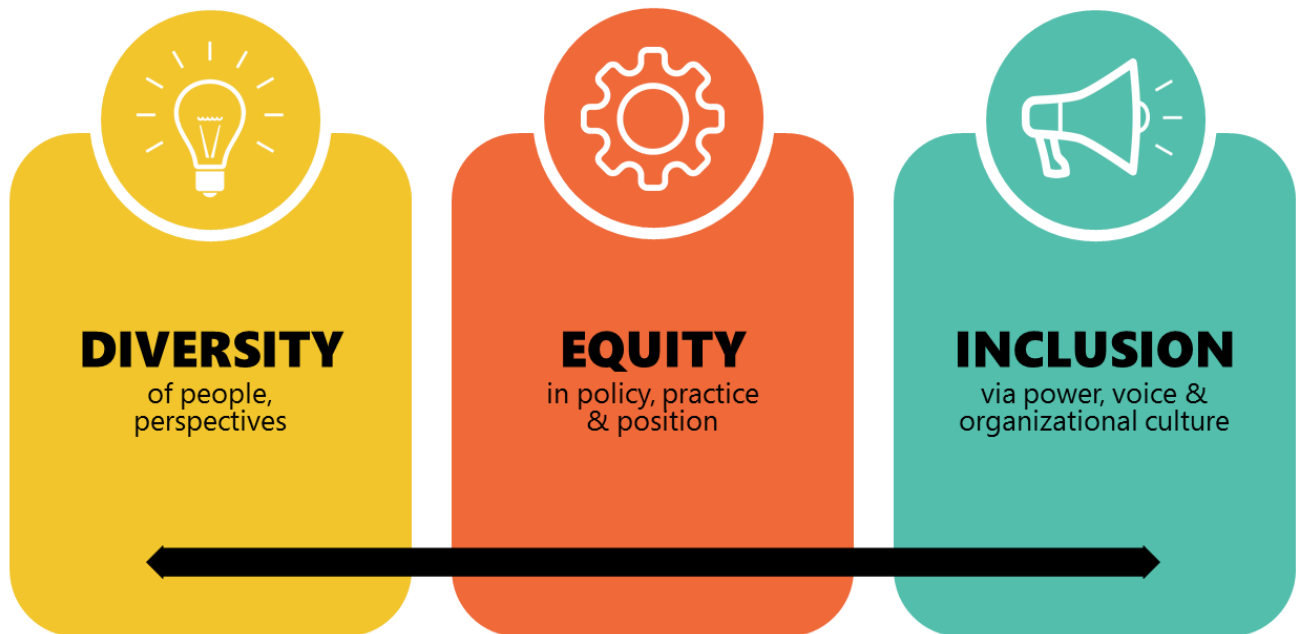




NOVA SCOTIA
BARRISTERS' SOCIETY

Equity Lens Toolkit



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Introduction

Welcome to our equity lens guidelines.

Advancing diversity and fostering inclusion is the responsibility of every lawyer. These guidelines are a starting point for lawyers, law firms, Society staff and volunteers who want to understand how they can apply an equity lens to their work, decision-making and interactions with others.

This handbook describes how specific groups of people are at risk of being excluded and are impacted by systems of oppression including racism, sexism, ableism, and ethnocentrism. It can help you become more aware of the diversity around you; develop and deliver services that are responsive to clients and communities you work with every day; create positive changes within your work environment and our profession, ultimately addressing systemic barriers and inequities people from equity seeking groups face.

We tend to design our processes to be used by people who seem similar to us, which allows many exclusionary practices to persist. Instead of “treating people the way that you’d like to be treated,” we should instead treat people the way that *they* would like to be treated and avoid providing services based on our own preferences. This approach, which supports and respects the diverse skills and experiences of members of equity-seeking groups¹, is called *inclusion*.

THE CASE FOR AN EQUITY LENS

As lawyers, we strive to provide excellent service to our clients, whomever they may be. Through our work, we seek to uphold our Society’s most important values: justice, fairness and freedom from discrimination. Even though someone may have a background and expertise in a specific area, does not mean they will always remember to consider equity, diversity and inclusion in their decision-making. The hope is this tool can help you consider these issues in an intentional way as you go about your work.

HOW DOES EXCLUSION HAPPEN?

We tend to make decisions based on our own abilities and biases. We make assumptions, both conscious and unconscious, about gender, age, language ability, technical ability, access to particular social networks, race, etc. In short, we tend to design our processes to be used by people who are most like us.

