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WOMEN IN DATA SURVEY

The legal sector remains male-dominated – but a strong female cohort is leading data law.

2019 represents a number a significant milestones for female lawyers, as the UK celebrates a century of women in law while the year also marks Arabella Mansfield becoming the US's first female attorney 150 years ago. In the relatively new area of data protection and cybersecurity, several nominees to GDR's inaugural Women in Data explain that women spearheaded the privacy law revolution for years – to the extent that it has become an area led by women.

Hong Kong-based Mayer Brown partner Gabriela Kennedy says that data privacy was an obscure area when she started in the field. "I had experience in IT and so was asked to develop computer law," she says. "Nobody was really talking about data privacy. It started getting more serious around the time of the Sony PlayStation hack in 2011/2012."

"This is still a new profession," says Charlotte Barraco-David, a partner at Latournerie Wolfrom in Paris. "Barriers to entry are lower ... because you do not have to displace a field of pre-existing men, as in other traditional fields."

Carolyn Bigg, a partner at DLA Piper in Hong Kong, says she was "probably one of only a handful of people in the world" who was interested in data privacy back in 2003. "I never imagined that I would be able to focus my practice on it – but I am, which is wonderful."

Women are not just paving the way in private practice. Eighteen of the 31 European data protection heads who sit on the European Data Protection Board are women. Several other privacy agency heads – such as in Australia, Ghana and Burkina Faso – are female.

Why privacy?

European Data Protection Board (EDPB) chair Andrea Jelinek believes that the number of women practising data law comes down to the fact that in the area's early days, "it was not about the money."

"Privacy was just about compliance, and many now-chief privacy officers started in the legal department and then they got this privacy role on top – because they didn't say no," she says.

There is also a practical facet to data law's attractiveness. Blake Cassels & Graydon partner Wendy Mee in Toronto says that by way of comparison, the transactional and litigation practices tend to be more unpredictable than privacy in terms of work schedule expectations. "If you're on a deal there might be occasions where you can't go home for three whole days! But while compliance is always busy, you can typically work around your other family obligations."

Still a way to go

Despite data privacy becoming an increasingly female-populated field, many Women in Data nominees say they have felt the need to work harder than their male colleagues in order to progress in their careers.

Phyllis Sumner, the head of King & Spalding's data, privacy and security practice, says she was underestimated as a young lawyer and felt she had to work harder than her male peers to prove herself. Ultimately, the experience motivated her to carve a pathway in data privacy for other female lawyers to follow.

Eija Warma-Lehtinen at Castrén & Snellman in Helsinki echoes the sentiment. She says

women still need to work harder than men to achieve the same thing, and as in other fields, the gender pay gap remains a problem.

Many lawyers mention how they have endured sexist behaviour throughout their careers, and still do today. Jane Finlayson-Brown at Allen & Overy in London says she has had her “fair share of inappropriate comments as a female lawyer in the City” and has witnessed them being levelled at other female lawyers.

Tiffany Lee at Willkie Farr & Gallagher in Palo Alto also points to the belief that women are less competent with technology, and that due to underrepresentation of women in management, some clients may be prejudiced to believe that male lawyers are more effective.

Jennifer Martin, cybersecurity counsel at Verizon, says one of the biggest challenges for female professionals is being confined to a limited range of acceptable personalities and behaviours.

“Although seemingly clichéd, what is perceived as ‘gruff’ or ‘strong’ or the deep wisdom of a ‘man of few words’ translates into a binary judgement of ‘bitchy’ or ‘mousy’ for a woman,” she says. “It’s exhausting to play chameleon when you’re trying to provide advice, and it’s even more tiresome when you pile on biases regarding attractiveness, weight, age, ethnic background, and all of the other attributes used to define women, which are irrelevant to a woman’s competence. There have definitely been jobs over the course of my career in primarily male-dominated offices where I’ve felt marginalised too.”

Finding the right balance

Sidley Austin counsel Geraldine Scali in London says that striking a balance between motherhood and work has been a challenge. First, she says, women still feel they have to prove that becoming a mother will not affect

their work; second, mothers are often the parent dealing with home-life organisation.

Clifford Chance New York partner Celeste Koeleveld says: “The biggest challenge I faced was coming back from maternity leave, twice, and redefining my job each time in a way that I could accommodate my added responsibilities as a mother. While the people I worked with were fully supportive, I personally found it difficult to adjust, though I eventually recalibrated and found my balance.”

And it isn’t just the working hours that make life difficult for new mothers. Blakes partner Mee believes that business development activities that are rewarded or looked highly upon when it comes to performance reviews and compensation decisions are less appealing to women – or at least for parents who have to juggle other responsibilities.

“Extended business trips overseas or late business development events in the evenings are opportunities that I tend to opt out of as a parent, and I instead focus on other things that I can do in my own time, such as writing or presenting; less visible activities which might be less recognised when it comes down to compensation.”

Fewer role models

The lack of women at law firms’ senior levels means there are fewer role models for future generations. Arlene Hahn, a partner at White & Case in New York, says that had there been more female partners to act as mentors, sponsors and role models early on in her career, she would have felt better equipped to navigate the “myriad slights and challenge that female lawyers face”.

