

# **Great Expectations and Hard Times:- The Advent of the Sex Disqualification (Removal) Act 1919 and Women's Entry to the Legal Profession**

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## **Abstract**

## **Key words**

## **Introduction**

The 23 December 1919 ushered in a new dawn for women: the Sex Disqualification (Removal) Act 1919 (SDRA) received Royal Assent,<sup>2</sup> thus enabling women to join the professions, and in particular the legal profession. This legislation was not a benign gift from the establishment in recognition of women's war effort, but rather the result of a successful feminist campaign vociferously fought for by women and sympathetic men.<sup>3</sup> Newspapers, both local and national, greeted women's admission to the professions with both celebration and hope and so did some women. Enid Rosser, for example, wrote of the Act:

It cannot be overstressed what a revolution it was at the time; it is almost impossible for anyone of today's generation to realise what it signified, for that Act ... theoretically established women's right to a proper place in the life and work of the country...<sup>4</sup>

However, some women, such as Millicent Fawcett and Ray Strachey were ambivalent about this enabling legislation, believing that the SDRA was welcome only because it was better than nothing, they had

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<sup>2</sup> Once a bill has completed all the parliamentary stages in both Houses, it is ready to receive royal assent. This is when the Queen formally agrees to make the bill into an Act of Parliament (law).

<sup>3</sup> Bourne, J. etc.

<sup>4</sup> WL: LOCKETT

supported earlier Bills that had not been successful.<sup>5</sup> As Thane pointed out, few believed that the battle for equality was over after the 1918 Representation of the People Act:

Many influential suffragists were shrewd enough politically and had enough experience of the extent of the opposition to their cause to be less optimistic [as to the extent of the social, statutory and economic change brought about by the right to vote], to expect the struggle to continue and the change to be slow.<sup>6</sup>

These women predicted a harder and more prolonged struggle for substantive equality lay ahead. Their foreshadowing was, unfortunately, proved correct, as inequality is still rife in the legal profession today.<sup>7</sup>

The SDRA conferred formal equality on women, and Helena Normanton made legal history when she became the first woman would-be lawyer to make use of the legislation when she joined an institution of the legal profession, the Middle Temple, on 24 December 1919.<sup>8</sup> This was the first step of any person wishing to pursue a career at the Bar, as qualification was impossible without such membership. Just over two years later Ivy Williams became the first woman to be called to the Bar on 10 May 1922, thus becoming the first woman barrister.<sup>9</sup> Normanton was amongst the 9 other women called to the Bar that year on 22 November.<sup>10</sup> Almost a month later Carrie Morrison would become the first woman to qualify as a solicitor in England and Wales, being admitted on 18 December 1922.<sup>11</sup> We will see below that most of those women barristers were unable to remain in gainful practice at the Bar for what remained of their working lives, even though they kept some kind of professional identity. We now know that the first four

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<sup>5</sup> Lord Buckmaster's Barristers and Solicitors (Qualification of Women) Bill February 1919, and the Labour Party's Women's Emancipation Bill, see: Mari Takayanagi (2020) Sacred year or broken reed? The Sex Disqualification (Removal) Act 1919, *Women's History Review*, 29:4, 563-582, DOI: 10.1080/09612025.2019.1702782

<sup>6</sup> Thane, P. 'What Difference Did the Vote Make?' In Vickery, A. *Women, Privilege, and Power, British Politics, 1750-Present*, Stanford University Press, Stanford, California, 2001, 253-288, p.253.

<sup>7</sup> Somerlad, H. & Sanderson, P. *Gender, Choice and Commitment, Women Solicitors in England and Wales and the Struggle for Equal Status* 2019 Taylor & Francis

<sup>8</sup> Workman, J. (2011, September 22). Normanton, Helena Florence (1882–1957), barrister and feminist campaigner. *Oxford Dictionary of National Biography*

<sup>9</sup> At the Inner Temple, for a brief biography see: Fox, H. (2020, December 10). Williams, Ivy (1877–1966), first woman barrister in England. *Oxford Dictionary of National Biography*. For a more in depth history read: Caroline Morris (2020) Dr Ivy Williams: inside yet outside, *Women's History Review*, 29:4, 583-614, DOI: 10.1080/09612025.2019.1702783

<sup>10</sup> At the Middle Temple

<sup>11</sup> Cruickshank, E., & Silva, C. (2018, February 15). Morrison [married name Appelbe], Carrie (1888–1950), solicitor. *Oxford Dictionary of National Biography*

women solicitors fared somewhat better in remaining in practice, possibly because they had networks and (family) connections, so essential for obtaining articles and a place in a firm.<sup>12</sup>

The lives of some of the first early women lawyers have now been recorded after years of neglect; their lives pieced together by detailed research, weaving together many sources, as they left little in the way of personal archival material behind on their death, this was possibly due to the strict rules against the advertising of legal services. Fortunately, Normanton's niece donated boxes of archival material relating to Normanton's life to the Women's Library. This archival material documents how difficult it was Normanton, and therefore possibly, for those other first women lawyers to work within the legal profession in the 1920s, even after formal equality had been won.

This article will explore some contemporaneous newspaper commentary on the passing of the SDRA, and compare and contrast it with what is known of the legal careers of the first cohort of women lawyers (with the benefit of hindsight). Newspapers are a vital tool in the historian's arsenal,<sup>13</sup> although they should be read with care and caution because of the risk of mistakes, mis/disinformation, prejudice, bias (both conscious and un-conscious) and 'partisanship'. Newspaper narrated events as they happened, and as their business success depended on the selling of newspapers, their reports reflected the values and concerns of the society in which they were written. Newspapers were an integral part of that society, as in 1919 newspapers were the prime source of delivering up-to-date news to the general public, all competing for audiences, and striving to be the first to break the news. These newspaper reports provide a rich diversity of views, and despite their defects, furnish us with both context and texture of that era. When we read these reports we become a time traveller, transported back to that period, and this empowers us to understand the events, along with the help of other historical tools (archives, primary and secondary sources etc.) In this case, the newspaper reports enable us to understand the broader context of the passing of the SDRA, rather than through a strict legal political lens. We will conclude that some the reports were 'selling' the SDRA to the nation; they presented the SDRA as a legislative 'man for all seasons', and hoped to appease everyone: the working men, the privileged professional men, the educated women, the would-be-women-lawyers, as well as less ambitious women. Others reflected the views of society towards women, and some cautioned against too much expectation of a change in women's position. In short, these reports provide us with an invaluable insight and understanding of the passing of the Act, the hopes and expectations, as well as the doubts and disbeliefs.

