterhouseCoopers.

2. What attracted you to study law?

My father was a great inspiration. He spent his childhood in colonial India, and then in what has now become Bangladesh after the Partition. His early years were not privileged, and he lived and breathed in a new country finding its feet, and through political insurrection and natural disasters, while ordinary people worked hard to stake out a living and to cope with everyday needs. He and his brothers were always vocal advocates of social justice and many of them ended up with careers in diplomatic service. In the late 1960s, my father had the opportunity to travel to England to pursue the study of law, at the Inns of Court School of Law. He was deeply inspired by one of our eminent judges, Lord Denning MR. I recall stories of his life before England which is reflected in a few slightly crumpled photographs from many years ago. The little old lady in the village in India who was my grandmother wishing him well and his hope and yearning as he left for overseas opportunities with his brothers, seem far in the past. They are influences that inspired him to pursue the career of his dreams in law. Most precious of all to me is the image of my father in barrister's wig and gown. But family tragedy and financial ruin (the death of his own father and the bankruptcy of our Indian restaurant in South London) intervened and a career in law was put on hold. Eventually, we moved to the north of England, to a small manufacturing town where about 80 per cent of my primary school friends spoke either Urdu, Hindi or Bengali as their first language. By then, my father was juggling two jobs, in the mornings as accountant and in the evenings as a factory-hand, making fibre-glass baths. He still inspired me to pursue what he regarded as truly a 'noble' profession – the practice of law. For him, it was synonymous with making a difference; with changing things for the better for ordinary people; and with giving a voice to those who cannot or cannot afford to speak in their own cause. I knew him only for a short while since he

passed away when I was eight years old but his encouragement that I would one day become a lawyer and specifically a barrister proved strangely prophetic.

3. Why did you choose to focus on competition law?

I became interested in competition law much later at the University of Oxford, where I pursued undergraduate and post-graduate degrees in law. It was during the mid-1990s. The UK had been a part of Europe for about 20 years but still our domestic competition law was form-based and bore little resemblance to what it is now. The influence of economics was relatively new in the field. Meanwhile, the competition laws of the European Community (EC) or what is now termed the European Union (EU) were gaining in importance. If I am honest, at that time EU and competition law were somewhat 'geeky' areas for the less conventional students who looked beyond the usual corporate subjects. Some wanted to do something 'commercial' with a focus on 'real-world' economics and competition law provided this nexus between law and the business world. I embraced this. I enjoyed the economics; the area was fast moving and people were 'just getting into it'. I also had a very good competition law tutor, an alumnus of the law firm Slaughter and May where I was to qualify later as a solicitor. Mainly, I could see the relevance of what I was studying to the world around me. I was hungry to understand what motivated businesses to make new, and more, and different things for us consumers to buy and how prices and quality relate to willingness to pay. As a student on a budget, behavioural economics made a lot of sense as I tried to reconcile the rent for the student lets on the Cowley Road in Oxford with a room in college and why I might pay what was then a three-figure sum for a designer handbag.

Competition law touches every sector of the economy. It is not simply about prohibiting price fixing cartels or even preventing large companies getting bigger. It is about creating and preserving the right environment where companies are able and incentivised to become more efficient, and to provide better goods and services and value for money. Inevitably, some competitors will not survive. That this impact so deeply on consumer welfare and has such a direct nexus with the people and prosperity of a country, adds another level of purpose and reality.

4. What challenges and/or obstacles have you experienced as a female legal professional working in the legal sector?

I had every intention of becoming a barrister even as a child and this intention was quite-well formed in my teenage years as I learnt more about the profession. I was also inspired by the judgments of Lord Denning MR which will be familiar to many law students for their story-like quality. Reading these judgments inspired in me a love of advocacy and the power of persuasion through narrative. I joined Lincoln's Inn as a student member in 1993. 20 years

ago, when I wanted to become a barrister, I was discouraged by tutors and contemporaries who said that this might not be the right move for me as someone who did not have a 'typical' background. This was summed up starkly by a well-meaning person who told me frankly: "you are not a white, Anglo-Saxon man of privilege – this is no place for you". By this they meant that I did not confirm to the types of stereotype (in terms of gender, race, social and economic background) that are traditionally associated with practise at the English Bar.