Our justice system often entrenches such assumptions, through both formal and informal systems with its policies, procedures and practices. While the justice system and the legal profession becomes more diverse and formally equitable, members of equity-seeking groups often report the legal services received lack the cultural awareness, knowledge, attitude and skills required to meet their needs.

¹ Equity-seeking groups include women, Indigenous peoples, racialized peoples, persons with disabilities and persons seeking equality on the basis of their sexual orientation and gender identity

WHO GETS EXCLUDED?

When we design services or make decisions for “the average person”, we make the assumption that these are accessible to all. In reality, this makes them inaccessible to many people in our community.

WHY DOES INCLUSION MATTER?

Nova Scotia’s justice system must be examined by acknowledging the historical injustices specific to the conditions of Indigenous Peoples and African Nova Scotians. Today, the justice system is filled with examples of how biases create inequities that have a negative impact on all equity seeking groups, and ultimately make legal services less accessible to all.

This history includes:

- The inquiry into the wrongful conviction of Donald Marshall Jr, which revealed how assumptions about the neutrality of processes are actually culturally biased, which results in unjust outcomes. The inquiry demonstrated the importance of lawyers being aware of Nova Scotia’s colonial history, lacking cultural competence, having knowledge of unconscious bias, and awareness of how their own culture lens affects how they interpret the actions of others.

- The report of the Truth & Reconciliation Commission of Canada, which showed us how:
 - Our “objective” government systems and services were built with colonial attitudes, including the justice system.
 - Even when these formal colonial structures are dismantled, informal structures replicate their effects.
 - Aboriginal law impacts all aspects of the legal system, which means we have a particular obligation to be equitable in our decision-making and practice.

- The history of anti-black racism in Nova Scotia:

Our province’s formal and informal social structures were designed to exclude Black Nova Scotians from the moment they arrived here over 400 years ago. The history of anti-black racism impacts all aspects of civic life for Black Nova Scotians. However, there are also specific ways this history of anti-black racism lives in the justice system, and lawyers are obligated to have a general awareness of this history to be effective advocates for their clients.

Additionally, advancing diversity and fostering inclusion is the duty of every lawyer, as set out in:

- The Society’s Regulatory Objectives, which describe the Society’s goal to “Promote diversity, inclusion, substantive equality and freedom from discrimination in the delivery of legal services and the justice system.” This is only achieved when all of us work together to be more equitable in every decision we make, every process we create, and how we practice every day. This commitment is reflected in the Code of Professional Conduct.

- The Management System for Ethical Legal Practice, which requires lawyers to work to improve diversity, inclusion and substantive equality; and to improve the administration of justice and access to legal services. Society staff are dedicated to supporting lawyers in fulfilling these obligations.

THE EQUITY LENS DEFINED:

A lens is a way of looking at policies and practices to see how they address certain issues – which can be applied by asking ourselves a series of questions. An **equity lens**, therefore, is a series of considerations to guide us as we seek to understand how our decisions and actions either break down or reinforce the barriers that prohibit equal participation and benefit in the legal profession and the justice system.

Applying an equity lens allows you to make decisions while:

- Reflecting the needs of people with a range of experiences;
- Applying a knowledge of history, including the history of racism in Nova Scotia;
- Finding a diversity of ways for people to participate (no one-size-fits-all); and
- Understanding how and why exclusion happens, resulting in actionable steps to take.

THE EQUITY LENS COMPONENTS

- **Identify** barriers where they occur
- **Eliminate** barriers by making adaptations that reflect the lived experience of those affected
- **Create** new ways of working by considering inclusion at the earliest stages rather than at the end

Identifying barriers

Our justice system was built in a way that is explicitly discriminatory against many communities: rights under the law, and to practice law, were accessible only to the elite. Notions of “the average person” described the most privileged in society.

Changes in societal attitudes over time brought about the dismantling of formal laws prohibiting the full participation of equity-seeking groups in civic society. These efforts reflected the move towards formal equality: we were taught that treating people equally meant ignoring differences among communities and people. This is often called the “colour-blind” approach.

The “colour-blind” approach is based on the belief that dismantling formal equality in our laws would inevitably result in improved outcomes, but this has not always been the case. The discrimination that continues to exist, even when discriminatory laws are struck down, is called *systemic discrimination*.