### **Newspaper Commentary**

The passing of the SDRA attracted a great deal of press attention, possibly because of the publicity surrounding the campaign and passing of the Representation of the People Act 1918. Often this

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<sup>12</sup> Very little has been published on first women solicitors, and much more research needs to be undertaken. This will be the subject of a forthcoming publication by the author and Caroline Morris, to be published by EUP in 2022.

<sup>13</sup> Bates, D. *Historical Research Using British Newspapers* 2016 Pen & Sword Books

newspaper attention was neutral in presentation, either simply rehearsing the passage of the Bill,<sup>14</sup> or stating the facts: that two women had been admitted to an Inn of Court.<sup>15</sup> However, four other more partisan themes were raised by the newspapers: firstly that the SDRA was to be celebrated as it brought about the end of women's inequality; secondly, that men would behave 'chivalrously' towards professional women, which rather contradicted the idea that the Act would resolve the issue of women's inequality; thirdly, and in direct contrast to the narrative of jubilation, a note of caution as to the actual effect of the legislation; similarly, the fourth and final theme was a warning that the floodgates had been opened and women would swamp the legal profession. We will take each theme in turn and then examine the reality of the prediction. .

### **Theme 1: Celebration and an end to inequality: 'Portia's Advent'**<sup>16</sup>

We saw in the introduction the ambivalence of contemporary feminists in relation to the SDRA. However, some newspapers suggested that they had no such apprehension as to the outcome of the legislation, they exhorted that the SDRA would resolve all inequalities and encouraged their readers to positively celebrate the Act. Many were triumphant and saw 1919 as '[A] woman's year',<sup>17</sup> declaring that equality had been won, disabilities removed,<sup>18</sup> emancipation had been 'rapid',<sup>19</sup> because there had been a 'peaceful revolution'<sup>20</sup> and women's passage to law had had an instant effect.<sup>21</sup> One newspaper described 1919 as 'Portia's advent'.<sup>22</sup> First women lawyers were always going to be referred to as 'Portia' (it was an obvious choice), but it is the idea that this was women's 'coming' that is so interesting.<sup>23</sup> The general feeling was that women had 'arrived', i.e. had succeeded in joining the professions, and so therefore their place in society was secured, nothing else needed to be done; the inference was that women were free to practice law or participate in other professions on an equal footing with men. These festive reports

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<sup>14</sup> For example: Thursday 14 August 1919 p. 6. *The Scotsman* 'Business of the House'; Friday 15 August *Yorkshire Post and Leeds Intelligencer* p. 9 (no title); 18 September 1919 p. 6. *Globe* 'Women juries soon'; 20 October *Hartlepool and northern Daily Mail* p. 5 'Women on juries'; Tuesday 30 December 1919 p. 4. *Yorkshire Evening Post* 'First Women Barristers'; and Wednesdays 31 December 1919 *Suffolk and Essex Free Press* p. 7. 'A Woman bar student'

<sup>15</sup> *Daily Mirror* - Tuesday 30 December 1919, p. 2 'Portia Arrives'

<sup>16</sup> Friday 16 January 1920, p. 2. *Diss Express* 'Our London letter'

<sup>17</sup> Saturday 27 December 1919, p. 6. *Tamworth Herald*, 'A Woman's Year'

<sup>18</sup> Saturday 16 August 1919 p. 22 *The Sphere* 'The Woman's Bill'

<sup>19</sup> Wednesday 31 December 1919, p. 2 *Dundee Courier* 'The All Conquering Sex'

<sup>20</sup> Tuesday 30 December 1919, p. 4. *The Tewkesbury Register* 'A peaceful revolution' (until SDRA Parliament had been an 'Eveless Eden')

<sup>21</sup> Friday 16 January 1920, p. 2. *Diss Express* 'Our London letter'

<sup>22</sup> Monday 5 January 1920, p. 7. *Globe* 'Wig and Gown. The Eventful Year of 1919. Portia's Advent'

<sup>23</sup> See for example: 'Portia Arrives' *Daily Mirror* - Tuesday 30 December 1919, p. 2

continued with descriptions of how barriers had been removed,<sup>24</sup> and this was '[B]etter than Queen Bes'<sup>25</sup> (the only other woman to have dined at the Middle Temple).

The celebration theme that accompanied the passing of the SDRA failed to acknowledge that there were other structural barriers that would prevent women from achieving equality and succeeding, such as childcare, housework, cooking, expected 'wife' duties, and existing stereotypes about women. This idea that legislation would and could resolve gender inequality began before the introduction of the SDRA, and was introduced by the government. The *Lancashire Evening Post*, for example, reported the debate of the earlier Women's Emancipation Bill,<sup>26</sup> stating that although the government was unwilling to revisit the franchise debate (they believed that this would spark a general election), they would be prepared to remove 'all' legal and civil disabilities under which women laboured in 1919, by introducing their own legislation (i.e. the SDRA).<sup>27</sup> The newspaper report concludes that although the country was in no mood to extend the franchise, other enabling legislation removing disabilities would be a notable advance on the road to women's complete emancipation. Unlike the majority of later reports, this one commented that any enabling legislation would be a 'notable' advance on the road to women's complete emancipation, rather than an excited declaration that the legislation would resolve the problem of women's inequality.

