



Report to Convocation May 28, 2009

Equity and Aboriginal Issues Committee/ Comité sur l'équité et les affaires autochtones

Committee Members
Janet Minor, Chair
Raj Anand, Vice-Chair
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Purposes of Report: Decision and Information

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TABLE OF CONTENTS

For Decision

Demographic Data Collection **TAB A**

Human Rights Monitoring Group Report – Request for
Law Society Intervention (*in Camera*) **TAB B**

For Information **TAB C**

*Report of the Activities of the Discrimination and Harassment Counsel, July 1 to December 31,
2008 and Summary of Data since January 1, 2003*

Public Education Equality Series Calendar 2009

COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones ("the Committee") met on May 14, 2009. Committee members Janet Minor, Chair, Raj Anand, Vice-Chair, Mary Louise Dickson and Beth Symes participated. Nathalie Boutet, representative of the Association des juristes d'expression française de l'Ontario, and Milé Komlen, Chair of the Equity Advisory Group ("EAG"), attended. Chief Executive Officer Malcolm Heins and Equity Advisor Josée Bouchard attended.

DEMOGRAPHIC DATA COLLECTION

Motion

2. **That Convocation approve the inclusion of the following question in the Member’s Annual Report (“MAR”) and the Paralegal’s Annual Report (“PAR”), beginning in the 2009 MAR and PAR:**

The Law Society is committed to promoting equality and diversity in the legal profession and to enhancing legal services provided by and for Aboriginal, Francophone and equality-seeking communities. The Ontario Human Rights Code and the [insert Rules of Professional Conduct for the MAR and Paralegal Rules of Conduct for the PAR] promote equality on the grounds of race, ancestry, place of origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability. The question is voluntary and the information collected will be kept confidential. The information will only be available in aggregate form and will not be used to identify the demographic identity of individual [insert lawyers for the MAR and insert paralegals for the PAR]. The Law Society is gathering the statistics on the composition of the profession to better understand demographic trends in the profession, to develop programs and initiatives within the mandate of the Law Society and to promote equality and diversity in the profession.

- Aboriginal (e.g., First Nation, Métis, Inuit)
 - First Nations
 - Métis
 - Inuit
- Francophone
- Gay/Lesbian/Bisexual
- Person with Disabilities¹

¹ It is suggested that the term “disability” be defined in the explanatory parts of the MAR or PAR. The definition suggested is that of the Ontario *Human Rights Code*, as it applies to the employment context and the provision of services in Ontario. The definition reads as follows:

“disability” means,

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or

- ❑ Racialized/Person of Colour /Member of an Ethnic Community
 - ❑ African-Canadian, Black Canadian
 - ❑ Arab Canadian
 - ❑ Chinese Canadian
 - ❑ East-Asian Canadian (e.g. Japanese, Korean)
 - ❑ Latin American, Hispanic or Latino Canadian
 - ❑ South Asian Canadian (e.g. Indo-Canadian, Indian Subcontinent)
 - ❑ South-East Asian Canadian (e.g. Vietnamese, Cambodian, Thailand, Philippines)
- ❑ Religion or Creed that you believe is subject to unfair treatment
 - Please specify your religion_____
- ❑ Transgender/Transsexual
- ❑ Other (Please specify)_____

- ❑ I do not identify with any of these personal characteristics

Background

3. The Law Society regulates lawyers and paralegals to ensure that every individual who practises law or provides legal services in Ontario meets high standards of learning, competence and professional conduct. The Law Society has a duty to protect the public interest, to maintain and advance the cause of justice, to facilitate access to justice for the people of Ontario, and to act in a timely, efficient manner.² Access to justice involves not only how and where one accesses legal services, but from whom legal services are accessed.

4. The Canadian Bar Association in *Touchstones for Change: Equality, Diversity and Accountability* recommended in 1993 that law societies use their membership data and surveys to monitor the access, entry and advancement of law students into the profession.³

5. In 1996, the Law Society collected demographic data through the Member’s Information

(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997* (“handicap”).

² See *Law Society Act*, R.S.O. 1990, c. L.8, ss. 4.1 and 4.2.

³ Report of the Canadian Bar Association Task Force on Gender Equality, *Touchstones for Change: Equality, Diversity and Accountability* (Ottawa: Canadian Bar Association, 1993) [“Touchstones Report”]. The Touchstones Report made the following recommendation with respect to demographic data collection by law societies:

12.8 The Task Force recommends that law societies use their own membership data and additional surveys to monitor the access, entry and advancement of bar admission graduates as well as their professional careers.

Form (“MIF”), the predecessor to the MAR. The MIF included a question about how members describe themselves based on race, religion, disability and other community identities.⁴

6. In 1997, Convocation decided to withdraw the question from the MIF for the following reasons:
 - a. it was considered a “one time” question for the MIF;
 - b. only one-third of the membership answered the question in a form that could be read by the scanning technology used in processing the MIF data, which was not considered a sufficient response to provide meaningful data.⁵

7. In May 1997, the Law Society unanimously adopted *the Bicentennial Report and Recommendations on Equity Issues in the Legal Profession* (the “Bicentennial Report”).⁶

The Bicentennial Report reviewed the status of women, Francophones, Aboriginal peoples, racialized persons, gays and lesbians and persons with disabilities in the profession and the initiatives the Law Society had taken to address identified barriers. The report made 16 recommendations to promote equality and diversity in areas such as policy development, study and research, licensing, articling and continuing legal education. The Bicentennial Report also made reference to the demographic data

⁴The text of the 1996 demographic data collection question was as follows:

Explanatory Note: *At present, there is little information, other than anecdotal, by which to measure the progress of minority groups in the profession. Statistical data are necessary in order to fashion solutions or remedies to problems that may arise from discrimination. Accordingly, members are asked to voluntarily answer the following question:*

How would you describe yourself? (Note: in addition to one of the categories from 1 through 7, you may additionally note items 8, 9 and/or 10)

1. Caucasian, European Canadian
2. Afro-Canadian, Black Canadian
3. Indo-Canadian, East Indian, South Asian
4. Other Asian Canadian
5. First Nations
6. Blend of races/ethnicities
7. Other race/ethnic origin (please specify) _____
8. Disabled
9. Gay/Lesbian
10. Member of a conspicuous religious group

⁵Minutes of Convocation, September 26, 1997, Report of the Professional Regulation Committee.

⁶*Bicentennial Report and Recommendations on Equity Issues in the Legal Profession* (Toronto: Law Society of Upper Canada, May 1997) [“Bicentennial Report”]

collection question in the 1996 MIF as being “necessary to monitor the progress of equality-seeking communities in the legal profession.”⁷

8. Since the initial attempt at demographic data collection more than a decade ago, the Law Society has gathered information from members about their membership in an Aboriginal, Francophone and/or equality-seeking community through various surveys and studies. For example, demographic data is collected of candidates in the Licensing Process, and demographic data has been collected through Law Society studies such as the study of students and lawyers with disabilities⁸, the study of the Sole Practitioner and Small Firm Task Force⁹, the career choices survey¹⁰, the Aboriginal consultation¹¹, the articling consultation¹² and two studies published by professor Fiona Kay entitled, *Diversity and Change: The Contemporary Legal Profession in Ontario*¹³ and *Turning Points and Transitions: Women’s Careers in the Legal Profession – A Longitudinal Survey of Ontario Lawyers 1990-2002*¹⁴. These studies have included questions to participants about their membership in equality-seeking communities.
9. Groups of experts and associations that promote equality and diversity have, in recent months, asked the Law Society to gather demographic data through the MAR and the PAR.
10. The Equity Advisory Group (the “EAG”) is an example of such a group.¹⁵ The EAG

⁷ *Ibid* at 11.

⁸ See *Students and Lawyers with Disabilities – Increasing Access to the Legal Profession* (Toronto: Law Society of Upper Canada, December 2005) at <http://rc.lsuc.on.ca/pdf/equity/studentsandlawyerswithdisabilitiesreport.pdf>.

⁹ See the *Final Report of the Sole Practitioner and Small Firm Task Force* (Toronto: Law Society of Upper Canada, March 2005) at <http://www.lsuc.on.ca/media/convmar05solepractitioner.pdf>.

¹⁰ *Career Choice Report* (Toronto: Law Society of Upper Canada, 2008) at <http://rc.lsuc.on.ca/jsp/equity/policies-publications-reports.jsp>.

¹¹ Results not yet released publicly.

¹² *Articling Consultation* (Toronto: Law Society of Upper Canada, 2007) at <http://rc.lsuc.on.ca/pdf/equity/articlingConsultation.pdf>.

¹³ (Toronto: Law Society of Upper Canada, 2004) at <http://rc.lsuc.on.ca/pdf/equity/diversityChange.pdf>

¹⁴ (Toronto: Law Society of Upper Canada, 2004) at <http://rc.lsuc.on.ca/pdf/equity/womenTurningPoints.pdf>.

¹⁵ The EAG is comprised of both organizational and individual members that reflect the diversity of the legal profession in Ontario. The organizations that are represented on the EAG include the Advocates’ Society, ARCH Disability Law Centre, Association des juristes d’expression française de l’Ontario, Arab Canadian Lawyers Association, Canadian Association of Black Lawyers, Hispanic Ontario Lawyers Association, Nishnawbe-Aski Legal Services, South Asian Bar Association, and the Women’s Law Association of Ontario.

assists the Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Equity Committee") in the development of policy options that promote equality and diversity in the legal profession. As a diverse group of institutional and individual members, the EAG has expressed its belief in demographic data collection as a tool to enhance the development and promotion of relevant equality and diversity initiatives.

11. In May 2008, the then President of the Ontario Bar Association (the "OBA"), Gregory D. Goulin, and the Chair of the OBA's Equal Opportunity Committee, Arleen Huggins, wrote to then Treasurer Gavin MacKenzie requesting that consideration be given to amending the MAR to include the collection of self-identification demographic data. The letter, presented at **Appendix 1**, noted in particular that "it is anomalous that members are asked to voluntarily self-identify as to gender on the MAR, but not as to any other significant dimension of identity." Further, the letter stated that "members of equity-seeking communities leave the profession in disproportionately large numbers. Voluntary data collection would help to provide factual information on differential rates of attrition."
12. In August 2008, the President of the Canadian Association of Black Lawyers, Frank E. Walwyn, wrote to Treasurer Millar (**Appendix 2**) to endorse the OBA's request that the Law Society of Upper Canada amend the MAR to include appropriate voluntary self-identification questions. Mr. Walwyn was of the view that "demographic member data will allow the Law Society to accurately report on trends among its equity seeking members, as well as provide them with support initiatives and assistance to address access to legal education and professional opportunities and the disproportionate rates of attrition among members of these communities."
13. The Equity Committee is of the view that the collection of demographic data will increase awareness of the changing demographics of the legal professions, which in turn will better enable the Law Society to serve the particular needs of various communities within the professions. Further, demographic data collection will provide useful information for the development of programs and initiatives within the mandate of the

Law Society and to promote equality and diversity in the professions.

14. The Paralegal Standing Committee also considered and approved the inclusion of a demographic identity question in the 2009 PAR.
15. This report is divided as follows:
 - a. Rationale;
 - b. Other Law Societies;
 - c. The Canadian Bar Association;
 - d. Diversity within the Public Sector – Ontario and Canada;
 - e. Other Jurisdictions;
 - f. Other Demographic Data Gathering Initiatives by the Law Society;
 - g. The MAR and PAR are the Most Appropriate Tools to Collect the Proposed Demographic Data;
 - h. Proposed use of the Demographic Data;
 - i. Categories for Demographic Data Collection;
 - j. Frequently Asked Questions;
 - k. Human Rights Obligations;
 - l. Privacy Law.

Rationale

16. In the course of fulfilling its mandate to govern lawyers and paralegals in the public interest, it is important for the Law Society to be aware of the extent to which the legal professions are reflective of the broader community that they serve. Such awareness is helpful in meeting the needs and interests of the public, and in allowing the Law Society to develop programs to enhance the diversity of the legal professions. The regular collection of demographic data will allow for assessment and analysis of the changing composition of the legal professions, and will better enable the Law Society to meet the needs of its diverse membership.
17. The demographic data currently maintained by the Law Society includes personal characteristics such as age, gender and language. The expansion of this data to include

categories such as religion, race and disability will assist in providing a broader picture of the composition of the legal professions. The Law Society also gathers demographic data of candidates in the Licensing Process. However, because the data is not gathered of lawyers or paralegals, the information is of limited use to develop programs and initiatives for the professions.

18. In 1999, the Canadian Bar Association Report on *Racial Equality in the Legal Profession* recognized that “the globalization of the Canadian economy and the changing demographics in Canadian society demand a legal profession that represents our society.”¹⁶ Demographic data collection is a means of measuring the extent to which this demand has been met.
19. Information as to the composition of the professions would assist in revealing which communities are under-represented in the legal professions and which are now fully represented.¹⁷ The information will also be of assistance to the legal professions, such as law firms, as it will provide a benchmark for comparison. For example, firms that conduct self-identification surveys within their work place will be able to compare their level of representation with the legal professions. To date, in Ontario, the only comparator has been Canada Census data and has been limited to data about gender and about being a member of Aboriginal, racialized and/or Francophone communities. Canada Census data is also only produced every five years.
20. The Law Society of Upper Canada, along with other law societies in Canada, has been a leader in promoting equality and diversity in the legal professions. The issue of

¹⁶The Canadian Bar Association report on Racial Equality in the Legal Profession contains two reports, *The Challenge of Racial Equality: Putting Principles into Practice* and *Virtual Justice: Systemic Racism and the Legal Profession* (Ottawa: CBA, 1999). See *The Challenge of Racial Equality: Putting Principles into Practice* at 2.

¹⁷ The under-representation of some groups in the legal profession indicates that there is diversity in the legal profession (but that this diversity is noticeably insufficient). Diversity applies to not only *who* is in the profession, but also to the context in which people work and for how long. Consider that

“...the legal profession is not homogenous – there are differences of gender, ethnicity, age and career expectations. Lawyers work full-time, part-time, in the corporate sector, in large, medium, and small firms, in the public sector in governments, and in associations and other non-governmental organizations. Some lawyers work outside “traditional” legal practice, and increasingly, other professionals and paralegals are entering various fields and activities involving law.”

