

2019

# DIVERSITY & INCLUSION IN THE LEGAL PROFESSION

Exchanging Ideas, Sharing  
Experiences, and Developing  
a Strategy for Europe





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# Table of Contents



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## Diversity & Inclusion in the Legal Profession:

Exchanging Ideas, Sharing Experiences, and Developing a Strategy for Europe

2

### Overview

3

### Corporate Perspectives and Challenges

What are Multinational Corporate Clients Doing to Advance Diversity and Inclusion in Europe and Beyond?

8

### Keynote Address

Women at the Bar: The Way Forward?

9

### Law Firm Perspectives and Challenges

What are Law Firms in Europe Doing to Advance Diversity and Inclusion

11

### Breakout Sessions

- Career Enhancement Initiatives
- Inclusion and Retention Efforts
- D&I and Smaller Firms
- Structure and Organization
- Cross-Border Synergies

12

### Conclusion

13

### Acknowledgements



# Diversity & Inclusion in the Legal Profession

Exchanging Ideas, Sharing Experiences,  
and Developing a Strategy for Europe

## OVERVIEW

On 4 December 2018, the Institute for Inclusion in the Legal Profession (“IILP”) convened “**Diversity & Inclusion in the Legal Profession: Exchanging Ideas, Sharing Experiences, and Developing a Strategy for Europe**” (“D&I in Europe Conference”) in Brussels. Baker & McKenzie generously sponsored the program, including arranging the venue and marketing the conference. The Law Society of England and Wales and member organizations of the Conference of World City Bar Associations, in particular the French-speaking Brussels Bar Association also provided support in publicizing the conference to interested individuals and organizations within the European legal community.

The D&I in Europe Conference was conceived as a follow-up to a joint conference, “Diversity, Equality and Inclusion in a Global Legal Profession” convened by IILP and the Chicago Bar Association at the headquarters of Philip Morris International in Lausanne, Switzerland in March, 2016. During that program, it became evident that lawyers in Europe outside the United Kingdom were interested in diversity and inclusion issues and that IILP might play a role in facilitating a coordinated examination of how these issues might be addressed in Europe.

Given the ease of accessibility from points around Europe as well as its prominence as the headquarters of the European Union, Brussels was selected as the appropriate location for the D&I in Europe Conference. The first week in December was chosen as the most opportune time for the conference because it was early enough in the holiday season as to not deter attendance and a time of year when it was less likely to conflict with other programs or conferences on diversity and inclusion or any other subject. Ultimately 53 people attended the daylong D&I in Europe Conference.

The D&I in Europe Conference was structured so as to examine:

- Corporate client efforts to promote greater diversity and inclusion both internally and

externally among their European lawyers and law firms, and, for those that are multinational, how these efforts fit within the clients’ global diversity and inclusion goals.

- Law firm efforts to implement diversity and inclusion efforts and the challenges they encounter.
- The role bar associations, law societies, and other professional organizations in Europe are playing in diversity and inclusion efforts.
- Diversity and inclusion strategies and approaches that make sense in Europe and for European and other lawyers practicing there.
- The responsibility of the individual to make the legal profession more diverse and inclusive.

Great care was taken to avoid any assumptions or stereotypes about diversity and inclusion in Europe. The intention was to facilitate and stimulate discussion and conversation while allowing the attendees free range in terms of any direction those discussions and conversations would take. Among the questions addressed:

- What does “diversity and inclusion in the legal profession” mean in Europe?
- Why should diversity and inclusion in the legal profession matter in Europe?
- How does diversity and inclusion in the legal profession in Europe differ from the US and UK?
- Is diversity and inclusion in the legal profession in Europe solely about gender?
- Are (or should) race, ethnicity, sexual orientation/ gender identity, disabilities, class/social mobility, religion or generational differences (be) relevant, acceptable, or comfortable components to diversity and inclusion in the legal profession Europe?
- How does, or can, the legal profession in Europe reconcile global concepts about, and client demands for, diversity and inclusion with its own structures, professional constructs, history, and cultural/religious/social norms?
- What should diversity and inclusion in the legal profession in Europe look like?

