



## CAN-TECH DIVERSITY AND INCLUSION WORKING GROUP

### REPORT AND RECOMMENDATIONS JULY 2020

#### 1. Working Group Composition

In January of 2020, the Can-Tech Board of Directors created a Diversity and Inclusion Working Group (“Working Group”) composed of Elena Iosef, Andrew Alleyne, and Lisa R. Lifshitz.

The Working Group’s recommendations to Can-Tech regarding diversity and inclusion as of July 2020 are outlined below.

#### 2. Background

On December 2, 2016, the Law Society of Ontario’s (“LSO”) Convocation approved recommendations made by the Challenges Faced by Racialized Licensees Working Group in its report entitled “Working Together for Change: Strategies to address issues of systemic racism in the legal professions”<sup>1</sup> (“Report”). The Report recognized that racialized legal professionals face longstanding and significant hurdles at all stages of their legal careers.

The Working Group recognizes that achieving diversity in the legal profession, particularly in the area of technology, is a process that requires continued effort and commitment not just from regulatory bodies such as the LSO, but also from associations such as Can-Tech.

When discussing diversity and inclusion, however, it is important to recognize the intersecting nature of equity issues and their compounding effects on individuals holding more than one identity.

The underrepresentation of women in the legal field, for example, has been reported on by organizations such as the LSO and the Canadian Bar Association for decades<sup>2</sup>. Sadly, little progress has been made in achieving gender parity in law. A 2018 LSO report revealed that there are almost three times as many men in partnership positions as there are women, and that the profession struggles to retain senior women<sup>3</sup>. Research also demonstrates that female attrition from law is significant.<sup>4</sup>

Similarly, while much more encouraged to openly participate in the profession than in the past, Canadian lawyers within the LGBT+ community still face barriers relating to their sexual identity, particularly with

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<sup>1</sup> <https://lawsocietyontario.azureedge.net/media/lso/media/legacy/pdf/w/working-together-for-change-strategies-to-address-issues-of-systemic-racism-in-the-legal-professions-final-report.pdf>

<sup>2</sup> <https://www.nationalmagazine.ca/en-ca/articles/the-practice/workplace/2018/why-women-leave>

<sup>3</sup> <https://www.lawtimesnews.com/resources/practice-management/ontarios-law-firms-were-mostly-led-by-men-again-in-2018/263551>

<sup>4</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/lasr.12214>

respect to retention and advancement<sup>5</sup>. Unsurprisingly, racialized gay lawyers more consciously describe their experiences in environments such as law firms as negative.

The technology sector faces even more acute challenges. Reports show that women make up only a quarter of the high-tech workforce in Canada,<sup>6</sup> and that such issues are exacerbated higher up the ladder.<sup>7</sup> LGBT+<sup>8</sup> community members and racialized<sup>9</sup> technology professionals also face challenges in representation, professional support and wage gaps.

In light of the foregoing challenges and many other aspects of identity we have not touched on, the Working Group feels it is imperative that Can-Tech take active steps to address diversity and inclusion in law and in its own operations. In our view increased diversity can improve our strengths, capabilities and adaptability. Meanwhile, inaction risks perpetuating homogeneity and alienating talented lawyers from the legal profession and our organization.

### **3. Recommendations**

The Working Group proposes several recommendations for the Can-Tech Board of Directors to adopt in order to advance diversity and inclusion goals, outlined below. These recommendations are in line with policies of organizations such as the Ontario Bar Association<sup>10</sup> and the American Bar Association,<sup>11</sup> as well as being in line with the five main themes for actionable progress outlined in the LSO Report:

- accelerating a culture shift;
- measuring progress;
- educating for change;
- building communities of support; and
- leading by example.

