

# CASL

The Canadian Association of Somali Lawyers

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Ms. Josee Bouchard  
Director, Equity Initiatives Department  
The Law Society of Upper Canada  
Osgoode Hall  
130 Queen Street West  
Toronto, ON, M5H 2N6

March 15, 2015

**RE: Submissions on the LSUC Report Addressing Challenges Faced by Racialized Licensees**

Dear Ms. Bouchard:

The Canadian Association of Somali Lawyers ("CASL") is pleased to make submissions in response to the consultation paper released by the Challenges Faced by Racialized Licensees Working Group entitled "Developing Strategies for Change: Addressing Challenges Faced by Racialized Licensees". CASL is a network of Canadian-Somali legal professionals across the country working to promote equity, justice, and opportunity for Canadian-Somali legal professionals and facilitate access to legal services for the Canadian-Somali community. The following submissions are made on behalf of CASL and its members.

**Introduction-The Canadian-Somali Community:**

1. In comparison to other ethnic groups, Canadian-Somalis are a relatively new community to Canada. As a result of a civil war that broke out in the late 1980s and the humanitarian issues that flowed from it, many Somalis were forced to flee their homeland in search of a safe and stable country to settle in. Over the last thirty years, Canada alone has seen an increased influx of Somali refugees. Currently, approximately 150,000 Somalis have settled all across Canada. The Canadian-Somali community is a unique community, in that while an overwhelming majority share one language and one religion, the community is divided by an intricate, complex and highly traditional clanship system.

2. The Canadian-Somali community in Canada faces unique challenges at this time. Members of our community are frequently subjected to racism and negative stereotypes.
3. In Ontario alone, many Canadian-Somalis are living in low-income and marginalized neighborhoods. In more recent years, the problems faced by the Canadian-Somali community have caught considerable media attention as a result of the deaths of several young Somali men who were victims of gun violence. Also the torrid details of the Rob Ford “crack video” controversy and its connection with the Somali community in the Dixon-Islington neighborhood in Toronto, has amplified the negative stereotypes about the Canadian-Somali community.
4. In 2013/2014, the Canadian-Somali community was again brought into the spotlight when many of its members engaged in discussions with the Toronto District School Board (TDSB) over the establishment of a “task force” aimed at addressing concerns of increased high school dropout rates. Some members of the community opposing the TDSB's initiatives were suspicious that these measures would further stigmatize Somali students and potentially subject them to adverse differential treatment.
5. CASL believes it is relevant to highlight the foregoing in order to outline to the Law Society of Upper Canada (“the Law Society”) the many challenges faced by our members when entering the legal profession.

**Background on our Members:**

6. Our members self-identify as Black, with a strong African heritage and are predominantly of the Islamic faith. As a result of our unique personal characteristics we face many barriers that have prevented us from accessing higher education, equal opportunities in securing employment and advancing in the legal profession.
7. CASL members are also predominately junior legal professionals and have entered the legal profession with few senior Canadian-Somali legal professionals in the community. In fact, CASL believes there are only one or two senior Canadian-Somali lawyers currently practicing in Canada. This fact is significant, since many of our members have to navigate the intricacies and challenges of the legal profession without any guidance from senior Canadian-Somali lawyers.

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

8. CASL recommends that the Law Society mandate law firms to establish diversity programs. In particular, CASL submits that law firms should adopt minimum standards for the recruitment, retention and career advancement of racialized licensees. These standards should be devised by the Law Society by consulting with equity seeking legal organizations and experts.
9. In particular, CASL recommends requiring law firms and organizations with in-house counsel services to implement diversity policies with established targets. CASL believes that workplace diversity policies would help build a law firm's relationship with the community, enhance the contribution of its employees and improve the quality of its services.
10. CASL submits that workplace diversity principles should be integrated with and underpin all aspects of human resource management, such as planning, selection and recruitment, performance appraisal, training and development, occupational health and safety and workplace relations.
11. With respect to recruitment, many of our members have non-Anglo first and last names which would serve as a proxy for their race, colour, ethnic origin and/or creed. CASL is concerned that individuals in charge of firm recruitment will subject our members to unconscious bias and stereotyping. We submit that the Law Society should require firms to collect and share racial demographic data of their applicants with the Law Society. This data would be useful for the firm and the Law Society in order to verify how many racialized candidates receive job interviews and/or are presented with offers of employment. CASL submits that informally screening out candidates for job opportunities based on their names is discriminatory and also constitutes professional misconduct.

