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By Vivian Chen

A Lack of Inclusion

Is Chambers ignoring women in its influential ranking?



“This is outrageous!” says a ***New York*** headhunter who calls me to vent. “Why is it always the same old guard?” A week later, I hear from another industry insider: “It’s impossible that there aren’t enough women with the reputation and skill to be included.”

They’re referring to the Chambers and Partners ranking of U.S. lawyers. And surprise, surprise, women are woefully underrepresented on the list.

Widely regarded as the industry’s gold standard directory, Chambers remains stubbornly white and male in its coveted lawyer rankings, particularly in the most elite practice sectors. The paucity of female names is another indication

of how difficult it is for women to get recognition in Big Law.

In 2019, women made up only 13% of ranked lawyers in the New York M&A market, according to Chambers. Only one woman—Faiza Saeed of Cravath, Swaine & Moore—made it to band 1, the top rank. And there are no women in the “senior statespeople and eminent practitioners” category.

Women are also scarce in the general commercial litigation category, making up just over 7% of recognized litigators in the New York market. And none of those women was ranked higher than band 4 (out of five). In securities litigation, the percentage of women is stuck in the teens. (Even Sandra Goldstein, whom Kirkland & Ellis wooed from Cravath for a reported \$11 million, is only in band 3.)

Why is it so hard for women to break onto the Chambers list? Is Chambers ignoring female talent?

Chambers editor-in-chief Rieta Ghosh acknowledges the imbalance. She points to “institutional difficulties”—law firm politics and the preponderance of men among general counsel who advise Chambers—as key hurdles.

Women seem to be disadvantaged, starting with their own firms. “The process is competitive and firms can only

submit a certain number of candidates,” says a former Big Law marketing head. “I’ve found that men are the ones lobbying to get into Chambers.”

Several women I spoke to seem remarkably uninformed about Chambers. One female partner says she doesn’t know how lawyers get nominated, or if clients pay attention. Perhaps women should be concerned. “It can be very helpful to be listed; it counts as an additional credential,” says the former marketing head. “If a client is trying to choose a lawyer in an unfamiliar jurisdiction, Chambers is a top source.”

Women could use the bragging rights of a Chambers rating when pitching to clients or eyeing a lateral move. “Chambers’ endorsement would be a meaningful boost for hundreds of women partners who deserve to be recognized as top-tier practitioners,” says consultant Jason Costa.

Ghosh says Chambers is on the stick. It’s hired a diversity inclusion chief (Dee Sekar) to oversee gender and diversity issues inside and outside of the company. And it mandates that analysts interview equal numbers of male and female partners. “We specifically reached out to female partners where male partners had been suggested to us by law firms,” Ghosh says. “We also kept a record of those firms who attempted to circumvent this process.”

Chambers has to cajole firms to keep women and minorities in mind. Ghosh says Chambers is “raising law firm diversity as a key issue in every one of the managing partner and heads of department meetings that we conduct.”

Perhaps Chambers will be effective. “Chambers is an important voice in the market, so when Chambers gets this right, it is going to make a huge difference,” Costa says.

Let’s hope it has better leverage than the rest of us.

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Battle of the Sexes?

It's time to embrace equal parental leave for men and women.



If women want to stake a claim to equal rights, I'm afraid we're going to have to share some of our hard-earned privileges with men.

I know it seems like men are always jumping onto our wagon after we've made things nice and cozy. But in this situation I think we have no choice but to let them in.

I'm talking about those generous maternity leaves—18 weeks of paid leave is no longer unusual—that are now standard in Big Law. I bet you never thought there was anything wrong with giving women more lengthy leaves than men.

Until the past 10 years or so, lawyers didn't seem to take paternity leave seriously. Now, however, not only do men expect paid time off to bond with their babies, some are demanding the same deal that new moms get.

What's bringing all this to the fore is the challenge brought by Mark Savignac and Julia Sheketoff, two former Jones Day associates who are suing the firm. The married couple asserts in their complaint against the

firm that its policy “discriminates on the basis of sex and imposes archaic gender roles by giving eight more weeks of leave to all women than to men.” (The firm gives women 18 weeks of paid leave, which includes eight weeks of “disability,” while men get 10 weeks of paid leave.)