The idea that the passing of the SDRA would resolve all women's equality issues was also repeated in other news reports, for example, *The Sphere*.<sup>28</sup> It reported that the Sex Disqualification Removal Bill<sup>29</sup> would enlarge the 'borders' of womankind, and boldly asserted that the SDRA would remove 'all disqualification' of women. They also stated that women could not have 'dreamt' that their legal disabilities would disappear so 'quickly'. This narrative was later repeated by the *Middlesex County Times*,

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<sup>24</sup> *Dundee Courier*, Wednesday 31 December 1919, p. 6, *Sheffield Evening Telegraph*, Monday 12 January 1920 p. 4 'Better than Queen Bes'; *Nottingham Journal*, Tuesday 13 January 1920, p. 6 'THE MODERN PORTIA In the Temple'; *The Sphere*, Saturday 17 January 1920, p. 25 'WOMEN FOR THE BAR AND ON THE BENCH'; and *Birmingham Daily Gazette*, Tuesday 13 January 1920, p. 4 'THE NEW PORTIA. Miss Helena Normanton'

<sup>25</sup> *Sheffield Evening Telegraph*, Monday 12 January 1920 p. 4

<sup>26</sup> The Labour Party introduced the Women's Emancipation Bill as a private members' bill in 1919 to 'remove certain Restraints and Disabilities imposed upon Women.' The Bill aimed to remove the disqualification of women from holding any civil or judicial office, give women the Parliamentary franchise on the same terms as men, and allow women who were hereditary peers in their own right to sit in the House of Lords. The Bill passed all its stages in the House of Commons but fell in the House of Lords, where the Coalition government replaced it with its own less radical Sex Disqualification (Removal) Act, for details see Takayanagi op cit

<sup>27</sup> *Lancashire Evening Post*, Saturday 5 July 1919 p. 2, 'The Government Defeat'

<sup>28</sup> *The Sphere*, Saturday 16 August 1919 p. 22, 'The Woman's Bill'

<sup>29</sup> This became the SDRA when it received Royal Assent on 23 December 1919. A Bill is a proposal for a new law, or a proposal to change an existing law that is presented for debate before Parliament. Bills are introduced in either the House of Commons or House of Lords for examination, discussion and amendment. When both Houses have agreed on the content of a Bill it is then presented to the reigning monarch for approval (known as Royal Assent). Once Royal Assent is given a Bill becomes an Act of Parliament and is law.

which reported that all barriers to the professions had been removed by the SDRA and that women could now do 'all' roles.<sup>30</sup> They predicted that this legislation would remove all disqualification against women,<sup>31</sup> especially as this Act was wider, more comprehensive and better drafted than any of the suggested previous Bills.<sup>32</sup> Other reports went further and suggested that passage of the SDRA had an 'instant' effect on the professions and public in terms of the progress of women.<sup>33</sup>

We can see from these reports that many newspapers informed their readers that the SDRA was something to celebrate and had ended women's inequality, not just in the profession but in all areas. This was clearly not true, it was no 'magic wand', it was just the start of women's ongoing quest for equality. We will see below that the working lives of the first women lawyers are testament to the fact that the SDRA did not enable women to participate in the legal profession on an equal footing with men from the moment the SDRA received Royal Assent. Also, in many other areas of their lives, for example property ownership, women would have to wait years for formal equality, let alone substantive equality.

## **Theme 2: Chivalry**

Alongside the reports of jubilation ran another jovial theme of 'chivalry', for example:

You must give them [women] their due and pay them proper respect. We are no longer the superior sex. We shall very soon find ourselves the very inferior one we have not found that already. Take your hat off to them politely.<sup>34</sup>

This idea of chivalry was not new, it is the idea that men should behave in an honourable and polite way, especially towards women. It was of course that, just an ideal. There are too many examples of non-chivalrous behaviour towards women to narrate here: police brutality towards women during the suffrage movement, the treatment of prostitutes and poor women by both the law and society, attitudes and lack of legal support towards the victims of domestic violence, women's position in relation to divorce and the custody of children etc. However, this theme of chivalry was also deeply entrenched into the narrative of the law, for example the doctrine of coverture was dressed up to be a good and noble thing for women, as we can see from Blackstone espousal:

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs everything<sup>35</sup>

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<sup>30</sup> *Middlesex County Times*, Saturday 27 December 1919. P. 5. (no title)

<sup>31</sup> *ibid*

<sup>32</sup> *The Scotsman*, Saturday 5 July, p. 10 'Government Attitude Explained'

<sup>33</sup> *South Bristol Free Press and Bedminster, Knowle, Brislington Record*, 10 January 1920, p. 3 'The Position of Women'

<sup>34</sup> *Hull Daily Mail*, Tuesday 30 December 1919, p. 4, 'THE SUPERIOR SEX!'

This was still in effect in 1919 and was of course a way of disguising women's inequality and discrimination against women.<sup>36</sup>

### Theme 3: Caution

Whilst the overriding newspaper narrative is one of cheery celebration, there was also a note of caution from some newspapers. For example, the *Evening News* cautioned 'what success will come to these ladies?' and questioned whether they would get work. Would clients want them?<sup>37</sup>

Although we saw earlier that newspaper rejoiced in the passing of the SDRA, many deeply entrenched stereotypes of women persisted in other reports. So, women were not only cautioned, but also cautioned against. For example, the *Hull Daily Mail* detailed and dismissed, again in a seemingly light-hearted way, a list of negative stereotypes used to object to women lawyers.<sup>38</sup> They wrote that it had been suggested women could not argue (an essential skill for an advocate). They dismissed another argument against having women lawyers - that judges and juries would be distracted or swayed by a tearful, and/or pretty advocate. They counselled that: women had 'proved' themselves during the war, further that other professional women, doctors, were no longer a novelty, and finally that women had time to 'interest herself in outside affairs without neglecting her duties as wife and mother'. This 'justification' of women's newfound status was a constant sub-theme, and rather than negating the stereotype it confirmed and further entrenched it. The *Evening News* cited two examples of women acting as litigants in person, thus apparently setting a precedent for women appearing in court, which again only questioned and justified women's ability rather than supported it.<sup>39</sup> Similarly, the *Daily Chronicle* again found it necessary to hold a non-existent argument that, if women could vote, there was no justification for denying them the right to plead in court.<sup>40</sup> They stated that a certain number of women barristers was highly desirable, just as a certain number of women doctors were needed, and remarked that 'exclusion is unthinkable'. Another newspaper wrote that women barristers were worth waiting for as the author had met women barristers from foreign countries, and, if English women could do as well, they would 'do well indeed'.<sup>41</sup> These protestations and justifications reveal underlying stereotypes and expectations, and deeply ingrained expectations about women's roles: that women were the primary care givers and home makers

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<sup>35</sup> William Blackstone. *Commentaries on the Laws of England*. Vol. I (1765), pages 442-445

<sup>36</sup> Women only became capable of owning her own property as if she were a man or a single woman in 1935, with the Law Reform (Married Women and Tortfeasors) Act 1935. See: Holcombe, L. (1983). *Wives and Property: Rreform of the Married Women's Property Law in Nineteenth-Century England*. 1983 Toronto: University of Toronto Press

<sup>37</sup> *Evening News*, 30 December 1919, p. 6

<sup>38</sup> *Hull Daily Mail*, Tuesday 30 December 1919, p. 4, 'THE SUPERIOR SEX!'

