



Canadian Centre for Diversity and Inclusion
Centre canadien pour la diversité et l'inclusion

Diversity by the Numbers

The legal profession

November 30, 2016

Sponsored by



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DIVERSE CLIENTS REQUIRE A DIVERSE FIRM.

At Borden Ladner Gervais LLP we embrace diversity and inclusion and foster a welcoming work environment in which every individual is valued and respected. Our National Diversity and Inclusion Strategic Plan has the full support of all levels of management and firm members. We believe that the variety of perspectives which results from our diverse workplace adds value to the legal services we provide and allows us to better serve our clients.

For more information please contact **Sonia Mak, Chair of the Diversity and Inclusion Committee**, at **416.367.6171** or **smak@blg.com**

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BLG
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It begins with service

Borden Ladner Gervais LLP would like to share our enthusiasm for the *Diversity by the Numbers: The Legal Sector* project, led by the Canadian Centre for Diversity and Inclusion (CCDI), in partnership with the Canadian Bar Association. This important initiative will give the legal community a better understanding of the Canadian legal profession's demographics.

We believe facts help shape decisions. A better understanding of who we are as individuals and the composition of the legal profession will help us with identifying, understanding and addressing diversity issues, developing programs and policies to attract and retain talent, and better serve the needs of our clients.

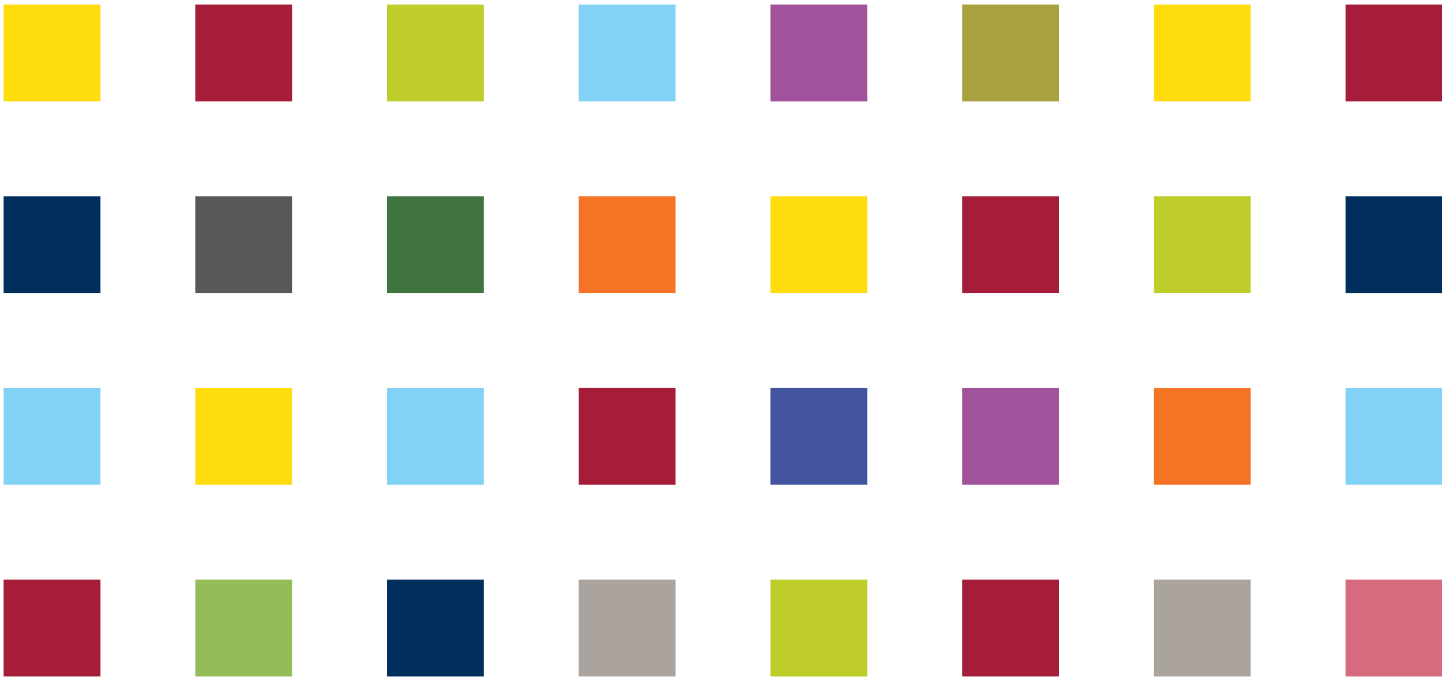
BLG is committed to promoting diversity and inclusion within our firm and the Canadian legal profession generally. Our sponsorship of this project is part of this commitment.



Sean Weir
CEO and National Managing Partner
Borden Ladner Gervais LLP




Sonia T. Mak
Chair of Diversity and Inclusion Committee
Borden Ladner Gervais LLP



SUPPORTING DIVERSITY MAKES SENSE

We believe that gaining a better understanding of the demographics within the Canadian legal profession will enable us to establish benchmarks and set meaningful goals to better serve our clients and our community. We thank the Canadian Centre for Diversity and Inclusion for its tremendous leadership and are proud to sponsor their initiative.





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Proud to partner with CCDI, trusted advisor in diversity, inclusion and equity

McCarthy Tétrault's commitment to diversity is one of our highest strategic priorities and a business imperative.

Supporting diversity ensures that we have a workplace that is fair to everyone, and that everyone has the opportunity to achieve their potential, free of systemic or other bias.

Supporting diversity creates a respectful, vibrant work environment that attracts the most talented, dedicated and promising people from all our communities.

Participating in and supporting once again the *Diversity by the Numbers: the Legal Sector* census is our clear and continued commitment to understanding, valuing and incorporating differences as we seek to maintain a workplace that is inclusive for all.

Sincerely,

A handwritten signature in blue ink, appearing to be 'DL', with a small flourish at the end.

Dave Leonard
Chief Executive Officer
McCarthy Tétrault LLP





Miller Thomson is a proud sponsor of the Canadian Centre for Diversity and Inclusion's Diversity by the Numbers initiative.

We applaud the CCDI's efforts and the Diversity by the Numbers participants. Together, we can shape the future of Canada's legal profession.

FORWARD TOGETHER



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At Miller Thomson, our strength is our people.

As a national law firm representing a diverse client base, we are committed to attracting, retaining, promoting and developing talented legal and administrative professionals to better enable us to serve our clients creatively, to reflect our clients' workforces and values, as well as the communities in which members of the firm live and work. An inclusive and diverse environment is what helps us to thrive in the national and global marketplaces.

Like the Canadian Centre for Diversity and Inclusion, Miller Thomson appreciates the need to better understand the demographic makeup of the legal profession in Canada including demographic trends such as why certain groups leave the profession. Collecting and analyzing diversity-related demographics, and benchmarking against the averages for the profession will make for stronger and more strategic diversity and inclusion action plans.

We are proud participants in the Canadian Centre for Diversity and Inclusion's *Diversity by the Numbers: The Legal Profession* initiative. We applaud the CCDI's efforts, the *Diversity by the Numbers* participants, and look forward to using the findings as a resource to help shape how we evolve as a firm.

Together, we can shape the future of Canada's legal profession. Forward together.

Kent H. Davidson, Q.C.
Chair
Miller Thomson

Nicole Byres, Q.C.
Chair
National Inclusion and Diversity
Committee

Stewart Whittingham
National Director,
Talent and Inclusion

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The intent of this report.

The intent of this report is to provide meaningful data for the purposes of informing future decisions on issues of diversity and inclusion in the workplace.

