



## The Bijou Lecture (2022) with Susie Alegre

### Part 1 – Introduction by Bailiwick Data Protection Commissioner Emma Martins (00:04 – 04:36)

Welcome to the inaugural Bijou Lecture – to those of you who have been with us from the beginning of our Project Bijou journey, and those who have just joined us. First I want to start with a quick reminder of what Project Bijou is and why we launched it last year.

What – it is a social initiative by this office to share experiences, perspectives, stories about data – encouraging a better engagement and understanding of the critical importance of ethical data use. It is important to note that what we want is a conversation beyond the walls of the regulator. This is something that affects each and every one of us, so we need to try and involve as many people as possible. I recognise that this is not easy – not everyone is interested or gives it much thought – but that’s ok. We want to start by giving people the information and tools they need to engage with this vital issue.

Why? Because, as I just mentioned, this really is something, whether we like it or not, whether we care about it or not, which affects almost every aspect of our lives.

More and more data about us is being collected, created, manipulated, used, shared than ever before. And that data is essentially us so what happens to that data is a deeply important and serious question. It can create incredible opportunities it can also create very real harms.

The more open, accountable and inclusive our conversations are, the more likely we are to get ethical outcomes. It is when power goes unchecked and unchallenged that bad decisions get made and bad decisions lead to bad outcomes.

So the ‘why’ is because we want to play our part in widening the discussions and encouraging those who may have previously felt disenfranchised. Data and its protection is first and foremost a human issue. It is also a cultural, political, economic, legal and technical one – but we need to be clear that we are all affected.

If you look at the Project Bijou area of our website you will find lots of wonderful content from lots of different contributors and we will continue to build on that in the coming months and years.

This lecture series will be added to that library but we want it do so something a little different – to really give a free rein to a prominent leader in this field – to talk to us about their thoughts – encouraging us and also challenging us.

We may only be a small jurisdiction but that does not stop us from building a community, an economy, a culture that is built on human values, on ethical data use. As you’ll shortly hear our first speaker say, “sometimes small states can make huge leaps forward”.

This area is moving at the speed of light – it’s hard, even for those of us that work in the field, to keep up, let alone have the opportunity to pause, gather our thoughts and reflect. But taking a moment to pause and reflect is, in my opinion, essential if we are going to learn the lessons of yesterday to inform our future direction and choices and – importantly - to do so consciously and with a freedom of



thought. Because our future is not predetermined – it's ours to determine but we all have a part to play.

It is a huge privilege to introduce you to Susie Alegre – human rights lawyer, thought leader, author and the very first Project Bijou lecture guest speaker.

## Part 2 – The Bijou Lecture by Susie Alegre (04:43 – 15:14)

Hi, my name is Susie Alegre. I'm an international human rights lawyer and author based in the UK. I'm the founder of the island rights initiative, a non-profit consultancy which specialises in human rights in small islands. And I'm also the author of a new book called "Freedom to think, the Long Struggle to Liberate Our Minds"

I've been working in international human rights law for 25 years now and I've covered HR issues in a really wide range of contexts from human rights and counter terrorism in the OSCE region to working on HR and combatting corruption in East Africa. I've also worked in issues relating to border control and how our human rights are affected when we cross borders. And I worked on issues around the human rights implications of Brexit. I've also worked as an ombudsman for the financial ombudsman service in the UK where I specialised in looking at issues relating to equality and access to financial services and the way that the equality act in the UK is relevant to the work of the financial ombudsman service.

**TC: 06:03** For the past 8 years, I've been interception of communications commissioner for the IOM, helping the island to make sure that its interception regime is compliant with International Human Rights and Data Protection standards. Most recently I was appointed to Interpol's Commission for the control of Interpol's files as a DP expert and I work on a really wide range of issues.

As the years have unfolded, increasingly I've seen how important DP and Data is to the protection of all of our Human Rights. It's not only about privacy, Data Protection reaches into our right of freedom of association and assembly, looking at who we connect with online and how we might engage to protect our human rights more broadly, to protest online or to form support groups online.

