

Innovation
Strategy
Results

**Challenges Facing Racialized
Licensees: Final Report**

Law Society of Upper Canada

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Executive Summary

1. Introduction

In September 2011 the governing body of the Law Society of Upper Canada identified the following as a priority: “considering the development of programs to encourage law firms to enhance diversity within firms, based on identified needs, and create reporting mechanisms.” As a result, Convocation created the *Working Group on Challenges Faced by Racialized Licensees*¹.

Under the direction of the Working Group and managed by the Equity Initiatives Department of the Law Society, Strategic Communications Inc. (Stratcom), was contracted to design and conduct research to identify:

- ▶ Challenges faced by racialized lawyers and paralegals in different practice environments, including entry into practice and advancement;
- ▶ Factors and practice challenges that could increase the risk of regulatory complaints and discipline, and;
- ▶ Identify perceptions of best practices for preventive remedial and/or support strategies.

Components of this research project included a planning phase, key informant interviews, focus groups and an online survey advertised to all licensees in good standing. This report integrates the results of the qualitative research (interviews and focus groups) with in-depth analysis of the quantitative findings (online survey). Presentation of the results combines charts and tables with written interpretation.

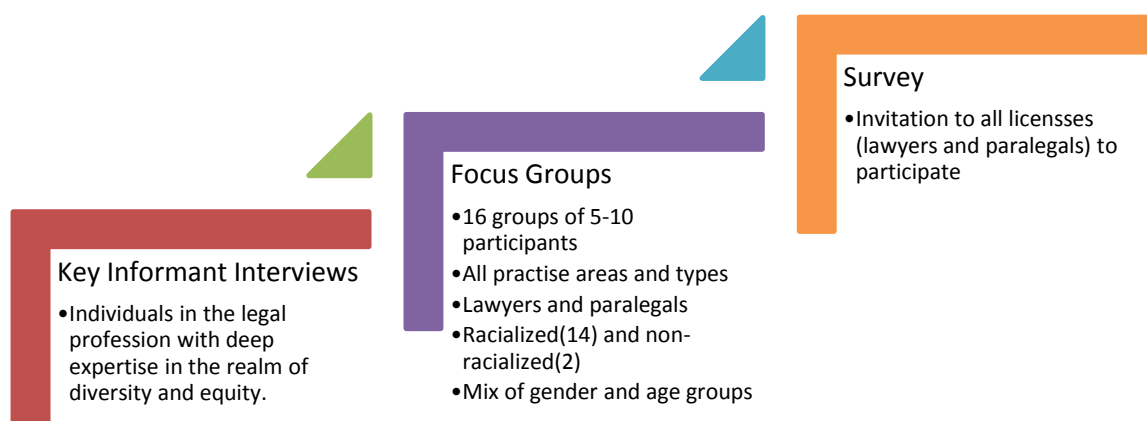
¹ For the purposes of this research project and throughout this report the term ‘racialized’ is defined as follows: “Racialized expresses race as the process by which groups are socially constructed, as well as to modes of self-identification related to race, and includes Arab, Black (e.g. African-Canadian, African, Caribbean), Chinese, East-Asian (e.g. Indo-Canadian, Indian Subcontinent) South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino) and West Asian (e.g., Iranian, Afghan) persons.”

2. Methods

Following a planning phase (March 15 to May 31, 2013) the research team developed the final research design and finalized the analytical framework ('issues matrix,') to identify research priorities and gaps in knowledge which provided the basis for the final research design (**Appendix A**).

This study has a mixed method design, by which we mean that it is comprised of qualitative (interviews/focus groups) as well as quantitative (survey) methods. The purpose of this approach is to generate a rich and detailed account of experiences from licensees' perspectives, and then measure or validate those findings across the whole population of licensees. Using the issue matrix as our starting point, each phase of the research process built on the previous phase, taking into account results from the previous phase, as shown in **Figure 1** below.

Figure 1 – Research Design



Survey of Licensees

The final phase of the research project entailed drafting and fielding an online survey advertised to all members of the Law Society in good standing. Following a process of review and refinement, an online survey comprised of 35 questions, including six question 'banks' and seven open-ended questions and taking approximately 25 minutes to complete, was posted from October 25 to November 18, 2013 . The online survey was

advertised in advance through Law Society communications channels including email to all licensees' work address and website promotions.

A total of 5,454 licensees accessed the survey and 3,296 completed the survey, 3,237 in English (98%) and 59 in French (2%). Further details about this study population, and the post-interview treatment of the data, are discussed in the section 'Profile of Survey Study Respondents', below.

3. Key Informant Interviews and Focus Groups

Key Informants

Key informants depicted to us a landscape in which racialization is a constant and persistent factor affecting students, young licensees during their entry into practice, and opportunities for career advancement. This is true (in distinctive ways) in all types of practice environment, they told us. Racialization generates numerous specific challenges that operate in subtle ways, reflecting their systemic character, and that may be amplified by individuals' lifestyles, socio-economic status, age, gender, national origin, and educational pedigree.

Analysis and conclusions arising from the Key Informant process is presented in six sub-sections:

- Discrimination
- Networks and Support
- Cultural Differences
- Internationally-trained
- Solutions/Best Practices
- Complaints

Focus Groups

Through the focus groups we sought a deeper analysis of the claims made by the key informants. Focus group participants offered an extensive and detailed account of the challenges confronting racialized licensees. An overarching narrative emerged of the extent to which racial identity is a pervasive factor in shaping the experiences, choices and career outcomes of racialized lawyers and paralegals.

Focus groups findings are discussed in detail in in seven sub-sections:

- Discrimination & Stereotyping
- ‘Fit’ and Cultural Difference
- Gender, Age and Pedigree
- Converging Experience of the ‘Outgroup’
- Best Practices to Address Barriers and Challenges of Racialization
- Complaints & Discipline
- Reaction to this Research

4. Survey Research: Profile of Participants

Research Issues

Whereas interviews and focus groups are not expected to represent the whole population, but rather to provide qualitative insight into the concepts, narratives, ideas and experiences of the study population, the quantitative survey intended to generate insights applicable to all licensees as a community and as a collection of subgroups.

The focus of this research is innovative and studying it raises concerns for some members of Ontario’s legal community as we learned in the planning process from benchers, staff and the literature, and from some licensees during the survey process. For these reasons it is important to understand how we addressed them in the design of the survey – namely how we *qualified individuals as ‘racialized’* (screening), and how we ensured that the views of all licensees are accurately portrayed in the data and final report (representativeness).

Racialization, Race, Ethnicity

As it is defined in the introduction to this report, ‘racialization’ is not directly equivalent to the related social markers of race, ethnic origin, or identity as a ‘visible minority’. Because racialization is explicitly defined for purposes of this study as *either or both* an imposed or chosen self-identity, respondents to the survey are the only source of knowledge about their own status as racialized or non-racialized, in contrast to ‘race’ and ‘visible minority’ that purport to be objective markers regardless of an individual’s experience.

In this study therefore, racialization is taken at face value – respondents who answered ‘yes I am racialized’ are considered to be members of the population of racialized licensees, regardless of any other racial or ethnic markers of their identity.

As the data in this Section 4 illustrates, the degree of concordance between racialization and more traditional notions of race and ethnicity (Black, East Asian, Caucasian, etc.) differs by subgroup of the population (**Chart 2**). We reflect further on these meanings in the body of the report.

Representativeness of the Survey Populations

The research design required responses from both racialized and non-racialized licensees, but due to the subject matter of the study – which was widely known to LSUC members and stated clearly in the survey invitation – there was a large response from licensees who self-identify as racialized, compared to the proportion of the total population they actually comprise.

This is not unusual in quantitative studies, and can be corrected for, provided the source and scale of the numeric over- or under-representation of particular subgroups are understood. A typical remedy is to ‘weight’ the survey data so that the results align with the known (or precisely estimated) proportions from a census or other prior reliable quantitative study.

We undertook a two-step method to achieve an overall representative sample. First, we used a weight raking (sample balancing) algorithm to adjust the samples of lawyers and paralegals separately, using the 2010 Law Society snapshot documents as estimates of the true proportions of different subgroups of licensees. Second, the lawyer and paralegal subsamples were then combined and weighted to their correct proportions vis-a-vis one another. The overall population proportions of lawyers and paralegals were deduced from the total number of 2010 snapshot responses and the snapshot response rates for lawyers and paralegals, respectively. The weighting process yielded a sample that produces representative, unbiased estimates of the views and opinions of Law Society licensees.

Sections 4.3 and 4.4 describes the weighting process in greater detail, compare the raw results of the online survey with the final study population of lawyers (**Table 2**) and paralegals (**Table 3**), and provide other demographic and practice environment comparisons (**Tables 4 and 5**)

Composition of Racialized licensees

In the final weighted study population, just over one-in-five (22%) licensees self-identify as racialized and a further 11% say they are unsure. Two-thirds (67%) self-identify as non-racialized.

5. Experience of Licensees

Two banks of questions (Q16 and Q17) asked racialized and non-racialized survey participants about their experience in the transition from school to articling, during entry into practice, and career advancement.

What emerged from the survey results is an overview of the landscape of career challenges faced by both groups which illustrates the breadth and depth of divergent experiences of racialized and non-racialized licensees, as well as those points where there is a convergence of experience between the two main groups of respondents or sub-groups within them.

Key findings from this section include:

- Racialized licensees reported lower success rates across a range of key measures related to articling/training placement, finding a suitable first job, and finding employment in a suitable practice environment (Chart 3)
- Racialized licensees were twice as likely as their non-racialized counterparts to report less rapid career advancement than their colleagues with similar qualifications (52% compared to 25%) (Chart 3)
- Racialized licensees were twice as likely as non-racialized to report having felt disadvantaged in law school (38% compared to 17%) (Chart 4)
- From a list of 17 factors identified as potential barriers during entry into practice and after entry, two fifths of racialized licensees (40% during, 43% after entry) ranked their ethnic /racial identity as the most serious barrier, compared to 3% and 4% of non-racialized licensees respectively. (Tables 6 & 7)

- ▶ With one exception, a larger percentage of racialized licensees than non-racialized licensees identified each of the 17 factors listed more frequently (Tables 6 & 7).
- ▶ A cluster of issues associated with gender illustrated some convergence in the experience of women in both groups of survey respondents, while also highlighting the extent to which racialization amplifies barriers associated with gender (Table 6 & 7).

6. Impacts of Racialization

This section explored the extent to which identified challenges or barriers are perceived by racialized licensees to have disadvantaged them at any stage of their career (Q21). Results reported in this section are based on questions addressed to racialized licensees only.

Key findings from this section include:

- ▶ Sources of career disadvantage related to national origins included: different accent than your colleagues (21%), not raised in Canada (18%), do not speak English/French as well as peers (16%), and received training outside Canada (12%). On this group of overlapping issues up to two-fifths of those whose first language is neither French nor English or are born outside Canada flagged these issues as sources of career disadvantage (Chart 6).
- ▶ Two thirds (68%) identified not having grown up with a network of professional contacts, 65% identified not having the same cultural background as their colleagues, and 50% named prejudice based on race as the top three factors (from a list of 17) that had disadvantaged them at any stage in their career (Chart 7).
- ▶ Women, sole practitioners, first language neither French nor English, and those born outside Canada were among those groups most likely to cite all three of the factors listed above (no professional network, cultural background, racial prejudice) as sources of career disadvantage. (Chart 7, discussion)

- ▶ Ethno-racial groups most likely to cite the same factors as a source of career disadvantage included: Black, South Asian, Chinese, and Arab. (Chart 7, discussion)
- ▶ Two-fifths (42%) of all racialized licensees identified expectations to perform to a higher standard than others based on racial stereotypes as being a source of disadvantage in hiring, advancement or pursuit of an area of practice (Chart 8).

7. Solutions (Remedies and Best Practices)

This section explored the opinions of racialized and non-racialized licensees regarding the implications of the challenges faced by racialized licensees, and the remedies or best practices that should be followed to address those challenges.

Key findings include:

- ▶ More than four-fifths of racialized (83%) and three-fifths of non-racialized licensees (62%) agreed that racialized licensees face (much more/somewhat more) challenges to their entry into practice and advancement compared to their non-racialized colleagues. (Chart 9)
- ▶ At least half of respondents in both groups agreed that the challenges faced by racialized licensees: impact the reputation of the legal system in Ontario (78% racialized, 62% non-racialized), affect access to justice for Ontarians (75% racialized, 54% non-racialized) and affect the quality of legal services for the public (69% racialized, 50% non-racialized) (Chart 11).
- ▶ Asked if the increased number of racialized lawyers and paralegals would have a positive or negative impact on the public of Ontario, 82% of racialized respondents indicated it would have a very positive (58%) or somewhat positive (24%) impact. This compared to 76% of non-racialized respondents (40% very positive, 36% somewhat positive) (Chart 12)

- A majority of racialized licenses endorsed 18 of a list of twenty measures on the subject of making the legal profession more inclusive. A majority of non-racialized licenses endorsed six of the measures listed. (Chart 16)
- The top three measures to promote inclusivity endorsed by both groups were: more mentorship programs to deliver professional guidance and access to networks for racialized licensees (82% racialized, 78% non-racialized), greater and timely transparency of hiring criteria (80% racialized, 75% non-racialized), and develop a more diverse public face/image for the Law Society (71% racialized, 60% non-racialized) (Chart 16)

8. Complaints and Discipline

Based on themes and issues that had surfaced in the Focus Group phase of research, a final series of questions explored the views of licensees regarding the possible risks of complaints and discipline associated with the challenges faced by racialized licensees.

Key findings include:

- A majority of racialized respondents agreed that nine of the 10 factors listed would be likely to increase the risk of complaints against racialized licensees. A majority of non-racialized licensees agreed that three of the 10 factors listed were likely to increase the risk of complaints (Chart 20).
- Risk factors flagged by a majority in both groups included: lack of mentors and professional networks to deal with practice challenges (78% racialized, 63% non-racialized), racial stereotyping by clients (71% racialized, 57% non-racialized), and lower quality articling positions and inadequate training (70% racialized, 51% non-racialized (Chart 20).
- Asked if a differentiation should be made in the regulatory processes with respect to racialized licensees in certain circumstances, 17% of racialized and 9% of non-racialized answered yes (Chart 21).

9. Conclusion

The goal of this research project, to identify challenges faced by racialized lawyers and paralegals in different practice environments, including entry into practice and advancement, proved to be ambitious, complex and at different points methodologically challenging. Nevertheless, the scope and methods of the research yielded a nuanced account of the experience of racialized licensees.

Key Informants depicted a landscape in which racialization is a “consistent and persistent factor” affecting racialized licensees across the arc of their careers as students, during and after entry into practice. From the focus group phase of research there emerged an “overarching narrative of the extent to which racial identity is a pervasive factor in shaping the experiences, choices and career outcomes of racialized lawyers and paralegals.”

Findings of the survey research demonstrated the extent to which racialization establishes a measurable constellation of career challenges for racialized licensees that are distinct from those of their non-racialized colleagues: challenges that are rooted in their racialized status as well as many related challenges that are compounded and amplified as a consequence of the racialization process. In comparison with their non-racialized colleagues, racialized licensees and specific sub-groups encounter quantitatively more severe challenges during and after entry into practice, yielding measurably greater negative impacts throughout their careers.

As noted in this report not all non-racialized licensees acknowledged the significance and unique challenges associated with the process of racialization. However, one important finding, highlighted in the survey phase, was that a strong majority of non-racialized licensees recognize that ‘racialization exists,’ that the challenges faced by racialized licensees have negative consequences for the legal professions and the public, and that pro-active measures are called for to enhance inclusiveness. Results reported in Section 7 demonstrate a substantial overlap across the racial divide, reflected both in shared opinions regarding the value, scope and direction of change, as well as endorsement for specific measures to address the challenges of racialization and make the legal professions more inclusive.

The methodology and findings of this research will provide the basis for further targeted exploration of the issues associated with the challenges of racialization encountered by specific groups, career stages and practice environments. It is hoped that these results will also lend support to the ongoing effort to design and implement practical measures to reduce the challenges associated with racialization and promote inclusiveness within the legal professions.

1. Introduction

In September 2011 the governing body of the Law Society of Upper Canada, identified the following as a priority: “considering the development of programs to encourage law firms to enhance diversity within firms, based on identified needs, and create reporting mechanisms.” As a result, Convocation created the *Working Group on Challenges Faced by Racialized Licensees*².

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² For the purposes of this research project and throughout this report the term ‘racialized’ is defined as follows: “Racialized expresses race as the process by which groups are socially constructed, as well as to modes of self-identification related to race, and includes Arab, Black (e.g. African-Canadian, African, Caribbean), Chinese, East-Asian (e.g. Indo-Canadian, Indian Subcontinent) South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino) and West Asian (e.g., Iranian, Afghan) persons.

2. Methods

2.1 The Research Planning Process

Following completion of the research agreement (March 15, 2013) a kick-off meeting was convened to confirm the project goals and objectives, and present the research methodology outlined in the project proposal. Subsequently, the consulting team prepared an issues matrix to identify gaps in the existing research, set research priorities and ensure that this project is integrated with what has been done in the past. Between March 15 and May 31 seven conferences/meetings were convened with Working Group members and with staff to review various aspects of the project, existing knowledge and hypotheses, and research methods.

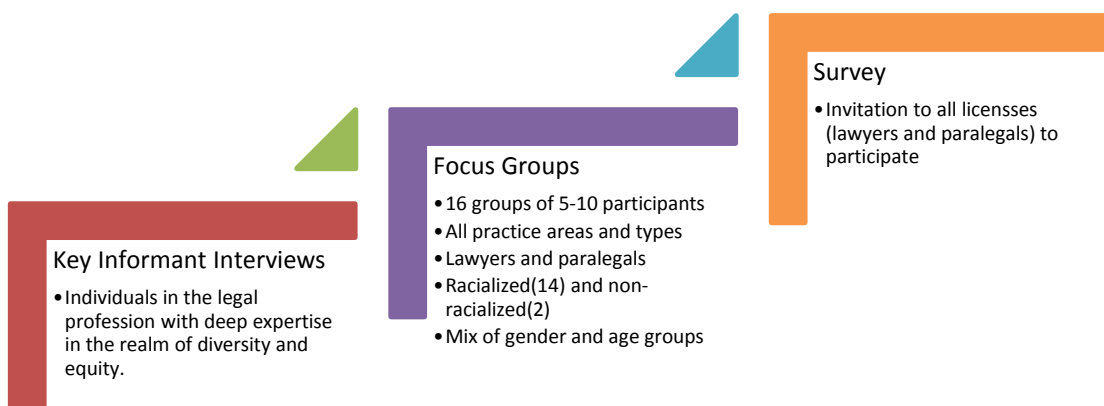
From this planning phase, the research team developed the final research design and an analytical framework (aka ‘issues matrix’) to identify research priorities and gaps in knowledge (**Appendix A**).³

2.2 Research Methods

This study has a mixed method design, by which we mean that it is comprised of both qualitative (interviews/focus groups) as well as quantitative (survey) methods. The purpose of this approach is to generate a rich and detailed account of experiences from licensees’ perspectives, and then measure or validate those findings across the whole population of licensees. Using the issue matrix as our starting point, each phase of the research process built on the previous phase, taking into account unexpected as well as expected results in the previous phase, as shown in **Figure 1** below.

³ Meetings and conferences conducted between March 15 and May 31 included the Working Group on Challenges Facing Racialized Licensees, the Chair of the Working Group, Equity Advisor, Equity Initiatives Department Staff, the Treasurer, CEO, and Director of Professional Regulation and Discrimination.

Table 1 – Research Design



2.2.1 Key Informant Interviews

Between May 24 and June 24 2013, the research team conducted 20 key informant interviews, with a total of 27 individuals. Two of the interviews included two key informants, and one interview was an in-person consultation, with three members of the research team interviewing six individuals. Three of the 27 key informants self-identified as non-racialized.

Key informants were selected under the direction of the Working Group and the Equity Advisor, although three of the nominated participants could not be reached or declined to participate. In two cases the representatives of organizations with an interest in the issues nominated additional individuals to participate in the interview process.

Individual key informants were guaranteed anonymity as a condition of being interviewed. However, with their permission **Appendix B** lists the associations of licensees, and in one case a training program, that were represented in the interview process.

The key informant protocol covered individuals' backgrounds, organizational focus and priorities, perceptions of racialization, the role and impact of racialization as a factor affecting entry into the profession, career advancement in different practice environments, representation and retention, complaints and discipline, and access to justice for Ontarians. Interview questions also explored the intersection with issues not directly associated with racialization, recommendations of specific measures to deal with the challenges faced by racialized licensees and the role of the Law Society in addressing issues associated with racialization (**Appendix C**).

2.2.2 Focus Groups

In May 2013 the Law Society invited lawyers and paralegals in good standing and who self-identified as racialized, to participate in focus groups scheduled from June 19 to August 15, to be convened in Toronto, Ottawa and London. The invitation was communicated to members by email and promoted on the Law Society website. Racialized licensees were provided a link where they could register online by completing a short survey which included questions about years in practice, practice environment, Canadian or foreign training, race/ethnicity, gender and age.

Individuals who registered online and identified themselves as racialized, were contacted by telephone and screened for their availability to participate in specific groups and on specific dates. From an initial group of 503 online volunteers, approximately 115 individuals who were qualified and invited to participate, and 103 racialized licensees eventually participated in 14 groups. In addition a pair of focus groups was held with non-racialized licensees. The 13 participants in these two groups (seven women and six men) were recruited from among a subset of online focus group volunteers who self-identified as non-racialized.

Table 2 – Focus Group Composition

Professions	Selection Criteria	Gender	City	Number of Groups
Racialized				
Lawyers	Sole Practitioners/Small Firms	Women Men	Toronto Toronto	2
Lawyers	Medium/Large Firms	Women Men	Toronto Toronto	2
Lawyers	Government/Corporations	Mixed Gender Mixed Gender	Toronto Ottawa	2
Lawyers	In Practice	Mixed Gender Mixed Gender	Toronto London	2
Lawyers	Foreign Trained	Women Men	Toronto Toronto	2
Lawyers	Other Practice Environments	Mixed Gender	Toronto	1
Paralegals	N/A	Women Men Mixed Gender	Toronto Toronto Toronto	3
Non-Racialized				
Lawyers Paralegals	N/A	Mixed Gender Mixed Gender	Toronto Toronto	2

Focus group discussions were guided by a series of thematic questions, based on the insights of key informants but testing their validity in the experience of lawyers and paralegals (**Appendix D**). Themes included reflections on the profession, perceptions and impressions regarding the challenges faced by racialized licensees, impacts of racialization, the risk of complaints and discipline associated with racialization, and recommendations regarding best practices and remedies. A modified Moderator's Guide was prepared for the two groups of non-racialized participants (**Appendix E**).

The findings from the focus group research, which are incorporated in this report, have also been submitted in a separate report, *Focus Group Findings: Preliminary Overview* (September, 2013).

2.2.3 Survey of Licensees

The final phase of the research project entailed the drafting and fielding of an online survey advertised to all members of the Law Society in good standing.

Following a process of review and refinement an online survey, comprised of 35 questions, including six question 'banks' and seven open-ended questions and taking approximately 25 minutes to complete, was posted from October 25 to November 18, 2013 (**Appendix F**). The online survey was advertised in advance through Law Society communications channels, including email to all licensees work addresses, and website promotions. Members were notified by email and invited to participate immediately prior to the posting of the survey and reminded by email twice during the period that the survey was accessible online.

A total of 5,454 licensees accessed the survey and 3,296 completed the survey, 3,237 in English (98%) and 59 in French (2%). Further details about this study population, and the post-interview treatment of the data, are discussed in the section 'Profile of Survey Study Respondents', below.

3. Key Informants and Focus Groups

3.1 What's the issue?

Practising law or providing legal services in Ontario poses many challenges – and opportunities – for those who pursue it as a career. The research design of this study focused on the experiences of racialized licensees, but also took into account the perceptions of non-racialized licensees with respect to their entry into practice and career advancement. Insight into the experiences of the whole population is critical for contextualizing, and understanding, the experiences of racialized licensees in particular.

The analytical framework, developed after a literature review, grouped issues in two categories:

Tier 1 issues comprise the major areas of licensees' experience – Recruitment and Hiring, Career Paths (general), Advancement in Mid-sized and Large Firms, Risk of Complaints and Discipline – in which racialization may, based on previous research, be playing a significant role in terms of observed outcomes. These research areas potentially involve systemic, cultural, intercultural and interactive dynamics among and between licensees, clients, regulators, and the wider legal environment including the public of Ontario.

Tier 2 issues are equally important, but identify dynamics or drivers that are, from a research perspective, less complex to observe – such as Direct and Overt Discrimination and Bias – or appear to involve less interaction dynamics with other drivers such as the tendency of racialized lawyers to be over-represented in immigration, poverty, and criminal law and under-represented in real estate and insurance (broadly, Areas of Law), and why there is over-representation of racialized individuals among Ontario university graduates, and in medicine and engineering but not in the legal profession (Incidents of Representation).⁴

Each of the seven categories identified and grouped in the two-tier issues matrix/analytical framework was accompanied by a short description of the scope of the issue and a discussion of the key research gaps/questions. The analytical framework and the gaps identified guided the subsequent design of the main research instruments, especially the key informant guide.

⁴ Although 'Incidents of Representation' is included in the analytical framework, it falls outside the scope of this study.

3.1.2 Insights from Key Informants

Although the key informants differed on specific observations and concerns, those who are themselves racialized depicted to us a landscape in which racialization is a constant and persistent factor affecting students, young licensees during their entry into practice, and opportunities for career advancement. This is true (in distinctive ways) in all types of practice environment, they told us. Racialization generates numerous specific challenges that operate in subtle ways, reflecting their systemic character, and that may be amplified by individuals' lifestyles, socio-economic status, age, gender, national origin, and educational pedigree.

Despite the complex and subtle racialization process, these informants also told us that overt discrimination and bias still exist in the Ontario legal community, operating through social dynamics as well as professional/business mechanisms. These do not, by themselves, exhaust the drivers that make up the racialization process, but are significant contributors to impacts that affect everything from career opportunities and earnings for individual licensees to the profession as a whole, and ultimately, access to justice in Ontario.

Through the key informants we got a strong indication that:

Discrimination: Overt discrimination and bias – often unconscious – is a feature of daily life for many, or most, racialized licensees. Informants reported numerous incidents in which licensees were subjected to negative stereotypes, and made to work harder or suffer greater consequences for errors than non-racialized colleagues. These stereotypes are reinforced by the under-representation of racialized members among the judiciary and managing partners of the mid- and large firms. Some overt racism is at play in some quarters, we were told.

Networks & Support: Racialized students and licensees are seen as more isolated from professional support networks and find it harder to gain a mentor than non-racialized licensees, on average. Racialized law licensees often come from immigrant families or are starting out without family networks that include lawyers or other professionals, so are thought not to have the same opportunities in law school or their entry into practice as non-racialized licensees. Some key informants noted that this lack of social connections can remain a barrier throughout a career if, for example, a licensee begins practice by building their client base within their own ethnic community where such networks are still sparse.

Cultural differences: The ‘fit’ between individual licensees and their employers, colleagues, the courts, or clients are a systemic barrier to entry and career advancement for many racialized licensees. This domain of ‘intercultural’ competence operates in all directions, contributing to self-selection out of further challenges (by individual licensees) as well as reinforcing unconscious biases of colleagues and employers that seem to justify discriminatory behaviour. This factor manifests strongly in the continued use of social events and lifestyle pursuits as channels for career opportunities and professional advancement, and results in individuals feeling isolated, overlooked, marginalized, and under-valued. This is thought to be especially important as a ‘glass ceiling’ that reduces the representation of racialized licensees in partnerships and other leadership roles in the profession which, in turn, reinforces stereotypes about racialized licensees’ fitness as legal professionals.

“ The recruitment process is riddled with unconscious bias. What doesn’t fit is excluded, mainly through socialization”.

*Female Lawyer,
key informant*

Internationally-trained: Being born and/or educated outside Canada is a particular source of barriers for racialized licensees (beyond the need to be re-certified in Ontario) because it means a licensee may have a combination of important disadvantages – small (or no) professional network; language challenges in a profession that values this skill above all; lifestyle or culture that is different than their colleagues; a ‘foreign-sounding’ name or educational pedigree that attracts negative stereotyping. Particularly acute barriers, according to our key informants, are presented by the fact that foreign-trained licensees do not participate in the critical transition from law school to a first professional position in Ontario and so are generally seeking to practise without the network of contacts, mentors, and opportunities that Ontario-trained licensees take for granted. Gaining these ‘standard’ advantages can be more difficult for racialized, as opposed to non-racialized, licensees.

Solutions/Best Practices: There is wide acknowledgement that strong mentoring is a critical edge that differentiates many successful legal professionals from their peers. More systematic and effective mentoring – championed by the Law Society – is thought to be a critical response to the challenges facing racialized licensees. Numerous key informants also support the collection and circulation of more detailed statistics on racialization within firms, similar to approaches taken in the United States where transparency about the makeup of firms’ staff supports greater representation by racialized lawyers. This approach dovetails with greater use of procurement rules by government and the corporate sector, where good intentions about hiring diversity-oriented law firms is seen as lacking effective action. There is also a suggestion that a systematic review of recruitment, articling, and hiring practices is needed, possibly led by the Law Society, to develop specific strategies for the removal of systemic barriers

facing racialized licensees. These steps should include unifying the articling system to avoid a two-tier system that enables discrimination against racialized licensees; encouraging standardized interviewing procedures that reduce the impact of ‘fit’ as a screening method; and including business management in the core curriculum for lawyers and paralegals.

Complaints: Because of their higher likelihood to become sole practitioners, and/or to come from backgrounds where professional life is the exception rather than the rule, racialized licensees are thought to be more exposed to the negative aspects of the free market – often starting with fewer connections to a large or affluent client base, and without sufficient education in the ‘business’ of a legal practice. There is also anecdotal evidence that many take the pragmatic approach when starting their career, appealing to their own local ethnic/cultural community for business, which may (in some instances) expose them to unreasonable expectations about the scope and efficacy of their practice and, ultimately, complaints from clients. Key informants also referred to discrimination by employers, regulators and the judiciary – citing specific examples of situations in which racialized lawyers and paralegals appeared to receive greater scrutiny for infractions than is typically the case when committed by non-racialized lawyers.

3.2 Focus Group Findings

Through the focus groups we sought a deeper analysis of the claims made by the key informants.

Focus group participants offered an extensive and detailed account of the challenges confronting racialized licensees. An overarching narrative emerged of the extent to which racial identity is a pervasive factor in shaping the experiences, choices and career outcomes of racialized lawyers and paralegals.

Some participants recounted experiences where their racialized status was a positive factor in finding employment or contributing to the benefits they were able to offer their employer. Others viewed the challenges associated with racialization as secondary to their overall career trajectory – but many of this latter group of individuals went on to interpret their own experience as ‘the exception that proves the rule’, one saying that since he is already successful in his career, his experience is not the norm.