<sup>39</sup> *Evening News*, 30 December 1919, p. 6

<sup>40</sup> *Daily Chronicle*, 30 December 1919, p. 4

<sup>41</sup> *Sheffield Weekly Telegraph*, Saturday 10 January 1920, p. 4, Women at the Bar.

and that their ability to work in the profession was an exception rather than the rule; if they did they should be confined to 'women's cases.'

This theme of caution was therefore a problem for women. It was well founded in as much as the effectiveness of the SDRA on women's equality, and was a concern that was shared by feminists. However, the reports were also cautioning men against women, and were in direct contradiction of other positive and jubilant reports. Old prejudices remained and resurfaced. Both types of reports did, unfortunately, foreshadow those first women lawyers actual legal professional lives: they struggled to remain in practice and they were confined to 'women'/'family' type cases.

#### **Theme 4: Floodgates**

Other gloomy reports also followed, with warnings that the SDRA would open the 'floodgates' and that the legal profession would be flooded by women lawyers. Although women had not flooded the workplace after World War 1, women's employment expectations had risen.<sup>42</sup> There had been discontent at women's removal from the workplace after men had returned from the war, and more women than ever needed employment to support themselves because of a rise in expectation, widowhood or lack of marital opportunity. Women were encouraged to do 'women's work', i.e. domestic work in order to protect male employment and the status quo.

Many newspapers alluded to a general fear that men would be pushed out of their jobs by women, for example there were accusations that men were 'hustled' in the workplace by women, and a warning that women would 'shortly administer justice'.<sup>43</sup> The Bar was terrified of competition, this can be the only explanation for their resistance at allowing women admission to their profession, and waiting for parliament to force them into admitting women. There was not enough work to go round the existing male barristers in and before 1919, and so there was a real fear that the SDRA would open the floodgates, with women and working class men depleting the already scarce work available.<sup>44</sup> The *Birmingham Daily Gazette* reported that women were coming forward to join the legal profession 'without' delay.<sup>45</sup> This implied that a great number of women were going to rush to join the legal profession and take work from men. One report commented, tautologically, that two women, Normanton and Thomson, had joined an Inn with the intention of practising as barristers.<sup>46</sup> Others reported on the speed of which women had

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<sup>42</sup> Grayzel, S. R. *Women and the First World War* 2013 Taylor and Francis, p. 107

<sup>43</sup> *Hull Daily Mail* Tuesday 30 December, p. 4, 'THE SUPERIOR SEX!'

<sup>44</sup> See: Bourne, J. 'Calling Time at the Bar', in Lobban, M and Williams, I. *Networks and Connections in Legal History*, August 2020, CUP, pp. 60-87 and Bourne, J. *Helena Normanton and the Opening of the Bar to Women* 2016 Waterside Press

<sup>45</sup> *Birmingham Daily Gazette*, Tuesday 30 December 1919, p. 5, 'Women Aspirants for the Legal profession'

<sup>46</sup> *Daily Mirror*, Tuesday 30 December 1919, p. 2, 'Portia Arrives'



joined the Inns, as though it was in some way indecent or rushed, which is rather ironic given that women had waited decades for this right.<sup>47</sup>

## **Great Expectations Followed by Hard Times**

### **- Commiseration was needed, not Celebration**

In 2021 it is clear that women have still not achieved full equality in the workplace or society.<sup>48</sup> Further, by charting the careers of the first women to practice law we can deduce that it would have been immediately apparent that the newspapers were not justified in their celebration of the SDRA as end to inequality. Ten women were called to the Bar in 1922: nine in November 1922, and just one, Ivy Williams, earlier in May 1922.<sup>49</sup> These women's lives are testament to the fact that all inequality did not disappear, as some newspapers predicted with the passing of the SDRA. Three of the women barristers lives remain unrecorded: Naomi Constance Wallace,<sup>50</sup> Elsie May Wheeler,<sup>51</sup> and Lillian Maud Dawes, so it is difficult to assess their legal careers, save to say that their careers were not high profile, or particularly visible. Therefore probably their careers at the Bar were not a great 'success' as they have left very little trace either within the Inns archives, or in Law reports.<sup>52</sup> Ivy Williams, became an academic,<sup>53</sup> and seemingly had no desire to practice law. What then of the other women?

Of the six other women called in 1922 only two appear to have remained in practice for the rest of their working lives: Helena Normanton<sup>54</sup> and Monica Geikie Cobb.<sup>55</sup> Normanton (from a working class, non-legal background) was possibly the most 'successful' at the Bar as she remained in practice and became one of the first of two women KCs in 1949. However, she had to supplement her income with journalism

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<sup>47</sup> *Irish Independent*, Tuesday 30 December 1919, p. 4, 'Women Barristers!'