I've looked at the way that data could affect our rights in the criminal justice system. When we look at how data might be used on sentencing someone or might be used to get somebody might get parole. As I worked on HR issues on such a wide range of topics, I realised how data is increasingly affecting how we engage with each other and how our lives unfold.

**TC: 07:45** For me the real lightbulb moment was when I first read about Cambridge Analytica and the potential for **political behavioural microtargeting** (PBM) adverts in elections. That for me was the real lightbulb moment because while the discussions seemed to focus on whether there had been a data breach or a breach of election financing, to me the key to PBM is that it's designed to get inside our minds.

The idea is based on a desire to understand us as individual voters, to understand what makes us tick, what makes us vote, and how we might be influenced in an election context. And to use that information, to use the data that has been gathered on us to manipulate what is going on inside our



minds, to make us ultimately behave in a different way. Not necessarily to change the way we vote, so for example in the Brexit context, not to change a person from being a Remainer to voting Leave but in a much more subtle way, our data can be used for example to distract us so that we decide that we can't be bothered to go and vote because we think everything is just fine, or it may be used to make us more likely to get up out of the armchair and vote because it's more desirable to the people using PBM.

For me this revelation really clarified how **data is being used to access our minds and how that might be a threat to our right to freedom of thought**. When I first started looking at the right to freedom of thought, there was very little written on it. There was some academic research that looked at the way that neuroscience might affect freedom of thought but there was nothing really looking at how big data might have implications for our right to freedom of thought. **The right to freedom of thought is protected in international human rights laws in ways that many other rights are not.**

**TC: 10:04** It's one of only a small number of rights that are known as absolute rights. That are rights that can never be interfered with for any reason whatsoever. They include the prohibition on torture and the prohibition on slavery. And if you take those rights together, you can understand how fundamental they are to human dignity and what it means to be human. And that there can never be any justification for interfering with them. The right to a private life or the right to freedom of expression by contrast are limited rights. So, you may be able to limit the right to private life, for example to protect the rights of others or to protect public health. Similarly, the right to freedom of expression can be limited for some reasons, like national security or protecting the rights of others. The right to freedom of thought inside our heads can never be interfered with for any reason whatsoever.

**TC: 11:08** What I realised when I first started looking at the right to freedom of thought in the context of DP is that DP and privacy act like gateway rights to protect what is going on inside our heads. But increasingly the way that data is being gathered and technology is being developed is being used to work out what we are thinking, how we are thinking and how to change it.

**\*TC: 11:37** The right to freedom of thought has three key elements. The first part is the right to keep things private, no one can coerce us into revealing the thoughts inside our heads. The second part is not to have our thoughts manipulated. And the third is not to be penalised for our thoughts. But increasingly the way that big data is being used to make inferences about what we are thinking, how we are feeling and how we might be influenced. I believe that right is under threat today.

In my book "Freedom to think", I've looked at the ways that technology is being used today to get inside our heads and made suggestions on the ways that governments might start to regulate technology, to make sure that our right to freedom of thought is protected in practice in the future.

**TC: 12:41** One of the keys in my view to protecting the right to freedom of thought is to look at banning **surveillance advertising (SA)**. SA is not just about targeted adverts that know what you might be interested in buying. It's a much more granular assessment to how you are feeling, what you are thinking, what might press your psychological buttons in order to sell you something, whether that's a pair of socks or a politician. SA is the oil that fuels the big data industry.



Another area that I think that governments could look to regulate is personalisation. You may want personalised recommendations of what you want to look at next on the television but that should always be something you opt into and you should be able to understand how that information might be being used and how it might be affecting the way you think.

**\*TC: 13:47** There are big challenges in data governance and it might sometimes feel like being in a big island you don't always have the chance to change things, in ways that big geographical areas like the EU or huge states like the United States or the UK might be able to but sometimes, small states can make huge leaps forward. One of my favourite stories from my home island, the IOM, is that it was the first place to give women the vote in national elections in 1881, decades before the UK and even before New Zealand decided to give women the vote. Votes for women in the IOM came about not because by hunger strike or protest but simply the result of a lecture tour by a suffragette whose words were taken so seriously that within six months, the IOM had started to give women the vote in national elections. Sometimes it's easier to make big changes in small places and that's why I'm really delighted to be invited to talk to the ODPA in Guernsey today.