More frequently, participants described experiences in which the challenges of racialization appeared as barriers to entering practice, finding and maintaining secure employment and career advancement, and in many instances imposing a competitive disadvantage in relation to their non-racialized colleagues.

Descriptions of the challenges of racialization ranged from being on the receiving end of cultural stereotyping or explicit racial discrimination, to accounts of how systemic barriers operate through law school, articling, recruitment, and advancement. The many and varied challenges described by focus group participants generated the overall impression that racialization is, as one focus group participant described, a “wall-to-wall” factor that is at play for racialized licensees at every stage of their career. The weight and meaning of racialization must be calibrated and negotiated in each specific professional environment and social context. The fact that cause and effect is often ambiguous or hidden does not render the challenges associated with racialization less pervasive or less serious. As a young paralegal observed, after recounting an extremely damaging experience with overt racism in a job training placement, he had come to see his own racialized status as a factor potentially at play in every situation: “You always wonder about it.”

Racialized participants’ accounts of the challenges they face, and comparisons with the accounts of non-racialized licensees, suggest that racialization is the driver of wide differences of professional experience for licensees.

Discrimination & Stereotyping

Focus group participants offered literally hundreds of examples of discriminatory behaviours, interactions, language and assumptions that were common features of their everyday professional experience. These experiences amount to barriers that occur across the entire arc of individual legal careers, from education, training and entry into the profession to advancement and career path, and in some case the decision to leave the profession.

Many described the experience of being stereotyped by culturally ignorant non-racialized colleagues and clients.

An Asian woman, a senior lawyer at a large firm, described how her manner and gestures were often misinterpreted, obliging her to work harder than her peers to overcome the challenges imposed on her by cross-cultural miscommunication. An experienced black sole practitioner reported that when she had worked for government earlier in her career she was asked on an almost daily basis for directions to the

“When I was mooting one time, a judge, that was a lawyer, asked me a question. I looked up, and I thought about it...and he said ‘I shouldn’t be so disrespectful as to roll my eyes and slam down my pen’... Meanwhile I had a partner who was Korean/Asian and very small and had different attributes attributed to her and she was ‘feisty’ and they just loved it. They [would say] I liked how you were really able to articulate that well and your passion was just shining through. It was two different stereotypes.”

A black female lawyer

mailroom, reflecting the questioners' assumptions that she was an unskilled employee. Betraying stereotypical assumptions about black people, colleagues who got to know her professionally would say, "Oh, you're actually very smart." One Asian lawyer who articulated in a Bay Street firm spoke about her experience with colleagues who assumed that she spoke "all Asian languages."

Unspoken assumptions that racialized licensees are less competent or effective often forces them to compete with non-racialized colleagues – a situation in which "you can't be just as good, you have to be better," as one focus group respondent said.

“ I landed a job and was doing shadowing, and the senior lawyer made a comment that he thought I was with IT.”

A young male South Asian lawyer

Reinforcing a theme that emerged from Key Informant interviews, focus group participants reported experiences on both sides of this dilemma. Some reported having to work harder than their non-racialized colleagues for the same job benefits and opportunities, and others wondered if race was a factor in the more rapid advancement of non-racialized colleagues of comparable or less merit. Still others reported suffering the consequences of lowered expectations in seeing opportunities for larger files and more challenging work diverted to non-racialized colleagues who were otherwise no more qualified or deserving. For example, a black female lawyer became tearful as she recounted the indignity of being provided with less administrative support than any of the other associates at her mid-sized firm.

Although focus group participants frequently described the types of discrimination they encountered as "subtle," "hidden" or "layered," many also described harsher experiences of overt racism. In almost every group one or more participants was moved to tears or anger in describing such an experience.

“ Law school was the most oppressive and racist environment I ever encountered.”

A male South Asian lawyer

Three licensees (two women lawyers and a male paralegal) described an explicitly racist encounter that derailed their articling or job placements, with long lasting negative consequences for their careers. An Ottawa lawyer recounted a job interview in which the non-racialized senior lawyer's "face fell" when he first saw her and she was forced to endure the humiliation of a meaningless interview for which she had assiduously prepared for.

Several participants described aggressive and hostile behaviour from judges and prosecutors that crossed the line from bad manners to outright racism. A foreign-trained Ottawa lawyer described an experience in an Ottawa courtroom in which he was ordered to memorize a judge's instruction. The judge instructed the lawyer, "Don't you dare take your pen out, I want you to remember this by heart!" and then grilled him on where he had done his schooling. The participants' conclusion from this experience was that it would not have occurred if he were white and had he taken his law degree at Queen's University.

“ I was actually called out in the courthouse as they didn't know who I was. I was the only person of colour in a suit and tie and was called the N word.”

A racialized paralegal

Finally, a few participants referenced serious past or current race related conflict that were either of too personal a nature or too complex to recount in the focus group context.

'Fit' and Cultural Difference

Many racialized licensees in the focus groups described experiences of being alienated from the dominant culture of firms or companies where they worked. Social events, frequently centered on alcohol consumption, often leave non-drinkers feeling outside the group, looking for inconspicuous ways to fit in: "You have to get used to the flow of alcohol." One participant referred to a colleague who carried a half-full wine glass at social events in order to avoid drawing attention to the fact that she did not drink. Another described the disparaging remarks of a senior lawyer regarding the "rules" that a racialized colleague lived by, an observation extrapolated from the fact that the racialized colleague was a non-drinker.

For many racialized licensees common features of the dominant (non-racialized) culture, such as social drinking, playing golf, 'going to the cottage', watching hockey – all represent points of contact, interaction and social solidarity for their non-racialized colleagues, but reinforce their own feelings of isolation and "otherness." Many also reported a parallel or overlapping experience in the culture of the work place. One lawyer conceded that notwithstanding his deliberate efforts to neutralize the racial/cultural gap, the senior partners at his firm interact differently with him than they do with his non-racialized colleagues: "There is a spark that is there with others. I am treated very formally by the senior partners."

“ As a new lawyer, 'fit' is: 'Do you play golf?' It goes to the business model, you're excluded if 'you're not like us.'”

Recent-call, black lawyer

The experience of being out of place in one's surroundings also extends to the courtroom for many racialized lawyers and paralegals. A lawyer from a community outside of Toronto commented: "Sometimes when you enter an all-white courtroom and you're making your arguments and building your case, you sometimes start to wonder, 'Do I belong here?'" Feeling out of place in the courtroom is often reinforced by the actions of others. The individual quoted above described an experience common to many racialized licensees: "A gentleman came up to me and thought I was an interpreter and they tried to pair me with another Asian person in the courtroom. It is rather humorous." Along the same lines a paralegal reported being mistaken for the client of the taller and blond woman she was representing. Stereotypical assumptions about who looks like what creates professional obstacles. A recently called lawyer observed that women and racialized lawyers are sometimes assumed to be paralegals and forced to wait for the attention of the court.

Gender, Age and Pedigree

The focus group results show that racialization intersects with a wide variety of other factors including language or accent, differences of professional status between lawyers and paralegals and whether licensees were trained in or outside of Canada. In each of these divisions there are factors that may mitigate or intensify the challenges associated with racialization. The intersection of these and other factors – age, sexual orientation, disability, geographic location – yields an incredibly complex and highly individuated pattern of experiences and impacts associated with the challenges of racialization.

In other words, racialization's meanings can vary depending on circumstances. One senior lawyer observed that, "your client base and the profile of your firm will dictate what challenges you face." In his own case, where his largest clients are major banks, he observed that if clients are "non-racialized and you are, and they are older and you aren't, you may face challenges." In this context racialization has less significance in dealings with clients who are younger/closer to one's own age. "There typically isn't a challenge between racialized and non-racialized people of the same age." Illustrating the same point a group of male lawyers employed by medium-sized and large firms referenced their own professional experience and expressed doubts that racialization constituted a barrier to entry into the legal profession but all agreed that it might be a barrier when it comes to advancing to partnership.

The intersection of race and gender multiplies the challenges for women. One female lawyer pointed out the obvious but compelling fact that the power centre of the legal profession is not only white but male and many racialized women in

“ I guess people stereotype for a reason, which in this case is a Caucasian male. If you are not that you are the Other.”

Female, racialized lawyer

the focus groups perceived themselves disadvantaged in accessing employment in some practice environments, notably medium and large sized Bay Street law firms.

In a ‘boys club’ where extracurricular social activities are often also avenues to new work opportunities and advancement, racialized women perceive themselves as doubly disadvantaged. One lawyer observed that it is difficult for her to work on Bay St, where she is not interested in participating in the extracurricular activities that the “higher ups” also participate in, and that are often where new work opportunities and interesting files come from.

One young lawyer recounted a devastating experience that had caused her to leave the profession for several years:

“My disillusionment specifically came from lawyers themselves. I worked with a sole proprietor in criminal law. Time and time again, one of the things I was told was that being identifiably Muslim and being a female, I’m going to have a hard time in this profession. So it was one of those things. Just reliving that makes me upset... [The message was] to abandon my principles. My principal - throughout my articles, we’d have conversations on end about why it is that I practice my faith, why it is that I wear the hijab and stuff like that...”

In this particular instance the specific ‘challenge’ to entry into the profession appears as a combination of racialization, gender, religious practice and youth. Below, the survey findings show that racialized licensees consistently identify a wide range of social and demographic factors as barriers to entry and advancement, more frequently than their non-racialized counterparts.

While many racialized women voiced the opinion that there was no place for them working for a Bay Street law firm one participant offered a more positive perspective that nevertheless confirmed the general view that the barriers are real. Describing the medium-sized firm where she worked as “special” for its equal treatment of her and her peers, she described herself as the only visible minority woman at the firm. On the other hand, she also reported that her boss would send other lawyers to accompany her in court with the excuse that her presence alone will “look bad to the old boy’s club.” This participant explained this treatment as a combination of factors: her being a woman, racialized and a more recent call.

Converging Experience of the ‘Outgroup’

There are numerous degrees of being made to feel excluded. Both racialized and non-racialized licensees with whom we spoke in focus groups felt that they were discriminated against for a variety of factors not directly associated with racialization. Some non-racialized respondents identified experiences of discrimination associated

with their gender (women), age (too young or too old), and membership in an invisible minority (LGBT, Jewish) as factors that they felt represented challenges to entry and advancement comparable to the challenges that might be associated with racialization.

This means that there is often ‘convergence’ of the experience of non-racialized licensees with that of their racialized colleagues when it comes to being part of an ‘outgroup’ – women sharing experience with women, men with men, and so on. These experiences illustrate the extent to which challenges to entry and advancement are shared by specific sub-groups across the racial division.

For many racialized licensees a great deal of discrimination revolves around their name. Names are regularly misspelled or mispronounced. Foreign sounding names are often the trigger for patronizing and inappropriate questions about individuals’ backgrounds, years in Canada or the merits of their spoken English or French. Canadian-born and long-time residents are regularly treated as immigrants. For example, a Canadian-trained sole practitioner reported that despite having been in Canada for 16 years every time he sees senior counsel he is asked if he went to school in Canada or Iran.

Names are also perceived by many licensees as a genuine barrier to advancement. Difficulties that recruiters have reading or pronouncing an individual’s name, may be a factor in limiting the opportunity to move to the next stage of the hiring process. The problem is serious enough that many focus group participants shared that they had or had considered ‘anglicizing’ their name to improve their chances of clearing at least the initial recruitment hurdles. One lawyer expressed concern that if she became a partner at her firm the addition of a foreign sounding name might have a negative impact on how her firm was viewed. Acknowledging the seriousness of the issue, a sole practitioner opted for a different approach, adding an ‘a’ to her name in order to more explicitly show her ethnicity.

Best Practices to Address Barriers and Challenges of Racialization

Focus group participants recommended a wide range of best practices and solutions to address the challenges faced by racialized licensees, endorsing many of the ideas introduced to start the discussion. Among the most frequent mentions were a variety of recommendations for stronger mentorship and support, a much more pro-active role for the Law Society in promoting diversity in the profession, and a concerted and genuine effort by law firms to promote greater diversity.

Mentoring: Racialized lawyers and paralegals spoke frequently of the need for stronger mentorship, support and resources, adapted to the needs of racialized licensees. As an experienced sole practitioner put it: “If the Law Society were to take anything away from this focus group it’s that they need to combat isolation.” For many, the solution lies in stronger mentorship from racialized and non-racialized senior members of the

profession. Having “senior white lawyers” mentoring and developing “relationships with minorities” is viewed by many as the key to more fully opening up the profession, and large firms in particular, to racialized lawyers.

Financial Measures: Accompanying suggestions for stronger, targeted mentorship programs many participants recommended a variety of financial measures, including discounting continuing education fees, and financial support for professional associations representing racialized licensees. Along the lines of the existing French language program, the Law Society should consider sponsoring English language training (“lawyer language”) for immigrants whose first language is not English. Many focus group participants also recommended a general lowering of fees for sole practitioners and paralegals, in recognition of the financial challenges that so many of them are facing.

Law Society: There is enthusiasm for a more pro-active role for the Law Society in developing its “voice” on diversity issues. Specific suggestions included more deliberately adapting the Continuing Professional Development Program (CPD) to the needs of racialized licensees, fostering greater diversity within the governing bodies of the Law Society and among those delivering the CPD program, and putting forward a more diverse public face. One lawyer recommended pro-active outreach within the whole profession.

“It’s wonderful that there are focus groups of racial people, but it is equally important for the Law Society to reach out to Caucasian lawyers and partners, and ask if they think there are issues with racialized lawyers. If they don’t feel it’s a relevant issue, there won’t be any change.”

Foreign-trained licensees identified the need for an alternative to the On Campus Interview (OCI) process, which would require a “lot of help from the Law Society” to close the existing gap between foreign-trained professionals and the job market, and create a “pool of immigrant lawyers” for firms and corporations to hire from. Along the same lines as their counterparts in other groups, foreign-trained licensees underlined the need for more networking events and opportunities with employers.

Licensees also see a role for the Law Society in promoting best practices within the legal profession and the corporate community, including encouraging corporate procurement policies and collection and reporting of diversity and gender composition of law firms. On the latter issue some participants registered concerns that promoting diversity reporting by law firms might in some ways distort the hiring process, with firms making hiring decisions based on diversity targets.

Opinion was divided on the issue of collecting data on racialization status in cases of complaints and discipline. While they allowed for the possibility that racialized licensees might be more vulnerable, some participants expressed concerns that release

of such data might reinforce the existing biases of prospective clients against racialized lawyers and paralegals.

Law Firms: Opinion varied on the issue of how change would occur within law firms and the extent to which the trend toward increasing diversity was already underway. For some, the profession is in the process of becoming more diverse. Time and the business case for a more

diverse legal team that can work in different communities, languages and countries will yield an appropriate level of diversity within the legal community. A larger proportion of participants were doubtful about both the direction and the momentum of change, recommending a variety of proactive measures to increase diversity within the legal community.

“If you don’t see partners who look like you, it is more difficult to have someone to follow... It’s much more difficult for someone to pay their dues and to keep sacrificing and compromising, when they don’t know there is something at the end to justify it.”

Many comments were related to changes in the hiring process. Hiring needs to be much more transparent, relying less on the concept of ‘fit’ or eliminating it altogether from the selection criteria. Law firms need to be pro-active in broadening the selection criteria they apply to the hiring process, crediting a wider range of life experiences among candidates rather than privileging experience and skills that favour ‘white males:’ “Just because you didn’t play lacrosse at school doesn’t mean you didn’t learn about time management and responsibility from looking after your sibling in a single parent family.”

The existence of diversity committees within law firms was acknowledged as a “great step” but many were critical of the tokenism and opportunism of some firms in developing a formulaic approach to diversity committees, and using racialized colleagues to promote the appearance of diversity and “give the impression that we care about it.” Diversity committees as they currently exist are the result of an externally driven process that lacks genuine commitment. One self-confessed “poster child” for her own firm’s diversity, declared the existing structure of the diversity committee is not acceptable and she would not recommend it.

Participants also endorsed cultural competence or sensitivity training for law firms, though one female lawyer was critical of superficial trainings she had experienced, and recommended a more sophisticated approach to address the more subtle forms of racism that are prevalent, and educate those who “might not even know they are racist.”

Judges and Prosecutors: Some participants noted the need for greater diversity among judges. One lawyer tied the issue of representation to a recent legal case where the chasing and beating of Asian anglers was not ruled a hate crime. He observed that the reaction of the Asian community was, “we are not part of the system.” Another lawyer was less convinced under representation was a reflection of racism or that proactive measures were necessary to increase the diversity of the bench, suggesting instead that the presence of “minorities” would inevitably increase over time.

As noted elsewhere in this report some racialized licensees, notably paralegals, reported harsh and discriminatory treatment by prosecutors. Referencing his own experience, one paralegal suggested that prosecutors should be held more strictly to the Rules of Conduct.

Complaints & Discipline

Focus group participants agreed that there may be factors contributing to making racialized licensees more vulnerable to complaints, most frequently citing a comparative lack of resources and training, and problems associated with poor communication and cultural misunderstanding. A handful also referred to the problem of bad faith clients from within the same community as the licensee. A smaller group of participants, represented in many of the 14 focus groups with racialized licensees, reported not having seen any evidence of factors contributing to increased complaints and discipline for racialized licensees.

In part due to their disproportionately high representation in sole practice, racialized licensees are more likely to face the elevated risks associated with that practice environment. For racialized sole practitioners the risks of complaint and discipline are likely to be higher because they are less likely to have stronger networks and supports within the profession, focus group participants said.

“Minorities practising on their own don’t have the same resources as others do.” In contrast to poorly connected racialized licensees, “those who are better connected are more likely to be forgiven.”

Compounding the problem of limited resources, many racialized licensees have had limited access to mentorship and training, which increases the risk of reprimand. Reinforcing her case that high quality mentorship and articling positions are more difficult to come by for racialized licensees, a London lawyer commented: “My articling mentor was out for a year or two, and was shocked that she could be my principal.” Two other participants in the same group asserted that racialized sole practitioners are audited more frequently. One declared: “I’ve been audited over and over.”

Echoing a theme that surfaced in the Key Informant interviews, others identified language or accent as a factor increasing the risk of complaints. One senior paralegal with experience supervising racialized and non-racialized licensees noted that although the professional behaviour of the two groups was similar, racialized licensees were more likely to draw complaints from clients. She has concluded that there is a correlation between paralegals with accents and more frequent complaints. She noted that the most common phrase she heard from complaining clients was: “I just want to be served by someone who speaks English as their first language.” Other paralegals and foreign-trained lawyers also made the point that licensees who are not fluent in English (or speak it with an unfamiliar accent) are more likely to experience miscommunication precipitating complaints.

On a related point some suggested that cultural differences or misinterpreted behaviour might trigger complaints. A paralegal reported that clients had complained about the “aggressive behaviour” of the black lawyers at her firm, while demonstrating a much higher tolerance for white lawyers who “scream” at their clients. Another paralegal reported encountering problems with colleagues or clients who interpreted her “look” as menacing.

Some felt that in some instances racialized licensees may be more vulnerable than their non-racialized counterparts to unfounded threats and complaints from bad faith clients within their own ethnic community. Illustrating the point, a sole practitioner reported that he was receiving threats of reporting issues to the Law Society that he judged would not happen with other non-racialized practitioners. Two paralegals in the same group described deliberate attempts to provoke (and record) professional misconduct, which both believed were, at least in part, racially motivated.

Reaction to this Research

A strong majority endorsed the research project into challenges faced by racialized licensees and the focus group process in particular. They welcomed the opportunity to share their experiences with other racialized licensees. On the other hand, participants in almost every group expressed some doubts about the process and a lack of confidence in the capacity of Law Society to effect meaningful change. As one senior London lawyer put: “The road to hell is paved with good intentions.” Still others expressed the view that the evidence of racism and its consequences for racialized licensees was already clear and documented. They wondered aloud about the extent to which this research project is simply another justification to delay meaningful action. One lawyer from southwestern Ontario expressed her deep demoralization and disillusionment with both the Law Society and the practice of law: “As far as I’m concerned nobody cares if I close my practice tomorrow. No one cares if there is representation of minorities in the law. Nobody is hiring us.”

4. Profile of Survey Respondents

4.1 What's the Issue?

Whereas interviews and focus groups are not expected to represent the whole population, but rather to provide qualitative insight into the concepts, narratives, ideas and experiences of the study population, the quantitative survey intended to generate insights applicable to all licensees as a community and as a collection of subgroups (racialized, non-racialized, paralegals, lawyers, etc.).

The focus of this research is innovative, and studying it raises concerns for some members of Ontario's legal community, as we learned in the planning process from benchers, staff and the literature. It is innovative in the sense that the key focus of the study – racialization – has not often been treated as a distinct phenomenon for study. Even the term 'racialization' is relatively new and some in the community (including among visible minorities) do not accept it as standard terminology. And although we received clear direction from the LSUC and Working Group throughout the research process, the study raises concerns for some community members who feel that the very act of studying racialization as a distinct phenomenon may produce stronger perceptions of its importance than are warranted in reality.

For these reasons, it is important to understand how we addressed them in the design of the survey – namely how we *qualified individuals as 'racialized'* (screening) and how we ensured that the views of all licensees are accurately portrayed in the data and final report (representativeness).

4.2 'Racialization', Race, and Ethnicity

As it is defined in the introduction to this report (see also Chart 1: Composition of Racialized Licensees), 'racialization' is not directly equivalent to the related social markers of race, ethnic origin, or identity as a 'visible minority'. Because racialization is explicitly defined for purposes of this study as *either or both* an imposed or chosen self-identity, respondents to the survey are the only source of knowledge about their own status as racialized or non-racialized, in contrast to 'race' and 'visible minority' that purport to be objective markers regardless of an individual's experience.

In this study therefore, racialization is taken at face value – respondents who answered 'yes I am racialized' are considered to be members of the population of racialized licensees, regardless of any other racial or ethnic markers of their identity.

As the data in this section illustrates, the degree of concordance between racialization and more traditional notions of race and ethnicity (Black, East Asian, Caucasian, etc.) differs by subgroup of the population. We reflect further on these meanings of identity below.

4.3 Representativeness in the Survey Population

We invited all licensees to participate in the survey. The research design required responses from both racialized and non-racialized licensees, but due to the subject matter of the study – which was widely known to LSUC members and stated clearly in the survey invitation – there was a large response from licensees who self-identify as racialized, compared to the proportion of the total population they actually comprise.

This is not unusual in quantitative studies, and can be corrected for provided the source and scale of the numeric over- or under-representation of particular subgroups are understood. A typical remedy is to ‘weight’ the survey data so that the results align with the known (or precisely estimated) proportions from a census or other prior reliable quantitative study.

In this study, however, we confronted a unique problem which is that this is the first time racialization has been used to define a sub-group of the legal profession in Ontario. To what should the proportion in our study be weighted? How do we know the ‘true’ proportion of racialized licensees to which we must weight our raw study population?

We undertook a two-step method to achieve an overall representative sample. First, we used a weight raking (sample balancing) algorithm to adjust the samples of lawyers and paralegals separately, using the 2010 Law Society snapshot documents as estimates of the true proportions of different subgroups of licensees. The survey data were weighted to align with the distributions for gender, age groups, racial and ethnic groups, type of practice and time since call to bar (lawyers only). It is important to highlight that the weighting process employed self-reported racial or ethnic groups and not the survey self-report question on racialization for weighting purposes. Using such a weight rating process is standard practice in survey methodology when adjusting for multiple weighting factors.

Second, the lawyer and paralegal subsamples were then combined and weighted to their correct proportions vis-a-vis one another. The overall population proportions of lawyers and paralegals were deduced from the total number of 2010 snapshot responses and the snapshot response rates for lawyers and paralegals, respectively.

This process results in a sample that produces representative, unbiased estimates of the views and opinions of Law Society licensees. The final study population of lawyers (**Table 2**) and paralegals (**Table 3**) are shown below, compared to the raw results of the online survey and the 2010 snapshot that was used to derive weights.

Table 3 – Weighting the Lawyer Subsample

Demographic characteristic	Raw 2013 Survey Sample	2010 Snapshot	Weighted 2013 Survey Sample
Gender			
Female	52%	40%	40%
Male	48%	60%	60%
Age			
< 30	10%	5%	5%
30-39	29%	27%	27%
40-49	23%	27%	27%
50-65	30%	33%	34%
> 65	8%	8%	7%
Size of Firm			
Sole	19%	18%	18%
Firm	47%	31%	31%
Education/Gov't	15%	14%	14%
Other	19%	37%	37%
Years in Practice			
< 2 years	15%	7%	7%
2-5 years	14%	14%	14%
6-10 years	15%	15%	15%
> 15 years	56%	64%	64%
Racialized	33%	17%	19%

Table 4 – Weighting the Paralegal Subsample

Demographic characteristic	Raw 2013 Survey Sample	2010 Snapshot	Weighted 2013 Survey Sample
Gender			
Female	59%	53%	54%
Male	41%	47%	46%
Age			
< 30	18%	22%	22%
30-39	16%	21%	20%
40-49	27%	25%	25%
50-65	33%	28%	29%
> 65	5%	4%	3%
Size of Firm			
Sole Practitioner	39%	25%	26%
Education/Gov't	6%	5%	5%
Other	55%	70%	69%
Racialized	41%	28%	32%

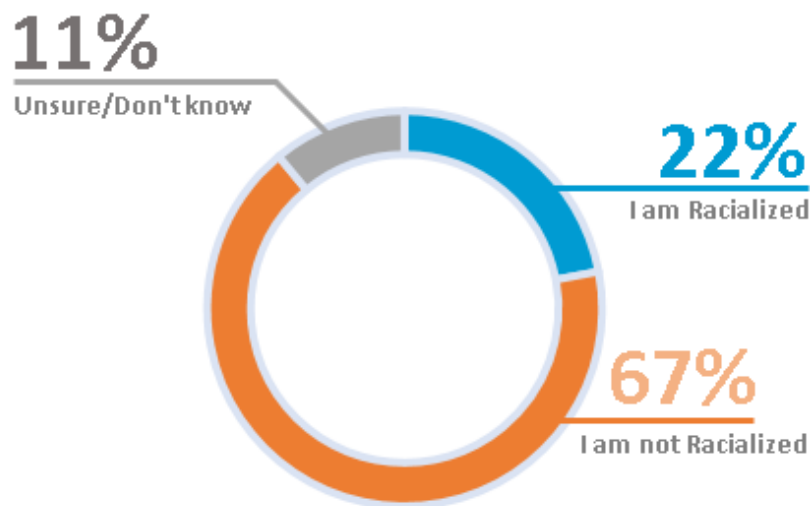
4.4 Racialization

In the final weighted study population, just over one-in-five (22%) licensees self-identify as racialized, and a further 11% say they are unsure. Two-thirds (67%) self-identify as non-racialized.

Chart 1 – Composition of Racialized licensees

In this survey we are seeking the opinions of both racialized and non-racialized licensed paralegals and lawyers. The term racialized refers to the process by which groups are socially constructed in terms of race, as well as to modes of self-identification related to race.

(Q9) Do you self-identify as racialized or non-racialized?



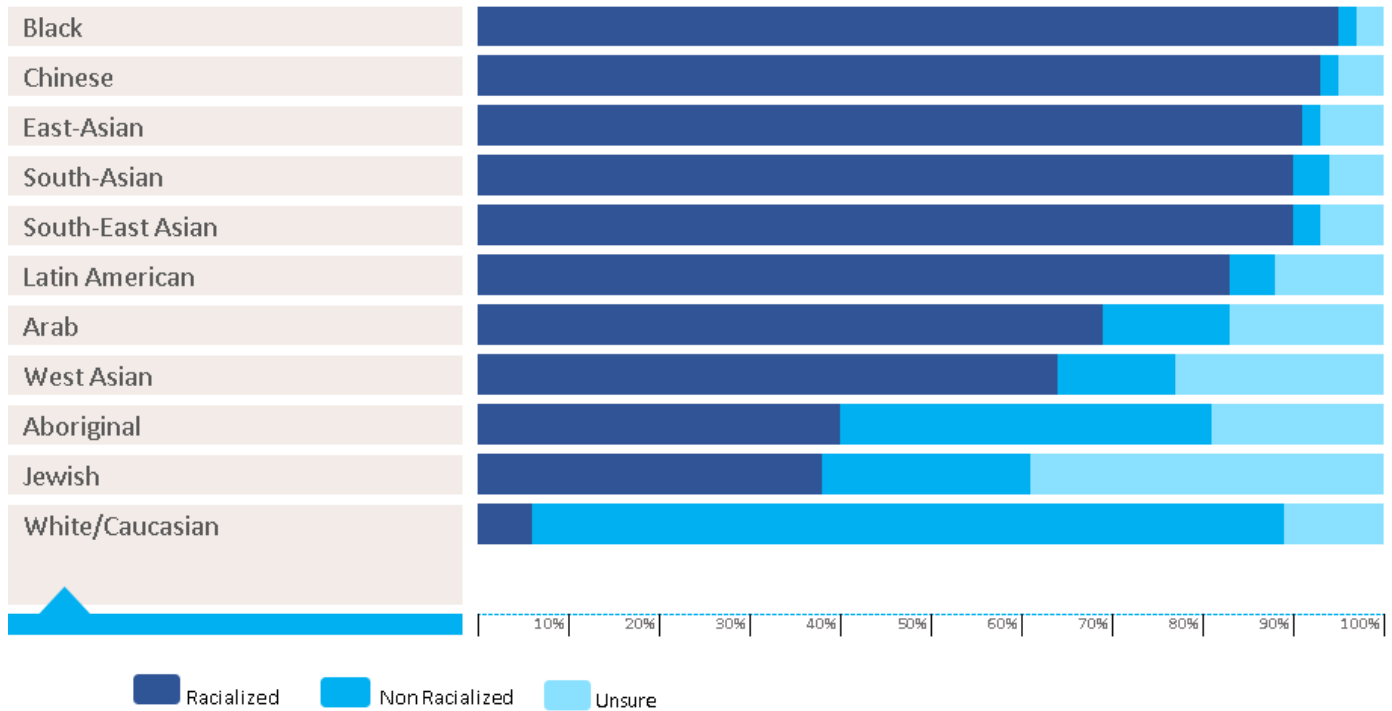
Weighted sample size = 3402 licensees

The breakdown for professional category is that 25% of paralegals say they are racialized, while 22% of lawyers indicated this.

Interestingly, cross tabulation of racialization to the typical ethno-racial identities as used by Statistics Canada reveals that there are different degrees of concordance for different subgroups. While the vast majority of black (95%) and Chinese (93%) see themselves as racialized, those of Arab (69%) and west Asian (64%) origins (for example) are much more likely to say they are either not racialized, or simply unsure.⁵

⁵ In this question – which followed the question about racialization – respondents were presented with pre-coded ethno-racial identifiers such as 'black', 'East Asian', 'Chinese' each with example ethnicities that commonly fit under that term. There was also an 'other' open-ended box, which accounts for the additional references to 'Jewish' which was not included as a separate code, but which was represented frequently among 'other' mentions, justifying the addition to the list of ethno-racial identifiers.

