



**REGAINING TRUST:**  
THE RUCK REPORT

**Systemic Discrimination in  
Nova Scotia's Legal Community**

Douglas Ruck, KC | October 29, 2024



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## Acknowledgements

### **Mi'kmaq Land**

#### **Acknowledgement:**

The Nova Scotia Barristers' Society is located in Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq People. This territory is covered by the "Treaties of Peace and Friendship" which Mi'kmaq and Wolastoqiyik (Maliseet) People first signed with the British Crown in 1725. The treaties did not deal with surrender of lands and resources but in fact recognized Mi'kmaq and Wolastoqiyik (Maliseet) title and established the rules for what was to be an ongoing relationship between nations.

### **African Nova Scotian**

#### **Acknowledgement:**

We recognize that African Nova Scotians are a distinct people who form part of over 52 historical land-based communities, whose histories, legacies, and contributions have enriched that part of Mi'kma'ki known as Nova Scotia for over 400 years.

On May 25, 2020, an African American man, George Perry Floyd Junior, was murdered by a white police officer in Minneapolis, Minnesota. The horror of this incident brought to light numerous instances of visible minorities' deaths caused by excessive law enforcement, many occurring near the time frame of George Floyd's murder.

The Black Lives Matter crusade became a groundswell. By June 2020, organizations worldwide joined the movement to decry racial injustice by posting their own anti-Black racism statements.

The Nova Scotia Barristers' Society (the Society) issued a Statement Against Anti-Black Racism, which drew negative reactions from equity deserving communities across Nova Scotia.

It became clear that the Society needed to go much further to address the real, centuries-long, and still prevalent racism faced by African Nova Scotians. By doing that, the legal community can address the wider issue of systemic discrimination in the practice of law and access to justice.

This report is the next step in the process.

## A Personal Message From Douglas Ruck, KC

This is not a report to determine whether systemic discrimination exists in Nova Scotia's legal community. Agreement on the existence of systemic discrimination is our starting point.

There is undoubtedly systemic discrimination affecting several equity deserving groups within Nova Scotia's legal community. I am leading with a discussion covering anti-Black racism—the catalyst for this report—because it helps break the path towards confronting systemic discrimination in its totality.

And to discuss anti-Black racism, I think it's important to examine the African Nova Scotian community. One cannot deny this community's history and significance in our efforts to recognize and address the enormity of anti-African Nova Scotian racism. By targeting this significant, pervasive, and representative problem, we become better equipped to tackle all forms of systemic discrimination.



Photo: Dalhousie University Schulich School of Law

### About the Author:

Douglas Ruck is a highly regarded Nova Scotia lawyer and adjudicator with extensive experience in labour relations and employment, human rights, occupational health and safety, civil litigation, and administrative law.

He has been Chairman of the Nova Scotia Labour Board, and Ombudsman for the Province of Nova Scotia. At that time, he promoted the development and implementation of alternative dispute resolution systems throughout the government and chaired the Premier's Task Force on Employment Equity in Nova Scotia.

He currently serves as Board Chair at the University of King's College, where he finished his undergraduate degree before graduating from Dalhousie Law School. He has completed mediation training at the Harvard Law School.

A long-time community leader, Doug has shared his time and expertise with a range of volunteer organizations, including the Black Cultural Centre of Nova Scotia, East Preston Day Care, Rotary Club of Halifax, Change Canada Foundation, Duke of Edinburgh Awards, the Nova Scotia Law Foundation, and Commissionaires Nova Scotia.

As part of his father's legacy, the late Senator C.W. Ruck, he continues to promote the memory and significance of the No. 2 Construction Battalion. Canada's first and only all-Black Battalion. The story of the Battalion and its place in Canadian history may have been lost if not for the book written by his father in 1987, *The Black Battalion 1916-1920: Canada's Best Kept Military Secret*.

Doug is the Honourary Colonel for the Princess Louise Fusiliers.



# Executive Summary: A Commitment To Lead By Example



Anti-Black racism and other forms of systemic discrimination are still a reality in Nova Scotia. While we have made inroads towards removing the clouds hanging over our progress, recent history shows we still have work to do. Not only has our legal community felt the impact of systemic discrimination, but it also has, regrettably, contributed to its effect on access to justice, even within its own regulatory body.

As the body entrusted to regulate the legal profession in the public interest, the Society must lead the way in eliminating systemic discrimination in all forms—first by tackling anti-Black racism, then by applying the respective recommendations towards all forms of discrimination in the province. It is a natural fit for the Society to lead this challenge. As lawyers, it is our honour and responsibility to take up this mantle.

By addressing anti-Black racism head on, we seek to resolve the wider issue of systemic discrimination, all with the objective of making Nova Scotia a truly equitable, inclusive, and diverse place to live and work, in an environment of unequivocal access to justice.

We begin by fully accepting the existence of anti-Black and systemic discrimination in Nova Scotia's legal community. It is real. It is pervasive. It is holding us back from becoming the diverse, equitable and inclusive society our province and our people deserve. This report does not seek to argue the existence or degree of racism. It seeks to help the legal profession lead the way in addressing it, head on.

While anti-Black racism—including racism against immigrant Blacks—is prevalent in Nova Scotia, as noted, this report discusses the historical prevalence of racism towards the African Nova Scotian population, at *Appendix A*.

As an African Nova Scotian, my personal experience growing up and becoming a lawyer in this province is one of hundreds, but remarkably similar to the hundreds of lawyers I interviewed for this report.



While this report is founded in a need to address the impact of anti-Black racism on the legal community, we are tackling anti-Black racism as a starting point—a first phase—a guiding light and beacon to lead the way towards a better legal community for all racialized and marginalized groups. The report is intended to help all groups while also informing all future companion reports and actions.

Now is the time to acknowledge that Nova Scotia’s legal system is not working the same way for all individuals, and we owe it to the 200+ people who spoke up for this report, to fix it. The brave and insightful individuals who shared personal experiences for this report said they wanted to ensure the result would be meaningful. I hold myself accountable to this expectation with every page.

To those of you who participated in interviews, I want you to know you are not alone. Dozens of others shared similar experiences. To those who did not participate, I hear you in the voices of those interviewed. I see you in their expressions. I pledge to ensure this report can make a difference for all.

Now is the time to recognize the events that brought us here, assess the impact of those events, and develop a better future for our profession and our province. This is your report.

[Jump to Recommendations >](#)



## Background

# 2

On May 10, 2021, I was retained by the Nova Scotia Barristers' Society to:

“...undertake a comprehensive external, independent review of our regulatory policies and processes to identify and address any areas of systemic discrimination that exist within the Society.”

Within this mandate, the Society asked that I conduct an Operational and Regulatory Review “to identify where systemic discrimination may exist within our operations.”

It was specified that “the reviewer will recommend how the Society can change these areas or improve them to eliminate systemic discrimination.”

When considering my operational and regulatory review in light of the feedback from the 200+ individuals I interviewed, it became clear that the operational and regulatory aspects played a minor role in perpetuating systemic discrimination within the Society.

The real areas of concern were the attitudes, behaviors, and conduct that, at times, were unintended and unconscious, but at other times were clearly intended and accepted as part of the operational and structural aspects of the Society. However, it was evident that these accepted approaches and attitudes did not originate within the Society. Instead, these attitudes and examples of systemic discrimination are prevalent throughout the legal profession and are reflected within the Society.

The Society is a product of the Nova Scotia legal profession. Therefore, the prevailing attitudes within the profession do not stay at the door when individuals join or take on a role within the Society. The same attitudes that existed in practice accompany them into the halls of the Society and often find a home within the Society.

Therefore, to address the issues within the Society, it is essential to look beyond its walls and examine the origins of the attitudes and systemic discrimination attributed to the Society. The Society cannot be viewed in isolation from the legal profession. It is incumbent upon the Society to lead the change towards eliminating systemic discrimination in the practice of law in Nova Scotia.



A focus directed exclusively on operational and regulatory change can miss the mark, and in so doing, miss the significance of changes over the last few decades. We need to expose the historic, personal story of injustice. If we don't provide voice to these stories, we are on a track towards history repeating itself.

