

Clara Sibanda

[Year of Call: 2018]

Our robing room exchanges are a source of inspiration, guidance and solutions to legal conundrums. *“Are you prosecuting in the case of A?” “Have you ever been in front of B?”*

In my few years at the Bar, they have also been the safe space for many a complaint about legitimate matters. Defendants not produced. Long awaited trials often years in the making (and every single one is these days) pulled out of lists without explanation. A judge addressing counsel in a manner a profession with HR mightn't permit. *“My case is listed for PTPH and all that has been uploaded is an MG5. I can't get through to a reviewing lawyer.” “I was listed at 10:00 (as part of multi-case block) and 5 hours later, my case still hasn't been called on.” “The tech in my court wasn't working so we have to wait for court 8 to finish to move there and capture the exhibits for the jury.” “I haven't had an effective trial in x number of weeks.”* I really could go on...

The issues are endless and the solutions seemingly unreachable albeit to those of us on the shop floor, sometimes only on the other side of a locked glass door.

I have faith in those leading us, not least of all because a lot of hard work has been done over the years to improve every aspect of our vocation, but also because of the kind of people we have standing and representing us.

Why am I asking you to put your faith in me? Just like you, I am on the front line, dealing with work of varying complexity and trying to remain hopeful of improvement and progress in what is frequently a turbulent time.

REALISM

I want to make sure that there is someone who listens and isn't afraid to challenge in the rooms where decisions are made. Those decisions impact us, our work and how well we can do it, if at all. Too often, impractical measures are imposed by decision-makers detached from our reality. Has anyone used the DAVE equipment without having to troubleshoot? Did it radically improve your ability to prosecute a rape trial? In their stead, we could get access to more catering and conference facilities in all the court centres. We could fix those amenities that currently remain in a state of disrepair, often compromising health and safety standards. We could work towards ensuring that listings remain faithful to our diaries and vice versa. These are just four examples. There are many more.

REMUNERATION

I want to work towards a Bar where we are all paid fairly for our constant hard work. There should be no exception, whether it be work we carry out in court, the time that we spend giving advices, having conferences and all of the other written work

we are frequently instructed or ordered to provide. I know that none of us are practising at the criminal bar for the money, but the hard work, time and care taken to do our job in often difficult circumstances warrants fair compensation for all aspects of it.

DIVERSITY

I want diversity to be less of a buzz word and instead an intrinsic aspect of our vocation. It isn't just race. It isn't just gender. It is not just sexuality. It's not simply whether we have more people with protected characteristics applying and practising. It is also about whether and how we keep them when we have them. In an age of technology, with varying personal commitments, work across the jurisdiction and heavy work loads, CVP should be deployed more frequently. This would allow counsel more flexibility to cover as much of their work as necessity requires and not have to miss medical appointments or family milestones – as is too often the case. Where the issue of adequate remuneration remains unsolved, continued use of facilities such as CVP would save on ever increasing rail and parking fees. Counsel should not be criticized for seeking to appear via CVP where such an order was previously granted, and the list now reflects otherwise. This is especially important where the system often relies on our goodwill and conscientiousness to function.

WELLBEING

I would like to see wellbeing lose its status as a stock phrase and actively be actioned. The expectation appears to be that counsel work over their lunch break, in addition to working in the evenings as we are all accustomed to doing. This simply doesn't align itself with wellbeing. There is little work-life balance being exercised by most of us, whether out of fear of losing work or being seen as work shy. Add that to judicial orders for opening notes 2 years in advance of simple trials or sentence notes in very simple cases. In the time between the order and the trial, we turn up to court for a previously fixed custody trial, now listed as floater with 6 other trials and that is just in one court room. For a profession that continues to dwindle, with colleagues leaving in droves when wellbeing and balance seem all but illusory, more focus must be had on this.

Almost indelibly linked, but not exclusive to the junior bar, workplace bullying. How can we be expected to stand up fearlessly for others when berated in front of our clients in a manner that makes us look as though we cannot stand up for ourselves, let alone those most vulnerable in our society? The impact of such behaviour is the decline in the confidence that those reliant on us have and need to have and at times our confidence in our own abilities. Why should we be expected to 'put on our tinfoil hats' to appear before judges who in unacceptable moments of rage call us or our colleagues "*the Premier League of incompetence*"? How many of us know where to turn if something untoward is said? If said by another member of chambers? If done

before us but against others? What I'm not saying is that bullying, and in particular, bullying by the Bench is commonplace, but one time is one time too many. In my professional dealings with the courts, I too have had to address poor behaviour, and it would remain a priority for me as Assistant Secretary.

I believe in practical and effective solutions and to these issues, would encourage the establishment and wide advertisement of an anonymous accountability system which we would use to record, report and advise on matters of bullying and harassment. Were a member of the Bench to humiliate a barrister in open court, a formal independent review mechanism would help to tackle that behaviour and curb its impact. I would seek a jurisdiction-wide practice of challenging floating trial practices and ensuring that counsel is advised of any listing challenges as soon as reasonably practicable. 'Reasonably practicable' cannot be the Friday before the Monday on which the trial was to be called on.

How can I help with this? I bring experience of being in various committees including the Social Mobility Committee which I have been an active member of since I was a pupil barrister. In this role, I have appeared as one of the CBA's panel members at Pupillage Fairs both in person and online, and I am working with Urban Lawyers on a programme aimed at promoting diversity at the Bar from the academic stage. I am a member of the Race Equality Committee, a branch of Women in Criminal Law. I have been an active mentor under the Judicial Reverse Mentoring scheme run by the Judicial Office, engaging in difficult discussions with both Circuit and High Court judges about the reality of practice at the Bar and pondering with them, the solutions to our problems. I am also a trained and active Equality and Diversity Officer in my chambers. I both prosecute and defend, and with the above experience, bring energy, time and diligence.

The key to that glass door, to unlocking a better criminal bar isn't hidden. It is visible. There are many duplicates. It simply needs one to pick it up, open the door and unlock that potential. Behind it lie the solutions to at least some of our problems. Funding. Training. Funding. Proper management of lists. Funding. Continual open discourse about what more needs to be done. It is a privilege to do this job with all of you. It is in recognition of the fact that with all that is at stake, we should be supported in doing it as well as it should be done, that I offer my time and dedication to supporting the CBA as Assistant Secretary. The CBA needs strong advocates who understand these challenges first-hand. If you want someone who will push for practical solutions and be your voice, I would be honored to have your vote for Assistant Secretary.

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