



MINORITY ISSUES, TECHNOLOGY, WOMEN'S ISSUES

Diversity In The Legal Profession: The More Things Change, The More They Stay The Same – Until They Don't

The stated desire to address the diversity imbalance may give way to real change if peoples' wallets depend on it.

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May 16, 2017 at 2:46 PM



French writer Alphonse Karr famously wrote “[plus ça change, plus c'est la même chose](#)” – the more things change, the more they stay the same. This often seems true in the legal industry, especially when it comes to chronic challenges and the shared desire to bring about positive change.

David recently attended [HBR Consulting's](#) Legal Lab, an annual gathering of select industry leaders brought together by HBR (David serves on HBR's Advisory Board). This year's Legal Lab included individuals holding a diverse set of roles at law firms, law departments and technology companies, and addressed four key areas influencing the industry: law departments, large law firms, talent management and staffing, and technology. As expected, numerous challenges and opportunities were discussed, and the discourse was transparent



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more diverse and inclusive workplaces, at firms and companies, and the benefits that would accompany such a change. Those same leaders agreed that despite decades of effort, no firm or company had cracked the code toward moving the needle.

Many articles have discussed the disappointing statistics of legal industry diversity. For an overview, see the following, among many others:

- [Americans Rank Law Firms Dead Last In Commitment To Diversity](#)
- [Minorities In The Legal Profession Have Barely Increased Since 2000](#)

In summary, despite two decades of extensive efforts, gender and other diversity at the partner and GC level is essentially unchanged. Female equity partner ranks in Biglaw remains under 20%, and minority representation in the industry has grown by less than one percentage point since 2000. And women partners and GCs make demonstrably less than their male counterparts, among other troublesome diversity-related statistics. Why?

Venture capitalists often say that they'll invest only in products that are "painkillers, not vitamins." In other words, capital backs only ideas solving acute problems, and products that are must-haves, rather than nice-to-haves. That leads us to wonder — if lack of industry diversity, especially at senior levels, is widely recognized as an acute problem, why is no one developing a painkiller for it? Perhaps one answer is that the industry isn't feeling real pain — yet. Sure, having diversity would be better (a vitamin), but if large law firms and legal departments were really feeling pain, they'd demand products to alleviate that pain, entrepreneurs would build those products, and private capital, or clients themselves, would fund them.

Just after Legal Lab, we called our friend [Caren Ulrich Stacy](#), founder and CEO of the Diversity Lab. A former Biglaw talent executive and now industry mover and shaker, Caren has dedicated her professional life to improving gender equality. We asked why funding wasn't more abundant, and why existing products (and myriad initiatives) weren't making an impact. Her answer surprised us. Many law firms, she said, view diversity initiatives much like professional development and training and less like core practice tools. They want them, but don't perceive them as important as practice tools or products that help grow



expenses need to be reduced. For these firms, diversity is a vitamin, not a painkiller. Consequently, those trying to solve the diversity challenge find themselves competing against other nice-to-have products, fighting for limited and at-risk budget dollars. What's baffling is that this flies in the face of nearly universal recognition by firms and law departments that lack of diversity is a real pain point, and that increased diversity and inclusion leads to faster growth and larger profits – a view borne out by most research on the subject.

On closer reflection, the situation may be better than it appears. When we started Pangea3 in 2004, law firms and GCs alike told us that cost and commodity work were real issues, and they were seeking a solution. Like Kevin Costner's character, Ray, in *Field of Dreams*, we heard "If you build it, they will come." Simply put, outsourcing legal work seemed intuitive and in demand. We, along with others, built companies to serve that need, raising many millions of dollars in private capital. As it turned out, it took years before we or any other LPO gained real traction, despite building serious, high-quality operations. Only when the financial markets collapsed did the need for cost containment and reduction become severe enough to make legal outsourcing truly necessary. When that happened, there were enough companies with scale to satisfy the need, and legal outsourcing went mainstream. In short, the legal market insisted on outsourcing solutions that were fully scaled, and used them when the markets changed adversely. We believe the same could happen with diversity in the legal marketplace.

Using that experience, it's entirely possible that solving the diversity challenge will take the same effort – a combination of many companies building scaled solutions, combined with an event that dramatically increases demand for those solutions. And it's possible that we are about to see such demand.

The new [Am Law 100 results](#) just came out, and they're telling. Revenue per lawyer is up, but the seas are choppy, according to ALM, publisher of the rankings.

First, revenue stratification between the 50 highest grossing firms and the next 50 firms is real and continues to grow. According to [Big Law Business](#), "Law firms in the top half of the Am Law 100 experienced a 3.6 percent increase in revenue per lawyer, but the bottom half



their profit per partner (PPP), which is how partners take home more this year than last.

Second, revenue volatility is increasing. According to the American Lawyer, “In 2016, 44 percent of firms who report financial data to the bank [Citi] had a reversal in their rate of PPP growth from the year prior. Some 25 percent saw PPP rise in 2015 and fall in 2016; 19 percent saw the opposite occur. In pre-recession times, only about 25 percent of firms on average saw a change in direction in their PPP from year-to-year.” Eventually, it will become impossible for those firms to increase PPP and manage that volatility without some change, and they may — at long last — invest seriously in diversity — as a tool to grow revenue and profit. Note how companies like Facebook, HP, and MetLife are now [demanding diversity](#) from their outside counsel.

Put simply, the stated desire to address the diversity imbalance may give way to real change if peoples’ wallets depend on it. If that happens, there is a real opportunity for companies focused on diversity (software, programming, coaching, etc.) to service those law firms, provided those companies attain the scale and credibility that law firms and their clients will demand.

We are not in the habit of making predictions, so all this is speculative. But if we’re right, companies investing in diversity solutions now, and building for scale, will be positioned for rapid growth when those solutions become a pain-killer, and not merely a vitamin. Here’s hoping that happens, and that the markets create the long-sought-after changes everyone seems to want.

David Perla and Sanjay Kamlani are co-founders and managing directors of [1991 Group](#).



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