

Conference to mark the tenth anniversary of the Judicial Appointments Commission, University of Birmingham

Appointments to the Supreme Court

Lady Hale, Deputy President of the UK Supreme Court

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‘Once we accept that who the judge is matters, then it matters who our judges are.’

So says Professor Erika Rackley in her prize winning book, *Women, Judging and the Judiciary*.¹ If this is so of the judiciary as a whole, then how much more so must it be of the Supreme Court? The case load of the Supreme Court consists almost entirely of cases raising an ‘arguable point of law of general public importance which ought to be considered by the Supreme Court at that time . . .’² In other words, the point is arguable, because there is no law or what law there is does not give a clear answer. It is a point of law, rather than of practice and procedure, which we usually leave to the appeal courts in each part of the United Kingdom. It is of general public importance, because it matters to a great many more people than the parties to the case, often to the public as a whole, whose interests need to be protected. And the case is a suitable vehicle for the Supreme Court to decide it. These are the hard cases which matter to us all. They are also the cases where the judges have a choice.

It has long been recognised, as Justice Felix Frankfurter of the United States Supreme Court put it, that a person ‘brings his whole experience, his training, his outlook, his social, intellectual and moral environment with him when he takes a seat on the supreme bench.’³ Another famous American Judge, Benjamin Cardozo, argued that this should be seen as a good thing:

¹ Routledge, 2013, winner of the Peter Birks prize for the best academic law book published that year.

² UK Supreme Court, Practice Direction 3.3.3.

³ *Of Law and Men: Papers and Addresses of Felix Frankfurter* (Philip Elman, ed), 1956, p 40-41.

‘The eccentricities of judges balance one another. One judge looks at problems from the point of view of history, another from that of philosophy, another from that of social utility; one is a formalist, another a latitudinarian, one is timorous of change, another dissatisfied with the present; out of the attrition of diverse minds there is beaten something which has a constancy and uniformity and average value greater than its component elements’.⁴

These eminent judges were writing at a time when the United States Supreme Court Justices were all white men. If the attrition of diverse minds is a good thing in itself, then how much better would it be if those diverse minds incorporated diversity in a wider range of parameters than their ‘eccentricities’, including of course sex, ethnicity, professional and social background.

Not only that, if yet another eminent American judge, Oliver Wendell Holmes Jr, was right to say that ‘the life of the law has not been logic; it has been experience’,⁵ then we must have a wider range of experiences contributing to that life. As Professor Judith Resnik has put it:⁶

‘A major shared premise [of feminist legal scholarship] is that knowledge of the world is constructed from one’s viewpoint and that what has been assumed (by some) as a universal viewpoint is, in fact, a viewpoint of some men, who have articulated a vision of reality and claimed it to be true for us all.’

We are talking, of course, of the top appellate court, where the judges sit as a panel. In most of the old common law world, the top courts sit en banc, nine in the US and Canada, seven in Australia, and five in New Zealand. We in the UK are unusual in sitting in panels, usually of five but sometimes of seven or nine. Since moving from the House of Lords, we have sat in larger panels more often than we did there.

⁴ Benjamin Cardozo, *The Nature of the Judicial Process*, 1921, Yale University Press 1961, p 177.

⁵ *The Common Law*, 1881, p 1.

⁶ ‘On the Bias: Feminist Reconsiderations of the Aspirations for Our Judges’ (1988) 61 *Southern California Law Review* 1878, at p 1906.

There are various reasons for this, including our ready access to a larger courtroom, but one is the greater authority it gives to a decision, the greater the number of justices who agree upon it. Another is the (apparently) reduced risk that the composition of the panel will dictate the result. We do not accept that any of us is sufficiently consistent and predictable in his or her approach for this to be a real problem. But we acknowledge that the public may think it so.

So how are we doing with appointments to our own Supreme Court? I was sworn in as a ‘Lord of Appeal in Ordinary’ on 12 January 2004. 15 people have been sworn in as Lords of Appeal in Ordinary or Justices of the Supreme Court of the United Kingdom since then. Even if we leave out the two who were sworn in the day after me,⁷ the Court has more than replaced itself since then. One might have hoped that the opportunity would have been taken to achieve a more diverse collegium. It has not happened.