Canadian Bar Association, *Crystal Clear: New Perspectives for the Canadian Bar Association*, (Ottawa: CBA Futures Committee, August 2005) at 9.

demographic data collection of members has been identified by equity advisors of law societies across the country as important in the development of programs and initiatives.

Other Law Societies

21. In May 2007 in Toronto, provincial law society equity advisors and harassment and discrimination ombudspersons held their annual meeting to share experiences and discuss strategies for a common approach to promoting equity and diversity in the legal professions.¹⁸ Collecting self-identification data from the membership through annual reporting was identified as a priority.

22. Two provincial law societies already collect annual demographic data from their members: the Nova Scotia Barristers' Society and the Barreau du Québec.

Nova Scotia

23. The Annual Member Report for the Nova Scotia Barristers' Society includes the following mandatory demographic questions:
 - a. I am a member of the following communities (check all that apply):
 - i. Visible Minority;
 - ii. Aboriginal;
 - iii. Disabled;
 - iv. Gay, Lesbian, Bi-sexual, Transgendered;
 - b. Do you have primary responsibility for the care of a child or adult dependent?
 - i. Number of Children?
 - ii. Number of Adult Dependents?

24. The questions were asked in the 2007 Annual Member Report on a voluntary basis. Since 2008, the questions are mandatory. All lawyers file their Annual Member Report on-line and the program will not allow them to proceed with the survey unless they answer those questions.

¹⁸There were representatives from the Law Society of Alberta, the Law Society of British Columbia, the Law Society of Manitoba, the Law Society of Saskatchewan, the Law Society of Upper Canada, the Nova Scotia Barristers' Society and the Barreau du Québec.

25. In addition, the Category Change Survey of the Nova Scotia Barristers' Society gathers data about why members move from practising status to non-practising status or leave the profession entirely. The information is sought to assist the Nova Scotia Barristers' Society in identifying trends and setting policy priorities for the future of the profession. The survey is anonymous, with all data being reported in aggregate form.

Québec

26. The Barreau du Québec included demographic data collection questions on its annual membership form for the first time in 2008. The questions were asked on a volunteer basis, and were drafted in French, based on wording used by the Quebec Human Rights Commission. Members were asked to self-identify with the following categories:
- a. Gender;
 - b. Aboriginal;
 - c. Visible Minority;
 - d. Person with a disability.

British Columbia

27. In September 2008, the Law Society of British Columbia approved a question about whether members are Aboriginal, and if so, whether they are Status or Non-Status Indian, Inuit, Métis, or First Nations Person of North America. The question will be included in the annual practice declaration.

The Canadian Bar Association (“CBA”)

28. In 1994, the CBA adopted resolution 94-03-A Schedule 4, which states at section 13.9 “That the CBA gather statistics or find other means to track the level of involvement of women in the Association” and at section 13.10 “That the CBA gather statistics or find other means of tracking the level of involvement of minority groups in the Association”. Although the CBA has, to date, not implemented the resolution, the Chair of the Ontario Bar Association’s Equality Committee has indicated that it is expected to begin implementation in the near future.

Diversity within the Public Sector - Ontario and Canada

29. In 2007, the Ontario Public Service (“OPS”) asked its employees to voluntarily identify their membership in the “visible minority, disabled, Aboriginal or Francophone” communities, in order to compare these statistics with those of the 2001 Canada Census for the Ontario Labour Force. The results indicated that the Ontario Labour Force was more diverse than the OPS workforce in every category except the representation of Francophones.¹⁹ The next survey of the OPS workforce will be conducted in 2009, and the survey has been expanded to ask for more detailed demographic questions in order to gain more insight into the diversity of the workforce.²⁰ Additional questions related to service quality, ethics and values, harassment and workplace environment will be asked, along with an expanded dimension of diversity to include age, gender, race, ethnicity, physical and intellectual ability, religion, sexual orientation, education background and expertise.
30. The Department of Justice Canada, along with the Federal Public Service, also conducts self-identification surveys pursuant to its legislative obligations under the *Employment Equity Act*. The purpose of the surveys is to get an accurate profile of the workforce to determine whether it is representative; to identify areas where changes in policies, practices and systems are likely to be most effective in achieving equality; and to bring focus to where there is a need to eliminate barriers. The questions refer to the categories of gender, disability, Aboriginal and/or race.

Other Jurisdictions

31. Some jurisdictions outside of Canada have been actively engaged in demographic data collection as part of a strategy to promote equality and diversity in the legal profession.

¹⁹ The full results were as follows:

	Ontario Public Service Workforce	Ontario Labour Force
Members of visible minorities	13%	18.1%
Francophones	7%	4.9%
Persons with disabilities	6%	10.7%
Aboriginal persons	2%	1.4%

²⁰ *2008 Framework for Action: Diverse Ontario Diverse OPS* (Toronto: Modernization Division, Ministry of Government and Consumer Services, 2008) at 8.

For example, demographic data is collected in the United Kingdom and the United States.

United Kingdom

32. The Law Society of England and Wales founded in 1925 currently has a membership of 135,000 solicitors. The mandate of the Law Society of England and Wales is to help, protect and promote solicitors from across England and Wales. This is done by negotiating with and lobbying the profession's regulators, government and others, as well as offering training and advice.
33. The Law Society of England and Wales has a Strategic Research Unit that produces research on the population trends of certain equality-seeking communities within the legal profession. The research produced consists of an analysis of trends in the legal profession using data collected via surveys, the Law Society's membership data base as well as from other sources.²¹
34. This research has included various fact sheets which provide insight into certain demographic areas of the solicitor population, such as age, and ethnicity. For example, the 2006 Fact Sheet on Minority Ethnic Solicitors indicates that the long term trend over the past ten years has seen a marked increase in the percentage of practicing solicitors from minority ethnic groups.

United States

35. Although not regulatory bodies, a number of organizations in the United States collect demographic data of the legal profession. For example, the National Association for Legal Career Professionals ("NALP") has conducted research on racialized communities, women and the gay, lesbian and transgendered communities in the legal profession. Through analysis of data on recent graduates, the NALP Directory on Legal Employers and other sources, NALP is able to provide information on a variety of diversity and demographic topics.²²

²¹ For more information, see <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends.law>.

²² See www.nalp.org. NALP produces a directory of legal employers in both the United States and Canada. The American directory includes demographic information on each from in the areas of gender, racialized community,

36. In addition to NALP, demographic information is also conducted and assessed by research organizations such as Vault²³ and Catalyst²⁴. These activities provide a wealth of information about the diversity of the legal profession, progression and trends.

Other Demographic Data Gathering Initiatives by the Law Society

37. Over the years, the Law Society has supported and/or participated in various initiatives to collect demographic data.
38. Since 1999, the Law Society collects demographic data of candidates in the Licensing Process (and its prior program, the Bar Admission Course) by asking candidates the following voluntary question:
- a. You have indicated that you consider yourself to be a member of the following communities: Aboriginal, Francophone²⁵, Gay/Lesbian /Bisexual, Mature Student, Person with Disabilities, Racialized Community.
39. The stated purpose of the question is as follows: “To help The Law Society of Upper Canada determine whether legal services are provided by and for Francophones, Aboriginal peoples and members of equality-seeking communities, the Professional Development and Competence Committee and the Equity & Aboriginal Issues Committee/Comité sur l’équité et les affaires autochtones are gathering statistics on the candidate composition of the Licensing Process. Although it is not compulsory, the Committees would appreciate your response to this section of the application, if applicable. Identifying information provided is strictly confidential, used for internal Law

persons with disabilities and sexual orientation.

²³ Vault is a career information service that provides detailed information on the professional market place. The services are targeted at students as well as mid-career professionals. The *Vault Guide to the Top 100 Law Firms* is an annual publication ranking laws in the U.S. in the area of prestige, quality of life, diversity and partner survey. The diversity rankings rate firms in the categories of diversity for women, diversity for minorities and diversity for gays and lesbians. The *Vault Guide* serves as a comparative reference tool for job seekers. See www.vault.com.

²⁴ Catalyst is a global organization that works with business and the professions to build inclusive workplaces and expand opportunities for women in business. Catalyst conducts research in the areas of “Women in Leadership,” “Organizational Change and Effectiveness” and “Women of Colour” and “Visible Minorities”. In recent years, Catalyst has published reports relating to the legal profession in Canada in the areas of job flexibility, work-life balance and women in the legal profession. Outside of the legal profession, Catalyst research in Canada has examined the corporate career advancement for visible minorities. See www.catalyst.org.

Society purposes only, and will not be released to anyone without your written consent.”

40. The data has been useful in identifying trends for example of placed and unplaced candidates in articling positions, and whether candidates from equality-seeking communities face more challenges in finding such positions.
41. Gathering demographic data about lawyers and paralegals, will allow the Law Society to gain a fuller understanding of demographic trends in the professions beyond entry into the professions.
42. Beginning in January 2009, the Law Society also conducts surveys of lawyers who change their status categories or their primary business to gather information to better understand trends in the legal professions. Included in the survey is a question about a lawyer’s membership in equality-seeking communities. The question is worded to be consistent with the proposed MAR and PAR question, which will allow the Law Society to compare the survey findings with the findings from the MAR.
43. Other examples of demographic data collection by the Law Society through various studies and surveys include the following:
 - a. Fiona Kay, *Turning Points and Transitions: Women’s Careers in the Legal Profession* (2004). This report is based on the findings of a 2002 survey of the cohort of lawyers called to the Bar in Ontario between 1975 and 1990 and analyzes the advancements and mobility of women in the legal profession.
 - b. Fiona Kay, *Diversity and Change: The Contemporary Legal Profession in Ontario* (2004). This report is based on a survey of the Ontario legal profession conducted in 2003, which investigates equity and diversity in the legal profession.
 - c. *Students and Lawyers with Disabilities: Increasing Access to the Legal Profession* (2005). This report is based on a study conducted with students and lawyers with disabilities to identify systemic issues faced by persons with disabilities generally and in the legal profession, and to determine what programs

²⁵ Francophone was included as a category in 2001.

and initiatives could be developed to address these issues.

- d. *Articling Consultation* (2007). This report details the findings of a specific consultation with individuals who had difficulty in securing articling positions within the usual time frame.
 - e. *Career Choices Study* (2008). This report details findings of a 2007 survey of licensing candidates and recently-called lawyers to investigate preferences and experiences of new licensees and those enrolled in the licensing program from their entry into law school to their entry into practice.
 - f. *Aboriginal Consultation* (2006). This consultation project gathered information about the experiences of Aboriginal members of the Law Society during law school, the Bar Admission Course and post-call.
44. Many of the studies referred to above involved random selection of members of the profession. Although they identify demographic trends, regular and systematic collection of data would provide additional insight into various demographic communities within the legal profession.
45. The Law Society also retained Michael Ornstein to conduct demographic analysis in the legal profession based on Canada Census data. Professor Ornstein published two reports for the Law Society. The first, *Lawyers in Ontario: Evidence from the 1996 Census* (1997) relies on data from the 1996 Canada Census to describe the representation of Aboriginal persons, racialized groups, women and Francophones in the legal profession in Ontario. The report findings “measure the ability of the legal profession to provide effective representation in a society divided by social, cultural, and economic differences, and where the identity of lawyers often matters to clients.”²⁶
46. The second report, *The Changing Face of the Ontario Legal Profession, 1971-2001*²⁷, is based on 2001 Canada Census data, and discusses the representation of Aboriginal, visible minority and women lawyers in Ontario. Comparisons are made between the

²⁶Michael Ornstein, *Lawyers in Ontario: Evidence from the 1996 Census* (Toronto: Law Society of Upper Canada, 1997) at 1 available at <http://rc.lsuc.on.ca/pdf/equity/lawyersInOntario1996.pdf>.

2001 Census data and data from the 1971 to 1996 Censuses.

47. Although the Ornstein reports provide useful information about demographic trends in the legal profession, they differ from the information that would be gathered through the MAR and PAR. The Ornstein reports analyze demographic trends in the legal profession in Ontario and Canada as a whole, based on gender, race, Aboriginal and Francophone communities. The categories in the Canada Census are not as detailed nor as broad as the demographic data collection question that is being proposed. The Ornstein analysis does not extend to, for example, disability and sexual orientation. Also, Canada Census data is collected only every five years and published approximately two years after they are gathered. Finally, Canada Census data does allow for an analysis of the profession based on membership in an equality-seeking community and other information gathered through the MAR and PAR, such as type of work setting, areas of law practice and year of call.

The MAR and PAR are the Most Appropriate Tools to Collect the Proposed Demographic Data

48. As previously mentioned, the rationale for the collection of demographic data is to track the population of members of equality-seeking communities, as well as to identify trends that will inform the development of programs and supports to further diversify the legal professions. Monitoring of these trends is most effective if it is conducted on a regular basis.
49. Currently the Law Society collects information through the MAR and PAR on the practice areas of lawyers and paralegals. The Law Society also maintains information about age, gender and languages spoken. The MAR and the PAR already exist to collect information from the membership on a yearly basis, and the information collected provides insight into the professions. The inclusion of more detailed demographic data collection in the MAR and the PAR would be relatively inexpensive and would be available to the entire professions.

27 (Toronto: Law Society of Upper Canada, 2004) available at <http://rc.lsuc.on.ca/pdf/equity/ornsteinReport.pdf>

50. In the event that the CBA or the Ontario Bar Association (“OBA”) begins to collect similar demographic information from its members, these results would not be as broad-based as compared to data collected by the Law Society. CBA or OBA members do not comprise the entire pool of legal professionals. The MAR and the PAR on the other hand are distributed to all lawyers and paralegals respectively in the province of Ontario, thus allowing for the possibility of obtaining demographic data from all members of the legal professions. No other legal organization or association has access to the entire pool of legal professionals.

Proposed Use of the Demographic Data Information

51. The demographic information collected through the MAR and PAR will be used for purposes related to research, program development and analysis of trends to promote equality and diversity in the legal professions and to enhance legal services provided by and for Aboriginal, Francophone and equality-seeking communities. The information will assist us to better understand demographic trends in the professions, to develop programs and initiatives within the mandate of the Law Society, and to promote equality and diversity in the professions.
52. The question will be voluntary, and the information collected will be kept confidential. The information will only be available in aggregate form and will not be used to identify the demographic identity of individual lawyers or paralegals.
53. The data will be maintained in a secure information system. Access to the information will be restricted to staff members who require access for the purpose of reporting aggregate information and analyzing trends in the professions. Access guidelines will be developed to ensure confidentiality and consistency in access to the data.
54. Information about the demographic composition of the legal professions has been helpful over the years to develop programs such as the following:
- a. an equity and diversity mentoring program;
 - b. a disability mentoring program;
 - c. public education programs;

- d. model policies for the profession;
- e. development of resources for the website; and
- f. professional development programs for law firms.