## Why Now

In accordance with the *Statement of Acknowledgement* and the *Terms of Reference*, my focus has been on systemic discrimination. However, one question remains. Why is the Review into systemic discrimination being undertaken by the Society at this time? The Society's response is as follows:

We have all become increasingly aware of the significant impact of structural and historic racism and discrimination.

We publicly commit to continue our efforts to learn, adapt and improve our processes and structures. By making our plan and actions public, we are accountable to the public and our members.

– NSBS.org

That certainly is part of the answer, but, in my view, it's essential to appreciate that in certain respects the current motivation is not unlike the impetus for the Society to pay closer attention to race-related issues during the 1980's and 1990's. The Society was compelled to respond publicly to significant societal shifts then and is faced with similar catalysts in the last 10 years.

## George Floyd, Black Lives Matter, and Covid-19

In the Spring of 2020, a Covid-paused world watched as a Black man by the name of George Floyd was murdered by the authorities on a street in Minneapolis. He was not the first Black person to die in this manner nor, sadly, the last. However, as the world was on pause at that time, his death ignited a global outcry led by the Black Lives Matter Movement.

The ensuing protest—bolstered by voices of Black Lives Matter and young people around the globe—drew attention, once again, to the inequities and tragedies that accompany systemic discrimination in the form of





racism every day in Canada and the United States. It highlighted with certitude the suffering and institutionalized disparities of racialized and marginalized communities.

The Society, not dissimilar to many other organizations, responded. The Society issued a release with a June 3, 2020 statement denouncing anti-Black racism.

We acknowledge the existence of systemic discrimination in our justice system and the need for action and education to address it. We will continue our efforts to learn, to adapt and improve our processes and to lead Nova Scotia's legal profession by example.

*- NSBS.org*

Mr. Floyd gave his life not because of what he may have been accused of doing but because of what he was—a Black man in America. The Society made a commitment that the death of George Floyd would initiate changes within the Society and continue in its efforts to learn, adapt, and improve its processes and lead Nova Scotia's legal profession by example.

Leading by example is a laudable objective concerning race relations and combatting systemic discrimination. Still, historically, the Society—rather than leading by example in this area—has generally followed, and often with notable reluctance.

The more than 200 interviews I conducted recalled situations that were familiar to me in my 47-year career as a lawyer in Nova Scotia. While I have witnessed an improvement over the years, I became aware of too many recent events that frankly should not have occurred after 2020.

Perceptions of diversity, equity, inclusion, and accessibility (DEIA) issues have changed significantly before, during, and after the global pandemic. The pandemic underscored the importance of technology and highlighted disparities between rural and urban practices. COVID-19 brought to light economic and racial disadvantages, and in a world largely silenced by the pandemic, individuals and corporations acknowledged the ongoing discussions around anti-Black racism and systemic discrimination.

Many pledged their support to address these issues. However, there has been a noticeable shift in support for DEIA initiatives in what can be considered the post-COVID period.



Some individuals I spoke with mentioned they had been told that the non-racialized members of their firms were feeling overwhelmed by the rapid pace of change and there was a need for moderation or even a complete cessation of these initiatives. This change in attitude is reflected in the actions of some major corporations that have either scaled back or eliminated their diversity initiatives in response to backlash.

Several interviewees reported similar dismantling of programs initiated during COVID within their own firms. Many noted that their white colleagues were now more vocal in opposing these programs, sometimes in a crass or derogatory manner. Others observed that while the programs might not be explicitly eliminated, they were receiving little, if any, attention.

Resistance and pushback against DEIA initiatives often arise from a lack of understanding of their necessity, fears of losing control, or differing opinions on diversity ideologies. However, the responsibility for identifying and addressing the reasons for this resistance rests not with racialized or marginalized members of the organization, but with those in positions of authority. It is their duty to understand these challenges and take action rather than opting to eliminate the initiatives.



## Acknowledging All Equity Deserving Groups

# 3

At some point over the last three years, we began to ask ourselves what normal looks like. With so many priorities understandably taking a backseat to the global pandemic, we saw DEIA initiatives paused at a time when societal, economic, and racial divides seemed stronger than ever. This was a global phenomenon, and not unique to Nova Scotia.

There are no fingers pointing towards the past, only helping hands reaching towards the future. I am focused on a future with DEIA squarely on the front burner.

I acknowledge the numerous groups affected by systemic discrimination in Nova Scotia's legal community. This includes all people who have experienced discrimination based on race, religion, culture, disability, gender, sexuality, geography, income, and other areas detailed in the *Nova Scotia Human Rights Act*, summarized at *Appendix C* of this report.

By focusing initially on anti-Black racism, I am tackling one of the most pervasive areas of systemic discrimination as measured by the quantity and severity of recent events and interview details. Efforts to address anti-Black racism, including within the legal profession, are essential for promoting access to justice—and dismantling systemic barriers—for all.

Further, addressing anti-Black racism is essential for advancing equity, diversity, and inclusion for all equity deserving groups. By prioritizing the fight against anti-Black racism, we confront historical injustices, acknowledge intersectional identities, demonstrate leadership, foster solidarity, uphold legal and moral principles, and drive transformative change toward a more just and equitable society.

Ultimately, by addressing anti-Black racism as the catalyst for this report, I pledge to develop solutions that will benefit all groups.



## Systemic Discrimination Defined

# 4

Over the years I have encountered systemic discrimination in so many forms and contexts, a lengthy definition would consume this entire report. The contextual definition involves all the stories and histories shared, passed down, and unfortunately still experienced in recent days.

On top of that, the term systemic discrimination provides an easy shield behind which organizations can hide, so the definition itself should never be a tidy, clinical one, but an evolving, monitored, and expanded lens through which we can continuously measure outcomes.

Systemic discrimination involves the procedures, routines, and organizational culture of any organization that, often without intent, contribute to less favourable outcomes for racialized and marginalized groups than for most of the population, from the organization's policies, programs, employment, and services.

Systemic discrimination also may be referred to as “structural discrimination” and “institutional discrimination”.

Systemic discrimination tends not to be a matter of deliberate action. It is rooted in the way organizations go about their day-to-day business as policymakers, employers, or service providers. It is a product of the systems, structures, and cultures that organizations have developed and implement in their work.

Systemic discrimination can operate across the full spectrum of employment, income, education, health, housing, culture, policing, public infrastructure, and beyond.

All of this is precisely why the definition is both a help and a hindrance. Organizations and individuals can and do take refuge behind the language.

Systemic discrimination cannot be tackled on a one-off basis. Organizations must give it sustained attention with constant initiative.

When dealing with systemic discrimination, I think it's important to know that, for those who are affected, it doesn't matter what status you may have attained within the profession. You may be a judge or a practising

member of the bar. Similarly, your level of education does not shield you from the ever-present negative dynamics of systemic discrimination.

The individuals I spoke with provided testimonials recounting what they experienced, and continue to experience, as members of the legal profession in Nova Scotia. For many, when appearing in court, it was not uncommon to be asked if they were the defendant or accused person.

Many also found that heated discussions often led to being referred to in a derogatory manner and subjected to racial or sexual slurs, or, as purportedly occurred in one instance, being detained in a partner's office against their will.

To make it worse, raising issues of inequity could bring with it the label of being a complainer or someone who simply could not take the rigours of practice. Women of colour have been held to a different standard altogether. Certainly, systemic discrimination can be debilitating to some more than others.

## **Emotional and physical costs of systemic discrimination**

Individuals who are forced to deal with systemic discrimination on a daily basis develop various methods of coping for their survival. But that is not enough. The time has come for the Society, in compliance with its Statement, to take the steps necessary to combat systemic discrimination.

## **Pervasiveness of systemic discrimination**

As noted previously, systemic discrimination exists primarily within the implementation of the Society's organizational procedures, practices and routines, and has remained due to the cultural underpinnings that have viewed such behaviours and practises as not only acceptable but integral to the workings of the Society. It is only through initiating institutional change that the Society will be able to prevent and eventually eliminate the existence and impact of systemic discrimination.

Further, institutional systems and organizational cultures must evolve to reflect the diversity of the lawyers and general population served by the Society.

