

# Interview with Justice Dhanji

Interview by Kevin Tang and Naomi Wootton

On 21 October 2021, Kevin Tang and Naomi Wootton of *Bar News* spoke in chambers with the Honourable Justice Hament Dhanji who was sworn in as a Judge of the Supreme Court of New South Wales on 20 September 2021. Justice Dhanji speaks about his first weeks on the Bench of the Supreme Court of NSW in the Common Law Division.

**Kevin Tang (KT):** *Good afternoon, Judge, thank you for agreeing to this interview with Bar News. How have the early days of judicial life been so far?*

**The Hon Justice Hament Dhanji (HD):** It has been busy, but in a different way from the Bar. It is different in that it lacks the heightened anxiety you have when preparing a case, but there is the sheer volume of the work. I am still in a transition period – I have spent time getting set up, sorting out IT issues and making the adjustment to different chambers.

I have sat in different types of matters already that were not a mainstay of my practice. Even in areas I was familiar with, it is different from this side: you are sitting on the CCA but hearing three or four cases, as compared to the one you have as a barrister. But on the day, the pressure is not on you in the same way it is on the advocates.

**KT:** *Judge, I see that you have been given very nice chambers here on the Sixth Floor of Queen's Square which is the traditional common law/crime floor. It used to be that the newly sworn-in judges occupied a windowless airless room around the corner called 'Katingal'. Indeed, how fortunate you are to be in these chambers, Judge.*

**HD:** I have a nice room, with a nice view, and good neighbours. A pleasant surprise has been how welcoming the other members of the court have been.

**KT:** *How was the end of your time at the Bar as a senior silk: was it a swift departure to greener pastures?*

**HD:** It all happened pretty quickly, although I obviously knew a little bit before everybody else. The announcement was 8 September, and I was sworn in on 20 September.

**KT:** *What are your recollections of the swearing-in? It wasn't the usual affair, given the pandemic.*

**HD:** It was a very truncated event, but I'm certainly grateful we could do it. My family could not attend, unfortunately. Even through the court could have accommodated them within its limits, they weren't allowed to travel more than five kilometres from home at the time, so they couldn't come in to the court. But it was livestreamed. And I should say, the Chief Justice and the heads of jurisdiction were kind enough to sit in Banco and there

were a number of judges on the Bench. It was nice to have the formal ceremony, with the oath of office done in that way. But of course, there were no speeches. I think the court is looking at having a welcoming ceremony in December.

**KT:** *What were your observations at the end of the time that you were a Barrister? Were there things at the end of your career at the Bar that you thought were the ills of the system?*

**HD:** You can't practise within a system for any length of time without coming up against aspects that are not exactly the way you would like them to be. By-and-large it has to be said that while every now and again you come back from court with a grievance — for all the complaints and rantings — you remind yourself of the bigger picture. And in the scheme of things we have a generally good system that works pretty well. Obviously within that there were frustrations, whether it be the personalities that you are dealing with, laws that are being applied or decisions being made — but for all that, it is not a dictatorship run by me and that is a good thing.

**KT:** *Is there anything you miss about the life of being a barrister?*

**HD:** Walking out of court, sending the brief back, and sending a bill. Now I take the brief back to chambers and have to work out what to do. And I miss chambers, obviously. I was at Forbes Chambers for 25 years and I have some very dear friends there.

**KT:** *Were there any unusual discoveries at the start of your judicial life? Any protocol oddities?*

**HD:** If anything, it is more relaxed in terms of protocol than I had anticipated. It is quite collegiate and welcoming — it's a friendly place.

**KT:** *You would have already had some friends on the court — such as Justice Hamill.*

**HD:** Yes, I have had a number of friends already on the bench. It wouldn't be any great surprise to know that I spent time sounding out various people on the court prior to accepting. I was able to get a better insight.

**Naomi Wootton (NW):** *Speaking of Hamill J, some keen observers have spied a potential new rival for the famed Hamill J catchwords style. Is there a competition going? (much laughter).*

**HD:** No competition. Perhaps more in the nature of inspiration...

**KT:** *Will you be heading off on circuit soon?*

**HD:** I don't have anything rostered yet, but I don't doubt it will happen soon.

**KT:** *Did you go on circuit much as a barrister?*

**HD:** In my early years yes, but in the later years at the bar, not really. I did get the occasional trip to other capital cities. I suppose that is something I will miss — the opportunity for interstate travel that I was getting in my later years at the Bar.





**KT:** *You practised a lot in crime: are there other areas of the common law division you would like to have a look at?*

**HD:** I will have to look at them, I suspect. So far, given the COVID-19 restrictions there have been no jury trials, so I have been dealing with high risk offender matters, proceeds of crime matters and possession matters.