55. Adopting a consistent approach to collecting demographic data about the legal professions will increase the Law Society's ability to develop programs based on the composition of the professions. It will also align the Law Society with the work undertaken by other law societies such as Nova Scotia and Quebec.

The Categories for Demographic Data Collection

56. The Law Society currently maintains demographic data in the categories of age, gender and languages spoken. The proposed initiative seeks to broaden this to gather further information about individual identity. These identity categories are,

- a. Aboriginal (e.g., First Nation, Métis, Inuit);
- b. Francophone;
- c. Gay/Lesbian/Bisexual;
- d. Person with Disabilities;
- e. Racialized/Person of Colour/Member of an Ethnic Community;
- f. Religion or Creed that you believe is subject to unfair treatment;
- g. Transgender/Transsexual;
- h. Other.

57. The categories outlined above were developed and approved by the Equity Committee in consultation with EAG and they have been used, with slight modifications, in various Law Society surveys including the 2007 Benchers Election Survey and the 2006 Career Choices Survey. Further, the Equity Committee and the Access to Justice Committee approved the categories in their Equality and Access to Justice Template.²⁸

58. For those who identify as Aboriginal, the category has been further subdivided into

²⁸ Community membership is a consideration that the Law Society applies in its internal policy development through the application of the Equality and Access to Justice Template. The Template assists in identifying the potential

categories that are consistent with those in the Canada Census as follows.

- ❑ First Nations
- ❑ Métis
- ❑ Inuit

59. For those who identify as Racialized/Person of Colour/Member of an Ethnic Community, the category is further subdivided into categories that are consistent with those in the Canada Census as follows.

- ❑ African-Canadian, Black Canadian
- ❑ Arab Canadian
- ❑ Chinese Canadian
- ❑ East-Asian Canadian (e.g. Japanese, Korean)
- ❑ Latin American, Hispanic or Latino Canadian
- ❑ South Asian Canadian (e.g. Indo-Canadian, Indian Subcontinent)
- ❑ South-East Asian Canadian (e.g. Vietnamese, Cambodian, Thailand, Philippines)

60. The proposed subcategories are consistent with subcategories in the Canada Census,²⁹ but have been reworded slightly.

Frequently Asked Questions

61. Most organizations that conduct self-identification questionnaires include frequently asked questions about self-identification to fully inform the respondent of the purpose of the question, the use of the data and other relevant information. Frequently asked

impact of initiatives, projects or policies on members of racialized, Aboriginal and Francophone communities.

²⁹The Canada Census asks participants to identify their membership in the following racial categories:

- White
- Chinese
- South Asian (e.g. East Indian, Pakistani, Sri Lankan, etc.)
- Black
- Filipino
- Latin American
- Southeast Asian (e.g. Vietnamese, Cambodian, Malaysian, Laotian, etc.)
- Arab
- West Asian (e.g. Iranian, Afghan, etc.)
- Korean
- Japanese

See www.census2006.ca

questions are presented at **Appendix 3** and would be included in the information about the self-identification question.

Human Rights Obligations

62. The collection, storage and use of demographic data will be in accordance with human rights and privacy legislation.
63. The Ontario Human Rights Commission's *Guidelines for Collecting Data on Enumerated Grounds under the Code*³⁰ state that data collection and analysis of data based on enumerated grounds is permissible if the data is collected for a legitimate purpose, including ameliorating disadvantage and promoting substantive equality. The Law Society's purpose in collecting data is legitimate in trying to promote equality and diversity in the legal professions and to enhance legal services provided by and for Aboriginal, Francophone and equality-seeking communities.
64. The Commission also states that organizations should set out the sources of the reasonable belief for the necessity of such a program and there should be a rational and objective connection between the nature of the information being collected and its intended use. The Law Society has undertaken numerous research projects over the years that indicate the under-representation of some communities in the legal professions. This has led to the Law Society wishing to take a systemic approach to data collection, one that would not be costly and would allow the Law Society to collect annual and reliable information about the professions. Therefore, there is a rational and objective connection between the nature of the information and its intended use and there is a necessity for the program.
65. The Ontario Human Rights Commission suggests that several measures or safeguards should be taken in order to ensure that the collection and use of demographic data is done in a legitimate and appropriate manner. These measures include,
 - a. having a legitimate purpose for the collection;

³⁰ September 2003, available at <http://www.ohrc.on.ca/en/resources/Guides/data/pdf>.

- b. having a reasonable belief that collection is necessary;
 - c. informing the public;
 - d. consulting affected communities;
 - e. using the least intrusive method; and
 - f. establishing a rational connection between collection and use.
66. The practical application of these measures to demographic data collection by the Law Society is discussed below.

Legitimate purpose for the collection

67. The Ontario Human Rights Commission states that the collection and analysis of data based on enumerated grounds, such as race, disability or sex is permitted as long as it is for legitimate purposes not contrary to the *Human Rights Code*³¹ (“the Code”). Such legitimate purposes include monitoring and evaluating discrimination, identifying and removing systemic barriers, ameliorating disadvantages and promoting substantive equality.³² These purposes relate directly to the Law Society’s gathering of demographic data as a means of directing the development of policies and initiatives to enhance the diversity of the legal professions. The regular and systemic collection of demographic data through the MAR and the PAR will provide insight into the composition of the professions, which will in turn assist in identifying trends in the attrition and retention rates of members of equality-seeking communities.
68. In addition to providing guidelines for the collection of demographic data, the Ontario Human Rights Commission notes that “data collection based on the grounds of race and disability be undertaken in key public services ... in order to monitor, prevent and ameliorate reported systemic and adverse discrimination.”³³
69. Thus, the collection of demographic data is in keeping with the Law Society’s public

³¹ R.S.O. 1990, c. H.19, s. 14

³² Ontario Human Rights Commission, *Guidelines for Collecting Data on Enumerated Grounds under the Code* (2003) at 2 [“Guidelines for Collecting Data on Enumerated Grounds”].

³³ *Ibid.* at 2.

interest mandate, as the collection of such data would assist in the monitoring, prevention and amelioration of system and adverse discrimination against members of equality-seeking communities.

Reasonable belief that collection is necessary

70. The Commission indicates that organizations should have a reasonable belief that collecting the information is necessary. The necessity for a data collection program at the Law Society is underlined by a reasonable belief that some members of equality-seeking communities are under-represented in the legal professions. Demographic data collection will provide insight as to where retention initiatives ought to be focused.

Inform the public

71. Human rights legislation requires that the individuals on whom demographic data is being collected, or the broader public in general, be informed as to why such information is being collected and how the collection and use of such data will assist to relieve disadvantage or discrimination and achieve equal opportunity. This information is provided in the proposed MAR and PAR question and will be included in the Frequently Asked Questions.

Consult affected communities

72. The Human Rights Commission suggests that where public interest issues are involved consultations should take place with members of the affected communities regarding the need for demographic data collection and the appropriate methodology to be used.³⁴ The Law Society has consulted with and received feedback from the EAG on the identity categories to be included in the question, as well as identifying the MAR and the PAR as the appropriate places for the collection of demographic data.

Use the least intrusive method

73. Due to the potential sensitivity of issues that may relate to the collection of demographic

³⁴ *Ibid.* at 3.

data, the Human Rights Commission also suggests that the collection use the least intrusive means. The Committee believes that this proposal is consistent with that requirement. For example, demographic data collection will take place through the MAR and PAR, which are the existing processes for regular reporting by the membership and no additional documentation will be sent to members.

74. Further, demographic data collection through the MAR and the PAR will be voluntary. Although members will be encouraged to provide demographic data, provision of this information will not be a requirement, and failure to provide the requested information will not result in disciplinary action.

Rational connection between collection and use

75. The guidelines established by the Ontario Human Rights Commission suggest that there be a rational connection between the collection of demographic data and its intended use. As previously laid out, this rational connection is met through explaining that the collection and analysis of demographic data will assist in the development of programs and policies to not only enhance the diversity of the legal professions, but also to develop informed strategies to increase retention rates of members of equality-seeking communities.

Privacy Law

76. Privacy law generally serves to restrict public access to personal information. In doing so, it encompasses the ability to control or influence the collection, use and disclosure of personal identity information.
77. Although neither federal nor provincial laws³⁵ on the collection and use of demographic data apply directly to a regulatory body such as the Law Society, the initiative to collect demographic data is nevertheless concerned about privacy issues that individuals may

³⁵ Federal Privacy legislation includes the *Privacy Act*, R.S.C. 1985, c. P-21 and the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5. Provincial privacy law in Ontario is based on the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F-31 and the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M-56.

have with respect to the collection and use of demographic identity data. The Law Society will take all available precautions to ensure the utmost confidentiality of personal demographic data, and the information collected will not be put to uses beyond the scope of monitoring and developing policies to enhance the diversity of the legal professions.



May 22, 2008

Gavin MacKenzie
Treasurer
The Law Society of Upper Canada
130 Queen Street W.
Toronto, ON
M5H 2N6

Dear Mr. MacKenzie,

The Ontario Bar Association encourages the amendment of the Law Society's Member's Annual Report to include appropriate voluntary self-identification questions. Candidates now have the opportunity to answer voluntary self-identification questions at the start of the licensing process. The OBA believes that there are good reasons to ask the same questions of Members in the Annual Report. They include:

- Persons seeking accreditation do not all go through the same process. Those who do not go through the "standard" process do not answer the self-identification questions. Thus, data are not collected on a significant and growing segment of Law Society Members.
- The MAR includes a question on gender. It is anomalous that Members are asked to voluntarily self-identify as to gender on the Annual Report, but not as to any other significant dimension of identity.
- The membership of the Law Society changes annually, as new lawyers are admitted and existing lawyers leave. We know that members of equity-seeking groups leave the profession in disproportionately large numbers. Voluntary data collection would help to provide factual information on differential rates of attrition.
- Higher than average rates of attrition from historically underserved groups raise a serious access to justice issue. It is important to understand this as an access issue, and to know the extent to which access issues are different for different groups.

- In the context of globalization, including the globalization of legal services, people — both as private individuals and as business owners and professionals — need to know that there are members of their own communities to provide them with legal services. Issues of language and culture arise in the context of family, immigration, criminal, civil and commercial law, including international commercial relationships.
- As a profession, we need to know more about ourselves. The profession cannot fully address issues of access to legal education and access to professional opportunities, without knowing who we are.

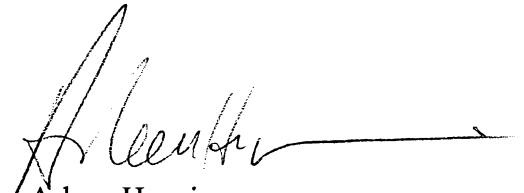
In summary, it would be enormously useful to gather and update demographic information about the membership in the legal profession, annually. If the information is gathered only once, at the start of the licensing process, a significant accreditation group is missed and changes within the membership over time, are also missed. The resulting picture, limited to a part of each year's new set of candidates, is inadequate for purposes of knowing the makeup of the profession and pursuing goals of access to the profession, and public access to legal services.

The OBA recognizes that, if the Law Society decides to include a voluntary self-identification question in the MAR, the formulation of an appropriate set of identifiers rests with the Law Society. We recommend, however, that the questions, and any specific categories included in it, should be as comprehensive as possible and, at the very least, include those categories utilized in the census data-collection process.

Respectfully,



Gregory D. Goulin, LSM
President



Arleen Huggins,
Chair, Equal Opportunity

cc: Derry Millar
Malcolm Heins
Janet Minor
Raj Anand

APPENDIX 2



Canadian Association of Black Lawyers
L'Association canadienne des avocats noirs

Please reply to: Frank Walwyn

WeirFoulds LLP

Tel: 416-947-5062
Fax: 416-365-1878
Email: fwalwyn@weirfoulds.com

The Exchange Tower
Suite 1800
P.O. Box 480
130 King Street West
Toronto, Ontario
Canada M5X 1J5

31 August 2008

VIA FACSIMILE

Derry Millar
Treasurer
The Law Society of Upper Canada
Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N6

Dear Sir:

Re: The Law Society of Upper Canada - Voluntary Statistics Gathering

I am the current President of the Canadian Association of Black Lawyers ("CABL"), which organization is a member of the Ontario Bar Association ("OBA") Diversity Program.

I am aware that by letter dated 22 May 2008, the OBA requested that The Law Society of Upper Canada ("LSUC") amend the Member's Annual Report ("MAR") to include appropriate voluntary self-identification questions.

CABL fully endorses the OBA request and believes that the LSUC's voluntary collection of demographic member data will allow the LSUC to accurately report on trends among its equity seeking members, as well as provide them with support initiatives and assistance to address access to legal education and professional opportunities, and the disproportionate rates of attrition among members of these communities.

1071005.1

Canadian Association of Black Lawyers

20 Toronto Street, Suite 300, Toronto Ontario, Canada M5C 2B8
www.cabl.ca

We hope the LSUC considers the request for the amendment of the 2009 MAR with a view to the resulting benefits to equity seeking groups as well as to the larger legal community.

We understand that the LSUC is convening a meeting with the OBA on 10 September 2008 to discuss this matter. We would ask that a CABL representative also be invited to this meeting as this issue is of significant importance to our members.

Thank you.

Yours truly,



Frank E. Walwyn
President

c: Janet Minor
Greg Goulin, President, OBA
Arleen Huggins, Chair, OBA Equal Opportunity Committee

Frequently Asked Questions about Self-Identification

Why is the Law Society of Upper Canada asking members to self-identify?

The Law Society of Upper Canada regulates the provision of legal services in the interest of the public. In 1997, the Law Society adopted its *Bicentennial Report and Recommendations on Equity Issues in the Legal Profession*, which included a commitment to promote equality and diversity in the legal professions. In light of its commitment to equality and diversity, the Law Society is gathering statistics on the composition of the professions to better understand demographic trends in the professions, to develop programs and initiatives within the mandate of the Law Society and to promote equality and diversity in the professions.

