

Avoiding the law; only to become immersed in it

By Bilal Rauf

Introduction

'It's better you avoid law. Maybe think about pharmacy, ophthalmology or some science course.' These were the words of my otherwise sagacious father in mid-1994, as we canvassed appropriate university course selections. Yet, 25 years later, the law has come to define the very essence of my being and personality. I share in this article my journey of practising law and observations relating to the importance of diversity in the legal profession, particularly the NSW Bar.



Bilal Rauf

The study of law

The advice proffered by my father was in a context where, hitherto, we had had little interaction with lawyers and had a minimal understanding of the practice of law. His was a view based on the experience of a migrant who had arrived in Australia in 1971 and focussed on working to create a base in a new country. It was his first trip out of Pakistan and the choice of Australia was fortuitous rather than planned. At the time of our discussion, he had retired from his long standing employment at the University of Sydney in the Information Technology Department. His advice was well-intentioned in that, English was not our first language; we did not know any lawyers; and any career requiring a certain mastery in English discourse and public speaking was unappealing. There was also a perception that law as a career was inordinately difficult and inaccessible as a vocation for someone of a migrant background.

Nonetheless, I persisted with undertaking a law degree. I commenced my combined Bachelor of Arts and Bachelor of Laws at the University of Sydney in 1996. Towards the end of my law degree, I had the privilege of studying under, and then performing research work for, Professor Ron McCallum in the area of industrial law. That experience was pivotal to my resolving to pursue a career in industrial and safety law. However, at that

stage, it had not occurred to me that a career as a barrister might be worth considering.

A career in law

Following my graduation and admission as a solicitor in 2000, I was employed by, and worked at, various law firms. That was when the challenges began. I was a graduate lawyer when the tragic events of 11 September 2001 occurred. From that point, there was an unprecedented scrutiny of the religious aspect of my identity. As a Muslim, I was openly questioned about my loyalties to Australia and whether or not I sympathised with the terrorists. There were other challenges created by a lack of diversity and understanding of different cultures. The advice proffered by my father suddenly assumed greater meaning.

As a consequence of the observed lack of cultural diversity within the legal profession, it was difficult not to feel apart or, at times, alien. However, as my career progressed, I noticed a shift in the attitude of law firms. The bigger firms were merging and assuming a more global identity. The last firm at which I spent eleven years was taking significant and commendable strides in achieving diversity and providing exposure of the law to students from migrant backgrounds. The results showed in the background of the law-

yers coming through the ranks.

As I transitioned to the NSW Bar, I had expected that there would be a similar focus to embrace and encourage diversity. My initial impressions were not positive and I was disappointed by a perceived lack of realisation about the issue. There was little, if any, discussion and there were no statistics to draw upon to understand the composition of the Bar.

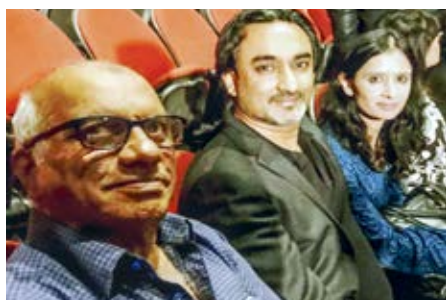
The importance of diversity

There is now considerable research on the importance of diversity in the workplace and its correlation with performance and positive outcomes.

For instance, the 'Diversity Matters' report by McKinsey & Company examined the relationship between the level of diversity and company financial performance based on financial data and leadership demographics compiled from hundreds of organisations and thousands of executives in the United Kingdom, Canada, Latin America, and the United States. Based on the research, the report stated:

The relationship between diversity and performance highlighted in the research is a correlation, not a causal link. This is an important distinction, but the findings nonetheless permit reasonable hypotheses on what is driving improved performance by companies with diverse executive teams and boards. It stands to reason—and has been demonstrated in other studies, as we indicate—that more diverse companies are better able to win top talent, and improve their customer orientation, employee satisfaction, and decision making, leading to a virtuous cycle of increasing returns.

Diversity matters because we increasingly live in a global world that has become deeply interconnected. The interconnection is partly the result of improved technology. It should come as no surprise that more diverse companies and institutions are achieving



Bilal with his father Abdur Rauf and his wife Shahida Israil.

better performance. Most organisations, including McKinsey, have work to do in taking full advantage of the opportunity that a more diverse leadership team represents, and, in particular, more work to do on the talent pipeline: attracting, developing, mentoring, sponsoring, and retaining the next generations of global leaders at all levels of the organisation. Given the increasing returns that diversity is expected to bring, it is better to invest now, as winners will pull further ahead and laggards will fall further behind.¹

The importance of diversity for the NSW Bar

The achievement of diversity is critical for the Bar in at least two respects.

