

Jamil Mohammed
2022 British Pegasus Scholar Report

The Places I've Been, the Things I've Seen, the Lessons I've Gleaned

As the pilot has just switched off the fasten seatbelt sign on this 8-hour transatlantic flight from Washington Dulles International to London Heathrow, now is a good time to take stock and reflect on what exactly has just happened. So here goes...

To understand the US legal system, you've got to first read the constitution. To better understand the US legal system, you've got to visit the US. If you really want to understand the US legal system you've got to move around from state to state, to see the differences between state and federal courts. From court to court you'll find that there's a different mindset, an individual take on a collective application of law. However, if you want to best understand US legal system, you've got to see it, feel it, you've got to live it. And that is what the Pegasus scholarship allowed me to do.

We visited the US after a 2-year postponement of the scholarship due to Covid. We are visiting a county beginning to come out of the pandemic and in the early stages of trying to resume normality. To give this context our first experience of Court advocacy was at the Washington D.C. Department of Justice (or the DOJ as most people around town call it, because of ARLTA, [Americans really like to abbreviate]). Whilst we were given security clearance to enter the building and given an insightful tour of its history, we were to observe the advocacy from a separate room over video link. However, it still just worked, legal arguments were being made and law applied. There is a new way of doing things, much like the UK the US has had to adapt and remain cautious, whilst maintaining the highest standards of practice possible.

The thing is with the United States is that the pandemic rules are different depending on which part of the country you're in, for example in D.C. masks were in abundance, in every building you go into people are overtly informing one another of their vaccination status. I compare this to Kentucky, where the wearing of masks was... how do I put this... a bit more liberal. What this metaphorically demonstrated is that the USA is a country made up of a collective of states, each with its own standalone identity, each with its own flag, each with its own application of law.

Similarities That Differ

The United States of America's judicial system was originally based on that of the British, however along the way they have undoubtedly gone on to make it their own. On a trip that saw us visit multiple states; Virginia, Maryland, Delaware, California, Kentucky, and New York, I have had the pleasure to see first-hand how the rule of law is applied within the United States of America.

And therein perhaps lies the most immediate contrast in our respective judicial systems. Upon obtaining pupillage in Britain, the Bar Standard Board issues you with a practicing certificate that essentially means you can practice all throughout the countries England and Wales. For the most part the law is the same

whether you're in London England, or Glamorgan Wales. The same cannot be said for the USA, where laws, restrictions and sentences can differ upon the crossing of state lines.

The general judicial infrastructure is significantly different in comparison. Federal courts have jurisdiction to resolve disputes that involve the United States Constitution, federal statutes, and federal regulations. In addition, Federal courts have jurisdiction to resolve disputes that involve state laws in circumstances where the parties satisfy other jurisdictional requirements. Owing to the nation being so vast and the volume of lawsuits so extensive, for practical reasons Congress divided the country into thirteen federal judicial circuits. There are eleven numbered circuits, such as the United States Court of Appeals for the First Circuit, the Second Circuit, and so on. In addition to the eleven numbered circuits, there is also the United States Court of Appeals for the District of Columbia and the United States Court of Appeals for the Federal Circuit. Each numbered federal judicial circuit encompasses several different states.

State courts provide for each individual state to have its own laws and court system. State court judges have sole jurisdiction to resolve disputes involving their state's constitution, statutes, and common law.

I would describe the US legal system is a conglomerate, and one must bear in mind the USA is a country big enough to be a continent. A country with an approximate population of 332 million people [at time of writing]. A country that is broken up into 50 states, of which each state has its own standalone (and yet stand within) legal system, with the overarching Federal system. Accordingly, a lawyer must be admitted to the specific bar of the state they seek to practice in. I am still campaigning for *pro hac vice* to extend to a British barrister.

To quote the Pegasus Scholarship Trust, *'In 1987 The Right Honourable the Lord Goff of Chieveley formed the Pegasus Scholarship Trust, noting that "the Pegasus scholarship scheme makes it possible for gifted young lawyers -- the future leaders of their profession -- to learn about the practical working of the common law system in countries other than their own, and to form enduring links with lawyers in those countries."* Lord Goff traveled to the 1990 annual meeting of the American Inns of Court to announce the expansion of this program to include an exchange program with young members of the American Inns of Court'... And I am so very glad he did, because, beginning in 1989 and every year since then (pandemic excluding), American Inn of Court members have hosted young British barristers through the American Inns of Court Pegasus program.

As such the American Inns of Court has taken inspiration from its British counterparts. However, from inspiration, it has gone on to create its own unique structure. Whilst it may not yet have the centuries of history, it does have a warmth and a camaraderie that is the propagation of a long-lasting and hopefully soon tradition. In the USA being a member of an Inn is not a requirement to practice, rather I would describe it more as an LLC (Law Lovers Club) if you will, [remember ARLTA]. Where no matter the seniority or juniority, lawyers are welcome to come and discuss updates in law, dine with one another and discuss developments in each other's practices and practice areas.

