

To mark International Women's Day 2021, and this year's theme 'Choose to Challenge', members of Carmelite Chambers have contributed articles highlighting and challenging an aspect of the Justice System that impacts women's rights and welfare.

---

## “Choose to challenge”, and what male members of the legal profession should be doing about it

---

Early on in her practice, a member of Carmelite Chambers was mitigating for her client. We will call him Mr K. Mr K was at risk of having his suspended sentence activated. Throughout the course of mitigation, Mr K repeatedly interrupted submissions. The male judge told him there was no need, as his counsel was mitigating eloquently on his behalf. Mr K responded by shouting “*But she can't, she's a woman.*” The judge swiftly replied, “*who is brilliantly and persuasively representing you*”, before telling Mr K he was lucky to have her as his counsel.

One of many such experiences encountered by women in the legal profession, this example illustrates inequality on the basis of sex is not yet a thing of the past. It also highlights how choosing to challenge gender inequality does not stop with women. There is a different, yet equally important role for men to play. Those in senior roles, such as the judge in Mr K's case, are particularly well positioned to tackle inequality and promote a culture of equal opportunities and have a duty to do so.

Many glass ceilings have already been shattered in the first century of practice for women in law. The profession has come a long way, facilitated in part by increased awareness and more open dialogue around inequality and the importance of diversity. The story is not over yet though. As practitioners we must all be alive to inequality on the basis of sex, in order that we can all play our part in continuing to challenge it.

### Awareness

The vast majority of male practitioners already advocate for equality. The vast majority of men do not hold dismissive views of women in the law, nor think them as their inferiors. That, however, does not end the conversation. In a call to arms against gender inequality,

men in the legal profession must be alive to the prevalence of gender inequality so that they too can challenge it as it happens. Once overt, the narrative surrounding inequality of the sexes is often far more discrete now. Vigilance and increased awareness are key to detect circumstances in which inequality are being perpetuated.

This awareness provides a basis upon which men and women can tackle everyday instances of discrete, yet dismissive attitudes. Both in situations as they arise and in taking pro-active steps to guard against them in the future. Men must all be ready and well-equipped to challenge imperious and condescending challenges to female authority.

In particular, we must all be ready to intervene:

- When a female lawyer raises a meritorious solution or submission that is dismissed by a male counterpart, who later goes on to rehearse the very same solution or submission as his own.
- When a woman, who has meticulously prepared her case, meets with a less prepared male opponent, who refuses to engage in discussions with her, on the basis of ill-assumed superiority. A male opponent who tells her *“Don’t worry dear, I’ll explain how it all works”*.
- The idea that, by default and default alone, the only woman in a case should arrange the case dinner, regardless of their relative seniority.

## Opportunity

Women’s opportunities within the legal profession should be based on their skill and talent, their hard work and preparation. Women should be in a position where they are judged and valued on equal terms. It is important that we, as a profession, choose to champion equal and fair opportunities.

Alongside their intelligence, in our experience female practitioners bring a blend of qualities to their professional lives including authenticity, determination, passion and positivity. Some senior male practitioners have much to learn about how to be collegiate both inside and outside the courtroom.

## Mentors

As lawyers we represent people often in the most difficult, sensitive and complex of situations. We do so fearlessly. Yet, fearlessly advocating for ourselves and our colleagues in situations of inequality can be tricky to navigate. It is paramount that we instil confidence in both women and men, so that they feel better able to tackle inequality and change the landscape.

The importance of women mentors, as inspiration for young women, cannot be stressed enough. Formidable and talented women, who inspire confidence in young practitioners. Those that have trained and encouraged us. Those we have seen in practice and aspire to be. Those that have shown us that women's progress in law should not be limited. Those that have opened so many doors and then held them open for those following in pursuit.

Male mentors play an equally important role, as allies in challenging the narrative and celebrating women's achievements.

It is important for male mentors to fundamentally address the way they think. Too many believe that if they encourage women "to push through the boundaries" or to "excel" they have discharged their duty. Lines such as "*have faith in the system*" and "*don't worry, your dedication and quality will be recognised*" just don't cut it. And when a woman mentee expresses dissatisfaction with their progress it is simply not enough to trot out platitudes such as "*don't be discouraged – just keep at it*".

What is required is true leadership. Take positive and constructive steps to identify how, as a senior male barrister, you can support women to fulfil their potential. Be a voice for change within chambers ensuring that it both has the policies in place to foster equality and rigorously applies those policies.

Proactively invite female colleagues to networking events and ensure that the events you run are designed to be inclusive. Ensure that women have every opportunity to showcase their expertise through seminars, workshops or chambers' social media channels. And have a developed and well-structured support system in place to plan and execute applications for silk or judicial appointments.

## Choose to Challenge

There is a wonderful career to be made as a woman in the legal profession. Unfortunately, inequality on the basis of sex is a contributing factor towards the attrition of women practising law, particularly at the independent bar. In choosing to challenge, we are also endeavouring to retain talented female practitioners, whose skills and diverse experiences add so much. We all have an active part to play in challenging inequitable behaviours and attitudes. Equally important is our role in celebrating women's achievements, signalling the clear message "*But she can, she's a woman*".

---

Fiona Clegg  
Colin Aylott QC