All of those 13 appointments were men. All were white. All but two went to independent fee-paying schools. All but three went to boys’ boarding schools. All but two went to Oxford or Cambridge. All were successful QCs in private practice, although one was a solicitor rather than a barrister. All but two had specialised in commercial, property or planning law. None had spent much, if any, time as an employee. I share with them the experience of being white and having been to Cambridge. In every other of those respects I am different: I went to a state day school, my profession was University teacher and then Law Commissioner, my specialism was family and social welfare law. How is it that, despite their very different characters and outlooks, they remain such a homogenous group?

The Constitutional Reform Act 2005, which set up the Supreme Court, has little to say about the criteria for appointment or the qualities necessary to do the job. Candidates for appointment must of course meet the statutory criteria,⁸ but these are very wide. A person must have:

⁷ Lord Brown of Eaton-under-Heywood and Lord Carswell. The editors of the Law Reports assumed, until corrected, that I was junior to them.

⁸ 2005 Act, s 25(1).

(a) held high judicial office for a period of at least two years; this means being a judge of the High Court, Court of Session, or above;⁹ or

(b) satisfied the ‘judicial-appointment eligibility condition’¹⁰ on a 15 year basis; this means being a barrister or solicitor in England and Wales and having engaged in law related activities for 15 years or more; law related activities are very widely defined, and include acting as an arbitrator or mediator, practice or employment as a lawyer, and teaching or researching law;¹¹ or

(c) been a ‘qualifying practitioner’ for a period of at least 15 years; a qualifying practitioner is either a Scottish advocate or a solicitor entitled to appear in the Court of Session or the High Court of Judiciary or a Northern Irish barrister or solicitor.¹²

Thus there is no requirement that candidates be serving judges or indeed be in independent practice either as a barrister or solicitor, as long as they are professionally qualified and experienced in law. Judicial experience is obviously helpful (academics have the luxury of being able to consider points of principle without having to decide real cases) but there are a great many different kinds of such experience. In a collegiate body where many different voices may be heard, there is no reason why a suitably qualified academic lawyer should not be appointed. Several Justices of the Supreme Court of the United States were academic lawyers before they were appointed directly to federal appellate courts. One Justice had not been any kind of judge before appointment. Only two have ever been trial judges.

The 2005 Act provides that selection must be ‘on merit’.¹³ But at the same time, the selection commission must ensure that, between them, the judges of the Court will have knowledge of, and experience of

⁹ 2005 Act, s 60(2)(a).

¹⁰ As defined in the Tribunals, Courts and Enforcement Act 2007, s 50.

¹¹ 2007 Act, s 52.

¹² 2005 Act, s 25(2).

¹³ 2005 Act, s 27(5).

practising, the law of each part of the United Kingdom.¹⁴ In practice, this has so far meant that we have followed the usual practice in the House of Lords of having two Justices from Scotland and one from Northern Ireland. This has meant that when there is a vacancy from either place, it has been filled by another Justice from that place. There is obvious good sense in having this geographical quota in a court which is there to serve the whole of the United Kingdom, but it raises some interesting questions.

First, what if the only candidate from the place in question is conspicuously less meritorious than candidates from elsewhere in the United Kingdom? I hasten to say that this has not yet happened. All our ethnic (celtic) minority are of very high quality indeed. But given the small size of the actual pool in Scotland and Northern Ireland, it is not inconceivable that the problem would arise in future. Second, with, at present, nine Justices likely to come from England and Wales, there is scope for appointing Justices with little or no experience of judging or even legal practice but with all the other qualities required to be a success. But in Scotland and even more so in Northern Ireland, there is little scope for such diversity of professional background.

Third, what is meant by a 'part' of the United Kingdom? Should it now include Wales? At present England and Wales share the same justice system. But we no longer share the same legislative system. Since 2011 Wales has had full legislative competence in relation to devolved matters and increasingly Welsh law is diverging from English law in those areas. The point has been made that it is rare indeed for provinces, states or territories within larger sovereign states to have their own legislatures but not also to have their own justice systems. If Wales were eventually to achieve its own justice system, then the case for a Welsh Justice would be compelling. But even before that, it can be argued that, at least for any case involving specifically Welsh law, there should be a Welsh Judge on the court. At present we have the great advantage that the Lord Chief Justice of England and Wales is a Welshman with a deep understanding of the Welsh context. That may not always be the case. But to increase the ethnic quota when we do not have any other

¹⁴ 2005 Act, s 27(8).

sort of quota or even targets to redress historical disadvantage might make achieving other important forms of diversity even harder.

