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CABL applauds the decision in *R v Anderson*, 2021 NSCA 62 for recognizing that Impact of Race and Culture Assessments (IRCAs) can be a valuable resource for sentencing

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Earlier this week, the Nova Scotia Court of Appeal took a positive step in addressing systemic racism perpetrated against Black Canadians by upholding the use of Impact of Race and Culture Assessments (IRCAs) in criminal matters. Similar to Gladue Reports, IRCAs are used to provide a court with information about historic injustice and racial discrimination which have impacted the offender and influence their interaction with the world, and importantly with police and others in authority.

In the case of *R v Anderson*, 2021 NSCA 62, the Honourable Justice Anne Derrick, writing on behalf of the 5-member panel, noted that IRCAs can be a valuable resource for sentencing judges, as they are conduits of information about the history of anti-Black racism and discrimination and its effects, which can assist a judge in crafting a fit sentence for an offender. Importantly, she stated that the use of IRCAs can play a role in reducing reliance on incarceration for African Nova Scotian offenders. For a judge to ignore or fail to inquire into the systemic and background factors raised during sentencing of an African Nova Scotian, through an IRCA or otherwise, may amount to an error of law.

Anderson was a Crown appeal from a conditional sentence imposed in relation to firearm offences. However, the court was being asked to consider, not whether the sentencing judge erred in law or imposed an unfit sentence. Rather, the emphasis was on the application of the principles of sentencing to offenders of African descent. It was a battle against the status quo - the business-as-usual approach that Black Canadians have struggled against as it simply does not take account our lived reality. This judgement sends a clear message that deeper reflection is needed. The conclusion of the judgement says it best:

"The Crown's position has evolved substantially since then. The sentencing of African Nova Scotian offenders must similarly evolve. This is to be accomplished by judges taking into account evidence of systemic and background factors and the offender's lived experience, ideally developed through an IRCA, at every step in the sentencing process, and in the ultimate crafting of a just sanction.

...

Mr. Anderson's sentencing shows that change is possible, for the offender, and as significantly, for our system of criminal justice."

As further indication of the systemic change, CABL applauds the Government of Canada for funding IRCAs. We are hopeful that this funding will be extended beyond these first 5 years, in order to bring about meaningful and long-lasting change.

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