## History of Systemic Discrimination in Nova Scotia's Legal Community

# 5

### Donald Marshall, Jr.

The royal commission report published in December 1989, *Royal Commission on the Donald Marshall, Jr., Prosecution*, (the Marshall Report), clearly stated that racism and incompetence led to a Mi'kmaw man's wrongful murder conviction. A link to the report is provided at *Appendix D*.

The following section has been adapted from various media clippings. This is but one example demonstrating the important role of journalism in historical and current efforts to expose systemic discrimination.

Donald Marshall, Jr. was a Mi'kmaw man wrongly convicted for the 1971 murder of a young Black man named Sandy Seale. One evening in Sydney's Wentworth Park, Marshall and Seale were walking together when they encountered two strangers, Roy Ebsary and Jimmy MacNeil. An argument ensued, during which Ebsary made racist comments towards Marshall and Seale, before stabbing Seale and fleeing.

The Sydney Police Department were ill-equipped to investigate a crime as serious as homicide and rejected help from the RCMP. Officers not only failed to secure the crime scene, but also neglected to even photograph it. No autopsy was performed on Seale and no murder weapon was found.

Nonetheless, police interrogated several other young adults who were in the park in Sydney that night and obtained statements accusing Marshall of stabbing Seale, leading to his conviction.

Marshall's accusers later recanted, and other witnesses came forward to name Ebsary. An eventual RCMP investigation revealed Sydney police had intimidated witnesses and withheld evidence. Compounding the injustice, Marshall's own defence lawyers had made little attempt to verify his accounting of events.



By the time Marshall's conviction was overturned, he had spent 11 years in prison for another man's crime. In 1989, a royal commission created by the province to investigate his treatment found that he had been the victim of racism and incompetence from all quarters of the legal system.

"The criminal justice system failed Donald Marshall, Jr. at virtually every turn from his arrest and wrongful conviction for murder in 1971 up to, and even beyond, his acquittal by the Court of Appeal in 1983," the commission found.

## **Lyle Howe**

The Lyle Howe case is a significant example of how systemic issues can impact access to justice for African Nova Scotians. Lyle Howe, a Black lawyer, faced high-profile legal proceedings that raised concerns about racial bias in the justice system.

In 2011, Lyle Howe was charged with sexual assault and related offences. Throughout the trial, concerns were raised about potential racial bias, both in the courtroom and in media coverage. Many argued that stereotypes and racial prejudices influenced the perception of Howe, potentially affecting the fairness of the trial.

Lyle Howe's conviction was overturned\* in 2017, and the case brought attention to the need for addressing racial biases in the legal system and the importance of ensuring that all individuals have equal access to justice, regardless of their racial or ethnic background.

The Lyle Howe matter serves as a reminder of the broader challenges faced by African Nova Scotians in seeking justice and highlights the ongoing need for systemic reforms to create a more equitable and just legal system for all.

In consideration of all particulars of the case, the question remains as to whether Lyle Howe received treatment that was different from the treatment white lawyers received in similar circumstances.

\* This text has been corrected. Mr. Howe had his conviction overturned by the Court of Appeal due to an error in the jury instruction. The Crown did not proceed with second trial because the complainant would not participate.

## The Nova Scotia Barristers' Society

One cannot properly understand or appreciate the present-day workings of the Society without a proper understanding of its past. In his detailed and well-documented history of the Society, *Professional Autonomy and the Public Interest: The Barristers' Society and Nova Scotia's Lawyers, 1825–2005*, Barry Cahill provides an insightful assessment on how the past has influenced today's Society. A link is provided at *Appendix D*.

In many respects, his work is equally significant for what it discloses about the Society as for what is not mentioned. This is particularly true concerning the Society's early attitudes and beliefs, which were focused primarily upon maintaining and furthering the status quo—absent even an ounce of concern for members who came from racialized and marginalized communities.

While the entire book is worthy of a careful read, I will reference his chapter on the Society's response to the Marshall Report, which directly affects what the Society is doing today.

The Society's initial response to Donald Marshall's wrongful conviction was silence. Similarly, it was conspicuous by its absence from the Royal Commission Inquiry into Marshall's prosecution. The Society remained seemingly disinterested until the release of the Marshall Report.

Cahill attributes the change in perception, at least in part, to the fact that a somewhat more progressive individual in the person of Bruce MacIntosh became the Society's President in June 1989. As part of his inaugural report, MacIntosh provided additional insight into the Society's delay in acknowledging that it had a role to play following the inquiry. According to Cahill,

MacIntosh put the position very well in his inaugural "President's Report". "Historically, our Bar [sic] Society has perhaps placed too heavy an emphasis on professional diffidence, which discouraged us from taking public positions on policy matters that directly impact upon the legal system we serve. Perhaps that reticence has been part of the problem".

– *NSBS Society Record (September - October 1989), 2*.

It is crucial to appreciate that while the initiatives undertaken by MacIntosh were effectively moving the Society in a different and more progressive direction—which acknowledged to some degree the disparities in the



treatment of Blacks, the Indigenous population and women—his efforts were not met with unanimous support. Some within the Society believed his efforts to be ill-advised and taking the Society into areas it need not go.

Despite the resistance against change, the Society—in compliance with the Marshall Inquiry Recommendations—established race relations and gender equality committees and appointed an Equity Officer.

In 1997, the Race Relations Committee issued a report outlining the results of a survey looking at how racialized and minority lawyers viewed the Society. The results of that survey, in far too many respects, continue to reflect present-day attitudes.

The Bar Society is ultra-conservative and this, of course, has an institutionalized racist component. To a significant degree, it is a prisoner of its own membership in which large [Halifax] firms have an influential role. Some of those involved want to bring about change without disturbing the Bar Society as a whole. It can't be done.

While Council currently represents many small firms, public prosecutors, legal aid lawyers and rural components, there is still some work to be done.

In April 2021, the Society released what is potentially its most significant Statement concerning systemic discrimination.

The acknowledgment accepted the existence of systemic discrimination as a foregone conclusion. It acknowledged the existence of systemic discrimination and committed to “reducing barriers created by racism, unconscious bias, and discrimination.

It went on to say, “We are committed to continuing our efforts to learn, to adapt, to improve our processes and to lead Nova Scotia’s legal profession by example. In collaboration with our members, the legal entities we regulate, stakeholders, and justice system partners, we will work diligently towards eliminating all forms of discrimination in the justice system and in the Society.”

That is a commendable commitment, and not achieved by nibbling around the edges of the systemic issues. Systemic discrimination can be addressed by dismantling the structural and systemic barriers within the Society and across the legal community.

## Our Process, Starting With Survey Data

# 6

### Racial Equity Survey Results on Racial Discrimination and Harassment in the Legal Profession

In the early days of my report-writing process, I was provided with results from the Society's *Racial Equity Survey*, which examined racial discrimination and harassment in the legal profession. The survey was open to participants from October 21, 2022, to November 4, 2022.

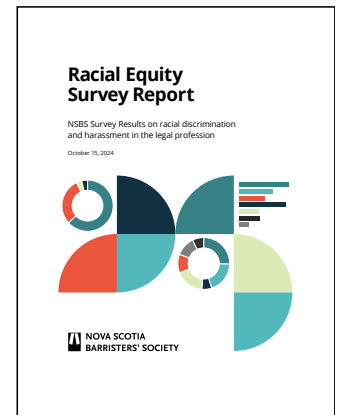
The survey results were published separately by the Society's Racial Equity Committee (REC) as the **Racial Equity Survey Report** on October 15, 2024. That report served as an important precursor to *Regaining Trust*.

Commissioned by the REC, the survey report represented significant work undertaken by the REC together with the Society's Equity & Access Office. I am grateful to those groups, as well as everyone who participated in the survey—all of which contributed to an excellent report, and informed many of the recommendations in *Regaining Trust*.

Forty-seven individuals provided thoughtful, detailed responses to several questions relating to race-based discrimination and harassment. All responses were anonymous, and the response data was presented in aggregate and de-identified to ensure respondents were able to provide candid responses.

Among the respondents who chose to identify as an equity seeking group, 19% identified as Mi'kmaq, with 13% identifying as other Indigenous, 19% as African Nova Scotian, 17% as Black, 6% as Arab/West Asian, 17% as South Asian, and 9% as Chinese.