#### **1) Recommendation #1: Adoption of an Overarching Diversity Statement**

We recommend that Can-Tech adopt the following diversity statement as part of its mandate, to be included on Can-Tech's website to communicate to the public and its membership Can-Tech's commitment on these important matters:

"Can-Tech aims to demonstrate leadership in the legal and technology communities through its equity, diversity, and inclusion strategies and by actively nurturing an inclusive and welcoming professional

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<sup>5</sup> <https://wyaj.uwindsor.ca/index.php/wyaj/article/view/5021>

<sup>6</sup> <https://www.cbc.ca/news/technology/diversity-tech-jobs-pringle-1.4528149>

<sup>7</sup> <https://www.theglobeandmail.com/technology/we-absolutely-have-a-problem-canadas-tech-sector-gender-gap/article36789423/>

<sup>8</sup> [https://www.huffingtonpost.co.uk/andrew-mclean/coding-in-the-closet-lgbt\\_b\\_18305664.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce\\_referrer\\_sig=AQAAAJQ2oSW6ALVHIFMBsVmCVywUcITExdZ8drxZxnsQYk3Kvw9m9afLMM9GllrAqRHIBszaGvEr6ID7CCll6h2rP4hzCbhxkxTeLG51Fqo3chHEk9mncsAxYTDweS6mVywmgQ9MqpEtw76dGsHZveENuVbTmEktCtUxppqB3mIwtCwaq](https://www.huffingtonpost.co.uk/andrew-mclean/coding-in-the-closet-lgbt_b_18305664.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAJQ2oSW6ALVHIFMBsVmCVywUcITExdZ8drxZxnsQYk3Kvw9m9afLMM9GllrAqRHIBszaGvEr6ID7CCll6h2rP4hzCbhxkxTeLG51Fqo3chHEk9mncsAxYTDweS6mVywmgQ9MqpEtw76dGsHZveENuVbTmEktCtUxppqB3mIwtCwaq)

<sup>9</sup> <https://www.cigionline.org/articles/why-canada-needs-more-diverse-tech-workforce>

<sup>10</sup> <https://www.oba.org/Sections/Information-Technology-and-E-Commerce-Law/Section-Constitution>  
<https://www.oba.org/About-US/About-Us/OBA-Diversity-Statement>

<https://www.oba.org/Sections/Committees/Special-Committees/Equality-Committee/Diversity-Program>

<sup>11</sup> <https://verdict.justia.com/2016/10/24/abas-new-rules-mandating-diverse-cle-panels>

network for its members and partners. In furtherance of its mission and strategic priorities, Can-Tech commits to promoting equity, diversity, and inclusion through its advocacy, programming, internal policies, and governance structures.

Can-Tech's approach to equity, diversity, and inclusion will (i) take action to reducing barriers to career advancement that are experienced by equity-seeking groups within the technology legal profession; and, (ii) reflect the evolving and intersecting nature of equity issues."

## **2) Recommendation #2: Measuring Progress through Quantitative Analysis**

We recommend that each year Can-Tech measure the diversity of its membership and event speakers quantitatively by compiling quantitative self-identification data of its members and speakers. Data with respect to its members shall be compiled and subsequently aggregated in a manner consistent with privacy by design principles, in order to protect self-identified individuals from harm that may flow from this disclosure.

We recommend that the 2020 membership be surveyed in the summer of 2020 by sending out a diversity and inclusion survey. Going forward, members can be surveyed at the time of registration. For privacy reasons, members can choose not to complete the survey, or to only answer certain questions. However, Can-Tech shall strongly encourage the completion of the document by members for the reasons outlined below.

Such data shall be used for the purpose of: (i) comparing Can-Tech's data with the aggregate demographic data gathered about Canada in general, and from the profession as a whole through LSO and other regulatory body annual reports; and (ii) promoting diversity and inclusion in the makeup of the Can-Tech Board and Can-Tech's speaking engagements at events such as roundtables and conferences.

A statement substantially similar to the following shall accompany diversity data collection:

"Because of its commitment to diversity and inclusion, and understanding and reducing barriers to leadership in both the legal and technology fields, Can-Tech is gathering statistics on the composition of its membership and the speakers and experts who participate in its events. These aggregate statistics will help to better understand demographic trends and to develop programs and initiatives to promote equity and diversity. Can-Tech strongly encourages you to complete this questionnaire in order to enhance the reliability of the data. The information will be kept confidential and only used in aggregate form in accordance with applicable human rights and privacy legislation."

### **3) Recommendation #3: Ensure Diversity in Board of Directors Representation**

We recommend including the following Section 5.9 within Can-Tech's by-laws:

#### **"5.9 Nominations**

The nominating committee responsible for selecting the pool of incoming directors each year shall ensure that the board of directors represents the diversity, practice experiences and regional composition of Canada's population, in accordance with the Association's policies then in effect."