At the conclusion of the day, there was general consensus that the discussions had been thought-



provoking, robust, and worthwhile. Moreover, there was a clear sense that there ought to be expanded examination of and understanding about these issues and, that while there were things the European legal profession might benefit from learning from diversity and inclusion efforts in the legal profession in the United States and United Kingdom, it was also important to recognize and avoid the mistakes or missteps made in those countries. For Continental European lawyers, it will be important to:

- Focus strategies and efforts on law firms and other legal employers of all sizes;
- Address diversity and inclusion strategies and efforts so as to include staff as well as lawyers; and,
- Think about the broader legal profession, such as courts, court personnel, professional support services, law enforcement, legal education, and legal regulation.



## Corporate Perspectives and Challenges: What are Multinational Corporate Clients Doing to Advance Diversity and Inclusion in Europe and Beyond?



*A panel of corporate in-house leaders shared insights into their companies' diversity and inclusion efforts in Europe generally and the European legal profession in particular. Why do multinational corporate clients care about diversity and inclusion in the legal profession? What are they doing to promote and advance it?*

### PANELISTS:

- Fiona Carlin, Baker McKenzie (moderator)
- Caroline Coesemans, Google
- Nathalie Delaere, Belfius
- Simon Des-Etages, HSBC
- Sarah Gregory, Baker McKenzie
- Sara Jorens, Telenet
- Luisa Menezes, Philip Morris International
- Isabel Aragon Molinos, Suez
- Rob Zimmerman, Netflix

Diversity and inclusion issues for the European legal profession are going to be different from those in the UK or US. In part this stems from closer geographic proximity of different nationalities and cultures, the prevalence of multilingual speakers and needs, and a long and familiar history of conflict over religion, social background, and other differences. Consequently, even to begin any discussion of diversity and inclusion requires consensus on what type of diversity to address. Gender, followed by age, is the type of diversity most commonly addressed throughout Europe because it is an issue in all European countries and is an easier – perhaps safer – type to identify. Different European countries have different types of diversity challenges around race/ethnicity/nationality, religion, sexual orientation/gender identity, and disabilities, and different laws in place (or not) to address or protect people who fall under any or all of these diversity categories.



## Europe's legal profession responds better to "softer" diversity and inclusion initiatives than the more social responsibility-focused efforts of the UK or the business-driven strategies of the US.

Culturally, too, Europe's legal profession responds better to "softer" diversity and inclusion initiatives than the more social responsibility-focused efforts of the UK or the business-driven strategies of the US. Sara Jorens noted that it was more persuasive to stress diversity and inclusion as a mechanism to promote equal opportunities. Such emphasis, however, needs to extend to every level of employment. Telenet has been able to achieve 50% gender diversity at its executive level but the layer below has only 20% women. Consequently, more efforts are being made at the recruitment level and to include people from immigrant backgrounds. These efforts are being led from the highest levels in the company. Jorens noted, for example, that Telenet's CEO had refused to interview CFO candidates until the executive search company provide diverse pool of candidates.

Other panelists agreed that recruiting is one key to ensuring greater diversity. Isabel Aragon Molinos shared that at Suez, 50% of candidates must be women; currently Suez is approximately 28% women with a goal of achieving 33% by 2020.

Luisa Menezes also agreed about the need to emphasize diversity in recruiting. She added that like Suez, Philip Morris International does not have quotas but it does have targets, with a goal of 50% women at recruitment. Such goals also afford companies a way to measure and see their progress. The emphasis upon diversity in recruitment, however, is not without its own challenges. She observed that currently, her company has four generations working within it. This has allowed a noticeable generation gap to evolve. How can a company that is seeking to foster diversity through recruitment efforts satisfy the needs of new

employees - younger and older - who might expect, want, and demand a more welcoming environment without making longtime employees feel less valued?