The data we provide and the insights we derive from the data are based on proven statistical methods to determine significant associations between certain identities and workplace opportunities, in terms of hiring and advancement and other talent management processes.

Unfortunately, the data does not tell us *why* a particular trend is happening or not happening. We can only use our experience and expertise combined with relevant research to provide insights, to the best of our ability, on what the *potential* reasons might be for one trend or another. Based on these potentialities, we also provide recommendations for next steps to address the key findings presented by the data.

About the Canadian Centre for Diversity and Inclusion.

CCDI has a mission to help the organizations we work with be inclusive, free of prejudice and discrimination – and to generate the awareness, dialogue and action for people to recognize diversity as an asset and not an obstacle. Through the research, reports and toolkits we develop and our workshops, events and workplace consultations, we're helping Canadian employers understand their diversity, plan for it and create inclusion.

CCDI's leadership has a proven model that has cultivated trust as an impartial third party. Our expertise is focused on the topics of inclusion that are relevant in Canada now and the regional differences that shape diversity.

A charitable organization that thinks like a business, and through our Measurement and Analytics Team, we have created a niche with our innovative research technology and data analysis that brings a deeper understanding of Canadian diversity demographics and mindsets at any given moment.

CCDI is grateful for the support of our over 100 Employer Partners across Canada. For enquiries, contact Susan Rogers, Chief Client Officer, Susan.Rogers@ccdi.ca or (416) 968-6520.

Acknowledgements.

The Canadian Centre for Diversity and Inclusion wishes to acknowledge the outstanding commitment of the people that helped ensure the success of the ***Diversity by the Numbers: The Legal Profession*** (“*DBTN: TLP*”) project.

Advisory Committee

The *DBTN: TLP* Advisory Committee was established to ensure *DBTN: TLP* would be delivered successfully and in a manner that would speak to the specific audience: people working in law firms. Members were selected to represent a significant cross section of the legal profession. They include: one representative from a Canadian Law Society; one representative from a General Counsel’s office; one Benchers from a Canadian Law Society; one representative from a Canadian Law School; two representatives from the Equality Committee of the Canadian Bar Association (“CBA”); one representation from the CBA; and one representative and one alternate from each law firm that is an Employer Partner with CCDI.

The Committee provided keen insight and direction throughout the project. Their guidance and advice played a significant role in shaping the entire project, and we thank them for their time, energy and dedication.

Kate Broer.

Partner.
Dentons Canada LLP.

Level Chan.

Partner.
Stewart McKelvey.
On behalf of the Canadian Bar Association Equality Committee.

Bindu Dhaliwal.

Associate General Counsel & Director.
BMO Financial Group.

Christina Head.

Staff Liaison.
Canadian Bar Association.

Agnes Kovios.

Canada Director of Human Resources.
Dentons Canada LLP.

Malcolm Mercer.

Partner and General Counsel.
McCarthy Tétrault LLP.
As a representative of the Benchers of a Canadian Law Society.

Laleh Moshiri.

National Director of Diversity and Inclusion.
Borden Ladner Gervais LLP.

Kristin Taylor.

Partner.
Cassels Brock & Blackwell LLP.

Lisa Vogt.

Partner and Chief Diversity and Engagement Officer.
McCarthy Tétrault LLP.

Stewart Whittingham.

National Director, Talent and Inclusion.
Miller Thomson LLP.

CCDI wishes to acknowledge the generous support of the sponsors of the *Diversity by the Numbers: The Legal Profession* project.

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CCDI also wishes to acknowledge the team responsible for the delivery of *DBTN:TLP*.

Michael Bach, CCDP/AP.
Founder and CEO.

Nyla Camille Guerrero.
Manager, Client Support.

Deanna Matzanke.
Director, Measurement and Analytics.

Mohamad Trabulsi.
Manager, Information Systems.

Steven Francis.
Manager, Measurement and Analytics.

Odion Imorolhe.
Coordinator, Information Systems.

Carmina Ravanera.
Coordinator, Measurement and Analytics.

In addition, this project would not have been possible without the steadfast dedication of the rest of CCDI's team, whose commitment to the vision and mandate of CCDI has facilitated its success and growth.

Renée Bazile-Jones.
Director, Learning.

Zakeana Reid.
Director, Western Canada.

Haley Cochrane.
Coordinator, Events.

Susan Rogers, MBA.
Chief Client Officer.

Cathy Gallagher-Louisy.
Director, Knowledge Services.

Wanda Santini.
Manager, Learning.

Seemoir Ho.
Manager, Finance and Accounting.

Patrice Williams.
Coordinator, Administration.

Preeti Nayak.
Program Coordinator, See Different.

Diversity by the Numbers: The Legal Profession was conducted in partnership with:



Overview.

Diversity by the Numbers (DBTN) is an exciting research methodology that focuses on providing concrete demographic information on the complexion of specific industries. We collect information directly from employees to better understand how they identify by a wide variety of characteristics, and then compare across their industry to better understand how an individual employer stands in relation to the profession.

Diversity by the Numbers: The Legal Profession (DBTN: TLP) is an exciting initiative that seeks to better understand the demographic makeup of the Legal Profession in Canada.

Launched in 2014, this is a multi-stage, longitudinal study that explores various aspects of the profession:

- » practicing lawyers employed by private firms
- » sole practitioners
- » students-at-law
- » licensees not practicing with a private law firm (in-house counsel or other positions)

Scope.

The legal profession presents some unique challenges as it relates to data collection. It is well understood that licensed lawyers work in a variety of different environments, ranging from private practice to teachers in law school. This plethora of work environments creates challenges in capturing consistent and accurate data.

While some work has been done by Canada's various legal governing bodies in the area of demographic collection, there is no consistency in the amount or type of data collected. In order to be successful, Diversity and Inclusion strategies must be factually based in data.

Building the sample.

Initially, firms were invited to participate directly by CCDI via the *Law Firm Diversity and Inclusion Network* ("LFDIN"). Subsequently, the CBA sent a letter, including information and an invitation to participate, to all of its member firms. In 2016, we sent individual emails to firms that were not yet participating in the project, and two joined. A total of 11 firms participated in the 2016 collection.

This report represents the third year of the project. This year includes updating of data of last year's participants and the addition of data from two additional firms (full project timeline on page 8). The plan is to execute the same survey annually, adding in groups of potential participants every year. The four groups of participants are:

- » **Lawyers in private practice, regardless of size of firm.**
This is the target group included in this report. As the project expands, we will add more firms to ensure we have the widest possible snapshot of the demographics of those in private practice.
- » **Students enrolled in Canada's law schools.**
We are continuing to work with Canada's 22 law schools to include a comparison of students enrolled against the broader profession. The goal is to assist law firms in better understanding their demographic make-up, in comparison to the incoming potential talent. This was originally scheduled to be conducted this year; however, due to external factors beyond our control, this will be revisited next year.
- » **In-house / corporate counsel.**
We are working with some of Canada's largest employers to include a comparison of in-house / corporate counsel against the broader profession. The goal is to understand the differences / similarities in demographics against the entire profession to see if there are trends in migration from private practice to in-house practice or vice versa, and to evaluate the impact that clients have on law firm diversity culture
- » **Licensed lawyers, particularly those not in private practice.**
This group is the most difficult group to reach – we are continuing to work with Canada's legal governing bodies (14 Law Societies, the Canadian Bar Association, etc.) to engage the broader population of licensed lawyers not working in private practice so we can better understand the demographics of the entire profession, and see if certain demographic groups are leaving private practice at a higher rate in comparison to any other.

Participation levels.

