

SPEECH ON HOW TO QUALIFY FOR THE BAR DELIVERED TO STUDENTS AT LONDON SOUTHBANK UNIVERSITY ON BEHALF OF THE BAR COUNCIL OF ENGLAND AND WALES

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Hello everyone, my name is Arfan Khan. I am a practising barrister at 42 Bedford Row, specialising in Chancery, Commercial and Public law. I have been sent here today by the Bar Council of England and Wales.

Thank you all for attending: the topic for this talk concerns how to qualify for the bar which is important. It is important because the success of my profession depends on the success of students like you. I have learnt that there are two classes of students: leavers and leaders. From a mere glance, it is difficult to discern the class to which you belong. However, you are all rightly curious about my profession, and that freedom of enquiry is a right step towards success.

I refer to the Bar as my profession because it has three outstanding qualities which distinguish it from a business: (a) a strong sense of public duty; (b) the duty to uphold the rule of law; and (c) the duty to provide a high-quality public service pro-bono where appropriate. These qualities are not necessarily coterminous with the needs of a business which are often dictated by financial need. However, the benefit of these qualities may inure to the collective success of a business when a strong sense of duty generates income or opportunities. A barrister can earn anything between £12,000 to a more successful salary of £1 million a year. Some earn more.

In February 2022, the Bar Standards Board examined the impact on gender and ethnicity of the income of barristers. Whilst the analysis has the limitation of a low response rate (50% in most cases), the findings show that female barristers, and barristers from ethnic minorities, are likely to earn less than white and male barristers respectively.

The Bar Council's Update by Sex and Practice Area dated, 24/10/2022, notes that the average gross fee earnings across all practice areas for men declined in 2021, while the average gross fee earnings of women increased slightly. However, the report continues to note that over all practice areas women continue to earn 34% less than their male colleagues. It seems that the gap is reduced in practice areas such as Commercial and Financial Services, Criminal and Employment Law. The report notes that, due to the pandemic, and Court closures, it is not possible to say whether the decline in the fee earnings of men is a trend or an anomaly.

That said, however, you should develop a strong sense of public duty regardless of financial gain. You must all aspire to public duty; for you owe a moral debt to society to use your talents for the benefit of society that has helped you develop them. You must uphold the rule of law. That is the necessary effect of the public trust and confidence that is likely to be bestowed upon you in practice, which requires you to be fair and just. You must desire to serve, without financial gain, those members of society who would otherwise be deprived of access to justice and might benefit from your talents.

In complying with these duties, you will have to bear more responsibility than others by virtue of your public position, your legacy, and achievements. To all those whom much is given much is required. This means preserving the freedom of enquiry; the independence of mind; and a just and fair society, without compromising the value and standards that the profession has bestowed upon you. In the pursuit of success, the rule of law must be your grammar. In that context, you must decide whether you want to be an anvil or the hammer.

Of course, some of you may be more successful than others. Others may fail or stumble. However, failure is often a cause for success. There is a saying mighty oaks grow from little acorns. History is full of examples of inventions which were thought impossible but with perseverance proved not only possible but necessary. Chief amongst these include the internet, the smart phone, and the modern computer. If it were not due to the perseverance of the inventors of these inventions in the grinding jaws of failure, we might still be emerging from the dark ages without benefit of the modern apparatus.

The same analogy might be applied to qualifying for the Bar. There are certainly those who obtain a 2:2 and obtain pupillages at the criminal bar. At the commercial bar, those who fail to achieve a first, often prove themselves by obtaining a Distinction on a high-quality

master's degree. Once you enter the profession, your university qualifications are not likely to decisively define your success. That is even more reason to ensure that those with broader merit enter the profession.

It is difficult to define merit as this involves assessing the potential for merit which varies according to background and experience. The analogy with a rough diamond seems exact: once the diamond is cut and polished from rough stone, it seems pleasing to the eye of the seller and a buyer. That is why it is important for you to perform to the best of your abilities in your studies and to make the most of the opportunities that life presents to you. Once you are polished academically, that will leave little doubt regarding your abilities. You should then stand out from the crowd.

To qualify as a barrister, it is not necessary to read law. You can study a non-law degree and cross qualify through the GDL. You will have to study the BPC course which can be expensive. The current providers of the BPC also may provide an LLM qualification. The BPC course usually has a start date of January or September. The current start dates on the website of one course provider are shown as January 2023, September 2023, and September 2024.

You will need all the experience and financial assistance you can get. Therefore, consider applying for scholarships, and if relevant, financial assistance from banks or student loan companies. Apply for min-pupillages. In applying for mini pupillages, try to be selective in your application and focus on the areas of practice that suit you. The deadlines for scholarships are usually one year before the start of the Bar course usually in November of each year. You should check with each of the Inns directly who offer Scholarships as the timetable could vary.

Before applying you should build your CV with the relevant experience. This should include mooting and debating and other extra circular activities such as sport. If you do not have a debating society, set one up. Select your team through a debate. Enter your team in prestigious competitions. In this way, you can learn and develop your skills through experiential learning on a wider scale.