Is it the first time that the Law Society asks lawyers/paralegals to self-identify?

The Law Society asked lawyers to voluntarily self-identify in its Member's Annual Report in 1996. Although the question has not been included in subsequent Member's Annual Reports, a self-identification question has been included in the Licensing Process (formerly the Bar Admissions Course) application form since 1999. The self-identification question is also included in numerous surveys of the legal professions conducted by the Law Society in the last 10 years.

How will the information be used?

The information will be used to prepare statistics about the legal professions. It will allow the Law Society to assess the representation of the professions, identify and monitor trends and progress, and develop programs and initiatives to increase equality and diversity in the professions. The data will be maintained in a secure information system. Access to the information will be restricted to staff members who require access for the purpose of reporting aggregate information and analyzing trends in the professions. Access guidelines will be developed to ensure consistency in access to the data and confidentiality of the data.

How were the categories of self-identification selected?

The categories were developed and approved by the Law Society of Upper Canada's Equity and Aboriginal Issues Committee in consultation with its Equity Advisory Group and they have been used in various Law Society surveys. Further, the Equity Committee and the Access to Justice Committee approved the categories in their Equality and Access to Justice Template. The proposed categories are consistent with the categories in the Canada Census, but have been reworded slightly.

Do I have to answer the self-identification questions?

No. We encourage you to answer the question, but it is voluntary.

Can I self-identify in more than one group?

Yes. You may self-identify in all the groups that apply to you.

Will my information be kept confidential?

Yes. The information you provide will be kept confidential. The data will be maintained in a secure information system. Access to the information will be restricted to staff members who require access for the purpose of reporting aggregate information and analyzing trends in the professions. Access guidelines will be developed to ensure consistency in access to the data and confidentiality of the data. Any reporting of the information will be done in aggregate form.

Do the questions contravene human rights legislation and other laws?

No. The questions are consistent with the Ontario *Human Rights Code* and other laws.

Who will have access to the information?

Access to the information will be granted only to staff members who require access for the purpose of analysis of trends in the professions. Any reporting of the information will be done in aggregate form.

FOR DECISION

HUMAN RIGHTS MONITORING GROUP
REQUEST FOR LAW SOCIETY INTERVENTION
IN CAMERA

Motion

78. **That Convocation approves the proposed intervention (letter of intervention at Appendix 4) in the following case and makes public the report and letter of intervention of the Monitoring Group about the case of lawyer and former judge Birtukan Mideksa.**

Background

79. In March 2006, Convocation approved a policy to systematically respond to human rights violations that target lawyers and judges as a result of the discharge of their legitimate professional duties. It established a group of benchers responsible for monitoring these human rights violations. The following benchers are members of the Monitoring Group: Joanne St. Lewis, Chair, Paul Copeland, Heather Ross and Paul Schabas. Equity Initiatives Department staff members provide support to the Monitoring Group.
80. The mandate of the Monitoring Group is,
- a. to review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
 - b. to determine if the matter is one that requires a response from the Law Society; and
- to prepare a response for review and approval by Convocation.
81. The mandate further states that where Convocation's meeting schedule makes such a review and approval impractical, the Treasurer may review such responses in

Convocation's place and take such steps, as he or she deems appropriate. In such instances, the Monitoring Group shall report on the matters at the next meeting of Convocation.

82. On September 20, 2007, Convocation approved the following recommendations, which expand the Monitoring Group's mandate:
- a. That the Monitoring Group explore the possibility of developing a network of organizations, and work collaboratively with them, to address human rights violations against judges and lawyers.
 - b. That the Monitoring Group be authorized to collaborate with the Law Society of Zimbabwe (the "LSZ") to assist it in strengthening its self-regulation capabilities and the independence of the profession.

Monitoring Group Process

83. Benchers Joanne St. Lewis, Paul Copeland, Avvy Go, Heather Ross and Paul Schabas approved the requests for intervention.
84. The Human Rights Monitoring Group reviewed information provided by the following organizations:
- a. Amnesty International;³⁶
 - b. Observatory for the Protection of Human Rights Defenders;³⁷ and
 - c. Human Rights Watch.³⁸

36 Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights. Its vision is of a world in which every person enjoys all of the human rights enshrined in the *Universal Declaration of Human Rights* standards. In pursuit of this vision, it has a mission to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.

Amnesty International is independent of any government, political ideology, economic interest or religion.

37 The World Organisation against Torture (the "WOAT") is the world's largest coalition of non-governmental organizations that fight against arbitrary detention, torture, summary and extrajudicial executions, forced disappearances and other forms of violence. It is based in Geneva and has a network of about 300 local, national and regional organizations, which share the common goal of eradicating any practice that violates human rights. In 1997 the WOAT created the Observatory for the Protection of Human Rights Defenders (the "Observatory") in association with the International Federation for Human Rights. They intervene by means of more than 150 urgent appeals per year. They also undertake missions in the field, with the collaboration of national, regional and international non-governmental organizations.

38 Human Rights Watch is the largest human rights organization based in the United States. Human Rights Watch

Background of Case

85. On March 3, 2009, the Chair of the Human Rights Monitoring Group received information from Obang Metho, Executive Director of the Solidarity Movement for a New Ethiopia³⁹, drawing attention to the imprisonment of lawyer and former judge, Birtukan Mideksa.
86. Birtukan Mideksa is the leader of Ethiopia's main political opposition party, Unity for Democracy and Justice. Birtukan Mideksa,³⁴ is the only female head of a main opposition party in Africa. She had previously been the leader of the now dissolved Coalition for Democracy party, which had claimed victory after the 2005 elections in Ethiopia.
87. On December 29, 2008, Bloomberg.com reported that Ethiopian federal police re-arrested opposition leader Birtukan Mideksa a year after she had been released on a pardon. The pardon was conditional on her signing an apology for having taken part in 2005 protests against fixed elections in Ethiopia.
88. On February 3, 2009, The Independent reported that in 2005, when demonstrators, including Birtukan Mideksa, took to the streets to protest skewed election results, which returned the ruling party to power, the police opened fire, killing at least 187 people.⁴⁰ After this incident, leaders of the opposition, along with thousands of others, were rounded up and jailed.
89. According to an Amnesty International report, in July 2007, Birtukan Mideksa, along with 37 other people were released from prison after the opposition leaders signed a letter

researchers conduct fact-finding investigations into human rights abuses in all regions of the world. Human Rights Watch then publishes those findings in dozens of books and reports every year, generating extensive coverage in local and international media. This publicity helps to embarrass abusive governments in the eyes of their citizens and the world. Human Rights Watch then meets with government officials to urge changes in policy and practice -- at the United Nations, the European Union, in Washington and in capitals around the world.

39 The Solidarity Movement for a New Ethiopia is a grassroots, non-political, pan-Ethiopian movement whose mission is to establish a viable alliance of all dissatisfied groups, irrespective of their ethnic backgrounds, religious affiliations and political tilts, with the common goal of installing equality and social justice in the spirit of a united Ethiopia. See <http://www.solidaritymovement.org>

40 "Jailed – judge who refused to say sorry", The Independent, February 3, 2009. See : <http://www.independent.co.uk/news/world/africa/jailed-ndash-judge-who-refused-to-say-sorry->

admitting “mistakes committed both individually and collectively.”

90. Some of those who were pardoned along with Birtukan Mideksa have since chosen to live in exile in Europe or the United States. Reports indicate that Mideksa stayed in Ethiopia because she plans to run in the national elections scheduled for 2010.
91. While on a speaking engagement in Europe in 2008, Birtukan Mideksa had denied that her 2007 release from prison came about as a result of a pardon request from the government. The Ethiopian government demanded that Birtukan recant; and when she refused, they revoked the pardon and re-arrested her.
92. Ethiopia’s Prime Minister, Meles Zenawi has been in power since 1995. Although he was once praised by the British government as being a progressive voice, in recent years, he has become increasingly dictatorial.
93. The Independent quoted Birtukan Mideksa as saying , “In 2005, we expected the results of the national parliamentary elections as a strong foundation for building a temple of democracy in Ethiopia ... Our hopes were dashed as we found ourselves trapped in a burning house of tyranny.”
94. The director of Amnesty International in the United Kingdom has commented that there is no lawful reason why Birtukan Mideksa was arrested, or remains in detention. According to information reported as of February 2009, she was being held in solitary confinement without charge.
95. Birtukan Mideksa remains in isolation in prison under very poor conditions. In January 2009, she went on an 11-day hunger strike in order to draw international attention to her situation.
96. The Solidarity Movement for a New Ethiopia reports that Birtukan Mideksa is often forcibly denied of sleep, and denied access to books newspapers and other forms of media. Her health is reportedly deteriorating; however, the International Red Cross has

been denied access to her to confirm this.

97. President Meles Zenawi defends the re-arrest and life sentence given to Birtukan Mideksa on the basis that her pardon in 2007 was given under false pretences and must therefore be annulled. Birtukan's release in 2007 had been conditional upon her signing an apology for taking part in protests against fixed elections.
98. Prison officials have banned all visitors except for Birtukan's 72-year old mother, and her 3-year old daughter. Birtukan's family has been unable to hire a lawyer for her because many lawyers fear reprisals by the government if they get involved.
99. The Solidarity Movement for a New Ethiopia asked that the Human Rights Monitoring Group speak up for the rights of lawyer and former judge, Birtukan Mideksa, pointing out that Ethiopia is not embracing principles of human rights.
100. The Human Rights Monitoring Group requests that Convocation approve the letter of support to the Ethiopian Bar Association⁴¹, presented at **Appendix 4**, asking whether the Bar Association has further information about the case and whether it is actively involved in intervening in this case. The Ethiopian Bar Association is a member of the International Bar Association. The Monitoring Group also informs Convocation that the Chair of the Monitoring Group will send a response to Mr. Metho, Executive Director of the Solidarity Movement for a New Ethiopia, informing him of the Law Society's actions, if any, in this matter.

41 The Ethiopian Bar Association (EBA) was first formed in 1965 as the Advocates' Welfare Association. In 1966 it became the Advocates' Association, and has been known as the Ethiopian Bar Association since 1967. The EBA is a non-profit, non-partisan association of attorneys that aims to promote the interest of its members and the development of the legal profession. It also upholds the rule of law, the independence of the judiciary, good governance and human rights. Further, it endeavours to ensure the dignity and independence of the profession and to upgrade the legal skills of practicing lawyers along with the provision of free legal aid services to those in need. See www.ethiopian-bar.org. The Ethiopian Bar Association is an IBA Member Organization.

DRAFT

[Date]

Ato Tameru Wendemeagegnehu, President
Ethiopian Bar Association
P.O.Box 700
Addis Ababa, Ethiopia
Fax: 251-011-515 20 47
E-mail:eba@ethionet.et

Dear Tameru Wendemeagegnehu,

Re: Imprisonment of Lawyer and Opposition Leader Birtukan Mideksa

The Law Society of Upper Canada is the governing body for some 40,000 lawyers in the Province of Ontario, Canada and the Treasurer is the head of the Law Society. Our mandate is to govern the legal profession in the public interest. Fundamental to our system of democracy in Canada is the maintenance of an independent bar. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

In this regard, on the recommendation of the Law Society's Human Rights Monitoring Group, I am writing to you to express our concern over the imprisonment of Birtukan Mideksa, Ethiopian lawyer, former judge and leader of the opposition party, Unity for Democracy and Justice. Reports of the re-arrest of Ms Mideksa in late 2008, after she had been released on a pardon a year earlier, are troubling, as they suggest that the Ethiopian government is intolerant of opposition and free speech. Reports of the conditions under which Ms Mideksa is being kept in Kaliti Prison in Addis Ababa are quite unsettling.

In view of the fact that the Ethiopian Bar Association is the association that represents lawyers in Ethiopia, we wonder if your association has further information about Ms Mideksa's imprisonment, and whether any action has been initiated by the legal community to support Ms Mideksa and advocate for her release. The Law Society of Upper Canada supports efforts made by legal associations and professions such as the Ethiopian Bar Association in promoting the human rights of lawyers and judges. We would welcome your advice on whether the Law Society of Upper Canada may be of assistance in the case of Birtukan Mideksa, for example by writing letters to the authorities, or whether such efforts would impact negatively on the safety and security of Birtukan Mideksa.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

Yours sincerely,

W. A. Derry Millar
Treasurer

C.c. [Canadian Bar Association
Human Rights Watch
Lawyers' Rights Watch
Amnesty International]

FOR INFORMATION

**REPORT OF THE ACTIVITIES OF THE
DISCRIMINATION AND HARASSMENT COUNSEL**

**JULY 1, 2008 – DECEMBER 31, 2008
AND
SUMMARY OF DATA SINCE JANUARY 1, 2003**

BACKGROUND

101. Subsection 20 (1) a) of By-Law 11, *Regulation of Conduct, Capacity and Professional Competence* provides that, unless the Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Committee") directs otherwise, the Discrimination and Harassment Counsel (the "DHC") shall make a report to the Committee not later than January 31 in each year, upon the affairs of the Counsel during the period July 1 to December 31 of the immediately preceding year. On June 5, 2008, the Committee directed, under subsection 20(1) a) and b) of By-Law 11, that the DHC submit the first semi-annual report due in 2009 on or before April 15, 2009 and the second semi-annual report on or before September 30, 2009. The request for the delays had been made by the DHC to accommodate her sabbatical at the beginning of 2009 and over the summer 2009. The first semi-annual report was submitted on or before April 15, 2009 and is presented at **Appendix 5**.
102. Subsection 20(2) of By-Law 11 provides "The Committee shall submit each report received from the Counsel to Convocation on the day following the deadline for the receipt of the report by the Committee on which Convocation holds a regular meeting".
103. The DHC Program presents to the Committee, pursuant to Subsection 20(1)(a) of By-Law 11, the *Report of the Activities of the Discrimination and Harassment Counsel for the Law Society of Upper Canada* for the period July 1, 2008 to December 31, 2008 and a summary of data since January 1, 2003.

**PUBLIC EDUCATION EQUALITY SERIES CALENDAR
2009**

104. The following Public Education Equality Series are planned for 2009.

National Access Awareness -*Access to Justice for Persons with Disabilities*

In partnership with ARCH Disability Law Centre

Reception Keynote Address at 6 p.m.

