

Goldsmiths, University of London degree ceremony

26 July 2022

1. I am grateful to you for the honorary degree conferred on me today and for inviting me to speak to you, as we celebrate your success and, in particular, the achievements of the first cohort of students at Goldsmiths who have completed a law degree. As you embark on what I hope will be fulfilling and rewarding careers, whether in the law or elsewhere, I thought you might find it interesting to know a little of my own journey. It has been my privilege to dedicate my professional life to the service of the law, something which the late great judge, Lord Bingham, described as an “all but sacred flame.”
2. People sometimes ask me if I come from a family of lawyers. Some even ask me if my father was a judge. I suppose they assume that these things run in the family. The answer is No. I was the first lawyer in my family and the first judge. My ancestors lived and worked in what was then north-western India, in the Lahore region, which became part of Pakistan at the time of independence and partition in 1947. My parents moved to Delhi and, later, in the 1960s came to this country. I grew up in Bristol.
3. Like many immigrants my parents had to put up with verbal and even physical abuse. Like many immigrants, they regarded education as the key to their children’s future success. And like many immigrants they made sacrifices in order to support me with that hope in their hearts. I remember my father would say to me that, whatever became of me, I should never forget others who may

not have been so fortunate and, in particular, that I should help them and not kick away the ladder after me.

4. I would now like to tell you a little about what I do as a judge. It is truly an honour to serve the public as a judge. We are entrusted with power on behalf of the public, which we must exercise fairly and impartially.
5. Judges have the power to send people to prison, sometimes for very long periods of time, including life imprisonment.
6. Judges have the power to separate families, for example when deciding where and with whom children should live.
7. We adjudicate on civil disputes, which can have great significance for the livelihood of an individual or a business.
8. We also decide on disputes between the individual and the state, including in certain circumstances the acts of the legislature.
9. As a Judge of the Court of Appeal I sit in both civil and criminal appeals. We usually sit in a panel of three judges. Often we are deciding points of law. We are in fact the most senior court in England and Wales. Some of our decisions, a small percentage, are appealed further to the highest court in the UK, that is the Supreme Court. This imposes a great responsibility on us, as often decisions of the Court of Appeal will settle what the law is for years to come and according to which many people will regulate their affairs for the future. This is particularly true of criminal law. Very few criminal cases go to the Supreme Court.

10. I am also President of the Investigatory Powers Tribunal, which is an independent court whose jurisdiction extends to the whole of the UK, which considers complaints, for example, of a breach of human rights by the intelligence agencies such as the Security Service (MI5), which has responsibility for national security within the UK; and the Secret Intelligence Service (MI6), whose responsibility lies outside the UK. This is for obvious reasons very important work, calling as it does for a balance to be struck between the rights of the individual, including privacy rights, and the demands of national security.
11. I want now to refer to the importance of cultural diversity in the judiciary. Let me begin with some statistics.
12. In terms of the ethnic diversity of the judiciary in England and Wales, the latest statistics were published earlier this month. They showed that 10% of the judiciary are from ethnic minorities. This includes Tribunal judges as well as judges in courts: the figures for Tribunals are higher than for the courts. The figures vary at different levels of the judicial system. By way of example, six of the 108 High Court judges are from ethnic minorities; and one of the 36 Court of Appeal judges is (that is me). The figures also vary as between different ethnic groups. For example, the figure for judges from Asian backgrounds is 5%: that figure has increased from 3% in 2014. The figure for black judges is 1% and, regrettably, that figure has not changed since 2014.
13. Why should any of this matter? The traditional view is that judges are neutral arbiters of people's rights and obligations. The law is colour blind. This is why the symbolic representation of Justice, for example in statues and paintings, is

often depicted wearing a blindfold. When we become judges we take a judicial oath, to do right to all manner of people, without fear or favour, affection or ill-will.

14. But judges are not robots. Justice does not involve using algorithms – or at least not yet. Judges bring the entirety of their experience of life, including what are sometimes called inarticulate premises, to the courtroom and it is very difficult to shed that background at the door of the court. Indeed, in recent times, it has come to be appreciated that it would not necessarily be desirable. The public want their judges to be in touch with the needs of the society they serve, although of course they also want them to be strictly impartial and independent in their temperament.
15. We have also come to appreciate that race is not just about colour or ethnic origins in a biological sense. Indeed, as a scientific matter, there is only one race – the human race. We have come to understand that race is a social construct. As such, it is as much to do with culture as it is to do with genes. And culture is very important to each of us. It forms part of our identity and shapes who we are. Take the basic fact of human existence that we acquire a language early on in our lives. We even refer to it as our “mother tongue”. We do not choose which language we speak at that early stage in life, although we may learn other languages later. But experience has taught us that the language we speak is not simply a matter of words and sounds. Language in a broader sense is the entirety of the culture in which we are brought up; and that culture is shaped by our experiences of life.

16. I once heard the Australian judge, Michael Kirby, give an interview on the radio. He made the point that law is not a value free zone. I agree with him. The law has a technical side of course. It is very important that lawyers should be proficient in the technical rules and methods of legal analysis but I do not think that is enough, certainly not for a judge, who is a servant of the public.
17. The relationship between law and values is a complicated one. It is one which I sought to explore in a lecture I gave in 2013 called 'Law as a system of values.' This is now one of the chapters in a book I have recently published called The Unity of Law. One of the things that interests me is how a society's values can change, sometimes very rapidly. The law often struggles to keep up, although it usually does so and sometimes even leads the way, as it arguably did in relation to the law on racial equality in the UK. The first Race Relations Act was passed in 1965, at a time when there was overt racial discrimination in society, by employers, landlords and others, but legislation helped to change attitudes over time. The law on this subject is now contained in the Equality Act 2010.
18. In my view, cultural diversity is not something alien to the work of judges. It enriches the process of doing justice.
19. Congratulations to you all again. Thank you very much for listening and I wish you all well.