Simon Des-Etages commented that recruitment alone should not be the focus of a company's diversity efforts. He said that while HSBC has been very successful in recruiting a diverse workforce at lower levels; upper management levels remain a challenge that can be overlooked. Jorens added that while there has been much attention paid to diversity on corporate boards, it is important not to overlook executive management.

Caroline Coesemans and Nathalie Delaere observed that recruitment might get more women and other diverse individuals into a company, but companies need to be willing to ask themselves why there are so few women or other types of diversity in the first place. While her own company, Google, has targets of 50%, she wondered whether quotas of at least 30% might be necessary so as to make companies take their efforts to retain those diverse recruits more seriously. This might start with recognition of and training to address hidden or unconscious biases.

Rob Zimmerman explained that Netflix is trying to hold its vendors and production partners more accountable. Netflix is asking its legal vendors about gender and racial diversity and instituting a higher degree of diversity accountability for them. He noted that a core element of this effort is to focus on context rather than control: by explaining why things like diversity and inclusion are important to Netflix and its culture, it makes it likelier that people, once they understand, can run with the idea. One consequence that Netflix is seeing from this approach is the development and evolution of small pockets of diverse groups organizing themselves. The emergence of these groups suggests that people are feeling that it is safe to identify themselves with groups with which they feel comfortable. These groups are beginning to explore things like mental health issues and non-native language speakers. One challenge, however, is to address the vocabulary issues that come from the US; those slightly formulaic American approaches tend to make people disengage.

Des-Etages noted that HSBC has all types of diversity and inclusion affinity groups. Moreover, in the US, these groups have access to some metrics. This allows each group to see how its members are doing within the wider organization. Still, however, they were not seeing significant progress. This has led him to the realization that unless the statistics are used, amongst



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other things, to determine the efficacy of the programs employed, they are of limited use only. The statistics have never changed anything by themselves. They have merely reflected the success or failure of the programs. If the statistics remain relatively static notwithstanding the programs, then serious consideration might be given to challenging those programs. If no challenge occurs, query the usefulness of the statistics.

Coesemans agreed that fostering a culture wherein people felt comfortable in bringing their genuine selves to work was essential to any long-term diversity and inclusion success. She explained that Google had a “come as you are” general campaign. It is designed to reach beneath the surface and emphasize the importance of getting to know each other. Jorens commented that Telenet has a similar effort and that they try to show positive examples of inclusion on the intranet.

Zimmerman observed that in addition to creating the safe environment to discuss these things there needs

to be the introduction of common terms – words like “allies” – as well as a culture in which feedback is possible.

Coesemans noted that corporations must not lose sight of obligations to encourage and support diversity and inclusion among their outside counsel. One way to influence law firms was to engage them in the company’s diversity and inclusion efforts. At her company, they launched an “I am remarkable” campaign. It was started internally but proved so successful, Google has shared it with other organizations. One is asked to start with three reasons why “I am remarkable,” add three more, and then another three, eventually reaching ten. It counters head-on fears people, especially women, may have about self-promotion.

Des-Etages raised mindfulness as a diversity and inclusion strategy. It is a program that HSBC has begun to consider and in certain respect introduced in the US. He applauded the company’s CEO for his visionary leadership in spearheading an idea called the “Health-





iest Human System” within which the use of mindfulness to drive better diversity and inclusion outcomes has found transaction. He explained that if one looks at business activities, everyone is comparing themselves to everyone else and, if they are doing badly, not feeling bad enough when they see others are having the same challenges. By implementing a mindfulness focus, it encourages everyone to put themselves in the shoes of others and promotes individual responsibility, greater and deeper connectivity to and empathy for colleagues.

Would a mindfulness approach foster greater integration among a diverse workforce? In a department where most everyone speaks Flemish, how might this ensure that French, German, and Flemish speakers were all integrated? Delaere suggested a work environment where everyone could speak and work in their own language. Coesemans opined that at Google, they would want people who could speak all three languages. The idea is to focus on abilities. It takes more time, but it can be done.