But it was not only issues of gender or race that dissuaded me but the practical economics of knowing that I had nothing to fall back on in terms of financial support if it did not work out. The solicitor route was a more pragmatic option for me at the time as it provided the financial security of knowing that once I had qualified and obtained an associate role I had a regular income. When I was offered a training contract with Slaughter and May, though, it was irresistible.

I don't believe that my gender or ethnicity have been an overt impediment to my personal progression so far in the sense that I have experienced direct discrimination when applying for roles. However, this does not mean that there are not obstacles that hinder the legal profession's aspirations for diversity and gender equity and the reality. I continually reassessed my career path. Later, having reached partnership, I began to question the type of work I was doing and how I wanted to practise. I was called upon to do difficult standalone work but this did not necessarily need to be done in a law firm. A combination of encouraging soundings among peers and a motivation to develop my advocacy practice where this skill set is highly valued prompted me seek to fulfil my original ambition. A key difference is the relative financial insecurity and cash flow challenge at the Bar. As a barrister, although you are part of chambers you are an independent practitioner and business in your own right. You need to have a clear sense of self and independence of financial management, to be confident to justify your position and to challenge what is put to you.

5. How much progress do you think has generally been made towards equality and diversity in the legal sector?

Statistics such as those recorded in the 2019 Report ['Elitist Britain'](#) published by the Sutton Trust have shown that whilst progress has been made, the top layers of the legal profession are drawn from a narrow section of the population. It is true that senior judges are now drawn from more diverse backgrounds and we see a more gender balanced composition at the Supreme Court. Looking at the five years since 2014, the report shows isolated pockets of positive change, but describes "a picture characterised by persistent inequality". The proportion of the elite who are privately educated appears to be decreasing, but change is

happening slowly. This is seen among senior judges with over half having been educated at an independent school which compares with about 7% of the population. Strikingly, the same report shows that over 70% of senior judges were educated at Oxbridge compared with about 1% of the population. Statistics for the Bar, particularly at the senior level, aren't that different.

Despite the progress that has been made in terms of the gender balance at the level of entry into the profession (a roughly 50/50 split between men and women), certainly at the higher level we cannot deny that the law remains the preserve of individuals that are from a socially exclusive group when viewed by educational background.

I do however have a disclosure to make in this context. Some people might say that I am probably one of the so-called elite 1% as I have an Oxbridge education and I practise as a barrister. If you look at the statistics, then you would probably say I'm on track to become a judge, given my higher education background. But when I pick away at the details of my background, I find it difficult to describe myself as elitist.

I grew up on a council estate, my parents were immigrants, I received free school meals as a child, I attended the local comprehensive school and 80% of my primary school friends did not speak English as a first language. So that isn't usually the background you would associate with being where I am today. I am proud of my roots and have retained my Northern accent, despite this being unusual – dare I say even sometimes mocked – at the Bar. The notion of elitism feels quite alien to me, so why am I where I am today? I can say that I am very thankful to people who have supported me in my career along the way. That started very early at primary school where I was identified as a high performer and was nurtured through my early development. At secondary school inspirational teachers encouraged me to cultivate my talent and to believe in myself. I was offered a scholarship at a private school to do my A-levels. It raised my aspirations. A lot of these were ingrained in me by my father who incentivised me to strive to do better and told me education is the way to bettering your lot in life and that was very powerful.

It is possible for somebody from a disadvantaged background to break down barriers to social mobility, but I have been told I am in a minority. I probably tick every diversity box in terms of gender, race, socio-economic background, and class. One thing I would focus on is that I had very strong supporters from an early age and I consider myself privileged in that respect. Whether my parents or educators. They raised my vision. They gave me the courage to challenge the idea that the so-called 'elite' professions are not for me.