There were three levels of involvement available to any firm – **General Participant**, **Reporting Participant** and **Sponsored Participant**. Each level of participation included its own share of benefits:

- » **General Participant.**
There was **no fee** for firms to participate as a general participant. This level was specifically designed to provide access to smaller firms that might not be able to afford to pay for participation. In exchange for participation, the firm would receive an executive summary of the report on the Legal Profession, but no information on the firm's specific data. No customization of the survey was permitted. In this reporting year, there were three General Participant firms.

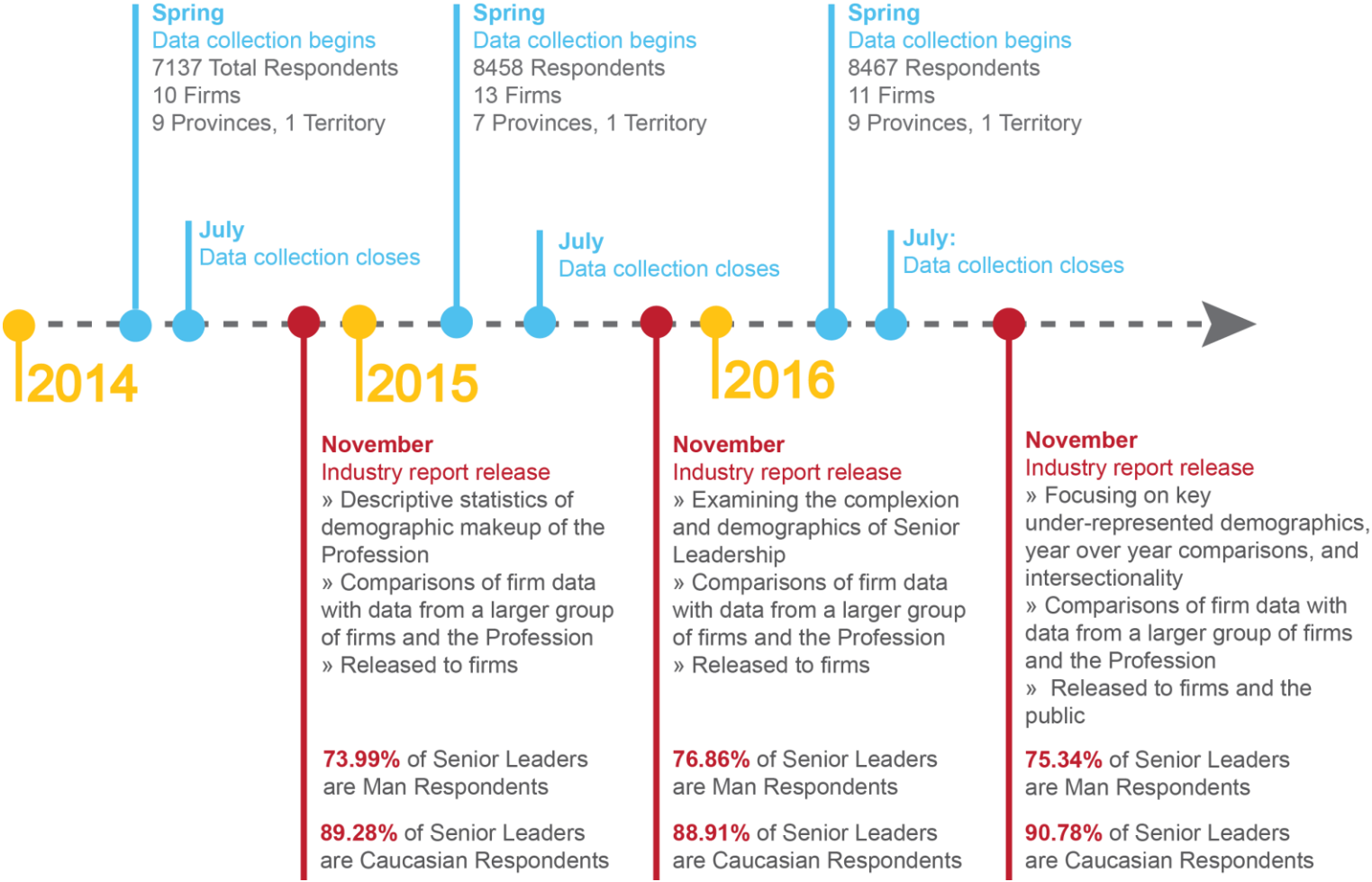
» **Reporting Participant.**

Reporting participants paid a sliding scale fee based on the number of people in the firm. In return, they would receive a standard report including information on the demographic make-up of their firm, the demographic make-up of the profession, and a comparison of the two. In this reporting year, there were three Reporting Participant firms.

» **Sponsored Participant.**

Sponsored participants paid a flat fee to sponsor the project. In return, they would receive a customized report including information on the demographic make-up of their, the demographic make-up of the profession, and a comparison of the two. The report was completely customizable to the specifications of the firm. There were several other benefits to sponsorship, including brand recognition. In this reporting year, there were five Sponsor Participant firms.

Diversity by the Numbers timeline and key statistics.



Executive summary.

Key findings for DBTN 2016.

Encouraging findings and areas to address.

- » The representation of minority groups in the Legal Profession has not changed substantially over the last three years.
 - » For example, in 2014 and 2015, 73.99% and 76.86% of Senior Leader Respondents were Man Respondents, respectively. **In 2016, 75.34% of Senior Leader Respondents are Man Respondents.**
 - » In 2014 and 2015, 89.28% and 88.91% of Senior Leader Respondents were Caucasian Respondents, respectively. **In 2016, 90.78% of Senior Leader Respondents are Caucasian Respondents.**
- » Although Aboriginal and Person with a Disability Respondents are **under-represented** in the Profession when compared to Canadian labour force data, data also suggests that Aboriginal and Person with a Disability Respondents who do enter the Profession **likely do not face barriers to advancement.**
- » Woman and Racialized Respondents are **under-represented** in the Profession overall, as compared to the Canadian labour force.
- » The majority of Racialized Respondents in the Profession are Asian. All other Racialized groups show very small representation.
- » Woman Respondents are **under-represented** in Equity Partner and Senior Leader Roles, and are **over-represented** as Associates and Articling or Summer Students.
- » Racialized Respondents are **under-represented** in Equity Partner, Income Partner, and Senior Leader Roles, and are **over-represented** as Associates and Articling or Summer Students.
- » Examining the intersectional experience of Gender and Race together shows that Race is more strongly associated with becoming an Equity Partner than Gender: regardless of Gender, Caucasian Respondents have a **higher likelihood** of being an Equity Partner than Racialized Respondents.
- » Caucasian Man Respondents have the greatest odds of being an Equity Partner, and are **seven times more likely** than Racialized Woman Respondents to be an Equity Partner.

Please keep in mind:

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Snapshot: demographics of the 2016 Legal Profession.