At first, I thought the suit was a bit quixotic. How quaint of Savignac to insist that he should get the same status as new moms because he wanted to be an equal co-parent. That just shows how brainwashed I was to think that women should be entitled to more time because, well, they're moms. As the complaint points out, not every mother needs those eight extra weeks to recover from childbirth. The result, says the complaint, is a discriminatory policy that reflects and reinforces sex-based stereotypes: “men are breadwinners and women are caretakers.”

“I'm not surprised [by Jones Day's policy] because stereotyping is so ingrained,” says Peter Romer-Friedman, counsel at Outten & Golden who focuses on employee benefits and discrimination. “But I'm disappointed here because the law is so clear on this point,” he says, citing cases brought by male employees at CNN and JPMorgan Chase that ended with settlements enforcing gender-neutral policies. “This is a simple case, unlike situations about why women aren't getting ahead at a firm,” he adds.

Jones Day did not respond to a request for comment.

Romer-Friedman says “on its face, the policy violates Title VII” because the extra time for women is designed for bonding and not recovery. Uniform leave policies for male and female employees are critical, he says. “It should mean equal hardship for the firm to have someone out for a few months; at a certain point, it'll stop being seen as a hardship, like disability leave or sick leave,” he says.

It's hard to argue with that logic, but some women are wary. “I am conflicted here,” admits Kamee Verdrager, a mother of four who sued Mintz, Levin, Cohn, Ferris, Glovsky and Popeo for gender discrimination in 2009 (the case settled in 2016). Though she applauds the co-parenting goals of the Jones Day plaintiffs, Verdrager says she's worried that women's rights to disability coverage after birth might come under attack in the process. “No new mother should have to deal with the stress of fighting for benefits and having to prove medical need immediately following childbirth,” she says.

Still, I think it's inevitable that men and women will get the same leave coverage. If you believe in gender equality at work and home, there's no justification for the sexes to be treated differently on this issue. And if your firm isn't there yet (most still give women more leave), get with the program or you'll be left in the cold. Or facing a lawsuit.

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The Shades of Diversity

How fashionable is your firm's program?



Sometimes I feel like we're shopping for lipstick. Is this the season for blush pink, raging red or muted mauve? And what's the most alluring finish: high gloss or matte?

Maybe it's flippant to equate diversity efforts with lipstick selection, but I think the analogy is apt. Like many corporate endeavors, diversity is susceptible to fashion, always seeking the flavor du jour.

What's trending is attacking diversity for the way it's defined and measured. Ironically, the subtext is that diversity has become exclusionary—that something is being left out.

One popular argument is that focusing on gender, race and ethnicity is superficial. Instead, as the thinking goes,

we should look beyond appearances to the realm of ideas. The other criticism is that we're too obsessed with statistics and that the diversity problem goes much deeper than how many black or Latinx partners a law firm has.

Both criticisms sound intriguing. But, oh, where are they leading us? I've sounded the alarm before about putting ideas and thought into the

diversity basket, but it seems to be gaining traction. The argument: How people think is more important than their ethnicity, because ideas promote creativity and change.

For example, my colleague Paul Hodkinson, editor of The American Lawyer affiliate Legal Week, wrote that “though great progress may be made regarding race, gender and sexual orientation, law firms are seemingly blind to a variety of diversity issues.”

And how many times have I heard that the minorities who fill the ranks in top colleges, law schools and major firms are, as the kids say, “bougie?” The suggestion is that minorities who are part of rarefied institutions and professions such as the law aren't that different from the majority. Their social and economic statuses render them just another shade of white. How ridiculous. And ignorant.

Though some minorities might come from middle- to upper-middle-class backgrounds (or appear to), I bet their looks affect how they're treated. They wear their ethnicity on their face, and the world responds to them accordingly.

Perhaps we shouldn't be so self-conscious, but as an Asian American, I assume people notice my difference. And there's no doubt people project stereotypes about me from time to time. What's pernicious about elevating thought diversity at the expense of race and ethnicity is the underlying assumption that minorities are already integrated and it's time to move on. I'd call that a white man's delusion.

