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Dear Committee Members:

Upon reading "*Developing Strategies for Change: Addressing Challenges Faced by Racialized Licensees*", I emailed a group of racialized lawyers who I've spoken to about our experiences within the legal profession and asked if they would like to meet and discuss the report. The group of us are encouraged and relieved by the Law Society's decision to not only create space for this conversation in an open and public manner, but also by the Law Society's decision to take action.

I, Manpreet (Preeti) Dhaliwal, am co-writing this letter with my colleague and fellow clerk at the Federal Court, Abbas Kassam. We write in response to the report and as a result of our meeting, which was also attended by Tanya (Toni) De Mello, Equity and Diversity Officer at the University of Toronto Scarborough. Anne-Karine Dabo, an Associate at Torys LLP, was unable to attend the meeting but has also reviewed the report and supports this submission. Please note that each of the named individuals, including myself, are signing the letter in our personal capacities, not as representatives of our employers.

When I read the report, I was not surprised but saddened to read that many racialized licensees felt they had to enter solo practice in order to remain in the profession. For me, this experience began in law school. I was tempted to drop out after first year but instead founded a Women of Colour Writing group, a creative and supportive space. I subsequently co-organized McGill Law Faculty's first Critical Race Theory Course with three other students and then completed my degree by writing a 60-page term paper exploring why legal education and legal spaces made me feel excluded, and to develop strategies for law students who felt similarly excluded. Should you be interested in reading this paper, please advise me and I will happily send you a copy.

Examining how legal culture and spaces are received, represented, occupied and embodied reveals that individuals who were traditionally outsiders to the institution continue to be marginalized by virtue of personal, political and/or cultural ways of knowing and being. Law schools and law firms continue to be consistent though sometimes latent and often invisible sites of struggle, resistance, fragmentation and attempted reconciliations. This experience is a reflection of legal culture.

To find legal spaces that not only offer a sense of belonging but emancipatory processes in response to the exclusion caused by legal culture, affected individuals must create and participate in alternate spaces committed to inclusivity, respect, compassion and vulnerability. The work cannot be done in these spaces alone, however. As noted in the report's recommendations, the rest of the legal community, firms and law schools alike, must also participate in educative and transformative processes.

Having read the report and the subsequent work posted on LSUC's website, it appears that we are examining and seeking to change legal culture. Some of the following questions are already being asked, however I think it's important to reiterate and group these questions together when developing strategies or even a basic understanding of how to shape and change Ontario's legal culture:

1. What behaviours are rewarded within law schools and law firms? Which behaviours are punished?
2. Where and how are lawyers, firms, the Law Society, etc. spending their resources?
3. What rules and expectations are followed, enforced, ignored?
4. Do racialized licensees feel safe and supported talking about how they feel and asking for what they need?
5. What stories are "legend" and what values do these stories convey? How can the Law Society shift what stories are praised?
6. What are the unwritten rules of legal culture? What happens if someone breaks them? Who do these rules serve or favour?
7. What happens when someone fails, disappoints or makes a mistake?
8. How is vulnerability (uncertainty, risk and emotional exposure) perceived? Is there an alternate place where racialized employees can feel safe exposing their experiences, if not in the workplace?
9. How prevalent are shame and blame, and how are they showing up? Do racialized licensees face disproportionately high mental health issues? How can the Law Society address the problem?
10. Why is there a discrepancy between what racialized licensees and white legal practitioners see as discriminatory treatment? How can we address this discrepancy?
11. What's the collective tolerance for discomfort? Is there feedback or space for feedback? What does feedback look like?
12. How does the Law Society model behavior and diversity? How *can* the Law Society create diverse and equitable representation among benchers?¹

¹ See Brene Brown, *Daring Greatly*. (Penguin Group: New York, 2012) at 174-5.

During the course of our meeting, we discussed what it means to be the right “fit” at a law firm. For example, the right “fit” meant that an individual was able to talk about certain topics, including sports such as hockey, golf or skiing, home renovations, travel to European or hotspot destinations such as Antigua, etc. The right “fit” meant an individual needed to swear a little but not too much, speak without a foreign accent and not “too much” political correctness, and drink or let people think that they did. It meant we were able to dress in a particular way and not be “too” religious. It meant we couldn’t display or express offense to comments that we found painful, instead learning to shrug them off or training ourselves to laugh at them.

