

Research from Ryerson University Finds Increased Representation of Women in Canada's Judiciary, but Visible Minorities Left Behind

Toronto, ON, June 27, 2012: A first of its kind study by Ryerson University's Diversity Institute called *Improving Representation in the Judiciary: A Diversity Strategy* released today examines the female and visible minority representation of 753 judges in the Supreme Court, Federal Courts, and Provincial Courts in the province of Ontario.

The research reveals that some progress has been made with female representation in the Canadian Judiciary but visible minorities are under-represented. One third of federally appointed judges and 32 per cent of provincially appointed judges are women compared to 51 per cent in the population and approximately 40 per cent of practicing lawyers.

While women are moving forward, in contrast, representation of visible minorities in Canada's judiciary is stalled. Just 2.3 per cent of the federally appointed judges analysed are visible minorities (based on a sample of 221 federally appointed judges). There is a much higher percentage of visible minority judges among Ontario's appointees. In a sample of 138 Ontario provincially appointed judges, 10.9 per cent are visible minorities compared to 15 per cent of practicing lawyers in the province.

"The lack of diversity in the Canadian Judiciary presents a democratic deficit," said Wendy Cukier, founder of the Diversity Institute at Ryerson University. "Judges are extremely powerful. Judicial impartiality and independence is a cornerstone of democracy. So is representation. The public trust and perceived legitimacy of the court depends on it."

The report also compares the appointment processes between the federal and provincial courts as well as international approaches. While not perfect, provincial appointment process to the Ontario Court of Justice requires a broadly constituted appointments committee, which reflects the diversity of Ontario's population. The provincial appointments process is also more open and transparent, announcing and advertising vacancies and reaching out to communities. In contrast, the federal appointment process appears to be less transparent with decision-making more concentrated in the hands of politicians.

The report examines Supreme Court of Canada, Federal Court of Appeal, Federal Court, Tax Court of Canada, Court of Appeal for Ontario, Ontario Superior Court of Justice, and the Ontario Court of Justice. Other key findings include:

- The lowest female representation is found in the Tax Court of Canada (23%).
- The highest female representation is in the Supreme Court of Canada (44%). However, the proportion of women in recent federal appointments has declined.
- Visible minorities are all but absent among Federal appointments to the courts and the selection process.

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This research report is part of a large multi- year study – *DiversityLeads* – being undertaken by the Diversity Institute and its partners. This builds on an earlier examination of diversity in the legal sector by the Diversity Institute as part of the Maytree-Civic Action DiverseCity project. The previous report, released in 2011, focused on leaders in the legal sector working in the GTA (judges, governing bodies, partners in the largest law firms, deputy and crown attorneys, and justices of the peace) and found similar under-representation: only 26.7 per cent of legal leaders were women and 6.8 per cent were visible minorities.

The Diversity Institute will continue to expand its data collection and to track diversity in the legal sector. Cukier points out that, “what gets measured gets done and new strategies are needed to accelerate representativeness in the judiciary.” Here are a few recommendations from *Improving Representation in the Judiciary: A Diversity Strategy*:

- Recognize that the playing field is not level and current processes advantage some groups and disadvantage others
- Continue commitment and initiatives by governing organizations to improve representation
- Expand the talent pool and develop the pipeline
- Transparent outreach to all communities in recruiting candidates
- Bring diversity to the appointment committees, and have bias-free and transparent selection processes
- Improving tracking and accountability regarding diversity in judicial appointments

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Ryerson University’s Diversity Institute www.ryerson.ca/diversity

Located in the Ted Rogers School of Management at Ryerson University, the Diversity Institute undertakes research on diversity in the workplace and develops applications to improve practices in organizations. The Diversity Institute works with organizations to develop customized strategies programming and resources to promote new, interdisciplinary knowledge and practice about diversity with respect to gender, race/ethnicity, Aboriginal peoples, abilities and sexual orientation. The Institute collaborates with industry, government and not-for-profits and academics to: research existing practices and evaluate programs, explore barriers to full participation in the workplace, develop fact-based policies and programs to help organizations attract, motivate and develop under-represented groups, and provide customized training to support the development of diversity strategies.

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