Chart 2 – Racialization by Ethnicity



For Aboriginal and Jewish licensees, racialization is a self-identity for less than half, further illustrating the multiplicity of identity and experience within groups that are often depicted as racially/ethnically uniform. The fact that 6% of licensees of Caucasian origin also identify as racialized demonstrates the overlap of racial markers between groups, or the fact that ‘racialization’ is still a very new concept to many people, or both.

4.5 Comparing Sub-groups (demographics)

As Table 4 illustrates, the population of racialized licensees are more likely to be young than their non-racialized colleagues. Fully 46% are under 40, compared to 29% for non-racialized licensees. And (not shown in the table below) the survey also revealed (Q 2) that whereas more than a third (37%) of racialized licensees were called within the past 5 years, that is true for only 22% of non-racialized licensees.

Racialized licensees are also more than three times as likely to be born outside Canada (44%) compared to non-racialized licensees (12%), and to have neither English nor French as their mother tongue (28% among racialized compared 6% among non-racialized). Sixteen percent (16%) received their law degree outside Canada, whereas among non-racialized licensees this figure is 6%.

Table 5 – Comparing Sub-Groups by Demographics

	Total Sample	Racialized	Non Racialized	Lawyer	Paralegal
Gender					
Female	41%	44%	42%	40%	54%
Male	59%	55%	58%	60%	46%
Total	100%	100%	100%	100%	100%
< 30	6%	8%	6%	5%	22%
30-39	26%	38%	23%	27%	20%
40-49	27%	31%	25%	27%	25%
50-65	34%	20%	38%	34%	29%
> 65	7%	3%	8%	7%	3%
Total	100%	100%	100%	100%	100%
Born in Canada	80%	56%	88%	81%	65%
Born outside Canada	20%	44%	12%	19%	35%
Total	100%	100%	100%	100%	100%
English	81%	66%	87%	82%	72%
French	6%	5%	7%	7%	3%
Another Language	12%	28%	6%	11%	25%
Total	100%	100%	100%	100%	100%
Have a law degree from a law school in Canada?	89%	82%	92%	96%	4%
Have a law degree from outside of Canada?	9%	16%	6%	9%	6%
Not have a law degree?	7%	8%	6%	0%	90%
Total*	104%	106%	104%	104%	100%

*Totals do not equal 100% as respondents could have degrees from both Canada and outside Canada

Table 5 shows the data for racialized and non-racialized licenses, and lawyers and paralegals, by practice environment. Notable features of this table are that although the broad pattern of distribution across the practice environments is similar for both groups, the likelihood of being a sole practitioner or working in a small firm is 31% for racialized licensees, compared to 27% for non-racialized. In addition there is a greater chance of being unemployed if a licensee is racialized (7% vs. 4%).

Table 6a – Comparing Sub-Groups by Practice Environment

	Total Sample	Racialized	Non Racialized	Lawyer	Paralegal
Sole practitioner	19%	21%	18%	18%	27%
Small firm (fewer than 6 licensees)	10%	10%	9%	8%	28%
Medium firm (6 to 50 licensees)	12%	11%	12%	11%	15%
Large firm (more than 50 licensees)	11%	11%	12%	12%	3%
Education	3%	3%	3%	3%	3%
Government	16%	16%	16%	17%	11%
Corporation	24%	26%	23%	24%	22%
Non-Profit	8%	7%	8%	8%	7%
Retired	5%	1%	6%	5%	1%
Reside outside Ontario	6%	6%	6%	7%	2%
Unemployed at this time	5%	7%	4%	4%	16%
Other	0%	0%	0%	0%	1%
Total*	119%	120%	118%	117%	134%

*Totals do not equal 100% as respondents could select multiple options

In terms of practice areas, data in the tables below indicate some differences between racialized and non-racialized lawyers:

- As indicated to us in key informant interviews, racialized lawyers are more likely than their non-racialized counterparts to practice immigration (9% vs. 3%), and/or criminal/quasi-criminal (15% vs. 12%), but they are also more likely to be providing services in intellectual property law (12% vs. 8%). (Q7)

- Among paralegals, 82% of licensees practice in provincial offenses/summary offenses, compared to 56% among non-racialized. They are also more likely to practice in SABS and small claims, landlord/tenant, and human rights, but less likely to practice in property tax and workers' compensation. (Q8)

Table 6b Practice Areas (Lawyers)

	Total Sample	Racialized	Non Racialized
Aboriginal law	4%	4%	4%
Administrative law	22%	23%	22%
ADR/Mediation Services	3%	3%	3%
Bankruptcy & Insolvency Law	3%	3%	3%
Civil litigation - Plaintiff	19%	18%	19%
Civil litigation - Defendant	23%	22%	23%
Construction law	5%	4%	6%
Corporate/Commercial law	35%	36%	35%
Criminal/Quasi Criminal law	14%	16%	13%
Employment/Labour law	18%	17%	19%
Environmental law	3%	3%	4%
Family/Matrimonial law	13%	15%	12%
Franchise law	2%	3%	2%
Immigration law	5%	9%	8%
Intellectual Property law	9%	12%	3%
Real Estate law	17%	19%	17%
Securities law	8%	8%	8%
Tax law	4%	5%	3%
Wills, Estates, Trusts law	13%	14%	14%
Workplace Safety & Insurance law	4%	6%	4%
Other	15%	15%	14%
Total*	238%	253%	118%

*Totals do not equal 100% as respondents could select multiple options

Table 6c Practice Areas (Paralegals)

	Total Sample	Racialized	Non Racialized
Ontario Court of Justice Provincial Offences Act matters+	46%	51%	43%
Ontario Court of Justice - Summary conviction offences	17%	30%	11%
Worker's Compensation	26%	21%	29%
Small Claims Court matters	58%	67%	55%
Property Tax Assessment	6%	1%	6%
Statutory Accident Benefits Schedule matters (SABS)	17%	28%	13%
Human Rights Tribunal	18%	23%	17%
Landlord and Tenant	36%	44%	33%
Other Tribunals	20%	32%	15%
Total*	243%	296%	223%

*Totals do not equal 100% as respondents could select multiple options

5. Experience of Licensees

5.1 What's the issue?

Building on the results of focus group research the survey phase sought to establish the context for understanding the experience of racialized licensees, and further define and measure the issues by asking racialized and non-racialized survey participants about their experience in the transition from school to articling, during entry into practice, and career advancement.

The issues explored were identified through the key informant and focus group process, which gave priority to the experiences, perceptions and concerns identified by racialized licensees. However, the key banks of questions were deliberately framed in neutral terms, and made no assumptions about differences of experience between the racialized and non-racialized licensees to whom they were addressed.

What emerges from this section of the report is an overview of the landscape of career challenges faced by both groups which illustrates the breadth and depth of divergent experiences of racialized and non-racialized licensees, as well as those points where there is a convergence of experience between the two main groups of respondents or sub-groups within them.

5.2 Personal Experience

Racialized and non-racialized respondents were offered a list of 16 statements related to their experience of entry into practice and career advancement, and asked to indicate if they agreed or disagreed with each. For purposes of analysis and interpretation responses have been grouped thematically in three separate charts.⁶

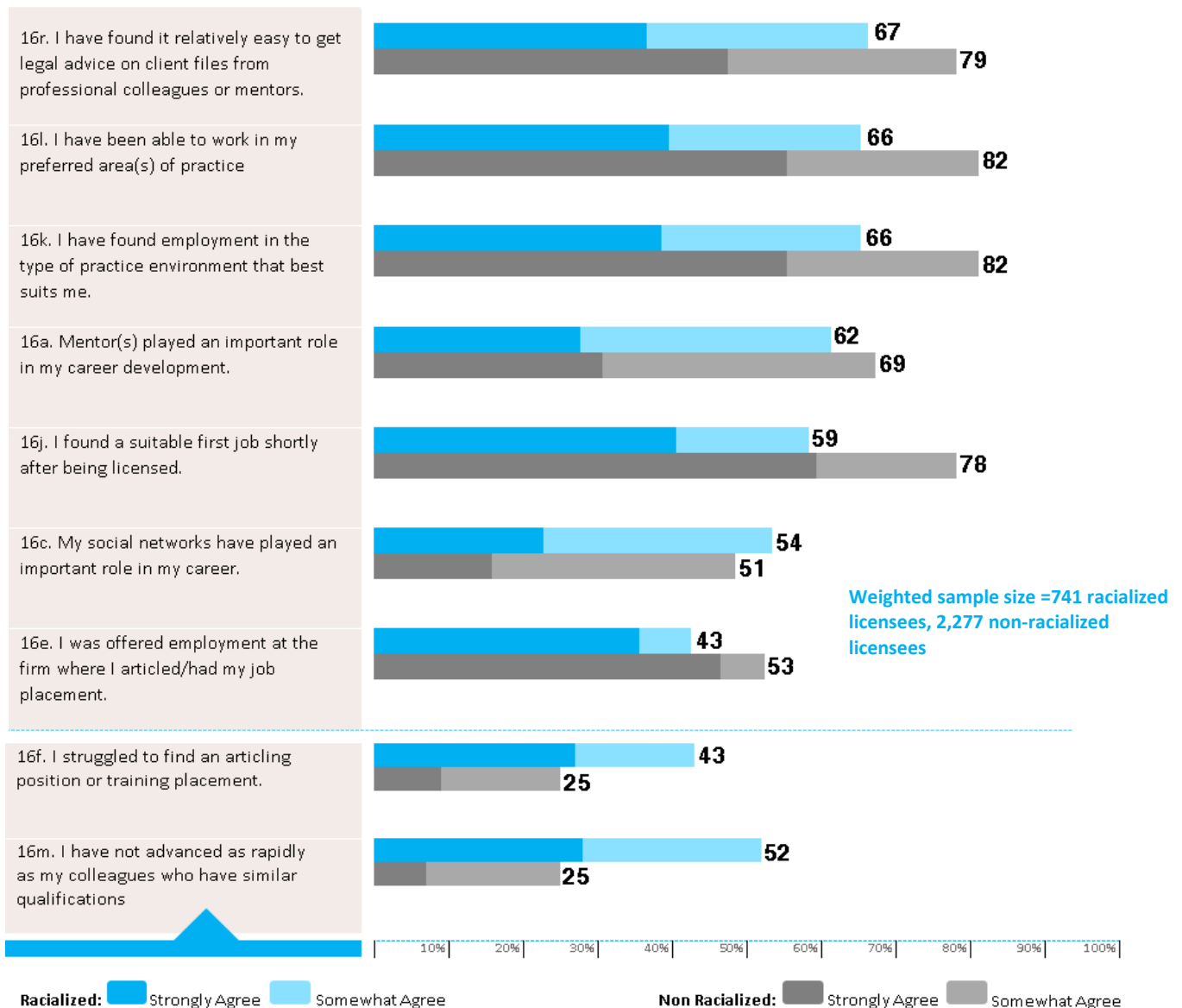
⁶ Broad concepts or themes in the survey data were identified using exploratory factor analysis (EFA), a statistical technique designed to identify an underlying structure in the data based on correlations between survey items. For example in Chart 3 below respondents who agreed with any of the nine statements listed were also more likely to agree with one or more of the other eight, suggesting that there is an underlining theme (or factor) uniting this group of statements. These factor analytic models were estimated using specialized statistical software (Mplus) that allows for survey weights, and that also correctly accounts for the categorical nature of the survey data (e.g. dichotomous, or three, four or five point survey response scales).

5.2.1 Career Opportunities

Chart 3 shows results of nine statements under the theme Career Opportunities/ Professional Growth, combining strongly/somewhat agree responses from both groups of respondents. For the seven statements at the top of this chart numbers indicate percentage of overall agreement with a *positive* experience. For the two at the bottom of the chart the numbers indicate the percentage of agreement with a *negative* experience.

Chart 3 – Career Opportunities/Professional Growth

(Q16-1) Do you agree or disagree with each of the following statements about your entry into practice/career advancement?



Racialized licensees registered higher negative responses on eight of the nine statements shown in Chart 3, including six that referred to finding an articling position or training placement, finding suitable or preferred employment, and career advancement. For each of these six statements racialized respondents indicated lower levels of success.

Fifty-nine percent of racialized respondents agreed that they had found a suitable first job after being licensed, compared to 78% non-racialized (Q 16j)⁷. On a related issue 43% of racialized compared to 53% of non-racialized respondents reported having been offered employment at the firm where they had articulated or had a training placement (Q16e). On two other employment issues, 66% of racialized licensees agreed they had found employment in a suitable practice environment, and 66% also agreed they had been able to work in their preferred area of practice. This compared to 82% of non-racialized respondents who agreed with each of these statements (Q 16k, l).

Response to the two statements at the bottom of Chart 3 suggest wide differences of experience at entry into the profession, and in overall career trajectory. Among racialized respondents 43% agreed they had struggled to find an articling position or training placement, compared to 25% of non-racialized (Q16f). A majority (52%) agreed they had not advanced as rapidly as colleagues with similar qualifications, compared to 25% of non-racialized (Q16m). Among racialized licensees more than one quarter strongly agreed with each of these statements (27% and 28% respectively)⁸.

Among racialized respondents 67% agree that it was relative easy to get legal advice on client files from professional colleagues and mentors, compared to 79% of non-racialized respondents (Q16r). Differences between the two groups were somewhat narrower on other statements than about mentors and social networks. Sixty- two percent of racialized respondents agreed that mentors had played an important role in their career development, compared to 69% of non-racialized respondents (Q16a). A slightly *higher* percentage of racialized than non-racialized respondents indicated that social networks had played an important role in their career – 54% racialized compared to 51% non-racialized (Q16c).

Results shown in Chart 3 suggest there are wide differences of experience between racialized and non-racialized licensees across a number of key employment measures. Racialized licensees report substantially lower rates of success in finding articling

⁷ Numbers and letters in parenthesis in the text of the report refer to corresponding number and lettered statements listed in the left hand column of each chart.

⁸ Percentages in Chart 3 and in some subsequent charts are for total *strongly/somewhat agree* only. Detailed percentages for all responses are available in the full survey data set accompanying this report.

positions and training placements, being re-hired following such placements, finding employment in the practice environment of their choice, and advancing as rapidly as colleagues with similar qualifications.

Further Comparisons: Paralegals

The focus group report noted that racialized paralegals, particularly the high proportion of recent licensees, might face greater challenges in the job market than racialized lawyers. Data not shown here reinforces this hypotheses, illustrating that whereas paralegals as a group report lower success rates in finding suitable employment than do lawyers, racialized paralegals are particularly disadvantaged in this respect.

On the key measure of finding a suitable first job just 26% of racialized paralegals agreed, compared to 36% of non-racialized paralegals (Q16j). On finding employment in their preferred practice environment 37% of racialized paralegals agreed, compared to 57% of their non-racialized counterparts (Q16k). Similarly, 41% agree they had found employment in their preferred area of practice as compared to 67% of non-racialized paralegals (Q16l).

5.2.2 Disrespect/Disadvantage

Chart 4 – Disrespect/Disadvantage

(Q16-2) Do you agree or disagree with each of the following statements about your entry into practice/career advancement?

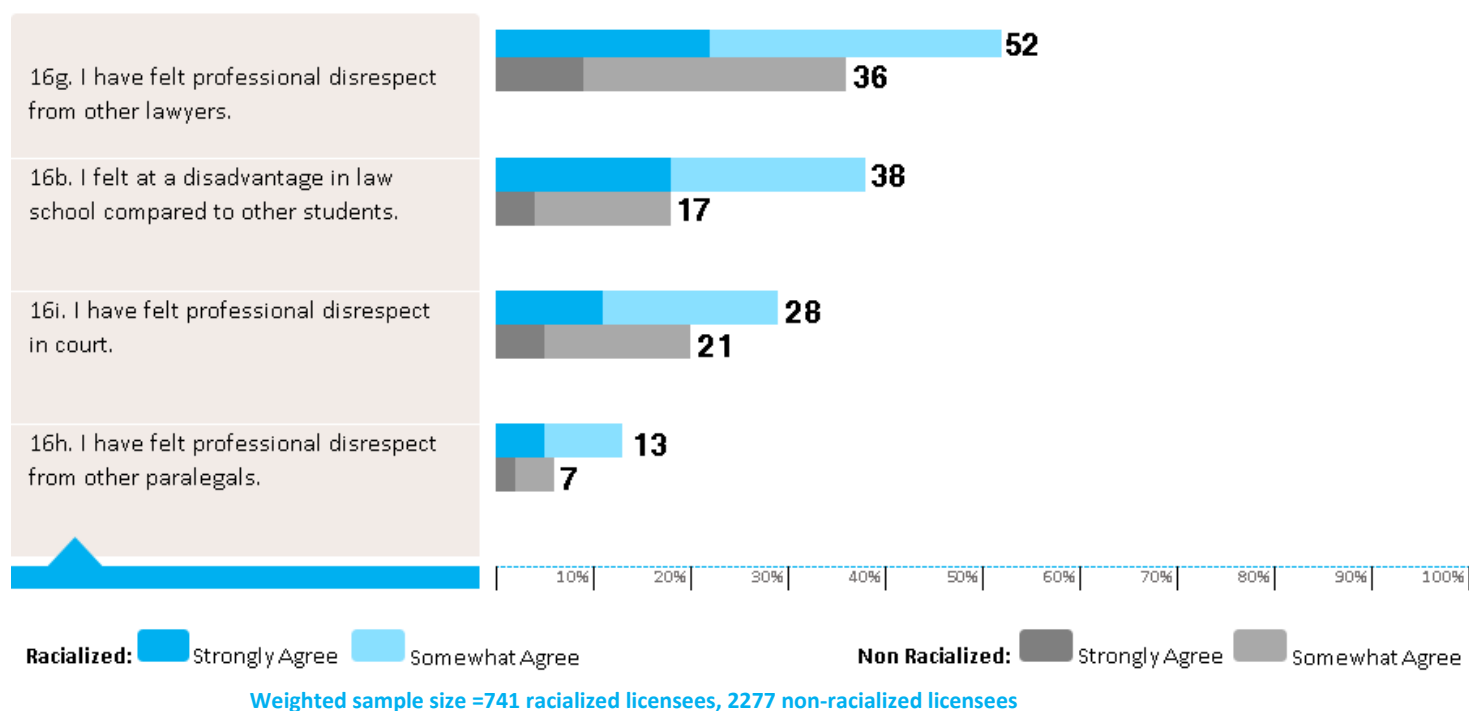


Chart 4 groups four statements associated with issues of respect and perceptions of disadvantage. Among racialized licensees 52% agreed they had experienced disrespect from other lawyers, compared to 36% of non-racialized licensees (Q16g). Asked about disrespect from other paralegals, 13% of racialized licensees agreed, including 37% of racialized paralegals (Q16h), compared to 7% of all non-racialized licensees and 20% of non-racialized paralegals (Q16h). Twenty-eight percent of racialized respondents and 21% of non-racialized respondents agreed that they had felt disrespect in court (Q16i).

Regarding experiences at law school, 38% of racialized licensees agreed that they had felt disadvantaged at law school compared to other students. This included 18% of racialized respondents who strongly agreed, exceeding the total of 17% of all non-racialized respondents who strongly/somewhat agreed with the same statement (Q16b).

5.2.3 Career Setbacks

Chart 5 – Career Setbacks

(Q16-3) Do you agree or disagree with each of the following statements about your entry into practice/career advancement?

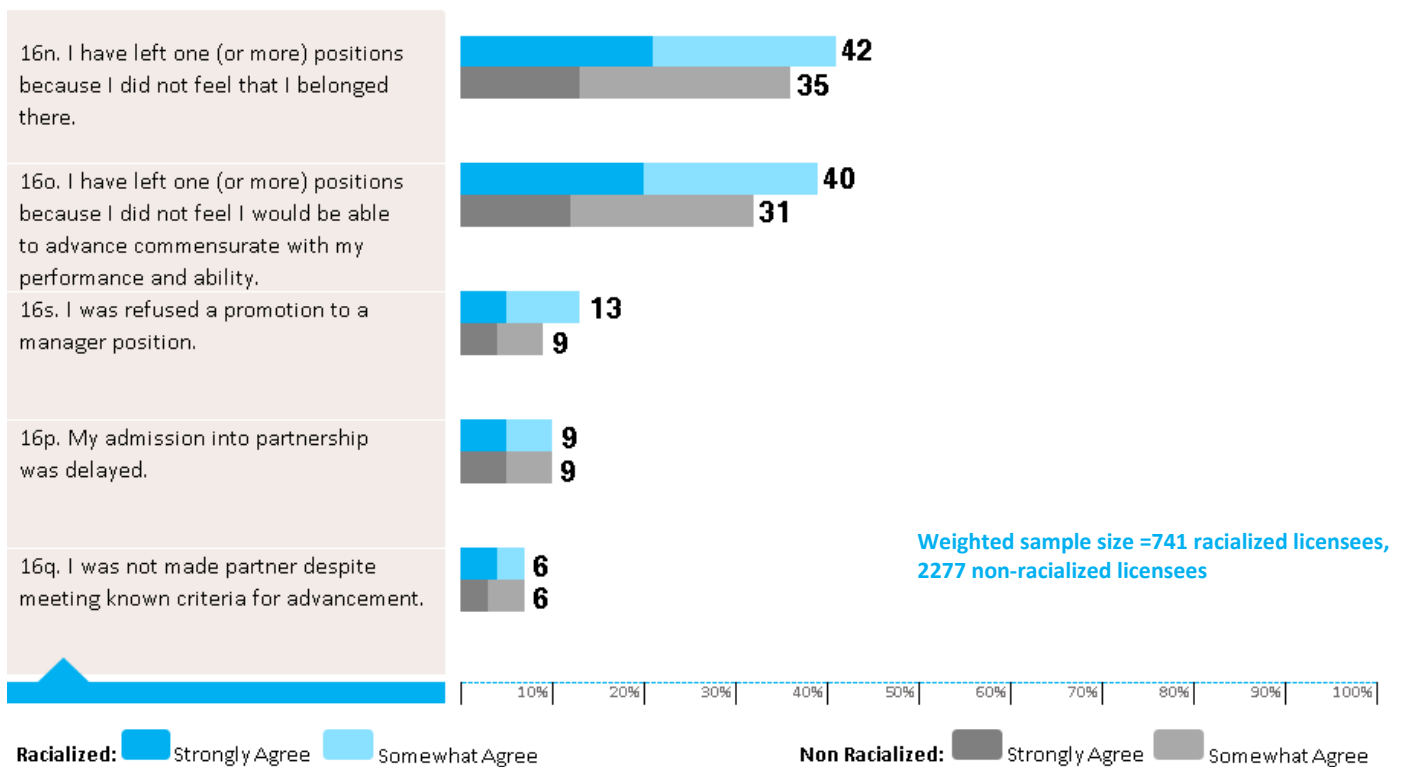


Chart 5 groups five statements around the theme of career setbacks. In comparison with results illustrated in Charts 3 and 4, responses presented here show narrower differences between racialized and non-racialized respondents.

Starting at the top of Chart 5, 42% of racialized licensees and 35% of non-racialized agreed they had left one or more positions because they felt they did not belong there (Q16n), including 22% and 13% respectively who strongly agreed. On a closely related issue, 40% of racialized and 31% of non-racialized respondents reported having left one or more positions because they did not feel they would advance commensurate with their performance and ability (Q16o).

Thirteen percent of racialized and 9% of non-racialized licensees agreed that they had been refused promotion to a management position (Q16s). Additional data not shown here indicates that those racialized respondents most likely to agree with this statement were: first language French (30%), employed by a Corporation (22%), Education (19%), Government (19%), and those 40-49 years of age (18%), 50-59 (18%), and over 65 (20%). Non-racialized licensees more likely to agree included: employed by Corporation (12%), Education (12%), and Government (12%).

Equal percentages of racialized and non-racialized licensees reported that their admission to partnership had been delayed (9%), and that they were not made partner despite meeting known criteria for advancement (6%) (Q 16 p, q).⁹

5.3 Barriers to Entry and Advancement

Racialized and non-racialized survey participants were presented a list of factors and asked to indicate in each case if they had experienced that factor as a barrier or challenge 'at any time during your entry into practices, at any time after your entry into practice (i.e. career advancement), or neither.' **Table 7** reports the percentage of yes responses to each question *during entry into practice*. Responses to seventeen questions have been thematically grouped under four headings. **Table 8** which follows, reports percentage of yes responses to each question *after entry into practice*. In this table, responses to the same seventeen questions have been thematically grouped under five headings.

⁹ The low percentage responses for three of the statements presented in Chart 5 can be accounted for in part by the fact that between three fifths and three quarters of all respondents indicated the question 'does not apply to me.' Does not apply/not applicable was offered as a response throughout the online survey.

5.3.1 Identifying Barriers to Entry

Table 7 – Barriers During Entry to Practice

(Q17) For each factor, please indicate if you have experienced it as a barrier or challenge at any time during your entry into practice.

Race, Ethnicity, Culture	Racialized	Non-Racialized
Your ethnic/racial identity	40%	3%
Your (family's) socio-economic status	19%	8%
Where you were born/raised	17%	4%
The way you speak English/French	12%	3%
Sex, Gender, Age		
Your physique/appearance	24%	8%
Your age (too young)	15%	8%
Your gender identity	11%	6%
Your religion or religious practices	9%	2%
Your need/desire to take time away from work to care for children or other family members	7%	5%
A cognitive or learning disability	2%	1%
A physical disability	2%	1%
Academic Pedigree (Background/history)		
Which schools(s) you graduated from	18%	9%
Where you were trained/educated	16%	7%
Lifestyle, Personal Beliefs		
The types of social activities you prefer	18%	5%
Your social or political views	12%	5%
Your age (too old)	9%	6%
Your sexual orientation	4%	3%

Weighted sample size =741 racialized licensees, 2277 non-racialized licensees

Race, Ethnicity, Culture

As Table 7 shows, fully 40% of racialized licensees identified their ethnic/racial identity as a barrier or challenge to entry into the practice of law or provision of legal services, contrasting sharply with the 3% of non-racialized licensees who perceived ethnic/racial identity as a barrier. Data not shown here indicates that racialized licensees who were most likely to cite race/ethnicity as a barrier to entry included: South East Asian (54%), Black (52%), Arab (50%), South Asian (46%), first language neither French/English (46%), female (45%) and born outside Canada (44%).

Whereas ethnic/racial identity was selected by a substantially higher percentage of racialized respondents than any of the other challenges or barriers tested, it ranked among the least important challenges identified by non-racialized respondents. This comparison underlines and reinforces the conclusion that racial status is a defining factor in shaping the experience that licensees have entering law practice or the provision of legal services, and in distinguishing their experience from that of their non-racialized colleagues.

Within the same group of statements your (family's) socio-economic status was identified as a challenge by 19% of racialized licensees and 8% of non-racialized. Where you were born/ raised was seen as a barrier by 17% of racialized licensees and 4% of non-racialized, and the way you speak English/ French by 12% of racialized compared to just 3% of non-racialized respondents.

Sex, Gender, Age

Seven potential barriers are grouped under this heading. Physique/physical appearance was identified as a barrier to entry into the legal professions by 24% of racialized and 8% of non-racialized licensees. Age (too young) was cited by 15% and gender identity by 11% of racialized licensees, compared to 8% and 6% respectively among non-racialized licensees.

On the top three issues listed in this section of the table – physical appearance, age (too young), and gender – women in both groups were more likely than their male counterparts to identify these factors as barriers to their entry into the profession. Among women 29% racialized and 12% non-racialized identified physique/appearance, compared to 19% racialized and 4% non-racialized men. On gender, 17% of racialized and 12% of non-racialized women identified it as a barrier to entry, compared to 5% of racialized men and just 1% of non-racialized men. Finally, on the issue of age (too young) 23% of racialized women and 11% of non-racialized women identified a barrier to entry, compared to 9% of racialized men and 5% of non-racialized men.

These comparisons suggest some convergence in the experience of the women (and men) in both groups around gender-related issues. However, the survey results also indicate that *both* racialized respondents as a whole *and* racialized women (data not shown) identified all seven issues within this group as barriers to entry more frequently than their non-racialized counterparts. Although some of the differences in the aggregate figures might be accounted for in part by the fact that a higher proportion of non-racialized respondents are women, the results reinforce the focus group findings that for many racialized women the experience of gender bias is compounded as a consequence of their racial status. Racialization and gender intersect to amplify barriers associated with each factor.

Academic Pedigree

Eighteen percent of racialized licensees identified the school or schools they had graduated from as a barrier to entry, compared to 9% of non-racialized. Along similar lines 16% of racialized compared to 7% of non-racialized licensees identified where they had been trained/educated as a barrier.

Data not shown indicates that among racialized respondents the percentage of those who identified where they had been trained/educated as a barrier to entry was highest for: unemployed (34%), paralegals (24%), and those born outside Canada (21%) as well as West Asian (23%), Jewish (22%), and Chinese (21%). On the issue of identifying which school they had graduated from as a barrier to entry, comparisons across demographic, ethno-racial categories and practice environments revealed less variation. Exceptions who were more likely to identify their alma mater(s) as a barrier to entry included: currently unemployed (30%), working for a small firm (23%) or under 30 years of age (23%).

Lifestyle, Personal Beliefs

Just under one fifth (18%) of racialized licensees acknowledged that their preferences in social activities constituted a barrier or challenge to entry, compared to just 5% of their non-racialized colleagues. On a related issue, 12% of racialized licensees identified their social or political views as a barrier to entry compared to 5% of their non-racialized counterparts. The percentage of those who identified their social preferences as barrier to entry included: West Asian (27%), South Asian (23%), South East Asian (23%), Chinese (23%), women (21%) and those whose mother tongue is neither French nor English (21%).

The relative frequency with which racialized respondents identified their social activity preferences and social/political views as barriers to entry, is consistent with focus group findings, which underlined the seriousness of challenges associated with participating

in or easily adapting to the dominant social practices and culture, in and beyond the work place.

5.3.2 Barriers to Advancement

Both groups of respondents were also asked to identify which factors, from the same list, represented barriers at any time *after* entry into practice. **Table 8** groups these issues under five thematic headings, establishing a fifth heading under the title of Disability. The important issue of physique/appearance has moved from the *Sex, Gender, Age* heading in Table 7 to the *Race, Ethnicity and Culture* group of issues with which it is slightly more closely correlated after entry into practice.

Both groups of respondents tended to identify the same factors as barriers *after* entry into the legal profession as they had *during entry*, with some notable differences which are discussed further below.

