

# UNIFORM LAW CONFERENCE OF CANADA CONFÉRENCE POUR L'HARMONISATION DES LOIS AU CANADA

## DIVERSITY AND INCLUSION COMMITTEE RECOMMENDATIONS TO EXECUTIVE COMMITTEE

November 2023

### Background

In early 2020, the Executive Committee of the Uniform Law Conference of Canada (ULCC) struck a committee to consider what steps could be taken to identify and address any opportunities to improve the work of the ULCC in relation to diversity and inclusion. As part of its work, the committee drafted a proposed Statement of Policy on Diversity and Inclusion, which was presented at the annual meeting of the ULCC, held virtually in August 2020. The ULCC voted to adopt the Statement of Policy, set out as follows:

- The Uniform Law Conference of Canada (ULCC) was created in 1918 recognizing that the participation of provincial governments was required to develop uniform legislation. Today, lawyers from across the country work on ULCC projects and criminal law reform. The ULCC is geographically diverse. It operates in both English and French and takes into account both the common law and civil law legal systems that are in place in Canada.

The ULCC is committed to cultivating an inclusive, respectful and welcoming environment. The ULCC believes diversity supports creativity and innovation, which are essential to the successful fulfillment of its law reform mandate and leads to products that are responsive to everyone. Accordingly, the ULCC promotes, encourages and nurtures diversity among its members and leaders. The ULCC actively reaches out to members of the legal profession to ensure diverse participation in its working groups. Working groups are encouraged to consider broad consultations in order to solicit a wide range of views and perspectives. The ULCC also encourages those responsible for the composition of delegations to consider diversity, among other factors, when choosing delegates.

- La Conférence pour l'harmonisation des lois au Canada (CHLC) a été créée en 1918 reconnaissant que la participation des gouvernements provinciaux était nécessaire pour élaborer une législation uniforme. Aujourd'hui, des juristes de partout au pays travaillent sur les projets de la CHLC et sur la réforme du droit criminel. La CHLC est géographiquement

diversifiée. Elle fonctionne en anglais et en français et tient compte des systèmes juridiques de la common law et du droit civil en vigueur au Canada.

La CHLC s'engage à cultiver un environnement inclusif, respectueux et accueillant. La CHLC croit que la diversité soutient la créativité et l'innovation, qui sont essentielles à l'accomplissement de son mandat de réforme du droit et qui mènent à des produits qui répondent aux besoins de tous. En conséquence, la CHLC promeut, encourage et nourrit la diversité parmi ses membres et ses dirigeants. La CHLC tend activement la main aux membres de la profession juridique pour assurer une participation diversifiée à ses groupes de travail. Les groupes de travail sont encouragés à envisager de vastes consultations afin de solliciter un large éventail de points de vue et de perspectives. La CHLC encourage également les responsables de la composition des délégations à tenir compte de la diversité, entre autres facteurs, lors du choix des délégués.

In response to the adoption of this policy, the Executive Committee provided the Diversity and Inclusion Committee with the following mandate:

- To advise the Executive Committee on all aspects related to the Conference's statement of policy on diversity and inclusion and to make recommendations on how best the Conference can meet the objectives of that policy.

## **Context**

Although diversity and inclusion are often linked to one another, it is important to recognize that they are equally important, yet distinct concepts.

Diversity refers to the differences within a collective and does not describe individuals themselves. A diverse group is one made up of individuals who represent a wide variety of backgrounds, identities, genders, experiences, types of expertise and ways of thinking. Diversity is objectively measurable.

Inclusion, in contrast, is more difficult to define with precision. It goes beyond the idea of simply being "open", and rather than being objectively measurable, it incorporates a range of behaviours and ideas that are much more subjective in nature. For example, according to a model put forward by Dr. J Goosby Smith and organizational development consultant Josie Lindsay<sup>1</sup>, inclusion can be assessed in relation to eight themes, each comprised of several behaviours:

- 1) Connection – when individuals feel a sense of bonding and of community, they feel included;

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<sup>1</sup><https://gbr.pepperdine.edu/2017/08/the-garden-an-organismic-metaphor-for-distinguishing-inclusion-from-diversity/>

- 2) Care – when individuals perceive that others value, acknowledge, help and want the best for them, they feel included;
- 3) Intrapersonal Inclusion – stakeholders’ personal thoughts, assumptions and beliefs about inclusion can impact whether they feel included;
- 4) Communication – when people participate in and feel they are in the communication “loop”, they feel included;
- 5) Mentoring and Coaching – when people have mentors, and when people become mentors, they feel included;
- 6) Fairness – when people perceive fairness, they are more likely to feel included;
- 7) Trust – when stakeholders in an organization trust processes, leaders and peers and, in turn, feel trusted by them, they feel included;
- 8) Visibility and Reward – when stakeholders are seen and accurately valued by their peers and leaders, and rewarded for dedication and success, they feel included.

The authors of the above model put forward a garden as a metaphor for an organization, and liken the number of different types of plants to its “diversity” and the intentional application of fertilizer to its level of “inclusion”. They then note that it is possible to have a garden that is very diverse, but if it is not provided with appropriate fertilizer, or not tended properly, the plants will all suffer. The authors conclude that, in order to foster organizational inclusion, leaders should take intentional steps to address the themes set out above.

Summed up, diversity is about representation, and inclusion is about how well the presence, contributions, and viewpoints of different groups of people are valued and integrated into an organization. In the words of Diversity and Inclusion consultant Verna Myers - “Diversity is being invited to the party; inclusion is being asked to dance.”