Does this mean that in Belgium and other European countries a diverse recruitment team is even more important than ever before? Does it also indict educational systems that do not prepare the future workforce to develop the abilities to work successfully in a diverse and inclusive environment?

Sarah Gregory suggested that perhaps we need to challenge existing structures in our organizations that do not support our diversity and inclusion goals; structures, she noted that were designed by a non-diverse group. At Baker & McKenzie, for instance, they looked at their recruitment process for lawyers who belonged to Black, Asian, Minority Ethnic (“BAME”) groups or those who came from a socially disadvantaged background. By instituting a contextual recruitment program and changing their interview process, the firm was able to increase its diversity recruitment from 3% to 30%. By applying small interventions, they were able to gain significant successes.



## Luncheon Keynote Address

### Women at the Bar: The Way Forward?



Gregory Lewkowicz, a professor at the Université libre de Bruxelles (ULB) and the director of the Perelman Centre of the Faculty of Law is the author of a study, *Radiography of the Brussels Bar*, that analyses the composition, revenues and structure of the French-speaking Brussels Bar including gender statistics. During lunch, he shared his findings regarding gender diversity within the Brussels Bar.

Professor Lewkowicz approached his research asking how to promote diversity in law firms and bar associations. He used administrative data from 5000+ attorneys and an online survey (23.5% out of 4,530 responded). The survey specifically targeted the French-speaking bar; there is also a Flemish-speaking bar whose members are more likely to be working for large law firms. Highlights from his findings include:

- The Brussels Bar is comprised of 53% men compared to 46.6% women. The women members tend to be younger than the men; there were far fewer women compared to men at older ages.
- The median income for lawyers in Brussels is €62,000/year. There are clear inequalities in income distribution between men and women, with women earning half of what men earn.
- At earlier stages in lawyers' careers, 2/3 of the Brussels Bar members are women and 1/3 are men. As they age, this trend reverses; by the time lawyers are 40-49 years old, more of the lawyers are men than women.



- Work/life balance is not the issue in Brussels; younger lawyers as a group, without regard to gender, perceived a worse work/life balance.

Professor Lewkowicz observed that law firms adopt policies and codes of conduct but are unable to implement gender equality. What, he asked, can be done? He suggested that bar associations might more actively address issues of sexual harassment and that clients consider gender equality contracts.





## Law Firm Perspectives and Challenges



*A panel of European law firm leaders discusses what law firms in Europe are doing to address diversity and inclusion issues. What are the particular challenges they are facing and how are they handling them?*

- Etienne Dessy, Linklaters
- Luisa Menezes, Philip Morris International (Moderator)
- Andreas Reindl, Van Bael & Bellis
- Harry Small, Partner, Baker McKenzie
- Vanessa Turner, Allen & Overy
- Kathleen Vercraeye, Past President of the Dutch-Speaking Brussels Bar

What does diversity and inclusion mean for European law firms? How are law firms addressing it? Does the size of the firm matter?

Andreas Reindl, whose firm Van Bael & Bellis is a medium-sized firm, said that diversity and inclusion has multiple dimensions so that it is important to recognize that correspondingly it can mean many things. Gender diversity is a good place to start. It gets a lot of attention and it is easier to get buy-in for it. That should not mean, however, that other dimensions of diversity should be neglected, and it is incumbent upon leaders in the legal profession to ensure that they are not.

Kathleen Vercraeye observed that interesting dimensions to the Brussels Bar research was not only



the gender disparities but socioeconomic and cultural differences. She noted that the Brussels Bar had instituted a pipeline program to encourage young people to think about law as a career. Diversity and inclusion means that when you have responsibilities you can choose what's important. As an example, Vercraeye described her role with communications in the bar to demonstrate to diverse people that diversity and inclusion is important. Her own firm is small, but she noted that all is changing. There is a growing population in Belgium of Turkish people. We must show respect and deal with the new reality.