Today, a new approach is emerging that sees us embracing difference rather than denying it. We recognize that having people bring different perspectives based on our unique identities makes our workplaces better. This approach also recognizes that being inclusive means working to eliminate instances of systemic discrimination in our justice system.

Inequity occurs when someone tries to access an opportunity or a service that was not built with them in mind. When somebody encounters a situation where their identity disrupts “the way things are normally done”, we call this a *barrier*.

Barriers can take many forms. Examples include:

- A wheelchair user who cannot ascend steps to an office.
- A racialized client whose lawyer fails to recognize how race is relevant to their matter.
- A young female lawyer who wonders if “small talk” about family during an interview is an attempt to learn if she plans to have a child.
- A racialized lawyer who struggles to fit in at their firm because informal conversation subjects often focus on topics relevant to dominant white culture.
- An Indigenous lawyer who takes on less work because he is pressured by his firm to be the face of diversity initiatives.
- A client experiencing poverty being told resolving their matter will cost “only” \$500.
- A lawyer who identifies as non-binary who begins working at a firm without gender-neutral washroom facilities.

The first step to eliminating barriers is identifying them.

To identify barriers, ask yourself:

- What assumptions do you make about who accesses your services/is impacted by your decisions? Assumptions could include ones about:
 - **Accessibility** (For example, does your firm remove physical barriers that prohibit full use of your space by those with disabilities?)

- **Representation** (For example, does your firm mitigate unconscious bias when building your candidate pool?)
- **Substantive knowledge** (For example, does your firm ensure staff have the understanding of systemic discrimination and racism required to address these issues in the context of their work, including when representing clients?)
- **Relationships with communities** (For example, does your firm have signage that indicates universal access to your space?)

Eliminating barriers

The equity lens prioritizes inclusion at the start of a process, rather than trying to force them in after a process has already been created.

Once you have identified a barrier in your practice, the next step is to eliminate it.

Providing excellent service requires more than a rote application of the law: we know that our clients need to feel that they were treated with respect and dignity. Inclusion puts people at the start of a design – whether that is for a physical space, a legal strategy, or a casual conversation. Inclusion centers the individual and their needs.

It can be difficult to know where to start – it is not easy to put yourself in someone else’s shoes, especially if their identities are different from yours. The best place to start is with *people’s stories*.

People who have used lawyers, or who have worked in law firms, developed ways to make these interactions more comfortable for them. These adaptations can teach us how to make our services and our workplaces more inclusive.

Many of these stories are available for us to read and learn from, an approach described by Dr. Fyre Jean Graveline as “First Voice.” They can be read in reports and news articles, be heard at conferences, and shared around water coolers. They describe how people have *adapted* to get around barriers in our workplaces. If we listen to these stories and think about how to add to more positive experiences, we can learn how to change them by making our workplaces more inclusive.

To eliminate barriers, start by seeking out these stories. They can be found through:

- **Self-study/research** (e.g. articles, courses, guides)
- **Internal consultation** (e.g. equity office, in-house equity committee or HR)
- **External consultation** (e.g. hiring a consultant, striking an advisory group, surveying clients)

Then, with these stories in mind, consider:

- Where are people forced to adapt to your needs?
- Where can you work to adapt to the needs of others?

Creating new ways of working

Sometimes, people think that improving access to legal services for equity-seeking groups involves creating niche solutions for statistically small populations. However, everyone benefits from inclusion: things like plain language documents and transparent hiring criteria were all initially developed with the specific intention of creating inclusive environments.

Consider the origins of the legal profession: originally designed without imagining that people of different socioeconomic backgrounds, genders and races would become lawyers. Now that more people in the community are increasingly able to access legal services, the practice of valuing and including diverse lawyers in each legal workplace provides a benefit in servicing the whole community. Lawyers who have different life experiences bring additional experiential knowledge and attitudes that can help to shift the culture of the workplace and positively enhance client relationships and trust.

Rather than being equipped only to serve niche populations, providing inclusive service simply means providing good service.

Now is the time to turn these thoughts into action.

To create new ways of working:

- Use the exercise pages below to get started.
- Visit our Equity Portal, which provides lawyers and legal services organizations with guidance on employment equity and cultural competence. It includes introductory information, model policies, educational videos and assessment tools.

Appendix: Exercises

EXERCISE: SELF-REFLECTION

Purpose: To encourage the user to consider how bias may influence their decision-making, and to identify ways to curtail it.

Instructions: Reflect on the following questions regularly. Identify areas in need of improvement, and create goals to address them.