<sup>48</sup> Somerlad, op cit

<sup>49</sup> Morris, op cit

<sup>50</sup> <https://www.innertemple.org.uk/women-in-law/pioneering-women-in-law/averil-deverill/>

<sup>51</sup> The fact that she penned: Elsie May Wheeler, H. C. G. (1932). *Stroud's Judicial Dictionary. Supplement.* By Elsie May Wheeler. London: Sweet & Maxwell, Ltd., and Stevens & Sons, Ltd. 1931. cxii and 1036 pp. (42s. net.). *The Cambridge Law Journal*, 4(3), 418-418. doi:10.1017/S000819730013243X does not suggest that she had a sterling career, and indeed had to resort to legal publishing to remain legally active

<sup>52</sup> 'Success' purely in terms of private practice, they were of course incredibly successful to have been called to the Bar; to have succeeded where so many had 'failed'

<sup>53</sup> Morris, op cit

<sup>54</sup> Bourne, op cit

<sup>55</sup> Derry, C. (2018, November 08). Cobb, Monica Mary Geikie (1891–1946), barrister. *Oxford Dictionary of National Biography*

and public lectures.<sup>56</sup> Normanton was not of the opinion that the Bar was a fruitful place for women to work, writing in 1933:

...[W]omen at the bar are portrayed in much too sorry a view. I am afraid that I know personally far too many women in both branches who have never been able to make even a start in practice to think it at all wise to encourage more women to come into it [the law] unless they have ample private means to sustain themselves during their period of waiting. It is not in my view to achieve success at the Bar (i.e. in the ordinary acceptance of the term) when able women accept relatively trivial Civil Servant positions when one gravely doubts whether men of equal ability would be at all likely to accept such positions.<sup>57</sup>

Likewise, Monica Geike Cobb (again from a non-legal family), would also manage to maintain a practice at the Bar, although there are no records remaining to suggest if she managed to successfully live off her earnings alone. Geike Cobb, made legal history by being the first woman, on 1 December 1922, to hold a brief in court (and win!) Initially she ‘cut her teeth’ on criminal cases (again, in July 1923, making legal history by becoming the first woman barrister to act on a murder case). Later it appears that she worked in a commercial law practice, something very unusual, as women were usually pigeon-holed into ‘women’s’ cases of ‘family’ or ‘poor person’ crime.<sup>58</sup>

Others were not so lucky, and had to do something completely different and outside of the law in order to survive. The seventh woman, Auvergne Doherty (also from a non-legal background), from Western Australia (thus becoming the first woman from the Empire to be called to the Bar), appears on the Law Lists from 1923 until at least 1932, but does not appear to have actually practised law. We can only speculate on the reasons, but research suggests that she could not make a good enough living at legal practice to support her family.<sup>59</sup> If all barriers had disappeared Doherty would have been able carve out a living, as many men did, especially as she held an ambition to do practice. Rather she was employed as a secretary for the British Drama League, work that Coleman has shown ‘satisfied the need for paid work — something that was necessary due to her family’s declining financial circumstances.’<sup>60</sup>

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<sup>56</sup> Bourne, op cit

<sup>57</sup> WL: 7HLN/A/18, 28 November 28 1933 letter from Helena Normanton to the London & National Society for Women’s Service

<sup>58</sup> Caroline Derry (2020) Ethel Bright Ashford: more and less than a role model, *Women's History Review*, 29:4, 615-635, DOI: 10.1080/09612025.2019.1702784, and Derry, C. (2018, November 08). Ashford, Ethel Bright (1883–1980), barrister. *Oxford Dictionary of National Biography*

<sup>59</sup> Charlotte Coleman (2020) Thwarted ambitions: the biography of Auvergne Doherty, an aspiring female barrister, *Women's History Review*, 29:4, 650-670, DOI: 10.1080/09612025.2019.1702787

<sup>60</sup> Charlotte Coleman (2020) Thwarted ambitions: the biography of Auvergne Doherty, an aspiring female barrister, *Women's History Review*, 29:4, 650-670, DOI: 10.1080/09612025.2019.1702787

Likewise Theodora Llewellyn Davies (also not from a legal family), the one woman to be called to the Bar the Inner Temple in November 1922, also left the Bar, despite having secured pupillage at 4 Paper Buildings. She began a criminal law practice on the south-eastern circuit, but left the Bar on marriage, a common occurrence for women of this era. However, her name still appeared on lists of legal professionals. Her husband was (Eric) Roy Calvert, the capital punishment reformer, so she used her experience to campaign for an end to this practice. The SDRA therefore failed to support and scaffold women through marriage and child rearing, barriers that still prevent or hold women back from the practice of law or in other professions.<sup>61</sup>

Another woman who kept her name on lists of legal professionals, and the eighth woman to be called to the Bar in November 1922, was Ethel Bright Ashford (also from a non-legal background).<sup>62</sup> She remained a member of New Court Chambers until at least 1961, but principally worked in local government, whilst co-authoring books. Again, it appears that she valued her professional legal reputation, but was unable to practice full time.

This idea of retaining your professional legal identity whilst working in a related area can be seen in the life of the ninth women, Sybil Campbell.<sup>63</sup> Campbell, granddaughter of Bovill J of *Jex-Blake v Senatus Academicus of the University of Edinburgh* (1873) 11 M 784 infamy, secured a tenancy in the London chambers in 1923, and practised on the Midland circuit for seven years.<sup>64</sup> However, in 1929, whilst keeping her seat in chambers, she joined the panel of appointed members of the Trade Boards, and in 1930, she was appointed as an independent member of the Courts of Referees. It is possible that if she could have earned a living at the Bar she would not have had to do this other work, albeit similar legal work. In March 1945, she applied for a job as stipendary magistrate at Tower Bridge Court. She was successful and enshrined herself as England's first woman judge, a position she held until her retirement.<sup>65</sup>

The tenth and last woman called in 1922 of that first cohort of women barristers was physician's daughter, Beatrice Honor Davy.<sup>66</sup> We have a clue as to her opinion on the Bar as a career for a woman in

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<sup>61</sup> Logan, A. (2018, November 08). Davies [married name Calvert], Theodora Llewellyn (1898–1988), barrister and penal reform campaigner. Oxford Dictionary of National Biography

<sup>62</sup> Caroline Derry (2020) Ethel Bright Ashford: more and less than a role model, *Women's History Review*, 29:4, 615-635, DOI: 10.1080/09612025.2019.1702784

<sup>63</sup> Oldfield, S. (2004, September 23). Campbell, Sybil (1889–1977), barrister and first woman stipendiary magistrate. Oxford Dictionary of National Biography

<sup>64</sup> Hamilton, J., & Heimann, M. (2009, May 21). Bovill, Sir William (1814–1873), judge. Oxford Dictionary of National Biography

<sup>65</sup> Rosalind Wright (2020) Sybil Campbell, first woman judge and supporter of higher education for women, *Women's History Review*, 29:4, 636-649, DOI: 10.1080/09612025.2019.1702785

<sup>66</sup> Bourne, J. (2018, November 08). Davy, Beatrice Honour (1885–1966), barrister and later solicitor. Oxford Dictionary of National Biography.

her chapter on 'The bar', in J. A. R. Cairns's *Careers for Girls* (1928). There she described the process of becoming a barrister, and the costs involved and commented:

For a woman who must earn her own living the Bar is the very last profession in the world' (p. 53).

