



The Law Society
of Upper Canada

Barreau du
Haut-Canada

RESULTS FROM INFORMAL ENGAGEMENT

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RESULTS FROM INFORMAL ENGAGEMENTS

This report provides the results from the informal engagement process conducted by the Challenges Faced by Racialized Licensees Working Group. The Working Group was created in October 2012 with a mandate to,

- a. identify challenges faced by racialized licensees in different practice environments, including entry into practice and advancement;
- b. identify factors and practice challenges faced by racialized licensees that could increase the risk of regulatory complaints and discipline;
- c. consider best practices for preventive, remedial and/or support strategies; and
- d. if appropriate, design and develop preventative, remedial, enforcement, regulatory and/or support strategies, for consideration by the Equity Committee and other Committees as appropriate, to address the challenges described above.

From October 2012 on, the Working Group met informally with a number of individuals and organizations to obtain viewpoints on challenges and best practices for racialized licensees and reviewed the data and literature available on this topic. A summary of the findings is presented in this report.

Participants in the informal engagements were asked to provide feedback regarding the main challenges faced by racialized licensees in the legal profession and the challenges for racialized licensees to advancement in multiple work settings. Participants were also asked to reflect on whether these challenges differ based on geographical location and/or area of practice. Finally, participants were asked to consider whether challenges exist for racialized licensees in the regulatory process.

The feedback obtained from the informal discussions regarding challenges faced by racialized lawyers and paralegals is outlined based on themes.

The Challenges – Feedback from Informal Engagements

Entry into the Profession and Recruitment

Participants indicated that they do not feel that they have equal opportunities to get associate positions where there is a competitive process. There remain recruitment barriers based on unconscious biases. For example, interviewers generally know not to ask about someone's equity background during an interview – i.e. not asking if you're going to have children - however, some interviewers still make unintentional assumptions based on race.

Participants also believed that racialized licensees are often pushed into particular fields of law that lead to gaps in earnings (i.e. immigration, poverty law, social justice). Participants stated that a number of racialized lawyers become sole practitioners by default and are ill-equipped

and unprepared for the realities of solo practice. Those lawyers have indicated that they have looked for mentors but have faced barriers in finding them.

Participants noted that during interview processes, lawyers are also often told they did not get a job because they are too involved in their community. They are asked about their political views and affiliations. The work that racialized lawyers do for their community is often frowned upon by the profession.

Advancement

Participants believed that racialized licensees are often not offered the same opportunities for advancement. This type of discrimination is not necessarily overt. For example, participants spoke of the following patterns: not being brought in on certain files, not being asked to attend client meetings and not being invited to social gatherings with colleagues where files and assignments are often discussed. Participants said racialized licensees often feel they must prove themselves while other groups do not have to engage in such a process. The participants also noted peoples' general unconscious preference to associate with those who are similar to them, which could impact the advancement of racialized licensees as the majority of licensees in senior positions are non-racialized.

Some participants noted that there are two types of lawyers who are successful. The first type are successful because they fit into the culture. They act the way they believe they are expected to behave. The other type is successful because they have a particular set of skills – for example they are able to network and/or are rainmakers. Participants stated that being male or female, and Canadian-born or not Canadian-born, are also factors related to success in the profession.

Participants who practice in the government context noted that it is very difficult for a lawyer to be comfortable and build a career if they are in a branch that is not racially diverse.

According to participants, female racialized lawyers face added challenges as a result of both racialization and gender. Participants noted that female racialized lawyers must balance being a lawyer and adhering to appropriate gender roles within their racialized communities. Participants said that it is difficult to deal with that pressure.

Internationally-Trained Lawyers

Participants said that internationally-trained lawyers face additional challenges. Some of these barriers can be linked to language, socialization, job readiness, and work experience. Participants noted that internationally-trained lawyers usually have had less access to lawyers and mentors and fewer networking opportunities. Participants believe that the advantages that internationally-trained lawyers bring to the profession, for example, as a result of the experience of practising in other countries, are often discounted or not understood.

Lack of Mentoring

According to participants, racialized lawyers and paralegals have much to gain from mentorship, but all too often they are unaware of available programs. Participants stated that many racialized lawyers and paralegals lack a strong network of legal professionals who can provide guidance. Paralegal participants noted that lawyers' associations do not necessarily reach out to paralegals and there are no associations for racialized paralegals.

Paralegals

A number of participants noted the difficulties faced by most paralegals, not only racialized paralegals, in finding employment. Paralegal participants stated that although the paralegal profession is very diverse, that diversity is not reflected in more senior positions.

Regulatory Process

Participants are concerned that discipline panels are composed largely of non-racialized adjudicators who do not look or think like racialized licensees. Participants expressed concern that the members of Convocation are not as racially diverse as the profession.

Participants believed that a higher proportion of sole practitioners and those in small firms go through the discipline process, and that there are a disproportionate number of racialized sole practitioners and small firm lawyers.

Other issues

Participants stated that it is difficult for racialized licensees to integrate into communities that are outside the GTA. This is in large part due to the fact that those communities are often not diverse and do not offer the support from colleagues with similar experiences.

Participants noted that racialized licensees are not necessarily comfortable making complaints of discrimination and harassment to the Law Society, for fear that there would be a negative impact on their careers. Participants also stated that issues faced by racialized licensees are often linked to the firm or organization, not a specific lawyer. According to participants, the *Rules of Professional Conduct* focus on individual lawyers or paralegals and do not focus on firms.