Have you ever...

- Educated yourself about the experiences of people from backgrounds other than your own?
- Reflected on your upbringing in order to understand your own biases?
- Examined your own behaviour and attitudes to identify how they may either contribute or combat prejudice?
- Changed how you use language to eliminate terms that may be hurtful to others?
- Caught yourself generalizing someone based on one of their group identities?
- Discredited someone's identity (or example, by saying something like "I don't even think of you as _____")?
- Comfortably discussed issues of racism, prejudice, or systemic discrimination with others?
- Spoken up when other people use prejudicial language or behaviour?
- Openly received feedback about how your behaviour may be insensitive or offensive to others?
- Made a conscious effort to ensure people can contribute to a conversation, regardless of their background?
- Worked to ensure that your workplace, staff, volunteers, etc. reflect the diversity of your community?
- Critically consumed media (e.g. news, fictional programming, social media posts) with negative stereotypes or biases in mind?

EXERCISE: INTERVIEWING FOR EQUITY COMPETENCY

Purpose: To assess a job candidate's awareness of equity issues, and experience working with diverse populations.

Instructions:

1. Probe for past experiences and lessons learned. Past behavior is the best predictor for future behavior, so prompt the candidate to tell stories about their experiences and takeaways. Here are two questions you can ask:

To what extent has pursuing racial or other types of equity and inclusion been a priority in your work, and how did you approach it?

- Why was this important to you?
- What were some of your core challenges?
- What have you learned from these experiences?

Can you talk about a time you navigated dynamics around race or other identities in your work? What did you do?

- What do you think were the root causes of those dynamics?
- What were some of your core challenges?
- What lessons did you learn?

2. Use scenarios and simulations to see your candidate in action and observe their ability to spot and manage complex issues of identity. Give them a chance to complete an exercise that's similar to what they'd be doing on the job and include an equity and inclusion component.

Below are two examples:

For a lawyer position: "Here's a fact pattern describing a hypothetical matter. What are some equity considerations that arise for you?"

For an IT position: "We serve people of many different ages, backgrounds and experiences, and our staff and interns reflect this diversity. Given this, how would you approach training and supporting our staff in meeting their technology needs?"

3. Weave in opportunities for your candidate to demonstrate their competence throughout the process. Testing someone's ability to navigate issues of equity and identity shouldn't just be relegated to an "equity section" of your interview process. It should be integrated throughout. Here are two ways to weave it in:

- Get your candidate to demonstrate their understanding in the context of other topics by asking specific follow-up questions, like:
 - How did you account for equity and inclusion when you were setting recruitment goals for your firm?
 - Do you think there were any differences in race/gender/other identities that influenced how that conflict played out?
- Have them interact with a cross-section of your team that is diverse both in role and across identities. Then observe and ask for feedback from those people, with an eye for patterns or discrepancies.

Adapted from: [3 Ways to Test for Racial Equity & Inclusion Competency](#), *The Management Center*

EXERCISE: ACCESSIBILITY

Purpose: To improve physical accessibility to your space by attempting to use your services while simulating temporary and situational limitations.

Instructions:

1. Choose a specific area of your office that you want to focus on (for example, the moment a prospective client enters your office for the first time).
2. Write the sequence of steps the user will take during this process (for example, locate building, walk up steps, open door, find receptionist, etc).
3. From the Temporary/Situational Limitation reference card, choose one limitation.
4. Recreate this limitation for yourself.
5. Go through the sequence of steps you wrote in #1.
6. Note what could be improved.
7. Repeat with a different limitation.

EXERCISE: LEARNING FROM REAL CLIENTS – PLAIN LANGUAGE COMMUNICATION

Purpose: To learn how to incorporate client-centered thinking into your practice, using a real story from a client submitted through the #TalkJustice initiative.

Instructions: Read the story below, and then consider the questions that follow.

“When I bought my first house, I had some difficulties communicating with my lawyer. He was a great lawyer and tried to make sure I understood and asked me in each meeting that if I had any questions. The problem was I did not have much knowledge on this. A lot of time I did not understand what he was talking about so I could not raise any questions or my questions were about simplest things that hardly be a question.”

- How do you think this situation happened? Try to imagine:
 - How the conversation between lawyer and client might have unfolded.
 - How you might know the client could be feeling this way.

- Is this an experience someone could have in your workplace?
 - If not, why not? What processes or training do you have that would prevent this from happening?
 - If so, what can you change to reduce the chance of something like this happening?