So how were those 13 appointments made? The first two¹⁵ were appointed in what I assume to be the time-honoured way. The Lord Chancellor consulted the serving Law Lords at a round table meeting in his office in the House of Lords. The senior Law Lord, Lord Bingham, spoke first and it would have taken a bold person to disagree with him. The Lord Chancellor no doubt also consulted the Lord Chief Justice, the Master of the Rolls, and the other Heads of Division. A name emerged and the Prime Minister was advised accordingly. Before advising Her Majesty to make the appointment, the Prime Minister checked with the person concerned whether he was willing to accept it. This was presumably (and certainly in my case) the first that he had heard of it.

Things changed after the changes made to other judicial appointments by the Constitutional Reform Act 2005 came into force. It was decided voluntarily to adopt the new model for Supreme Court appointments even before the Supreme Court came into existence. So Lord Collins, Lord Kerr and Lord Clarke were appointed in the new way, as have been all the later appointments.

Under the 2005 Act, the Lord Chancellor must convene a selection commission when it appears that the number of Justices is or will soon be less than the maximum allowed.¹⁶ The maximum is now the full time equivalent of 12.¹⁷ Thus commissions are convened ad hoc when a vacancy arises, although the same commission may deal with more than one vacancy if they will soon arise. Originally, the members had to include the President of the Court, who would preside, the Deputy President, a member of the Judicial Appointments Commission for England and Wales, a member of the Judicial Appointments Board for Scotland, and a member of the Judicial Appointments Commission for Northern Ireland. Following

¹⁵ Lord Mance and Lord Neuberger of Abbotsbury.

¹⁶ 2005 Act, s 26(5A).

¹⁷ 2005 Act, s 23(2).

changes made by the Crime and Courts Act 2013, the Deputy President is no longer a member of the commission. Instead, there must be a ‘senior UK judge’, nominated by the President, ‘having due regard to the territorial composition of the selection commission’.¹⁸ The Deputy President and other Supreme Court Justices do not count as senior UK judges for this purpose.¹⁹ The likelihood is that the Lord Chief Justice, or his equivalent in Scotland or Northern Ireland, will be nominated, depending on the part of the United Kingdom from which the vacancy arises.

The change was explained on the basis that it would improve the prospects of more diverse appointments if the existing Supreme Court judiciary were not two-fifths of the selection commission. It has not gone unnoticed²⁰ that this change coincided with my own appointment as Deputy President. It is not obvious that increasing the already very substantial influence of the national chief justice will change matters for the better – although at least he does now have a statutory duty to encourage judicial diversity²¹ and the present incumbent in England and Wales is going about this in a vigorous manner.

Apart from the President, who sits *ex officio*, and the senior UK judge, who is nominated by the President, the other members are normally nominated by the Chairman of the respective appointments bodies. In practice, the Chairmen in England and Wales and Scotland have usually nominated themselves. But the Chairman of the Northern Ireland Commission is the Lord Chief Justice, who has not thought it appropriate to nominate himself. At least two of the non-judicial members must be non-legally qualified,²² and in practice there have often been three non-lawyers. The nominators must also have regard to the fact ‘that it is desirable that the members of the selection commission should include (a) both men and women, and (b) members drawn from a range of different racial groups’.²³ In practice, there has almost always

¹⁸ Supreme Court (Judicial Appointments) Regulations 2013/2193, regs 11(1)(e) and 14(1)(b).

¹⁹ Reg 2(f) and 2005 Act, s 60(1)(b) to (i).

²⁰ For example, by Lord Hope in the House of Lords’ debate on the Regulations: HL Hansard, 23 July 2013, col GC405.

²¹ 2005 Act, s 137A, inserted by the 2013 Act.

²² Reg 13(3).

²³ Reg 11(3).

been at least one woman on the commission, but since Baroness Usha Prashar ceased to be Chairman of the Commission for England and Wales they have all, I believe, been white British.