Harry Small is a partner with Baker McKenzie, one of the largest law firms in the world. He is passionate about LGBT issues. He views diversity and inclusion as horizontal, rather than just vertical. It is not just about highly placed LGBT individuals, but also highly placed social mobility. Small commented that it is important to draft a decent statement of diversity and inclusion goals. For instance, such a statement needs a foundational understanding that today, men can have babies, women can have penises, and gender is based on identity and not on biology.

It is a challenge to move from discussion to action. Etienne Dessy, a partner of Linklaters, another large global firm, asked how do we move to practice? He suggested that everyone in the firm must be involved and that the ones who must lead it are older, white men like him. It is easier for white, male, Christian, European-born lawyers to lead the way on change for greater diversity and inclusion and they have an obligation to do so.

For Vanessa Turner, a partner of Allen & Overy, a



## It is a challenge to move from discussion to action. . . . everyone in the firm must be involved . . .

large global law firm, it is important to ask what can we do to make further change? She opined that we need to shift our perspective. We tend to look at lawyers rather than at human beings. There are simple solutions, simple things that can make people feel included. For example, we can stop being binary about gender.

The panel identified three key elements for further examination:

1. Forcing diversity without believing it or managing it poorly can backfire. For example, unconscious bias training can be beneficial but not if it is treated as a “one off” and there is no long-term way to allow it to become ingrained in organizational culture. The object would be to train one’s brain in a different way and that requires ongoing effort.
2. Little things matter. A policy statement is just a starting point. We need to be conscious of language and vocabulary. For example, referring to “parental leave” versus “maternal leave” can make a difference.
3. Diversity and inclusion must be led from the top BUT the older generation must be open to being guided by the younger generation on diversity and inclusion as that younger generation are the future leaders.

### FLEXIBILITY IS ESSENTIAL.

Nor can firms think about their diversity and inclusion efforts as something only internal to the firm. Reindl noted that firms need to be willing to communicate with clients about diversity and inclusion. That might

include greater openness about deadlines so as not to propagate a culture of immediacy. Veracraeye added that there is a need to recognize realistic business needs. With greater communication there can be greater accommodation which leads to flexibility and a more hospitable profession for everyone.

Turner noted that law firms need to be open to change. Allen & Overy is promoting initiatives aimed at encouraging a culture of flexible working. The firm wants to offer lawyers more flexibility in relation to when, where and how they work.

Small cautioned that law firms do need to be thoughtful about such innovations. The intention is not to encourage 24-hour workdays nor is it to suggest that there is any reduction in workload. We need to recognize that clients want and need seamless service and law firms should invest in technology as well as other tools and policies that support that seamless service. Dessy added that firms need to be open to discussing any type of flexibility but that the right messages about flexibility must be conveyed. Flexibility is not a euphemism for sloughing off work.

But how does a firm discuss diversity and inclusion with clients. How does a firm address it with clients whose biases or prejudices may not allow them to appreciate diversity and inclusion?

Small said that his coming out to clients was a process. He used to worry about it and the continuous coming out process imposed extra strain.

Reindl agreed; it is important to discuss diversity and inclusion with clients so that they are conscious of the diversity that the firm supports and that clients will understand the need to give diverse individuals significant work and allow them to speak. European law firms need corporate clients to address diversity and inclusion. Turner added that for those clients that do value diversity, mentioning that to the law firms with which they work can help drive greater diversity and inclusion throughout the profession. In Brussels, the Legal and Diversity Alliance is seeking to promote this approach.

Veracraeye concluded by reminding everyone that diversity and inclusion in the legal profession is not just about lawyers but also paralegals, professional staff, and administrative staff. If diversity and inclusion is to thrive in the legal profession, it must encompass everyone who is part of the profession.





## Break Out Discussion Sessions

*Participants were invited to participate in break out discussion sessions that would allow them an opportunity to discuss particular aspects of diversity and inclusion issues in greater depth and detail.*

### SESSION LEADER:

Sharon E. Jones, CEO, Jones Diversity Inc.