3535

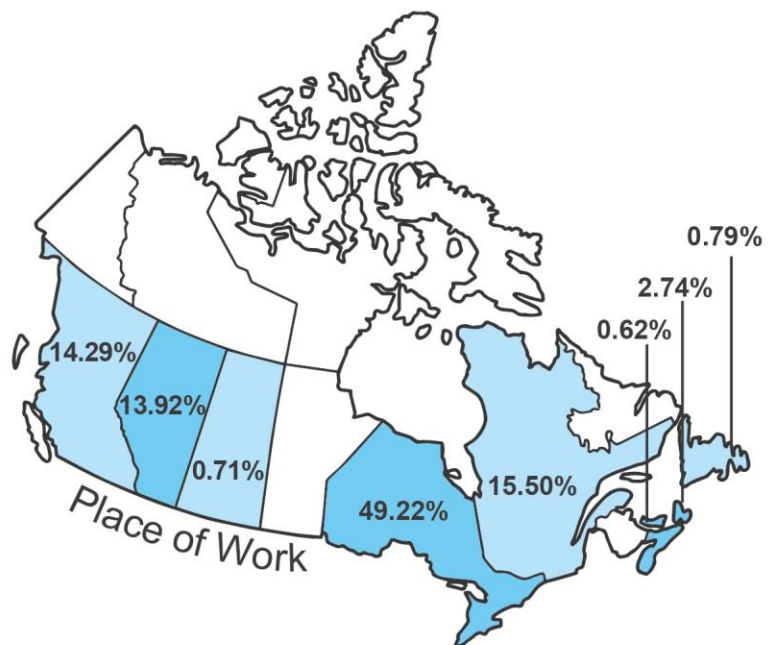
Respondents from the project are Client-Facing



81.90% of Senior Leaders are Equity Partners



92.74% earned their law degree in Canada¹



1. This percentage refers to Equity Partners, Income Partners, Associates, Counsel, Consultant / Contract Lawyers, Agents, and Non-Practicing Lawyers.

Prognosis for change.

Diversity and Inclusion in the Legal Profession: The current state and prognosis for change.

Is Diversity and Inclusion (“D&I”) being successfully implemented within the Legal Profession? The results of three years of *Diversity by the Numbers: The Legal Profession*, in combination with research on the subject for close to thirty years, suggest that it is not. While the pool of potential lawyers in law school has increased in diversity, and the Associate level at law firms shows fairly high diversity, high-ranking Roles in the Profession have remained largely homogenous. Research has shown that this lack of change is caused by several barriers to the implementation of a D&I approach in the legal sector, including inflexible working conditions, rigid firm culture, high client expectations and the overall economics of the Profession. Overall, it is becoming painfully clear that for the Profession to become more diverse and inclusive, and therefore more responsive to the needs of clients and of society, significant changes need to be made to these structures and processes, and perhaps to the way that the Profession is regulated overall.

What are the barriers to D&I in the Legal Profession?

It isn't that we don't know what they are. Over the past three decades there have been numerous evaluations, research initiatives, committee reports, articles, and resolutions, all amounting to a significant amount of talk bemoaning the lack of diversity and inclusiveness in the Legal Profession, and making suggestions about programs or initiatives to address this. This work has centered on the need to increase the diversity in the Legal Profession through cultivating a more inclusive environment. However, the barriers created by the business structure and culture of law firms make it difficult for lawyers belonging to minority groups to advance in private practice.

Extensive research¹²³⁴⁵⁶ has demonstrated that the current business structure of law firms creates a culture that particularly affects lawyers who are Women and / or Racialized. The

¹ Charles C. Smith, “Who is Afraid of the Big Bad Social Constructionists? Or Shedding Light on the Unpardonable Whiteness of the Canadian Legal Profession”, June 2008, <http://www.lsuc.on.ca/media/fourthcolloquiumsmith.pdf>

² Natasha S. Madon, “The Retention of Women in the Private Practice of Criminal Law: Research Report”, Criminal Lawyers’ Association, March 2016, <http://www.criminallawyers.ca/wp-content/uploads/2016/03/CLA-Womens-Study-March-2016.pdf>.

³ The Law Society of British Columbia, “The Business Case for Retaining and Advancing Women Lawyers in Private Practice”, 2009, <http://www.lawsociety.bc.ca/docs/publications/reports/Retaining-women-business-case.pdf>.

⁴ James Raiswell, “A New Lawyer’s Guide to Networking”, last modified June 2014, <http://www.cba.org/Publications-Resources/CBA-Practice-Link/Young-Lawyers/2014/A-new-lawyer-s-guide-to-networking>

⁵ Ronit Dinovitzer, “Law and Beyond: A National Study of Canadian Law Graduates”, University of Toronto, 2015, <http://individual.utoronto.ca/dinovitzer/images/LABReport.pdf>.

⁶ The Law Society of British Columbia, “Towards a More Representative Legal Profession: Better practices, better workplaces, better results”, June 2012, https://www.lawsociety.bc.ca/docs/publications/reports/Diversity_2012.pdf

process of billable hours, the emphasis placed on client relationships, and the hierarchal “Old Boys Club” network in law firms do not support or foster a diverse and inclusive environment. Socialized gendered norms contribute to the cocktail, particularly impacting Women, as responsibility for familial care still largely sits with this group. In essence, law firms do not operate as islands; these kinds of Gender inequalities in society are playing out in the workplace culture of each firm.

As an example, because of the necessity to work a large number of billable hours and maintain client relationships over time, Women lawyers find it difficult to balance work with family life, particularly if they choose to take maternity leave or take on a financial penalty when it is not offered. Layered on top of this are socialized assumptions that a Woman who has a family is uncommitted to work, while Men who have a family are more committed to their work.⁷ In another example, the homogeneity of those in Partner Roles means lawyers from minority groups do not have the same social and cultural capital to network and find mentors who relate to them, because the pool is very small. Many thus choose to leave firms for more flexible and accommodating environments elsewhere, such as in-house counsel or other corporate roles, or they strike out alone, which is both riskier and often less financially rewarding. In some cases, they leave the Profession entirely.

Continuing the long-term trend: Results of DBTN from 2014 to 2016.

The continuing existence and impact of these barriers has been validated by the data collected in each year of CCDI’s DBTN project. Results from 2014, 2015 and 2016 do not show a shift towards a more diverse and inclusive workforce, particularly in Partner and Leadership Roles. When answering our survey, Respondents were asked if they were a Senior Leader, with Senior Leader being defined as “someone who is part of the senior leadership team” and “influences the direction of the firm.” Understanding the profile of Senior Leadership is crucial to understanding the future of the Profession, since Senior Leaders are the key decision-makers who determine the firm’s future direction. These decisions not only include choosing the kinds of services the firm provides, but also choosing *who* provides those services to clients.

		2014	2015	2016
Equity Partners	Man	71.41%	72.73%	72.79%
	Caucasian	88.04%	87.94%	88.20%
Senior Leaders	Man	73.99%	76.86%	75.34%
	Caucasian	89.28%	88.91%	90.78%

Table 1: Representation of Equity Partners and Senior Leaders, 2014 – 2016.

⁷ Shelley J. Correll, Stephen Benard and In Paik. “Getting a Job: Is There a Motherhood Penalty?” American Journal of Sociology 112: 5(2007), 1297-1339.

Over the three years we have collected data, the majority of Equity Partners and Senior Leaders have identified as Caucasian and as a Man (Table 1 on page 15).

Although there have been slight changes in some of the individual firms that participate in our project over the years, the trends stay the same. This data indicates that these top-ranking Roles are homogeneous, even though Associate and Articling or Summer Student Roles have remained diverse in comparison. For instance, in 2014, 50.48% of Associates identified as a Woman, and in 2015 this percentage was 49.75%. This year, it is 50.12%.

The homogeneity goes further than Gender and Race. When compared to the diversity in the Associate role, our data has shown that Senior Leaders have a much higher representation of Respondents who are Christian (50.81% vs. 34.11% for Associates) and English-only speakers (75.57% vs. 56.37% for Associates). The dominance of these identities in leadership reflect more than barriers to advancement; they reflect the lenses that are shaping the dominant perspective in the Legal Profession at the decision-making level.

This year's DBTN Industry report has also highlighted the impact of the intersectionality of certain identities in terms of inclusion in law firm culture, further demonstrating the firmness of the existing barriers for minority groups and the complexity of the road to change.

What are the economic implications of a lack of D&I in the Profession?

Looming above the culture of individual firms is an economy in which clients are looking for change; clients are looking for greater access to justice in terms of affordable services. Access to justice for the middle class has been a large focus in the media, because members of this group are not qualifying for legal aid, and are finding it hard to pay the high fees for litigation.