The scheme of the Act is that one name goes forward for each vacancy. (Long gone are the days when two names were put up to the Prime Minister for him to choose between.) The Lord Chancellor has three basic options. He can agree to the selection; he can reject it if he thinks the candidate is not suitable; or he can ask the commission to think again if he thinks there is not enough evidence that the candidate is suitable, or there is evidence that this is not the best candidate on merit, or there is not enough evidence that the Court would then have knowledge and experience of the law in each part of the United Kingdom.²⁴ In practice, he has always agreed to the selection. He has to give reasons for either of the other options,²⁵ and this raises the possibility of judicial review (although I doubt very much whether any serious candidate would wish to invoke this). Once agreed, the name is forwarded to the Prime Minister who advises Her Majesty accordingly.²⁶ This means that there is hardly any scope for political influence over the selections. It is interesting that we have gone from a system which was theoretically entirely in the hands of the politicians, although in practice appointments have not been made on political grounds for decades now, to a system which is in reality outside the hands of the politicians.

Is this a good thing? In most other common law countries, the final selection is always made by a government minister. Even when there is a selection commission, the practice can be to submit more than one name, so that the minister may choose. This practice is viewed with alarm by many who value our tradition of a judiciary which is entirely independent of party politics. Does the country really want the minister's political advisers trawling through the judgments of the recommended candidates so as to select the one with whom they are most comfortable? On the other hand, it is noteworthy that we have recently

²⁴ Regs 20 and 21(1) and (2).

²⁵ Reg 21 (3).

²⁶ 2005 Act, s 26(2) and (3).

had two eminent journalists raising the issue of whether the public has a right to know the politics of the senior judiciary.

Charles Moore has argued that, ‘if they are to decree what is “right” and apply slippery concepts like “proportionality”, rather than sticking to strictly legal issues, we need to know their politics’.²⁷ We can argue about the extent to which such ‘legal issues’ have always involved difficult and sometimes politically charged choices. But we also need to think about his assertion that ‘The effective removal of the Lord Chancellor from the process (in the name of political impartiality), far from opening up the field, has made the judiciary an even tighter club’. Jeremy Paxman has also argued that we need to know more about precisely who our judges are. He asked ‘If the English appointments process is nosy enough to inquire about sexual preferences, why does it not also ask how would-be judges vote in elections?’²⁸ One answer might be that we ask about sexual preferences because sexual orientation is a characteristic expressly protected by the Equality Act 2010 whereas politics as such are not. The argument which Paxman accepts as ‘unanswerable’ is that in the UK the Supreme Court is not supreme: Parliament can always trump the judiciary by passing a new law.

But might there be other ways of improving the democratic legitimacy of appointments without exposing them to the risk of party political bias? In Israel, for example, the appointing body is composed of both Parliamentarians and serving Judges. One possibility would be to include senior politicians, one from the government and one from the opposition, on the selection commissions. This might improve the input of elected Parliamentarians into appointments without making them overtly party political. Simply including the Lord Chancellor on the commission might run that risk.

²⁷ ‘We’re turning judges into masters of the state, which is not their job’, *Daily Telegraph*, 24 October 2015.

²⁸ ‘Who are you to judge?’ *Financial Times*, 31 October 2015.

The Act provides that there may be up to 12 Justices – this now includes 12 full time equivalents, thus making it possible to have so-called ‘part time’ salaried appointments.²⁹ This has been tried elsewhere in the judiciary with a view to making the job more attractive to people with caring and other responsibilities making it hard for them to take on the role full time. Obviously, thought will have to be given to how this might be accommodated in the next round of appointments. If there is only a single vacancy, the court would lose judge-power unless there were candidates wishing to job-share. This might be less of a problem where there were several vacancies to fill. Another problem might be defining the minimum requirement for a full time post, in terms of days actually sitting in court, because we all work in such very different ways.

At present, the selection commissions do not undertake any outreach work with a view to encouraging the widest possible range of candidates to consider applying. Those whom our former chief executive, Jenny Rowe, consulted for the purpose of her recent review of our appointments process agreed that by the time each ad hoc commission is convened it is too late. There were also risks in any member of a selection commission encouraging particular individuals to apply. But most thought that the court itself – the Justices and senior staff – should be engaging in such work – encouraging suitable people and even groups of people to consider putting themselves forward, offering shadowing and mentoring, and the like. One possibility would be to establish an unofficial ‘search committee’, keeping an eye open for potential future candidates and giving them appropriate experience and encouragement so that they would be better placed to make an application when the opportunity arose. It occurs to me that this is something where the Deputy President might take the lead, given that she is no longer on the commission itself.