Admirer of an Admirer

Perhaps what I appreciated most was the mutual fascination of each other's respective judicial systems at all levels of the judiciary. When sat with a Federal Court judge after she had finished the last criminal sentencing on her docket, she wanted to ask us questions about the UK criminal courts as much as we wanted to ask about what we had just witnessed in her courtroom.

Everywhere we went it was the same, we had questions for each other, we wanted to compare and contrast. The shock on faces of attorneys, when it was explained to them that criminal barristers in the UK can both prosecute and defend. The unbridled fascination with the wig and gown UK barristers wears

in court, immediately met by the disappointment to hear that it is not worn in every single court. Conversely, our surprise when we discover the strict time limit on submissions during Court of Appeal hearings, often a 10-to-15-minute timer, on show, counting down like a NBA shot clock. It's hard not to reminisce about many of my unfortunate tautologist opponent advocates that would have benefited from this.

Throughout the program there was always an opportunity to learn, no better example of this was during a hike through Red River Gorge, for those of you that aren't familiar, Red River Gorge is a unique canyon system on the Red River in east-central Kentucky contained within a National Forest with some spectacular views. Much like back in the UK emergency protection order application in the Family Court can come in at any moment. In the UK a barrister like myself would be expected to deal with one on very short notice, and in the USA, this was no different... Apart from, unlike the UK this application came in whilst mid hike. So, picture me sat on a rock close to the highest point in the 29,000-acre gorge, next to the Judge, reading the case papers on a shared phone screen. We discuss the case merits, and an emergency order is granted. We spend the rest of the hike discussing the challenges our respective Family Courts face in this current climate, pausing for intervals to take in the spectacular scenery.

Sharing is Caring

I can't help but think we can both take lessons from each other's systems, for example perhaps timed submissions could take off in the UK, supported by a written skeleton argument or a "brief" as they call it in the US courts. Timed submissions ultimately invariably compel the advocate to hone in on the crux of the case specifically, with most of the time on the clock being used by the Judges asking questions to test and clarify points already contained within the detailed brief, rather than hearing a recap of a case they are already familiar with.

Another feature I can see being utilised in the UK are Moot Courts, consider it a simulated dress rehearsal of an impending court argument, whereby the court setting, and arguments are trialled as a practice run, to see how they advance and withstand pressure. The concept of running the case before you actually run it just makes so much sense. What better way to test your case than, well, to actually test it?

The US might benefit from digital case system, I noticed in the criminal courts within the states I visited, there was a lot of paper bundles, files and boxes being carried to court. Even the UK which at times remains shackled to tradition has adopted a centralised digitalised system.

Or perhaps expanding the US Supreme Court and or updating the appointments procedure. There are real arguments to be made this, but that's a consideration for another flight.

It is clear that attorneys in the USA want a change to their court attire. They too want a headdress, perhaps not quite a wig as that's already taken, but a hat of sorts, I'll leave that to the 13 circuits to discuss amongst themselves. In accompaniment possibly a gown with a lining of the star-spangled banner, the choice is yours America, let me know what you decide.

Supreme Dreams

As aforementioned I visited at unrepresented times, a country that like the rest of the world is trying to readjust to living with Covid-19. But also, a country that not unlike Britain is having to ask itself serious questions about race treatment, diversity, and equality. Whilst the protests aren't still as prominent on the streets, the message still remains clear, it still remains active, it still remains necessary.

One afternoon I am given a private tour of the Supreme Court of the United States, and whilst walking around this building I soon appreciate that is not only a functioning vessel of law in action, it also acts as a museum to how the court and the legal system has matured over time.

I learn more about Justice Sandra Day O'Connor who served as the first female associate justice of the Supreme Court. I see the proudly framed portrait of Justice Thurgood Marshall lawyer and civil rights activist who served as the Court's first African American justice. Fittingly, a few days later, news quickly spreads around the District that Judge Ketanji Brown Jackson, was confirmed by the Senate to become the first Black female justice to the Supreme Court in the court's 233-year history. Being in the District of Columbia at this historic moment was not lost on me.

This visit also gave me the opportunity to spend a day at Howard University School of Law a well-respected HBCU, alumni. that proudly includes the aforementioned Thurgood Marshall and the current Madam Vice President Kamala Harris. Whilst there I got to sit in on class, discuss points of law with lecturers and see first-hand the development of tomorrow's future black and ethnic lawyers. I was also given the great honour of being made Honorary Howard Law School Alumni (Go Bisons).

Appreciation [End Credits]

I really could utilise the majority of the article on thank yous alone. I wish to say thank you to everybody who took the time out of their schedule to meet with us, it truly is appreciated, you all played a role in making this experience the success that it was. For me personally this has been quite a journey, an inner-city London boy somehow making his way to become a barrister and then sitting amongst peers to receive recognition at the Supreme Court of the United States of America.

I wish I could name you all individually, all the Judges/Justices, lawyers, clerks, congresspersons, lobbyists, personnel that spoke with us, assisted us, or even simply smiled at us in DC, Virginia, Maryland, Delaware, California, Kentucky and New York.