Canadian Lawyer Magazine published results from a survey where they found that the national average price for services from a senior lawyer and a trial had risen since 2014: the price for a lawyer with ten or more years of experience rose by 12% to an average rate of \$360 per hour, and the average cost of a five-day trial had risen by 30% to \$56,439.⁸

Though prices are increasing, law firms still need to be responsive to larger economic forces. Recessions in particular affect the demand side of the market. Included in this equation is demand for legal services. In a StatsCan report on trends in professional services, it was found that demand for legal services decreased in late 2008, in large part due to contractions in resale of property.⁹ A similar situation occurred in the 1980s, when that decade's recession led clients

⁸ Michael McKiernan. "The Going Rate." *Canadian Lawyer Magazine*, June 2015, http://www.canadianlawyermag.com/images/stories/pdfs/Surveys/2015/CL_June_15_GoingRate.pdf

⁹ Peter Rosborough, "Legal and Accounting Services: A Profile," Analysis in Brief. No. 83., December 2009, Statistics Canada catalogue no. 11-621-M, <http://www.statcan.gc.ca/pub/11-621-m/11-621-m2009083-eng.htm>, Ottawa.

to re-assess what they were willing to pay. Specifically, recession brought client resistance to the billable hour model, with their preference being for fixed and predictable fees for service.¹⁰

Jumping to the current state of the Legal Profession in Canada, the debate has begun to center on Alternative Business Structures. The argument is this: changing the composition of law firms to corporate ownership will result in more innovation, particularly because corporate ownership will bring a greater openness to investments in technology and will allow service of new markets.¹¹

Exemplifying this greater capacity for innovation and change, the push to capitalize on D&I in the Legal Profession had its basis in the corporate world, among corporate counsel. In 2011, Legal Leaders for Diversity (LLD), was started by forty general counsel from some of the largest organizations in Canada. This group has particular economic leverage with law firms because in-house counsel for large organizations represent a huge client pool for law firms¹² and membership in the group has risen to close to 100 members since inception. With respect to their dealings with law firms, one of its practices states specifically: in dealing with external law firms, make sure they know diversity is one of your organization's core values and that you expect to see diversity and inclusiveness on their legal teams. As such, firms will increasingly need to have lawyers who reflect the clients they serve¹³ (i.e. the business impact of having shared perspectives that make them relevant to clients and more competitive). Despite this push from the corporate sector, significant change in the larger Profession has yet to be realized.

General Counsel Simon Fish at BMO is a strong supporter of D&I, and BMO is a leader in the banking sector: it requests demographic data from Canadian law firms as a prerequisite to doing business. These requests have lead CCDI to create the BMO Report as an output of conducting a diversity census in the firm. It gives representation by Gender, Race, Aboriginal Status, Disability Status and Sexual Orientation for Partners, Associates, and Articling or Summer Students, that the firm can use to respond to client queries on this issue.

Coming on the heels of this trend in clients requesting data, the Law Firm D&I Network was founded. This network was set up for the sixteen founding firms (total membership is now over thirty members) to share best practices concerning D&I. One practice is the collection of demographic data to measure against recruitment, retention, and advancement.

¹⁰ Simon Chester. "Technology and the Hourly Billing Challenge." *LawPRO Magazine*, Summer 2008 (Vol. 7 no. 2).

¹¹ Malcolm Mercer, Susan McGrath, Constance Backhouse, Marion Boyd, Ross Earnshaw, Susan Elliott, Carol Hartman, Jacqueline Horvat, Brian Lawrie, Jeffrey Lem, Jan Richardson, James Scarfone, Alan Silverstein, and Peter Wardle, "Alternative Business Structures and the Legal Profession in Ontario: A Discussion Paper," Toronto: The Law Society of Upper Canada, 2014.

¹² Andi Balla. "Committing to Diversity." *Canadian Lawyer Magazine*, May 2011, <http://www.canadianlawyermag.com/3715/Committing-to-diversity.html>

¹³ Heather Gardiner. "First Steps to Measure Diversity." *Canadian Lawyer Magazine*, May 2013, <http://www.canadianlawyermag.com/legalfeeds/1487/first-steps-to-measure-diversity.html>

Complementing this trend in data collection, the recent decision by the Law Society of Upper Canada to accept the recommendations of one of its Committees (Dec 2, 2016) to monitor racial diversity of firms to combat systemic racism and discrimination is a promising new development for the Legal Profession.

However, issues of discrimination in the Profession, and the role of professional regulation bodies in combating it, are not new. Almost twenty years ago, in their “Bicentennial Report and Recommendations on Equity Issues in the Legal Profession,” the Law Society of Upper Canada found issues in the Ontario legal sector related to ethnicity (“low ethnic variability”) and gender (Women lawyers reporting more household responsibilities than men lawyers, Women experiencing discrimination at much higher rates than men related to having children, and Women being under-represented in higher earning roles).¹⁴

Across the country, from as far back as the 1980s, there have been reports from regulators of the Profession focusing on diversity issues in Canada’s legal sector, initially beginning with significant attention paid to the trajectory of Women lawyers and, since about 2004, eventually embracing other dimensions of diversity and the need for inclusion. A select number include:

- » 1989: “Women in the Legal Profession” from The Law Society of Upper Canada’s Subcommittee on Women in the Legal Profession.
- » 1991: “Transitions in the Ontario Legal Profession: a survey of lawyers called to the bar between 1975 and 1990” from The Law Society of Upper Canada’s Women in the Legal Profession Committee.
- » 1996: “Barriers and Opportunities Within Law: Women in a Changing Legal Profession” from The Law Society of Upper Canada’s Women in the Legal Profession Committee.
- » 2004: “Turning Points and Transitions: Women’s Careers in the Legal Profession” from The Law Society of Upper Canada’s Women in the Legal Profession Committee.
- » 2004: “Final Report on Equity and Diversity in Alberta’s Legal Profession” from The Law Society of Alberta’s Joint Committee on Equality, Equity and Diversity.
- » 2012: “Towards a More Diverse Legal Profession: Better practices, better workplaces, better results” prepared on behalf of the Equity and Diversity Advisory Committee for the BC Law Society.
- » 2014: “Retention and Re-engagement Task Force: Final Report” from The Law Society of Alberta’s Retention and Re-engagement Task Force.
- » 2014: “Employment Equity within the NSBS Membership” from the Nova Scotia Barristers’ Society.
- » 2014: “Pour une profession inclusive – La diversité ethnoculturelle dans la profession juridique” du Barreau du Québec.

¹⁴ Law Society of Upper Canada. Report to Bicentennial Convocation. “Bicentennial Report and Recommendations on Equity Issues in the Legal Profession.” May 1997.

- » 2016: Workplace Policies and Practices for Lawyer Retention and Advancement: Results of Two Surveys of the Members of the Law Society of Saskatchewan, a Report of the Data Collection Working Group of the Saskatchewan Justicia Project.

These initiatives demonstrate a continued discussion on Diversity and Inclusion, but few actual concrete steps towards true inclusion. And unfortunately, the pace of any change has been painfully slow, potentially stalled by decision-makers in the Law Societies (i.e. Benchers) who are products of the legal culture which has long been scrutinized for not being diverse or inclusive.

