

To: Josée Bouchard, Director, Equity, Law Society of Upper Canada
From: Association des juristes d'expression française de l'Ontario (AJEFO)
Date: March 1st, 2015
Re: Written submissions regarding the *Developing Strategies for change: Addressing Challenges faced by Racialized Licensees* consultation paper

These written submissions reflect AJEFO's comments and proposals regarding the October 2014 consultation paper published by the Law Society Challenges faced by Racialized Licensees Working Group (the Working Group). This document provides feedback to the LSUC.

AJEFO congratulates the LSUC for establishing the Working Group and for having analysed, since 2012, racialized licensees' challenges within its commitment to promote equity and diversity in the profession. AJEFO also congratulates the LSUC for publishing that paper in both official languages.

I. GENERAL COMMENTS

1. Terminology – meaning of the term “racialized”:

While AJEFO acknowledges that French-speaking licensees and non-white French-speaking licensees are facing different challenges in their practice of law, the challenges faced by French-speaking licensees are found particularly at the language and accents level. AJEFO believes that the consultation paper should position the project with relation to the French-speaking licensees in Ontario, as well as include them in the definition of the term “racialized”. As the paper states on page 6, “Racialization intersects with a wide variety of other factors including language or accent”.

The consultation paper defines the terms “race” and “racialized” as follows:

- *Race*: Race is the socially constructed differences among people based on characteristics such as accent or manner of speech, name, clothing, diet, beliefs and practices, leisure preferences, places of origin and so forth.
- *Racialization*: Racialization is the “process by which societies construct races as real, different and unequal in ways that matter to economic, political and social life¹.”

¹ Consultation paper, page 5.

Several aspects of these definitions touch the reality of the French-speaking licensees (e.g., accent and manner of speech, names, leisure preferences, places of origin and so forth). By including French-speaking licensees in the definition of “racialized licensees”, the Law Society would be able to answer the following questions: what are the challenges met by French-speaking people with regards to racialization? Are those challenges different from those faced by other ethno-cultural communities in Ontario? This would not only allow the profession to better understand discrimination towards French-speaking people, but it would allow French-speaking people to further get involved in the discussion on racialization.

That francophone involvement in the discussions on racialization is all the more important that there also are challenges for “twice-racialized” francophone, i.e. francophones and non-whites, and that, as much within as without the French speaking community. A francophone participation to this discussion would raise awareness of racism issues among francophones and non-francophones within their community as well as of francophobia and discrimination against francophones.

Several observations and testimonies included in the consultation paper reflect French-speaking licensees. However, it would be important to make a cross-section analysis to better understand the particular experience of francophone as racialized people or “twice-racialized”.

2. Race as a factor in entering sole practice (page 16):

It is worthwhile to mention that in several cultures, it is normal and even desirable to start a sole practice, to create one’s firm, and to be sole owner of one’s business. For example, several francophones decide to start a sole practice or to establish small size firms in order to better serve minority language communities. Also, *chart 1 – Sole Practitioners – In percentages* (page 43) shows that three racialized groups (Arab, Chinese and East Asian) are less inclined to be in sole practice.

3. Additional barriers faced by internationally trained lawyers (page 20):

Those are additional professional barriers that are not necessarily linked to racialization (e.g., lack of acknowledgment of diplomas and work experience acquired outside Canada for new immigrants).

II. ANSWERS TO THE CONSULTATION QUESTIONS FOR THE PROFESSION

1. Question 1: How should the Law Society act as a catalyst for the establishment of diversity programs within firms and why?

Diversity Programs:

Diversity programs should be developed within firms but also in less traditional working environments where licensees work (e.g., community organizations, governmental organizations, etc.). These diversity programs should be provided in French and aim at French-speaking licensees and non-white French-speaking licensees.

The suggestion to follow the Justicia model is excellent to remedy the issues related to recruitment, keeping a position and advancement of racialized licensees. Before its application in a context of racialization, however, it would be useful to assess that program to determine its concrete impact on the firms.

Self-assessment:

The self-assessment approach on the subject of diversity is very interesting. The self-assessment approach, on a voluntary basis, could eventually help firms directing their commitment towards diversity and inclusiveness, and posing concrete and positive actions for all. Approaches involving learning, reflection and discussion processes between lawyers in same or different working environments are more efficient than requirements to develop policies on paper, without necessarily ensuring their application.

2. Question 2: What is the preferred model for the collection of firm demographic data and why?

While collection of data is very important, the voluntary model should be preferred as opposed to the mandatory model. The Law Society is the most appropriate organization to lead these efforts, collect and disseminate demographic data to its members and organizations, such as AJEFO. Also, the Law Society could also submit its data collection questionnaire to firms, other work places, and associations such as AJEFO to encourage them to collect their own statistics.

3. Question 3: How could the Law Society work with in-house legal departments to develop model contract compliance programs for in-house legal departments that retain firms?

This is an excellent initiative.

4. Question 4: What are the preferred mentoring and/or advisory services models for racialized licensees?

We prefer the individual mentoring model style in teams. However, a distinction should be made

between the mentoring for articling students and mentoring for licensees, each one of them having different needs.

Mentors should be diverse in order to ensure that articling students and licensees find a mentor with whom they share values. Mentors should be encouraged to hear about the life experience of racialized members – their personal and professional challenges often intersect. The LSUC could set up a short training program or a webinar for members of the French-speaking community on how to be a good mentor and on cultural competence.

Paid consultation services should not be qualified as “mentoring”. They are more like coaching, which is a useful service, but expensive. Coaching on entrepreneurship and practice management would be useful for racialized lawyers who are sole practitioners.

5. Question 5: What are the preferred networking models for racialized licensees? Other models than those listed below are welcome.

AJEFO intends to continue its collaboration with the LSUC to develop networking possibilities through accessible events (free or at minimal cost) in French. More specifically, these networking possibilities could include members of the French-speaking profession and non-white members of the French-speaking profession, both on the event organization level and during the events. It would be good to vary the meeting places and to choose locations that are a bit less formal in order to put different groups of racialized persons at ease.

6. Question 6: How could the Law Society enhance the profession’s cultural competence through its CPD Programs?

The cultural competence programs should include concrete case studies and be provided on different levels: LSUC materials, professional development, and so forth. Interactive training programs, including testimonies and realistic cases, would help licensees further understanding that reality.

7. Question 7: How should the Law Society best ensure that complaints of discrimination are brought to its attention and effectively addressed?

The Discrimination and Harassment Counsel model is excellent. However, to reach racialized licensees, it would be advisable to have regional contacts who are a bit closer to the racialized licensees. A licensee could be affected in each region of the province to discuss, by phone, with a licensee who experienced harassment or discrimination. The possibility to speak with a neutral individual, in one’s own region, who can validate the racialized person’s experience, would be a good starting point to help putting that person at ease to file a complaint.