The answers provided by this group of respondents were significant, with quantitative data pointing towards important insights that informed many of the subsequent interviews.





For example, a full 64% of respondents reported having experienced race-based harassment or discrimination in their current workplace. Similarly, 63% of respondents reported having experienced race-based harassment or discrimination in a previous workplace, one-quarter of whom described it as “a lot”.

I encourage a thoughtful review of the *Racial Equity Survey Report* as an important backgrounder to *Regaining Trust*. This report is listed at *Appendix D*.



## Interviews: Qualitative Stories Shared Through 200+ Insights

# 7

A total of 220 people—mostly lawyers but also several members of the public—contributed personal stories, insights, experiences, and observations. Some interviews were conducted through one-on-one telephone calls or video conferences, while some were conducted through small discussion groups. Some contributions also arrived through thoughtfully written notes.

It is noteworthy that some who contacted me identified as being privileged members of Society. All participants were exceptionally grateful for the opportunity to be heard. And all were assured of confidentiality and the knowledge that their contributions would form part of a meaningful report.

Some lawyers reached out to me from other parts of the world. Many of them had left Nova Scotia because of the inequities experienced here. The majority of these lawyers were women. Many are still reaching out to me.

Three key themes emerged from all the various stories shared with me. Every interview touched upon at least one of these themes.

1. Racism is embedded in the legal system.
2. Racism has an impact on lawyers' career growth.
3. Racism affects access to justice.

### Key Observations: Five Undeniable Truths

One might expect it was a difficult task to draw cohesive observations from so many individual accounts, but so many relayed similar encounters. I heard different versions of very similar stories, like a doctor recording hundreds of patients with analogous symptoms.

It was troubling to hear these accounts, but as common threads emerged from those who were brave enough to share their stories, the following core truths also emerged.



1. Career success has been adversely affected by racism.
2. Outcomes in court have been better for white lawyers or white clients.
3. Lawyers have left workplaces because of racist behaviour by leaders or colleagues.
4. Racism has an impact on mental health and overall career satisfaction.
5. Lawyers want to leave the profession or province.

## **Behaviours**

When behaviours are accepted within their respective institutions, they can become part of the structure. Since there have not been proper measures in place to address such behaviours, we continue to see abuses both within and outside the profession.

Ongoing training, education and upgrading in these areas cannot be just a one off. Lawyers need to remain current, not only with the law, but also with all matters of diversity, equity and inclusion. This continual training also applies to everyone working within the Society's office. Even if lawyers must go outside the province to obtain this expertise, it should be done.

Far too often, members of racialized and marginalized communities are expected to bear the burden of driving institutional change. They are frequently called upon to develop and implement policies and programs that promote diversity and inclusion, all while managing their regular duties and responsibilities. This expectation is often placed on them without additional compensation or even time off in lieu.

Many firms adopt this approach as the path of least resistance, believing—wrongly—that individuals within their organization, regardless of their background, are inherently equipped to tackle these issues and address any internal shortcomings. What may outwardly appear to be a meaningful response to systemic discrimination often devolves into a mere “tick-the-box” exercise, which, once completed, is largely ignored.



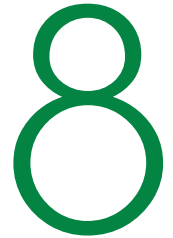
Those who have been assigned these tasks frequently express the untenable stress that comes with the work. It becomes solely their responsibility to educate others, many of whom lack a basic understanding of systemic discrimination. They may worry about the repercussions of offending a senior partner or colleague. Questions loom: What happens if their proposals are rejected or ignored? Will they face penalties or ostracism? Can they, in good faith, continue to remain with the firm?

So many people from equity deserving communities are from smaller firms, and simply don't have the time. I want to encourage people from all communities to serve on Council.

Woven into the recommendations that follow are behaviours that must be addressed and fixed immediately and must have ramifications if not followed. Behavioural changes must be embedded into practice.



## Summary of Recommendations



- 1. Appoint Independent Implementation Lead**
- 2. Require Mandatory Training and Resources on Systemic Discrimination**
- 3. Review and Modernize Anti-Discrimination Policies and Regulations**
- 4. Establish Reporting and Investigation System Including Whistleblower Safeguards and Representation from Equity Deserving Communities**
- 5. Collect, Analyze and Share Discrimination Related Data**
- 6. Implement Access Accommodation Policy**
- 7. Strengthen Disciplinary Aspects of Harassment and Discrimination Policies**
- 8. Revise Code of Professional Conduct**
- 9. Establish Diversity Recruitment and Mentorship Programs**
- 10. Ensure Diverse Representation in Leadership**
- 11. Provide Resources for Victims of Discrimination**
- 12. Require Collaboration with Equity-Deserving Groups**
- 13. Revise Council Succession Plan to Ensure Diversity**
- 14. Safeguard and Support Equity-Deserving Members of Council**
- 15. Ensure Religion and Spirituality Accommodations**
- 16. Conduct Periodic 360-Degree Council Reviews**
- 17. Require Accountability for Firms Supporting Discriminatory Practices**
- 18. Foster a Cultural Shift in Practice Expectations**
- 19. Bring Substantive Change to Society Governance and Regulations**
- 20. Conduct Legislative Review to Address Systemic Barriers to Progress**
- 21. Ensure Ongoing Evaluation and Improvement**

## Introduction to Recommendations

The following 21 recommendations provide a comprehensive roadmap towards eliminating systemic discrimination in Nova Scotia's legal community. They address immediate needs for educating, reporting, and measuring, while laying the groundwork for policy-driven reforms and cultural shifts needed for lasting, meaningful change.

All recommendations are focused on the future of Nova Scotia's legal profession and the Society. They are specific, measurable, and achievable. Some are not overly prescriptive, intentionally, to enable the *Independent Implementation Lead* to develop the detailed actions required.

The Society must be the frontrunner as the early adopter on all recommendations. Where a recommendation is intentionally broad, it is expected the Society will adopt it internally first, then apply it externally as regulator of the profession on behalf of the public.

All organizations within the legal community are expected to grab the baton, and mirror the recommendations undertaken by the Society wherever practicable.

Before presenting these recommendations, further to *Appendix B*, I gratefully acknowledge and support the considerable actions already taken by the Society, particularly in the last 24 months, along with other achievements not covered in this report. Whether completed, commenced, or considered, I wanted to retain all original recommendations within this report to demonstrate the importance of each one, and to recognize the early progress of many.

Now we must keep the momentum going.





## Detailed Recommendations

### 1. Appoint *Independent Implementation Lead*

The Society must immediately appoint an *Independent Implementation Lead*, who will be responsible for the implementation of all recommendations in this report. To maintain complete independence, the *Implementation Lead* will be appointed by a panel led by *Regaining Trust* author Douglas Ruck, and include representation from the Implementation Task Force, and a third-party recruitment firm focused on advancement of equity-deserving communities.

The *Implementation Lead*, acting on behalf of the Society, working in collaboration with the Society's Equity & Access Office, and reporting to Council, will collaborate with Douglas Ruck for several months to ensure adequate handover and communication with relevant equity-deserving organizations across Nova Scotia. The *Implementation Lead* will be responsible for finalizing policies and legislative drafts and submissions and will continue in the role for a finite term, concluding when recommendations have been implemented and permanent resources have been established.

### 2. Require Mandatory Training and Resources on Systemic Discrimination

The Society must provide mandatory training for all staff members, Council members, committee members, contracted professionals, and other interested parties—on systemic discrimination, unconscious bias, and cultural competency—in relation to hiring, retention, promotion, and other workplace matters. This will be supplemented by the following related actions.

- a) **Provide trauma-informed professional development resources, education, and training:** This will cover discrimination-based harassment, including understanding, identifying, preventing, reporting, and the implications of bystanders.
- b) **Provide the Racial Equity Survey Report and Regaining Trust to all members of the legal profession:** These reports will be shared along with an offer to provide professional development support including cultural identity, pronunciation of names, and cultural, religious, and spiritual days and/or observances.