Davy herself gave up practice at the bar, and went into practice as a solicitor in 1931 in partnership with Edith Berthen.<sup>67</sup> Six years later another woman, Madge Easton Anderson, was articled to the 'Firm of Messrs Berthen and Davy of London' and after qualification in 1937 joined the partnership which became 'Messrs Berthen, Davy and Anderson'.<sup>68</sup> This was the first all-woman partnership and survived until 1951.<sup>69</sup> Davy's life illustrates that the Bar was a difficult profession for a woman to survive, and that the SDRA had failed, as predicted by those newspaper reports, to wipe away inequality.

The lives of the first women solicitors have yet to be recovered in depth. We know that in December 1920 Carrie Morrison was one of the first four women to pass the Law Society final examinations.<sup>70</sup> The other women to successfully pass were: Maud Isabel Crofts (nee Ingarm),<sup>71</sup> Mary Elizabeth Pickup,<sup>72</sup> and Mary Elaine Sykes.<sup>73</sup> All four women appear to have successfully practiced law, but with some with help from their family networks and connections.

In contrast to the female barristers, most of whom did not have family networks in the law, Morrison was the only woman of the four not to have had such family solicitor connections. She became the first woman solicitor to be entered on the Roll because she benefited from the provisions of the Solicitors (Articled Clerks) Act 1918, which operated to reduce her period in articles from three years to two because of her 'war work'.<sup>74</sup> Along with her husband she took over the running of the small law firm of

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<sup>67</sup> Cruickshank, E. (2018, November 08). Berthen, Edith Annie Jones (1877–1951), solicitor. Oxford Dictionary of National Biography.

<sup>68</sup> Lindsay, A. (2018, November 08). Anderson, Madge Easton (1896–1982), lawyer. Oxford Dictionary of National Biography

<sup>69</sup> Bourne, J. (2018, November 08). Davy, Beatrice Honour (1885–1966), barrister and later solicitor. Oxford Dictionary of National Biography.

<sup>70</sup> Cruickshank, E., & Silva, C. (2018, February 15). Morrison [married name Appelbe], Carrie (1888–1950), solicitor. Oxford Dictionary of National Biography.

<sup>71</sup> Daughter of a barrister, Auchmuty, R. (2017, September 01). Bebb [married name Thomson], Gwyneth Marjory (1889–1921), campaigner for women's admission to the legal profession. Oxford Dictionary of National Biography

<sup>72</sup> Articled to her husband, <https://first100years.org.uk/mary-elizabeth-pickup/>

<sup>73</sup> Broomfield, K. (2018, February 15). Sykes [married name Browne], Mary Elaine (1896–1981), solicitor and socialist. Oxford Dictionary of National Biography

<sup>74</sup> Cruickshank and Silva, op cit

‘Berthen and Munro’ founded by Edith Berthen, before setting up a legal partnership as ‘Appelbe and Morrison’.<sup>75</sup> She successfully remained in practice until her retirement.

Maud Crofts (nee Ingram, one of the four litigants in *Bebb v Law Society* [1914] 1 Ch. 286) daughter of a barrister, spent the First World War working in a solicitor’s office and, of course, campaigning for women’s right to enter the legal profession.<sup>76</sup> She became the first woman to be articled to a solicitor, ‘Trower, Still and Keeling’, in December 1919, and the first to obtain a certificate to practice (1923). Later she became a partner in the Westminster firm of ‘Crofts, Ingram and Wyatt & Co’. Unlike the first cohort of women barristers she successfully practised law. Likewise, Mary Sykes, was one of the first women to be admitted as a solicitor and continued to practice law for her working career. Her practice started in her father’s firm, but later continued in her own firm: ‘Mary E Sykes & Co’, in Huddersfield. She was elected president of the Huddersfield Law Society in 1951, and later in 1955 appointed as a magistrate. Again, this was a very successful legal practice.<sup>77</sup> The final of the four women was Mary Pickup. Pickup had worked in a solicitor’s office of the man she married in 1910. Immediately after the passing of the 1919 Act she became articled to her husband. She worked as a solicitor until her death.<sup>78</sup>

We can see from this study that the SDRA did not remove all barriers to the practice of law at the Bar or end inequality. Although the women solicitors appear to have fared ‘better’ in remaining in legal practice for the rest of their working lives, three of those women had strong legal family connections – gatekeepers to the profession, and Morrison married her professional partner which would have given her an insider ‘ally’ and helpmate in order to survive in a male dominated profession. It can be no coincidence that the majority of the first cohort of women barristers found private practice so challenging were from non-legal backgrounds and Campbell, granddaughter of a judge, secured a judicial role.

This continuing inequality would have been apparent almost immediately after the legislation was passed; one would not have needed to wait until the first cohort had acted out their legal lives. The first women-would-be barristers would have started ‘dining’ in early 1920.<sup>79</sup> Dining was the historic ritual of ‘keeping terms’ and eating three dinners in each of the four terms for three years.<sup>80</sup> This was a tradition that began when the Inns of Court were educational establishments for the training of barristers. Without eating the

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<sup>75</sup>ibid

<sup>76</sup> (2011, May 19). Ingram, Maud Isabel (1889–1965), solicitor. Oxford Dictionary of National Biography

<sup>77</sup> Broomfield, op cit

<sup>78</sup> ibid

<sup>79</sup> Dining at your Inn was a compulsory part of barrister training and a student could not qualify, despite passing their exams, unless they had eaten their 36 dinners

<sup>80</sup> Abel, R. *The Making of the English Legal Profession* 1998, Beard Books, p. 48

requisite number of dinners in Hall, a student could not be called to the Bar.<sup>81</sup> Being ‘called’ to the Bar was the final stage of the process which enabled a person to call themselves a barrister; if they then had a seat in a set of chambers and were sufficiently connected enough to be instructed by a solicitor, they could represent a client in court.

