

## Book Review

### SPIDER WOMAN: A LIFE<sup>1</sup>

by Lady Hale

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1 Born in Leeds, on 31 January 1945, Brenda Marjorie Hale retired on 10 January 2020 as President of the Supreme Court of the UK, three weeks short of her 75th birthday. This book is the account of her life and transition from Richmond High School girl to the President of the Supreme Court of the UK. Together with her sisters, Jill and Frances, Brenda Hale benefitted much from schoolteacher parents, and a happy family life together. Although her first marriage – to Anthony Hoggett, with whom she had their daughter Julia – ended in divorce in 1992, she married again that same year to Julian Farrand, lawyer and chess player. With her many years’ experience as a judge in the Family Court, Lady Hale understands and respects the privacy of the family, and that probably explains the minimal references to her family other than her parents and siblings in her childhood time.

2 Brenda Hale learned to love history and the romance of the English rebellion in the 17th century, and the significance of the Magna Carta led her to appreciate the ubiquity and pervasiveness of law in the lives of ordinary people – and that it would be “great fun to study”.<sup>2</sup> That bright and optimistic idea of the law would soon be tempered by the realities of life, as Brenda Hale moved from academia into private practice, and then to the Judiciary, where she was to discover how law might present itself, in the words of Lon L Fuller, “in a bewildering array of moods”.<sup>3</sup>

3 The idea of studying law took Brenda Hale to Girton College, Cambridge. Those were the days (in 1963) where, as Brenda Hale found, male lecturers might refuse to discuss sexual offences “because there were women in the room”.<sup>4</sup> Changes in thinking were inevitable, and by 1987, the UK saw the abolishment of the label “illegitimacy” – “there are no

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1 Bodley Head, 2021.

2 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 43.

3 Lon L Fuller, *Anatomy of the Law* (Praeger, 1968) at p 1.

4 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 55.

illegitimate children, only unmarried parents”<sup>5</sup> The passion for the law, and perhaps with a sprinkling of the teaching DNA in her saw Brenda Hale spending 18 years as a lecturer at the University of Manchester. She had chosen Manchester because she had studied family law under the famous Peter Bromley,<sup>6</sup> and tort law under Harry Street<sup>7</sup> there.

4 In 1967 when Brenda Hale decided to gain admission to the Bar, applicants still had to eat 36 dinners at the Inns of Court, and in her case, Brenda Hale chose Gray’s Inn because she knew people there, not least her fellow lecturer and soon-to-be husband, John Hoggett. She was admitted to the Bar, having filled herself with the requisite meals at Gray’s Inn, in 1969, a year after she and Hoggett married. By 2017, the meals at the Inns had been replaced by more structured “Qualifying Sessions”, but to those like Brenda Hale, fellowship forged over meals created a layer of almost indelible memories. Nonetheless, Lady Hale, as Brenda Hale was addressed when she became a Justice of the Supreme Court, thinks that this was a change for the better. The Qualifying Sessions ensured that the junior most in the profession got to meet the senior most, and instead of loose, unstructured conversations over meals, they listened to professional topics in the true learning of an apprenticeship.

5 The final step to entry in the profession was to spend 12 months in pupillage. She did this under John da Cunha whose practice was mainly in high value personal injury claims, commercial fraud, and with “a sideline in divorce cases”<sup>8</sup> After hearing rumours that her pupil-master did not approve of women at the Bar, she eventually found the courage to ask him whether the rumour was true. It was, he said. He told her that the Bar is a fighting profession, and that women were “too obstinate or too yielding”<sup>9</sup> – he had never settled a divorce case with a female barrister, Brenda Hale recalled. That might have been the impetus that propelled Brenda Hale to her stellar career at the Bar. Ambition and drive are not enough, as Lady Hale admits in this book. Luck, she says, plays a part, but the question is, what does one do when fortune comes knocking at one’s door? That brings us to the next point.

6 Why do people write autobiographies, as distinct from memoirs? Memoirs tend to focus on some specific aspects of one’s life or career, and are intended to explain either what happened in certain events from the eyes of an insider, or perhaps to explain one’s role in

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5 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 57.

6 Author of *Bromley’s Family Law*.

7 Author of *Street on Torts*.

8 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 70.