His Honour, the Lieutenant Governor, The Honourable David C. Onley, O.Ont.

Date: May 25, 2009

Time: Panel Discussion from 4 to 6 p.m. and Reception: 6 p.m.

Panel Discussion from 4 to 6 p.m.: Legal professionals will discuss the accessibility of the justice system in Ontario and examine accessibility to legal services and legal representation, accessibility in the courts, access to administrative tribunals, and access to community legal clinics and other resources.

Speakers:

Cynthia Harper, Legal Aid Ontario

Katherine Laird, Human Rights Legal Support Centre

The Hon. Madam Justice Anne M. Molloy, Superior Court of Justice

Ivana Petricone, ARCH Disability Law Centre (discussion moderator)

Tess Sheldon, ARCH Disability Law Centre

Cara Wilkie, Barrister and Solicitor

**National Aboriginal Day - *Perspectives in the Indian Residential Schools Resolution
Process***

In partnership with the Toronto Aboriginal City Celebration Committee, Aboriginal Legal Services of Toronto, the Aboriginal Law Section of the Ontario Bar Association and Rotiio> taties Aboriginal Advisory Group

Date: June 11, 2009

Time: Panel Discussion from 4 to 6 p.m. and Reception: 6 p.m.

Pride Week - *The Stonewall Riots – 40 Years Later: Politics and the Future of Equality for Gay, Lesbian, Bisexual, and Trans-identified People*

In partnership with the Sexual Orientation and Gender Identity Section of the Ontario Bar Association

Date: June 23, 2009

Time: Panel Discussion from 4 to 6 p.m. and Reception: 6 p.m.

**REPORT OF THE ACTIVITIES OF
THE DISCRIMINATION AND HARASSMENT COUNSEL
FOR THE LAW SOCIETY OF UPPER CANADA**

For the period from July 1, 2008 to December 31, 2008

and

Summary of Data since January 1, 2003

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TABLE OF CONTENTS

PART I – ACTIVITIES JULY 1 TO DECEMBER 31, 2008

Overview of New Contacts with the DHC Program

Summary of Discrimination and Harassment Complaints

Complaints from within the Legal Profession

Public Complaints

Services Provided to Complainants

Summary of General Inquiries

Matters Outside the DHC Mandate

Promotional Activities

Educational Activities

PART II – SIX YEAR SUMMARY 2003-2008

Overview of Contacts with the DHC Program

Number of New Contacts

Overview of Complaints against Lawyers

Number of Complaints

Public / Profession Ratio of Complainants

Overview of Law Student Complaints

Context of Complaints from Members of the Legal Profession

Male / Female Ratio of Complainants within the Legal Profession

Context of Complaints from Members of the Public

Male/Female Ratio of Public Complainants

Grounds of Discrimination Raised

Breakdown of Sex Discrimination Complaints

Complaints against Paralegals

Examples of Complaints

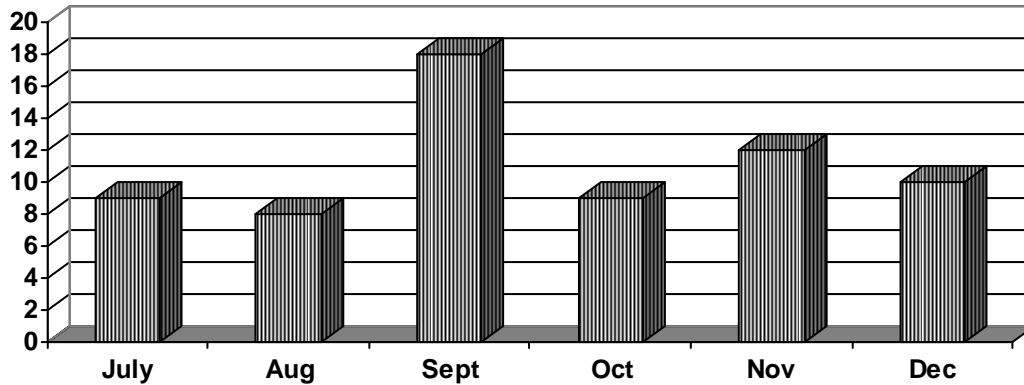
Public Complaints

Complaints from within the Profession

OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

During this reporting period (July 1 to December 31, 2008), 66 individuals contacted the DHC Program with a new matter.⁴²

The volume of new contacts was distributed as follows:



Of the 66 individuals who contacted the DHC, 47 (71%) used the telephone to make their initial contact, 18 (27%) used email, and 1 used a fax communication.

Of the 66 new contacts with the Program, 16 (24%) were made by men and 50 (76%) were made by women.

During this reporting period, the DHC provided services to four callers in French. The remaining clients received Program services in English.

⁴² Individuals who had previously contacted the Program and who communicated with the DHC during this reporting period with respect to the same matter are not counted in this number.

SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

Of the 66 new contacts with the Program, 22 individuals raised specific complaints of discrimination or harassment by a lawyer in Ontario.

The mandate of the Discrimination and Harassment Counsel Program includes complaints against paralegals. There were, however, no complaints against paralegals during this reporting period.

Of the 22 new discrimination and harassment complaints against lawyers, 12 were made by members of the public and 10 were made by members of the legal profession.

COMPLAINTS FROM WITHIN THE LEGAL PROFESSION

During this reporting period, there were 10 complaints against lawyers from members of the legal profession.

Three (3) of the 10 complaints were made by articling students. The remaining 7 complaints were made by lawyers, one of whom was calling about harassment of an articling student in her firm. There were no complaints by paralegals or paralegal candidates during this reporting period.

Of the 10 complaints from within the legal profession, 9 were made by women (including the 3 student complaints).

Almost all (9 out of 10) of the complaints from within the legal profession arose in the context of the complainant's employment or a job interview. One complaint, made by a woman lawyer on behalf of a group of women lawyers practicing in the same area, related to the conduct of opposing counsel with whom they all had regular dealings.

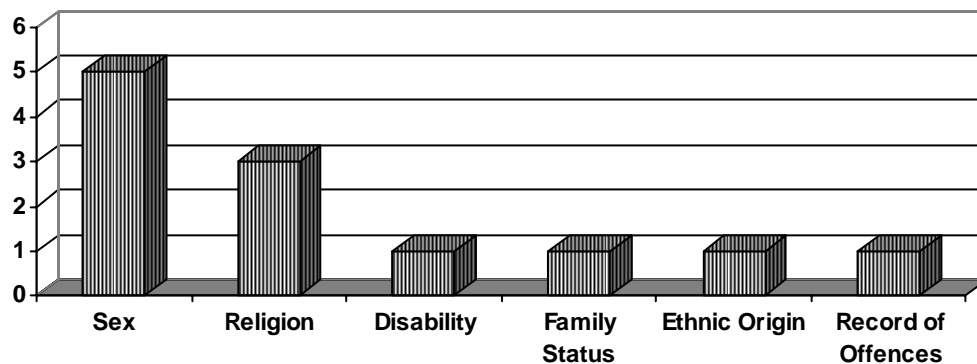
The following grounds of discrimination were raised in the complaints from within the legal profession: sex, disability, religion, family status, ethnic origin, and record of offences.

Five (5) complaints were based (in whole or in part) on sex:

- a male lawyer called on behalf of a female lawyer who was experiencing sexual harassment by a male colleague at her work;
- a female lawyer complained on behalf of a group of women lawyers in her area about the sexist conduct of a male opposing counsel with whom they all had regular dealings; the complaint included (among other things) alleged incidents of sexual harassment of their female clients;
- a female associate complained about how the partners in her firm were failing to address serious incidents of sexual harassment of a female articling student by a male associate in their office;
- a female associate complained about sexual harassment by a male partner in her firm; and
- a female Muslim lawyer complained about discriminatory barriers to equity partnership in her firm, based on sex and religion.

Three (3) complaints were based (in whole or in part) on religion:

- a Jewish lawyer complained about her employer's refusal to provide leave for religious observance of holy days, as well as anti-semitic comments by a lawyer in her workplace;
- the aforementioned female Muslim lawyer complained about discriminatory barriers to equity partnership in her firm, based on both sex and religion; and
- a Christian Palestinian articling student complained about discrimination and harassment by her principal, based on her religion and ethnic origin.



PUBLIC COMPLAINTS

During this reporting period, there were 12 complaints against lawyers by members of the public.

Eight (8) of the 12 public complaints were made by women and 4 were made by men.

Of the 12 public complaints:

- 5 involved litigants complaining about the conduct of opposing counsel;⁴³
- 4 arose in the context of the complainant's employment; and
- 3 involved clients complaining about the conduct of their own lawyer.

The following grounds of discrimination were raised in one or more of the public complaints: sex, disability, religion, race and age.

Five (5) of the public complaints were based (in whole or in part) on sex as a ground of discrimination:

- 2 legal assistants (from different firms) complained about demeaning sexist remarks made by their bosses (male lawyers) regarding their appearance;⁴⁴
- an office manager called on behalf of 3 female legal assistants in her firm, who complained that they had been subjected to derogatory sexist comments by a male lawyer in their office, including comments about their weight and appearance;
- a man called on behalf of his son, who was acquitted of criminal assault charges in a domestic situation; the caller complained that the Crown Attorney who prosecuted the case discriminated against men; and
- a Muslim woman involved in family law litigation complained about discriminatory comments made by opposing counsel based on her sex (relating to her manner of dress).⁴⁵

⁴³ This figure includes a complaint about the conduct of a Crown Attorney in a criminal prosecution. The complainant was the accused person's father.

⁴⁴ One of these women also complained about derogatory ageist remarks made by her boss.

Five (5) of the public complaints were based (in whole or in part) on disability:

- a female litigant complained that her own (former) lawyer failed to accommodate her psychiatric disability and engaged in demeaning name-calling;
- another female litigant complained that her lawyer was failing to accommodate her anxiety disorder;
- a woman called on behalf of her blind mother, complaining that her mother's lawyer was refusing to accommodate her mother's vision impairment;
- a male litigant complained about offensive comments made by opposing counsel regarding his disability; and
- a female legal assistant complained that her female boss was refusing to accommodate her disability and was engaging in harassing conduct based on her disability.

Two (2) complaints were based on religion:

- a Christian man involved in child custody litigation complained that opposing counsel made derogatory and discriminatory remarks about his religion; and
- a Muslim woman involved in family law litigation complained that opposing counsel made derogatory remarks about her manner of dress, which she found discriminatory based on both her religion and sex.

One (1) complaint was based on race:

- a male litigant complained that opposing counsel made derogatory remarks about him based on his race.

One (1) complaint was based on age:

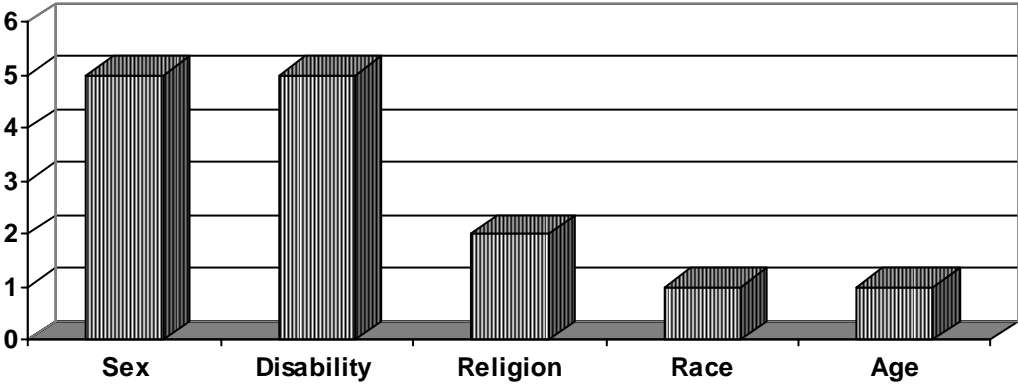
- a female legal assistant complained that her male boss was harassing her based on her age and sex, by making derogatory ageist and sexist remarks about her abilities.

45 This woman's complaint was based on intersecting grounds of sex and religion.

In summary, the number of complaints⁴⁶ in which each of the following grounds of discrimination was raised are as follows:

sex	5
disability	5
religion	2
race	1
age	1

Grounds raised in Public Complaints



46 The total exceeds 12 because some complaints were based on multiple grounds of discrimination.

SERVICES PROVIDED TO COMPLAINANTS

Complainants who contacted the DHC were advised of various avenues of redress open to them, including:

- filing an internal complaint within their workplace;
- filing an application with the Ontario Human Rights Tribunal;
- filing a complaint with the Law Society; and
- contacting a lawyer for advice regarding other possible legal actions.

Complainants were also provided with information about each of these options, including:

- what (if any) costs might be involved in pursuing an option;
- whether legal representation is required in order to pursue an option;
- how to file a complaint or make a report (eg. whether it can be done electronically, whether particular forms are required, etc.)
- the processes involved in each option (eg. investigation, conciliation, hearing, etc.)
- what remedies might be available in different *fora* (eg. compensatory remedies in contrast to disciplinary penalties, reinstatement to employment versus monetary damages, etc.); and
- the existence of time limits for each avenue of redress.

Complainants were told that the options available to them are not mutually exclusive.

Complainants were given information about who to contact in the event that they decided to pursue any of their options.

In some cases, upon request, strategic tips were provided to complainants about how to handle a situation without resort to a formal complaints process (eg. confronting the offender, documenting incidents, speaking to a mentor).

Some complainants were directed to relevant resource materials available from the Law Society, the Ontario Human Rights commission, or other organizations.

In addition to being advised about the above-noted options, where appropriate, complainants were offered the mediation services of the DHC Program. Where mediation was offered, the nature and purpose of mediation were explained, including that it is a confidential and voluntary process, that it does not involve any investigation or fact finding, and that the DHC acts as a neutral facilitator to attempt to assist the parties in reaching a mutually satisfactory resolution of the complaint.

The DHC mediation services sometimes involve formal mediation sessions, including a meeting of the parties (with or without their respective counsel) and the execution of a mediation agreement prior to the meeting. In other instances, the DHC assists parties in attempting to reach a resolution to their dispute through informal intervention (eg. by shuttle diplomacy, telephone discussions and/or email exchanges with the parties, etc.).