- c) **Develop resources for law firms:** Resources are intended to assist law firms in creating and implementing DEIA programs, with input from all equity-deserving groups. The Society's *Equity Lens Toolkit* will be included in these resources and will be regularly updated.
- d) **Develop accredited programs:** Programs will focus on advancing equality and inclusion within the legal profession and will be made mandatory under professional development guidelines, starting within the Society, and extending externally.
- e) **Make ongoing DEIA training mandatory:** Ongoing DEIA training must be made mandatory for Society staff members and all members of the legal profession.

### 3. Review and Modernize Anti-Discrimination Policies and Regulations

The Society must conduct an immediate review and rewrite of existing anti-discrimination policies, practices, and guidelines to ensure they explicitly prohibit all forms of discrimination in relation to race, religion, spirituality, socio-economic background, gender, sexual orientation, and all disabilities, including physical, intellectual, and emotional disabilities. Specific policy review areas include the following recommendations.

- a) **Conduct Deeper Review in Relation to Black and Indigenous Lawyers:** Included in this review, the Society must conduct a deeper review covering how its application of regulations and policies affect racialized lawyers, notably Black and Indigenous lawyers, with a particular focus on investigation of complaints.
- b) **Update Equal Opportunity Employment Policy:** The Society must review, update, and safeguard the perpetuity of its equal opportunity employment policy to ensure recruitment, advancement, and termination activities are based upon merit, qualifications, and performance.
- c) **Review Recruitment Processes:** The Society must ensure its recruitment processes are covered in all DEIA training measures, internally first, then applied externally under its regulatory responsibilities. This step also must provide for a covenant to be reviewed yearly by an appropriate committee to ensure the processes continue to be impactful.

#### 4. Establish Reporting and Investigation System Including Whistleblower Safeguards and Representation from Equity Deserving Communities

Ensuring that individuals feel comfortable and empowered to issue complaints about racism is crucial for fostering a supportive and inclusive environment.

Acknowledging that many workplaces have reporting policies and procedures in place, but have not been enforcing them consistently, the Society must establish safe methods for individuals to report discriminatory behaviour—whether experienced personally or witnessed as a third party—along with well-defined processes for investigating allegations of discriminatory behaviour.

In addition, disciplinary related panels and committees in the legal sector have exhibited similar shortcomings in their ability to provide circumstances whereby a member of the respective subject's equity-deserving community is present.

No equity-deserving individual should be asked to participate in either a reporting or disciplinary situation without at least one member of their community present in that room.

These reporting and disciplinary procedures must ensure that any investigation involving a member of an equity deserving group is conducted in complete confidence through an independent Ombud, without fear of reprisal, and include participation by at least one member of the individual's equity deserving community.

Such measures should include a trauma-informed complaint process, with informal and restorative justice options. Detailed related recommendations are as follows.

- a) **Appoint Systemic Discrimination Ombud:** As part of establishing the means for safe, confidential, independent reporting, the *Implementation Lead* will appoint a *Systemic Discrimination Ombud*, who will serve as an advocate and watchdog, to guide the public and members through the complaints process.

The *Ombud* will investigate and rule upon complaints of discrimination, while ensuring confidentiality and protection from retaliation or perceived negative impact.

The *Ombud* also will assume the enduring aspects of the work of the Implementation Lead and continue to work with the NSBS Implementation Task Force to monitor, assess, and report on policies, practices, and programs related to anti-discrimination efforts within the legal profession.

- b) **Ensure Equity-Deserving Representation in Every Room:** No equity-deserving individual should be in a room—whether to report an incident or to discuss a disciplinary matter—without a person from the same equity-deserving community also in that room, whether as part of a panel, as representation, or as a witness.

The Society must create and lead the implementation of a policy to ensure that all reporting or disciplinary panels have equity-deserving representation reflecting the subject individual. The Society must further require that all law firms with five or more lawyers—and other organizations within the legal community—adopt these measures, and report results. If an organization fails to do so, the organization must provide information as to why it was not possible.

- c) **Prohibit Retaliation in Investigations:** Enforce strict anti-retaliation protective safeguards ensuring confidentiality for individuals reporting, investigating, or acting as witnesses. Any form of retaliation will be treated as a separate violation of the anti-discrimination policy and may result in disciplinary action, up to and including termination of employment or membership. This policy will begin with the Society internally with a view to extending to the broader legal community.
- d) **Ensure Transparency and Communication:** All reporting procedures must feature a transparent communication system to ensure complainants remain informed of investigation progress, findings, and actions taken.



- e) **Eliminate Non-Disclosure Agreements:** Employment related NDA's can be used to silence members of equity-deserving groups who might otherwise report their experiences of discrimination. As a result, NDAs can be used as a tool to perpetuate systemic discrimination within an organization and should be reviewed by all organizations within the legal community to consider their elimination from employment agreements.
- f) **Provide Informal Reporting Options:** While systemic discrimination is a serious matter and must be investigated in the same manner that other workplace issues are investigated, reporting must be encouraged—even if it means informal reporting. Some individuals may be more comfortable utilizing more informal models.

To accommodate these choices, the Society and other organizations within the legal profession must create, maintain, and promote the use of safe spaces—places whereby individuals can discuss their experiences with peers, mentors, and counselors. This option would be strictly confidential and non-retaliatory and would exist outside a formal reporting or disciplinary mechanism.

## 5. Collect, Analyze and Share Discrimination Related Data

The Society must regularly collect, analyze, and share statistics on Society members and staff members, to identify patterns of systemic discrimination or disparities, including those demonstrating barriers to retention and advancement of lawyers from equity-deserving groups, such as hire-back decisions.

The Society also must publish annual reports on related diversity and inclusion initiatives, tracking progress against data collected, evaluating effectiveness, and adjusting accordingly.

The Society further must require that other organizations in the legal community develop similar data analysis plans.



## 6. Implement Access Accommodation Policy

The Society must review, revise, and implement an effective and authentic accommodation policy to ensure individuals with disabilities have equal access to employment, promotion, services, and facilities.

Reasonable accommodations must be made to enable individuals with disabilities to perform essential job functions, participate in programs and services, and access facilities.

This policy must be activated at the Society internally, then shared externally with the expectation that other organizations in the legal community follow suit.

## 7. Strengthen Disciplinary Aspects of Harassment and Discrimination Policies

Any policy designed to tackle systemic discrimination will be effective only if enforceable. Knowledge without action may be considered collusion.

Proper respect and regard to the recommendations will require the *Implementation Lead* to have the authority to implement and enforce them.

All anti-discrimination policies, whether internal to the Society or those involving the wider legal community, must be given the strength to succeed, as follows.

- a) **Strengthen Enforceability of Internal Policies:** The Society must strengthen the enforcement of its internal harassment and discrimination policy to ensure all complaints are investigated promptly and thoroughly, with enforceable disciplinary action for violators. There must be a serious response to discriminatory behaviour, including and up to, termination of an individual.
- b) **Establish Disciplinary Measures to deal with Discriminatory Practices in Legal Community:** The Society must establish a tiered system of disciplinary measures—ranging from instructive to constructive to corrective—for lawyers found practising in a discriminatory manner.



## **8. Revise Code of Professional Conduct**

The Society must review and update the Code of Professional Conduct to explicitly identify systemic discrimination and reprisal as breaches of professional ethics, with clear statements relating to the consequences to such breaches.

## **9. Establish Diversity Recruitment and Mentorship Programs**

The Society must implement diversity recruitment programs and mentorship initiatives to promote underrepresented groups in legal professions.

## **10. Ensure Diverse Representation in Leadership**

The Society must actively promote diverse representation within Council, committees, and leadership roles, ensuring equity-deserving groups' voices are heard. This will unfold fully upon supplemental interviews conducted with members of equity-deserving groups to determine why some individuals currently do not wish to serve on Council or committees.

## **11. Provide Resources for Victims of Discrimination**

The Society must establish meaningful support systems for those who experience discrimination, including access to counselling, legal assistance, and advocacy resources. These resources must be provided externally to all members of the legal community.

## **12. Require Collaboration with Equity-Deserving Groups**

The Society must create formal platforms for communication and collaboration with a number of relevant community organizations and advocacy groups to address systemic discrimination collectively. The Society will lead this effort, with the expectation of wider involvement by all members of the legal community.

