

## **Remarks by Chief Justice Strathy at RODA Diversity Soiree November 27, 2014**

Thank you Miriam for that your kind introduction.<sup>1</sup>

Chief Justice Smith, Members of the Bench and Bar, Distinguished Guests,

It is a great honour to address this year's Diversity Soiree, a celebration that has become one of our legal community's most important annual events.

It was from this event that RODA was born, and it was at last year's Soiree that Miriam Young announced the formal establishment of RODA.

Since RODA was formed, it has become an important part of Ontario's legal fabric. Not only because it supports the ongoing work of its member organizations, but because it has become an important organization in its own right. In the past year RODA has met monthly and:

- provided important input and advice to the Law Society;
- supported programs aimed at mentoring and educating lawyers;
- worked to promote diversity in the profession; and
- developed strategies to support qualified candidates seeking leadership positions within the legal profession and on the bench.

RODA and other organizations have been part of an important dialogue about the changing nature of the bench and bar, and about ways in which the bench and bar are not changing quickly enough.

I was reflecting on this last week, as I was reading a newly published book by Christopher Moore on the History of the Court of Appeal for Ontario,<sup>2</sup> the court where I sit.

Up until the mid-nineteen-sixties – fifty years ago – the members of Ontario's highest court were all white and male and mostly protestant. There were a few Catholics on the Court, and when one Catholic retired

another Catholic was duly appointed to retain the desired religious balance on the bench. That was about as diverse as public life got in Ontario in the 1960s. This careful tallying of Catholics and Protestants ended in 1965 when Bora Laskin became the first Jew to be appointed to the Court of Appeal.<sup>3</sup>

This has been followed by a number of subsequent firsts on the Court of Appeal. Bertha Wilson, appointed in 1975, was the first woman appointed to any appellate court in Canada. My colleagues Russell Juriansz and Harry LaForme, who have both addressed previous diversity soirees, were, respectively, the first South Asian and Aboriginal judges to have been appointed to the Court of Appeal. And most recently, in 2012, my colleague Michael Tulloch was the first black judge appointed to a Canadian appellate court.<sup>4</sup>

I have a certain sense of pride that these ground breaking appointments were made to the Court of Appeal for Ontario. And Ontario has benefitted greatly from them. However, it is very disheartening that 50 years after Bora Laskin was appointed, we are still counting firsts.

There have, however, been substantial advances in the profession.

When I went to law school there were very few women in my class. The current treasurer, Janet Minor was one of the relatively few women at law school in the early 1970s. Now, for more than a decade there have been more women than men graduating from law school and entering the profession. However, women still represent only 42 % Ontario lawyers and only 22% of law firm partners.<sup>5</sup>

Similarly when I went to law school almost all my classmates were white. The legal profession has seen a steady increase of lawyers from racialized groups since that time. In 2013, approximately 18% of lawyers identified as being members of a racialized group.<sup>6</sup> This is an increase of over 50% from 2006, when only 11.5% of lawyers identified as being visible minorities.<sup>7</sup> Still this is not commensurate with the general population, approximately 26% of the population identify as being members of such groups.<sup>8</sup>

Concerns exist, not just about numbers, but also about issues of inclusion. It is well-documented that racialized lawyers experience greater barriers in the profession. This is reflected in the Law Society's recently released consultation paper on this subject, which reports that racialized lawyers face greater barriers than non-racialized lawyers when entering and advancing within the legal profession. Barriers reported included instances of overt discrimination, a lack of opportunities for mentoring and advancement, and a sense of alienation and exclusion from social events.<sup>9</sup>

And despite some important gains, women and members of other equity seeking groups are significantly under represented on the bench. Only 34% of federally appointed judges are women and according to a 2012 study, only 2.3 percent of federally-appointed judges were people of colour. The Ontario Court of Justice is somewhat better, where 10.9 percent of the judges are visible minorities.<sup>10</sup>

These issues do not only affect members of the profession. They affect our entire population. In order for the legal profession and the courts to maintain their legitimacy and their ability to adequately serve the public, they must be more reflective of the public. As lawyers and judges we are shaped by and gain insight from our backgrounds and experiences. This is reflected in the arguments we put forth and the decisions we make. Unless, as a profession, we can draw on a diversity of experiences, our legal culture and the law itself will fail to keep up with the changing values of Canadian society. And public confidence in the administration of justice requires that the face of the bench must reflect the face of society.

It is within this context that RODA and its member organizations, many of which are represented today, are tremendously important. Not only for the work you do for your members, but in the work you do to strengthen the profession, improve the courts, and ultimately to ensure that we continue to adequately serve the public. It is for this reason that this annual soiree is so important, and why I feel honoured to have been asked to speak with you tonight.

As I enter my term as Chief Justice, I know that there continue to be significant barriers for racialized and other equity-seeking groups within the legal profession. I commit myself to working with RODA and its member organizations to address this issue. I am optimistic that, working together, we can make progress to eliminate those barriers and in the process make our justice system stronger.

Thank you for your attention. I look forward to speaking with many of you during the reception, and I look forward to working with you in the months and years to come.

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<sup>1</sup> Miriam Young is the Past President of the Toronto Lawyers Association and the President of the Round Table of Diversity Associations (RODA).

<sup>2</sup> Christopher Moore, *The Court of Appeal for Ontario: Defining the Right of Appeal, 1792-2013* (Toronto: University of Toronto Press, 2014).

<sup>3</sup> *Ibid* at 107.

<sup>4</sup> *Ibid* at 211-285.

<sup>5</sup> Information provided by the Law Society of Upper Canada based on data collected for 2013.

<sup>6</sup> Information provided by the Law Society of Upper Canada.

<sup>7</sup> Law Society of Upper Canada, "Developing Strategies for Change: Addressing Challenges Faced by Racialized Licensees" (Consultation Paper) (Toronto: Law Society of Upper Canada, 2014) at p. 8.

<sup>8</sup> *Ibid*. Based on Canada Census data from the 2011 National Household Survey.

<sup>9</sup> *Ibid*.

<sup>10</sup> Mark Berlin, Paul Jonathan Saguil & Anna Wong, "Diversity Gap on the Bench". *Just* October 2013 online: [http://www.justmag.ca/Oct2013/edberlinM\\_Oct2013.html](http://www.justmag.ca/Oct2013/edberlinM_Oct2013.html) .