In particular, Hahn notes that she would have benefited from a female lawyer when faced with being the only woman in the room, being mistaken for an administrative assistant

or being penalised for demonstrating assertiveness or self advocacy – traits for which men are often praised.

Sidley Austin counsel Scali agrees: “In a meeting room where you are the only female lawyer it may sometimes be challenging – especially with the older generation of male clients and colleagues – to be seen as equal and get the full attention. My promotion as counsel has certainly helped.”

Willkie Farr & Gallagher partner Lee says working in a male-dominated profession while being pregnant – and then with two young boys at home – was very challenging: “There is a subset of an older generation of female partners who managed to succeed by replicating what it takes for male partners to succeed in a law firm, but like others I wanted to champion a new path of the new generation where ... it is possible to place equal emphasis on and enjoy both.”

Moving on up

Vanessa Pareja Lerner, a partner at Dias Carneiro in São Paulo, says trying to build a working environment that promotes gender equality and brings out the best in each of her co-workers is a key priority at this point in her career. “I am grateful that a lot has changed since the time I started working, but there is still a long way to go.”

EDPB chair Jelinek says the status of women in the workplace “has nothing to do with data law or data protection; it’s a question of equal treatment”. She said that the fact that Austria’s equal pay day – which symbolises how far into the year women effectively work unpaid due to the gender pay gap – occurs in February every year, showing that a lot of work remains to be done.

But Dessislava Fessenko at Kinstellar in Sofia says the legal profession in eastern Europe

is fairly feminised. “I have never felt a strong bias towards me because I am a woman or a mother ... Women account for close to half of the workforce in private practice in Bulgaria and, as a result disparities (if any at all in the past) have largely been overcome.”

And some go so far as to say that their gender has had a positive influence on their career. Henriette Tielemans, partner at Covington & Burling in Brussels, said that being a woman helped her because she “didn’t need to do anything to stand out” in male-dominated areas. “The key players in privacy are quite a few women ... it’s a good indication that there is no gender bias because we’re everywhere.”

Nancy Libin, who co-chairs Davis Wright Tremaine’s privacy practice, says that being a part of supportive environments where she did not feel held back or disadvantaged because of her gender meant that she hasn’t felt held back. DLA Piper Hong Kong partner Bigg says she has been “very lucky” to have worked with great female colleagues and clients throughout her career.

Washington, DC-based ZwillGen shareholder Stacey Brandenburg says watching the evolution of her female colleagues has been a highlight. “From a management perspective, I have enjoyed seeing the attorneys who I have mentored or supported, particularly women who have also juggled careers and family, come into their own as successful attorneys,” she says.

Many of the women featured in Women in Data say attitudes are changing for the better, and encourage both women and men to branch out into data privacy. For anyone at the beginning of their privacy career, EDPB chair Jelinek has a few words of advice: “for women, take care that the men don’t take over because it’s now more about money, and for men, [know that] you have to be as good as a woman to be successful.”



Henriette Tielemans

*Partner
Covington & Burling
Brussels*

How did you get to where you are now?

I started with a law degree in Belgium and then I had the opportunity to attend Harvard Law School's masters programme with a combined Fulbright and Boas scholarship. I then spent a year at Covington & Burling in Washington, DC in the Lawyer from Abroad [as it was then called] programme. That was a very enriching experience. After extensive travel in the US I went back to Belgium to continue in academia. I realised soon after my return that this was not my calling and so I took the Brussels bar exam and started a three-year traineeship with a local firm. A number of years later, Covington asked me to open an office in Brussels, which I did. I stayed there ever since.

How did you get into data privacy law?

I began focusing on litigation and competition law and only slowly moved into privacy after the 1995 Data Protection Directive, the predecessor to the GDPR, came out. Covington has always had a prominent presence in the regulatory field and so our focusing on privacy was no surprise. Many of our pharmaceutical clients were in need of counsel in that area, closely followed by our software clients, and that prompted us to develop this new practice group of which I became the co-chair. I started out combining privacy with competition law, but now I am full-time privacy.

What are the biggest challenges you have faced so far?

The biggest challenge I face nowadays is the increasing complexity of data privacy law. To be a good privacy lawyer,

you need to keep abreast of new technologies and understand the industry in which your clients operate. Clients want practical advice. You can only provide that if you understand the client's environment. A second challenge is globalisation, which requires companies and their lawyers to get out of their comfort zone and look at privacy laws in many other parts of the world. A challenge I faced in earlier years in my career was combining a family with three children with a busy career.

Have you faced disadvantages in your career due to being a woman?

No, not that I am aware of anyway. I cannot think of anything that I wanted to do but was not able to because of my gender. If anything, in earlier years, I found my gender to be an advantage since I often stood out as one of the few women in the room. Being a woman in privacy certainly is not an issue. A large percentage of privacy practitioners are women and so are some of the more well-known privacy regulators in key member states.

What advice would you give to female practitioners starting out in data privacy?

As young professionals or newcomers to the field, they should read and read and read. Just knowing the GDPR really is not sufficient. The answer to privacy-related issues very often is not black and white so it is important to widen your horizon by following blogs, position papers, and go off the beaten path.