All of this to say that, in order to become more inclusive of diversity, organizations need to accommodate different lived realities. To this end, it has been suggested that Alternative Business Structures may be a viable option. In a new kind of structure, for example, accommodations for Women working in the Legal Profession would be facilitated by new technologies that these structures would provide.¹⁵

As stated earlier, discrimination against Women and Racialized lawyers currently exists within the culture of law firms and the Legal Profession generally. Intensifying this social behaviour are discriminatory policies that do not consider a wider breadth of accommodation. Currently, the barriers continue to be reinforced; the lack of financial incentive to address discrimination within the culture of firms, glacial change in regulation, and some clients' unwillingness to consider other service delivery models all stifle the progression of key talent from diverse groups, within the firms. Or, as is sadly still the case, that talent simply leaves, not only the law firm, but too often, the Profession itself. This results in a constriction in the supply of up-and-coming senior lawyers, and a main precept of economics states that less supply results in greater expense. Add to these barriers a Partnership model that stifles cost-saving technology, and you set a trajectory that will continue to make justice even more expensive and inaccessible. All of these factors combined create a perfect storm of inertia on the Diversity and Inclusion front.

What will it take to become more Diverse and Inclusive?

Diversity awareness and good intentions aren't enough. Almost thirty years of talking about it, not to mention all of the specialized programs intended to raise awareness, have not moved the dial. More fundamental change is clearly necessary.

Drawing from in-house counsel structures.

The first key step for change is for law firms to operate with more flexibility, allowing them to adapt to new markets and client relationships. In terms of the legal sector, in-house counsel departments tend to be one of the more flexible environments for practicing law. This flexibility can be linked to being part of a corporate structure. In fact, newer firms that operate like

¹⁵ Archana Medhekar, "Gender Equality Gap and the Legal Profession," *Canadian Bar Association*, July 1, 2015.

corporations (rather than partnerships) are better equipped to integrate new technologies.¹⁶ In our outline of the economics of the legal Profession we discussed how flexibility allows greater accommodation for Women lawyers seeking work-life balance. The benefits of flexible work are prevalent in D&I research and a key argument in debates on a new phase for the legal sector. The main point is that adaptable organizations are needed to cultivate a diverse workforce.

Law firm regulation.

Another key step involves adjustments to regulation. Law societies regulate the Profession, but are only mandated to regulate individual lawyers on issues like misconduct. That works for individual actions, but what about misconduct that is built into the structure and operation of firms, and is systemic in the legal sector? The Challenges Faced by Racialized Licensees Working Group at the Law Society of Upper Canada proposed robust strategies for combatting systemic racism within the Legal Profession.¹⁷ In their report, they suggest that the Law Society measure D&I data in legal workplaces to track trends over time, and that they regulate the conduct of these entities using human rights legislation.

Proponents of this suggestion state that regulation of licensees does not provide strong enough accountability for promoting D&I, and that each firm should instead be regulated as an entity.¹⁸ We agree that accountabilities need to be placed with the firm, because our research has shown that firm practices such as billable hours, mixed with discriminatory behavior in the culture of firms, have worked against creating a diverse and inclusive workplace, as evidenced by the data.

Moving outside the legal sector, this focus on diversity is also coming from the clients who have begun to hold firms accountable for providing the demographics of the individuals and legal teams that provide them service. The reporting offerings of the CCDI have sought to fulfill the need for compiling detailed demographic data, and we developed the BMO report described earlier. Requests from law firms for this report have grown, and they have told us that RFPs for client work now require law firms to provide these details. These requests from clients are not surprising, as our own research has shown a strong business case for Supplier Diversity, which includes greater competition between vendors, innovative products and services, increased vendor flexibility, and meeting customer expectations for diversity.¹⁹ In summary, law firms are being challenged to be more responsive to these client demands in order to remain competitive.

¹⁶ Sandra Rubin, "Funding Legal Innovation in Canada", *Lexpert*, June 27, 2016, <http://www.lexpert.ca/article/funding-legal-innovation-in-canada>.

¹⁷ Law Society of Upper Canada. Challenges Faced by Racialized Licensees Working Group, Report to Convocation. "Working Together for Change: Strategies to Address Issues of Systemic Racism in the Legal Professions." September 22, 2016.

¹⁸ Joanne St. Lewis, "'If Not Us, Who? if Not Now, When?': Reflections on the Law Society's Challenges Faced by Racialized Licensees Working Group Report," *Slaw*, last modified October 31, 2016.

¹⁹ Canadian Centre for Diversity and Inclusion, "Supplier Diversity in Canada: Research and analysis of the next step in diversity and inclusion for forward-looking organizations," March 2016, <http://ccdi.ca/wp-content/uploads/2016/04/CCDI-Report-Supplier-Diversity-in-Canada-updated-4072016.pdf>

At this point, an important caveat must be made. Clients may expect diversity within the law firms they work with, but they too must be willing to adapt to the needs of a diverse workforce in the Legal Profession. For instance, clients may desire and expect an equitable proportion of Women Partners; however, this expectation should be complemented by the recognition that Women lawyers may need more flexibility in work assignments due to competing work / family demands. And as newer generations enter the Legal Profession, different ideas about work-life balance will also begin to play out more regularly.

A continued understanding of D&I across the Profession through data collection.

A final key step that will be crucial is the continued and robust data collection. To be effective, measurement is necessary for change. CCDI's research and work has found that organizations that use metrics to demonstrate impact within their strategic goals are the ones that show results. Measurement gives organizations evidence against which they can benchmark for future goals. It also helps them understand what is working with their strategies, and what they need to work on. When leadership takes accountability for metrics and ties them to strategic objectives, successful strides in D&I are more easily made.²⁰

While the data we have gathered over three years shows a preliminary picture of the demographics of lawyers in private practice, we need to continuously measure demographics across the entire sector to gain a much fuller understanding of how diverse and inclusive it is. In the development of the project, we are working towards including law schools, in-house / corporate counsel, sole practitioners and professional governing bodies. This will allow us to gather more comprehensive data and truly measure how much the dial moves...or doesn't.

In addition, on a broader level, we also need on-going measurement in order to understand the impact of any macro-level shifts within the Profession. If firms begin shifting to Alternative Business Structures or if law societies start regulating firms as entities, continuous measurement of the Profession's demographics will allow a better understanding of the impact of such changes over time. Through measurement and analysis, these developments can be linked to macro-level shifts, and a clear plan can be determined for what is needed to continue the advance of equity in the legal sector.

²⁰ Canadian Centre for Diversity and Inclusion, "What Gets Measured Gets Done: Measuring the Return on Investment of D&I," April 16, 2013, <http://ccdi.ca/wp-content/uploads/2016/06/CCDI-Report-What-Gets-Measured-Gets-Done.pdf>

Methodology.

Data collection.²¹

The Legal Profession.

When data was collected.

Of the participants in the project for 2016, the first firm began its collection on February 15, 2016. Data collection for all firms closed on July 31, 2016. Firms were not required to collect data at the same time as any other firm, allowing for accommodation with other competing interests and activities.

How data was collected.

- » 5 law firms administered the Diversity Census to all firm members to collect demographic data.
- » 4 law firms administered the Diversity Census to new firm members and retained the data of firm members that were previously surveyed.
- » 2 law firms updated their demographic data by deleting Respondents who have left the firm. Information on new firm members were not captured before the deadline, though the impact on findings for the Legal Profession data is negligible.

Completion rate and reliability of findings.

The overall survey completion rate supports the data as statistically valid.

When interpreting the findings, you must factor in the margin of error. It is calculated from the number of Total Users (the population) and Completed Users (the sample). Not all law firms monitored completion by Role, so we were unable to provide a margin of error that only reflects completion rates of Respondents in Client-Facing Roles. As a rough guide, we can provide a completion rate for all participants in the DBTN project.

In total, the collection of firms invited 11,614 employees to participate, and 8467 Respondents completed the survey, providing a completion rate of 72.90%.

The estimated margin of error is $\pm 0.55\%$ 19 times out of 20.