The Act has little to say about how the commissions should go about their work. They do have to have regard to any guidance given by the Lord Chancellor (but so far as I know, none has yet been given).³⁰

²⁹ 2005 Act, s 23(2), as amended by the Crime and Courts Act 2013.

³⁰ 2005 Act, s 27(9).

They have developed a set of qualities and abilities against which to measure merit. In the most recent recruitment, these included ‘exceptional’ ability in the following areas:

- Knowledge and experience of the law
- Intellectual ability and interest in the law, with a significant capacity for analysing and exploring a range of legal problems creatively and flexibly
- Willingness and ability to learn about new areas of the law
- Clarity of thought and expression
- An ability to work under pressure and to produce work with reasonable expedition

Candidates also had to show:

- Social awareness and understanding of the contemporary world
- An ability to work with colleagues, respecting their views, but also being able to challenge and debate in a constructive way
- A willingness to take part in the wider representative role of a Supreme Court Justice, for example by delivering lectures, taking part in conferences, meeting student and other groups
- Vision, coupled with an appreciation of the role of the court in contributing to the development of the law

And, perhaps above all:

- Independence of mind
- Integrity

Obviously, these criteria have been developed with some notion of what is entailed in the job of Supreme Court Justice. One of Jenny Rowe's other recommendations is that we establish mechanisms to draw up a more detailed job description for Supreme Court Justices, in consultation with 'external stakeholders' as well as current Justices. This might lead to some revision of the selection criteria. While I can see that this would be a good idea – it might lead us to question some of our current assumptions – I am a bit sceptical about what difference it would make. The qualities listed are the obvious ones, although it is interesting that they do not include that elusive quality, 'judgment'. The more difficult questions are how they are to be assessed and weighted against one another.

The basic process of making selections was established by the first commission and has remained largely unchanged. It begins with open advertisement, although usually not in the print media, because they are so expensive. It continues with letters of application. There is at present no formal application form, but applicants are expected to address themselves to each of the criteria and provide evidence of how they are met. They are also expected to submit examples of judgments of which they are particularly proud and of extra-judicial writings or speeches. They are also asked to name referees. Jenny Rowe has suggested that there should be a formal application form, so that the commission has the same basic data on each candidate, but that candidates should also submit a CV and a short personal statement. Some of the potential candidates may find the whole process of selling themselves in this way off-putting: many have never had to make a job application in their lives. We should be looking for ways to help and encourage the best to apply.

The Regulations require the commission to consult the senior judiciary: that is, the judges of the Supreme Court, the Lord Chief Justice of England and Wales, the Master of the Rolls, the Lord President of the Court of Session, the Lord Chief Justice of Northern Ireland, the Lord Justice Clerk (the second senior Scottish judge), the President of the Queen's Bench Division, the President of the Family Division, and

the Chancellor of the High Court.³¹ The commission also has to consult the Lord Chancellor, the First Minister in Scotland, the First Minister in Wales, and the Chairman of the Northern Ireland Judicial Appointments Commission. Normally, these people are consulted on all the applications received, before any short-listing (but may be after long-listing). It may be worth pointing out that, at present, all but one of these people are men.

There is at present no set form for referees and statutory consultees. Jenny Rowe has suggested developing a more structured set of questions for them ‘with the aim of eliciting the most useful information’. But if so, I do hope that this does not turn into the very rigid form which referees and judicial assessors are expected to fill in for other judicial appointments and allows referees and consultees the freedom to supply narrative references giving the real flavour of the candidate.

Once this information is in, the commission draws up a short list for interview. The general view of Jenny Rowe’s consultees was that an interview was inevitable and could be very useful in exploring some of the criteria. It is particularly important for the lay members who would probably not know the candidates personally or by reputation. But there is also concern that the interview can play too decisive a part in the overall process. Jenny Rowe recommends that the commission should have a long meeting in advance of the interviews, going through all the material available, arriving at provisional views on who should be recommended and identifying areas to explore with particular candidates. After the interviews, it might be helpful to wait a day or so before taking a final decision, so as to reflect on all the evidence.

At present, before the Lord Chancellor decides whether to accept the selection, he must again consult the statutory consultees.³² This is very odd, given the limited options available to him. It is particularly odd, embarrassing even, in the case of appointments as President or Deputy President. It means that the other

³¹ Reg 18.

³² Reg 19(5).

Justices of the court know the result, but the candidates do not (unless they have indiscreet friends who spill the beans).