### Part 3 – Q&A between Emma Martin and Susie Alegre (15:20 - 33:17)

**Emma** – firstly welcome Susie and many congratulations on your new book, it really is a great read so a quick plug for your book here, it's very well thumbed already, so well done it's a super read. I recently heard Baroness Kenedy specifically mention that your skill as a lawyer writing so accessibly for non-lawyers was excellent, and that is no mean feat and you do it really, really well. That really goes to the heart of what we are trying to do with Project Bijou, really to include people in this conversation and not to exclude them which has I think so often been the case with data protection. DP gets framed all the time as a purely legal or purely technical issue and DP as a result of that has a really hard time landing with the general public and I think understandably because the language is so often impenetrable. So not only is the content of your book great, the way its written means all the issues, the complexity is relatable so of course they need to be. It's not just about law or technology, you say in your book and I quote, "this is not a book about technology, it is a book about human rights and why they matter." So, I'd like to hear your thoughts about why you think it's so important to frame all these issues within the broader context with human rights at the core.

**TC: 17:05 Susie** – As a human rights lawyer, one of the things I've found really crucial and really fascinating about human rights is how it touches every aspect of our lives and often the way that the human rights discourse is placed in the media or by politicians is that human rights is an issue for other people, it's an issue for foreigners or criminals, it's not about all of us. One of the things I really wanted to get across when I started looking at human rights and technology is as you say, it's not about the technology, it's about us as human beings, it's about us as individuals and how our societies are going to be shaped...

**\*TC: 17:50** so one of the things I wanted to do when writing the book was to make it personal and I have to say, it's one of the things I felt very nervous about when I suddenly saw it hitting the shelves was quite how personal I've made it but **I really wanted people to understand that human rights is not a theoretical framework, and DP is important not as a compliance tool, not as a series of emails telling you that your data is very important to whoever is processing it but why it matters**



**to how our lives go and how our lives develop, what it means on the day to day and I believe that if people start to understand why HR matters, why DP matters to them, to their families, to their communities, then they will start to demand proper regulation and change the current direction of travel which I think is very worrying.**

**Emma** – firstly about the personal aspect of the book, I just loved it, it really resonates because if it's personal, it's about a human being and we can relate to it a lot more so I commend you for it but it must be tricky when you see it on the shelves, but I just loved it. It's so much easier to connect with it and understandable. I've heard you talk a number of times and you've mentioned the critical need for this discussion to broaden into wider civil society and personally...

**TC: 19:13** I think that the biggest problem we have at the moment, it's really a grave danger in my view, is apathy, disinterest, a sense of disconnect to these issues and more importantly powerlessness in the face of the sheer scale and speed of the datafication of our lives and of course the extraordinary power that especially big tech companies now have, mostly behind the scenes. We are every single one of us every single second of the day immersed in data, data that we produce, that is produced about us, whether we like it or not, whether we know about it or not, and encouraging a much wider engagement because everybody is affected, not just lawyers, not just regulators, it's at the heart of what the project we are trying to do is but tell us about why you think we need to do more work on that broader engagement piece, across all areas of society and not just the lawyers and not just the regulators.

**TC: 20:10 Susie** - I suppose, I've been working as a human rights lawyer now for 25 years, including issues around privacy and data protection in the context of counter terrorism and the context of corruption and the context of borders and I suppose for me, one of the reasons I wanted to start focusing on the right to freedom of thought was that even though I understood on a technical level the importance of privacy and data protection, it didn't really resonate, I didn't feel it, I understood it intellectually but didn't feel it. And it was the first time that I read about political behavioural microtargeting, so the kind of techniques used by Cambridge Analytica, and **it was this idea that political parties or political actors could use our data to understand whether we were anxious, what kind of a person we were, what is going to get us upset, what is going to fire us up and to use that information to then target us directly online with messages that are tailored to our personal individual vulnerabilities, to change the way we feel and therefore the way we vote or whether or not we decide to go and vote, was so viscerally disturbing.**