***Question #2: What is the preferred model for the collection of firm demographic data and why? Other proposed models are welcome.***

12. CASL strongly believes that law firms and organizations with in-house counsel services should be mandated to collect and report demographic data on the diversity of their firm or organization. In order to ensure that the data is reliable, CASL submits that this data collection should be mandatory.
13. The Law Society should ensure that data collection begins with summer and articling law student recruitment at law firms, since many law students secure permanent associate positions through the summer and articling recruitment process.
14. CASL submits that the Law Society should make self-reporting on racial demographic data mandatory in the Annual Report for all licensees. This would

assist the Law Society in obtaining accurate and reliable data on the racial makeup of lawyers in Ontario. In order to promote transparency, the Law Society should share this data by publishing it in the Law Society's Annual Report. This data would include information relating to the percentage of racialized lawyers who practice as sole-practitioners, associates, partners and in organizations as in-house counsel.

15. In addition, data on racialized licensees need not simply be collected but the data should be regularly updated, maintained and analyzed to measure progress.
16. Although the Law Society does not regulate law firms, it is CASL's position that the Law Society already performs spot-audits on firms and has an overarching mandate to regulate the professional conduct of its members. Accordingly, CASL submits the Law Society should use these enforcement mechanisms to ensure that law firms and organizations are complying with minimum standards for the recruitment, retention and career advancement of racialized licensees.
17. With regards to the type of data, the Law Society should collect data on: 1) the number of racialized licensees; 2) the practice areas of racialized lawyers; and 3) the positions held by racialized lawyers in law firms or organizations with in-house counsel services.
18. CASL submits that if firms or organizations do not comply, then the Law Society should impose a fine on the firm and publish a list of firms that have not complied. Since the Law Society already publishes the names of licensees who have been subjected to discipline on the Law Society website, CASL believes that non-compliant firms and organizations should be held to the same standard. CASL believes this practice would indirectly encourage firms and organizations to comply. As mentioned above, although the Law Society does not directly regulate law firms or organizations consisting of in-house legal counsel, it has an obligation to uphold the integrity of the legal profession by ensuring that artificially constructed barriers faced by racialized licensees are eradicated. Accordingly, publishing demographic data of the law firms would provide law firms with an incentive to implement or strengthen their diversity standards and protocols as the results would have a direct impact on their recruitment efforts and client relationships.
19. CASL also believes that the Law Society should provide the profession and the public with demographic data on the percentage of licensees who are subject to disciplinary action by the Law Society.

***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?***

20. In-house legal counsel in legal departments can play an important role in ensuring that law firms are diverse by doing business with firms that have racialized lawyers at the firm.

21. CASL submits that the Law Society can develop model contract compliance through regular consultation with diversity groups and in-house legal departments. These consultation initiatives should be mandated to promote representation of various racialized and other equity seeking groups within the discussion and formulization process.
22. The Law Society should also develop, where appropriate, incentives that would promote full participation from these racialized and equity seeking groups.
23. Once the appropriate model of contract compliance has been established, we submit that the Law Society should encourage compliance by creating and establishing a formal accounting process whereby in-house legal departments report regularly on efforts that have been utilized to ensure racialized licensees are granted equal opportunities within their respective firms.