As was the case with the results presented in Table 7, results shown in Table 8 illustrate wide differences in the experiences of racialized and non-racialized licensees. With the single exception of sexual orientation, racialized licensees identified every factor listed as a barrier to advancement after entry more frequently than their non-racialized counterparts. In the case of many of the factors grouped under the headings *Race, Ethnicity, Culture* and *Lifestyle, Personal Beliefs* the differences between the two groups are substantial.

Table 8 – Barriers After Entry into Practice

Race, Ethnicity, Culture,	Racialized	Non-Racialized
Your ethnic/racial identity	43%	3%
Your physique/appearance	24%	8%
Your (family's) socio-economic status	17%	7%
Where you were born/raised	15%	2%
The way you speak English/French	15%	5%
Sex, Gender, Age		
Your need/desire to take time away from work to care for children or other family members	25%	23%
Your age (too young)	20%	12%
Your gender identity	14%	10%
Academic Pedigree (Background/history)		
Which schools(s) you graduated from	9%	4%
Where you were trained/educated	12%	4%
Lifestyle, Personal Beliefs		
The types of social activities you prefer	26%	12%
Your social or political views	16%	9%
Your religion or religious practices	11%	3%
Your sexual orientation	3%	3%
Disability		
Your age (too old)	12%	11%
A physical disability	4%	3%
A cognitive or learning disability	3%	2%

Weighted sample size =741 racialized licensees, 2277 non-racialized licensees

Race, Ethnicity, Culture

As noted, the greatest difference between the two groups lies in the importance of ethnic/racial identity which is perceived as a barrier/challenge to advancement by 43% of racialized licensees, compared to 3% of the non-racialized licensees.

Intersecting with this dominant issue are the other four issues in the same group of issues – physique/appearance, family socio-economic status, where you were born/raised and how you speak English/ French – all which have been identified as barriers after entry by at least 15% of racialized licensees. By contrast, for non-racialized licensees this group of issues represent barriers after entry to practice that are comparable or possibly of lesser importance than those associated with *Sex, Gender, Age* and *Lifestyle, Personal Beliefs*.

Sex, Gender, Age

Time away from work to care for children and other family members is identified with much greater frequency as a barrier after entry than it is during entry, rising from 7% to 25% for racialized and 5% to 23% for non-racialized licensees, comparing Tables 7 and 8.

Data not shown in Table 8 indicates that among racialized respondents those who most frequently flagged this issue as a barrier after entry included: female (33%), 40-49 years of age (31%), sole practitioners (28%), 30-39 years (27%), as well as West Asian (35%) and East Asian (32%). Among non-racialized respondents those who most frequently named this barrier included: women (36%), 40-49 years of age (32%) and 30-39 years (26%).

Consistent with the conclusion from the earlier comparisons, identification of barriers after entry suggest a convergence of the experience of racialized and non-racialized women (33% and 36% respectively) who identified the need for time away to care for children and family as a barrier to advancement .

Lifestyle, Personal Beliefs

Two issues emerged as more important barriers to advancement after than during entry. The types of social activities you prefer was identified as a barrier by 26% of racialized and 12% of non-racialized licensees, rising from 18% and 5% respectively (Table 7). Interestingly, racialized respondents ranked this issue second after ethnic/racial identity on the list of 17 potential barriers to advancement. Among non-

racialized respondents it was tied for second with age (too young), with 12% of respondents naming each issue.

Data not shown indicates that racialized respondents who most frequently identified preferences for social activities as a barrier to advancement included: employed by a Corporation (33%), Chinese (36%), Arab (33%), South Asian (31%), and South East Asian (31%). Among non-racialized licensees the highest frequency of response included: age 30-39 (16%), Education (15%), Medium sized firm (14%), and employed in Government (14%).

On a closely related issue, 16% of racialized and 9% of non-racialized respondents identified their social and political views as a barrier during practice, compared to 12% and 5% respectively who identified this issue as a barrier to entry. Data not shown in Table 8 indicates that racialized respondents who most frequently identified this factor included: employed in Education (33%), Government (25%), French first language (22%), female (20%), Sole practitioners (19%) as well as Arab (33%), Aboriginal (29%), and South East Asian (25%).

Here, again survey results confirm the findings of focus groups where many participants stressed the importance of shared interest as a factor in career advancement. As one racialized young female lawyer explained in a larger discussion about the impact of ‘fit’:

“More work was delegated to those that fit in. For example, if you talked football with your colleagues then you had a better chance for business... As the years go on you can see the numbers of visible minorities decreasing as seniority increases.

6. Impacts of Racialization

6.1 What's the Issue?

The previous section reported results of survey questions which explored similarities and differences in the experience of racialized and non-racialized licensees in relation to the landscape of career challenges they face. It sought to identify, measure and compare which factors were perceived as barriers to entry and advancement within the legal professions.

This section of the report explores impacts: the extent to which identified challenges or barriers are perceived by racialized licensees to have disadvantaged them at any stage of their career. Results reported in this section are based on questions addressed to racialized licensees only.

6.2 Impacts: Have you been disadvantaged?

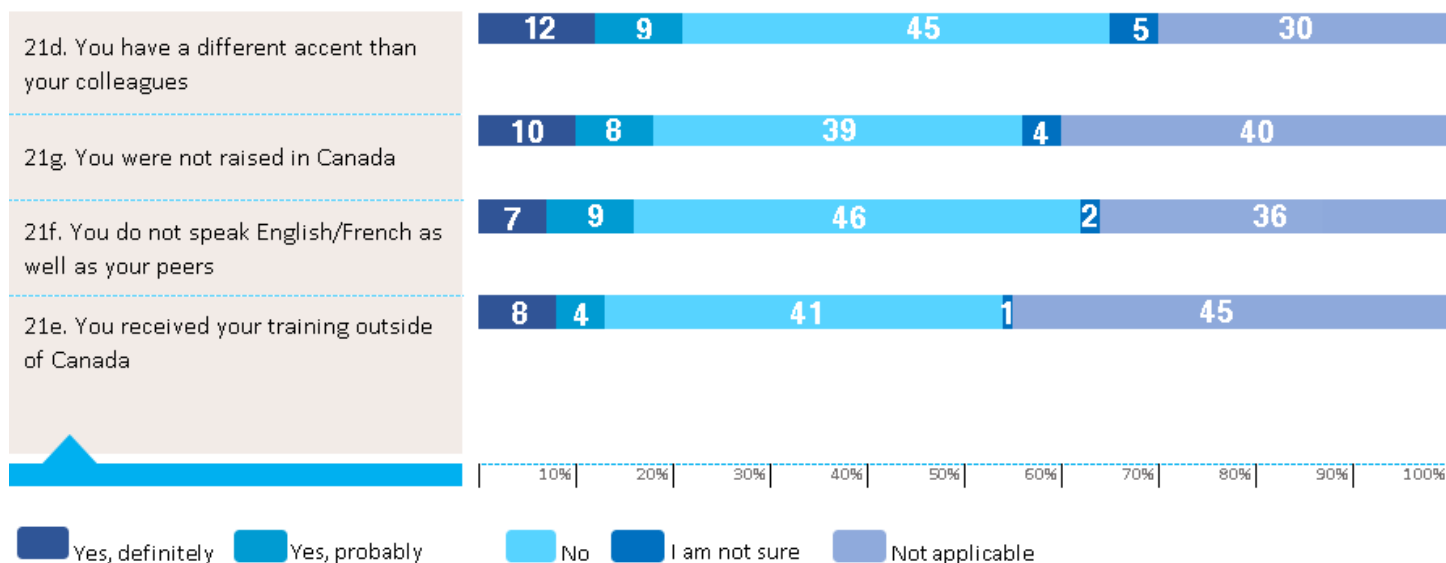
Racialized respondents only were asked if they had been disadvantaged in hiring, advancement, or pursuit of an area of practice, 'as a consequence of the factors listed below.' Response to 24 factors tested have been grouped in **Charts 6, 7, and 8**.

6.2.1 National Origin

Chart 6 shows results of four statements grouped under the heading National Origin.

Chart 6 – Disadvantages due to national origin

(Q21-1) Have you been disadvantaged in hiring, advancement, or pursuit of an area of practice as a consequence of any of the factors listed below?



Weighted sample size =741 racialized licensees

Twenty-one percent of respondents indicated that they had definitely (12%) or probably (9%) been disadvantaged as a consequence of having a different accent than their colleagues (Q21d), 18% as a result of not being raised in Canada (Q21g), 16% because they do not speak English/French as well as their peers (Q21f), and 12% because they had received their training outside Canada (Q21e).

The high proportion of No or Not Applicable responses in Chart 6 is accounted for, at least in part, by the fact that 55% of racialized licensees were born in Canada, 71% report first language either French nor English, and 88% of lawyers (91% of the total sample of racialized licensees) have a law degree from a law school in Canada.

Respondents whose first language is neither French nor English or who were born outside Canada were much more likely to answer the four statements in Chart 6 in the affirmative. Data not shown reveals that 36% of those reporting another first language

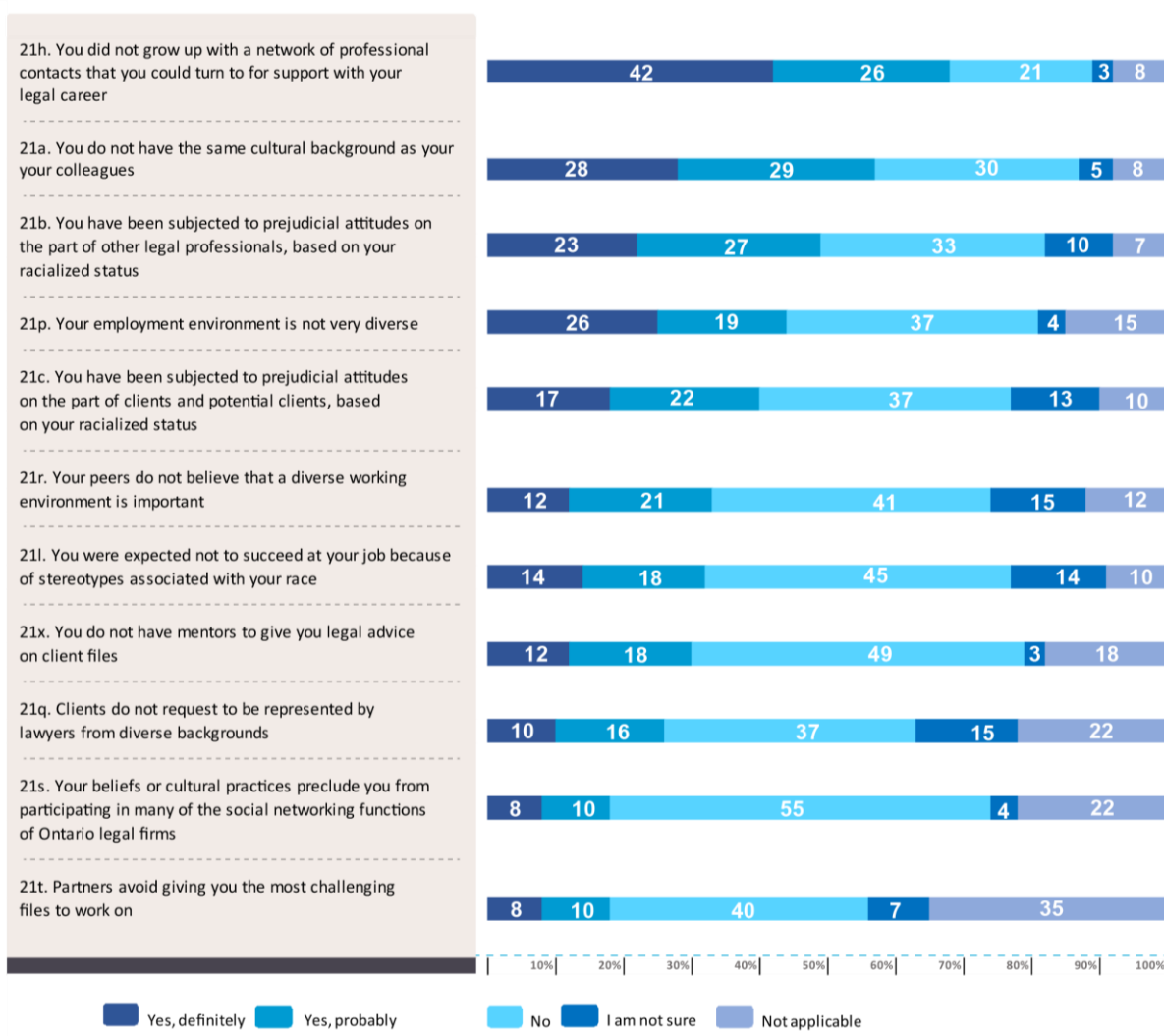
and 35% of those born outside of Canada reported being disadvantaged due to their accent. Twenty-four percent of those reporting another first language, and 38% born outside Canada, reported being disadvantaged as a consequence of not being raised in Canada. Twenty-four percent of those who speak another first language, and 19% born outside Canada identified not speaking English/French as well as their peers as a source of career disadvantage. Finally, 22% of those who speak another first language, and 22% who were born outside Canada identified being trained outside Canada as a disadvantage.

In short, for up to *two fifths* of the subset of racialized licensees whose first language is neither French nor English and/or were born outside Canada the group of issues listed in Chart 6 are perceived as having been a source of disadvantage in hiring and/or career advancement.

6.2.2 Outgroup

Chart 7 – Disadvantages due to ‘Outgroup’

(Q21-2) Have you been disadvantaged in hiring, advancement, or pursuit of an area of practice as a consequence of any of the factors listed below?



Weighted sample size =741 racialized licensees

Chart 7 reports results of 11 statements, thematically grouped under the heading Outgroup.

Two statements drew the highest proportion of affirmative responses from the bank of 24 questions reported in Charts 6, 7 and 8. For the statement at the top of Chart 7, which refers to the disadvantage of growing up without a network of professional contacts, 68% (42% definitely) identified this factor as contributing to a career disadvantage (Q21h). For the second statement, which referred to not having had the same cultural background as one's colleagues, 57% (28% definitely) identified this factor as having disadvantaged their career (Q21a).

As noted elsewhere in this report (Section 3), issues of professional, social and cultural marginalization are closely associated with discrimination and isolation arising from racialization. Fully 50% of racialized licensees (23% definitely) identified prejudicial attitudes on the part of other legal professionals (Q21b), and 45% (26% definitely) identified lack of diversity in their work place environment (Q21p).

In the bottom half of Chart 7, six factors related to work place practices and attitudes drew affirmative responses from between one fifth and one third of racialized respondents. These included: your peers do not believe in a diverse working environment (33%) (Q21r), you were expected not to succeed because of stereotypes associated with your race (32%) (Q21l), you do not have mentors to give you advice on client files (30%) (Q21x), clients do not request lawyers from diverse backgrounds (26%) (Q21q), your social/cultural practices preclude participating in social networking functions (18%) (Q21s), and partners avoid giving you the most challenging work (18%) (Q21t).

Cross Tabulation: Some Comparisons

This section presents data not shown.

For the three statements listed at the top of Chart 7 – absence of professional networks, divergent cultural background, and prejudicial attitudes – women were more likely and men less likely to name these factors as contributing to career disadvantage. Sole practitioners were more likely and those in large firms less likely to identify each of these factors as contributing to career disadvantage. For all three statements respondents who are 30-39 years of age and those who are 40-49 were more likely, whereas younger (under 30) and older (50-65, and over 65) respondents were less likely to identify these factors as a source of career disadvantages.

Racialized respondents whose first language is neither English nor French, and those born outside Canada, were more likely than average to identify the three factors listed at the top of Chart 7 as sources of career disadvantage. Conversely, racialized licensees born in Canada were less likely than average to identify any of these factors as contributing to career disadvantage. For example, on the issue of having been subjected to prejudicial attitudes from other legal professionals (Q21b), 58% of those whose first

language is neither French nor English, and 61% of those born outside Canada, reported being disadvantaged, compared to 41% of those born in Canada. The distribution of opinion between these two groups was similar for the two statements at the top of Chart 7 (21h, 21a).

Among ethno-racial groups, Black, South Asian, Chinese, East Asian and Arab respondents were more likely than average to identify all three factors as contributing to career disadvantage. To take one example, those most likely to flag prejudicial attitudes on the part of other legal professionals included: Black (67%), South Asian (59%) and East Asian (55%) (Q21b).

Whereas the absence of professional networks, divergent cultural background and prejudice based on race are identified as the most important sources of career disadvantage for a majority of *all* racialized respondents, comparisons illustrate some differences between different groups of racialized licensees. Among those more likely than average to name these factors as probable or definite sources of career disadvantage are:

- Women
- Soles practitioners
- First language other than French/English and
- Born outside Canada

Ethno-racial groups more likely than average to name all three factors as probable or definite sources of career disadvantage are:

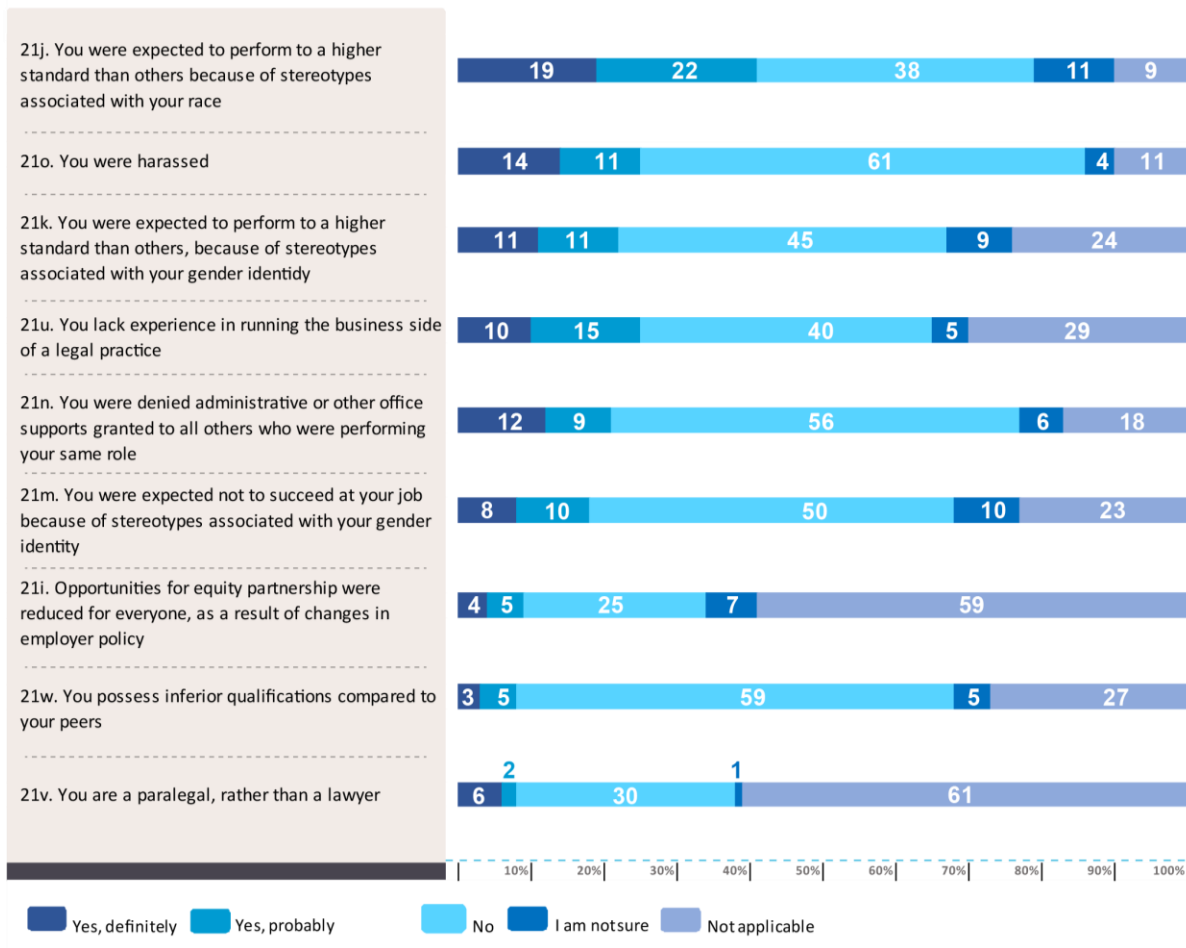
- Black
- South Asian
- Chinese
- Arab

6.2.3 Stereotyping

Chart 8 shows results of nine statements thematically grouped under the heading Stereotyping. Horizontal bars record responses of racialized licensees to each statement.

Chart 8 – Stereotyping

(Q21-3) *Have you been disadvantaged in hiring, advancement, or pursuit of an area of practice as a consequence of any of the factors listed below?*



Weighted sample size =741 racialized licensees

Forty-one percent of racialized licensees reported having been expected to perform to a higher standard than others due to stereotypes associated with race (Q21j). Data not shown indicates that those who most frequently identified this factor as a source of career disadvantage include: Sole practitioners (49%), Born outside Canada (47%), (female) 46%, 40-49 years of age (47%), 30-39 years (44%), first language neither French nor English (43%). Ethno-racial groups that named this factor more frequently than average included: Black (54%), Chinese (52%), South East Asian (46%), Arab (46%), and South Asian (45%).

The demographic characteristics, and to some extent the ethno-racial composition of those who were more likely to name race-based stereotyping as source of career disadvantage, is similar to the composition of those groups who identified the key factors of professional network, cultural divergence and racial prejudice of colleagues (see section 6.2.2).

Three statements in Chart 8 referred to harassment (Q21o), higher expectations due to gender stereotypes (Q21k), and lower expectations due to stereotypes (Q21m). On the issue of harassment 31% of women and 19% of men identified it as a factor contributing to career disadvantage, 38% of women and 11% of men who identified higher expectations associated with gender stereotyping, and 24% and 4% respectively who named lower expectations based on gender stereotypes. Although these numbers show that racialized male licensees are not free from harassment or from gender-based stereotyping, the difference are nevertheless clear, defined by the fact that a much higher proportion of racialized women – between one quarter and two fifths – view gender stereotypes as a factor contributing to their having been disadvantaged in hiring, advancement or pursuit of an area of practice.

7. Solutions (Remedies and Best Practices)

7.1 What's the Issue?

This section explores the opinions of racialized and non-racialized licensees regarding the implications of the challenges faced by racialized licensees and remedies or best practices that should be followed to address those challenges.

The first part of this section (7.2) explores the extent to which both groups of survey respondents believe racialization exists as a process which imposes unique challenges on racialized licensees, exploring as well the implications of challenges associated with racialization of licensees for the justice system. The second part (7.3) canvasses opinion on diverse points of view about racialization. The third part (7.4) reports on the opinions of licensees regarding possible solutions and best practices, and who should lead or participate in the process of developing solutions to address the challenges facing racialized licensees.

7.2 Perspectives on Racialization

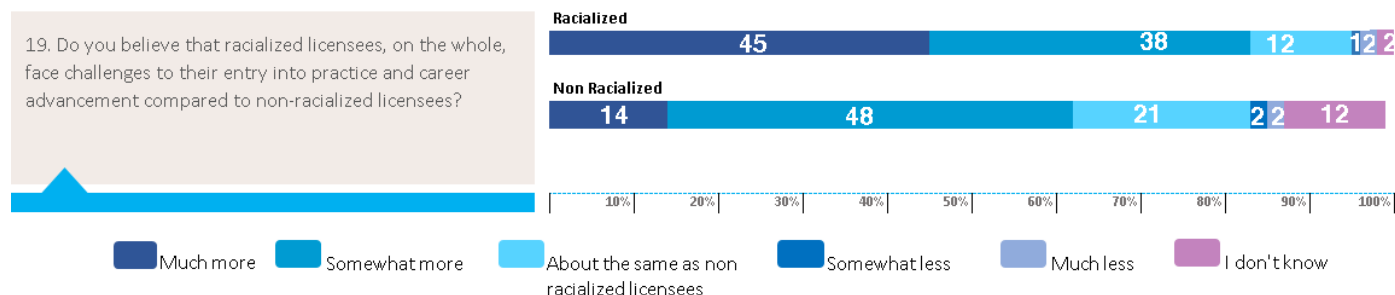
7.2.1 Does racialization exist?

Key informant interviews and focus groups for this study brought to light a powerful account of the extent to which race is a pervasive factor in shaping the experiences, choices and career outcomes of racialized lawyers and paralegals. Clearly, for many racialized licensees, 'racialization' is a very real phenomenon that has a material impact on their lives and careers in a variety of specific ways. Some participants in the non-racialized focus groups also reported experiences of discrimination or unequal treatment, which had had a significant impact on their career. However, their views on the challenges of racialization were mixed, and some were reluctant to accept the idea that racialization was a distinct unifying lens, or that the challenges faced by racialized licensees were qualitatively different than those they themselves had experienced.

The online survey explored the question further, measuring the extent to which the two groups of respondents agreed that racialization exists. **Chart 9** reports results of a survey

question that asked all respondents if racialized licensees faced challenges to their entry in practice and advancement compared to their non-racialized colleagues.

Chart 9 – Do Racialized Licensees Face Unique Challenges



Weighted sample size = 741 racialized licensees

Among racialized respondents 83% agreed that they face more challenges than their non-racialized colleagues, including 45% who characterized those challenges as much more than non-racialized licensees. Other data not shown here identified the following groups of racialized licensees who were more likely than average to agree: Female (93%), those under 30 years of age (89%), 30-39 (89%), 40-49 (89%) as well as Black (97%), South East Asian (93%), Chinese (92%), South Asian (91%) and East Asian (91%).

In comparison, 62% of non-racialized respondents agreed that racialized licensees face more challenges, including 14% who said much more. Other data not shown indicates that non-racialized licensees who were more likely than average to agree included: Female (67%), 40-49 years of age (67%), working in Medium-sized firm (66%), Large firms (64%).

At the other end of the spectrum of opinion on this question, just 3% of racialized respondents characterized the challenges they face as less in comparison with non-racialized licensees. Whereas a larger percentage of non-racialized respondents identified the challenges facing the two groups as about the same (21%) or didn't know (12%), an almost equally small percentage (4%) characterized the challenges facing racialized licensees as less than those facing their non-racialized counterparts.

Across the whole survey population of racialized and non-racialized licensees (data not shown) a strong majority (65%) agree that racialized licensees face challenges compared to non-racialized licensees, and only 4% are in outright disagreement with this view. And although support is not as strong among non-racialized licensees, the unique challenges facing racialized licensees were nevertheless acknowledged by a majority of

non-racialized respondents across almost every demographic and professional subgroup. The only exceptions in this respect were: first language neither French nor English, and paralegals of whom 45% and 37% respectively agreed that racialized licensees face challenges compared to their non-racialized colleagues.

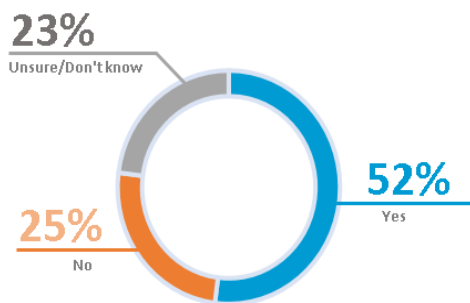
7.2.2 The Challenges of Racialization: What Have You Seen?

Although a strong majority of all respondents acknowledged the existence of racialization and career challenges associated with racialization, differences between the two groups were greater when asked about what they had witnessed. Of racialized respondents 52% acknowledged having witnessed an instance in which challenges faced by a racialized licensee or candidate had a material impact on that individual's entry into practice and/or career advancement. In comparison just 17% of non-racialized respondents reported having witnessed such a situation (**Chart 10**).

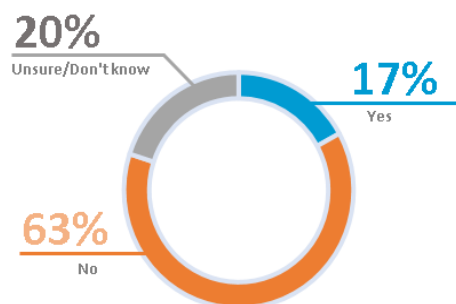
Chart 10 – Experiencing/Witnessing Challenges

(Q20) Have you experienced or have you witnessed a situation in which challenges faced by a racialized candidate or licensee had a material impact – either positive or negative – on that individuals' entry into practice and/or their career advancement?

► Racialized:



► Non-racialized:



Weighted sample size=741 racialized licensees, 2277 Non racialized licensees

A follow-up question asked those who answered yes to describe the situation they had witnessed. A total of 820 responses were coded in 42 categories (Q20).

Racialized respondents (n=383) most frequently cited witnessing: Differential treatment based on skin colour/race/religion/appearance (23%), Difficulty for racialized licensees in OCIs and finding articles (22%), Discrimination because of accent/language barriers (8%), Derogatory comments or bullying in school/office/courts (7%), and Inappropriate/irrelevant/racist comments or questions during interviews (7%).

Non-racialized respondents (n=375) most frequently cited favouritism toward ‘non-whites’ in schools or hiring, and the effects of diversity policy/reverse racism/affirmative action (19%).¹⁰

Other observations of non-racialized licensees were more closely aligned with those of racialized licensees: Greater difficulty in OCI’s/finding articles (15%), Differential treatment based on skin colour/race/religion/appearance (15%), Discrimination because of accent/language barrier (14%), Blacks face discrimination/harder time securing jobs/obtaining mentors (7%).