As for the charge that law firms and corporations are too number-focused—interestingly, that often comes from women and minorities. They argue we're not addressing the systemic problems that hinder women and minorities in their careers. Rather than being so fixated on stats, the argument goes, we should be toppling existing mindsets by instituting unconscious bias training, rejiggering mentorship and sponsorship programs, and mandating open, honest discussions about sexism and racism.

Recently, Meghan Hottel-Cox, an associate at Goulston & Storrs, wrote on Law.com that “only by becoming aware, accepting and addressing our implicit biases can we start to counteract those biases and improve organizational cultures to value inclusivity and belonging.” I couldn't agree more. But that requires an exercise in soul-searching that I'm not convinced many lawyers will do.

The best way to get the attention of firms that are truly lagging in diversity is to publish their crummy stats. The deep dives into culture and other intangibles can follow.

So I'm not buying all those new shades of diversity. I guess I'm just not fashion-forward.

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The Dystopian Future

Looking ahead to 2020, the Careerist sees a grim outlook for Big Law.



Once again, I'm dusting off my crystal ball to make predictions for the new year. Oh, how I wish I could report goodness, light and joy for 2020! Alas, Dear Reader, I cannot lie. So here it goes:

Women will be marching to leadership camps. They will devote weekends, evenings and precious working hours to attending seminars, conferences and therapy sessions on how to act, sound and look like a leader. Women will be versed on all aspects of leadership. Except they will not be given leadership roles.

Men will be playing golf and drinking G&Ts. While the womenfolk are diligently absorbing lessons on empowerment and working extra hours to catch up on their work, men will slide out of the office by early afternoon for rounds of golf and a nice steam at the club with their buddies. And guess who's developing business?

Mike Pence will be anointed the patron saint of white men in power. The #MeToo backlash will spread, and more men will fear that they could end

up being falsely labeled the Matt Lauer of Big Law. So why risk working closely with women when it's so much safer and less troublesome to follow the Pence Rule (Thou shall not be alone with a woman or go to events with alcohol unless accompanied by "Mother")? Not only will the Pence Rule prevail, but some firms will make it official policy.

Rainmakers and management members will expect public adulation by underlings. Associates, contract partners and other dispensables will no longer be allowed to sit quietly during weekly department meetings. Everyone at the conference table will be expected to pay heartfelt thanks to those in power. (Suggested tribute: "Most of us are unequipped to handle your genius.")

Lies and exaggerations on resumes will become rampant. Why not just claim you're at the top of your law

school class? And why not throw in a Phi Beta Kappa key while you're at it? And, yeah, you wrote (or hired someone to write) the most brilliant, beautiful law journal article. Ever. In the history of law journals.

The meritocracy will be declared officially dead. Now that it's out that you can buy your way into a competitive college (Varsity Blues, forever!) and parlay government service for personal gain (paging Elaine Chao, Wilbur Ross, the Trumps and countless others), can we finally dispense with the idea of the level playing field? That's so early 2016.

Big Law will make more black partners—sort of. After the public shaming that some firms got for the paucity of black lawyers in their new partnership classes, firms will wise up to the bad optics. This won't result in a power shift, however. Firms will elevate more blacks to partner—all nonequity, just as they've always done, except now in bigger numbers. Bingo: Diversity credit without sharing the pie.

Lawyers will be as greedy as hedge-funders. Sure, the profits per partner at some Am Law 100 firms have soared to obscenely high levels (20 firms reported PEP of more than \$3 million in 2018), but why stop there? Expect more partner departures from nice, old-fashioned lockstep firms, like Cravath, Swaine & Moore and Cleary Gottlieb Steen & Hamilton. Just because you once claimed your real dream is to be a public interest lawyer doesn't mean you have to be a Big Law pauper.

The Hunger Games will be the model for advancement in Big Law. We already know that attaining equity partner status is Darwinian (remember Kirkland & Ellis made 141 partners this year, though only 20% or so will likely survive to the equity stage), so why not make it a real blood sport? Let the games begin!

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