This idea that somebody could have curated my Facebook news feed to make me think, oh well, everything will be fine, for example in the Brexit referendum, that really, really profoundly disturbed me and that was why I wanted to focus on this idea of freedom of thought rather than privacy because while many people will say "well, I've got nothing to hide" when you talk about privacy or with data protection as well, people just say well it doesn't matter to me if somebody knows what my date of birth is, what difference does it make to me. This idea that it could be used to manipulate what goes on inside our minds is to me something that I hope will resonate more broadly, both in the human rights community but also more broadly with the public. Nobody wants to feel manipulated and it's not about how clever you are, it's not about saying well of course, I would recognise fake news, it's a much more subtle and granular way that we are being pushed and the more that I looked at it, the more that I saw that it covers pretty much every area of technology



that's affecting our lives, whether it's about getting approved for a mortgage or finding a partner online or whether or not you are going to be sentenced to custody if you find yourself in conflict with the law. **Realising how widespread this use of technology and use of data to try and get inside our heads was to me very disturbing and I think that offers an opportunity to reach out beyond the traditional spheres of data protection if you like to a much wider audience whether it's human rights and civil society organisations, even political organisations to understand what the threat of this is to democracy more broadly. So I think this does offer the opportunity to go beyond a strict compliance regime around data protection.**

**TC: 23:36 Emma** – that is such an interesting point because in the past when I've been talking about, especially big data, a lot of the emphasis has been on, we want to find out more about person x and which cola brand they like so we can offer more of that cola brand but what we are moving to is that company determining which cola brand for the person and then feeding them the information so like you say, it's so much more than about selling stuff now. This gets to the heart of democratic rights and freedoms and my question to you is I suppose now – and I have had those lightbulb moments as well – but how do we get the community to viscerally be disturbed in the way that maybe we have been through having had direct contact, do we need to viscerally be disturbed or is there a way of expanding this in a way that doesn't have to rely upon people being shocked and appalled, that we can just build something a bit better from the outset. Do you think there is an opportunity for that?

**TC: 28:37 Susie** - I think there is an opportunity and I suppose when I started to look into this question and when I realised how much it touches on every aspect of our lives, I think understanding how widespread it is and as you say, that question that it's not just about saying, it's not just about someone who likes this brand of drinks, so we'll remind them that we might want to buy some this week, it's about saying, there's someone who might be a drinks buyer, how are we going to manipulate their minds so that they want to buy our particular drink. Advertising has always been about that in one way or another but what's different now is that it's really individually personalised advertising, saying "oh there's someone having a bad day, I think they'd be a great target for online gambling"! You know how are we going to sell online gambling to this particular individual. Do they want to feel like they are having a party in their own home? Right here's the advert we can deliver to them while they are scrolling through their news feed and it's that individual manipulative power which I think is very disturbing.

In terms of how we get change, I think that raising awareness of what it actually means, helping people to see what the tech is saying about them and there are various tools referred to in my book. One of them is a Cambridge University tool called Apply Magic Sauce where you can link up your social media account and it will look at your feeds and come back and tell you what it infers about you and when I did that with my twitter feed, it came back indicating that I was probably be a thirty something man which maybe because I only use twitter for professional purposes so I wasn't coming across as an over-emotional middle aged woman it was much more that sort of professional atmosphere but what I think is disturbing and entertaining about these things in a way is that it doesn't matter if the inferences are wrong. Some people will look at it and say, well the targeted advertising I'm getting is totally wrong, they are trying to sell me the shoes that I bought two weeks ago but the thing about inferences about what is going on inside your mind is that it doesn't matter if they get you wrong, if the witch finder decides that you are a witch, it doesn't matter whether or



not you've ever had a thought about witchcraft in your life, you may still be burned at the state and that's what's really important to bear in mind, that **it doesn't matter if the tech is getting you wrong, it may still lead to a violation of your rights and may well change your life.**

