

Law Society report proposes changes to combat systemic racism in Ontario law firms

Working group urges “compliance measures” to push law firms to adopt policies that eliminate discrimination.



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Lawyer Paul Jonathan Saguil said it’s important that the public, as well as lawyers, see themselves reflected in the legal profession.

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A Law Society of Upper Canada working group is proposing that the regulatory body step in to ensure that law firms and other legal workplaces move to eradicate systemic racism in the legal profession, and to penalize those that fail.

The Challenges Faced by Racialized Licensees Working Group spent the past four years studying the issue and holding consultations and will present its final report and recommendations Thursday to the Law Society’s benchers — its board of directors — for information purposes. A final vote is expected on Dec. 2.

“The challenges faced by racialized licensees are both longstanding and significant,” reads part of the report, obtained by Torstar News Service. “In our view, the Law Society must take a leadership role in giving legal workplaces

reasonable deadlines to implement steps that are important to bring about lasting culture change.”

The report goes on to say: “It is clear from the working group’s engagement and consultation processes that discrimination based on race is a daily reality for many racialized licensees; however, many participants stated that they would not file a discrimination complaint with the Law Society for various reasons, including fear of losing their job, fear of being labeled as a troublemaker, and other reprisal-related concerns.”

Lawyer Paul Jonathan Saguil said it’s important that the public, as well as lawyers, see themselves reflected in the legal profession.

“What happens when you get to the pinnacle of the profession — people who are applying to the bench or to tribunals? As you go up the pipeline, you get people who are more and more removed from what is the true diversity of the Canadian population, and that has an impact,” he said. “For lawyers, too, it has a psychological impact when they don’t see themselves reflected at their firm, and wondering how they can succeed.”

Saguil, who is Filipino-Canadian, mentioned as his role model Superior Court Justice Steve Coroza, believed to be the first Filipino-Canadian appointed to a superior court.

“Once you see someone advance in that position, you start hoping that one day you can achieve even a modicum of that success,” Saguil said.

Major recommendations — most of which the working group envisions would be implemented over the next three years — include requiring legal workplaces of at least 10 licensees (which include lawyers and paralegals) to develop and implement a human rights/diversity policy, “addressing at the very least fair recruitment, retention and advancement.”

A representative of each of those workplaces would also have to complete an equality, diversity and inclusion self-assessment of their office every two years, according to one proposal.

Another recommendation proposes “progressive compliance measures” for workplaces that don’t implement a human rights/diversity policy, and/or workplaces “that are identified as having systemic barriers to diversity and inclusion.”

The 15-member working group, made up of benchers, proposes a “gradation of responses,” from meeting with representatives of legal workplaces to discuss concerns, “to disciplinary approaches if there is deliberate non-compliance with requirements, despite multiple warnings, or no efforts are made to address systemic barriers.”

Observers say change is needed now more than ever, as the number of racialized lawyers in Ontario has doubled — from 9 per cent of the profession in 2001, to 18 per cent in 2014. According to the 2011 census, 26 per cent of Ontarians identified as racialized.

“The overall goal is to change the culture of the legal profession,” said lawyer Raj Anand, co-chair of the working group.

“We had a very important issue that has not been addressed — certainly not to this extent by any law society in Canada . . . I don’t think there’s any law society that has gone to the point of mandatory measures in order to effect culture change.”

Anand said he hopes other law societies can use his working group’s report as a model to change the culture in other provinces.

“The issues are still serious ones, and enough time has passed. It’s time to put in place some base minimums. These are not radical recommendations.”

Progress would be measured by annually providing legal workplaces of 25 licensees or more with the self-identification data of their firm’s lawyers and paralegals. That information, compiled by the Law Society, would then allow the firm to compare its numbers with the profession as a whole.

Licensees would also be asked to answer questions about inclusion at their workplace every four years, and a summary would be given to the workplace.

The Law Society would also be required to publish an “inclusion index” every four years that would contain the legal workplace’s self-assessment information, demographic data and information collected from the inclusion questions.

The group also recommends mandatory training for every licensee on equality and inclusion, to be taken once every three years, as well as improvements for mentoring.

The release of the report comes just weeks after Toronto lawyer Selwyn Pieters filed a human rights complaint against the Law Society, alleging racial profiling.

In his unproven Human Rights Tribunal complaint, Pieters says he and a black student were visiting Law Society headquarters in July when a security guard demanded to see his Law Society identity card, while white people both before and after the incident were buzzed in without scrutiny. When his ID card turned out to be expired, the guard refused to allow them entry.

“It’s based on the fact that I’m black and I believe based on the fact that I have dreadlocks,” he told The Canadian Press this month.

Pieters was later allowed into the building after renewing his ID. The Law Society’s CEO told Pieters in a letter that the guard followed proper protocols and that no racial profiling took place.

One working group recommendation targets the Law Society itself, and calls for providing equality and inclusion education programs for Law Society staff on a regular basis, as well as compile and publish results of an internal diversity assessment of the bench composition.

“The working group is of the view that the Law Society must take a leadership role and model the change it is seeking to create in the professions,” says the report.

The recommendations “are a baseline to what we would consider absolutely necessary to advance the cause of diversity in the legal profession,” said Lai-King Hum, national president of the Federation of Asian Canadian Lawyers and chair of the Roundtable of Diversity Associations.

“There could be improvements, but my understanding is they reached consensus. The conversation has been going on for a couple of decades. It’s time, and we need something implemented, and this will at least meet our baseline considerations. I commend the group for having been able to advance this and come to a consensus.”

An overhaul of the Law Society’s Discrimination and Harassment Counsel Program (DHC), which looks into workplace complaints from lawyers and paralegals, is also envisioned, including the creation of a specially trained team to deal with racial discrimination complaints.