I must however individually name and thank a few people for their exceptional contributions, hospitality and generosity; (in no particular order) Judge Art "Scotty" Scotland, Judge Lucinda Masterton, Judge Thomas Ambro, Judge Carlos Acosta, Judge Larry Brown, Judge Morrison England, Judge Consuelo Callahan, Justice Andrea Hoch, Judge Awoyini... *[I pause for a moment as the flight attendant tops up my still water, no ice, I also wonder why this plastic cup couldn't be a paper one, I do hope they recycle these... I digress]* ... Jesse Binnall, Britta Venneman, Ellen DelSole, Andre Regard, Sha-Shana Crichton, Robert Parker, Parker White, Eric Nitz, Richard Schimel and Cynthia Wright.

I would also like to thank Cindy Dennis, General Malinda Dunn and everyone involved at American Inns of Court as well as Inner Temple for making this happen. For this incredible experience and insight which I shall carry lessons from as I move forward in my career, whatever I choose to do next. I leave the US more enlightened than I arrived.

For those of you who actually carried on reading through the end credits, you are rewarded with the following:

Throughout the trip and in every state visited I was asked the same questions, I even contemplated getting an E-pamphlet made dedicated to the FAQs (Frequently American Questions).

1. What's the difference between a solicitor and a barrister?

For a start each profession requires a different vocational training at law school. Putting it very simply, barristers tend to practise as advocates representing clients in court, whereas solicitors tend to perform the majority of their legal work in a law firm or office setting. A solicitor would usually instruct or refer a client to a barrister to represent and advise for the purposes of the matter going to court. There are, however, exceptions to this rule in both cases, solicitors can obtain 'rights of audience' which enables them to represent clients in court and barristers can in certain cases conduct litigation. The distinction between the two professions has become more blurred in recent times.

2. Who employs you, do you belong to a firm?

Most barristers are self-employed. We operate out of "chambers" which is essentially a collective of barristers sharing premises, staff, administration expenses and perhaps most importantly, clerks. The clerks tend to be responsible for bringing in the work and distributing it among the barristers. Each barrister in chambers contributes to the running costs by paying chambers expenses and/or rent/commission.

Barristers, however, are not always self-employed. Some barristers are employed 'in-house' at law firms and organisations such as the Government Legal Service.

3. Do you prosecute or defend?

We can do both. Believe it or not, many criminal barristers prosecute (instructed predominantly by the Crown Prosecution Service ('CPS'), as well as other prosecution agencies such as HMRC and local authorities). They also defend (instructed by defence solicitors), although there are certain chambers who opt to exclusively prosecute or defend. But if you ask me there are great advantages in being able to do both.

4. Do you guys wear a wig and gown?

In the Crown Courts (Criminal), yes. In 2007, wigs were no longer required during Family or Civil court appearances or when appearing before the Supreme Court of the United Kingdom. Wigs are still worn in criminal cases and some barristers choose to wear them during certain civil proceedings.

The wigs are traditionally made of horsehair. A barrister usually has to purchase their own, at time of writing the approximate cost of a wig \$750 and gown \$190.

5. Is it like the TV show Silks?

I'll let you know if I get around to watching it.

6. How much do you guys get paid?

Well would you look at that, there's the illuminated fasten seatbelt sign, as the pilot announces over the speaker system that passengers are to fold tables up and put away electronic devices as we approach descent.

Got to dash.

Peace and Love.



2021 Pegasus Scholar - Jamil Mohammed is a barrister at 33 Bedford Row, a central London based chambers. He has a mixed practice and specialises mainly in Family, Criminal Law, and Regulatory Law.

Jamil appears in court on an almost daily basis; he is adept at witness handling and is comfortable appearing in front of a range of different courts and tribunals.

Jamil regularly appears in the Family Court, acting in both public and private law proceedings. including cases of a complex and contested nature in child arrangement proceedings, financial disputes, dispute resolution, non-molestation orders, interim care orders, occupation orders, urgent injunctions, fact finding and final hearings.

Jamil regularly appears in the Criminal Courts, such as the Crown Court, Magistrates' Courts and Youth Courts. He is experienced in a wide range of criminal matters, having conducted numerous and varied trials, including GBH, PWITS Class A, domestic burglary, theft, possession of knife/bladed articles, sexual assaults, common assaults and domestic violence as well as a wide range of road traffic & motoring offences.

Jamil also has experience before disciplinary tribunals and regulatory bodies having presented cases on behalf of the Nursing & Midwifery Council, as well as regularly acting on behalf of local authorities prosecuting trials and other hearings.

Jamil has a particular interest in sports law and has previously been involved with British Association for Sport and Law (BASL).

Outside of his practice he has had articles published for Counsel magazine and has further continued work for Counsel Magazine where he was invited to be a correspondent at the Bar Council's virtual Bar and Young Bar Conference 2020 *'Taking action: Race and the Bar'*.

Jamil was recently invited to be a panel member at the Inns of Court College of Advocacy first ICCA Bar Course Future Barristers Open Day. entitled 'Equality & Diversity at the Bar'.

As well as volunteering as a Legal Observer during the Black Lives Matter protests in London 2020. During lockdown he has regularly appeared on virtual talks, panels, and general one on one sessions with prospective barristers and students generally. He has a keenness to ensuring the inclusion and encouragement of BAME students to approach the Bar as a profession.