**I think as people start to understand that and recognise how they are personally affected hopefully they will start demanding change and its by demanding change at the ballot box that we will effectively be able to change our futures.**

**TC: 27:43 Emma-** and you touched on it a second ago, but we have been extraordinarily lucky in our jurisdictions that we haven't really been forced to think about these things but **there are many countries around the world where inference can mean death and that's again an important message for us all. And a lovely quote from your book again, "we've been in a definitive period of peace and prosperity at least in Europe and North America which has allowed many people to forget why human rights matter for all our lives" so I think it's important to remind ourselves as well how very fortunate we are and not to take it all for granted.** Now you talked about your experience in smaller jurisdictions which is a joy to hear because we are a small jurisdiction too, they come with their own challenges but they also come with their own opportunities and I'd love you to give us a couple of top tips both for those that are charged with looking after data, so controllers who have a lot of data about their clients or staff but also the individual citizen, who certainly in my experience they often feel disconnected and disempowered and in the face of noting your quote that we are at a "defining point in history", and hearing you say in your talk that small states can make huge leaps forward, what would you say to us, the controllers and the individuals to start at least thinking about those huge leaps forward.

**TC: 29:09 Susie - I suppose to the data controllers, I'd say think about what are you using the data for, what is your goal? If what you are using it for is to get inside someone's mind, then stop, think again and take another approach. Don't think about it from a technical perspective, think about it from what are you trying to get out of it and this may seem like a great idea - "fantastic, I can use this information to sell more cola" but if you are using that information in a way that is effectively to get inside people's heads then stop, step back and think about the consequences of that not just for the individuals concerned but for our society more broadly.**

For individuals I'd recommend just finding out more about what the data that's available on you gives away. There are various tools. Privacy International, a privacy campaign group developed a twitter bot called adversary bot that you can follow and will then give you a weekly rundown on what your twitter activity is saying about you and how you are feeling that week. **Understanding what data says about you is a first step towards demanding change. As an individual you can't in the current day and age completely control the data trails that you are leaving but what you can do is demand that legislators and policy makers take action to stop your data being hijacked and used in ways that are damaging to you or maybe damaging more broadly to your society or globally.**

**TC: 30:59 Emma - I'd like you to leave us, what we are trying to do with project bijou is to give everybody one of those light bulb moments and we're putting various content out there to try to reach various different audiences. If you could encourage someone to have a lightbulb moment, what is the one thing you want people to take away today from what we are saying?**



**TC: 31:19 Susie** - I would hope that everyone can take a look at their own life, what apps they've got on their phone, how much time they spend on social media, whether or not they are looking at a screen when their children are asking them something or telling them about their day at school. To reflect about their own relationship with technology and understand that the future of technology and the future of data is all of our futures and to think about what you want in your life and for your children's lives out of our future with technology.

**Emma** – such powerful words, and I'm wondering do you happen to have your book to hand?

**Susie** - I do (holds up book)

**Emma** – could I ask you a favour, on page 329 I've underlined a section at the bottom of the page and they are such powerful words...

**Susie** – I've got it...

**Emma** – I'd love you to read to the end of that paragraph because I think it just summarizes so beautifully why we can't afford to be bystanders and it's a great quote so may I ask you kindly to do us the honours of reading that quote now.

**TC: Susie** –Absolutely thank you. "Your part may be big or small. But whether you are a technologist, a lawyer, a politician, a civil servant, an investor, a teacher, a concerned parent or a consumer of technology, you could make a difference for all our futures."

**TC: 41:52 Emma** – it's just a lovely way to finish. So, it's been an enormous honour to have you talk to us Susie and be a part of our inaugural Bijou Lecture Series, thank you so much for giving us your time and insights and very best of luck with the book, thank you and we hope to give many people lightbulb moments as a result of this. Susie thank you.

**Susie** – My pleasure and thank you so much for all the work that you do for driving forward data protection and these issue from the Channel Islands and beyond, thank you.