During this reporting period, the DHC's mediation/intervention services were requested and provided on six different matters.

SUMMARY OF GENERAL INQUIRIES

Of the 66 new contacts with the DHC during this reporting period, 14 involved general inquiries relating to issues within the Program's mandate. These inquiries included:

- questions about the scope of the DHC Program's mandate;
- questions about the services offered by the DHC;
- requests from the public for promotional materials about the DHC Program;
- requests for education seminars or training workshops on anti-harassment in legal workplaces; and
- inquiries about the data collected by the DHC.

MATTERS OUTSIDE THE DHC MANDATE

During this reporting period, the DHC received a number of calls and emails relating to matters outside the Program's mandate. These contacts included complaints about workplace harassment or discrimination that did not involve lawyers or paralegals and complaints against lawyers that did not involve any human rights issues (eg. allegations of breach of confidentiality, client billing disputes, etc.) In addition, several individuals called the DHC to seek legal representation and/or a referral to a lawyer for a human rights case.

All of these individuals were referred to other agencies, including the LSUC's Lawyer Referral Service. An explanation of the scope of the DHC Program's mandate was provided to each person.

Although there is a relatively high volume of these "outside mandate" contacts, they typically do not consume much of the DHC's time or resources, since we do not assist these individuals beyond their first contact with the Program.

PROMOTIONAL ACTIVITIES

The LSUC maintains a bilingual website for the DHC Program.

Periodic advertisements are placed (in English and French) in the Ontario Reports to promote the Program.

French, English, Chinese and Braille brochures for the Program continue to be circulated to legal clinics, community centres, libraries, law firms, government legal departments, and faculties of law.

Contact information about the Program is provided to multiple community organizations across the province, so that referrals to the Program can be made.

EDUCATIONAL ACTIVITIES

Throughout this reporting period, the DHC worked closely with the Director of the Equity Initiatives Department at the LSUC to develop and deliver anti-discrimination and anti-harassment training workshops in law firms across the province.

PART II

SUMMARY OF DATA FOR SIX YEAR PERIOD

JANUARY 1, 2003 TO DECEMBER 31, 2008

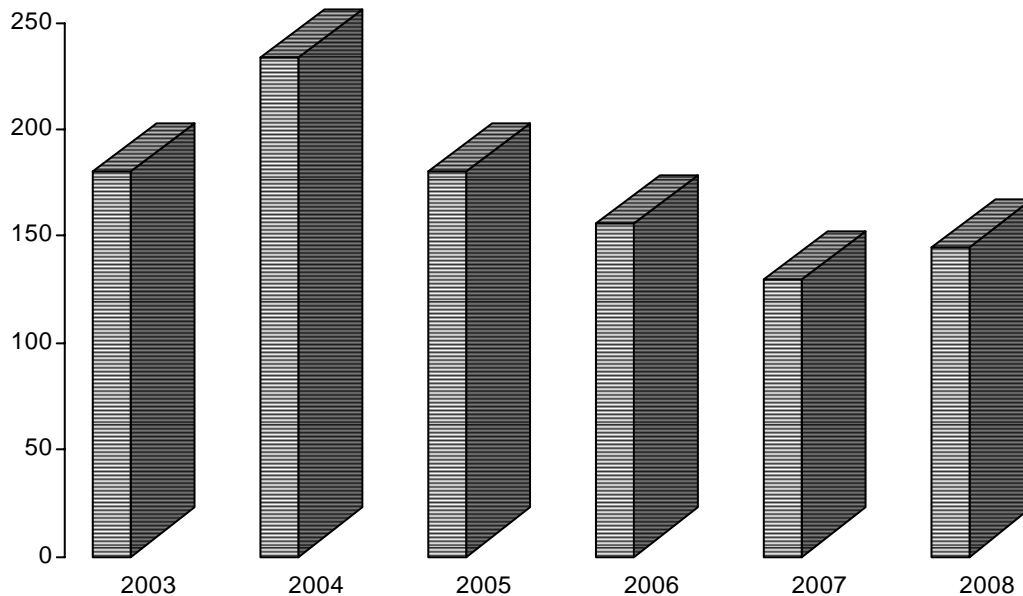
OVERVIEW OF CONTACTS WITH THE DHC PROGRAM

Number of New Contacts

There has been a total of 1,025 contacts with the DHC Program during the six year period since January 1, 2003.

There were 180 new contacts in 2003, 234 in 2004, 180 in 2005, 156 in 2006, 130 in 2007, and 145 in 2008.

Number of New Contacts Annually



Thus the Program has received an average of 14.3 new contacts per month over the past 6 years.

The DHC services are offered in French and English. Since January 1, 2003, 39 individuals have communicated with the DHC in French: 10 in 2003, 6 in 2004, 8 in 2006, 5 in 2007, and 4 in 2008.

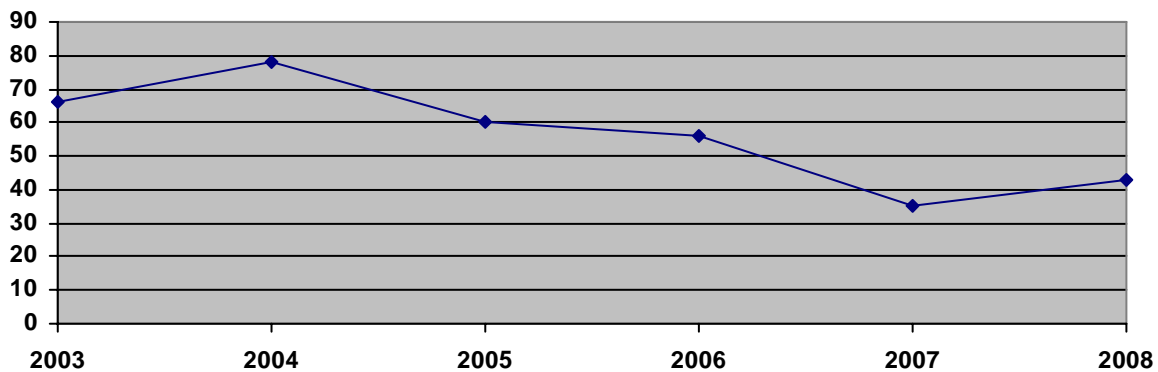
OVERVIEW OF COMPLAINTS AGAINST LAWYERS

Number of Complaints

Of the 1,025 new contacts with the Program over the past six years, there were a total of 338 discrimination and harassment complaints against Ontario lawyers.⁴⁷ (The remaining contacts with the Program involved general inquiries, complaints against paralegals, or matters outside the Program mandate.)

In terms of complaints against lawyers, there were a total of 66 in 2003, 78 in 2004, 60 in 2005, 56 in 2006, 35 in 2007, and 43 in 2008.

Volume of Complaints



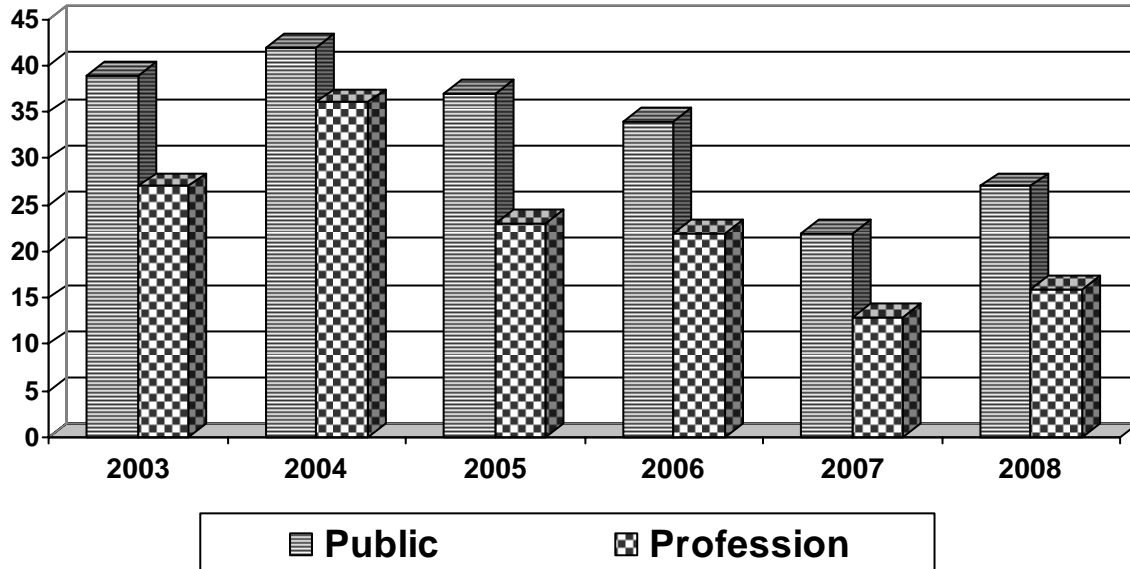
Public / Profession Ratio of Complainants

Out of the 338 discrimination and harassment complaints against lawyers since January 1, 2003, there have been 201 complaints from the public and 137 complaints from lawyers or law students.⁴⁸

Thus over the past 6 years, complaints from the public have constituted on average 59% of all discrimination and harassment complaints against lawyers.

⁴⁷ One of the complaints was against an articling student.

The ratio of public / profession complaints against lawyers has been as follows over the past 6 years:



Overview of Law Student Complaints

A total of 36 law students⁴⁹ have made discrimination and harassment complaints to the DHC Program in the six years since January 1, 2003 (out of a total of 138 complaints from within the profession):

8 complaints were made by students in 2003, out of a total of 27 complaints from within the legal profession;

6 complaints were made by students in 2004, out of 37 complaints from within the legal profession;

6 complaints were made by students in 2005, out of 23 complaints from within the legal profession;

6 complaints were made by students in 2006, out of 22 complaints from within the legal profession;

⁴⁸ Prior to 2008, any complaints by paralegals would have been considered as complaints by members of the public. Data regarding such complaints were not recorded separately. Since 2008, there have been no complaints by paralegals against lawyers.

⁴⁹ Either articling students, summer students, or university law students.

5 complaints were made by students in 2007, out of 13 complaints from within the legal profession; and

5 complaints were made by students in 2008, out of 16 complaints from within the legal profession.

Student complaints therefore constitute 26% of the discrimination and harassment complaints received from members of the profession over the past 6 years.

Context of Complaints from Members of the Legal Profession

The overwhelming majority (84%) of complaints by lawyers and law students arise in the context of the complainant's employment or in the context of a job interview:

- in 2003, 23 out of 27 (85%) complaints from within the profession were employment related;
- in 2004, 27 out of 36 (75%) complaints from within the profession were employment related;
- in 2005, 21 out of 23 (91%) complaints from within the profession were employment related;
- in 2006, 17 out of 22 (77%) complaints from within the profession were employment related;
- in 2007, all of the 13 (100%) complaints from within the profession were employment related; and
- in 2008, 14 out of 16 (87%) complaints from within the professional were employment related.

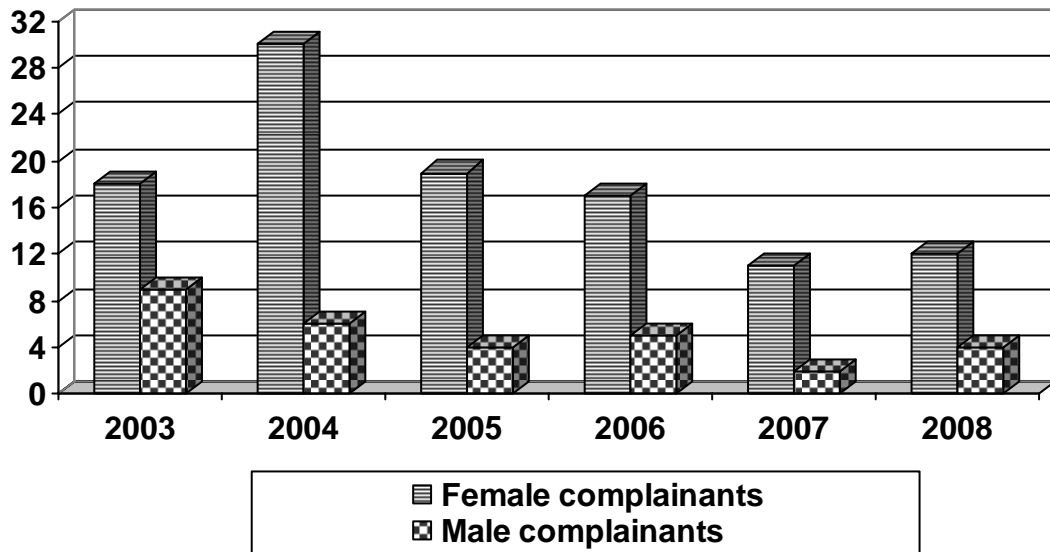
There have been some discrimination and harassment complaints from lawyers in non-employment contexts, such as complaints about the conduct of opposing counsel, mediators or investigators.

Male / Female Ratio of Complainants within the Legal Profession

Of the 137 lawyers and law students who reported discrimination and harassment to the DHC since January 1, 2003, 107 (78%) were women.

Complaints from women within the legal profession have consistently been disproportionately higher than complaints from men within the profession:

- in 2003, 18 out of 27 (67%) complaints from within the profession were made by women;
- in 2004, 30 out of 37 (81%) complaints from within the profession were made by women;
- in 2005, 19 out of 23 (83%) complaints from within the profession were made by women;
- in 2006, 17 out of 22 (77%) complaints from within the profession were made by women;
- in 2007, 11 out of 13 (85%) complaints from within the profession were made by women; and
- in 2008, 12 out of 16 (75%) complaints from within the professional were made by women.



Discrimination and harassment complaints from law students are also predominantly made by women:

- in 2003, 5 of the 8 student complainants were women;
- in 2004, 5 of the 6 student complainants were women;
- in 2005, 4 of the 6 student complainants were women;
- in 2006, all of the 6 student complainants were women;
- in 2007, all of the 5 student complainants were women; and
- in 2008, all of the 5 student complainants were women.

There have been a total of 36 students complaints against lawyers, only 6 from men. Thus over the past 6 years, 83% of the discrimination and harassment complaints against lawyers by students have been made by women.