EXERCISE: QUICK QUESTIONS TO GET STARTED

Ask yourself:

What is the culture of my workplace? Are minority groups represented and do all individuals feel included?

- E.g. Does it have pictures on the wall that reflect a commitment to make all people feel welcome? Are there other artifacts or materials in the reception area/lobby that foster a sense of belonging in all people that enter?

Does my workplace take opportunities to be more representative? Do groups feel that they can bring their culture to work?

Are there ways to expand the culture to include the life experiences and personalities of diverse groups of people?

- E.g. Am I valuing extensive work/volunteer experience with marginalized groups the same as other experience?

Does my workplace offer formal learning opportunities to learn about diverse issues and groups?

Are work social activities representative of the values of the dominant group? Do all employees feel comfortable attending?

- E.g. Do they always take place at a bar? Are food options varied to accommodate all peoples' lifestyles?

Does my workplace encourage employees to attend events in the community that would allow them to learn about systemic discrimination and first-hand experiences? Does my workplace welcome people into "our space"?

- Do I actively listen to and believe the lived experiences of community members without external validation and without judgment?

Does my workplace celebrate equity-seeking groups all year long or only during designated periods?

- E.g. Pride Month, National Indigenous History Month, Mi'kmaq History Month, African Heritage Month, International Day of Persons with Disabilities, Women's History Month etc.

Thinking outside of the dominant culture at my workplace, would people who are not like me feel free to be themselves at work?

- How can I encourage all employees to be their authentic selves, including myself?

What assumptions do we make as we carry out our work? What equity implications do these assumptions have?

- E.g. As a client walks into my office, am I assuming anything about them based on stereotypes or assuming that they are like me? Am I letting them tell their story and asking questions after?

Ask your clients:

Is there anything else you think I should know about your background so I can better represent you?

Is there anything that we discussed that I could explain better? How do you feel about the services I have provided you with so far? Is there anything I can do to help you further?

REFERENCE: GETTING COMFORTABLE WITH TERMINOLOGY

Purpose:

For many people, identifying the right terminology to use when speaking with or about equity-seeking groups is a source of concern. They want to know what the “correct” term is, to avoid causing offense. While there are no simple answers to this concern, we can articulate some basic principles to assist readers with navigating these conversations.

Instructions:

When identifying appropriate terminology, keep the following principles in mind:

1. Because there will never be consensus over which terms are correct, it is best to defer to more formal language at first.
 - For example, use “2SLGBTQ+” rather than “gay”.
2. When referring to a personal characteristic, use adjectives rather than nouns.
 - Examples include using “people in the Black community” rather than “the Blacks”, or “persons with a disability” rather than “the disabled”.
3. Keep abreast of which terms are considered outdated.
 - For example, terms like “Oriental”, “visible minority”, or “Indian” are considered outdated in Canada. Use “East Asian”, “People of Colour” or “Racialized people”, or “Indigenous” instead.
 - Consider keeping up to date with terminology to be part of your ongoing self-education, as you engage with individuals and other cultures. Helpful resources include, but are not limited to:
 - Queen’s University’s [Inclusive Style Guidelines](#)
 - British Columbia Public Service’s [Guidelines on using inclusive language in the workplace](#)
4. Avoid use of “in-group language”.
 - Sometimes, people from equity-seeking groups will refer to each other using terms that are widely considered slurs or are otherwise offensive. It is not appropriate for people outside the group to use these words. Even if someone in your social circle has granted you “permission” to use such words in their presence, do not use them elsewhere. It is also inappropriate to use them under the guise of quoting song lyrics, television shows, or other pop culture artifacts.
5. Only refer to descriptors of these characteristics if they are relevant.
 - Referring to characteristics superfluously can cause as much offense as using an outdated or inappropriate term.
6. Above all else, defer to the preferences of the person about whom you are speaking.
 - Listen to how the person with whom you are speaking describes themselves, and echo this terminology.
 - There is nothing wrong with asking, for example, “Do you have a preference for which term I should use?”

REFERENCE: KEY TERMS

Racism: prejudice, discrimination or antagonism directed against someone of a different race based on the belief that one's own race is superior, and whose views are reinforced by systems of power.

Anti-Black Racism: policies and practices embedded in Canadian institutions that reflect and reinforce attitudes, prejudice, stereotyping, and/or discrimination with the belief in Black inferiority - in relation to other racial classifications, White is at the top and Black at the bottom. It is directed at people of African descent and is rooted in their unique history and experience of enslavement and colonization.