Patrick Polden referred to various incidents where women were made to feel uncomfortable when dining: ‘Hannah Cross found Lincoln’s chilly’ and she learned not to sit on ‘smart tables’, as her presence there was complained about. Polden also mentioned how, in Middle Temple, some (male) members found it ‘amusing’ to take their snuff in a way that would make ‘Dorothy Lever sneeze’. He recounts how Gray’s Inn was supposed to have welcomed women, yet their Treasurer denounced women members after taking too much wine.<sup>82</sup> While these may be seen as relatively petty incidents in isolation, they bear witness to the fact that women were seen as, and treated as, ‘outsiders’ and certainly not equal.

It is also arguable that some women such as Helena Normanton (and indeed later Gladys Chatterjee)<sup>83</sup> would have seen their previous sterling academic record destroyed on the publication of their Bar finals results. On 26 October 1921 Normanton passed her Bar Finals, a remarkable achievement, but she passed with just a third class.<sup>84</sup> This must have been bitterly disappointing for a woman who had achieved a first class in her B.A History degree and a double first in the English Board of Education Teaching Certificate. In hindsight it seems curious that such an academically gifted and legally passionate woman could have achieved such a low score. This is an area that needs more research, especially in light that Ivy Williams scored a first.<sup>85</sup> However, given the discrimination and hostility faced by Normanton before and after her finals, one may speculate that bias may have been present in the grading. Is it probably significant that Williams went immediately into academic life compared to Normanton’s vociferous and noisy campaign to join and practice the law.<sup>86</sup> Both before and after Normanton practised she was subjected to numerous disciplinary hearings for self-publicising, again something that most other barristers did not experience. This was probably further evidence of bias against her.<sup>87</sup> We can see from this study that the SDRA did not have the results predicted by the newspapers.

#### - **Misogyny and not chivalry**

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<sup>81</sup> The dinners had to be eaten in the Hall of the Inn of Court where the Bar student was a member.

<sup>82</sup> Polden, Patrick, *Women at the Bar in England, 1919-1939*, International Journal of the Legal profession, Vol. 12, No.3, Nov 2005, p322

<sup>83</sup> Bourne, J. (2018, November 08). Chatterjee [née Broughton], Gladys Mary, Lady Chatterjee (1883–1969), industrial welfare promoter and barrister. Oxford Dictionary of National Biography

<sup>84</sup> WL: 7HLN/A/01

<sup>85</sup> Morris, op cit

<sup>86</sup> Ibid

<sup>87</sup> Bourne, op cit

The seemingly jovial chivalry expressed in some newspapers, dressed up as banter, would have difficult consequences for some women, and was simply mock chivalry. An example of this can be seen in February 1924 when Normanton was conducting her first ever dock brief. The case involved a used car dealer facing a charge of dishonesty. During the trial Normanton needed to have sight of a key piece of evidence, but the police and prosecution kept thwarting her. She complained to the judge:

They [the letters] go all round the court, but I don't get them to cross examine on, and I am in a state of confusion.

The Judge replied that he understood that she was under a disadvantage, and that he could quite appreciate her difficulties, but that it could not be helped. The prosecutor said that he would help all he could (clearly he had not thus far) and would give her copies of the letters. He did this, but only typed copies, which did not help her as she wanted to disprove authorship of the letters. This placed her (and her client) at a disadvantage, and so she demanded the originals. The Police Sergeant on duty gallantly offered to help her, which sounded like kindness, but she did not need them explained, she simply needed to see the originals. The judge commented that the Sergeant was:

[R]eady to help a lady in distress-if you will accept help from the enemy

Normanton politely replied that she would be glad of the assistance. The established legal professionals were clearly playing with her, and even more seriously, with her client's freedom. The jury were obviously unimpressed as they acquitted him and convicted his fellow defendants. The behaviour is ostensibly chivalrous, but belies prejudice and discrimination.

#### **- Well Founded Caution**

Finding work was difficult for any barrister in the 1920s due to the post-war depression, but finding a pupillage or tenancy was not difficult - for men.<sup>88</sup> Although pupillage was not compulsory in order to practice in 1920, finding a seat in chambers to operate out of was. The chambers' clerk was key not only to securing that seat in chambers (tenancy), but also to securing work once established as a tenant. Clerks often viewed women a 'bad investment', and so did not want them as a tenant or pupil barrister in their set of chambers.<sup>89</sup> For example, Normanton applied for a pupillage in June 1922, and received a reply from the clerk of the chambers, a Mr Skinner, informing her that despite a recommendation from another barrister, he could not discuss pupillage with her as his '[H]ead of Chambers would not approve' because he had 'old fashioned principles' and a lady in chambers would be too 'upsetting for him'.<sup>90</sup> This apparently was not unusual. According to Polden, the usual excuse Chambers made to women applying for pupillage was that there were no female lavatories. He cited Hannah Cross as having to undertake to

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<sup>88</sup> Polden, op cit

<sup>89</sup> Flood, J. *Barristers Clerks, The Law's Middlemen* 1983 Manchester University Press

<sup>90</sup> WL:7HLN/A/17

use the public lavatories in Lincoln's Inn Fields before she could take up her pupillage place.<sup>91</sup> Again, we can see that the formal barriers had been broken down by the legislation, but the structural barriers remained.

Likewise, it was difficult for women barristers to find work and to earn enough to remain in practice. Helena Normanton's archives reveal that her cases were few and infrequent.<sup>92</sup> Her one remaining fee book for 1930-1939,<sup>93</sup> records that in 1930 she dealt with just thirty cases, of which twenty-five were Poor Persons cases, so were not financially rewarding. In 1931 she had forty three cases, thirty-six of which were again poorly paid 'Poor Persons' cases. It is a similar number until the last recorded entry in 1939. Although she was being briefed her cases were of a junior nature and not very lucrative or indeed frequent. Her career seems representative of those other women barristers, and illustrates how difficult it was to practice.