The bylaw above can be enacted by the nominating committee through a specific policy, which shall be approved by the Can-Tech Board of Directors' Executive ("Executive") and updated on an annual basis.

### **4) Recommendation #4: Implementing Panel Diversity Policy for Can-Tech Events**

Ensuring the diversity of Can-Tech's panels is an important way of promoting diverse voices, and that various skilled professionals are highlighted to their peers. Many progressive organizations<sup>12</sup>, including the American Bar Association, have adopted such policies.

We recommend requiring that Can-Tech event panel diversity be increased based on the size of each panel according to the following mandatory minimum guidelines:

- Panels up to 4 (including the moderator): At least 1 diverse panelist
- Panels up to 5-8 (including the moderator): At least 2 diverse panelists
- Panels with 9+ (including the moderator): At least 3 diverse panelists

The Executive or its delegate(s) should review every panel. Those that do not follow the policy should be contacted by the Executive in order to discuss solutions and action plans going forward. One such solution may be for Can-Tech to canvass its membership, board and the broader legal field for potential panelists; generated nominations could then be maintained on a list as a resource for speaking engagements.

Each event shall involve the completion of a form substantially in the form outlined in Exhibit 1 to this report.

### **5) Recommendation #5: Ongoing Diversity and Inclusion Assessments**

Can-Tech should also continue to monitor and assess internal policies, practices and programs, to promote diversity, inclusion and equality within the organization and in the provision of services by:

- a) as required, adopting, implementing and maintaining diversity and inclusion policies addressing at the very least fair nominations of its Board of Directors;
- b) measuring quantitative progress through a census of the membership or other method;
- c) measuring qualitative progress, for example, by conducting inclusion surveys, or by including applicable questions on membership feedback forms as and when appropriate;

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<sup>12</sup> Examples: <https://www.championsforchange.nz/what-we-do/drive-change/the-panel-pledge/>  
<https://link.springer.com/article/10.1007/s41669-019-0169-5>  
<https://soundgirls.org/diversity-and-inclusion-guidelines-for-convention-and-conference-policy-committees/>

- d) conducting yearly equality, diversity and inclusion self-assessments; and
- e) based on the results from b), c) and d), identifying gaps and barriers and adopting measures to address the gaps and barriers.

The Working Group has identified the implementation of a mentorship program as one suggestion for how Can-Tech could further its diversity and inclusion in the future, based on the assessments above. Can-Tech, in collaboration with other legal associations where appropriate, could also provide support to diverse members who request need of direction and assistance through mentoring and networking initiatives. Can-Tech could inform members of this support at least once a year, preferably in January.

Members of the Working Group would be pleased to answer any questions regarding this report.

Respectfully,

Elena Iosef, Andrew Alleyne, and Lisa R. Lifshitz

July 16, 2020

**Exhibit 1**

**PROGRAM INFORMATION FORM**

**Can-Tech Diversity & Inclusion Policy**

**Can-Tech has enhanced its diversity & inclusion policy and now requires the following panel diversity based on the size of each panel according to the following mandatory guidelines:**

Panels up to 4 (including the moderator):	At least 1 diverse panelist
Panels up to 5-8 (including the moderator):	At least 2 diverse panelists
Panels with 9+ (including the moderator):	At least 3 diverse panelists

The Can-Tech Executive (“Executive”) or its delegate(s) will review and approve every panel.

[NTD: The Working Group proposes the following statement regarding use of the information below from a privacy perspective. The Board and applicable privacy working group may review below and made amendments as necessary:

*The Demographic Information below shall be collected about participants prior to their approval to participate on the applicable panel. Should a participant be rejected by Can-Tech, their Demographic Information shall be promptly deleted. If a participant is approved by Can-Tech, the Demographic Information below shall be updated in consultation with the participant. Once the applicable event has been completed, the Demographic Information below shall be anonymized and maintained in aggregate form only and the original Program Information form shall be securely destroyed.]*