It is very easy to see how a combination of social and economic disadvantage can limit aspirations and opportunities. One of my tutors at Oxford University said that so long as the doors to entry to Oxford are open to all then we need not worry that the institution is a gateway in terms of access to certain professions – whether in law, business or politics. I would now question that. We need to look a lot earlier on in a person's development if we are to move beyond equality of opportunity and achieve genuine social justice. This is about remedying the social injustice when not all people have the same means to take advantage of the same opportunities. By the time a person is considering university – if they have that aspiration at all – it might be too late to open up opportunities because they cannot access them due to existing social, economic, institutional and structural barriers. I think we need to look at individuals' influences in the early education system and socially, which is a much harder task.

6. Do you think there is enough talking and understanding about challenges for equality and social mobility in legal institutions?

I think there is a lot of talking about this issue and that it is healthy. In law we are used to having difficult conversations from opposing sides, but I think the profession does need to move beyond the talk. We need to continue to do some tough talking. I have attended many debates and seminars on personal stories where people describe how they have bucked the trend and made advances that would not have been possible years ago. But often I am told that people in the audience – and particularly younger people – can come away thinking that actually it didn't get to the issues that matter to them. This can be where the person talking is too removed from the listener's own experience and their achievements seem beyond their grasp.

When we look at the outside world, we see what is changing and what is not changing and there is a dissonance in terms of the speed at which people would like it to change. That is the area we do need to confront. We need to accept that the statistics tell a different story and we need to accept that the odds can be stacked against people from diverse backgrounds.

In an attempt to translate goals for diversity into action, there has been much discussion about the 'business case'. The business case for diversity often has different ramifications depending on the context. In a law firm it tends to be expressed in terms of the bottom line, not what contribution could these people make beyond profit. It becomes a way of trying to convince sceptics that by having greater diversity we would achieve a more profitable business. I am not so naïve to suggest that we can escape the reality that law is a business

like most professions. But the focus on business case in the diversity context seems to lose sight of the fact that diversity is everyone's issue. Do we really need to make a business case to justify something as beautifully real as diversity?

At a university a business case for greater diversity might be expressed in terms of increasing the talent pool. We may think what might be attained in terms of access to research opportunities and advancing the academic debate on an issue.

Ultimately, the focus on numbers deflects attention from the fundamental issues of the people behind this and what richness they bring to the legal environment. The fundamental question is, regardless of looking at numbers and metrics, this is a good thing to do in terms of legal and educational ethics. A strong ethical inquiry into this debate may help break down the barriers. The business case as currently understood has arguably failed us in terms of winning over hearts and minds and translating good intentions into lasting change. And when we talk about gender diversity, we need to involve men in that discussion also.

7. Do you think the strong focus on achievement without consideration of socio-economic inequalities tends to reproduce a sort of 'privilege' in the legal profession?

In principle, the concept of achievement should be gender, class and socio-economic neutral. Achievement is what it is. Whether that is measured in terms of what degree you have obtained, what leadership positions you have held and what results you have delivered for your organisation. These are all objective achievements. But on closer inspection they can be suffused with subjective overtones such as where "what degree did you get?" becomes "where did you get your degree?" and where some institutions or subjects rate higher than others.

I do wonder though whether we also need to have a more contextualised notion of achievement taking into account a person's background and the challenges they faced in getting where they are today.

If we focus on the traditional metrics of achievement, this can perpetuate the notion of privilege particularly when getting a degree from this or that institution or going to this or that school is perceived as better than another.

Instinctively, I am not in favour of adopting different standards of evaluation to reflect the fact that a person may have a non-traditional background. This starts to sound like positive

discrimination. I am a firm believer in meritocracy. I am a believer in preservation of quality; we should never compromise on that. There should not be different standards for progression, whether it is into a graduate recruitment scheme or into top jobs just because a person had a different background. That is the beginning of a slippery slope where we start to look at standards in a different way. That is a controversial proposition in my view. However, the debate in this area continues and what some people would term positive discrimination may be regarded by others as substantive equality. Putting it differently, they view contextualised appraisals as a way of trying to equalise the playing field. This is done by seeking to remove biases that are already present because some individuals are not able to take advantage of opportunities due to their circumstances, including their socio-economic background.