### **13. Revise Council Succession Plan to Ensure Diversity**

As anti-discriminatory leadership begins only by ensuring diverse membership at the table, the Society must create a higher percentage of seats at leadership tables for members of equity-deserving groups. This will commence through interviews with current leaders, members of the public, and members of Council, to determine where additional voices are needed and can be engaged.

Using that information, the Society must develop a Council succession plan that ensures diversity in membership and leadership, including diverse representation across all equity-deserving groups, in addition to region, firm size, years at the bar, and profession—to include additional members of the public.

### **14. Safeguard and Support Equity-Deserving Members of Council**

We must ensure we do not turn our backs on individuals who are bringing diversity to the leadership table. We therefore must ensure safeguards are in place. The Society must implement a mechanism to provide, upon appointment, all the supports and resources that equity-deserving Council members and leaders need to truly thrive in their roles.

### **15. Ensure Religion and Spirituality Accommodations**

The Society must ensure its own workplace policies—and the policies of other members of the legal community—respect religious and spiritual observances, by, for example, refraining from scheduling mandatory events on major religious holidays or observances, as well as being mindful of time of day, daily prayer rituals, and dietary requirements. The Society must lead the way for the legal community to recognize and respect all religions and spiritual observances.

### **16. Conduct Periodic 360-Degree Council Reviews**

The Society must conduct regular Council reviews to assess effectiveness, inclusiveness, and opportunities for modernization, all under the systemic discrimination lens.





## 17. Require Accountability for Firms Supporting Discriminatory Practices

The Society must implement clear policies holding law firms accountable for concealing or supporting discriminatory practices, ensuring transparency and responsibility.

## 18. Foster a Cultural Shift in Practice Expectations

The Society must foster a cultural shift in how the profession approaches practising law, where embracing diversity and practising inclusively becomes the norm, not the exception. This will include the following.

- a) **Enforce Respectful Workplace Rules:** The Society must develop and enforce Respectful Workplace Rules, internally, then shared externally with other members of the legal community.

## 19. Bring Substantive Change to Society Governance and Regulations

Using the most recent governance review as a backdrop, the Society must undertake an extensive revision of its governance and regulations to ensure all recommendations noted in this report are fully actionable.

The review especially should consider the following key areas:

- a) **Improve Efficiency:** The review must examine whether current governance structures are so onerous that they impede meaningful change and should be examined to improve efficiency and effectiveness.
- b) **Have Greater Public Input:** The review must ensure a higher level of public representation on Council and committees, as well as greater engagement outside the Halifax Regional Municipality.
- c) **Extend Terms for Meaningful Contributions:** The review must consider extending the terms of President, First VP, and Second VP beyond one year, to ensure the ability of Executive Council members to undertake and complete significant changes.

Governance changes must be meaningful, while maintaining the integrity of the Society's responsibility to regulate the legal profession in the interest of the public.



## **20. Conduct Legislative Review to Address Systemic Barriers to Progress**

The Society must conduct a comprehensive review of The Legal Profession Act to dismantle institutional impediments towards diversity and inclusion, ultimately to ensure the elimination of systemic discrimination.

The Society may need to advocate for higher levels of legislative change required to ensure regulations can reflect all recommendations contained within this document.

## **21. Ensure Ongoing Evaluation and Improvement**

Regular measurement check-ins and reviews will be essential to the success of this report. The Society must define successful outcomes, then measure and quantify those outcomes. The Society also must ensure they are meeting with representatives from equity-deserving communities, for follow-up.

It must be appreciated that not everything is measurable with numbers. This report originated because of numbers—in the form of the survey—and personal insights, gained through interviews. For that reason, we must measure our success through a combination of follow-up survey work and follow-up interviews. Then, the Society must use this feedback to refine strategies and improve outcomes over time.



## A Roadmap For Our Community



I know the situation cannot change overnight, but by ensuring this report permeates all the work being done by the Society and other members of the legal community, I live in hope that we can bolster the pace of change.

This report is not a panacea to eradicate all instances of systemic discrimination in the province, but it is much more than a starting point. It is a shining example of how the legal community can, and should, lead the way—to inspire everyone to take-up the mantle as we move towards a future without racism.

This call to action is not secondary to the rule of law and access to justice, it is a necessary companion. Everything we do as lawyers must be examined by this lens and placed at the forefront.

### **Regaining Trust**

As I have said, this is just the beginning. The legacy of this report will be realized through a concerted effort towards regaining trust—through sustained relationship building and succession planning—by everyone involved.

This report must have a lasting, permanent impact. It must change the way the legal community works and interacts, in every way, every day.



## Appendices

# 10

### Appendix A:

## African Nova Scotians and the History of Anti-Black Racism in Our Province

### Defining African Nova Scotians

I am grateful for the excellent work done to clarify the definition of African Nova Scotians, undertaken by the African Nova Scotian Strategy Advisory Council and African Nova Scotian professors at Dalhousie University. I am indebted also to the many organizations who informed these efforts and have dedicated themselves to ensuring African Nova Scotian voices are heard and included in the important work of ensuring a correct definition and acknowledgement.

The Advisory Council includes dedicated community leaders, some of whom are also Dalhousie staff and faculty members.

In an expression of concern over the provincial government's revised definition of African Nova Scotians as "any Nova Scotian who chooses to declare African ancestry, regardless of how long they have lived here and regardless of how much African ancestry they can declare," five Dalhousie professors provided the following clarification in a July 18, 2023 letter to the Province:

African Nova Scotians, as properly defined, are the vast majority of people of African descent in the province as over 70% of Black people in Nova Scotia are third generation or more with another estimated 100,000+ African Nova Scotians living outside of the province. The term "African Nova Scotian" is unique to Nova Scotia because it represents a distinct culture and people within this province. There is no comparable terminology for Black Canadians or people of African descent residing



in other provinces, because the African Nova Scotian culture is distinct to this province's history. While African Nova Scotians may choose to also identify as Black Canadians or people of African descent, the inverse is not true. Not all Black Canadians or people of African descent who live in Nova Scotia are African Nova Scotians, no more so than are all Francophones considered to be Acadian.

– **Dr. Barb Hamilton-Hinch**, BScRec (Dal), MA (Dal), BEd (MSVU), PhD (Dal); **Prof. Michelle Williams**, BSW (Dal), LL.B (Tor), LL.M (NYU); **Prof. Melisa Marsman**, BA (York), LL.B. (Dal), LL.M (Dal); **Prof. Kelsey Jones**, Director, Indigenous Blacks & Mi'kmaq Initiative, BA (Dal), JD (Dal), M.Ed (StFX); **Prof. Maria Dugas**, BA (LFC) JD (Dal) LLM (Dal)

The professors' letter also notes that the government's revised definition is inconsistent with case law in Nova Scotia.

The importance of recognizing African Nova Scotian distinctiveness is clearly recognized by Nova Scotia Court of Appeal in the leading case of R v. Anderson. It is noteworthy that the Court of Appeal's definition of African Nova Scotians at paragraph 96 of its decision nearly mirrors the proper definition of African Nova Scotians. The provincial government's revised definition is inconsistent with this seminal decision.

In Anderson, Justice Derrick for a unanimous court recognizes the distinctiveness of the African Nova Scotian history and experience stating:

"African Nova Scotians have a distinct history reflected in how they arrived here and their experience over the past 400 years. This history is rooted in systemic and institutionalized racism and injustice...It is a history of slavery, oppression, and direct and system racism, braced laws and legal practices."

Dalhousie's African Nova Scotian Strategy, which the Advisory Council leads, "grew out of the need for representation, connection, coordination and collaboration to increase the number of, and support for current, African Nova Scotia students, staff and faculty at the university."

The Dalhousie Office for Equity and Inclusion provides the following information on the African Nova Scotian Acknowledgement, which was developed by the Advisory Council.



### **African Nova Scotian Acknowledgement:**

We recognize that African Nova Scotians are a distinct people whose histories, legacies and contributions have enriched that part of Mi'kma'ki known as Nova Scotia for over 400 years.