*Context of Complaints from Members of the Public*A significant proportion (49%) of public complaints involve clients complaining about their own lawyer or a lawyer that they attempted to retain:

- in 2003, 25 out of 39 (64%) public complaints involved clients;
- in 2004, 21 out of 42 (50%) public complaints involved clients;
- in 2005, 13 out of 37 (35%) public complaints involved clients;
- in 2006, 17 out of 34 (50%) public complaints involved clients;
- in 2007, 8 out of 22 (36%) public complaints involved clients; and
- in 2008, 14 out of 27 (52%) public complaints involved clients.

Many of the public complaints (27%) arose in the context of the complainant's employment:

- in 2003, 6 out of 39 (15%) public complaints were employment related;
- in 2004, 14 out of 42 (32%) public complaints were employment related;
- in 2005, 16 out of 37 (44%) public complaints were employment related;
- in 2006, 8 out of 34 (23%) public complaints were employment related;
- in 2007, 5 out of 22 (23%) public complaints were employment related; and
- in 2008, 5 out of 27 (19%) public complaints were employment related.

A number of public complaints (17%) have been made by litigants against opposing counsel.⁵⁰

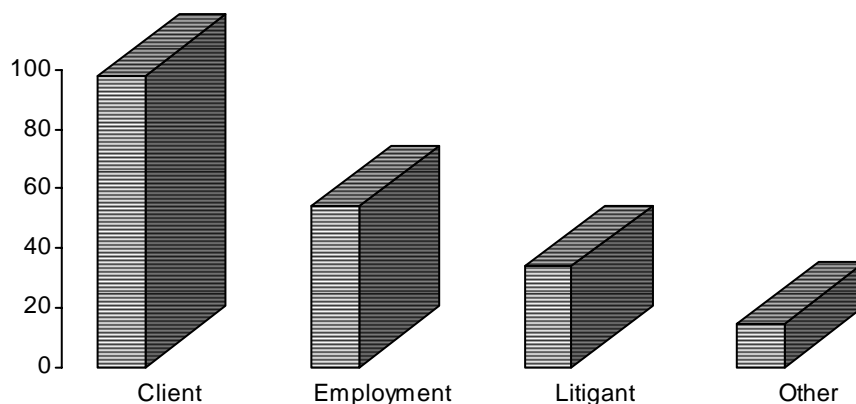
- in 2003, 6 of the 39 public complaints involved litigants;
- in 2004, 7 of the 42 public complaints involved litigants;
- in 2005, 2 of the 37 public complaints involved litigants;
- in 2006, 7 of the 34 public complaints involved litigants;

⁵⁰ These include complaints by criminal defendants against Crown Attorneys.

- in 2007, 5 of the 22 public complaints involved litigants; and
- in 2008, 7 of the 27 public complaints involved litigants.

Approximately 7% of public complaints arose in other contexts, such as litigants complaining about discriminatory conduct by a Tribunal member or mediator, an individual complaining about a government lawyer who was providing a public service, and witnesses and victims in criminal proceedings complaining about Crown Attorneys.

In summary, the total number of public complaints against lawyers that has arisen in each of the different contexts is as follows:

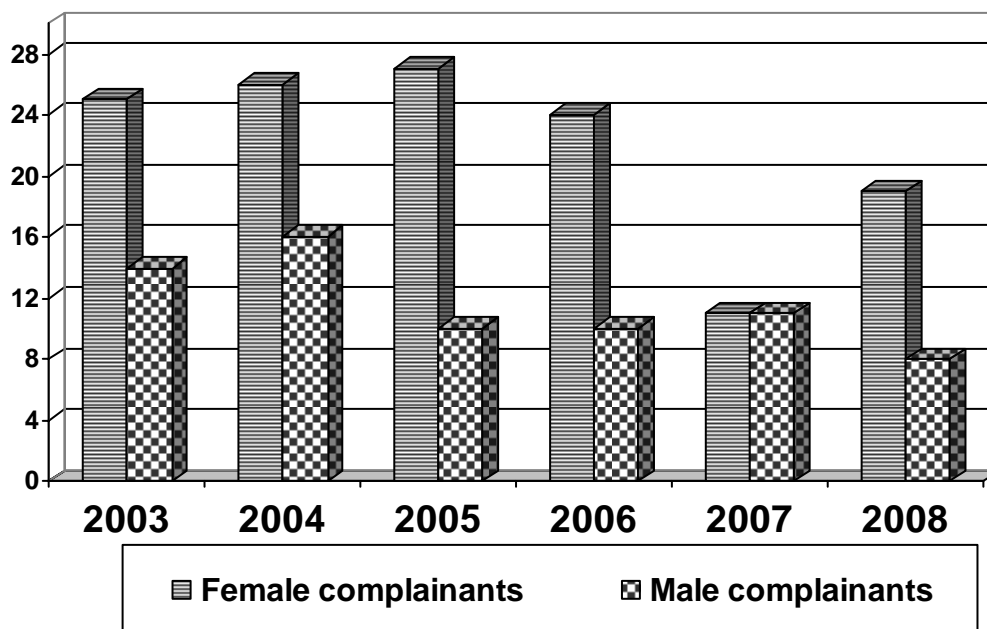


Male / Female Ratio of Public Complainants

Since January 1, 2003, there has consistently been a higher proportion of public complaints from women than men:

- in 2003, 25 of the 39 (64%) public complaints were from women;
- in 2004, 26 of the 42 (62%) public complaints were from women;
- in 2005, 27 of the 37 (73%) public complaints were from women;
- in 2006, 24 of the 34 (71%) public complaints were from women;
- in 2007, 11 of the 22 (50%) public complaints were from women; and

- in 2008, 19 of the 27 (70%) public complaints were from women.



Thus of the 201 members of the public who have made discrimination and harassment complaints against lawyers to the DHC over the past 6 years, 132 (66%) were women.

Grounds of Discrimination Raised

There was a total of 338 discrimination and harassment complaints against lawyers between January 1, 2003 and December 31, 2008.

Of these,⁵¹

- sex was raised as a ground of discrimination in 175 complaints (52%);
- disability was raised as a ground of discrimination in 73 complaints (22%);
- race was raised as a ground of discrimination in 54 complaints (16%);
- sexual orientation was raised as a ground of discrimination in 20 complaints (6%);
- religion was raised as a ground of discrimination in 14 complaints (4%);

⁵¹ The sum of the numbers in this paragraph exceeds 338 and the sum of the percentages exceeds 100% because many of the complaints involved multiple grounds of discrimination.

- age was raised as a ground of discrimination in 13 complaints (4%);
- family status was raised as a ground of discrimination in 11 complaints (3%);
- national/ethnic origin was raised as a ground of discrimination in 11 complaints (3%);
- ancestry was raised as a ground of discrimination in 3 complaints;
- place of origin was raised as a ground of discrimination in 3 complaints;
- record of offences was raised as a ground of discrimination in 2 complaints and
- marital status was raised as a ground of discrimination in 1 complaint.

Breakdown of Sex Discrimination Complaints 2003-2008

Of the 175 complaints that were based (in whole or in part) on sex as a ground of discrimination:

- pregnancy was specifically raised in 24 complaints;
- gender identity was raised in 2 complaints; and
- sexual harassment was reported in 93 complaints.⁵²

The overwhelming majority (139) of the 175 sex discrimination complaints were made by women (79%), including one transsexual woman.

Of the 139 female complainants who raised concerns about discrimination or harassment based on sex:

- 55 were lawyers
- 16 were law students; and
- 68 were members of the public.

⁵² Thus 28% of all complaints received over the past 6 years involved sexual harassment.

In almost every instance, the women who contacted the DHC were reporting that they themselves had been the victim of sex discrimination or sexual harassment by a male lawyer, that they had suffered employment reprisals after making a complaint of sexual harassment against a male colleague, supervisor or client, or that they had suffered discrimination in their employment due to the fact that they were pregnant and/or had taken a maternity leave. The only exceptions were as follows: One woman lawyer called on behalf of a female articling student in her firm and a female office manager called on behalf of 3 female legal assistants in her firm.

In contrast, 12 of the 25 men who complained about discrimination or harassment based on sex raised concerns about the inappropriate conduct of other male lawyers toward women that they knew (or, in one instance, toward a gay man that he knew).⁵³

Only 11 men complained about sex discrimination or harassment that they themselves had experienced. Five (5) of these complainants self-identified as gay men and one self-identified as a trans-man.

Of the 25 male complainants who raised concerns about sex discrimination or harassment:

- 10 were lawyers;
- 1 was an articling student; and
- 14 were members of the public.

Of the 25 complaints of sex discrimination or harassment made by men, only 4 involved female respondents.

Of the 11 sex discrimination or harassment complaints from men within the legal profession:

⁵³ One man complained that a Crown Attorney had discriminated against his son, who was prosecuted for domestic assault.

- a lawyer complained about a colleague (another male lawyer) who was sexually harassing a female lawyer in his firm;
- a lawyer complained about a male lawyer in another firm who was sexually harassing a female lawyer in that other firm;
- a lawyer complained about a colleague (another male lawyer) who was sexually harassing a secretary in his firm;
- a lawyer complained about sexist remarks made by opposing counsel (another male lawyer) during discovery proceedings involving a female client;
- a lawyer complained about sexist remarks made by opposing counsel (another male lawyer) directed toward a female junior associate in his firm;
- a lawyer complained about sexist remarks posted by another male lawyer on an internet website;
- a trans-identified articling student in a government office complained about sex discrimination to which he was subjected at his workplace;
- a gay male lawyer complained about sexual harassment by a supervising female lawyer in a government office;
- two gay male lawyers complained about sexual harassment by male partners in their respective firms; and
- a lawyer complained that his client, a female lawyer, suffered employment discrimination when she was terminated just prior to commencing a maternity leave.

Of the 14 public complaints of sex discrimination or harassment made by men:

- a police officer complained about sexist remarks made by a male Crown Attorney regarding a female police officer and female defence counsel;
- 3 men called on behalf of female friends or relatives who had been sexually harassed or assaulted by their male lawyers;
- 2 litigants in family law matters complained about anti-male sexist remarks made by their ex-wives' female lawyers;
- a process server and a law clerk each complained about sexual harassment by male lawyers in their workplaces;

- a physician reported that one of his gay male patients had been sexually abused by a court-appointed male lawyer as a youth;
- a psychiatrist reported that one of his female patients had been sexually assaulted by her male lawyer;
- two gay male clients complained that their respective male lawyers were sexually harassing them;
- a heterosexual paralegal student complained about sexual harassment by a female lawyer who was his instructor; and
- a man complained that a male Crown Attorney discriminated against his son in the course of a prosecution for domestic assault.

COMPLAINTS AGAINST PARALEGALS

The DHC Program's mandate was expanded to include complaints against paralegals in 2008. Prior to 2008, complaints against paralegals would have been considered outside the mandate of the DHC program and data about such complaints were not recorded separately.

In 2008, there was only one complaint against a paralegal. The complainant was an Asian female paralegal who felt that her (white female) boss, who was also a paralegal, was discriminating against her on the basis of race.

It should also be noted that, prior to 2008, complaints about lawyers by paralegals would have been recorded as "public complaints" in the DHC data. As of January 1, 2008, data regarding such complaints is being recorded separately.

EXAMPLES OF COMPLAINTS

Public Complaints

The following are detailed examples of discrimination and harassment complaints received from members of the public over the past six years:

A woman with a brain injury reported that her male lawyer arranged for them to meet privately on the pretext of preparing for a discovery, then sexually assaulted her.

A law clerk with a speech impediment complained that her boss (a male lawyer) would get drunk and then mock her publicly by imitating her stutter.

A transsexual woman involved in a family dispute with her ex-wife complained about her ex-wife's lawyer who, among other things, continued to refer to her in correspondence, pleadings and submissions as "he" and "him" despite repeated requests to cease doing so.

A self-represented litigant who was blind complained about a letter he received from opposing counsel, which stated: "I wish I could see things from your perspective, but I can't get my head that far up my ass."

A Chinese man complained that his lawyer treated him in a dismissive and demeaning manner (eg. ordering him to "sit down" in front of other parties, interrupting him when he spoke, patronizing him, etc.) that was different from how the man observed the lawyer interacting with other white clients.

A secretary in a legal clinic complained that she was pressured not to take a year of pregnancy/parental leave and then was demoted on the day that she returned to work from her shortened leave.

A woman called on behalf of her visually impaired mother, whose lawyer refused to permit her to bring a reader (a friend who would read documents aloud) with her to review documents in the lawyer's office before signing them.

A female client complained that her male lawyer always insisted on meeting her outside his office, constantly told her how attractive she was, and put his hands around her waist while alone in an elevator.

A secretary in a legal clinic complained that a male lawyer tried to "grope" her and pull her toward him when they were working alone.

A secretary in a law firm complained that one of the male lawyers in her office repeatedly tried to hold her hand, stroked her hair, and frequently commented on her appearance.

A Filipino woman complained that her lawyer made a racially derogatory remark by referring to her as a "monkey".

A receptionist at a law firm complained that she was terminated when she advised her new employer that she would be taking a maternity leave. The employer told her that he would not have hired her if he had known she was pregnant.

A secretary in a law firm, who has fibromyalgia, complained that her boss (a lawyer) was refusing to accommodate her disability and was violating confidentiality with respect to her medical condition in the workplace.

A man complained on behalf of a female friend, an impoverished woman with a drug addiction, who was charged with drug-related offences and whose male defence lawyer agreed to act for her *pro bono* if she performed sexual acts on him.

A secretary in a law firm complained that lawyers in the office began harassing her after she announced that she intended to marry her same-sex partner.

A woman complained that her lawyer repeatedly commented on her appearance and always insisted on hugging her after their meetings, even though she had advised him that it made her uncomfortable.

A female law clerk asked her boss (a male lawyer) for an increase in her salary and he responded, "if you want a raise, bend over". This same male lawyer also threatened to fire her if she did not persuade another female law clerk in their office to have sex with him.

A male police officer reported a male defence counsel's remark that his (male) client's conviction was based on fabricated allegations and that "that's what happens when you have a female officer and female prosecutor on the same case."

A Pakistani man complained that he was being verbally abused by a white lawyer whose office was on the same floor in his building. The lawyer was often aggressive and rude, regularly used profane language, and made offensive comments like "you fucking Muslims". The lawyer once referred to the man as a "mother fucking Paki" in front of a client.