On a more positive note, we learned that some law firms, such as Torys LLP, are recognizing the problematic use of terms such as “fit” and making efforts to educate employees and reform the language used by their lawyers, particularly with respect to recruitment procedures.

We also discussed mentorship, the lack of mentorship or lack of access to mentorship that racialized licensees face in law school and the legal profession. As an informal mechanism for the sharing and transmission of institutional and professional knowledge, as well as social capital, mentorship is key to gaining institutional fluency and access within the legal profession. We noted that some law students and lawyers feel entitled to ask for mentorship or assistance without shame, whereas cultural differences or feelings of unworthiness may prevent racialized licensees from asking or seeking mentorship in the same way. There is a tendency for white licensees to see versions of their younger selves in other members of the dominant group. This mirroring process leads to mentorship relationships that disproportionately favour white licensees, leaving racialized licensees with fewer mentorship opportunities. In this way, mentorship often serves to reproduce institutional inequality, and assist white licensees in securing inclusion within social institutions and the legal profession.²

In her article, “Mentoring the other: cultural pluralist approaches to access to justice,” Professor Adelle Blackett describes mentoring as a process that “is very much about building relationships across differentials in age, experience, power, with the explicit purpose of expanding the life options or advancing the career of the mentee,”³ while noting that mentorship processes “may simultaneously be sites that reproduce exclusionary practices and affirming spaces to promote inclusion.”⁴ Professor Blackett assesses the risks and benefits of “mentoring the other” thoroughly in her article, so I will not repeat those comments here. Ultimately, she concludes that: “Mentoring the other, subject to important correctives, may provide a valuable complement to formal access channels, to the extent that it promotes deeper educational, and cross-cultural engagements.”⁵

We believe mentorship must begin in law school. The Law Society could reach out to clubs at law schools, such as South Asian, Muslim and Black Law Students’ Associations, etc. For many of us, guidance from a racialized student or licensee opened doors for us, even one swift conversation. Thus, in addition to reaching out to law firms, the Law Society should consider offering training and education in law faculties as well.

² See Colleen Sheppard, “Institutional Inequality and the Dynamics of Courage” (unpublished).

³ “Mentoring the other: cultural pluralist approaches to access to justice” (2001) *International J. of the Leg. Profession* 275 at 277.

⁴ *Ibid* at 276.

⁵ *Ibid* at 282.

Our group also agreed with the report's emphasis on statistics as they offer an accurate depiction of the aggregate of racialized lawyers. We not only need statistics on how many racialized employees are in the legal workforce, but how many of these licensees are summer students, articling students, associates, partners and staff. We also need to recognize the difference between interviewing, hiring and promotion. It would be helpful to track how many racialized lawyers apply for these positions, and how many are eventually hired. While many firms have a high level of racial diversity at the associate level, the numbers often drop at the partner level. The Law Society needs to make clear that there is no acceptable reason for the current underrepresentation.

We wondered whether the Law Society keeps statistics on bar exam fail rates, such as who failed and whether a higher proportion of racialized individuals fail. Based on our experiences and conversations with colleagues, we noted that a high number of our racialized colleagues had failed the exam. While this could simply be indicative of who we speak to or who feels comfortable sharing such information, further statistics would be helpful in order to better prepare and support racialized students coming out of law school if there is such a need. In our experience, learning how to write and pass the bar exam had more to do with tips and strategies that were passed down by others than it did with an individual's ability to pass.

While some individuals fear that statistics will make racialized individuals feel as though they have been hired on the basis of race rather than merit, this is a falsehood that the Law Society and lawyers will have to combat and change through education, literature and support for racialized licensees. On an anecdotal level, a large number of individuals already speak in such a fashion, so creating awards or publishing statistics likely will not increase or decrease the existing perception.

Finally, we agreed with the report's recommendation to give awards for good diversity practices, considering statistics amongst other factors. Awards will be useful in determining and shaping legal culture. In addition to awards, the Law Society could encourage legal publications to use a diversity metric when ranking firms. The publication of these awards and rankings should be highly publicized and clients, especially large institutional clients such as commercial banks, government institutions and unions, should be encouraged to consider these rankings when retaining firms.

Thank you for your time and kind consideration.

Sincerely,



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