²¹ See "Appendix I: Data analysis" for a detailed discussion of the Methodology.

Clarifications.

- » The national and provincial data from the 2011 National Household Survey (“NHS”) is used as a demographic comparator in some sections of the report. Though it is not specific reflection of the available pool of talent in the legal industry, census data provides an important framework through which the reader can contextualize the findings.
- » For the purposes of privacy, confidentiality and anonymity, we have not provided a list of participating firms, their sizes, or their locations. This is particularly important when examining the breakdown of demographics by Place of Work, as you will see in subsequent sections.
- » The Client-Facing Roles category is the aggregate of Equity Partner, Income Partner, Associate, Counsel, Consultant / Contract Lawyer, Agent, and Articling or Summer Student.
- » The Non Client-Facing Roles category is the aggregate of Paralegal, Non-Practicing Lawyer, and Administration or Support Services.
- » The 500+ comparison group is an aggregate of Client-Facing Respondents from participating law firms that have over 500 lawyers.²²
- » The Profession comparison group is an aggregate of all Client-Facing DBTN participants.
- » Equity Partner Track refers to Articling or Summer Students, Associates, Income Partners, and Equity Partners.
- » All Respondents (other than Articling or Summer Students) were asked to identify if they held a “Leadership” position within the firm. The question read: “A person occupying a Leadership Role within a firm is someone who is part of the Leadership team, influences the direction of the firm, and may include those with titles such as Managing Partner, Practice Group Leader, Director or National Leader.”

Throughout this document, any reference to “Leadership”, or to the phrase “I have a Leadership Role within my firm,” is referencing Respondents who answered Yes to this questions.

- » The percentages in the firm-specific data and in the comparison data are different because the comparison data only includes Client-Facing Roles.

²² Lexpert, “Canada’s Largest Law Firms”, Dec. 15, 2015, <http://www.lexpert.ca/500/canadas-largest-law-firms/>

- » The “Racialized” Racial and Ethnic Identity category is an aggregate of Asian, Black, Latin / Hispanic, Middle Eastern, Israeli, and Mixed Race.
- » Where we have provided a visual representation of the data in the form of charts, tables and graphs, we show percentages with two decimal points. As a consequence of rounding, on occasion, the total may be over / under by 0.01%.
- » The threshold for a sample size in the report is five Respondents from any one particular group. For groups with no respondents, results are indicated with a zero. For groups with more than one but less than five respondents, the results will be indicated by an ‘N’. Omitted categories in graphs are due to these categories being below the minimum threshold.
- » Some questions allowed Respondents to select multiple options. As such, these questions will not total 100%. We have indicated where this is the case.
- » In order to respect people’s varying comfort level with certain topics, every question included the option “Prefer not to answer” (PNTA), excluding one question that asked Respondents to identify their Role within the firm.

Key findings.

Encouraging findings.

Data does not show barriers to advancement for Aboriginal Respondents.

Section summary

- » Aboriginal Respondents are **under-represented** in the Profession, both overall and by province.
- » However, Aboriginal Respondents **do not show noticeable under-representation** in any Roles.
- » There is **no statistically significant association** between Aboriginal Status and Leadership Status, suggesting that Aboriginal Respondents likely do not face barriers to advancement once within the Profession.

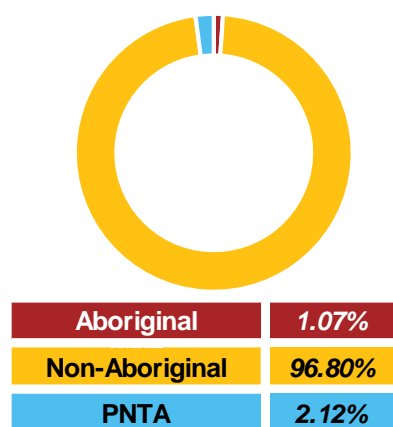


Figure 1: Aboriginal Status, overall.

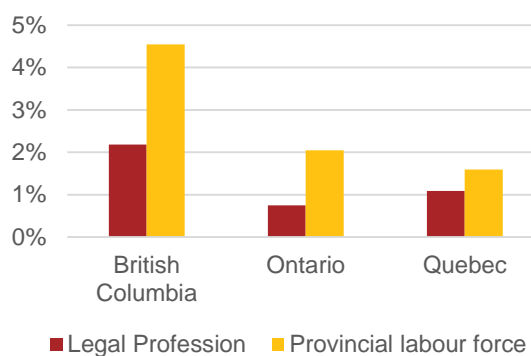


Figure 2: Comparison of Aboriginal representation by Place of Work.

Omitted: Alberta, Saskatchewan, Newfoundland, Prince Edward Island, New Brunswick, Outside of Canada, and "PNTA" categories.

Section details

In Figure 1 we see that Aboriginal Respondents make up 1.07% of the Profession. This representation is **low** compared to the Canadian labour force: 3.4% of those in the labour force identify as Aboriginal. See Box 1 on page 29 for details on the barriers Aboriginal peoples specifically face in entering the Legal Profession. Note that every firm that participated in the project showed an under-representation of Aboriginal Respondents.

Further, if we look at Aboriginal representation in the Legal Profession based on Place of Work, we see that Aboriginal Respondents are **under-represented** in the Profession across all provinces when compared to labour force data (Figure 2).²³ In British Columbia, 4.55% of the labour force is Aboriginal, compared to 2.18% in the Profession. In Ontario and Quebec, 2.05%

²³ We are only reporting on provinces with a large enough sample size of Aboriginal Respondents to meet the privacy threshold.

and 1.60% of the labour force are Aboriginal, respectively, but in the Profession in Ontario, this percentage is 0.75%, and in the Profession in Quebec it is 1.09%.

However, data suggests that although Aboriginal Respondents are under-represented in the Profession overall, when they make it into the Profession, **they may not face barriers to advancement.**

If we look at Aboriginal Status by Role (Table 2), we see that Aboriginal Respondents in the Profession are **well-represented** in most Roles. Unfortunately, we cannot perform tests of statistical association based on Aboriginal Status and Role because the numbers are too small. However, percentages show that Aboriginal Respondents are only slightly **under-represented** as Equity Partners, comprising 0.72% of those Roles, and are slightly **over-represented** as Income Partners, Associates, and Articling or Summer Students, at 1.59%, 1.14%, and 1.42%, respectively.

	Equity Partner	Income Partner	Associate	Counsel	Consultant / Contract Lawyer	Agent	Articling or Summer Student
Aboriginal	0.72%	1.59%	1.14%	N	N	0.00%	1.42%
Non-Aboriginal	97.27%	95.04%	96.99%	96.30%	97.06%	94.12%	97.45%
PNTA	2.01%	3.37%	1.87%	N	0.00%	N	N

Table 2: Aboriginal Status, by Role.

Further, when analyzing the relationship between Aboriginal and Senior Leadership Status, we find **no significant statistical association** between these variables. In Table 3 we see **good representation** of Aboriginal Respondents in Senior Leadership: 0.86% of Senior Leaders are Aboriginal, as are 1.04% of Non Senior Leaders.

If we reverse these variables and look at Leadership Status by Aboriginal Status (Figure 3), we see that 15.15% of Aboriginal Respondents are Senior Leaders, while 18.29% of Non-Aboriginal Respondents are Senior Leaders. This difference is small enough that we can say that Aboriginal and Non-Aboriginal Respondents have **a similar likelihood** of being Senior Leaders within the Profession.

	Senior Leader	Non Senior Leaders
Aboriginal	0.86%	1.04%
Non-Aboriginal	97.07%	97.37%
PNTA	2.07%	1.60%
Total	100.00%	100.00%

Table 3: Aboriginal Status by Leadership Status.