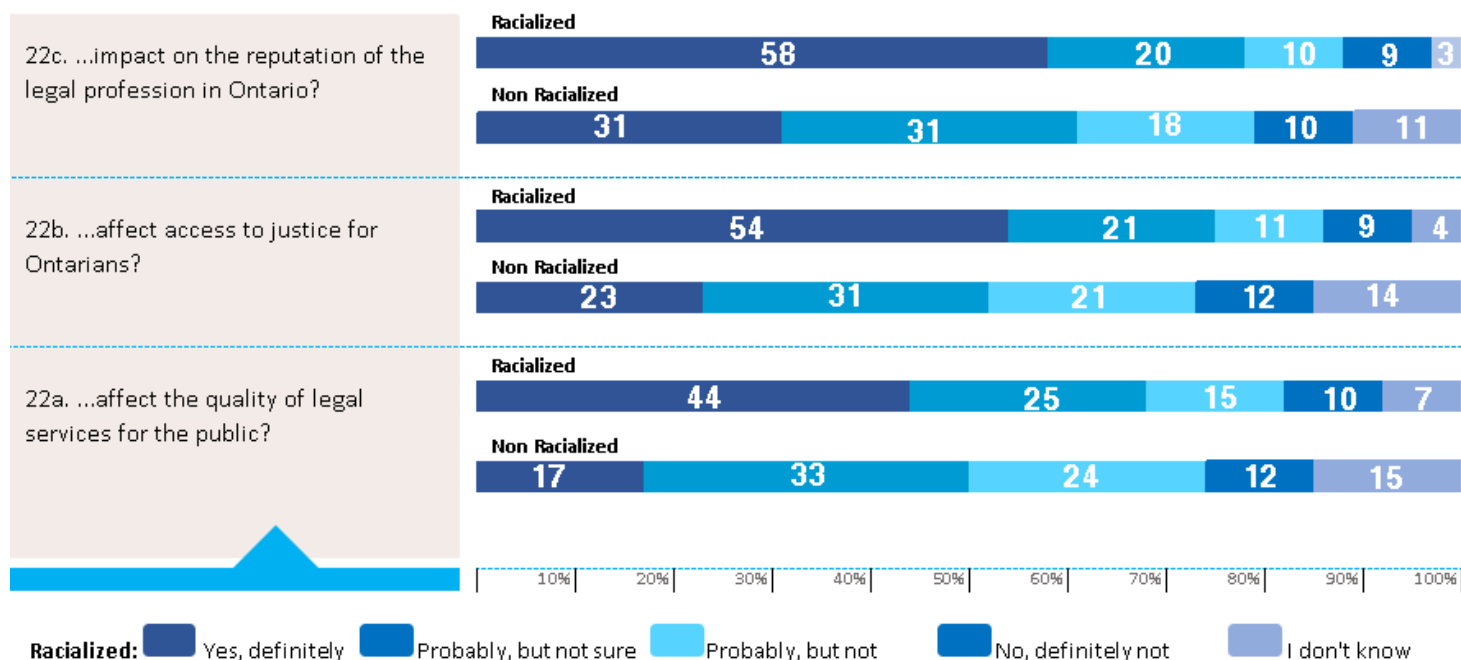
7.2.3 Challenges Facing Racialized Licensees and the Justice System

Having probed opinion regarding the existence, comparative challenges and evidence of racialization, a subsequent bank of three questions explored opinions regarding the impact of racialization on the profession, the justice system, and the public in positive or negative ways. **Chart 11** shows responses to these questions.

¹⁰ This compared to 5% mentions from racialized licensees on the same issue.

Chart 11 – Impact on the Justice System

(Q22) In your view, do the challenges facing racialized candidates/licensees...



Weighted sample size=741 racialized licensees, 2277 Non racialized licensees

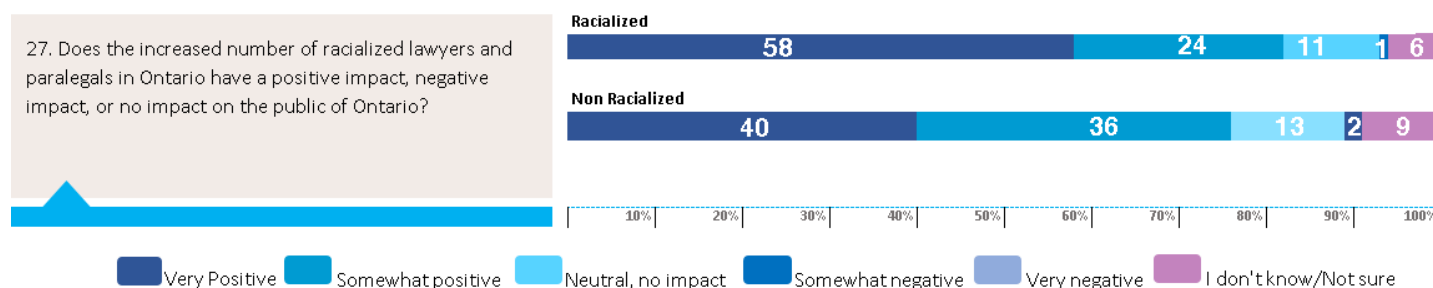
Close to four-fifths (78%) of racialized respondents agreed (58% definitely, 20% probably) that the challenges facing racialized licensees have an impact on the reputation of the legal profession in Ontario, compared to three-fifths (62%) of non-racialized licensees (31% definitely, 31% probably) (Q22c). Similarly, 75% of racialized licensees (75%) agreed (54% definitely, 21% probably) that challenges facing racialized licensees affect access to justice for Ontarians. This compared to 54% of non-racialized respondents (23% definitely, 31% probably) (Q22b). Finally, 69% of racialized respondents agree (44% definitely, 25% probably) that the challenges facing racialized licensees affect the quality of legal services for the public, compared to 50% of non-racialized licensees (17% definitely, 33% probably) (Q22a).

In both groups of respondents, those who see definite or probable impacts on the justice system arising from the challenges faced by racialized licensees substantially outnumber those who probably or definitely see no such impacts. Although there are

differences in the overall balance and intensity of opinion, a very strong majority of racialized licensees, and a majority of non-racialized licensees support the view that the challenges facing racialized licensees are having an impact on the reputation of the legal professions, access to justice and the quality of services provided.

Chart 12 shows results of a question about the impact of increased numbers of racialized lawyers and paralegals on the public.

Chart 12 – Impact of Racialized Licensees on the Public



Weighted sample size=741 racialized licensees, 2277 Non racialized licensees

Among racialized licensees, 82% endorsed the view that the increased number of racialized lawyers and paralegals have a positive impact on the public of Ontario (58% very positive, 24% positive). Other data not shown here indicates that this includes 83% of lawyers and 71% of paralegals. This compares to 76% of non-racialized licensees (40% very positive, 36% positive), which included 79% of lawyers and 63% of paralegals.

As a follow-up to the question posed in Chart 12, survey participants were asked how the increased number of racialized licensees would impact on the public of Ontario. A total of 2,537 responses were coded into 23 substantive categories (Q28). **Table 9** below lists the top six responses from both racialized and non-racialized respondents were:

Table 9 – Racialization of Licensees: Effects on the Ontario Public

(Q28) In what way does the increased number of racialized licensees in Ontario impact on the public of Ontario?

	Racialized (n=588)	Non-Racialized (n=1705)
Allows public to find/deal with professionals with whom they can relate/are more comfortable/someone from their own culture/speaks the same language/are from their own community/better understands their needs/challenges	28%	21%
Reflects/represents diversity of our society/demographics of Ontario/Canada/public sees themselves represented/can identify with the profession	26%	30%
Access to justice/makes legal system/services seem more accessible to racialized clients/to everyone	16%	14%
Better service/range of services/representation provided/better service to racialized communities/everyone is represented	10%	8%
Provides role models/allows people/young people to envision themselves in a law/professional career/encourages pursuit of law career	9%	8%
Increased trust/confidence in/respect for/better perception of the profession/justice system/people believe they will be treated fairly	8%	8%

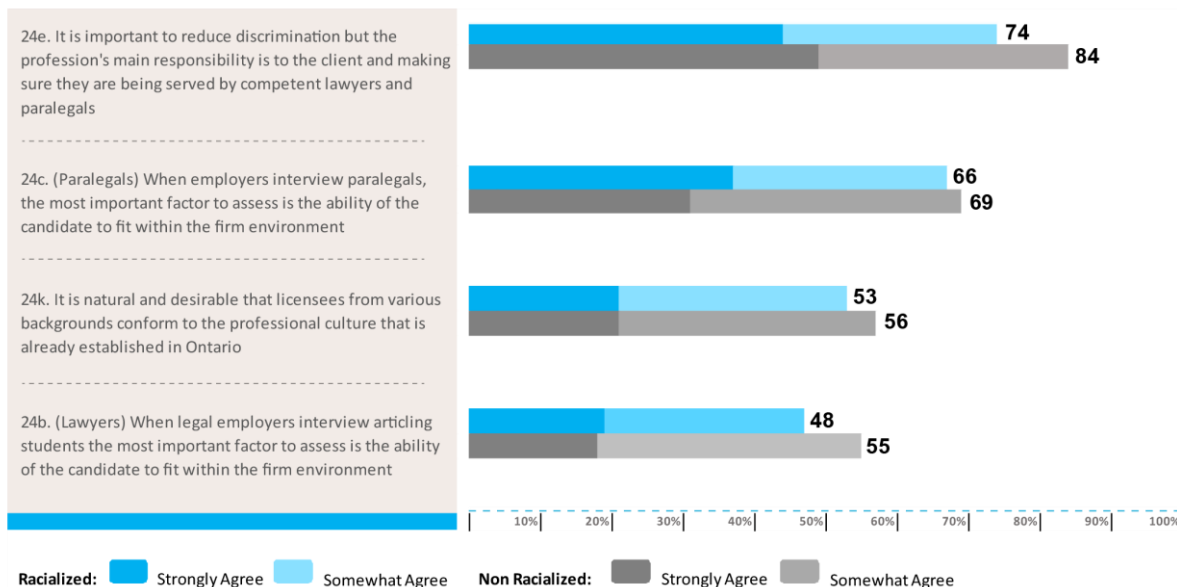
7.3 Exploring the Diversity of Opinion

A bank of 12 questions explored agreement/disagreement with statements representing diverse opinions within the legal profession. Response to these 12 statements have been thematically grouped in three separate charts.

Chart 13 shows results of four statements grouped under the heading System Status Quo and ranked according to overall agreement of racialized licensees.

Chart 13 – System Status Quo

(Q24-1) In this question we pose statements from a variety of standpoints reflecting diverse opinions within the legal profession. For each statement please indicate if you agree or disagree or if you have no opinion either way.



Weighted sample size =741 racialized licensees, 2277 non-racialized licensees

A review of Chart 13 suggests relatively narrow differences between racialized and non-racialized respondents in terms of support for this group of four conservative or ‘status quo’ statements. Of racialized respondents 74% agreed (44% strongly) that reducing discrimination is important but that it should not impinge on the profession’s main responsibility to serve clients with competent lawyers and paralegals (Q24e). This compares with 84% of non-racialized respondents who agreed (49% strongly).

A strong majority of paralegals in both groups (66% racialized, 69% non-racialized), endorsed the view that the candidates ability to fit into the firm’s environment was the most important factor in hiring paralegals (Q24c). In a similar question addressed to lawyers, 48% of racialized licensees and 55% of non-racialized licensees endorsed the view that fit is the most important factor in the process of selecting articling students (Q24b). Finally, a majority of both groups (53% racialized, 56% non-racialized) agreed that it is natural and desirable for licensees from various backgrounds to conform to the existing professional culture in Ontario (Q24b).

These results suggest an interesting convergence of opinion between racialized and non-racialized licensees around a core group of conservative principles, which assert the limits of steps to reduce discrimination, the traditional use and benefit of fit as the key factor in the hiring process, and respect for the established culture of the legal profession.

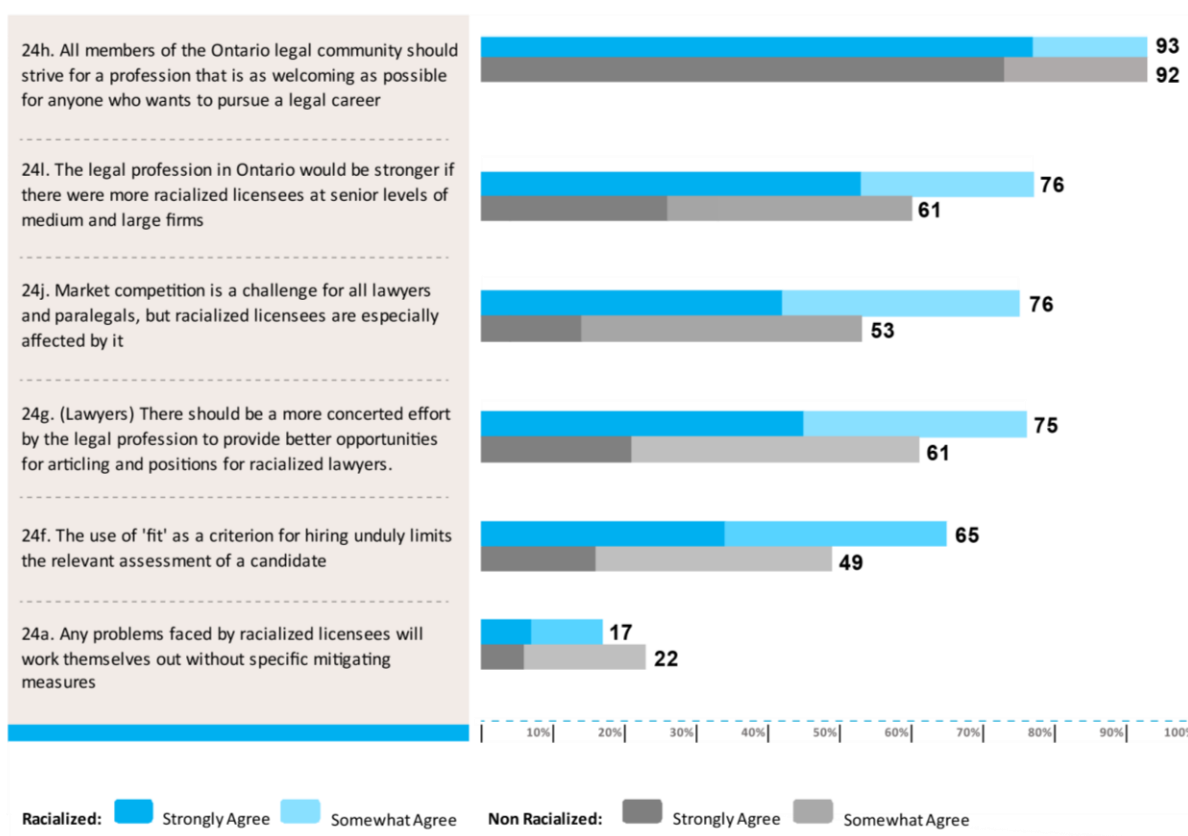
From one angle these results suggest substantial, and perhaps contradictory, support by racialized licensees for values and practices in the legal profession which, in other contexts of this research project, have been identified as discriminatory. On the other hand the results in Chart 13 may reflect a measure of ambivalence toward these values from both groups of licensees. On the issue of fit as the key tool for hiring articling students, 46% of racialized lawyers and 39% of non-racialized lawyers disagreed. And on the issue of adapting to the established professional culture, 41% of racialized licensees and 37% of non-racialized licensees disagreed. From this perspective, the response of racialized licensees might be interpreted as continued if reluctant loyalty to values and practices that serve them poorly, whereas the response of non-racialized licensees might be interpreted as growing awareness of the limitations and inequities associated with established practice and culture.

The convergence of opinion represented in Chart 13 suggests there may be an important point of consensus across the racial divide, which may contribute to defining both the scope and the limits of change when it comes to prioritizing measures to reduce the professional challenges faced by racialized licensees.

Chart 14 shows seven statements from the same bank grouped under the heading Fair/Equal Opportunity

Chart 14 – Fair/Equal Opportunity

(Q24-2) In this question we pose statements from a variety of standpoints reflecting diverse opinions within the legal profession. For each statement please indicate if you agree or disagree or if you have no opinion either way



Weighted sample size =741 racialized licensees, 2277 non-racialized licensees

The statement at the top of Chart 14, endorsing the view that the legal profession should be as welcoming as possible, drew overwhelming support from racialized and

non-racialized respondents, with 93% and 92% agreement respectively, including 76% and 73% respectively who strongly agreed (24h).

A moderate to strong majority of lawyers in both groups registered overall agreement with the view that there should be a more concerted effort to provide better opportunities for articling and positions for racialized lawyers (75% racialized and 61% non-racialized), although a substantially higher percentage of racialized compared to non-racialized lawyers strongly agreed (45% and 21% respectively) (Q24g).

Similar majorities of both groups agree that the legal profession would be stronger if there were more racialized licensees at the senior levels of medium and large firms (66% racialized, 61% non-racialized), though here again strong agreement was much higher among racialized respondents (53% compared to 26% of non-racialized respondents) (24l). Among racialized licensees those employed in medium and large firms were more likely than average to agree with this statement (72% and 74% respectively). Among racialized licensees, 58% of those employed in medium and 63% of those employed in large firms agreed the profession would benefit from more racialized licensees as at senior levels. These percentages correspond roughly to the overall level of agreement among non-racialized licensees.

On the issue of market competition and the view that it presents greater challenges to racialized licensees there was a comparatively wider divergence of opinion, with 75% of racialized respondents agreeing, including 42% who strongly agreed compared to a bare majority of 53% of non-racialized respondents, just 14% of whom strongly agreed (Q24j).

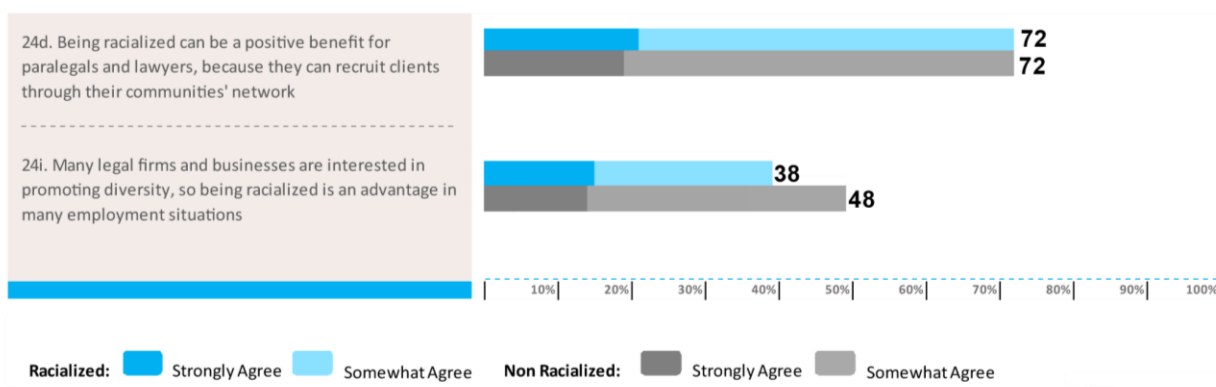
On the subject of fit, 65% of racialized respondents and 49% of non-racialized respondents agreed that as a criterion for hiring it unduly limits the relevant assessment of a candidate (Q24f). This modest reversal of opinion in comparison to the results shown in Chart 13 reinforces the view that both groups are ambivalent on the issue of fit: acknowledging its benefit as a tool in the hiring and advancement process, while recognizing its constraints and potential for bias when it comes to addressing the challenges faced by racialized licensees.

There was very low overall agreement from both groups with the proposition that the challenges facing racialized licensees will be resolved without specific mitigating measures (17% racialized, 22%) (Q24a). These results support the conclusion that not only does a strong majority of all licensees believe racialization imposes specific challenges on racialized licensees, but that majority also recognizes the need for concerted action to address those challenges.

Two remaining statements (**Chart 15**) were grouped under the thematic heading of racial/ethnic advantage.

Chart 15 – Racial/Ethnic Advantage

(Q24-3) In this question we pose statements from a variety of standpoints reflecting diverse opinions within the legal profession. For each statement please indicate if you agree or disagree or if you have no opinion either way.



Weighted sample size =741 racialized licensees, 2277 non-racialized licensees

A strong majority of both groups (72% racialized, 72% non-racialized), agreed that racialized lawyers and paralegals could benefit from being able to recruit clients from their community networks (24d). This balance of opinion concurs with the views expressed by many focus group participants, although focus group participants also explained that racialized status does not necessarily confer access to a corresponding community network. Lower percentages of both groups agreed that because many law firms and businesses are interested in promoting diversity, being racialized is an advantage in many employment situations (38% racialized, 48% non-racialized) (Q24i).

7.4 Measures to Promote Inclusiveness in the Profession

Survey participants were asked, 'Have you seen what you consider to be good practices that you would want to recommend be studied or scaled up to address the challenges faced by racialized licensees?' A total of 3,361 open-ended responses were coded in 30 substantive categories (Q25).

Over half (55%) of all respondents indicated that they had not seen any good practices or successful strategies. Among racialized licensees the most frequent mentions were:

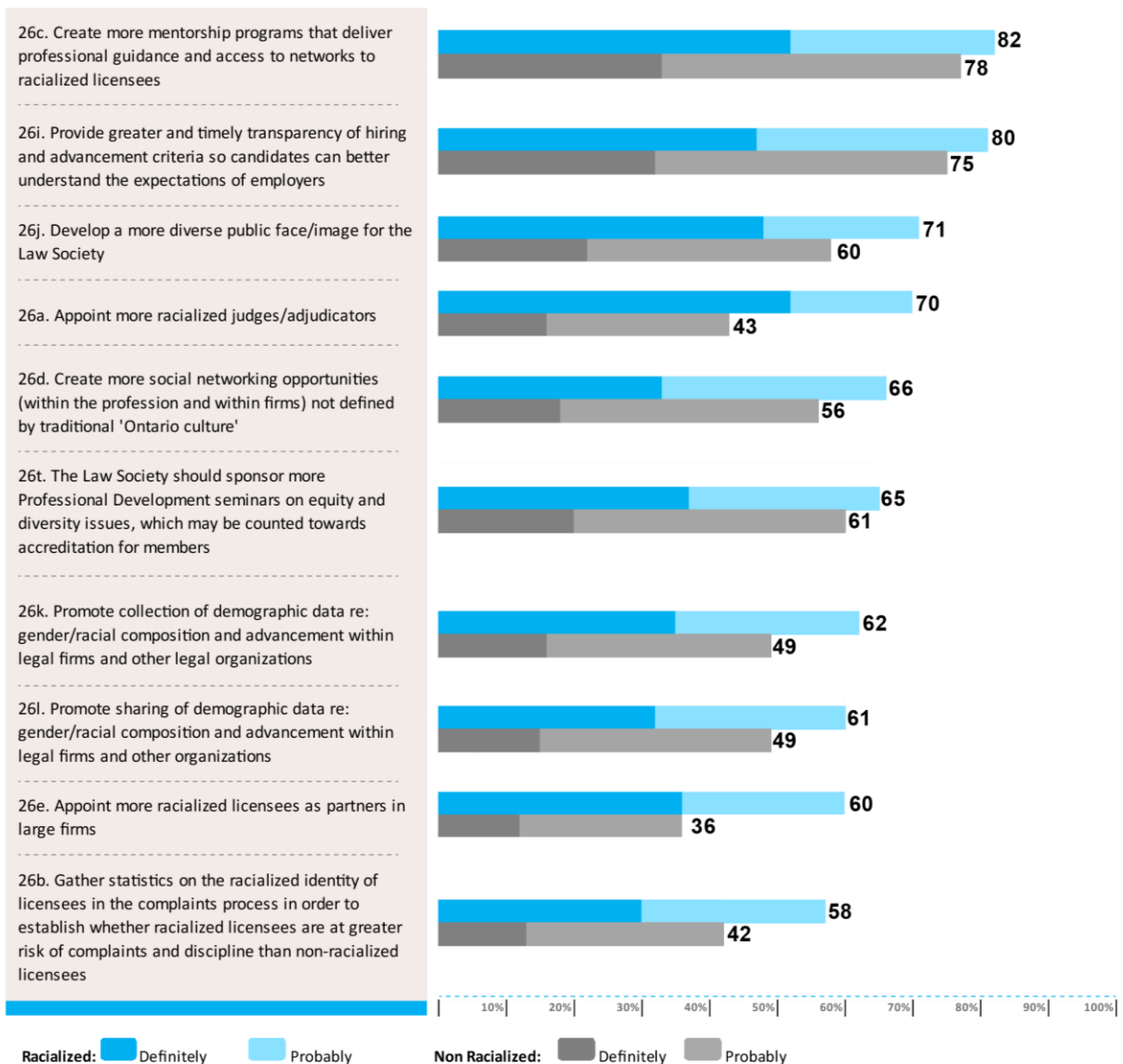
Merit/competency should be the basis of hiring people irrespective of an individual's 'label' (5%), Increased mentorship from successful lawyers (6%), and Establishing diversity as a positive goal to enable building stronger teams to serve a multi-cultural society (5%). Among non-racialized respondents most frequent mentions included: Merit/competency should be the basis of hiring people irrespective of an individual's 'label' (5%), Public sector/Canadian government/large corporations and law firms have good diversity practices (3%), and Establishing diversity as a positive goal enables building stronger teams to serve a multi-cultural society (3%).

A bank of twenty statements explored opinions of both groups regarding a variety of measures intended to make the legal profession more inclusive. In **Charts 16 and 17** these statements are ranked by highest overall agreement of racialized licensees.

As the two charts show, a majority of racialized licensees endorsed almost the entire list of measures suggested for making the legal profession more inclusive for racialized licensees. The six measures listed at the top of Chart 16 were endorsed by two thirds or more of the racialized respondents and, of the remaining measures listed, all but two reported at the bottom Chart 17 drew majority endorsement from racialized licensees. By contrast, a majority of non-racialized respondents endorsed seven of the twenty measures as definitely or probably the right approach to making the profession more inclusive.

Chart 16 – Solutions: Part 1

(Q26) The following is a list of measures that some licensees have suggested could be effective in making the legal profession more inclusive. For each, please tell us if you think it would be the right approach, wrong approach or if you would need more information before making up your mind.



Weighted sample size =736 racialized licensees, 2270 non-racialized licensees

Two measures listed at the top of Chart 16 drew strong endorsements from both groups of licensees. Reinforcing a message that was prominent throughout the focus group research, 82% of racialized licensees (52% definitely) identified more mentorship programs that deliver professional guidance and access to networks for racialized licensees (Q26c). This compared to 78% of non-racialized licensees (33% definitely). Both groups also registered comparable levels of support for providing greater and timely transparency of hiring and advancement criteria (80% racialized, 75% non-racialized) (Q26i).

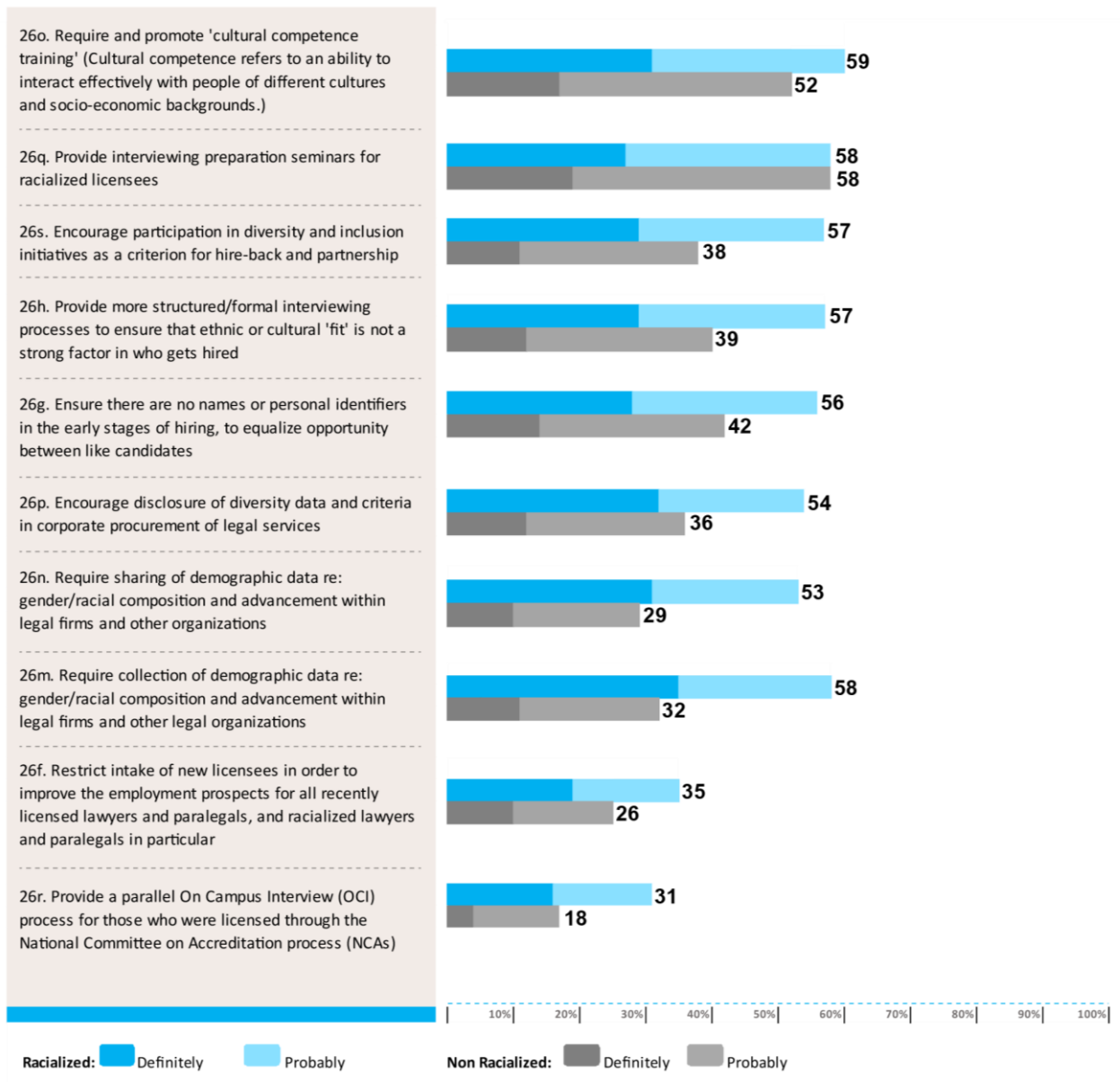
A strong majority of both groups endorsed developing a more diverse public face/image for the Law Society (71% racialized, 60% non-racialized), although 48% of racialized respondents identified this measure as definitely the right approach, compared to just 22% of non-racialized licensees (Q26j). Other data not shown here indicates that among racialized licensees, those most likely support a more diverse public image for the Law Society include: Paralegals (87%), Female (81%), Born outside Canada (77%), as well as South East Asian (90%), Black (84%), and East Asian (82%).

Two other measures attracted comparable levels of support from both groups. Creating more networking opportunities not defined by traditional 'Ontario culture' (66% of racialized and 56% non-racialized licensees) (Q26d), and Law Society sponsored Professional Development seminars on equity and diversity, which may be counted toward accreditation by member (65% racialized, 61% non-racialized) (Q26t).

Two other measures listed in Chart 16 reflect a comparatively wider divergence of opinion between racialized and non-racialized licensees. On the issue of appointing more racialized judges/adjudicators, 70% of racialized licensees endorsed this measure, including 52% who viewed it as definitely the right approach. In comparison, just 43% of non-racialized respondents endorsed this measure, with 16% describing it as definitely the right approach (Q26a). A similar divergence of opinion was evident on the issue of appointing more racialized licensees as partners in large firms, endorsed as the right approach by 60% of racialized licensees including 36% definitely, compared to 36% of non-racialized respondents, and just 12% definitely (Q26e).

Chart 17 – Solutions: Less Support

(Q26) The following is a list of measures that some licensees have suggested could be effective in making the legal profession more inclusive. For each, please tell us if you think it would be the right approach, wrong approach or if you would need more information before making up your mind.



Weighted sample size=736 racialized licensees, 2270 Non racialized licensees

Chart 17 lists the 10 measures that had less overall support from racialized licensees. Two of these attracted similar support from both groups of respondents. Requiring and promoting cultural competence training was endorsed by 59% of racialized and 52% of non-racialized licensees (Q26o). Providing interview preparation seminars for racialized licensee was endorsed as probably or definitely the right approach by 58% of respondents from both groups (Q26q).