The next selection commission is also going to have to consider what to do about the so-called ‘equal merit’ provision. Where two persons are of equal merit, the Equality Act 2010 does not prevent the commission from preferring one of them over the other for the purpose of increasing diversity within the group of persons who are the judges of the Supreme Court³³.

The House of Lords Constitution Committee recommended that this should apply to all judicial appointments.³⁴ Their evidence revealed different views about whether it would make a difference. Some thought that it might do so in the larger selection exercises for the lower ranks of the judiciary, where it could be very difficult to rank all of the candidates in strict order of merit. But for individual appointments at the higher levels, some doubted whether two candidates are ever truly equal, if you drill deep enough.³⁵ Others argued that the assessment of comparative merit is an inherently subjective exercise – how do you rate each candidate against each desirable quality and how do you rate each quality against the others? So you might well end up with candidates who were equally well-qualified, but for different reasons.³⁶ I take the latter view, because there is so much room for variation in choosing, assessing and then weighting the various parameters involved in merit. The Constitution Committee were uncertain how often it would be used, but took the view that might enable more candidates from under-represented groups to be appointed and it would ‘send out a strong signal that diversity in judicial appointments is important, without undermining the merit principle’.³⁷

³³ 2005 Act, so 27(5A)(b), added by the 2013 Act.

³⁴ House of Lords, Select Committee on the Constitution, 25th Report of Session 2010-2012, *Judicial Appointments*, HL Paper 272.

³⁵ Including Lord Sumption, JAC Chair Christopher Stephens, and Baroness Neuberger.

³⁶ Including the then Lord Chancellor, Kenneth Clarke, Lord Neuberger, Lord Justice Goldring and Lady Justice Hallett.

³⁷ Para 101.

The next selection commission is going to have to decide what use, if any, to make of this provision, which is optional. One issue is whether it should just be applied to the obvious ‘headline’ criteria of sex and race, or whether to all the other characteristics protected by the Equality Act 2010. Another is whether it should only be deployed at the final selection stage (as the JAC have decided) or whether it could be deployed at the shortlisting stage as well. The JAC’s approach has been criticised³⁸ on the basis that it would obviously be much more powerful if it meant that candidates who were identified as potentially able to benefit from this provision were identified at an early stage and included in the later stages of the selection process. Leaving it to the end means that the selection commission has already narrowed its options before it knows whether the candidate are truly equal.

Another problem is that if the field of choice is narrowed by having regard to the subject matter needs of the court, then the scope for improving diversity would be even further reduced. We already have our ethnic quota, which may well have to go up to four in the foreseeable future. If we start trying to predict our subject matter needs, we may well introduce bias in favour of subject areas where under-represented groups are not strong. Who would have thought that we would have three Justices who started their full-time judicial careers in the Family Division of the High Court?

I believe that anyone who is appointing the Justices of the Supreme Court should be able to look at the body of Justices as a whole and ask how they can collectively best serve the needs of the UK justice system. Excellence is important (though I am embarrassed to claim it). But so is diversity of expertise. And so is diversity of background and experience. It really bothers me that there are women, who know or ought to know that they are as good as the men around them, but who won’t apply for fear of being thought to be appointed just because they are a woman. We early women believed that we were as good as the men and would certainly not be put off in this way. I may well have been appointed because the powers that be realised the need for a woman. I am completely unembarrassed about that, because they

³⁸ By the Equal Justices Campaign.

were right, and I hope that I have justified their confidence in me. I don't think that all the talk about the best women being deterred is a plot to put them off, but I am sure that they should not be deterred by talk such as this. We owe it to our sex, but also to the future of the law and the legal system, to step up to the plate.

The great Lord Bingham seems to have agreed. He pointed out that merit 'is not self-defining'. It 'directs attention to proven professional achievement as a necessary condition, but also enables account to be taken of wider considerations, including the virtue of gender and ethnic diversity'.³⁹ There will inevitably be six vacancies on the Supreme Court between September 2016 and December 2018. If we do not manage to achieve a (much) more diverse Court in the process of filling them we ought to be ashamed of ourselves.

³⁹ Tom Bingham, "The Law Lords: who has served", in L Blom-Cooper, B Dickson and G Drewry (eds), *The Judicial House of Lords 1976-2009*, Oxford University Press, 2009, p 126.