For at least the last decade, legal professionals have spoken of the need to bring more diversity into their ranks. And yet the legal profession — and law firms in particular — have struggled to significantly move the needle, especially at senior levels:

- From 2008 to 2017, the percentage of women lawyers increased only from 34.4% to 37.4%. \[1\] Only one in 5 equity partners is female.\[2\]
- While 24% of associates are racial minorities, only 8% are equity partners.\[3\]
- Only 11% (57) of GCs at Fortune 500 companies are racial minorities.\[4\]

Why the slow rate of progress?

The crux of a law firm’s business model rests on talent and business development. It’s a model that may be inherently unstable: while overhead costs are fixed (and generally high), a firm’s vital revenue drivers leave the building every evening. Competition among law firms has gotten increasingly fierce, with a shrinking middle — megamergers on the one hand, bankruptcies on the other — and a strong need to protect margins and profits.

Meanwhile, companies are facing economic pressures of their own. And in a buyer’s legal market, characterized by an abundance of law firms, they have utilized their leverage to cut costs. Many are keeping more work in-house (or outsourcing it to lower-cost providers). And when dealing with outside counsel, they are scrutinizing billings with an eye toward value, often requesting alternative fee arrangements and smaller, more senior engagement teams.

These forces have put pressure on the traditional billable-hour, pyramid model of law firms — and in turn are impacting the hiring, training and promotion practices that have been crucial to developing diverse talent.

Another reason for the slow pace of progress may be sociological. While firms have been aggressive in competing for the best talent, long-term commitment to that talent is another matter. Research suggests that humans, when making decisions to admit outsiders to their inner circle, tend to favor those who resemble themselves. In a profession that is deeply built on existing relationships, this can reinforce a homogeneous, static workforce — a headwind against true diversity.

A diverse workforce drives economic growth

But now the winds genuinely seem to be shifting. We are at a point in our culture where issues of diversity and gender parity have become important drivers of our national conversation — and both law firms (who must serve their clients) and companies (who must serve their customers, while protecting their brand image) are placing renewed emphasis on diversity in their hiring practices. Businesses are realizing they need to adapt to our changing nation to remain competitive.

Whereas before there appeared to be little genuine economic pressure for law firms to invest in diversity, today we are at an inflection point — and once again legal buyers are in the driver’s seat. Helping to drive the trend is...
the American Bar Association, which, in August 2016 adopted Resolution 113,[5] calling for general counsel to create more opportunities for diverse attorneys and devote more resources to hiring them.

**Firms that have been proactive at promoting inclusion will have a competitive advantage**

A small but growing number of Big Law clients are now demanding that their chosen outside counsel present a diverse engagement team — and often a diverse leadership team as well. The message is clear: firms that are not adequately diverse will lose business to competitors who are.

Unfortunately, fielding a deep bench of legal talent in response to a client request cannot happen overnight. It is a long-term endeavor — a significant challenge for a business characterized by intense, short-term financial pressures.

“Diversity” does not start and end with hiring — the real goal is inclusiveness. To coin a metaphor, diversity is being invited to the dance... whereas inclusiveness is being asked to dance while there. Therefore the focus should shift from hiring diverse employees to helping them reach their full potential as part of the fiber of firm. This requires understanding their unique perspective, and focusing on developing and promoting them.

Some proactive firms are recognizing the need to analyze their data to understand from a diversity perspective how talent flows in, through and out of the firm — this in turn should highlight where more intervention is necessary. Still, changing this status quo will require a sustained, economic commitment from law-firm leadership, and their senior equity partners. This is the dilemma facing Big Law today. With pressures rising on both economic and diversity fronts, companies and the individuals that make them up need to abandon the notion that profitability and inclusiveness are a zero-sum game.

**The talent you don’t nurture today may be tomorrow’s legal buyer**

The desirable workforce will go (and stay) where they feel recognized. If firms don’t prioritize mentoring, retaining and promoting diverse practitioners, chances are that many will leave the firm and go in house — or transition to smaller firms where their influence can perhaps better reverberate.

Outside of the constraints of the traditional law firm structure, this select talent may be better positioned to adapt to the changing demands of the legal business, or will be able to influence it themselves from a position of leadership. And those who move in-house will have leverage on legal buying decisions — in making those decisions, they may prioritize firms that can also provide diverse teams, deepening the trend toward diversity.

**Time for new ideas**

We know that talent is on the mind of those in the corner office — 54% of global CEOs are planning to increase headcount over the next year, according to PwC’s just-released 21st Annual Global CEO Survey.[6] It’s also vital for law firms and legal departments to prioritize — and invest more in — talent management across the lifecycle of their lawyers. When considering a potential employer, 61% of women look at the diversity of the employer’s leadership team, 67% at whether it has positive role models similar to them, and 56% at whether the organization publicly shares its progress on diversity.[7]

More broadly, perhaps it’s time for the legal community to come together in a shared commitment to addressing an industry-wide problem — rather than as competitors or counterparts. That was the impetus for PwC’s [CEO Action](https://www.pwc.com/gx/en/ceo-action.html) coalition [8] dedicated to advancing diversity and inclusion in the workplace. It’s a forum for chief executives from across the spectrum of industry and academia to discuss what’s working, what’s not,
and how to effect change on a more unified and sustained basis. We need to think differently, to innovate, just as we would around other social issues.

Ultimately, this kind of shift cannot be accomplished without commitment from (and modeling at) the top, because the decisions you make now will influence your reputation and bottom line for decades to come. For law firms — whose livelihoods depend on serving a changing client base — making a serious and genuine commitment to diversity today is no longer “window dressing”: it could be a matter of survival.

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[3] ibid