### GROUPS LEADERS:

**Group 1:** Fatima Choudhury, Senior Inclusion & CSR Manager, Baker McKenzie

**Group 2:** Kathy Bowman Williams, Head of Diversity and Inclusion, Baker Botts LLP

**Group 3:** Luisa Menezes, Vice President & Associate General Counsel Regulatory Policy & Strategy, Philip Morris International

**Group 4:** Sarah Gregory, Partner, Baker McKenzie

**Group 5:** Sharon E. Jones, CEO, Jones Diversity Inc.

1. **Career Enhancement Initiatives:** What long-term programs could enhance career opportunities for lawyers considered to be “diverse”? Are there professional development efforts that focus on advancing lawyers who are diverse to top leadership and professional roles within law firms, corporations, government, and the wider legal community?

This group felt that the legal profession could benefit from an explanation about why career enhancement is a focus, clarifying the problem for those unfamiliar with it. They also felt that it needed to be combined with retention issues, emphasizing greater inclusion. They commented that too often diversity and inclusion strategies focus on “fixing” women as opposed to a more beneficial fixing of the system. Among the suggestions this group offered:

- Design a promotion process that is objective and bias-free (transparency is key)
- Include men in holistic training and development approach
- Design a formal sponsorship program (with training)

2. **Inclusion and Retention Efforts:** What might be innovative efforts to help law firms and other employers to recruit, retain, and promote lawyers who are diverse? What are things that employers in Europe can do to cultivate an environment that embraces and promotes diversity among European lawyers?

This group felt there were quite a few strategies and innovations that employers could implement to achieve these goals. These included:

- A software system to allocate work
  - A diverse committee assessing candidates for equity partnerships
  - Increased accountability/responsibility for diversity and inclusion among management at all levels
  - More mentoring and sponsorship
- An evaluation system that is broader than only focusing upon billable hours
- Implementation of awareness trainings, including micro-messaging and mindfulness
  - Development and institutionalization of multiple tracks for career advancement (not only associate to partner)
  - Adoption and institution of policies and practices addressing cultural differences

3. **D&I and Smaller Firms:** What is the appropriate role for smaller law firms in diversity and inclusion efforts? What types of diversity and inclusion efforts make sense for smaller firms, especially those that may not have a presence outside of Europe?

This group felt that it was important that people see their roles in and obligations for diversity and inclusion beyond just their work life. They felt it important to remind people that there is much that can be done outside the confines of a law firm. Among their recommendations:

- Working with bar associations
- Focus on pipeline programs (pre-law school)
- Work with smaller firms on the Diversity Alliance that started January 31 2019
- Focus on staff as well as lawyers
- Celebrate cultural diversity of entire staff
- Promote testimonials and role models

4. **Structure and Organization:** How should diversity and inclusion efforts in the legal profession in Europe be structured and organized? Should each type of diversity be addressed separately or all together? Should some types of diversity such as gender be given greater priority? Should there be a regulatory component to mandate greater diversity?

The notion of who is diverse is fluid in Europe. Certainly, it includes gender, sexual orientation, race and ethnicity, religion, and disabilities, but population shifts and changing demographics mean that for the European legal profession great care should be taken not to feel compelled to mimic the diversity strands used in the US and UK. Among the conclusions this group reached were:

- Regulators can guide and share best practices
  - A horizontal approach (all strands simultaneously) might be better-suited for Europe
  - A holistic approach - inclusive for all – would likely be better received in Europe
  - Be clear about the business case, its advantages and its limitations
  - Remember that there is organizational responsibility; diversity and inclusion is not solely the individual responsibility of diverse lawyers
5. **Cross-Border Synergies** – What are the challenges and opportunities for lawyers in Europe to come together to address and promote greater diversity and inclusion in the legal profession across national borders? Should cross-border diversity and inclusion efforts be encouraged and supported in Europe? If so, how? What are the advantages and disadvantages of greater cross-border diversity and inclusion efforts?