When I ask people why they want to be appointed to senior roles they say unsurprisingly that they seek advancement not because they are from a disadvantaged background, but because they are good in spite of the challenges they have experienced. At the same time the challenges they have overcome are still relevant context in understanding qualities such as resilience and drive.

When considering people for acceleration or for top jobs we do need to look at a range of metrics and not pure academic achievement. Looking at a person's wider experiences and how they got to where they are today is a relevant factor, but it should not be a justification to have two tiers. That is a system that could in any event be exploited by those who have the power, the money and the privilege to game the system.

8. What can be done to break down barriers to access and career development in the legal sector?

As I have said earlier, starting at university level may be far too late. In terms of access and career development, a person's past disadvantage is not going to be fixed overnight. By the time they reach university – if that is even accessible to them - decisions have already been made. Elements of their personality and drive can be strongly formed at that point.

We need to take a critical look at the whole education system from a very early age and that starts in kindergarten. What opportunities are made available to kids at primary school? I run a workshop in the summer with children from disadvantaged backgrounds in parts of London. Many of them don't see law as a career option for "people like us". I run mock trials to give them an insight into the legal profession. I open their vista on what their future career might

look like. They think: here is somebody like me or who shares a similar background. It helps broaden their aspirations.

Universities can do a lot in terms of access programmes and opening up their taster courses and opportunities for secondary school pupils and showing them what the university has to offer for them. All of that can really help broaden aspirations and opportunity. Businesses can offer placements that are critical in giving people experience of what it is like working in the profession. This is an area where we need to tackle the 'chicken and egg' phenomenon. In order to get an interview, you need to show experience. How to show experience? You need to do a vacation scheme. How do you do that?

The vocational route to law is a challenging one, although the costs are falling and changes to regulation are expected to offer more flexible routes to qualification. As far as the Bar is concerned, the availability of scholarships from the Inns isn't going to satisfy the demand so there are financial considerations even before pupillage and tenancy.

A pupillage or a training contract does not guarantee entry into the profession. Out of about 20 000 graduates only about 5000 get a training contract. Even completing a training contract or a pupillage does not guarantee entry into and staying in the profession. The financial pressure is faced early on and this is more challenging for the self-employed Bar where you are a sole trader effectively.

These are some of the challenges we need to confront in terms of access to and progression through the profession. It is very competitive. You have to distinguish yourself from others who are equally well qualified.

People who have navigated these pathways have a real responsibility in not forgetting where they came from. They need to be role models. As more people come through from diverse backgrounds it should be easier for those who come after. It is not easy but requires sustained effort if we are not to perpetuate the legacy of the past.

9. Do you think that introducing quotas for more diverse representation across the legal sector would address law's challenges around inclusiveness and social mobility?

Early on in my career I was very much against the idea of quotas whether on Boards, in law firm management or on the bench. This was on the basis that these can carry the perception

if not the effect of compromising on quality. I am not alone in saying I would much prefer to be promoted in spite of my diversity and not because of it. We need to have sufficient, able and talented individuals whatever their background and, all things being equal, we should not need to have quotas to achieve that.

However, in expressing this view in recent years I have found myself to be holding quite a minority view. Others argue that resistance to quotas is an idealist view precisely because all things are not equal. To redress the imbalances arising from context they argue, we need to make step changes and that is why quotas are needed.

I am still uncomfortable with quotas as a concept. I have anecdotal feedback where other countries have adopted quotas in certain sectors of public life. They can be seen as divisive and counterproductive. We need to be alert to the risk that introducing quotas might actually cause more division because some is made to feel like the 'token' candidate admitted because of their diversity credentials and not their merit.