9 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 71.

those events. Right in the middle of the book we come to what might be Lady Hale's reason for writing this book. There, Lady Hale recalls how Dinah Rose QC had described Lady Hale as a "feminist, frank and fearless";<sup>10</sup> and is perplexed by women who declare themselves to be "no feminist".<sup>11</sup> Lady Hale wonders why such women are "so anxious to deny it, when they clearly believe that women are, or should be, equal to men in dignity and rights".<sup>12</sup> The answer may be that such women (and men – many men believe in the same) see feminism as the opposite end of male chauvinism. Equality, after all, is equality – neither male nor female versions. Unfortunately, the most appropriate term for people who strive for equality should be "humanists" but that term had already been appropriated by the secular movement for ethical philosophy and behaviour. It may be a matter of nomenclature after all, because Lady Hale goes on to say that there "are many men who are feminists in my sense and many women who are not".<sup>13</sup>

7 This mission in life that Lady Hale had carved out for herself the higher she climbed in her career, became clearer and more intense. She began to see herself, like many successful women, as beacons for women. In spite of advances in the law that saw the passing of the Sexual Discrimination Act 1975, Lady Hale could not hide her disappointment that "the courts sometimes struggled to understand what treating a person less favourably meant".<sup>14</sup> Yet, at times, her own arguments betray the same discrimination she professes to fight. Advocating equality, she also claims that because women being women ("We lead women's lives: we have no choice"<sup>15</sup>), there is a need for diversity because "the experience of leading those lives should be just as important in shaping the law as is the experience of leading men's lives".<sup>16</sup> In other words, positions should be filled by women because they are women. Lady Hale denies that she is making an argument for positive discrimination, but admits that "it is an argument for affirmative action to try and improve the selection criteria and processes".<sup>17</sup> This sort of confusion is inevitable when equality is seen from coloured lenses instead of neutral ones.

8 Public life inevitably attracts public scrutiny. In this regard, from the time she was appointed as a Law Commissioner to her elevation to the Bench, Lady Hale had to deal with public perception of her as

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10 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 83.

11 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 83.

12 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 83.

13 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 84.

14 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 88.

15 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 95.

16 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 95.

17 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 99.

a person and as a public servant. Lady Hale provides candid accounts of her experiences in the changed circle she moved in, and some may find her chapter on “Family Life in the Family Division”<sup>18</sup> of great interest because it is in this division that Lady Hale came face-to-face with the most difficult of judgments that a court may be asked to make – deciding what counts as the best interests of the children in a broken marriage.

9 She clearly became an adroit hand in matrimonial cases, and with her other experiences in law, a position in the Court of Appeal was destined; and from there, it seemed a matter of course that she should rise to the House of Lords, and thereafter to the Supreme Court. But, as she recalls, the path was not straightforward. When Lord Philips retired as President of the Supreme Court, Lady Hale was the “longest serving and most experienced member of the court”, but Lord Neuberger was appointed, with Lady Hale as the Deputy President. Four years later, Lady Hale seemed to have won over the confidence of her colleagues when she took over as President of the Supreme Court from Lord Neuberger.

10 Of the innumerable cases that Lady Hale has heard, from the High Court to the Supreme Court, one case stands out as a source of personal satisfaction, and that is *R (Miller) v Secretary of State for Exiting the European Union*.<sup>19</sup> She thinks of this as her number one “desert island” case during an interview with *The Guardian* on 11 January 2020.<sup>20</sup> She expanded on her reasons and feelings in her autobiography, and in which, she made clear the role of the judge in a democracy. This was the case in which the court decided that the manner in which the UK Government had prorogued the UK Parliament was unlawful. Explaining the role of the judge, Lady Hale writes: “[o]ur job is to decide cases which come before us according to the law. We cannot refuse to decide them, however much we might prefer not to be dragged into some which are essentially political disputes”,<sup>21</sup> after the event in which she strode into court to deliver the judgment watched all over the world. She enraptured the world with her speech – and the spider brooch conspicuously clinging to the top right of her dress. She was surprised by the attention her spider brooch drew. She reveals in this book that she made it a habit of livening up her dress (her words); so, it might have been a frog, a dragonfly, or a bee. Contrary to speculation, that spider had no hidden message.

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18 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) ch 9.

19 [2016] EWHC 2768.

20 Simon Hattenstone, “Lady Hale: ‘My Desert Island Judgments? Number One Would Probably be the Prorogation Case’” *The Guardian* (11 January 2020) <<https://www.theguardian.com/law/2020/jan/11/lady-hale-desert-island-judgments-prorogation-case-simon-hattenstone>> (accessed 7 February 2022).

21 Lady Hale, *Spider Woman: A Life* (Bodley Head, 2021) at p 243.

11 Lady Hale has much to impart. Her judgments exemplify how judges work, and her candour reveals the difficulties and constraints that judges often encounter in the course of their work. Her personal life is an inspiration – to both men and women, and perhaps, in keeping with the times, everyone in between. And so, she thus presents, *Spider Woman: A Life* – complete with a portrait of her, spider brooch included, on the cover.

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