African Nova Scotians have resided in the region for more than 400 years. African Nova Scotians came to Nova Scotia through enslavement, and continued to experience structural, systemic, and individual discrimination. By 1961, African Nova Scotians represented more than half of all Black people in Canada.

### **African Nova Scotians are a founding culture. They are a distinct people with collective rights tied to over 52 communities in Nova Scotia.**

As institutions, individuals and organizations strive to recognize and eradicate systemic racism, and its historical and current impacts, there is an increased desire to acknowledge the history and richness of the African Nova Scotian people. An African Nova Scotian acknowledgement represents just one way of recognizing the resistance, resilience, creativity, spirituality and hope that has profoundly shaped our families and communities—and this province and country.

*– Dalhousie University*

## **History of Anti-Black Racism in Nova Scotia**

The history of anti-Black racism in Nova Scotia is complex, but digging into it uncovers helpful context to our discussions on racism, inequality, and the struggle for racial justice in the province and elsewhere.

Nova Scotia is known as the birthplace of Canada's African presence, with the country's largest historic Black population dating back to the slave trade of the early 1600's. Anti-Black racism began with slavery and continued along a complex path towards the present day.

When the British brought enslaved Africans to Nova Scotia, they were used as unpaid labourers in industries such as agriculture, fishing, and shipbuilding.

During the American Revolutionary War (1775-1783), Black soldiers fought alongside the British in exchange for their freedom. After the war, thousands of Black Loyalists migrated to Nova Scotia with promises of land and better opportunities. Instead, they faced considerable hardships and discrimination.

By the early 19th century, Africville was established in Halifax—a vibrant Black community complete with schools, churches, and businesses. However, it was neglected by municipal authorities, lacked essential services, and suffered from racially discriminatory policies.

Throughout the 19th and early 20th centuries, African Nova Scotians continued to face racial discrimination, in schooling, in public spaces, and in housing. Access to education, employment, and healthcare was often limited for the Black population.

In 1946, Black businesswoman Viola Desmond was arrested for refusing to leave a segregated section of a movie theatre in New Glasgow. Her case brought national attention to the issue of racial segregation, and helped spark the Canadian civil rights movement, which gained momentum in the 1960s.

This period saw increased activism and efforts to dismantle systemic racism in Nova Scotia and across Canada. In recent years, there has been a bigger push to create more inclusive and equitable communities.

Meanwhile, Nova Scotia has seen an increase in immigration from various countries, including African nations. This influx of diverse Black communities has contributed to the social fabric of the province and highlights the importance of acknowledging and addressing anti-Black racism.

The legal profession in Canada, including in Nova Scotia, has been predominantly white. The lack of diversity among legal practitioners can lead to a disconnect in understanding the unique challenges faced by African Nova Scotians, both in and outside the courtroom.



Historically, African Nova Scotians have experienced significant challenges in accessing justice on an equal footing with their white counterparts.

African Nova Scotians have faced bias and prejudice within the legal system, leading to disparities in how they are treated by law enforcement, prosecutors, and the judiciary. Racial profiling, harsher sentencing, and unequal treatment within the courtrooms have been documented concerns.

Access to legal representation can be costly, making it difficult for marginalized communities to pursue justice in court. African Nova Scotians, who have faced economic disadvantages, have found it challenging to hire competent legal counsel to protect their interests.

African Nova Scotians, like other marginalized communities, may not always be fully aware of their legal rights and protections. This lack of awareness can further hinder their ability to navigate the legal system and assert their rights effectively.



## Appendix B:

# NSBS Diversity, Equity, Inclusion, and Accessibility Initiatives Undertaken Since 2022

The Society has been implementing a variety of DEIA strategies in its efforts to enhance its cultural proficiency.

In 2023, after an assessment of Council, the firm, Rubin Tomlinson made the following recommendations:

### **Recommendations from Rubin Report:**

#### **1. Acknowledgement**

As noted above, we heard from individuals who described their experiences of disrespect, microaggressions, and discriminatory behaviour occurring in Council meetings, spanning a number of years, towards the REC and/or racialized members of Council.

We recommend that there be a formal acknowledgment by the NSBS of the harm that has been experienced by members of the REC and racialized members of Council, as well as a commitment to shift the culture moving forward. Specifically:

- Provide a statement of a recommitment to DEIA principles;
- Acknowledge the importance of the REC's specialized advisory role;
- which we heard from some interviewees stems from the Marshall Inquiry.

**This was done immediately upon the release of the report.**



## 2. Additional EDI Expertise

We believe the organization would be well served by having access to additional DEIA expertise, as it moves forward on these issues. This may come in the form of retaining a subject matter expert to assist in various projects such as:

- Providing information and facilitating safe dialogue related to equity concerns at the NSBS;
- Subject matter input (when necessary) to complaints, policies, and training that are related to respect, harassment, and discrimination at the NSBS, including as it relates to Council and committee members.

**This has been implemented including hiring BIPOC recruiters and other experts to assist the Society with educational efforts, complaints and other matters where an equity lens is required.**

## 3. Adopt the REC's Recommendations

We recommend adopting some of the REC's recommendations outlined in their March 2022 memo, particularly:

- Standing meetings between the REC and the Council executive, prior to Council meetings, to provide opportunity for meaningful discussion and alignment;
- A roster of culturally competent counseling/therapy services be developed and maintained by the NSBS, to serve the Black, Indigenous, and other racialized members of the NSBS, including volunteers, if feasible to do so;
- Training for Council members. We recommend training that relates to respect, inclusive leadership, anti-Black and anti-Indigenous racism, bystander intervention, microaggressions, harassment, and discrimination. Further, we recommend that this training include critical discussions on the nuances of equity, such as navigating gender and racial dynamics within the workplace and being able to identify and challenge biases and microaggressions. Training will also assist Council members to learn the skills needed to create an environment where everyone feels welcomed, supported, and valued.



We also recommend that training in bystander intervention be considered as a means of helping the Council executive understand the role that they play in contributing to elevating the Council culture by intervening and/or reporting problematic behaviour, as opposed to taking on a more passive role.

**These recommendations have been implemented except for the roster of culturally competent counseling/therapy services. We have been actively working with our LAP provider to improve the availability of culturally competent services. They have agreed to enhance services in this regard.**

#### **4. Communication of the Outcome of the Review and Action Plan**

We recommend that a summary of the review process, and the themes be communicated to current Council and members of the REC, along with the NSBS' "action plan" to address the issues identified within the review. In our view, now is the time to take steps forward, even if they will be later augmented by Mr. Ruck's recommendations.

**This has been completed.**

Further to the recommendations above since 2022, the Society has engaged the following experts to assist us in a variety of matters:

- P4G – recruiting team members
- Cynthia Dorrington Strategic Planning
- Mante Molepo - Council Training in a variety of Equity Issues
- P4G for team training in equity related issues
- Jackie Barkley – workshop with Management Team about racism

**Current governance policies were reviewed by external lawyers applying an equity lens and recommendations for revisions were made.**



The Society has provided the following training to the Society Team:

- **Brave and Inclusive Communications Workshop** (April 23, 2023) – This workshop supports teams to lean into healthy friction by deepening their understanding of interpersonal communication, inclusive behavior changes and the importance of a sense of belonging. Facilitated by P4G, a leading, socially conscious Halifax consulting firm dedicated to helping employers transform workplaces and build stronger and more inclusive teams.
- **Inclusive Change Management Workshop** (scheduled for September 11, 2024) – This training emphasizes that diversity is a strength, and various perspectives contribute to robust decision-making and successful organizational change. This approach recognizes that different groups may experience change differently and have unique needs and concerns that must be considered.
- **EquitAbility: Shaping Accessible and Inclusive Workplaces** – This training, facilitated by P4G in collaboration with TEAMWORK Cooperative, focuses on creating a workplace that’s more inclusive, diverse, and accessible to promote social justice and equity. This training was attended by the Society’s leadership team.
- **The Path: Your Journey through Indigenous Canada** – NVision’s cultural awareness course that explores Canada’s Colonial History, Treaties, Indigenous rights, and Indigenous worldviews. This course has been taken by several employees over the past few years since 2020, including the Society’s leadership team.
- **February 2024 African Heritage Month Lunch ‘n Learn and weekly “did you know” for staff** – The Equity Office offered a workshop and weekly quizzes on African Nova Scotian Heritage and Culture.