If you undertake a mini pupillage, familiarise yourself with the questions on the scholarship form. You are bound to be asked questions such as why the bar, why you, and how you

have handled a difficult situation. If you are asked why the bar, you might focus your answer on what is offered in a career at the bar and how you meet it through your own life experience. The key is concision and not too much detail. Test your answers by asking other barristers for ideal answers. Obtain comments from other barristers on your form. Attend the Bar Council Pupillage Clinic where you will receive feedback on your potential applications for pupillage.

There have been significant changes allowing access to the bar to those who have been traditionally unrepresented. It seems that generally there exists gender balance in the context of entry to the Bar through pupillages. The necessary abilities for entry into the Bar are referred to in the various brochures. I do not propose to address all of these which are self-explanatory. I shall deal with intellectual ability, and the requisite unspoken soft skills, but which may not be taught on any given course.

You must demonstrate intellectual ability. Intellectual ability may be demonstrated through academic achievement. A first or a 2:1 in a degree is the norm. It is not uncommon for many students to receive a 69% mark. This is understood to be a 2:1. I know the difficulties associated with marking. However, I wonder whether a 69% mark ought to be moderated, to allow for a first on the basis that marking is a not a science, and a first may benefit a student in the long run. I recently attended the Bar Council Pupillage Clinic where I saw very many CV's with students left on a 69%. That seems harsh.

I am often asked what differentiates a first and a 2:1. You should ask your teachers. In demonstrating a first, you must show original analysis and reasoning. Take nothing for granted on the bare authority of the author but weigh and consider in your own mind the probabilities and reflections. As for reasoning based on source material, do not adopt it implicitly on the assertion of an author. Consider different authors upon the same subject matter and form your own opinion upon the greater or lesser degree of probability arising from the whole. As Einstein said, imagination is more important than knowledge. That probably holds true here.

Turning to the soft skills, these may be assessed during mini-pupillages or in interview. It is, therefore, necessary to understand these skills. It is true that many of you may already have these skills, but others of you, who come from less privileged backgrounds, may not

have had the opportunities to develop them. The choices and decisions you make in your early days are rightly or wrongly likely to have a resonating effect in your later career. It is, therefore, important to minimise mistakes from an early stage.

You should exercise sound judgement. Do not appear mysterious by delaying emails or responses, which is not only a very unamiable character, but a very suspicious one too. If you seem mysterious with others, they will be mysterious with you and you will learn nothing. The height of abilities is to have a frank, open and ingenious exterior, and a prudent interior; to be on your guard to avoid mistakes, and yet, by seeming natural openness, to put people off theirs. A prudent reserve is necessary to ensure that others do not take advantage of your indiscreet expressions, to turn it to their own advantage. Nowadays all that is said on social media is checked. You may at times find it impossible to be discreet. In that case, choose your audience carefully, and where possible, only say that which is necessary in private.

In communicating with an audience, try to look your audience in the face when you speak to them. A failure to do so is thought to imply conscious guilt; besides that, you lose the advantage of observing by their countenances what impression your discourse makes upon them. In order to understand a person's real sentiments, I trust much more to my eyes than to my ears; for they can say whatever they have a mind I should hear; but they can seldom help looking at what they have no intention that I should know.

If you should gain a mini-pupillage, or work placement, try to understand your supervisor. Endeavour to find their predominant excellency, if they have one, and their prevailing weakness, which everybody has; and do justice to the one and commend the other. It is human nature that individuals like to be flattered upon points where they wish to excel, and yet they are doubtful whether they do or not.

Cardinal Richelieu, who was undoubtedly the ablest statesman of his time, had the idle vanity of being the best poet too: he envied the great Pierre Corneille and his reputation, and ordered a criticism to be written upon a play by Corneille called the Cid. Those that flattered skilfully said little about the Cardinal's ability in state affairs. But the incense which they gave him – the smoke of which they knew would turn his head – concerned the Cardinal's ability in poetry and his dislike for the Cid. As a result, those who understood the Cardinal are said to have quickly gained his favour.

There are some additional qualifications necessary, which may require consideration in your moments of leisure – such as the absolute command of your temper, so as not to be provoked to passion on any account; *patience* to hear frivolous, impertinent and unreasonable arguments; with *address* enough to undermine them without offending; *dexterity* enough to be discreet in your professional affairs; *sagacity* enough to read other people's countenances; and *serenity* enough not to let them discover anything by yours – a seeming frankness with a real reserve.

In conclusion, whether you become a winner or loser, you must be a participant and not a spectator. You must enter the list from whom the prized ones are selected. Therefore, I urge you to consider a career at the Bar. What should guide you to the Bar is your sense of duty, and desire to do good in the society that has given you the chance to succeed.

If you do make it to the Bar, you will have rewarding career. You will have the unequalled satisfaction of knowing that your talent and character is contributing to the direction and success of those without a voice and the free society which you seek to serve. As Lord Justice Nourse said to me when I was called to the Bar, you will never go hungry again. You will have the company and support of able colleagues who will ensure that you are looked after and supported during your early and later years of practice. In time you may surpass their achievements, and whether you do so, will ultimately turn on your own ability and luck.

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