**Program Information:**

**Program Title** (*Title must be brief and clearly stated*):

**Presented by Following Committee(s):**

**Program Description:** (50 words or less)

**Program Chair/Co-Chairs:**

**1. Name:** Click here to enter text.

**Firm/Organization:** Click here to enter text.      **Title:** Click here to enter text.

**City:** Click here to enter text.      **Province:** Click here to enter text.

**Phone:** Click here to enter text.      **Email:** Click here to enter text.

Can-Tech Member       Non-Member       Non-Lawyer

**Demographic Information:**

**Gender:** Male Female Other Prefers not to say/Unknown

**Ethnicity:**

Black Asian Caucasian Latinx Indigenous South Asian

Other \_\_\_\_\_ Prefers not to say/Unknown

**Does this person identify themselves as a member of the LGBTQ+ community?**

Yes No Prefers not to say/Unknown

**Is this speaker a person with a disability?**

Yes No Prefers not to say/Unknown

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**2. Name:** Click here to enter text.

**Firm/Organization:** Click here to enter text. **Title:** Click here to enter text.

**City:** Click here to enter text. **Province:** Click here to enter text.

**Phone:** Click here to enter text. **Email:** Click here to enter text.

Can-Tech Member Non-Member Non-Lawyer

**Demographic Information:**

**Gender:** Male Female Other Prefers not to say/Unknown

**Ethnicity:**

Black Asian Caucasian Latinx Indigenous South Asian

Other \_\_\_\_\_ Prefers not to say/Unknown

**Does this person identify themselves as a member of the LGBTQ+ community?**

Yes No Prefers not to say/Unknown

**Is this speaker a person with a disability?**

Yes No Prefers not to say/Unknown

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## Program Moderator:

**1. Name:** Click here to enter text.

**Firm/Organization:** Click here to enter text. **Title:** Click here to enter text.

**City:** Click here to enter text. **Province:** Click here to enter text.

**Phone:** Click here to enter text. **Email:** Click here to enter text.

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Can-Tech Member    Non-Member    Non-Lawyer

**Demographic Information:**

**Gender:** Male Female Other Prefers not to say/Unknown

**Ethnicity:**

Black Asian Caucasian Latinx Indigenous South Asian

Other \_\_\_\_\_ Prefers not to say/Unknown

**Does this person identify themselves as a member of the LGBTQ+ community?**

Yes No Prefers not to say/Unknown

**Is this speaker a person with a disability?**

Yes No Prefers not to say/Unknown

**Program Speakers:**

**If you are a Program Chair or Moderator, you will not be listed again as a speaker.**

**SPEAKER 1.**

**Name:** Click here to enter text.

**Firm/Organization:** Click here to enter text.      **Title:** Click here to enter text.

**City:** Click here to enter text.      **Province:** Click here to enter text.

**Phone:** Click here to enter text.      **Email:** Click here to enter text.

Can-Tech Member    Non-Member    Non-Lawyer

**Demographic Information:**

**Gender:** Male Female Other Prefers not to say/Unknown

**Ethnicity:**

Black Asian Caucasian Latinx Indigenous South Asian

Other \_\_\_\_\_ Prefers not to say/Unknown

**Does this person identify themselves as a member of the LGBTQ+ community?**

Yes No Prefers not to say/Unknown

**Is this speaker a person with a disability?**

Yes No Prefers not to say/Unknown

**SPEAKER 2.**

**Name:** Click here to enter text.

**Firm/Organization:** Click here to enter text.      **Title:** Click here to enter text.

**City:** Click here to enter text.      **Province:** Click here to enter text.

**Phone:** Click here to enter text.

**Email:** Click here to enter text.

Can-Tech Member    Non-Member    Non-Lawyer

**Demographic Information:**

**Gender:** Male Female Other Prefers not to say/Unknown

**Ethnicity:**

Black Asian Caucasian Latinx Indigenous South Asian

Other \_\_\_\_\_ Prefers not to say/Unknown

**Does this person identify themselves as a member of the LGBTQ+ community?**

Yes No Prefers not to say/Unknown

**Is this speaker a person with a disability?**

Yes No Prefers not to say/Unknown

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**ADD MORE SPEAKER ENTRIES AS NEEDED**

**Before submitting this form, please ensure the following:**

- You have at least **1** diverse panelist (for panels of 1-4); **2** diverse panelists (for panels of 5-8); at least **3** diverse panelists (for panels of 9+). *Please note, this count includes the moderator.*
- You have checked each entry for completeness and accuracy.