Council has been involved in the following professional development:

• **Mante Molepo Facilitated:**

October 2022 History of Racism in Canada and Toward an anti-racist organization

January 2023 Courageous Conversations, white privilege and white fragility

September 2023 Inclusive Leadership: Removing systemic barriers to strengthen relationships with stakeholders and communities.

• **CBA Bystander Intervention Training:**

March 2023

• **E&A Office Facilitated Training:**

October 2022 Equity Lens Toolkit presentation at Council Retreat (Morgan Manzer)

April 2023 Council Presentation – Equity Lens Toolkit

September 2023 Council Retreat Presentation – United Nations Decade for People of African Descent

January 2024 Council Presentation – Privileged Aggressions

June 2024 Council Meeting Black Loyalists Center -education sessions on the

Experience of Birchtown settlers, Post traumatic Slave Syndrome, and environmental racism.

August 2024 – Equity Audit Preparation

Council has also been provided with various books:

- *White Fragility*
- *Indian Horse*
- *Nova Scotia Black Experience through the Centuries*

The Society has also provided funding for members of the TRC committee to attend the following training:

- Myrna McCallum Love Back Conference – 2 TRC members attended
- Symposium on Indigenous Courts – 1 TRC member attended

Since the arrival of our new CEO, the Society has hired 14 new employees. Of these hires, six or 43% are from equity deserving groups.

Currently, the Society employs 36 people. At least eight or 22% of these employees are from equity deserving groups. There may be additional people from other equity deserving groups who are not visible and have not self-identified.

Human Resources staff are currently engaged in review and revision of the Society's HR policies. This work includes application of an equity lens to incorporate best practices in EDIA to support effective human resources management in the Society.

Further, the Society's Equity & Access Office has engaged in 42 additional initiatives, as follows.

### **Equity & Access Office Initiatives**

1. Council Presentation – Equity Lens Toolkit (April 2023)
2. PR Professional Development Day – Cultural competency and Impact of Race and Culture Assessment (June 2023) co-presented with Brandon Rolle from the African Nova Scotian Justice Institute
3. LIANS Presentation – E&A Updates (November 2023)
4. LIANS Presentation – Code of Professional Conduct – s. 6.3 Discrimination and Harassment (November 2023) co-presented with Elaine Cumming, Director, Professional Responsibility
5. CPLED Presentation – Cultural Competency (October 2023) organized by E&C
6. Council Retreat Presentation – United Nations Decade for People of African Descent (September 2023)

7. Council Presentation – Privileged Aggressions (January 2024)
8. PR Professional Development Lunch and Learn – E&A Office updates (February 2024)
9. Cox and Palmer Presentation – Practical Application of the Equity Lens Toolkit (March 2024)
10. CPLED Presentation – Cultural Competency (April 2024) organized by E&C
11. Townhall for Internationally Trained Lawyers (October 2023)
12. Wellness Conference with CBA – April 2024
13. Articling Student Experience Survey (ongoing)
14. African Nova Scotian (ANS) Cultural Competency Training (CCT) Continuing Professional Development (CPD) (ongoing) 250k Law Foundation funding
15. Mi'kmaq and ANS high school legal internship (ongoing) 135k Law Foundation funding
16. Accessibility Audit (completed November 2023)
17. Recruitment of Indigenous, African Nova Scotian, and racialized communities for roles in Professional Responsibility (jointly with Professional Responsibility) (launched July 2024)
18. Official Mi'kmaw land and ANS Acknowledgement
19. Mentorship programs updated (IB&M, Internationally Trained Lawyer Observership program, Pride Mentorship)
20. Equity Lens Toolkit (November 2024)
21. Events:
  - a. Honouring Indigenous, ANS, and Racialized Articled Clerks;
  - b. Race and Law Prize;
  - c. Remembering Dara Gordon leadership event;
  - d. AMIE Award;
  - e. Pride Reception
22. GEC discrimination and harassment survey findings and recommendations (2023)

23. REC discrimination and harassment survey findings (to be published in September 2024)
24. LOMSC Equity and Diversity Standard update (ongoing)
25. Criminal Law Cultural Competence Standard (created by Brandon Rolle of the REC and Criminal Law Standards Committee)
26. Halifax Courthouse accessibility advocacy with the DEC (ongoing)
27. PATH mandatory Indigenous cultural competency training (2023)
28. The Ku'TawTinu: Shared Articling Initiative (administered by E&C)
29. PATH mandatory indigenous training for all practising members and staff (October 2023)
30. The Ujima Shared Articling Initiative (administered by E&C)
31. African Heritage Month Lunch 'n Learn and weekly "Did You Know" for staff (February 2024)
32. Creation of group agreement for Council
33. Council meeting at the Black Loyalist Heritage Centre (June 2024)
34. Updating ALR equity demographics section
35. Advisory support on several PR and E&C matters
36. Organized 2 cultural competency training sessions with Jackie Barkley for PR
37. IWD communication to membership
38. Model Code of Conduct consultation re: TRC Calls to Action (with PR)
39. MSELP update of Element #9 – Equity
40. Meeting with the Office of Citizen Centered Approaches re: conflicting out/the intimate partner violence standard and organized a discussion on the topic with the OCCA, GEC, Family Law Standards Committee, and LSS.
41. Working with the GEC on their parental leave policy project.
42. Meeting with the CBA's equity committee to discuss the possibility of equity deserving lawyers supporting equity deserving lawyers going through a discipline process.





## Appendix C:

# Nova Scotia Human Rights

### For Individuals

The **Nova Scotia Human Rights Act** prohibits actions that discriminate against people based on a protected characteristic in combination with a prohibited area (see below).

### Protected Characteristics

- Age
- Race
- Colour
- Religion
- Creed
- Ethnic, national or aboriginal origin
- Sex (including pregnancy and pay equity)
- Sexual orientation
- Physical disability
- Mental disability
- Family status
- Marital status
- Source of income
- Harassment (and sexual harassment)
- Irrational fear of contracting an illness or disease
- Association with protected groups or individuals
- Political belief, affiliation or activity
- Gender Identity
- Gender Expression
- Retaliation

In addition to protection from discrimination, the Act also prohibits harassment based on any of these characteristics and prohibits sexual harassment in all areas of public life.

**Prohibited Areas**

- Employment
- Housing or accommodation
- Services and facilities (such as stores, restaurants or provincially funded programs)
- Purchase or sale of property
- Volunteer public service
- Publication, broadcasting or advertisement
- Membership in a professional, business or trade association, or employers' or employees' organization

## Appendix D:

# Resources and Recommended Reading

### **Royal Commission on the Donald Marshall, Jr., Prosecution Recommendations The Marshall Report**

[https://novascotia.ca/just/marshall\\_inquiry](https://novascotia.ca/just/marshall_inquiry)

### **Nova Scotia Archives – Marshall Documents**

<https://archives.novascotia.ca/marshall/report/#commission>

### **National Centre for Truth and Reconciliation Reports**

<https://nctr.ca/records/reports>

### ***The Nova Scotia Human Rights Act***

<https://humanrights.novascotia.ca/know-your-rights/legislation>

### ***NSBS Racial Equity Survey Report***

<https://nsbs.org/society-news/equity-and-access/racial-equity-survey-report-released>

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### **Cahill, Barry. *Professional Autonomy and the Public Interest: The Barristers' Society and Nova Scotia's Lawyers, 1825–2005***

<https://www.mqup.ca/professional-autonomy-and-the-public-interest-products-9780773558625.php>

### **DiAngelo, Robin, Ph.D. *White Fragility***

<https://www.robindiangelo.com/publications>

### **Pachai, Bridglal. *The Nova Scotia Black Experience Through the Centuries***

<https://shop.bccns.com/products/the-nova-scotia-black-experience-through-the-centuries>

### **Rose, Tricia. *Metaracism: How Systemic Racism Devastates Black Lives—and How We Break Free***

<https://www.triciarose.com/books/metaracism>

### **Wagamese, Richard. *Indian Horse***

<https://www.indianhorse.ca/en/book>