Of the remaining list of proposed measures there was a moderate divergence of opinion between the two groups. The widest differences were related to requiring *sharing* of demographic data related to the racial/gender composition of legal firms and other organizations (53% racialized, 29% non-racialized) (Q26n), and requiring *collection* of demographic data related to racial/gender composition of legal firms and other organizations (58% racialized, 32% non-racialized) (Q26m).

Although a majority of racialized licensees favoured these measures related to collecting and sharing data, the comparatively lower levels of majority support echo some of the reservations expressed by focus group participants who were concerned that such measures might be construed as setting diversity targets and thereby bypassing traditional principles of hiring and advancement based on merit.

Charts 16 and 17: Summary

Charts 16 and 17 illustrate both the scope and relative intensity of support for a wide range of issues, highlighting a group of measures to promote inclusiveness that have substantial support from both racialized and non-racialized licensees. Measures that were endorsed by a moderate or large majority of racialized and non-racialized respondents, and might be viewed as representing the convergence of opinion across the two groups, included:

- More mentorship programs that deliver professional guidance and access to networks for racialized licensees (Q26c)
- Greater and timely transparency of hiring and advancement criteria (Q26i)
- Developing a more diverse public face/image for the Law Society (Q26j)
- More networking opportunities not defined by traditional 'Ontario culture' (Q26d)
- Law Society sponsored Professional Development seminars on equity and diversity, which may be counted toward accreditation by members (Q26t)
- Requiring and promoting 'cultural competence training' (Q26o)
- Providing interview preparation seminars for racialized licensees (Q26q)

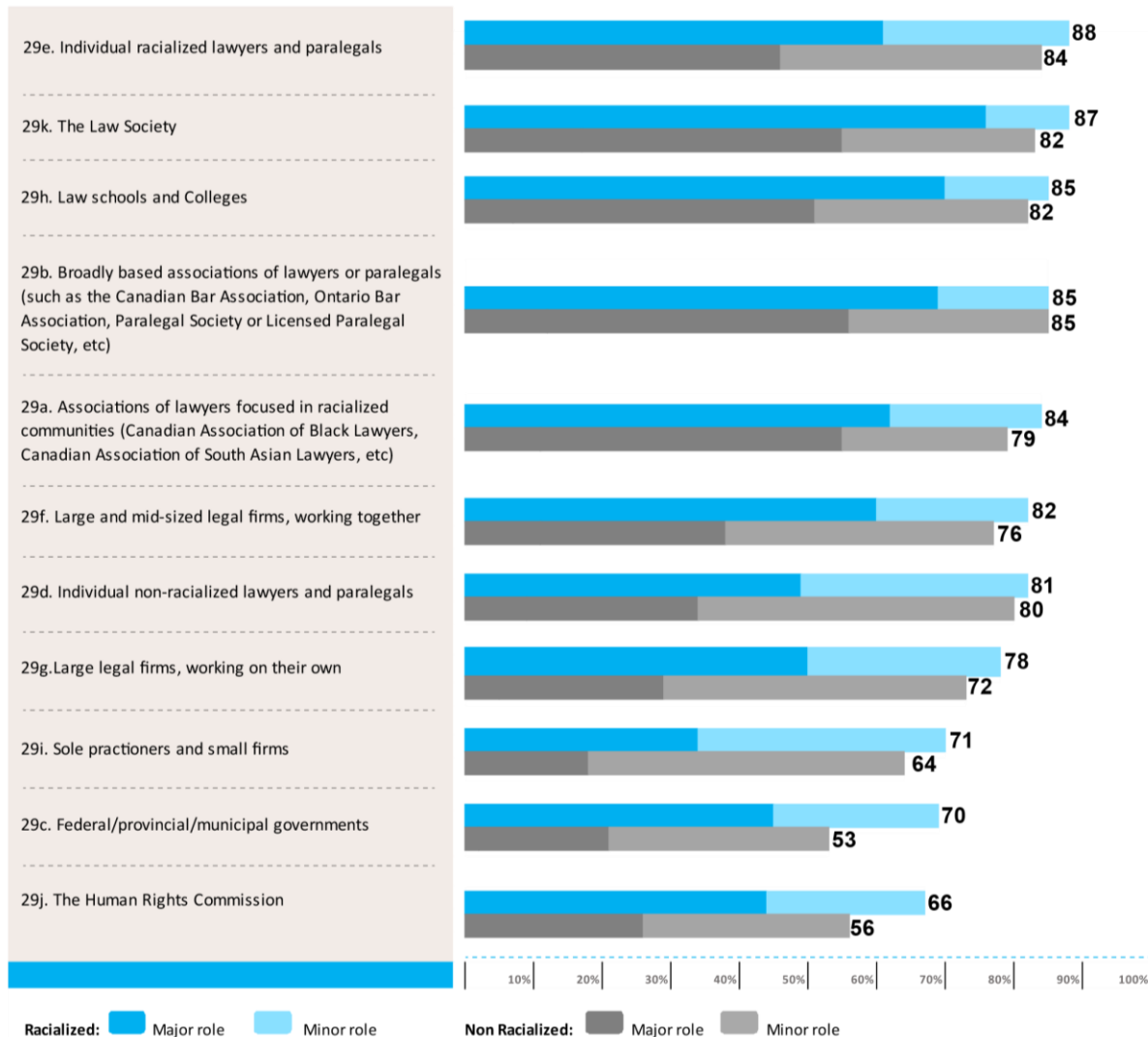
Differences were wider, and support from non-racialized respondents was substantially lower, for measures that might be described as harder-edged or more directive. Measures where there is both lower overall agreement and much less concurrence

between the two groups included: appointing more racialized judges and adjudicators, appointing more racialized licensees as partners in large firms, promoting and requiring collection and sharing of demographic information, and modifying/formalizing the interview process to reduce the use of fit as a hiring tool and other factors that may disadvantage racialized candidates.

7.4.1 Who should play a role?

Chart 18 – Who should play a role?

(Q29) In your view what role should each of the following take to address the challenges facing racialized licensees?



Weighted sample size =713 racialized licensees, 2206 non-racialized licensees

Survey participants were offered a list of 12 stakeholder groups and constituencies and asked what role (Major, Minor or None) each should play in addressing the unique challenges facing racialized licensees. Results are shown in **Chart 18**.

A majority of all respondents endorsed a major or minor role for all 12 of the stakeholder constituencies listed in Chart 18. Differences in the two groups' overall responses are narrow, with the exceptions of the role of all three levels of government (Q29c) and the role Human Rights Commission (Q29j) where there is a moderate divergence of opinion between racialized and non-racialized licensees.

Wider differences appear in the comparisons of which stakeholders are assigned a major role in addressing the challenges faced by racialized licensees, which may reflect underlying differences between the two groups in their perception of the seriousness and urgency of the issue. Based on the percentages of 'Major Role,' racialized licensees assigned a priority role to the following organizations and groups: Law Society (75%) (Q29k), Law Schools and Colleges (70%) (Q29h), broadly-based associations of lawyers and paralegals (69%) (Q29b), associations of lawyers focused on racialized communities (62%) (Q29a), and individual racialized lawyers and paralegals (61%) (Q29e).

Identification of a major role for the Law Society is consistent with what we heard in the focus groups. Although many racialized licensees expressed some degree of pessimism regarding the (political) will and capacity of the Law Society to pursue effective strategies of inclusiveness, a majority nevertheless endorsed a lead role for the Law Society.

8. Complaints and Discipline

8.1 What's the issue?

Following objectives set out at the beginning of the research project and based on themes and issues that surfaced in the Focus Group phase, a final series of questions explored the views of licensees regarding the possible risks of complaints and discipline associated with the challenges faced by racialized licensees.

8.2 Identifying Risk of Complaints

Both groups of licensees were asked if, in their view, the Law Society could undertake to more proactively address the issue of the influence of race in the complaints and discipline process. A total of 2,222 responses were coded in 34 substantive categories (Q30).

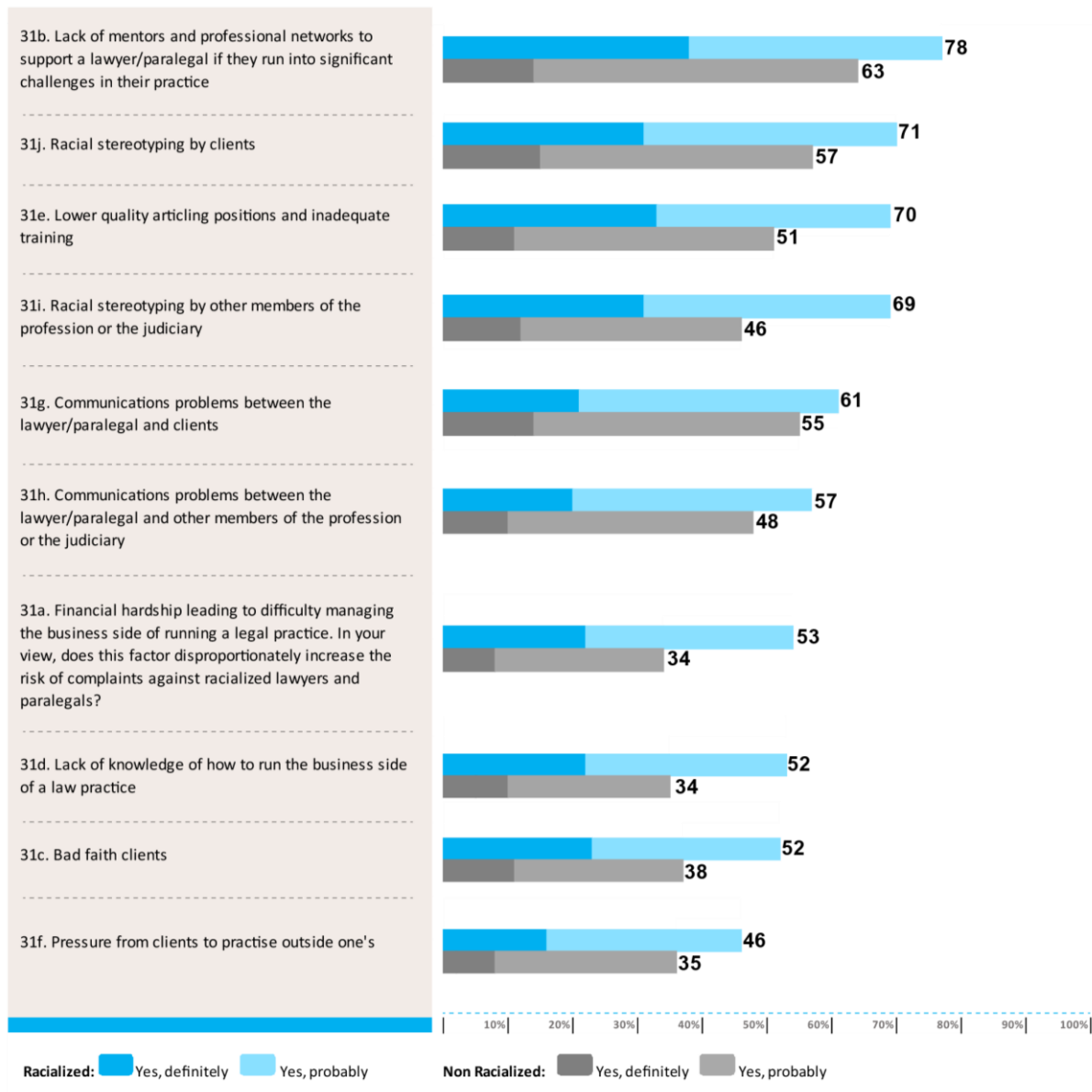
Thirty-six percent of racialized licensees and 52% of non-racialized licensees who responded to this open-ended question indicated there are no additional steps required or that the Law Society is sufficiently proactive. The relatively large numbers of racialized licensees who identified no issues, and another group who indicated no familiarity with race as a factor in the complaints process (reported below), accords with an observation from the focus groups that a minority of participants, represented in many of the 14 focus groups, “reported not having seen any evidence of factors contributing to increased complaints and discipline for racialized licensees.”

Other frequent responses from both groups of licensees included: Not familiar with race as a main factor in the complaint process (14% racialized, 11% non-racialized), Complaints and discipline should be analyzed/treated fairly regardless of race/sex (7% racialized, 6% non-racialized), Educate and train Law Society/firms/individuals on diversity and race issues (6% racialized, 4% non-racialized), and Have proportionate ethnic/race representation on discipline/investigation boards (5% racialized, 2% non-racialized).

A final bank of 10 questions explored opinions regarding the extent to which specific factors might contribute to increased risk of complaints against racialized licensees.

Chart 19 – Risks of Complaints Against Racialized Licensees

(Q31) The following is a list of factors ... In each case, please indicate if you think that factor is more likely to increase the risk of complaints against racialized lawyers and paralegals.



Weighted sample size =707 racialized licensees, 2195 non-racialized licensees

A majority of racialized licensees agreed that nine of the ten factors listed in **Chart 19** are definitely or probably likely to increase the risk of complaints against racialized licensees, whereas only four of the ten factors were viewed by the majority of non-racialized respondents as contributing to a higher risk of complaints against racialized licensees.

At the top of the list of risk factors for both groups is the lack of mentors and professional networks (78% racialized, 63% non-racialized) (Q31b), and racial stereotyping by clients (71% racialized, 57% non-racialized) (Q31j). Both factors were identified as potential sources of elevated risk by focus groups participants.

A majority of racialized and almost half of non-racialized respondents (57% and 48% respectively) indicated that miscommunication was definitely or probably a factor increasing the risk of complaints, dovetailing with the findings of the focus groups, which identified factors of cultural miscommunication often overlapping with miscommunications based in language differences, as factors contributing to the risk of increased complaints.

Racialized and non-racialized licensees diverged somewhat on the issues of lower quality articling positions and inadequate training (70% racialized, 51% non-racialized) (31e), and racial stereotyping by other members of the profession or the judiciary (69% racialized, 46% non-racialized) (31i). Here again survey results validate focus group findings, in which racialized participants named both factors as sources of risk.

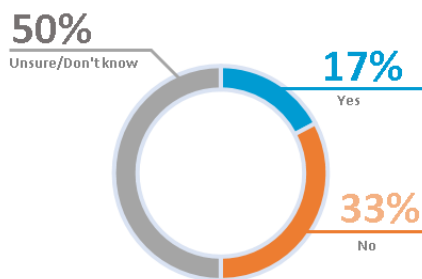
8.3 Racialized Licensees and the Regulatory Process

Survey participants were asked if differentiation should be made in the regulatory processes for racialized licensees in certain circumstances. **Chart 20** shows responses for racialized and non-racialized licensees as well as the whole survey population.

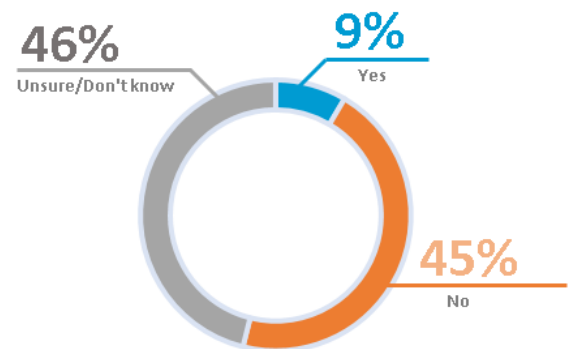
Chart 20 – Should Racialization be Reflected in the Regulatory Process?

(Q32) In the administration of Justice there are circumstances in which legal processes treat those in the system differently depending on whether they are a member of a group viewed to suffer a disadvantage. Do you believe that such a differentiation should be made in the regulatory processes with respect to racialized licensees in certain circumstances?

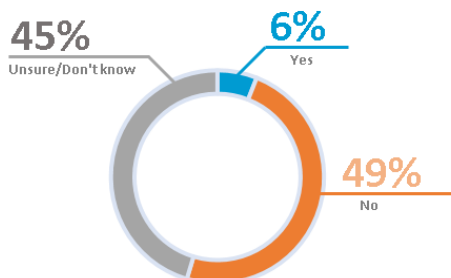
► **Racialized**



► **Total Sample**



► **Non Racialized**



Weighted sample size =3260 licensees (704 racialized/2185 non-racialized)

Seventeen percent of racialized and 6% of non-racialized respondents agreed that differentiation in the regulatory process be made for racialized licensees. Half or almost

half of all respondents indicated they were unsure or required more information (50% racialized, 45% non-racialized).

A final open-ended question asked those who answered yes to the previous question to describe the circumstances where this should occur. A total of 264 responses were coded in 31 substantive categories (Q 32).

Among racialized respondents the five most frequently mentioned instances where racialized licensees should be treated differently were: When applying to Law School (6%), When in need of networking or training programs (6%), In the case of a First Nations person (6%), and When there is evidence of racial discrimination or bias (5%).

Non-racialized respondents most frequent mentions were: Misunderstanding of cultural background/conflict of culture (9%), Language barriers (9%), Mentorship and support services (8%), Where there is evidence of racial discrimination or bias (8%), and When in need of networking/training programs (5%).

9. Conclusions

The goal of this research project, to identify challenges faced by racialized lawyers and paralegals in different practice environment, including entry into practice and advancement proved to be ambitious, complex and at different points, methodologically challenging. Nevertheless, the scope of the research, combined with the mixed method design has yielded a nuanced account of the experience of racialized licensees, validating much of that experience through detailed measurement across the whole population of licensees. Indeed, one of the striking features of the research results was the close agreement of the analysis and insights of key informants and the narrative account emerging from the focus groups, with the quantitative measures generated in the survey phase.

Key Informants depicted a landscape in which racialization is a “consistent and persistent factor” affecting racialized licensee across the arc of their careers as students, during and after entry into practise. From the focus group phase of research their emerged an “overarching narrative of the extent to which racial identity is a pervasive factor in shaping the experiences, choices and career outcomes of racialized lawyers and paralegals.”

Findings of the survey research demonstrated the extent to which racialization establishes a measurable constellation of career challenges for racialized licensees that are distinct from those of their non-racialized colleagues: challenges that are rooted in their racialized status as well as many related challenges that are compounded and amplified as a consequence of the racialization process. In comparison with their non-racialized colleagues, racialized licenses and specific sub-groups, encounter qualitatively more severe challenges during and after entry into practise, yielding measurably greater negative impacts throughout their careers.

As noted in this report not all non-racialized licensees acknowledged the significance and unique challenges associated with the process of racialization. However, one important finding, highlighted in the survey phase, was that a strong majority of non-racialized licensees recognize that ‘racialization exists,’ that the challenges faced by racialized licensees have negative consequences for the legal professions and the public, and that pro-active measures are called for to enhance inclusiveness. Results reported in Section 7 demonstrate a substantial overlap across the racial divide, reflected both in shared opinions regarding the value, scope and direction of change, as well as endorsement for specific measures to address the challenges of racialization and make the legal professions more inclusive.

The methodology and findings of this research will provide the basis for further targeted exploration of the issues associated with the challenges of racialization encountered by specific groups, career stages and practice environments. It is hoped that these results will also lend support to the ongoing effort to design and implement practical measures to reduce the challenges associated with racialization and promote inclusiveness within the legal professions.

Appendix A

Issue Matrix Tier 1 Research Priorities (Lawyers and Paralegals)

	Recruitment and Hiring	Career Paths	Advancement in Mid – Large Firms	Risk of Complaints and Discipline
Why	Key issue as it is both complex and cuts across a number of themes including career paths, advancement in mid and large size firms, and sole and small practices. Issues may involve systemic, cultural, intercultural, and interactive dynamics. Little understanding of this area also warrants Tier 1 attention.	Career trajectories in the legal profession are often set at early stages through self-selection and / or intercultural selection processes operating in the labour market. There is an underrepresentation of racialized lawyers in large firms and a slight overrepresentation of racialized lawyers in sole practices and small firms. Implications for earnings and opportunity are evident. Reasons for these patterns need to be investigated.	This is another key area of research. There is a consensus in diversity research that an essential element in catalyzing change is leadership. It follows that where there is an absence of critical mass and little representation in leadership, cultural and systemic change is more difficult. This is especially true in the legal profession where, for example, consideration for the judiciary is eased by partnership status. Partners have a strong influence on organizational culture.	Available information regarding risk is anecdotal but raises concerns. Data on representation throughout the regulatory process is quite limited. Opportunity to investigate risks is complicated by fact that licensee participants in research will only be those in good standing.
Key Gaps	<p>The 2007 Articling Consultation report revealed that several racialized respondents expressed general concerns that they simply did not fit in at law firms. 2013 informal consultations also found a persistence of this issue.</p> <p>Gap Summary: How do employers and employees experience ‘fit’? How is it weighted? What is its role in the interview process? Are criteria around ‘fit’ made transparent to the candidate?</p>	<p>Gap Summary: What is the experience of racialized lawyers in large firms at all levels – articling interviews, articling, associate level and partnership? What are the possible explanations for underrepresentation in mid and large firms? What are the possible explanations for the slight overrepresentations in sole practices and small firms? Why are racialized licensees overrepresented in government? What are the factors determining career paths?</p>	<p>The Kay Report found that racialized lawyers are underrepresented in more senior positions, such as partnerships. In 2010, 16% of all lawyers who answered the self-identification question are partners while only 6% of racialized lawyers are partners.</p> <p>Gap Summary: Why are racialized lawyers not ascending to partnership levels? What are the criteria and procedures that firms use to advance associates to partnerships? What factors determine how associates get opportunities to work on important files? How has partnership track structure changed over time?</p>	<p>Gap Summary: What are the perceptions of racialized lawyers and non-racialized lawyers respecting risk factors? Are there meaningful differences that may inform future research, policy, program design, outreach and communications?</p>

Appendix A

Tier 2 Research (Lawyers and Paralegals)

	Direct and Overt Discrimination and Bias	Areas of Law	Incidents of Representation
Why	<p>This is an important area of study. Overt or direct discrimination, constructive discrimination and bias are incompatible with equality of opportunity and access. Investigation of this theme is fundamental to the study at issue. However, this area may also be more easily observed than Tier 1 systemic issues. Remedies may also be more accessible in that they already exist or may be readily actioned.</p>	<p>The Kay Report found non-racialized lawyers equally likely to practice civil litigation and corporate / commercial law as racialized lawyers. But there is divergence in other practice areas. Racialized lawyers are more likely to practise criminal, immigration, and poverty law whereas non-racialized lawyers are more likely to practice real estate and insurance law. Apart from the impacts of recruitment / hiring practices and Career Paths, this theme may offer distinct areas of inquiry. Broad patterns of diverging experience justify inclusion as a Tier 2 research focus.</p>	<p>The Society has found that among most recent licensees the profession is diverse upon entry for both lawyers and paralegals based on 2006 Statistics Canada baseline representation of visible minorities. However, racialized persons are substantially overrepresented in other professions including medicine and engineering, as well as in the proportion of population with post-secondary education. This is a Tier 2 consideration as the issue and related sub-issues rely on demographic data and data which may involve less interactive dynamics.</p>
Key Gaps	<p>Some specific concerns were raised about communications with judges and lawyers. In a 2004 report to the Law Society (the “Kay Report”), Professor Fiona Kay found that racialized lawyers are more likely than non-racialized lawyers to report experiencing disrespectful remarks by judges or other lawyers. Twenty-six per cent (26%) of racialized lawyers reported experiencing disrespectful remarks by judges and other lawyers occasionally, routinely or frequently, compared to 21% of non-racialized lawyers. A focus group in a different study found members experienced bias throughout their careers. 2013 informal consultations found that improper questions were asked during interviews. Cynthia Peterson, DHS counsel indicated that most of her cases by licensees</p>	<p>Gap 1: What are the factors that determine the areas in which racialized and non-racialized licensees practice?</p>	<p>Representation Generally</p> <p>Gap Summary: Current Statistics Canada information (2011) about visible minority representation in the Ontario population would provide more useful comparative data. Overrepresentation of visible minorities among university graduates, medicine, and engineers is not reflected in the legal profession. Why / Why not?</p> <p>Retention</p> <p>Gap Summary: Change of Status research by Strategic Counsel and Statistical Snapshots indicate concerns around attrition of racialized lawyers. If it is occurring, why? Are non-racialized licensees more or less likely to have access to informal supports such as mentoring, networks, information resources than racialized licensees?</p>

Appendix A

Direct and Overt Discrimination and Bias

against other licensees are complaints arising from employment about sex discrimination / harassment. Caveat: racialized status of complainants is generally not captured during telephone interviews. Of cases involving race, ½ of all complainants are Black and most of those are women. DHS is concerned about significant underreporting of complaints.

Gap Summary: A 5% differential may be significant and this work needs updating. Further, forms and impacts of bias need to be investigated with larger qualitative and quantitative sampling. To what extent are incidents of discrimination going unreported? What are the factors militating against reporting? Investigation of the allegation of improper questions is required.

Areas of Law

Incidents of Representation

Talent Pipelines

Gap Summary: What is the reason for overrepresentation of women among younger racialized members? What is the role of networks / mentoring for student candidates?

Appendix B

Organizations represented during Key Informant phase

Organization
Arab Canadian Lawyers Association
Canadian Association of Black Lawyers
Canadian Association of South Asian Lawyers
Federation of Asian Canadian Lawyers
Federation of Asian Canadian Lawyers
Legal Leaders for Diversity
Licensed Paralegal Association
Paralegal Society of Ontario
University of Toronto Internationally Trained Lawyers Program

Challenges Facing Racialized Licensees Project Key Informant Interview Guide (FINAL) May 16, 2013

Introduction

As part of its mandate to ensure access to justice, “the Law Society builds equity and diversity values and principles into its policies, programs and procedures,” which includes seeking to “ensure that both law and the practice of law are reflective of all the peoples of Ontario, including Aboriginal Peoples, Francophones and equity-seeking communities.” (LSUC website).

In September 2011 Benchers identified the following as a priority: “considering the development of programs to encourage law firms to enhance diversity within firms, based on identified needs, and create reporting mechanisms”. As a result, Convocation created the Working Group on Challenges Faced by Racialized Licensees.

This research project is led by the Working Group and managed by the Equity Initiatives Department. Strategic Communications Inc. (Stratcom) has been contracted by the Law Society to conduct research to identify:

- Challenges faced by racialized lawyers and paralegals in different practice environments, including entry into practice and advancement;

Appendix C

- Factors and practice challenges that could increase the risk of regulatory complaints and discipline, and;
- Identify perceptions of best practices for preventive remedial and/or support strategies.

This interview is part of the first step of the research process. Following a round of individual interviews, Stratcom will convene a series of focus groups in June, and conduct a comprehensive survey of the profession toward the end of the summer. A full written report will incorporate the qualitative and quantitative research findings.

Before we begin, you should know that all interviews are on a not-for-attribution basis. We may use quotes from our interview notes but individuals will not be identified. Original interview notes will be kept in the hands of Stratcom researchers.

This interview will take about 45 minutes [*offer to shorten as necessary*]. May I proceed?

BACKGROUND

First, could you tell me a little about yourself: how you came to be involved with [*firm or organization*] and your role there.

Organizations

1. What are the key priorities for [*name of organization*] at this time?
2. Can you give me a brief description of your membership: numbers, demographic composition (age, gender), and the types of practice environments represented by your membership?

Appendix C

3. What would you say are the benefits of belonging to *[name of organization]* from the point of view of individual members?
4. Thinking about different practice environments which you've mentioned, how would you describe the major challenges and successes your members face during their respective careers?

[Probe for differences based on practice environment]

[As necessary, probe for challenges and successes specifically shaped/influenced by racialization]

Firms/Government/ In-House

5. Thinking about all your colleagues, as a group, how would you describe the major career challenges and successes that lawyers/paralegals face in your firm/practice environment ?

6. And if I asked you about racialized lawyers/paralegals *[offer definition]* in your firm/practice environment *[or based on your wider career experience]* how would you describe the major career challenges and successes facing this group?

[Probe for similarities and differences with non-racialized licensees]

[Probe for differences based on practice environment.]

[As necessary, probe for challenges and successes specifically shaped/influenced by racialization]

RACIALIZATION

7. *[You have mentioned/Do you see]* racialization *[offer definition]*¹ as a barrier to advancement for some of your members/colleagues - how does that manifest itself in the day-to-day experience of lawyers?

¹ 'Racialized' expresses race as the process by which groups are socially constructed, as well as to modes of self-identification related to race, and includes Arab, Black (e.g. African-Canadian, African, Caribbean), Chinese, East-Asian (e.g. Japanese, Korean), Latin American and Hispanic, South Asian (e.g. Indo-Canadian, Indian Subcontinent), South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino), and West Asian (e.g. Iranian, Afghan) persons.

Appendix C

8. How does racialization play a part in the following circumstances:

- Entry into the profession after articles?
- Career paths?
- Representation, retention, change of status of racialized members within the profession?
- Access to justice for Ontarians?

[Probe for subgroups of 'hardest hit', with details, case examples, specific examples]

9. When you think about the barriers facing your members/racialized colleagues arising from their racialized status, what would you say are the most difficult to remedy?

Are there other barriers that you would identify as significant, but perhaps not as difficult to change as the ones you just described?

[Probe for ranking of issues/barriers, most difficult → less difficult, applying the Tier 1 and Tier 2 framework]

[Probe for IMPACTS: How does each factor affect entry, career paths, representation, and access to justice?]

10. Earlier you mentioned challenges not directly related to racialized status facing your members/colleagues, such as *[from Q's 4-5 above]*. Do these other challenges have as great an impact, just as much impact, or less impact overall than racialization on the careers and practices of your members/ colleagues, in your view?

[Probe for relative weighting of factors, different impacts for subgroups, comparisons and exceptions, case examples]

11. Part of our study is to inquire about risk factors facing all Society members². What are the factors that could increase the risk of complaints / discipline generally? Are there any factors of greater concern to your members/colleagues?

² These issues will be explored with all licensees, including Non-Racialized Lawyers/Paralegals, during the online survey phase.

Appendix C

12. Let's turn to solutions. Thinking about the barriers you mentioned earlier are there specific measures you would recommend to deal with the challenges faced by racialized licensees? *[Probe for best practices]*

13. What do you feel should be the Law Society's role in addressing the barriers you've outlined? Compared to the role of other bodies/agencies?