Cultural competence: an ability to interact effectively with people of different cultures. Cultural competence comprises four essential capacities:

We must understand our own cultural positions and how they differ from and are similar to others (critical cultural self-analysis)

We must understand the social and cultural reality in which we live and work and in which our clients live and work

We must cultivate appropriate attitudes towards cultural difference

We must be able to generate and interpret a wide variety of verbal and non-verbal responses

Understand structural oppression and demonstrate awareness and commitment to social justice

Cultural Humility: humbly acknowledging oneself as a learner in order to understand another's experience. It has 3 core elements – institutional and individual accountability, lifelong learning and critical self-reflection, and mitigating power imbalances. It offers a deeper foundation to begin the work of eliminating inequity, emphasizing an understanding of personal and systemic biases to develop and maintain respectful processes and relationships.

Cultural Proficiency: the policies and practices of an organization that enable that organization to interact effectively with clients, colleagues, and the community using the essential elements of cultural competence. It is an inside-out approach that encourages a deliberate exploration and reflection of deeply rooted cultural assumptions, thereby relieving members of historically disadvantaged groups from the responsibility of doing all of the adapting. Ultimately, it involves integrating knowledge of other cultures into specific standards, policies, practices and attitudes to increase the quality of services to all.

Ethnocentrism: a conscious or unconscious bias where someone considers their own culture to be superior or natural.

Heteronormativity: refers to the commonplace assumption that all people are heterosexual and that everyone accepts this as "the norm". It describes prejudice against people that are not heterosexual, and is less overt or direct and more widespread or systemic in society, organizations, and institutions. This form of systemic prejudice may even be unintentional and unrecognized by the people or organizations responsible.

Intersectionality: the complex, cumulative way in which the effects of multiple forms of discrimination combine, overlap, or intersect especially in the experiences of historically excluded groups. The term was originally coined by Kimberlé Crenshaw in her analysis of the experiences of Black women with racism and sexism.

Equity: the absence of barriers, biases, and obstacles that impede equal access and opportunity to succeed in society.

Diversity: differences in race, colour, place of origin, religion, immigrant and newcomer status, ethnic origin, ability, sex, sexual orientation, gender identity, gender expression, and age.

Inclusion: active engagement of equity and diversity concepts in all aspects of your decision-making. This includes fostering a sense of belonging for all, making all people feel included, and having those values reflected in all that is said and done in your work. Lawyer and diversity and inclusion consultant Ritu Bhasin explains the difference between diversity and inclusion as follows:

Diversity in the workplace is important in that it tells us which groups are represented within our organizations – for example, the number of people of colour, women and members of other diverse groups who are present. But this is strictly quantitative.

Inclusion is the qualitative experience: do diverse professionals feel that they have equal access to opportunities within their organization? Do they feel that they are able to bring their differences to work, and that they can leverage these differences for success? Inclusion is where real change lives – and it's through inclusion that we can better distribute power and privilege throughout all echelons of our society.

Systemic Discrimination: the result of organizational policies, practices and cultures that perpetuate unequal treatment of individuals or groups.

Unconscious Bias: social stereotypes about certain groups of people that individuals form outside their own conscious awareness. Everyone holds unconscious beliefs about various social and identity groups, and these biases stem from one's tendency to organize social worlds by categorizing. Unconscious bias is far more prevalent than conscious prejudice and often incompatible with one's conscious values. Certain scenarios can activate unconscious attitudes and beliefs. For example, biases may be more prevalent when multi-tasking or working under time pressure.

Privilege: unearned power, benefits, advantages, access and/or opportunities that exist for members of the dominant group(s) in society.

References:

Colin A. Palmer: [Defining and Studying the Modern African Diaspora](#)

Canada Research Chairs: [Equity, Diversity and Inclusion: A Best Practices Guide for Recruitment, Hiring and Retention](#)

Melanie Tervalon & Jann Murray-Garcia: [Cultural Humility versus Cultural Competence](#)

Brock University: [Five Questions with Ritu Bhasin](#)

University of California, San Francisco, Office of Diversity and Outreach: [What is Unconscious Bias?](#)

Ontario Human Rights Commission: [Appendix 1: Glossary of human rights terms](#)

The 519: [Glossary of terms facilitating shared understandings around equity, diversity, inclusion and awareness](#)