#### - A Trickle but not a flood

Although some newspapers had cautioned that women might flood the professions, the reality was somewhat different. The numbers demonstrate that there was no storm of women joining the Bar or Law society. In 1930 325 men were called to the Bar compared to 14 women.<sup>94</sup> The previous year, 316 men were called to the Bar compared to just 13 women.<sup>95</sup> Likewise in the 1930s 679 men were admitted to the Roll of Solicitors, compared to 16 women, and in the 1920s 480 men were admitted compared to just 8 women.<sup>96</sup> Coleman's research has revealed that 48 women were admitted to the Inns of Court in 1919 and 1920: 34 admitted to the Middle Temple, 3 to the Inner Temple, 5 to Gray's Inn; and 6 to Lincoln's Inn. Of those women admitted, just thirty-four were called, and ten of these were in 1922.<sup>97</sup>

Newspaper reports of admission varied at the time. In February 1925, for example, the *Northern Evening Dispatch* stated that there were at least 40 female barristers, 25 of them having put their names up outside chambers and been briefed at least once'.<sup>98</sup> However, the *Liverpool Courier* reported in 1926 that women were 'doing well' at the Bar, stating (optimistically) that there were 80 women members of the English

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<sup>91</sup> Polden, 2006.

<sup>92</sup> WL: 7HLN/A/14.

<sup>93</sup> WL; 7HLN/A/13

<sup>94</sup> Abel, op cit, p. 328

<sup>95</sup> ibid

<sup>96</sup> Able, p. 415

<sup>97</sup> Charlotte Coleman (2020) Thwarted ambitions: the biography of Auvergne Doherty, an aspiring female barrister, *Women's History Review*, 29:4, 650-670, DOI: 10.1080/09612025.2019.1702787. The number of men fluctuated, in 1913 503 men were admitted compared to 136 in 1917 – see Richard Abel, p. 67

<sup>98</sup> February 17 1925, *The Northern Evening Dispatch*, What Women Barristers are Doing



Bar.<sup>99</sup> However, the *Newcastle Journal* in 1926 suggested that there were 12 women practicing, with fair practices.<sup>100</sup> Strachey wrote in 1935 that 79 were practicing<sup>101</sup> compared to Hughes' 1936 estimation of only 12-18.<sup>102</sup> Polden guessed that at no point between 1919 and 1939 were as many as 20 women making a living exclusively from the Bar.<sup>103</sup> There was probably no year in which 40 held a brief. Similarly, there are no figures for men's practice. Polden concluded that 'while it seems to have been generally accepted that women were disproportionately unsuccessful, the extent of the gender gap is quite unknown.' When the 1921 census was taken, twenty women recorded that they were practising barristers (just 0.7% of the Bar), by 1931 79 women did so (2.7%).<sup>104</sup> So, certainly there was no opening of the floodgates.

## Conclusion

We have seen that the hopes and expectations expressed in newspapers during 1919 for the practical success of the SDRA did not evolve into the reality of working legal life for many of those first women lawyers. The SDRA did not remove barriers to the practice of law or end inequality. Although the women solicitors appear to have fared 'better' in remaining in legal practice for the rest of their working lives, three of those women had strong legal connections – gatekeepers to the profession, and Morrison married her professional partner which would have given her as an insider 'ally' and helpmate in order to survive in a male dominated profession. It can be no coincidence that the majority of the first cohort of women barristers were from non-legal backgrounds and found private practice so challenging. Campbell, granddaughter of a judge, secured a judicial role rather than remain in practice. We also see from this study that the numbers of women lawyers were very small compared to their male counterparts, so the 'successes' were a class of a very small minority of practising lawyers.

More than one hundred years after the SDRA received Royal Assent, the statistics on women in the legal professions reveal a startling picture of inequality in the profession. Women have still not received parity with men within the profession. As of December 2019, women constituted 38.0 per cent of the Bar compared to an estimate of 50.2 per cent of the UK working age population. The proportion of female QCs has increased, from 15.8 per cent in December 2018 to 16.2 per cent in December 2019.<sup>105</sup> The numbers are not much more encouraging for solicitors: women do make up 49% of lawyers in law firms,

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<sup>99</sup> May 25 1926 *The Liverpool Courier*, Women Who Make Good at The Bar

<sup>100</sup> Polden op cit

<sup>101</sup> Strachey, R *Careers and Openings for Women* Faber and Faber 1935

<sup>102</sup> Hughes, D. W. *Careers for Our Daughters* Black Publishers: London 1936

<sup>103</sup> Polden, 2006, p.314

<sup>104</sup> Abel, R, 1998, p.80

<sup>105</sup> Bar Standards Board, 'Diversity at the Bar 2019', <https://www.barstandardsboard.org.uk/uploads/assets/912f7278-48fc-46df-893503eb729598b8/Diversity-at-the-Bar-2019.pdf>

up by 1% since 2017, but the differences become more apparent when we look at seniority, as just 34% of partners are female in 2019.<sup>106</sup> So the idea that the SDRA would enable women to practice law without barriers was unfounded.

Further problems surround pay and the gender wage gap. The Law Society reported in 2019 that the solicitor's profession has a median pay gap of 8.3%, which is substantially lower than the current UK median pay gap of 17.3% (Office of National Statistics 2019).<sup>107</sup> The numbers are explained by an imbalance of male and female staff in executive director roles across the Group, with fewer females in these roles.

We may conclude that the dominant narrative brandished by newspaper reports was that the SDRA was an easy solution to women's inequality. This was probably a way of appeasing all the competing views in England and Wales. However, this was not the case, the legislation could not be expected to rectify the discrimination or inequality faced by women in one fell swoop. The SDRA was just the start of the long road to women's equality, one that we are still treading now.

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<sup>106</sup> SRA, 20 March 2020, 'How Diverse is the Legal Profession?' <https://www.sra.org.uk/sra/equality-diversity/key-findings/diverse-legal-profession/>

<sup>107</sup> The Law Society Group 2019 Gender Pay Gap Report, <file:///C:/Users/Judith/Downloads/law-society-gender-pay-gap-report-2019-february-2020.pdf>