14. Do you have any final comments you would like to add before we finish up?

[Provide contact information]

Thank you

LSUC Focus Group Guide Challenges Facing Racialized Licensees June/July 2013

TOR, JUNE 19, SOLES & SMALLS (WOMEN 6PM/MEN 8PM)

TOR, JUNE 20, MEDIUM & LARGE (WOMEN 6PM/MEN 8PM)

TOR, JUNE 25, PARALEGALS (WOMEN 6PM/MEN 8PM)

TOR, JUNE 27, FOREIGN TRAINED (WOMEN 6PM/MEN 8PM)

TOR, AUG 1, GOVERNMENT & CORPORATIONS (6PM) / PARALEGALS (8PM)

TOR, AUG 14, OTHERS (6PM)

OTT, JULY 17, IN PRACTICE (6PM) / GOVERNMENT & CORPORATIONS (8PM)

LDN, JULY 31, IN PRACTICE (6PM)

CRITERIA:

- 10 RECRUITS (6-8 PARTICIPANTS)
- APPROXIMATE AGE BALANCE
- APPROXIMATE GENDER BALANCE WHERE APPROPRIATE
- TORONTO : MIX OF 416/905

115 MINUTES

Introduction (5 minutes)

Introduction / Purpose of the Research

GOOD EVENING. WELCOME AND THANK YOU FOR TAKING THE TIME TO PARTICIPATE IN THIS FOCUS GROUP DISCUSSION. MY NAME IS DAVID KRAFT AND THIS IS MY COLLEAGUE ANGELA LEE.

IN SEPTEMBER 2011 BENCHERS IDENTIFIED THE FOLLOWING AS A PRIORITY: “CONSIDERING THE DEVELOPMENT OF PROGRAMS TO ENCOURAGE LAW FIRMS TO ENHANCE DIVERSITY WITHIN FIRMS, BASED ON IDENTIFIED NEEDS, AND CREATE REPORTING MECHANISMS.” AS A RESULT, CONVOCATION CREATED THE WORKING GROUP ON CHALLENGES FACED BY RACIALIZED LICENSEES.

THIS RESEARCH PROJECT IS LED BY THE WORKING GROUP AND MANAGED BY THE EQUITY INITIATIVES DEPARTMENT OF THE LAW SOCIETY. STRATEGIC COMMUNICATIONS INC. (STRATCOM) HAS BEEN CONTRACTED BY THE LAW SOCIETY TO CONDUCT RESEARCH TO IDENTIFY:

- CHALLENGES FACED BY RACIALIZED LAWYERS AND PARALEGALS IN DIFFERENT PRACTICE ENVIRONMENTS, INCLUDING ENTRY INTO PRACTICE AND ADVANCEMENT; [POST DEFINITION OF RACIALIZATION]
- FACTORS AND PRACTICE CHALLENGES THAT COULD INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE, AND;
- IDENTIFY PERCEPTIONS OF BEST PRACTICES FOR PREVENTIVE REMEDIAL AND/OR SUPPORT STRATEGIES.

THIS FOCUS GROUP IS PART OF THE QUALITATIVE PHASE OF THE RESEARCH PROJECT. FOLLOWING THE COMPLETION OF THE FOCUS GROUP RESEARCH IN JULY WE WILL CONDUCT A COMPREHENSIVE ONLINE SURVEY OF THE PROFESSION, ALL MEMBERS OF THE LAW SOCIETY WHO ARE IN GOOD STANDING, INCLUDING YOU AND THE OTHER FOCUS GROUP PARTICIPANTS.

A FULL WRITTEN REPORT WILL INCORPORATE THE QUALITATIVE AND QUANTITATIVE RESEARCH FINDINGS.

IN THIS DISCUSSION I'M INTERESTED IN EXPLORING YOUR EXPERIENCE, PERCEPTIONS AND IMPRESSIONS REGARDING THE CHALLENGES FACING RACIALIZED LAWYERS AND PARALEGALS.

I AM NOT A LAWYER OR PARALEGAL AND I AM NOT RACIALIZED. MY ROLE HERE IS AS A RESEARCHER AND FACILITATOR, RELYING ON EACH OF YOU TO SHARE YOUR EXPERIENCES, PERCEPTIONS AND IMPRESSIONS. THE QUESTIONS THAT I WILL BE ASKING ARE COMPLETELY OPEN-ENDED. YOU ARE FREE TO INTERPRET THEM IN THE WAY THAT YOU BELIEVE IS MOST APPROPRIATE. I AM EQUALLY INTERESTED IN EVERYONE'S INTERPRETATIONS AND RESPONSES TO MY QUESTIONS.

How it works

THIS DISCUSSION IS ORGANIZED AS A FOCUS GROUP - AN ORGANIZED CONVERSATION IN WHICH WE WILL TOUCH ON A NUMBER OF DIFFERENT TOPICS.

Confidentiality

WE ARE TAKING NOTES/RECORDING AND VIEWING THIS CONVERSATION. WE USE THESE NOTES AND RECORDINGS TO PREPARE A REPORT. HOWEVER, YOUR NAME WILL NOT BE MENTIONED ANYWHERE IN THE FINAL REPORT, AND IT WILL NOT BE POSSIBLE FOR ANYONE TO IDENTIFY YOU PERSONALLY. THERE ARE STAFF MEMBERS FROM THE LAW SOCIETY OBSERVING THIS DISCUSSION AND THEY ARE PLEDGED TO KEEP ANYTHING THAT THEY HEAR IN THIS DISCUSSION STRICTLY CONFIDENTIAL. THAT MEANS NO COMMUNICATION OF ANY KIND THAT WOULD ASSOCIATE YOU WITH ANY OPINION OR REMARK ARISING FROM THIS DISCUSSION.

I WOULD ASK YOU ALSO TO RESPECT THE CONFIDENTIALITY OF THE OTHER PARTICIPANTS. YOU MAY WANT TO TALK ABOUT THIS DISCUSSION WITH FRIENDS, FAMILY OR COLLEAGUES AND FEEL FREE TO DO SO, BUT PLEASE DON'T ATTRIBUTE ANY COMMENTS OR SPECIFIC IDEAS TO ANY OF THE INDIVIDUALS WHO PARTICIPATED IN THIS DISCUSSION, IN ANY WAY THAT COULD LEAD TO THEIR BEING ASSOCIATED WITH A SPECIFIC IDEA OR REMARK. OKAY? DOES EVERYONE AGREE? **[GET RESPONSE]**

My role, your role

MY ROLE HERE IS TO ASK QUESTIONS AND LISTEN. I WILL ENCOURAGE ALL OF YOU TO PARTICIPATE. AS THE DISCUSSION GETS GOING PLEASE FEEL FREE TO JUMP IN, EXPRESS YOUR THOUGHTS AND FEELINGS, AND ALSO MAKE ROOM FOR OTHERS TO PARTICIPATE. THERE ARE NO WRONG ANSWERS IN THIS DISCUSSION AND I'M NOT SEEKING AGREEMENT WITH ANY PARTICULAR OPINION. SO PLEASE FEEL FREE TO SPEAK YOUR MIND.

OUR TIME IS LIMITED AND I HAVE A LIST OF QUESTIONS THAT I WANT TO DISCUSS. CONSEQUENTLY, FROM TIME TO TIME I MAY INTERRUPT THE DISCUSSION, EITHER TO HEAR FROM SOMEONE ELSE OR TO MOVE ON TO ANOTHER QUESTION. I APOLOGIZE IN ADVANCE FOR THOSE INTERRUPTIONS.

OKAY? *[MODERATOR PAUSES FOR QUESTIONS/FEEDBACK]*

IF YOU HAVE A CELL PHONE, PLEASE TURN IT OFF, OR SET IT TO SILENT *[IF YOU CAN]*.

[REMINDEE PARTICIPANTS OF THE LENGTH OF THE DISCUSSION AND THE END TIME. PROVIDE DIRECTIONS TO WASHROOMS]

1. Go 'ROUND: YOUR JOB / PROFESSION (10 MIN)

LET'S START WITH INTRODUCTIONS. AS WE GO AROUND THE TABLE, PLEASE INTRODUCE YOURSELF, BRIEFLY DESCRIBE YOUR PRACTICE CONTEXT OR YOUR EMPLOYMENT STATUS IF YOU ARE NOT PRACTISING AT THIS TIME, AND YOUR EXPERIENCE.

2. REFLECTING ON THE PROFESSION (35 MIN)

TELL ME A LITTLE BIT ABOUT WHAT IS HAPPENING IN YOUR PROFESSION? WHAT ARE THE IMPORTANT EVENTS, DEVELOPMENTS OR TRENDS THAT AFFECT HOW YOU ARE ABLE TO DO YOUR JOB AND PURSUE YOUR CAREER?

[PROBE FOR IMPORTANT CHALLENGES TO EMPLOYMENT/ESTABLISHING A PRACTICE, CAREER ADVANCEMENT, CHOICES WITH RESPECT TO AREAS OF PRACTICE, QUALITY OF SERVICES AND ACCESS TO JUSTICE]

AS YOU KNOW, WE'RE HERE TO IDENTIFY AND DISCUSS CHALLENGES FACED BY RACIALIZED LAWYERS AND PARALEGALS. WHAT DOES THAT MEAN TO YOU? WHAT COMES TO MIND WHEN I SAY WE'RE TALKING ABOUT 'CHALLENGES FACED BY RACIALIZED LAWYERS/ PARALEGALS'?

[OPEN ENDED, DON'T PROMPT AT FIRST...LET THIS CONVERSATION GO FOR A FEW MINUTES]

HOW SIGNIFICANT IS RACE TO YOU IN YOUR LIFE AS A LAWYER? IN WHAT WAYS DOES RACE MAKE A DIFFERENCE (POSITIVE OR NEGATIVE) FOR YOU?

[Go AROUND. ALL DISCUSS]

WE'VE HEARD MENTION OF ***[NOTE ISSUES ARISING FROM THE PRECEDING DISCUSSION]***. DO THESE OUTCOMES DIFFER IN DIFFERENT PRACTICE ENVIRONMENTS?

[PROBE ON SPECIFIC PRACTICE AREAS ACCORDING TO WHO'S IN THE ROOM.]

DOES RACE MAKE A DIFFERENCE AT DIFFERENT CAREER STAGES OR IN DIFFERENT CIRCUMSTANCES? FOR EXAMPLE:

ENTRY INTO PRACTICE?

[PROBE FOR SPECIFIC EXAMPLES OF RECRUITMENT EXPERIENCES, TYPE AND FORM OF INTERVIEWS, HOW INDIVIDUAL PARTICIPANTS FIND OUT ABOUT POSITIONS, ETC.]

ADVANCEMENT WITHIN A SPECIFIC FIRM?

[PROBE FOR SPECIFIC EXPERIENCE AROUND CRITERIA / FACTORS / STRUCTURES / PROCESSES USED TO DETERMINE HIRE-BACKS AND ADVANCEMENT]

CAREER PATH?

[PROBE HIGHER PROPORTION OF SOLES ARE RACIALIZED (19% TO 17%), LOWER PROPORTION ARE PARTNERS (6% OF RACIALIZED VS. 16% OF RESPONDENTS ARE)]

AREAS OF LAW?

REPRESENTATION, RETENTION, CHANGE OF STATUS OF RACIALIZED MEMBERS WITHIN THE PROFESSION?

OTHER? *[DECISIONS TO LEAVE THE PROFESSION?]*

3. DIFFERENCES AND SIMILARITIES (15 MIN)

YOU HAVE ALREADY TOLD ME THAT THE OUTCOMES OF RACIALIZATION VARY DEPENDING ON DIFFERENT PRACTICE ENVIRONMENTS AND CAREER CIRCUMSTANCES *[REFERENCE PRECEDING DISCUSSION]*. DOES RACE IMPACT DIFFERENT GROUPS OF LAWYERS DIFFERENTLY?

TALK ABOUT YOUR EXPERIENCES ACCORDING TO THE RACIALIZED GROUP WITH WHICH YOU ARE ASSOCIATED.

[EXPLORE PERCEPTIONS OF OUTCOMES FOR:]

LICENSEES WHO ARE FEMALE AND RACIALIZED? *[ASK FOR EXAMPLES]*

YOUNGER AND RACIALIZED LAWYERS/PARALEGALS? *[ASK FOR EXAMPLES]*

OTHER GROUPS?

COMMUNITIES/ REGIONS?

4. IMPACTS (25 MINUTES)

WE HAVE TALKED ABOUT [*BRIEF SUMMARY OF MAIN TOPICS*]

- MARKET COMPETITION MAKING LIFE HARDER FOR ALL LAWYERS BUT RACIALIZED LAWYERS IN PARTICULAR
- OVERT DISCRIMINATION/RACISM
- STRUCTURAL AND BEHAVIOURAL BARRIERS THAT HAVE THE EFFECT OF DISCRIMINATING THOUGH NOT DESIGNED TO DISCRIMINATE? [GIVE EXAMPLES FROM DISCUSSION]
- LOW EXPECTATIONS (BY CLIENTS/COLLEAGUES/JUDGES/OFFICERS OF THE COURT)
- STANDARDS OF PERFECTION APPLIED TO RACIALIZED LAWYERS – INCREASING COMPLAINTS?
- THE RELATIONSHIP BETWEEN ‘FIT’ AND RACIALIZATION IN HIRING/ADVANCEMENT/WORKFLOW.
- UNDER-REPRESENTATION AT SENIOR LEVELS OF MEDIUM AND LARGE FIRMS
- OVER-REPRESENTATION IN SOLES / SMALLS
- LACK OF ARTICLING OPPORTUNITIES

ARE THERE OTHER IMPACTS OF RACIALIZATION THAT HAVE NOT BEEN MENTIONED THAT YOU WOULD LIKE TO ADD TO THIS LIST? [*NOTE ADDITIONS*]

I'D LIKE TO LEARN MORE ABOUT THE IMPACT THAT THESE FACTORS HAVE.

HOW MANY OF YOU [**HANDS UP**] FEEL THAT ONE OR MORE OF THESE FACTORS HAS NEGATIVELY AFFECTED YOUR CAREER PATH? [**COUNT**] WHAT WAS THE IMPACT, CAN YOU DESCRIBE IT FOR ME IN A NUTSHELL?

DO THESE IMPACTS AFFECT THE QUALITY OF SERVICES YOU CAN PROVIDE TO YOUR CLIENTS AND THE COMMUNITY? [**REMINDER OF CONFIDENTIALITY. THEY MAY NOT BE COMFORTABLE ANSWERING IN FRONT OF COLLEAGUES**].

DO THESE IMPACTS OR CHALLENGES THAT YOU HAVE DESCRIBED INFLUENCE ACCESS TO JUSTICE FOR THE PUBLIC IN ONTARIO?

[PROBE ADEQUACY/'FIT' OF LEGAL REPRESENTATION FOR RACIALIZED COMMUNITIES]

[PROBE REPRESENTATION OF RACIALIZED GROUPS IN PUBLIC INSTITUTIONS – CROWN PROSECUTORS? THE JUDICIARY?]

IN MY INTRODUCTION TO THIS DISCUSSION I MENTIONED THAT ONE OF THE OBJECTIVES OF THIS PROJECT SPECIFIED BY THE LAW SOCIETY WAS TO IDENTIFY “FACTORS AND PRACTICE CHALLENGES THAT COULD INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE” FOR RACIALIZED LICENSEES. DO ANY OF THE IMPACTS OF RACIALIZATION THAT WE HAVE BEEN DISCUSSING INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE?

[PROBE FOR EXAMPLES]

[TEST FOR CONSENSUS: ARE RACIALIZED LICENSEES MORE VULNERABLE/AT HIGHER RISK OF COMPLAINTS AND DISCIPLINE?]

ARE THERE ANY POSITIVES ABOUT RACIALIZATION?

5. REMEDIES (20 MIN)

MANY LAWYERS AND FIRMS ARE CONCERNED ABOUT DIVERSITY AND EQUITY. HAVE YOU SEEN WHAT YOU CONSIDER TO BE GOOD PRACTICES THAT YOU WOULD WANT TO RECOMMEND BE STUDIED OR SCALED UP TO ADDRESS THE CHALLENGES WE HAVE BEEN DISCUSSING?

- BY INDIVIDUALS AND VOLUNTARY ASSOCIATIONS?
- BY HR DEPTS IN FIRMS? BY MANAGING PARTNERS IN FIRMS?
- BY GOVERNMENTS/PUBLIC INSTITUTIONS BUYING LEGAL SERVICES?
- BY THE ATTORNEY-GENERAL? CROWN PROSECUTORS?
- BY THE LAW SOCIETY?

ARE THESE GOOD APPROACHES (AND IF SO, WHY?)

[LIST SPECIFIC MEASURES THAT HAVE BEEN IMPLEMENTED OR PROPOSED, E.G.]

- APPOINT MORE RACIALIZED JUDGES/ADJUDICATORS
- GATHER STATISTICS ON RACIALIZED IDENTITY OF LICENSEES IN COMPLAINTS PROCESS
- ENFORCE PROCUREMENT RULES BY GOVERNMENT
- MENTORSHIP PROGRAMS
- MORE SOCIAL OPPORTUNITIES NOT LINKED TO TRADITIONAL 'WHITE' CULTURE
- RESTRICT INTAKE OF NEW LICENSEES
- HR/RECRUITMENT PRACTICES
 - o 'BLIND' HR POLICIES (NO NAMES OR PERSONAL ID IN EARLY PHASES OF HIRING)
 - o **[Add]** OTHER SPECIFIC HR AND RECRUITMENT PRACTICES
- DEVELOP A MORE DIVERSE PUBLIC FACE/IMAGE FOR THE LAW SOCIETY
- SANCTION/PROMOTE COLLECTION AND SHARING OF DEMOGRAPHIC DATA RE: GENDER/RACIAL COMPOSITION OF LAW FIRMS
- PROMOTE 'CULTURAL COMPETENCE TRAINING'

- ENCOURAGE DIVERSITY CRITERIA IN CORPORATE PROCUREMENT OF LEGAL SERVICES [AS EVIDENT TO SOME DEGREE AMONGST LEGAL LEADERS FOR DIVERSITY]

6. CLOSING REMARKS (5 MIN)

THAT BRINGS US TO THE END OF THE DISCUSSION.

[TIME PERMITTING MODERATOR MAY ALLOW ONE OR TWO FINAL COMMENTS]

AS I HAVE EXPLAINED, THE RESULTS OF THIS AND OTHER FOCUS GROUP DISCUSSIONS - AS WELL AS THE RESULTS OF AN ONLINE SURVEY THAT YOU WILL BE INVITED TO PARTICIPATE IN – WILL BE INCORPORATED INTO A RESEARCH REPORT SUBMITTED TO LAW SOCIETY. TO REPEAT MY EARLIER PROMISE, ALL OF THIS WILL BE REPORTED IN A STRICTLY CONFIDENTIAL WAY AND YOU WILL NOT IDENTIFIED ANYWHERE IN THE REPORTING PROCESS.

THANK YOU FOR TAKING THE TIME TO PARTICIPATE THIS DISCUSSION.

LSUC Focus Group Guide Challenges Facing Racialized Licensees June/August 2013 (Non-Racialized Lawyers and Paralegals)

TOR, JUNE 19, SOLES & SMALLS (WOMEN 6PM/MEN 8PM)
TOR, JUNE 20, MEDIUM & LARGE (WOMEN 6PM/MEN 8PM)
TOR, JUNE 25, PARALEGALS (WOMEN 6PM/MEN 8PM)
TOR, JUNE 27, FOREIGN TRAINED (WOMEN 6PM/MEN 8PM)
OTT, JULY 17, IN PRACTICE (6PM) / GOVERNMENT & CORPORATIONS (8PM)
LDN, JULY 31, IN PRACTICE (6PM)
TOR, AUG 1, GOV & CORP (6 PM)/ PARALEGALS (8PM)
TOR, AUG 14, OTHERS (6PM)
TOR AUG 15, NON-RACIALIZED LICENSEES (x2)

CRITERIA:

- 10 RECRUITS (6-8 PARTICIPANTS) WHO SELF-IDENTIFY AS 'NON-RACIALIZED'
- APPROXIMATE AGE BALANCE
- APPROXIMATE GENDER BALANCE WHERE APPROPRIATE
- TORONTO : MIX OF 416/905

115 MINUTES

Introduction (5 minutes)

Introduction / Purpose of the Research

GOOD EVENING. WELCOME AND THANK YOU FOR TAKING THE TIME TO PARTICIPATE IN THIS FOCUS GROUP DISCUSSION. MY NAME IS DAVID KRAFT AND THIS IS MY COLLEAGUE ANGELA LEE.

IN SEPTEMBER 2011 BENCHERS IDENTIFIED THE FOLLOWING AS A PRIORITY: "CONSIDERING THE DEVELOPMENT OF PROGRAMS TO ENCOURAGE LAW FIRMS TO ENHANCE DIVERSITY WITHIN FIRMS, BASED ON IDENTIFIED NEEDS, AND CREATE REPORTING MECHANISMS." AS A RESULT, CONVOCATION CREATED THE WORKING GROUP ON CHALLENGES FACED BY RACIALIZED LICENSEES.

THIS RESEARCH PROJECT IS LED BY THE WORKING GROUP AND MANAGED BY THE EQUITY INITIATIVES DEPARTMENT OF THE LAW SOCIETY. STRATEGIC COMMUNICATIONS INC. (STRATCOM) HAS BEEN CONTRACTED BY THE LAW SOCIETY TO CONDUCT RESEARCH TO IDENTIFY:

- CHALLENGES FACED BY RACIALIZED LAWYERS AND PARALEGALS IN DIFFERENT PRACTICE ENVIRONMENTS, INCLUDING ENTRY INTO PRACTICE AND ADVANCEMENT; [POST DEFINITION OF RACIALIZATION]
- FACTORS AND PRACTICE CHALLENGES THAT COULD INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE, AND;
- IDENTIFY PERCEPTIONS OF BEST PRACTICES FOR PREVENTIVE REMEDIAL AND/OR SUPPORT STRATEGIES.

THIS FOCUS GROUP IS PART OF THE QUALITATIVE PHASE OF THE RESEARCH PROJECT. FOLLOWING THE COMPLETION OF THE FOCUS GROUP RESEARCH IN JULY WE WILL CONDUCT A COMPREHENSIVE ONLINE SURVEY OF THE PROFESSION, ALL MEMBERS OF THE LAW SOCIETY WHO ARE IN GOOD STANDING, INCLUDING YOU AND THE OTHER FOCUS GROUP PARTICIPANTS.

A FULL WRITTEN REPORT WILL INCORPORATE THE QUALITATIVE AND QUANTITATIVE RESEARCH FINDINGS.

IN THIS DISCUSSION I'M INTERESTED IN EXPLORING YOUR EXPERIENCE, PERCEPTIONS AND IMPRESSIONS REGARDING THE CHALLENGES FACING RACIALIZED LAWYERS AND PARALEGALS. ALTHOUGH YOU YOURSELVES ARE NOT RACIALIZED LAWYERS OR PARALEGALS, I'M INTERESTED IN YOUR EXPERIENCES AND YOUR PERCEPTION OF THE ISSUES. I'M INTERESTED IN YOUR VIEWS REGARDING THE EXPERIENCES OF RACIALIZED LAWYERS AND PARALEGALS IN DIFFERENT PRACTICE ENVIRONMENTS.

I AM HERE AS A RESEARCHER AND FACILITATOR, RELYING ON EACH OF YOU TO SHARE YOUR EXPERIENCES, PERCEPTIONS AND IMPRESSIONS. THE QUESTIONS THAT I WILL BE ASKING ARE COMPLETELY OPEN-ENDED. YOU ARE FREE TO INTERPRET THEM IN THE WAY THAT YOU BELIEVE IS MOST APPROPRIATE. THERE NO RIGHT OR WRONG ANSWERS A FOCUS GROUP. I AM EQUALLY INTERESTED IN EVERYONE'S INTERPRETATIONS AND RESPONSES TO MY QUESTIONS.

How it works

THIS DISCUSSION IS ORGANIZED AS A FOCUS GROUP - AN ORGANIZED CONVERSATION IN WHICH WE WILL TOUCH ON A NUMBER OF DIFFERENT TOPICS.

Confidentiality

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TO ANY OF THE INDIVIDUALS WHO PARTICIPATED IN THIS DISCUSSION, IN ANY WAY THAT COULD LEAD TO THEIR BEING ASSOCIATED WITH A SPECIFIC IDEA OR REMARK. OKAY? DOES EVERYONE AGREE? **[GET RESPONSE]**

My role, your role

MY ROLE HERE IS TO ASK QUESTIONS AND LISTEN. I WILL ENCOURAGE ALL OF YOU TO PARTICIPATE. AS THE DISCUSSION GETS GOING PLEASE FEEL FREE TO JUMP IN, EXPRESS YOUR THOUGHTS AND FEELINGS, AND ALSO MAKE ROOM FOR OTHERS TO PARTICIPATE. THERE ARE NO WRONG ANSWERS IN THIS DISCUSSION AND I'M NOT SEEKING AGREEMENT WITH ANY PARTICULAR OPINION. SO PLEASE FEEL FREE TO SPEAK YOUR MIND.

OUR TIME IS LIMITED AND I HAVE A LIST OF QUESTIONS THAT I WANT TO DISCUSS. CONSEQUENTLY, FROM TIME TO TIME I MAY INTERRUPT THE DISCUSSION, EITHER TO HEAR FROM SOMEONE ELSE OR TO MOVE ON TO ANOTHER QUESTION. I APOLOGIZE IN ADVANCE FOR THOSE INTERRUPTIONS.

OKAY? **[MODERATOR PAUSES FOR QUESTIONS/FEEDBACK]**

IF YOU HAVE A CELL PHONE, PLEASE TURN IT OFF, OR SET IT TO SILENT [IF YOU CAN].

[REMIND PARTICIPANTS OF THE LENGTH OF THE DISCUSSION AND THE END TIME. PROVIDE DIRECTIONS TO WASHROOMS]

1. Go 'ROUND: YOUR JOB / PROFESSION (10 MIN)

LET'S START WITH INTRODUCTIONS. AS WE GO AROUND THE TABLE, PLEASE INTRODUCE YOURSELF, BRIEFLY DESCRIBE YOUR PRACTICE CONTEXT OR YOUR EMPLOYMENT STATUS IF YOU ARE NOT PRACTISING AT THIS TIME, AND YOUR EXPERIENCE.

ALSO, PLEASE TELL ME WHY YOU WERE INTERESTED IN PARTICIPATING IN THIS DISCUSSION.

2. REFLECTING ON THE PROFESSION (35 MIN)

TELL ME A LITTLE BIT ABOUT WHAT IS HAPPENING IN YOUR PROFESSION? WHAT ARE THE IMPORTANT EVENTS, DEVELOPMENTS OR TRENDS THAT AFFECT HOW YOU ARE ABLE TO DO YOUR JOB AND PURSUE YOUR CAREER?

[PROBE FOR IMPORTANT CHALLENGES TO EMPLOYMENT/ESTABLISHING A PRACTICE, CAREER ADVANCEMENT, CHOICES WITH RESPECT TO AREAS OF PRACTICE, QUALITY OF SERVICES AND ACCESS TO JUSTICE]

[OPEN ENDED, DON'T PROMPT AT FIRST...LET THIS CONVERSATION GO FOR A FEW MINUTES]
THINKING ABOUT YOUR OWN EXPERIENCE *[AS AN NRL]* WHAT ARE THE MAJOR CHALLENGES FACING LAWYERS/PARALEGALS?

[PROBE SPECIFIC AREAS DEPENDING ON WHO'S IN THE ROOM.]

ENTRY INTO PRACTICE

[PROBE]
TYPE AND FORM OF INTERVIEWS,
HOW INDIVIDUALS FIND OUT ABOUT POSITIONS IF NOT THROUGH THE 'MATCHING PROCESS'?
WHAT ROLE, IF ANY, DID THE CONCEPT OF 'FIT' PLAY IN THE RECRUITMENT PROCESS?

WHAT USE, IF ANY, WAS MADE OF LEGAL OR OTHER PROFESSIONAL NETWORKS TO SECURE ENTRY INTO THE PROFESSION?

WHAT, IF ANY, DIFFICULTIES WERE ENCOUNTERED OBTAINING ARTICLES?

[NOTE: RESISTING THE TEMPTATION TO TELEGRAPH THE PERCEPTION OF MANY RLS AROUND THE ISSUE OF 'FIT' WILL BE KEY HERE AS WE DO NOT WISH TO UNDULY COMPROMISE THE SPONTANEITY OF INFORMATION PROFERRED.]

ADVANCEMENT

[ASK RESPONDENT TO FIRST REMIND US OF THEIR PRACTICE ENVIRONMENT) PROBE FOR SPECIFIC EXPERIENCE AROUND CRITERIA / FACTORS / STRUCTURES / PROCESSES USED TO DETERMINE HIRE-BACKS AND ADVANCEMENT]:

- **OPPORTUNITIES TO WORK ON COMPLEX / IMPORTANT FILES**
- **MENTORING**
- **PERFORMANCE REVIEWS**
- **HOW WAS PROCESS OF ADVANCEMENT COMMUNICATED / OR HOW DID RESPONDENT BECOME AWARE OF THE PROCESS?**

WHAT ARE THE CHALLENGES ADVANCING IN DIFFERENT PRACTICE ENVIRONMENTS, FOR EXAMPLE IN MEDIUM SIZED AND LARGER FIRMS?

CAREER PATH?

WHAT FACTORS DETERMINED YOUR CAREER PATH IN SOLE PRACTICE, MID – LARGE SIZE FIRMS, GOVERNMENT, JUDICIARY...

AREAS OF LAW

**WHAT FACTORS DETERMINED YOUR AREA OF PRACTICE? - ARTICLING EXPERIENCE,
FIRST HIRE AFTER CALL, NETWORKS INCLUDING CLIENTS WITH WHOM YOU WORKED
IN YOUR PRACTICE?...**

OTHER

**[REPRESENTATION, RETENTION, CHANGE OF STATUS WITHIN THE PROFESSION?
DECISION TO LEAVE THE PROFESSION?]**

3. DIFFERENCES AND SIMILARITIES (15 MIN)

ENTRY INTO PRACTICE

**IN OUR STUDY AND IN PAST RESEARCH WITH RACIALIZED LAWYERS, THERE HAVE
BEEN REPORTS OF :**

- **IMPROPER QUESTIONS ASKED IN INTERVIEWS (QUESTIONS ABOUT FAMILY
ORIGIN, RELIGION, POLITICAL PARTY AFFILIATIONS ETC.**
- **DISPARATE OUTCOMES IN FINDING ARTICLES AND POST-CALL FIRST
POSITIONS INCLUDING HIRE-BACK**

ARE YOU FAMILIAR WITH THESE CONCERNS?

ANY THOUGHTS AS TO WHY OR WHY NOT THESE PATTERNS MAY EXIST?

**HAVING REGARD TO OUR EARLIER DISCUSSION ABOUT YOUR EXPERIENCES ENTERING
THE PRACTICE, ARE THERE ANY PROCESSES THAT MAY CREATE CHALLENGES
(INTENDED OR UNINTENDED)?**

ADVANCEMENT

PAST QUANTITATIVE RESEARCH CONDUCTED BY THE SOCIETY HAS SHOWN THAT RLS ASCEND TO PARTNERSHIPS IN FIRMS AT LOWER RATES. (6% OF RACIALIZED VS. 16% OF TOTAL RESPONDENTS).