This group determined that there are some serious challenges to diversity and inclusion efforts in Europe but that the potential benefits and opportunities far outweigh the challenges. Some supporting work might be needed, in the form of educational programming about diversity and inclusion and unconscious bias training firm/organization-wide, but other resources might be brought to bear, such as applying regional foundations through the application of ECHR and the European Bar Associations.

## Challenges

- Diversity and Inclusion varies by country
- Vocabulary - there may not be words for Diversity and Inclusion in all countries
- Pertinent cultural differences exist and must be acknowledged
- Different laws impact Diversity and Inclusion in different countries (e.g., Belgian lawyers are self-employed)

## Opportunities

- Promote universal values at the organizational level
- In-house lawyers can lead the corporation on Diversity and Inclusion
- Clients have opportunity to lead on Diversity and Inclusion with law firms
- The legal profession can be public about Diversity and Inclusion efforts (to lead others)
- Including social inclusion within Diversity and Inclusion could have great positive impact beyond the profession

## CONCLUSION

Diversity and inclusion in the continental European legal profession will bear some resemblance to that in the US and UK but it will not be identical and should not be addressed that way. While gender diversity will be a common theme in any European diversity and inclusion efforts, European lawyers recognize that their efforts will need to find ways to include other diversity strands such as race, religion, sexual orientation and gender identity, age, and disabilities. Opportunities to address diversity horizontally across different stands would be preferable to a vertical approach as has been used in the US and UK. In addition, for any diversity and inclusion efforts in Europe to be successful, they need to be prepared to be relevant to the largest global corporate clients and law firms as well as small firms and government offices. They also need to avoid focusing solely upon lawyers but also include professional and administrative staff, court personnel, and others who are part of the profession even if they are not lawyers.

Based upon post-program conversations and an anonymous online survey of participants, there was overwhelming consensus that attendees found the program beneficial and worthwhile. The willingness and intention to participate in any future meetings was unanimous among the survey respondents.



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**Sharon E. Jones**, CEO, Jones Diversity Inc.

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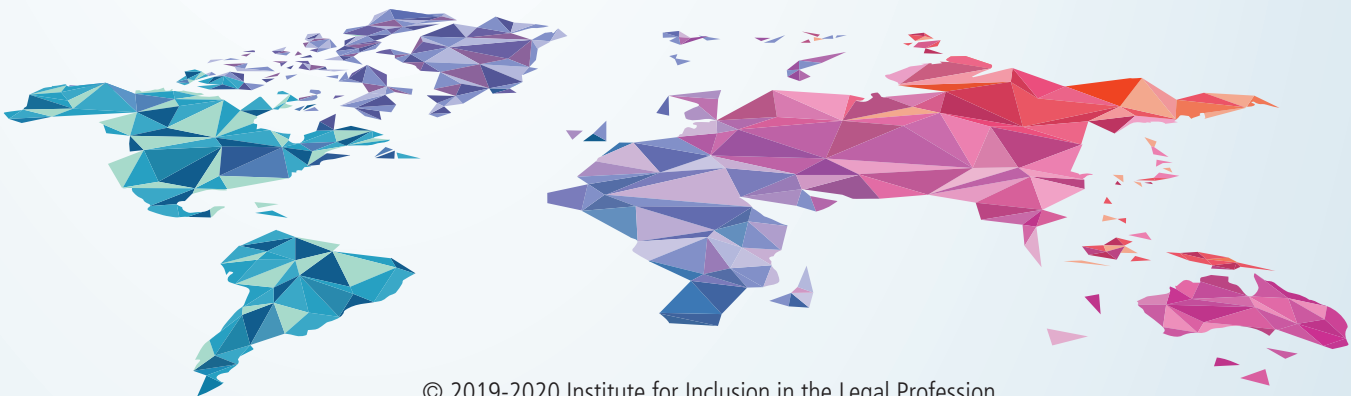
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