

Diversity and inclusion are laudable goals, but how can change be created in an industry driven by tradition and money? This interview explores the concept of using economic incentives and rigorous data to encourage diversity within the legal profession. The conversation also explores controversial topics such as diversity spin, partner compensation, and the impact on the legal profession of changes to affirmative action law currently being considered at the Supreme Court.

Aviva Will is the Co-Chief Operating Officer at Burford Capital and the architect behind Burford's Equity Project (a \$150,000,000 fund allocated exclusively for women and minority litigators). Keith Harrison is a partner and co-chair of Crowell & Moring's Litigation Group and a member of the firm's Diversity Council. Aviva and Keith sit down with TalksOnLaw's Joel Cohen to discuss putting money on the line to overcome inherent biases and structural disadvantages in order to encourage, maintain, and grow diversity in the profession of law.

[KEY STATISTICS FROM THE BURFORD STUDY]

Representation

- About half of entering AmLaw 200 associates are women, but for every 100 women promoted to partner, 142 men are promoted.³
- Women are 29% less likely to reach the first level of partnership than men.⁴
- In the US, women account for 20% of equity partners at large firms.⁵
- In the UK, women represent 20% of partners in the top 10 law firms and 18% in the next 15 firms.⁶

Compensation

- Male partners out-earn women by 24% in the UK⁷ and 53% in the US.⁸
- 93% of law firms say their most highly compensated partner is a man; most firms report no women among their top 10 most highly compensated partners.⁹

Origination credit

- Because women lawyers tend to inherit fewer client relationships and law firms often award origination credit on a perpetual basis, female partners report lower average compensation nearly 80% of the time.¹⁰
- 67% of senior women report that they have experienced a lack of access to business development opportunities due to gender.¹¹

Unconscious bias

- 32% of women lawyers report being dissatisfied with recognition received for their work, compared to 13% of men.¹²
- 82% of senior women (and none of their male peers) report that they have been mistaken for a lower level employee.¹³
- 63% of women report being perceived as less committed than men at the firm.¹⁴

Other economic impacts

- 58% of US women lawyers say domestic and caregiving commitments (which interfere with billable hours and create biases regarding commitment to work) are an important reason why experienced women leave law firms.¹⁵
- Because women are overrepresented in lower ranking positions, they are disproportionately harmed by law firm cuts; in the 2008 financial crisis, 80% of those laid off were associates.¹⁶
- Despite there being very few women equity partners, 50% of the equity partners terminated in 2008 were women.¹⁷

³ Marc Brodtherson, Laura McGee, Mariana Pires dos Reis, Women in law firms, McKinsey & Company (October 2017)

⁴ Ibid

⁵ Roberta D Liebenberg and Stephanie A Scharf, Walking out the door, The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice, ALM Intelligence and the American Bar Association (November 27, 2019)

⁶ Kate Wolstenholme, Charlie Mirrington, Leon Hutchinson, Catherine Usher, Tony Hodgson, Stephen Tebbett, Adapting to a new world, PwC Law Firms' Survey 2019, PwC (November 2019)

⁷ Acritas, 2017 London Partner Compensation Survey, Major, Lindsey & Africa (January 29, 2018)

⁸ Jeffery A. Lowe, 2018 partner compensation survey, Major, Lindsey & Africa (December 06, 2018)

⁹ Destiny Peery, 2019 NAWL Annual Survey on the promotion and retention of women in law firms, National Association of Women Lawyers (May 2019)

¹⁰ 2018 partner compensation survey

¹¹ Walking out the door, The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice

¹²⁻¹⁵ Ibid

¹⁶ Stephanie A. Scharf, Cheryl Tama Oblander, Marianne Trost, Elizabeth Tipton, 2009 NAWL Annual Survey on retention and promotion of women in law firms, The National Association of Women Lawyers (October 2009)

¹⁷ Ibid

Key Insights from what General Counsel are looking for in the way of legal Diversity.

- In the last few years, **many general counsel have spoken out about the lack of gender diversity at law firms**, including 170 GCs who in 2019 signed an open letter advising law firms that diversity will influence which firms they hire.
- Given this, Burford undertook the 2020 Equity Project study **to understand how GCs are using their “power of the purse” to influence the law firms they hire** to address the gender gap in law.
- We found that many GCs lack key information about one of the essential issues in the gender gap in law: **52% say they are entirely unaware of how origination credit is awarded** when they hire a law firm.
- We asked GCs and senior in-house lawyers whether the legal department has a formal policy that law firms they hire must meet gender diversity requirements; **80% say their companies lack such policies.**
- 48% of GCs and senior in-house lawyers say their **companies have asked a firm to put a woman on a litigation or arbitration team.**
- 84% say that the quality of women litigators’ work is equal to that of men and 64% say that the efficiency of their work (speed to resolution, cost management) is equal to that of men; **21% say that women litigators’ work is more efficient.**
- Many GCs are eager to collaborate with their firms on addressing the external obstacles they see as barriers to change (bias, inertia, law firm culture), and **some see an opportunity for today’s remote working reality to benefit women.**
- 55% of GCs say knowing about The Equity Project will change how they think about future affirmative litigation.
- The 2020 Equity Project study suggests to us that **more collaboration and transparency are needed to ensure that the gender gap in law continues to narrow.**

More information available below:

- [2020 Equity Project study: General counsel & the gender gap in law](#)