First, it goes directly to the issue of the respect and regard which the broader society accord to the profession. Barristers are at the forefront of the legal processes which determine matters of innocence or guilt and the assessment of legal rights and claims. Increasingly, barristers are also involved in facilitating mediation and alternative dispute resolution. Respect and regard for the law among the wider community are enhanced when those who are active participants in the administration of justice are derived from, and reflect, the diverse society in which we exist. Otherwise, there is the risk that the NSW Bar and legal profession generally is perceived as the *'other'*, an elitist vocation to be respected from a distance and perhaps even grudgingly, but never quite embraced or appreciated as it ought to be.

Second, and given the results of research such as that conducted by McKinsey & Company, the NSW Bar's commitment to excellence is enhanced if it is able to attract practitioners who are reflective of the community they serve. The NSW Bar is then better able to position for the future and draw on the unique attributes which contribute to the overall advancement of the profession. The focus on the future is also in line with the Strategic Plan of the NSW Bar.²

In more recent times, there have been important advances by the Bar Association (with some terrific work from staff of the

NSW Bar Association, such as Ting Lim, Senior Policy Lawyer). At the urging of Anthony McGrath SC (Chair), Ingmar Taylor SC and others on the Equality and Diversity Committee (of which I was a member at the time) and under the stewardship of Arthur Moses SC (when he was the President of the Bar Association), an optional survey was introduced for the first time in 2017 for barristers to provide information as a part of the practice renewal certificates form about, among other matters, their cultural and ethnic background and the different languages which they spoke. The collection of this data is viewed by the Bar Association to be imperative in order to map trends and understand the direction of the future of the NSW Bar not only in terms of the changing nature of a barrister's work but also in understanding the cultural background, place of birth and languages spoken by members of the Bar.

As a further step, the Bar Association participated in the Careers Fair at the Macquarie University in 2016. Anthony McGrath SC, Theresa Baw, Ting Lim and I had the opportunity to speak to many law students. Many of these students did not quite appreciate the work of barristers and understood little of the NSW Bar. This initiative highlighted the importance of providing opportunities for interaction between members of the NSW Bar and students who do not have the benefit of bridges, networks and opportunities which others may do.

There are also many mentoring initiatives in place for lawyers and law students. It is important that barristers participate in these. So much is demonstrated by the long-standing practice of tutorship at the NSW Bar.

Emerging statistics

Work remains to be done in terms of continuing the dialogue about diversity and developing and implementing strategies, policies and initiatives to attract people from diverse backgrounds.

The statistics collected by the NSW Bar Association during 2018 indicate that there is a degree of cultural diversity at the NSW Bar. 300 (out of 1193) respondents nominated "other" as their ancestry. Those respond-

ents identified 44 distinct ancestries. One third of respondents identified a single ancestry originating from Eastern Europe, the Balkans or a republic of the former Soviet Union. Among the younger and more junior members, there is an emergent diversity of East and South Asian barristers. Approximately 17 per cent of those who identify as having one ancestry nominated either Chinese or Indian as their cultural heritage. Together with those who nominated 'other' as a single ancestry, nearly two-fifths (40 per cent) of barristers aged under 40 have a diverse cultural background. However, these statistics are still not representative of the state's population as a whole. They also suggest that there exist socioeconomic barriers to a practice at the Bar.

Back to my father

Some 25 years later, and with the benefit of having an insight into the practice of law and exposure to other members of the profession, including at the Open Law Term Event at Auburn Mosque in 2014, my father shares with pride that his son is a member of the legal profession. He also encourages that I do more to mentor others and build bridges between the profession and the community. One of his enduring memories of an interaction with a judicial officer was with Justice Geoff Lindsay of the Supreme Court of NSW. After a firm handshake and a discussion, he turned to me and said 'The Judge is very easy to talk to and has some interesting ideas.' He subsequently turned to my then 11 year old son, standing beside him, and said 'You should study hard so that you can also become a lawyer'.

Needless to say but my advice to others would be different to the advice given to me in 1994. The opportunity to undertake work as a barrister has indeed been a privilege and fulfilling and enriching experience.

ENDNOTES

- ¹ 'Diversity Matters' Report, McKinsey and Company, re-released in 2015, see Executive Summary.
- ² See NSW Bar Strategic Plan at <https://inbrief.nswbar.asn.au/posts/4df95d7a2fb43495d59665ad061e3db4/attachment/strategic.pdf>