ANY THOUGHTS AS TO WHY THESE PATTERNS PERSIST?

HAVING REGARD TO OUR EARLIER DISCUSSION ABOUT YOUR ADVANCEMENT EXPERIENCES, DO ELEMENTS OF THAT PROCESS POSE ANY CHALLENGES FOR RLS? (INTENDED OR UNINTENDED)

ANY DIFFERENCES FOR GOVERNMENT OR CORPORATE ENVIRONEMENTS?

CAREER PATH?

PAST QUANTITATIVE RESEARCH BY THE SOCIETY SHOWS RLS OCCUPY A HIGHER PROPORTION OF POSITIONS IN SOLE AND SMALL FIRMS THAN NRLs (RACIALIZED V. TOTAL RESPONDENTS (21% TO 19%), AND ARE OVERREPRESENTED IN GOVERNMENT AS WELL.

ANY THOUGHTS AS TO FACTORS THAT MAY CONTRIBUTE TO OVERREPRESENTATION OF RLS IN SOLES / SMALLS / GOVERNMENT?

HAVING REGARD TO OUR EARLIER DISCUSSION ABOUT HOW YOUR CAREER WAS CONSTRUCTED, DO YOU HAVE ANY INSIGHTS INTO THE PATTERNS?

AREAS OF LAW

PAST RESEARCH BY THE SOCIETY (PROFESSOR MCKAY p113) SHOWS NON-RACIALIZED LAWYERS EQUALLY LIKELY TO PRACTICE CIVIL LITIGATION AND CORPORATE / COMMERCIAL LAW AS RACIALIZED LAWYERS. BUT THERE IS DIVERGENCE IN OTHER PRACTICE AREAS. RACIALIZED LAWYERS ARE MORE LIKELY TO PRACTICE CRIMINAL, IMMIGRATION, AND POVERTY LAW WHEREAS NON-RACIALIZED LAWYERS ARE MORE LIKELY TO PRACTICE REAL ESTATE, INSURANCE LAW AND FAMILY.

ANY THOUGHTS AS TO FACTORS THAT MAY CONTRIBUTE TO THE PERSISTENCE OF THESE PATTERNS?

ANY INTENDED OR UNINTENDED BARRIERS TO RLs PRACTICING REAL ESTATE, INSURANCE, OR FAMILY LAW?

HAVING REGARD TO OUR EARLIER DISCUSSION ABOUT FACTORS THAT LED YOU TO YOUR PRACTICE AREA, DO YOU HAVE ANY INSIGHTS THAT MAY INDICATE REASONS FOR THE PATTERNS?

OTHER

**[REPRESENTATION, RETENTION, CHANGE OF STATUS OF RACIALIZED MEMBERS WITHIN THE PROFESSION?
DECISION TO LEAVE THE PROFESSION?]**

MANY OF YOU HAVE SUGGESTED THAT THE OUTCOMES OF RACIALIZATION VARY DEPENDING ON DIFFERENT PRACTICE ENVIRONMENTS AND CAREER CIRCUMSTANCES [REFERENCE PRECEDING DISCUSSION].

**DOES RACE IMPACT DIFFERENT GROUPS OF LAWYERS DIFFERENTLY?
TALK ABOUT YOUR KNOWLEDGE OR IMPRESSIONS OF THE EXPERIENCES OF DIFFERENT RACIALIZED GROUPS WITH WHICH YOU HAVE BEEN ASSOCIATED.**

[EXPLORE PERCEPTIONS OF OUTCOMES FOR:]

NEW LICENSEES AND RACIALIZED LICENSEES COMPARED TO NEW LICENSEES AND NON –RACIALIZED

FEMALE AND RACIALIZED COMPARED TO MALE LICENSEES AND RACIALIZED? [ASK FOR EXAMPLES]

OTHER GROUPS?

COMMUNITIES/ REGIONS?

4. IMPACTS (25 MINUTES)

WE HAVE TALKED ABOUT [BRIEF SUMMARY OF MAIN TOPICS]

- MARKET COMPETITION MAKING LIFE HARDER FOR ALL LAWYERS BUT RACIALIZED LAWYERS IN PARTICULAR
- OVERT DISCRIMINATION/RACISM
- STRUCTURAL AND BEHAVIOURAL BARRIERS THAT HAVE THE EFFECT OF DISCRIMINATING THOUGH NOT DESIGNED TO DISCRIMINATE? [GIVE EXAMPLES FROM DISCUSSION]
- UNDER-REPRESENTATION AT SENIOR LEVELS OF MEDIUM AND LARGE FIRMS
- OVER-REPRESENTATION IN SOLES / SMALLS
- LACK OF ARTICLING OPPORTUNITIES

ARE THERE OTHER IMPACTS OF RACIALIZATION THAT HAVE NOT BEEN MENTIONED THAT YOU WOULD LIKE TO ADD TO THIS LIST? [NOTE ADDITIONS]

DO THESE IMPACTS AFFECT THE QUALITY OF SERVICES THAT LAWYERS AND PARALEGALS CAN PROVIDE TO CLIENTS AND THE COMMUNITY? [REMINDER OF CONFIDENTIALITY. THEY MAY NOT BE COMFORTABLE ANSWERING IN FRONT OF COLLEAGUES].

DO THE IMPACTS/ CHALLENGES FACING RACIALIZED LICENSEES, INFLUENCE ACCESS TO JUSTICE FOR THE PUBLIC IN ONTARIO?

[PROBE ADEQUACY/'FIT' OF LEGAL REPRESENTATION FOR RACIALIZED COMMUNITIES]

[PROBE REPRESENTATION OF RACIALIZED GROUPS IN PUBLIC INSTITUTIONS – CROWN PROSECUTORS? THE JUDICIARY?]

IN MY INTRODUCTION TO THIS DISCUSSION I MENTIONED THAT ONE OF THE OBJECTIVES OF THIS PROJECT SPECIFIED BY THE LAW SOCIETY WAS TO IDENTIFY “FACTORS AND PRACTICE CHALLENGES THAT COULD INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE.” ARE THERE FACTORS OR PRACTICE CHALLENGES THAT COULD INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE FOR ALL LICENSEES?

DO ANY OF THE IMPACTS OF RACIALIZATION THAT WE HAVE BEEN DISCUSSING INCREASE THE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE? FROM YOUR EXPERIENCE AND OBSERVATIONS, ARE RACIALIZED LICENSEES AT MORE RISK OF REGULATORY COMPLAINTS AND DISCIPLINE THAN NON-RACIALIZED LICENSEES?

[PROBE FOR EXAMPLES]

[TEST FOR CONSENSUS: ARE RACIALIZED LICENSEES MORE VULNERABLE/AT HIGHER RISK OF COMPLAINTS AND DISCIPLINE?]

BASED ON YOUR OWN EXPERIENCE AND OBSERVATIONS, ARE THERE ANY POSITIVES ABOUT RACIALIZATION?

5. REMEDIES (20 MIN)

MANY LAWYERS AND FIRMS ARE CONCERNED ABOUT DIVERSITY AND EQUITY. HAVE YOU SEEN WHAT YOU CONSIDER TO BE GOOD PRACTICES THAT YOU WOULD WANT TO RECOMMEND BE STUDIED OR SCALED UP TO ADDRESS THE CHALLENGES WE HAVE BEEN DISCUSSING?

- BY INDIVIDUALS AND VOLUNTARY ASSOCIATIONS?
- BY HR DEPTS IN FIRMS? BY MANAGING PARTNERS IN FIRMS?
- BY GOVERNMENTS/PUBLIC INSTITUTIONS BUYING LEGAL SERVICES?
- BY THE ATTORNEY-GENERAL? CROWN PROSECUTORS?
- BY THE LAW SOCIETY?

ARE THESE GOOD APPROACHES (AND IF SO, WHY?)

[LIST SPECIFIC MEASURES THAT HAVE BEEN IMPLEMENTED OR PROPOSED, E.G.]

- APPOINT MORE RACIALIZED JUDGES/ADJUDICATORS

- GATHER STATISTICS ON RACIALIZED IDENTITY OF LICENSEES IN COMPLAINTS PROCESS
- ENFORCE PROCUREMENT RULES BY GOVERNMENT
- MENTORSHIP PROGRAMS
- MORE SOCIAL OPPORTUNITIES NOT LINKED TO TRADITIONAL 'WHITE' CULTURE
- RESTRICT INTAKE OF NEW LICENSEES
- HR/RECRUITMENT PRACTICES
 - 'BLIND' HR POLICIES (NO NAMES OR PERSONAL ID IN EARLY PHASES OF HIRING)
 - *[Add]* OTHER SPECIFIC HR AND RECRUITMENT PRACTICES
- DEVELOP A MORE DIVERSE PUBLIC FACE/IMAGE FOR THE LAW SOCIETY
- SANCTION/PROMOTE COLLECTION AND SHARING OF DEMOGRAPHIC DATA RE: GENDER/RACIAL COMPOSITION OF LAW FIRMS
- PROMOTE 'CULTURAL COMPETENCE TRAINING'
- ENCOURAGE DIVERSITY CRITERIA IN CORPORATE PROCUREMENT OF LEGAL SERVICES [AS EVIDENT TO SOME DEGREE AMONGST LEGAL LEADERS FOR DIVERSITY]

WHAT DOES SUCCESS LOOK LIKE TO YOU WITH RESPECT TO THE ISSUES WE'VE TALKED ABOUT TONIGHT?

IS IT APPROPRIATE FOR THE LAW SOCIETY TO CONDUCT THIS TYPE OF RESEARCH? IS THIS PROJECT A GOOD IDEA?

6. CLOSING REMARKS (5 MIN)

THAT BRINGS US TO THE END OF THE DISCUSSION.

[TIME PERMITTING MODERATOR MAY ALLOW ONE OR TWO FINAL COMMENTS]

AS I HAVE EXPLAINED, THE RESULTS OF THIS AND OTHER FOCUS GROUP DISCUSSIONS - AS WELL AS THE RESULTS OF AN ONLINE SURVEY THAT YOU WILL BE INVITED TO PARTICIPATE IN – WILL BE INCORPORATED INTO A RESEARCH REPORT SUBMITTED TO LAW SOCIETY. TO REPEAT MY EARLIER PROMISE, ALL OF THIS WILL BE REPORTED IN A STRICTLY CONFIDENTIAL WAY AND YOU WILL NOT IDENTIFIED ANYWHERE IN THE REPORTING PROCESS.

THANK YOU FOR TAKING THE TIME TO PARTICIPATE THIS DISCUSSION.

Innovation
Strategy
Results

**Draft Survey
Instrument – Barriers
Facing Racialized
Licensees**

**For
Law Society of Upper
Canada**

October 16, 2013

www.stratcom.ca

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1.0 Draft Questionnaire

STRUCTURE OF QUESTIONNAIRE

- A. Introduction and Demographics
- B. Personal Experience
- C. Barriers to Entry and Advancement
- D. Best Practices and Role of the Law Society and Other Actors
- E. Complaints and Discipline

A. Introduction and Demographics

Welcome.

The Law Society of Upper Canada is committed to advancing equity and diversity in the legal profession. As the general population of Ontario grows increasingly diverse, the legal profession is evolving with it. To ensure the public's access to justice and to promote excellence in the profession, the Law Society considers equity and diversity in all aspects of its mandate.

As one step in this effort, Convocation created the *Challenges Faced by Racialized Licensees Working Group* in 2012, with a mandate to identify those challenges and consider strategies for enhanced inclusion at all career stages. The term 'Racialized' expresses race as the process by which groups are socially constructed, as well as to modes of self-identification, related to race, and includes Arab, Black (e.g. African-Canadian, African, Caribbean), Chinese, East-Asian (e.g. Japanese, Korean), Latin American and Hispanic, South Asian (e.g. Indo-Canadian, Indian Subcontinent), South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino), and West Asian (e.g. Iranian, Afghan) persons.

Because the Law Society has already completed a thorough consultation with the Aboriginal bar, this consultation does not focus on barriers faced by that community. The Aboriginal Bar Consultation Report is available on the Law Society website.

This survey is an initiative of the Law Society of Upper Canada's Working Group but it is being conducted by Strategic Communications Inc. (Stratcom), an independent Canadian research

firm. The survey is the third part of a larger study that included one-on-one interviews with experts (May/June 2013) and focus groups (July /August 2013). In addition the Working Group has arranged informal consultations with members of the legal profession.

The questions in this survey are designed to fulfill the mandate of the Working Group by enquiring into:

- challenges faced by racialized and non-racialized lawyers and paralegals in different practice environments, including entry into practice and advancement; factors and practice challenges that could increase the risk of regulatory complaints and discipline, and
- best practices for preventive, remedial and/or support strategies.

Note on terminology: For brevity we often use the term ‘licensees’ rather than ‘lawyers and paralegals’.

This survey will take about [FINAL TEST TIMING, max 20 min] to complete.

All of the responses are confidential and anonymous. The collected data will not be attributed to any individual respondent.

YOUR PARTICIPATION IS VALUED AND APPRECIATED. WHETHER YOU CONSIDER YOURSELF A RACIALIZED LICENSEE OR NOT, YOUR INPUT IS EXTREMELY IMPORTANT. THANK YOU FOR PARTICIPATING.

If you have questions or concerns about the survey, please email armand.cousineau@stratcom.ca

1) Are you currently licensed as a lawyer or a paralegal in Ontario?

Practising -- LAWYER

Not practising at this time – LAWYER

PARALEGAL providing legal services

PARALEGAL currently not providing legal services

2) How long have you been licensed to practise or to provide legal services in Ontario?

<2 years

2-5 years

6-10 years

11-15 years

>15 years

2a) [for Paralegals] Were you licensed under the ‘grandparenting’ provisions that were introduced when the Law Society became the regulator of the paralegal profession in 2007?

Yes

No

3) Which of the following best describes your practice environment?

Sole practitioner

Small firm (fewer than 6 licensees)

Medium firm (6 to 50 licensees)

Large firm (more than 50 licensees)

Otherwise Employed:

Education

Government

Corporation

Non-profit

Not Employed in Ontario:

Retired

Reside outside Ontario

Unemployed at this time

Other

Please specify other _____

- 4) [All respondents] Do you:
- Have a law degree from a law school in Canada?
 - Have a law degree from outside of Canada?
 - Not have a law degree?
- 5) [Yes, Law degree from outside of Canada] Where did you earn your law degree? [OPEN
END]
- 6) How long did you practise outside of Canada?
- Less than 2 years
 - More than 2 - <5 years
 - >5 - <10 years
 - 10+ years
 - Did not practise outside of Canada
- 7) [FOR PRACTISING LAWYERS] What are your main areas of practice?
[MARK ALL THAT APPLY]
- Aboriginal law
 - Administrative law
 - ADR/Mediation Services
 - Bankruptcy & Insolvency Law
 - Civil litigation – Plaintiff
 - Civil litigation – Defendant
 - Construction law
 - Corporate/Commercial law
 - Criminal/Quasi Criminal law
 - Employment/Labour law
 - Environmental law
 - Family/Matrimonial law
 - Franchise law

Immigration law
Intellectual Property law
Real Estate law
Securities law
Tax law
Wills, Estates, Trusts law
Workplace Safety & Insurance law
Other

Please specify other area(s) of practice _____

- 8) [FOR PARALEGALS PROVIDING LEGAL SERVICES] What are the main areas where you provide legal services? [MARK ALL THAT APPLY]

Ontario Court of Justice *Provincial Offences Act* matters
Ontario Court of Justice - Summary conviction offences
Worker's Compensation
Small Claims Court matters
Property Tax Assessment
Statutory Accident Benefits Schedule matters (SABS)
Human Rights Tribunal
Landlord and Tenant
Other Tribunals

Please specify other Tribunals _____

- 9) In this survey we are seeking the opinions of both racialized and non-racialized licensed paralegals and lawyers. The term racialized refers to the process by which groups are socially constructed *in terms of race*, as well as to modes of self-identification related to race. Do you self-identify as racialized or non-racialized?
- I am racialized
I am not racialized
I am unsure/ I don't know

10) Are you: *[check all that apply]*

Arab

Black (e.g. African-Canadian, African-American, Caribbean, African)

Chinese

East-Asian (e.g. Japanese, Korean)

Latin American, Hispanic, Latino

South Asian (e.g. Indo-Canadian, Indian, Pakistani, Bangladeshi, Sri Lankan)

South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino,

Malaysian, Indonesian)

West Asian (e.g. Iranian, Syrian, Afghan)

White/Caucasian

Other

Please specify other: _____

11) Are you:

A woman

A man

Transgender

12) Is your mother tongue...

English

French

Another language

13) Please tell us the year in which you were born:

[YYYY]

14) Please tell us your residential postal code so that we can group your responses with those of other licensees:

L# L# L#

15) Were you...

born in Canada

born outside Canada

B. Personal Experience

The next few questions are about your own personal experiences as a licensee. Please answer as candidly as possible, keeping in mind that all responses are strictly confidential and anonymous.

16) Please indicate if you agree or disagree with each of the following statements about your entry into practice/career advancement?

[RANDOMIZE]

a) Mentor(s) played an important role in my career development.

Strongly Agree
Somewhat Agree
Somewhat Disagree
Strongly Disagree
I don't know
Does not apply to me

- b) I felt at a disadvantage in law school compared to other students.
- c) My social networks have played an important role in my career development.
- d) My experience with On-Campus Interviews (OCI) was positive.
- e) I was offered employment at the firm where I articulated/had my job placement.
- f) I struggled to find an articling position or training placement.
- g) I have felt professional disrespect from other lawyers.
- h) I have felt professional disrespect from other paralegals.
- i) I have felt professional disrespect in court.
- j) I found a suitable first job shortly after being licensed.
- k) I have found employment in the type of practice environment that best suits me.
- l) I have been able to work in my preferred area(s) of practice.

- m) I have not advanced as rapidly as my colleagues who have similar qualifications and experience.
- n) I have left one (or more) positions because I did not feel that I belonged there.
- o) I have left one (or more) positions because I did not feel I would be able to advance commensurate with my performance and ability.
- p) My admission into partnership was delayed.
- q) I was not made partner despite meeting known criteria for advancement.
- r) I have found it relatively easy to get legal advice on client files from professional colleagues or mentors.
- s) I was refused a promotion to a manager position.

C. Barriers to Entry & Advancement

- 17) Below is a list of factors that may present challenges to individual lawyers and paralegals. For each factor, please indicate if you have experienced it as a barrier or challenge at any time **DURING** your entry into practice, at any time **AFTER** your entry into practice, (i.e. career advancement) or neither: [RANDOMIZE RESPONSES]

[TABLE FORMAT WITH ENTRY, AND CAREER ADVANCMENT CHECK BOXES TO THE RIGHT]

- a) your gender identity

Yes during entry into practice

Yes after entry into practice

Neither

- b) your sexual orientation
- c) your ethnic/racial identity
- d) your age (too young)
- e) your age (too old)
- f) your religion or religious practices
- g) where you were trained/educated
- h) where you were born/raised
- i) the way you speak English/French

- j) your (family's) socio-economic status
- k) your physique/appearance
- l) a physical disability
- m) a cognitive or learning disability
- n) which school(s) you graduated from
- o) your need/desire to take time away from work to care for children or other family members
- p) the types of social activities you prefer
- q) your social or political views

18) [IF RESPONDENT MARKS AT LEAST ONE RESPONSE FROM THE LIST OF FACTORS IN THE PREVIOUS QUESTION] This question asks you to indicate if any of the challenges or barriers you identified in the previous question has contributed in a significant way to:

- a) Your choice of practice environment (size of firm, government, in-house counsel, etc)?

Yes

No

Unsure/Maybe

Don't Know

- b) Your geographic area of employment?
- c) Your choice of main practice areas of law or provision of legal services?
- d) The fact that you are currently unemployed or retired or have left practice?

[TABLE REPRODUCES THE LIST OF CHALLENGES/BARRIERS THAT WERE SELECTED BY THE RESPONDENT IN THE PREVIOUS QUESTION WITH CHECK BOX COLUMNS TO THE RIGHT]

19) Do you believe that racialized licensees, on the whole, face challenges to their entry into practice and career advancement compared to non-racialized licensees?

Much more

Somewhat more

About the same as non-racialized licensees

Somewhat less
Much less
Don't know

- 20) Have you experienced or have you witnessed, a situation in which challenges facing a racialized candidate or licensee had a material impact – either positive or negative – on that individuals' entry into practice and/or their career advancement? This could apply to yourself or another Ontario licensee.

Yes [PLEASE BRIEFLY DESCRIBE THAT SITUATION]

No
Not sure

- 21) **[RACIALIZED RESPONDENTS ONLY]** Have you been disadvantaged in hiring, advancement, or pursuit of an area of practice as a consequence of any of the factors listed below?

- a) You do not have the same cultural background as your colleagues

Yes, definitely
Yes, probably
No
I am not sure
Not applicable

Repeat questions with response categories for the following:

- b) You have been subjected to prejudicial attitudes on the part of other legal professionals, based on your racialized status
c) You have been subjected to prejudicial attitudes on the part of clients and potential clients, based on your racialized status
d) You have a different accent than your colleagues

- e) You received your training outside of Canada
- f) You do not speak English/French as well as your peers
- g) You were not raised in Canada
- h) You did not grow up with a network of professional contacts that you could turn to for support with your legal career
- i) Opportunities for equity partnership were reduced for everyone, as a result of changes in employer policy
- j) You were expected to perform to a higher standard than others because of stereotypes associated with your race
- k) You were expected to perform to a higher standard than others, because of stereotypes associated with your gender identity
- l) You were expected not to succeed at your job because of stereotypes associated with your race
- m) You were expected not to succeed at your job because of stereotypes associated with your gender identity
- n) You were denied administrative or other office supports granted to all others who were performing your same role
- o) You were harassed
- p) Your employment environment is not very diverse
- q) Clients do not request to be represented by lawyers from diverse backgrounds
- r) Your peers do not believe that a diverse working environment is important
- s) Your beliefs or cultural practices preclude you from participating in many of the social networking functions of Ontario legal firms
- t) Partners avoid giving you the most challenging files to work on
- u) You lack experience in running the business side of a legal practice
- v) You are a paralegal, rather than a lawyer
- w) You possess inferior qualifications compared to your peers
- x) You do not have mentors to give you legal advice on client files

22) In your view, do the challenges facing racialized candidates/licensees...

- a) ... affect the quality of legal services for the public?

Yes, definitely

Probably, but not sure

Probably not
No, definitely not
I don't know

Repeat questions with response categories for the following:

- b) ... affect access to justice for Ontarians?
- c) ... impact on the reputation of the legal profession in Ontario?

23) Are there any other issues relating to these topics that you believe are important?
Please be as specific as possible. [OPEN ENDED]

24) In this question, we pose statements from a variety of standpoints reflecting diverse opinions within the legal profession. For each statement please indicate if you agree or disagree, or have no opinion either way:

[RANDOMIZE STATEMENTS]

- a) [LAWYERS] When legal employers interview articling students the most important factor to assess is the ability of the candidate to fit within the firm environment.

Strongly agree
Somewhat agree
Somewhat disagree
Strongly disagree
I don't know

Repeat questions with response categories for the following:

- b) [PARALEGALS] When employers interview paralegals, the most important factor to assess is the ability of the candidate to fit within the firm environment.
- c) Any problems faced by racialized licensees will work themselves out without specific mitigating measures.
- d) Being racialized can be a positive benefit for paralegals and lawyers, because they can recruit clients through their communities' networks.

- e) It is important to reduce discrimination but the profession's main responsibility is to the client and making sure they are being served by competent lawyers and paralegals.
- f) The use of 'fit' as a criterion for hiring unduly limits the relevant assessment of a candidate.
- g) [LAWYERS] There should be a more concerted effort by the legal profession to provide better opportunities for articling and positions for racialized lawyers.
- h) All members of the Ontario legal community should strive for a profession that is as welcoming as possible for anyone who wants to pursue a legal career.
- i) Many legal firms and businesses are interested in promoting diversity, so being racialized is an advantage in many employment situations.
- j) Market competition is a challenge for all lawyers and paralegals, but racialized licensees are especially affected by it.
- k) It is natural and desirable that licensees from various backgrounds conform to the professional culture that is already established in Ontario.
- l) The legal profession in Ontario would be stronger if there were more racialized licensees at senior levels of medium and large firms
- m) The challenges faced by racialized licensees have more to do with challenges associated with language than race.

D. Best Practices and Role of the Law Society and Other Actors

- 25) Many lawyers, paralegals, and firms are concerned about diversity and equity. Have you seen what you consider to be good practices that you would want to recommend be studied or scaled up to address the challenges facing racialized licensees? [OPEN ENDED]
-

- 26) The following is a list of measures that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. For each, please tell us if you think it would be the right approach, wrong approach, or if you would need more information before making up your mind.

- a) Appoint more racialized judges/adjudicators.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

Right approach, DEFINITELY

Right approach, PROBABLY

NEUTRAL, no opinion

Wrong approach, PROBABLY

Wrong approach, DEFINITELY

Not sure, I NEED MORE INFORMATION BEFORE DECIDING

Repeat questions with response categories for the following:

- b) Gather statistics on the racialized identity of licensees in the complaints process in order to establish whether racialized licensees are at greater risk of complaints and discipline than non-racialized licensees.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- c) Create more mentorship programs that deliver professional guidance and access to networks to racialized licensees.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- d) Create more social networking opportunities (within the profession and within firms) not defined by traditional 'Ontario culture'.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

e) Appoint more racialized licensees as partners in large firms.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

f) Restrict intake of new licensees in order to improve the employment prospects for all recently licensed lawyers and paralegals, and racialized lawyers and paralegals in particular.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

g) Ensure there are no names or personal identifiers in the early stages of hiring, to equalize opportunity between like candidates.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

h) Provide more structured/formal interviewing processes to ensure that ethnic or cultural 'fit' is not a strong factor in who gets hired.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

i) Provide greater and timely transparency of hiring and advancement criteria so candidates can better understand the expectations of employers.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

j) Develop a more diverse public face/image for the Law Society.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

k) Promote collection of demographic data re: gender/racial composition and advancement within legal firms and other legal organizations.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

l) Promote sharing of demographic data re: gender/racial composition and advancement within legal firms and other organizations.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

m) Require collection of demographic data re: gender/racial composition and advancement within legal firms and other legal organizations.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

n) Require sharing of demographic data re: gender/racial composition and advancement within legal firms and other organizations.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- o) Require and promote ‘cultural competence training’ [**CULTURAL COMPETENCE** refers to an ability to interact effectively with people of different cultures and socio-economic backgrounds.]

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- p) Encourage disclosure of diversity data and criteria in corporate procurement of legal services.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- q) Provide interviewing preparation seminars for racialized licensees.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- r) Provide a parallel On Campus Interview (OCI) process for those who were licensed through the National Committee on Accreditation process (NCAs).

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- s) Encourage participation in diversity and inclusion initiatives as a criterion for hire-back and partnership.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- t) The Law Society should sponsor more Professional Development seminars on equity and diversity issues, which may be counted towards accreditation for members.

[This is a measure that some licensees have suggested could be effective in making the legal profession more inclusive of racialized licensees. Do you think this would be the right approach, wrong approach, or if you would need more information before making up your mind?]

- u) Are there any other measures that you think could be effective in making the legal profession more inclusive of racialized licensees? [OPEN END]

Ontario has become a more diverse society in the past few decades, with more women, racialized individuals and communities, persons with disabilities and different sexual orientations taking up new roles in business, the arts, professions, including the legal profession, and other spheres of life.

- 27) Does the increased number of racialized lawyers and paralegals in Ontario have a positive impact, negative impact, or no impact on the public of Ontario?

Very Positive

Somewhat positive

Neutral, no impact

Somewhat negative

Very negative

I don't know/Not sure

- 28) [IF POS or NEG on PREVIOUS Q] In what way does the increased number of racialized licensees in Ontario impact on the public of Ontario? [OPEN ENDED]

- 29) In your view, what role should each of the following take to address the unique challenges facing racialized licensees?

**Draft Survey Instrument – Barriers Facing Racialized Licensees
For Law Society of Upper Canada
October 16, 2013**

[IN ALPHABETICAL ORDER]	MAJOR role	MINOR role	LITTLE OR NO role	I don't know
Large legal firms, working on their own				
Large and mid-sized legal firms, working together				
Individual racialized lawyers and paralegals				
Individual non-racialized lawyers and paralegals				
The Law Society				
The Human Rights Commission				
Federal/provincial/municipal governments				
Sole practitioners and small firms				
Law schools and Colleges				
Broadly based associations of lawyers or paralegals (such as the Canadian Bar Association, Ontario Bar Association, Paralegal Society or Licensed Paralegal Society, etc)				
Associations of lawyers focused in racialized communities (Canadian Association of Black Lawyers, Canadian Association of South Asian Lawyers, etc)				

Q29b. Who else should take a role in addressing the unique challenges facing racialized licensees? [OPEN END]

E. Complaints & Discipline

30) The issue of the influence of race in the complaints and discipline process arises from time to time. The Law Society seeks to continually improve its processes. In your view, are there additional steps the Law Society could undertake to address these issues proactively?

[OPEN ENDED]

31) Some concerns have been raised in the profession that racialized licensees may be more vulnerable to complaints (from other lawyers/paralegals, or from clients) compared to non-racialized licensees.

The following is a list of factors that some have suggested may contribute to increasing the risk of complaints against racialized licensees. In each case, please indicate if you think that factor is more likely or not more likely to increase the risk of complaints against racialized -- as compared to non-racialized -- lawyers and paralegals.

RANDOMIZE

a) Financial hardship leading to difficulty managing the business side of running a legal practice. In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?

Yes, definitely

Yes, probably

No, probably not

No, definitely not

I don't know

- b) Lack of mentors and professional networks to support a lawyer/paralegal if they run into significant challenges in their practice. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- c) Bad faith clients. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- d) Lack of knowledge of how to run the business side of a law practice. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- e) Lower quality articling positions and inadequate training. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- f) Pressure from clients to practise outside one's legitimate practice area. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- g) Communications problems between the lawyer/paralegal and clients. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- h) Communications problems between the lawyer/paralegal and other members of the profession or the judiciary. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- i) Racial stereotyping by other members of the profession or the judiciary. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]
- j) Racial stereotyping by clients. [In your view, does this factor disproportionately increase the risk of complaints against racialized lawyers and paralegals?]

32) In the administration of justice there are circumstances in which legal processes treat those in the system differently depending on whether they are a member of a group viewed to suffer a disadvantage. Do you believe that such a differentiation should be made in the regulatory processes with respect to racialized licensees in certain circumstances.

Yes

No

I am not sure, I would need more information

31) [IF YES TO PREV Q] Please describe the circumstances where this should occur. [OPEN]

THANK YOU FOR RESPONDING TO THIS IMPORTANT SURVEY.