Research is needed on whether, as an alternative, targets rather than set quotas could give institutions opportunities to beat the targets and actually distinguish diversity as a value to be pursued for its own sake. This is similar to the step change that has been achieved in respect of climate change as an element of CSR where businesses see this is a source of competitive differentiation.

So, for the present, I remain unconvinced that quotas are the answer to challenges in creating more diverse representation in the legal profession. This is not to say that we can ignore the current imbalance. My view is more nuanced. There are increasing calls for quotas but before we rush to implement them, we need to be sensitive to the fact that this could be counterproductive.

10. As a Utopian, what would inclusion, equality and diversity look like in the legal world?

We all need to have big dreams and big aspirations. The greatest advancements for equality and diversity have been framed in terms of reaching to the sky and having dreams and the often-quoted speech of Martin Luther King comes to mind.

Yet I am going to say something which is a bit controversial. I would not describe myself as a Utopian. I would be very keen to emphasise that does not mean that I am a pessimist; nor an

optimist. I would like to see myself as a positivist tempered with a healthy dose of realism. Positivism is a way of looking at the world by trying to see the glass half full rather than half empty. We can do great things and most things are possible, but we do need to be (sometimes brutally) honest about the reality that is going to be realistically available to some people. This goes back to my perspective as a competition lawyer which recognises the survival of the fittest. It is a healthy process where some people will fail to achieve their goals for one reason or another. We need to be honest about that. However, there are factors outside of talent, drive and ambition which might explain why a person's career choice is not a success story. When socio-economic constraints become a material factor in deciding who progresses and who does not, we must not dismiss these factors as things that cannot or should not be changed. We need to work hard to create a level playing field in which we will make efforts to promote diversity by opening up opportunity as early as possible for people from diverse backgrounds.

I want to show that it can be possible to create a better world where people are not defined, or their destiny is not shaped by their background or social or gender make-up. Where you were born should not necessarily dictate where you will end up. I consider myself blessed in many ways. I have been given many opportunities despite my background. In many respects I see myself privileged and am thankful for that. I got to know many people throughout my life who didn't have a chance to compete in the same world I've done. I have always been hungry for ambition. It has been instilled in me from my parents and teachers. I see many people who are talented but they gave up along the way. Institutions and universities need to encourage people to not give up and give them correct information about the challenges they will face in the world and how to deal with them.

I have been struggling to understand what we can do to create more opportunity and that is the next stage in my life goals. That is the type of legacy I would like to leave. I remain very passionate about what I do but I do not forget where I came from. My vision is that we should be looking forward to a world where those in leadership positions, whether they are judges or lecturers, partners in law firms or schoolteachers, have a real sensitivity to the challenges people from all backgrounds face, but at the same time we should never lose sight of the importance of meritocracy and talent. These aspects know no divisions: they are neutral in terms of gender, socio-economic background and race.

11. What advice would you give to law students?

Focus on getting a good degree. Think about and research different career options and do not worry if you are not sure what you want to pursue as a career when you are still doing your undergraduate degree. Think about what motivates you, what you have to offer and how you can differentiate yourself from other equally well qualified people seeking opportunities. Get some vacation work experience; if anything, it will help you decide what you do not want to do with the rest of your life.

It is not too early to start planning. Be mindful of deadlines to apply for course applications, training contracts and pupillages

12. What advice would you give to young lawyers coming up the ranks?

My advice comes from experience of working in very different legal environments over different stages in my own career: 1) accept that you may not be able to 'have it all' at one time and you will need to make choices about what blend of work and home works for you at any particular time, 2) start networking early on, 3) be kind to others and yourself as building resilience will be necessary to get you through the tough times, 4) don't be afraid to promote yourself, and 5) remember what got you to where you are today and try to make things better for the next generation. Finally, manage your finances. Good financial management shows that you can be trusted in a commercial environment and it is key to keeping your options open because it creates professional as well as social and economic mobility.