A female law clerk complained that a male lawyer in her office commented on her breasts and asked her to join him in a hotel room.

A female criminal defendant complained that her (male) defence counsel was condescending and patronizing, called her "silly" and "stupid", and frequently cut her off when she was speaking. In contrast, the lawyer spoke to her boyfriend in a respectful manner.

An administrative assistant in a law firm complained that she was transferred and demoted after the termination of a brief consensual affair with her boss (a male partner).

A female client with a cognitive impairment complained that her lawyer refused to accommodate her (eg. he spoke quickly despite her requests for him to slow down, he became impatient and shouted at her when she asked him to repeat things, he refused to communicate his advice in writing).

A lesbian woman reported that a female lawyer refused to represent her because of her sexual orientation.

A legal secretary complained that a male lawyer at her workplace regularly made sexual advances toward her. Before leaving the office one night he asked, "how

about a quick blow job before you go?” He displayed a violent temper when she rejected his advances. Later he would apologize for his behaviour and say he was “just kidding”.

A physically disabled legal secretary with modified employment duties and modified hours of work reported that she was called a “princess” by a woman lawyer in her office because of her accommodations.

A Chinese woman complained that a male lawyer with whom she was acquainted licked his lips suggestively and told her that he could “have” any Chinese woman and has “had” many Chinese women because he is white.

A woman of middle-Eastern descent complained that a female lawyer she had retained questioned her about her inter-racial relationship, implying disapproval.

A woman involved in family law litigation complained that her male lawyer asked her to have sex with him and said that he could not continue representing her if she rejected him.

A male paralegal student complained that his female instructor (who is a lawyer) touched him affectionately and asked him if he was married and whether he was happily married.

A male process server employed by a law firm complained that a male lawyer in his office called him “pussy” and “faggot” and made lewd jokes ending with the lawyer touching his (the complainant’s) penis through his pants.

A South Asian man complained that a corporate lawyer called him a “petty ethnic” and criticized him for operating his business “like a Third World idiot” (the respondent was also South Asian but from a different ethnic background).

A gay male police officer reported that a male Crown Attorney called him “faggot” and “homo” in front of other lawyers at a social gathering in a public place.

A woman attended a job interview for a legal assistant’s position with a sole practitioner. The interview was conducted in the (male) lawyer’s home. She reported that the lawyer touched her arm suggestively during the interview and asked her for her bra size during a subsequent phone conversation.

A legal assistant, who was a recent Russian immigrant, reported that she was fired from her job after she refused to have sex with her male boss. She suspected that her boss exploited her status as a newcomer to Canada, believing that she would have few other employment opportunities available to her. The lawyer had frequently asked her out for drinks, had photographed her at firm events, had put his arm around her shoulders, and had ultimately told her that he wanted to have sex with her and to be her “boyfriend”.

A gay male client, who was accused of committing a criminal act of indecency, reported that his male defence counsel always insisted on meeting in his (the lawyer's) home, despite the client's objection and expressed preference to meet in the lawyer's office. The lawyer's overly "friendly" demeanour made the client uncomfortable.

Complaints from Within the Profession

A Black woman lawyer complained about the conduct of a white male lawyer who snapped at her in anger, called her a "fucking bitch" in front of other parties, told her that she was an example why "women shouldn't practice law" and called her "an Afro ethnic".

A female articling student complained that a male articling student in her office had sexually assaulted her.

A female Filipino articling student reported that a female partner in her law firm swore at her, verbally abused her, criticized her legal skills and sarcastically suggested that she work as a "nanny" for one of the other partners in the firm.

A female associate complained about a male partner in her firm who yelled "fuck you bitch" at her during a disagreement in front of articling students employed by the firm.

A lesbian articling student in a law firm complained that associates in the firm started asking her unwelcome and intrusive personal questions about her sexual practices after she came out to them. When she expressed her discomfort regarding their inquiries, they began to criticize her work and indicated to partners that she should not be hired back.

A Jewish lawyer complained that she was routinely loaded down with a high volume of work by a partner in her firm just prior to the Jewish holidays, so that she would not be able to take leave for religious observance.

A senior female associate in a law firm complained that male associates were given better work and had more advancement opportunities within her firm. She also complained about differential partnership structures within her firm that disadvantaged women partners.

A Black female litigator working in a government office complained about systemic racial discrimination in her workplace, consisting of preferential treatment of white lawyers in her office (who were given better files and more advancement opportunities).

A female lawyer working in a government office complained that she was given substandard work after her return from pregnancy/parental leave. She felt she was being put on a "mommy track" that would stifle her advancement opportunities within her department.

A female lawyer complained about a male opposing counsel who, in front of their respective clients, called her “uppity” and said that the “women’s liberation movement” had made life difficult for men like him.

A female associate in a law firm returned from maternity leave and was told that she would not be receiving a salary increase. Other male associates in the office all received increases.

A female lawyer complained about harassment by a male lawyer in her office with whom she had had a consensual sexual relationship. After she ended the relationship, he repeatedly insulted and embarrassed her in front of clients and physically shoved her while in the office.

A Black female lawyer complained about a white female lawyer who called her a “nigger” in the presence of other parties.

A female associate in a law firm complained that a male partner always hugged her when they parted after work-related social events. On the last occasion before she contacted the DHC, the partner had attempted to kiss her on the lips after a client dinner.

An articling student in a mid-size law firm reported that a male partner had put his arm around her shoulder at a client dinner and had suggested that they share a hotel room and sleep together while out of town on a business trip.

A woman with two young children, who had been out of the paid workforce for two years since the completion of her articles, complained that she was repeatedly asked inappropriate questions in job interviews regarding her childcare obligations. She felt that her status as the mother of two young children was negatively influencing her employment opportunities.

A female associate in a small law firm was given a good performance review and was told that she would be assigned a full-time secretary to assist her with her growing practice. After she announced that she was pregnant, her employer advised her that she would not be assigned a secretary.

A female associate complained about a male partner who regularly shouted at her, shook his fist in anger, called her “lazy” and “stupid” and said she must have “slept her way to getting hired” at the firm.

A number of lawyers with various disabilities (eg. hearing impairment, diabetes, depression, anxiety) complained that their employers were failing to accommodate them.

A number of lawyers with child care obligations, including some with seriously ill children, complained that their employers were refusing to accommodate their family status by making flexible work arrangements for them.

A Black lawyer working within government complained about systemic barriers to advancement for lawyers of colour in her department. She was given less responsibility than other (white) lawyers, less trial work, more routine and mundane cases, etc. She was also demeaned by being assigned to work at a secretarial station rather than in a lawyer's office.

A female associate in a large law firm complained that one of the male partners referred to her as "sweetie" and "darling" and called other women in the office "babe".

A Black female articling student complained that, although she received excellent performance appraisals throughout her articling year, she was not hired back to work at her firm. All of the students who were hired back were white males. There were no female associates and no associates of colour in her firm. The only reason provided for the hire-back decision was that she was not a "good fit" with the firm.

A female associate hired to work in a small law office with two male partners complained that one of the partners called her "blondie" and frequently made "dumb blond" jokes.

A single mother working as a lawyer in a firm requested reduced work hours to allow her to spend more time with her son, who was hospitalized with a serious illness. The firm refused to accommodate her request and suggested instead that she take an unpaid leave of absence.

A female associate in a large law firm complained to the partnership about unwelcome sexual advances and unwanted touching by a male partner. The firm cautioned the partner about his inappropriate behaviour, but refused to assign the complainant to a different practice group or separate her from the harasser. The offending partner stopped giving her work, she became ostracized in the office, and eventually took a stress-related sick leave. Soon after she returned to work, she was terminated from her employment for failing to meet the firm's productivity / billing targets.

A female associate complained that, after an office social function, one of the male associates in her office "joked" about going back to a hotel with other male lawyers to "gangbang" her. When she confronted him about the inappropriate comment the next day, he attributed it to the fact that he was drunk.

A female articling student complained that a male partner in her firm got angry with her at an office social function and shouted at her, "I'll fuck you, you little bitch", "your career is over" and "you're dead!"

A female articling student with a chronic pain condition became very ill during her articling year and took a month off work. She initially returned to work on reduced hours. She complained that lawyers in her office were hostile toward her after her sick leave. She was advised by a partner that her prospects of hire-back at the firm were adversely affected by the time she took off work. She was also advised to

pursue a different career (other than law) because of her chronic illness, which interfered with her ability to work long hours.

A female associate in a small firm was advised by a male partner that the firm was reluctant to train her because she had recently become engaged (to marry a man) and the firm assumed that she would soon have children and quit the practice of law.

A senior associate who had met all of her law firm's partnership criteria was told that she would not be made an offer of partnership this year because she was pregnant.

A gay male lawyer complained that one of the female lawyers in his office asked him intrusive questions about his sexual experiences and then tried to kiss him, saying that she would "turn him straight".

A lesbian articling student complained that she was outed at work by her female principal, to whom she had confidentially confided her sexual orientation.

A pregnant lawyer working in a government office reported that, when she expressed interest in a promotion, she was asked how many children she planned to have, and when she requested pay for duties that she had assumed on an acting basis, she was denied the higher rate of pay on the basis that she was going on maternity leave and therefore would not be doing the acting job for long.

A female associate in a law firm complained that she was pulled off files and was denied advancement opportunities after she reported to the partnership that a male client had been sexually harassing her.

A disabled government lawyer complained that his male manager (also a lawyer) was refusing to modify his job duties and to purchase adaptive devices to accommodate his medical restrictions.

A trans-identified articling student in a government office complained about gender-based employee appearance expectations in his workplace that required him to conform to conventional masculine appearance at work.

Two male lawyers and a female articling student reported that they were asked "how old are you?" in job interviews. (All self-identified as older than their peers.)

A female lawyer reported that she was asked whether she had any children in a job interview.

A male lawyer reported that he was asked whether he was married in a job interview.

A man reported that an immigration lawyer made offensive remarks to him, equating Muslims with terrorists. The man had consulted the lawyer with the intention of retaining his services.

An female articling student reported that she was asked to accompany a male partner on an overnight trip to attend an out-of-town hearing. During the trip, the male partner insisted on socializing together (eg. eating meals, drinking wine), stood and sat very close to her, gave her leering looks, and used “double entendres” to flirt with her. The student was warned by other women in the firm that this partner had a history of “hitting on” young female lawyers and articling students.

A woman complained that her male lawyer was pressuring her to have sex with him. She reported that he told her she could not change lawyers because she had retained him on a Legal Aid certificate.

A woman lawyer complained that her law firm was refusing to accommodate her with flexible hours of work upon her return from a maternity leave. She also complained that she was getting “substandard” files to work on since her return to the office. She attributed this discriminatory treatment to her family status as a new mother.

A female client reported that her male lawyer asked her whether she was a virgin. He also called her at home, very late at night, and asked “are you alone?”

A woman complained that her former lawyer sent her pornographic images by email, with sexually explicit messages indicating that he was interested in pursuing a sexual relationship with her.

A disabled male litigant reported that opposing counsel called him a “psycho” .

A disabled woman reported that her own male lawyer refused to accommodate her disabilities (multiple chemical sensitivities and environmental allergies), spoke to her condescendingly about her disabilities, and called her “sweetie”.

A woman lawyer with a psychiatric disability reported that another female lawyer at her former firm, who agreed to provide her with an employment reference, disclosed the fact of her disability to a prospective employer, thereby violating her privacy and jeopardizing her job prospects.

A Black woman lawyer working in a government office reported that her manager was refusing to intervene to protect her from ongoing workplace harassment by a member of her staff. Although she did not believe that the harassment was racially motivated, she felt that the manager would not have ignored the situation if she were white (“no white lawyer would have to put up with this”).

A male lawyer complained that opposing counsel in one of his cases (another male lawyer) had made derogatory remarks about his clients’ Dutch ancestry (including, “wooden shoes, wooden heads”).

A 52 year old male lawyer, recently called to the bar, complained that he was not given a job interview for a position for which he was highly qualified. He had

previous work experience related to the position and high grades in law school. He felt that his age was the reason why he was not considered for the job.

A woman reported that she was sexually assaulted by a male lawyer in a bar (who touched her buttocks and grabbed her breasts). The lawyer gave her his business card after the assault.

A woman lawyer working in a legal clinic reported that she was harassed and discriminated against at work because she took two maternity leaves in rapid succession.

A woman lawyer working in a legal clinic reported that her employer was refusing to accommodate her psychiatric disability and was threatening to terminate her employment if she could not complete her duties without accommodation.

A South Asian junior female associate reported that a senior white male partner in her firm sexually harassed her.

A male lawyer complained that his employer refused to accommodate his disability, saying “we are not a rehab clinic”, and terminated his employment shortly after he requested the accommodation.

A woman litigator reported that a male mediator suggested that she might “achieve better outcomes” for her clients if she engaged in a sexual relationship with him.

A female associate complained that a male partner in her law firm repeatedly suggested to her that she should wear make-up and shoes with stiletto heels to attract male clients.

A female client complained that her own (male) family law lawyer, who knew she had been a victim of domestic abuse in her marriage, repeatedly told her to “shut up” and said that he “understood why her husband had left her” because she was “difficult”.

A disabled law student was asked in an articling job interview at a litigation boutique how she thought her hearing impairment would hurt her in the courtroom.

A female client of mixed race complained that her own female lawyer was repeatedly rude to her and made sexist and racist remarks, including a comment about how she “didn’t look like a normal human being”.

A female associate who had a consensual sexual relationship with a senior male partner in her law firm complained about employment reprisals (eg. unwarranted poor performance appraisals, ostracization, poor quality of work) after the affair ended. She left the firm claiming that it had become a poisoned work environment.

A female law clerk reported that her male boss repeatedly made uninvited sexual advances toward her (“I can see you’re interested in me”, “if you sleep with me I’ll

take you away on vacation”, “I like your short skirt”, etc.) She rejected his advances and he subsequently gave her unwarranted negative job references when she sought employment elsewhere.

A male associate complained that his employment was terminated by a law firm because he suffered from depression and anxiety.

A female associate who is a single mother of two young children reported that she was refused flexible hours and flexible working arrangements to accommodate her child care responsibilities, and complained that she was discriminated against at her firm (in terms of compensation and quality of work) because she requested this accommodation.