**NW:** *You sounded people out, weighed up the pros and cons: but what made you accept the appointment?*

**HD:** To a large extent it was that I had been at the Bar for 25 years, and you only have one life. I thought I should perhaps not do the same thing for all of it. It's not exactly a radical change — I'm not going off to save the Amazonian forests or anything like that — but it was time to do something different. I also figured I had built enough of a skill set that I could make a reasonable contribution. It is a shift from working as part of the system to being in the system in an institutional sense, and although there is a community service aspect of being a barrister, as a judge, that is at the centre of what you do. I thought this would be a fulfilling way to move on.

**KT:** *In the early stages of this new life, you have already seen the types of matters in which you used to appear. Do you still feel the weight of the difficulty on counsel?*

**HD:** I would hope I have an empathetic approach. I haven't forgotten the pressure on counsel at the hearing and I hope even as my time as a barrister grows more distant, that doesn't change.

**KT:** *It was recently recorded that you had appeared some 350 times in your career before the Court of Criminal Appeal (CCA). That is in itself a remarkable achievement.*

**HD:** I think that was over the entirety of my time at the Bar — 350 times in the CCA. It is not hard to work out because I have an easy name to search on databases. In terms of the decision to move, I did get to the point where I thought, do I really need to do 500, or any more?

**NW:** *You are the first Indian Australian to be given appointment to the Supreme Court of New South Wales. That is a significant milestone, or achievement in anyone's estimation.*

**HD:** I wouldn't actually adopt the idea it is a significant achievement. It was going to happen to somebody, it just ended up being me. That is not to say it is not important. I have had a number of people tell me how pleased they are with the appointment. The



IT person at the court told me that he and his wife had been discussing at home how proud they were that there was someone with their background on the court. And I was contacted by a number of Australian-Indian news outlets wanting to speak with me, so it was significant for the community. It makes them feel that they are a part of the Australian community. The institutions of a society are ideally reflective of the society which it serves.

**KT:** *Is there anything you would like to specifically do as a Supreme Court Judge?*

**HD:** I think just do the best job I can.

**NW:** *Have you as yet been frustrated with counsel appearing before you?*

**HD:** I admit I have had moments where I have thought 'I would have articulated that ground a bit differently'. But I don't want to swap chairs. The pressures are lower on this side of the bench. There is pressure to write a judgment but that is a different sort of stress.

**NW:** *What about the amount of written work involved in the judicial role? Has it been a shock to you compared to when you had a busy criminal practice?*

**HD:** When I started at the Bar, there was certainly less writing at the Criminal Bar. For example no-one took written submissions to the District Court. I started doing a couple of pages of bullet points to take along to court. Now you regularly see written submissions, and indeed it is part of the practice note. The nature of those submissions is detailed and lengthy. My practice area involved a lot of CCA work

and complex trials, which involved detailed written submissions. Of course, I had good juniors. But no, it was not a shock to me in terms of having to do the writing. What has been more of a shock is more the sheer volume: the number of judgments you have to get through is significant, and the time it takes to do the writing is significant.

**KT:** *It has been said that it is like learning how to drink from a fire hose. Are you looking forward to anything in particular after the pandemic lockdown period in the courts?*

**HD:** I am looking forward to having live hearings, and seeing people in the courtroom, as it has all been online.

**NW:** *What are you looking (or not looking) for as a judge from counsel appearing?*

**HD:** I have to say one thing I would like to see done better is people having microphones that work consistently. The amount of time I have spent listening to people with microphones that don't work properly! Apart from that I am always going to appreciate people that can get to the point. Probably the most off-putting thing is submissions that are unrealistic, that put the case too high. For example, coming in on a bail application and arguing it is a weak Crown case when it just is not. You need to grasp the nettle, deal with what you need to deal with. You aren't going to fool anyone by calling something black when it's white.

**NW:** *Coming back to your appointment: how did your family react to the news?*

**HD:** My parents were very proud, as was my immediate family. With my immediate family, all of us were unaware, I suppose, of what it would mean for us and what the changes might be. But they were supportive, and the reason I have managed to get where I have is because I have supportive people around me.

**NW:** *What about the change from self-employment to having a 'boss', of sorts. Or at least having to ask someone else for leave?*

**HD:** It is kind of strange, but really, there is a plus to it. You are forced to put in for your leave and those are then set. Unlike at the Bar where there is always the temptation to wait and see what is happening and then let work creep up on you. Although having said that, I was always very ardent about taking my holidays when I was at the Bar and it seems there is a lot of leave time spent writing judgments on the bench.

**KT and NW:** *Thank you Judge for your time. The pleasure has been ours.* **BN**