### **Jurisdictional Support**

To carry out its mandate, the ULCC relies heavily on the participation of representatives from the federal, provincial and territorial governments. For example, in the past, this support has taken the form of provision of drafting resources and interpretation services. The ULCC will be reliant on all jurisdictions to help advance the goals of Diversity and Inclusion, in relation to both resources (e.g. access to specialized units, such as GBA Plus analysis) and demographics (e.g. jurisdictions intentionally prioritizing diverse delegations).

### **Recommendations**

The Diversity and Inclusion Committee makes the following recommendations to the Executive Committee in relation to how the ULCC can meet the objectives of the Diversity

and Inclusion policy as adopted at the 2020 Annual Meeting. These recommendations should all be considered with the understanding that both the “people” and the “product” of the ULCC should reflect the values of Diversity and Inclusion.

### **Jurisdictional Representatives, Delegations, Working Groups & Communications**

- 1) Wherever possible, the Executive Committee should encourage jurisdictions to send diverse and inclusive delegations to the annual meeting and should encourage consideration and debate in relation to diverse and inclusive issues and projects. To this end, the ULCC Statement of Policy on Diversity and Inclusion should be clearly referenced in any communications between the ULCC and jurisdictions, including in:
  - the Fall and Spring Communiqués;
  - the request to appoint Jurisdictional Representatives;
  - the call-out letter for resolutions in the Criminal Section; and
  - the registration package circulated in advance of the Annual Meeting.
- 2) Although the Executive Committee does not play an active role in Working Group formation, the Executive Committee should, where possible, encourage those individuals involved in forming Working Groups to strive for diverse membership.
- 3) The Executive Committee should review the current Communiqué distribution list to determine if there are any gaps in the groups that currently receive it. By ensuring a wide and diverse audience, the ULCC may prompt interest from new individuals or groups in joining working groups and delegations and may lead to diverse organizations voicing support for ULCC uniform legislation.
- 4) The Executive Committee should prepare or endorse a form letter that can be utilized by Jurisdictional Representatives as a starting point or template when extending invitations to individuals or groups to participate as part of a delegation.

### **Diversity Analysis**

- 1) The Executive Committee should encourage, where feasible, the use of the Gender-based Analysis Plus (GBA Plus)<sup>2</sup> analytical process, or other similar tool, throughout the development of ULCC initiatives. Where a GBA Plus analysis, or an analysis using a similar tool, has been conducted, the Executive Committee should encourage that the results be clearly documented.

### **Demographics**

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<sup>2</sup> “GBA Plus is an analytical process that provides a rigorous method for the assessment of systemic inequalities, as well as a means to assess how diverse groups of women, men, and gender diverse people may experience policies, programs and initiatives...GBA Plus considers many other identity factors such as race, ethnicity, religion, age, and mental or physical disability, and how the interaction between these factors influences the way we might experience government policies and initiatives.” ([Government of Canada – What is Gender-based Analysis Plus](#))

- 1) The Executive Committee should continue the practice of circulating a voluntary survey to determine the levels of diversity and inclusion of those in attendance at the annual meeting<sup>3</sup>. The results of the survey should be used to inform future actions of the Executive Committee as they relate to diversity and inclusion, and the Executive Committee should ensure that time is scheduled at each annual meeting for a report to be delivered based on the results of the previous year's survey.

## **Language**

### ***Inclusive Language***

- 1) The Executive Committee should adopt a policy encouraging the use of gender-inclusive language, wherever possible. The policy should apply to all work of the ULCC, including working group reports and draft legislation, and to all types of communications – oral or written, formal or informal, or addressed to an internal or external audience. The following resources may be of use in the development of such a policy:
  - [United Nations](#) (English)
  - [United Nations](#) (French)
  - Government of Canada - [Translation Bureau](#) (English)
  - Government of Canada - [Bureau de la traduction](#) (French)
  - [Government of Yukon](#) (English)
  - [Government of Yukon](#) (French)
  - [Government of Ontario](#) (English)
  - [Government of Ontario](#) (French)
  - [Office of the Parliamentary Counsel](#) – United Kingdom
- 2) The Executive Committee should examine the current constitution and bylaws of the ULCC with a view to updating them to use inclusive language throughout.

### ***Bilingual Work***

- 1) The Executive Committee should review the basic operational documents of the ULCC to ensure that they clearly reflect that the ULCC is bilingual and bilingual in its work, and to update the basic operational documents, as needed, to encourage that work be done contemporaneously in both official languages wherever possible.
- 2) The Executive Committee should take steps to ensure that the basic operational documents of the ULCC are regularly reviewed and updated, and that they are made easily accessible to all interested parties.

## **Policies and Rules of Procedure**

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<sup>3</sup> A survey was developed and circulated to all attendees from the 2021 and 2022 Annual Meetings. Results of the 2021 survey were shared with those in attendance at the 2022 Annual Meeting. The development and circulation of the survey have been made possible through the generous and ongoing support of the Newfoundland and Labrador Statistics Agency.

- 1) The Diversity and Inclusion Committee recognizes the work currently underway to develop policies and rules of procedure for the Civil Section to promote greater transparency, accountability, diversity, and inclusion, and recommends that the Executive Committee continue to encourage the development of this initiative, and other similar initiatives, to enable the ULCC to create the best products possible.

### **Mentorship**

- 1) The Executive Committee should continue to encourage the use of mentorship practices in both the Civil and Criminal Sections to ensure that new Jurisdictional Representatives, and new attendees at the annual meeting, are provided with appropriate information and support before, during and after the annual meeting.

### **Recognition**

- 1) The Executive Committee should continue to ensure that the formal recognition of those involved in the work of the ULCC is appropriate, fair and transparent.