***Question #4: What are the preferred mentoring and/or advisory services models for racialized licensees? Other models than those listed below are welcome.***

24. CASL endorses the one-on-one mentoring model to allow racialized licensees to receive personalized advice and assistance from experienced practitioners in relevant areas of law to help them deal, among other things, with complex substantive legal issues.
25. We believe our membership, which primarily consists of junior lawyers, would benefit from such mentorship services. There are currently few senior Canadian-Somali lawyers in Canada.
26. CASL submits that experienced practitioners in law firms and organizations should be encouraged to mentor racialized associates outside their firms. Racialized licensees may not be exposed to such experienced practitioners and could benefit from their guidance.
27. CASL submits that there should be mandatory mentorship program within law firms. Experienced practitioners should mentor junior associates and there should be a mandatory minimum number of times that they meet, depending on the firm size and the number of lawyers.
28. The Law Society should support racialized legal associations such as CASL, the Canadian Association of Black Lawyers (CABL), the Federation of Asian Canadian Lawyers (FACL) and South Asian Bar Association (SABA) that provide valuable networking opportunities, mentoring and CPD programs. In particular, the Law Society should subsidize mentorship initiatives provided by such organizations.
29. CASL submits that the Law Society should consult with equity seeking legal organizations to organize mentoring and advisory services models for racialized licensees.

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

30. CASL supports both general networking events and those that focus on racialized licensees.
31. CASL submits that the Law Society should support racialized legal associations such as CASL, CABL, FACL and SABA that provide valuable networking opportunities. The Law Society should subsidize and/or provide resources to assist with these initiatives.
32. In particular, smaller or newer identity based organizations, such as CASL, could benefit from greater assistance in building and developing our networks. We recommend that the Law Society make meeting space available at no cost for groups such as CASL, with limited means for networking/mentoring events.
33. The Law Society should also support and provide financial incentives to organizations such as the Toronto Lawyers Association that provide diverse networking events for racialized licensees such as the Diversity Soiree.
34. CASL believes that the networking of racialized licensees can start as early as law school. The Law Society should consider hosting and/or supporting networking events for racialized students.
35. CASL is concerned about networking events for licensees that involve alcohol. Specifically, many of our members do not consume alcohol for religious reasons and alcohol related events can serve as a barrier to our members. CASL believes this issue is not unique to CASL and also affects other racialized groups. In fact, many racialized law students and articling students have reported to CASL that law firms continue to promote alcohol related events as a method of selecting articling students.
36. As such, CASL believes that the Law Society should encourage firms to consider inclusive networking events in order to promote the recruitment and retention of racialized law students and licensees.

**Question #6: How could the Law Society enhance the profession's cultural competence through its Continuing Professional Development (CPD) Programs? Other proposed models are welcome.**

37. CASL submits that the Law Society could enhance the profession's cultural competence through its CPD programs by including topics of cultural competence, diversity and inclusion.
38. CASL is also very concerned about the discriminatory treatment experienced by our members from non-racialized judges, arbitrators and senior lawyers. CASL submits

that licensees should be required to complete a mandatory one hour of CPD per year on cultural competence, racism, unconscious bias, anti-oppression and diversity issues. This should count as part of the three required professionalism hours.

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

39. CASL's members advise that racialized licensees do not always come forward with complaints because, among other things, they fear reprisal and believe that it would adversely affect their career advancement. CASL's members have reported being the subject of racist, sexist, classist, Islamophobic and other exclusionary comments.
40. CASL submits that the Law Society can ensure that complaints of discrimination are brought to its attention and effectively addressed by following up with complainants to determine whether they have been subject to reprisal.
41. CASL also believes that the Law Society should include strong anti-reprisal language in the *Rules of Professional Conduct* with respect to complaints.
42. CASL recommends that the Law Society implement an anonymous complaint mechanism. The purpose of this initiative is to provide protection to the complainant, to allow the Law Society to identify a pattern of discriminatory conduct and to take steps to investigate. CASL submits that Law Society should also adopt an educational/restorative justice approach to deal with these complaints.

**Question #8: Which initiatives/strategies should the Law Society consider to develop a more diverse and inclusive public image/face?**

43. CASL submits that the Law Society should ensure that its staff, including those responsible for dealing with issues of diversity, discipline and discrimination, are themselves racialized. The Law Society should report the demographic makeup of its staff by publishing it on its website.

Please do not hesitate to contact us if you have any questions.

Sincerely,

The Canadian Association of Somali Lawyers  
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