Omitted: "PNTA" Leadership category.

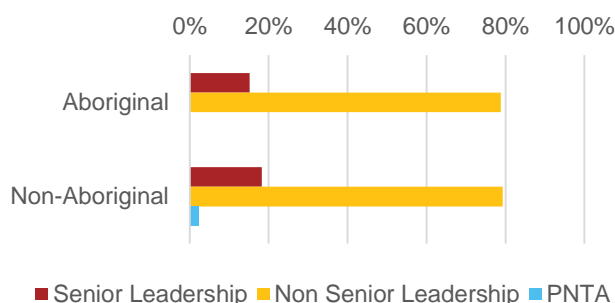


Figure 3: Leadership Status by Aboriginal Status.

Omitted: "PNTA" Aboriginal category.

Box 1: Barriers to Aboriginal entry into the Legal Profession.

Why is the representation of Aboriginal peoples in the Legal Profession so low? In part, it is because they face unique barriers due to the effects of historical and systemic discrimination.

Although Aboriginal people comprise 3.6% of the Canadian population, they make up only about 1.3% of law school students. Accessing legal education is difficult for Aboriginal students for several reasons. For instance, a disproportionate number of Aboriginal families live in poverty, and research has shown that it is much less likely for children from poor families to attend university, much less law school.²⁴ Further, many Aboriginal students also live in remote communities, and must travel to very distant locations to even attend secondary school, which becomes a deterrent to completing education. As a recent report in the *Law Times* notes, the number of Aboriginal students eligible to become lawyers already “shrinks” at the secondary school level.²⁵

There are also historical roots to lack of Aboriginal representation. Aboriginal peoples (along with other Racialized groups, such as Asians and Blacks) were historically excluded from pursuing law as a career. Aboriginal peoples were not permitted to become members of the Law Society of British Columbia until the late 1940s, and across Canada it was legislated that they could not maintain Aboriginal status and simultaneously pursue higher education until 1951.²⁶ This means that there was an absence of Aboriginal representation in Canadian law until relatively recently.

This historical exclusion contributes to how Aboriginal law students and lawyers experience the Legal Profession today. A 2009 study by the Law Society of Upper Canada surveyed Aboriginal lawyers about the barriers they faced during their careers.²⁷ Fifty-four per cent indicated they faced barriers. They discussed that they have felt isolated and excluded during their careers, that they lack mentors or established networks, and that they experience racism from their peers and colleagues. They also responded that in law school, there was a lack of awareness of Aboriginal issues, a lack of Aboriginal content and acknowledgment of their legal traditions, and an inability to engage with the effects of colonialism. In other words, many Aboriginal lawyers found it difficult to reconcile with institutions that do not acknowledge their identities or background as important to the Canadian legal system.

Considering these various factors, it is no surprise that the representation of Aboriginal peoples in the Legal Profession is low. It is difficult for Aboriginal peoples to enter law school in the first place, and once in law school, they may experience feelings of isolation, exclusion, and a general lack of support for their identity groups.

²⁴ Charles C. Smith, “Who is Afraid of the Big Bad Social Constructionists? Or Shedding Light on the Unpardonable Whiteness of the Canadian Legal Profession”, June 2008, <http://www.lsuc.on.ca/media/fourthcolloquiumsmith.pdf>

²⁵ Alex Robinson, “ More aboriginal students needed in Ontario law schools: academics”, *Law Times*, May 23, 2016, <http://www.lawtimesnews.com/201605235426/headline-news/more-aboriginal-students-needed-in-ontario-law-schools-academics>

²⁶ Smith, “Who is Afraid of the Big Bad Social Constructionists?”

²⁷ The Law Society of Upper Canada, “Final Report – Aboriginal Bar Consultation”, Jan. 29, 2009, <http://rc.lsuc.on.ca/pdf/equity/aboriginalBarConsultation.pdf>

Data does not show barriers to advancement for Person with a Disability Respondents.

Section summary

- » Person with a Disability Respondents are **under-represented** overall, at 6.53%.
- » The most common Disabilities in the Profession are chronic and mental illness.
- » Person with a Disability Respondents are **not noticeably under-represented** in any Role.
- » There is **no significant statistical association** between Disability Status and attaining a Senior Leadership Role, suggesting that Person with a Disability Respondents likely do not face barriers to advancement once within the Profession.

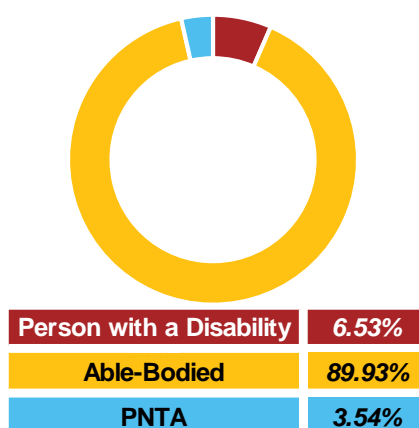


Figure 4: Disability Status, overall.

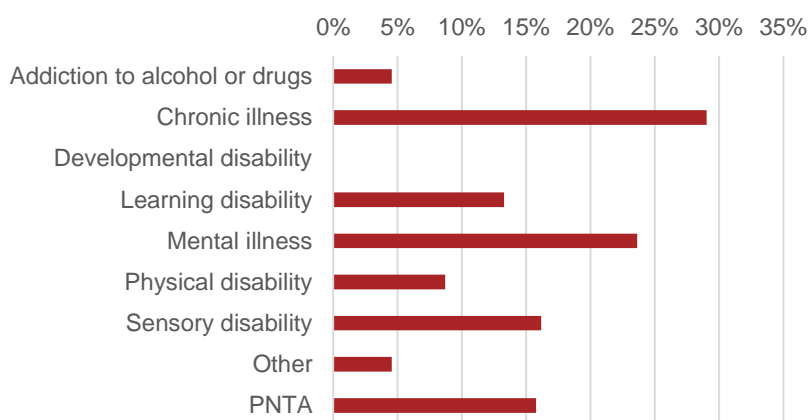


Figure 5: Disability Type, overall.

	Overall	Alberta	British Columbia	Ontario	Québec	Nova Scotia
Person with a Disability	6.53%	7.52%	5.35%	7.13%	3.47%	8.25%

Table 4: Person with a Disability representation in the Profession, by Place of Work.

Omitted: Saskatchewan, Newfoundland, Prince Edward Island, New Brunswick, Outside of Canada, and "PNTA" categories.

Section details

In Figure 4, we see that 6.53% of Respondents identify as having a Disability. Note that this is **much lower** than the representation of Persons with a Disability in the Canadian labour force, which is 13.1%. Since there are no statistics that report on Disability Status representation by provincial labour force, Table 4 shows the Person with a Disability representation by province in the Profession only. It displays that the Profession in Alberta, Ontario, and Nova Scotia has **stronger representation** of Person with a Disability Respondents than overall, while the

Profession in British Columbia and Quebec shows **considerably lower representation** than overall.²⁸

In Figure 5 (page 30), we see that the most common Disabilities in the Legal Profession are chronic illness (e.g. epilepsy, cystic fibrosis, diabetes), mental illness (e.g. schizophrenia, depression) and sensory disability (e.g. hearing or vision loss).

Despite an under-representation of Person with a Disability Respondents overall, the **data from the DBTN: TLP project does not suggest barriers to advancement** for Person with a Disability Respondents who are within the Profession already.

	Equity Partner	Income Partner	Associate	Counsel	Consultant / Contract Lawyer	Agent	Articling or Summer Student
Person with a Disability	6.50%	5.56%	5.78%	7.41%	14.71%	N	9.63%
Able-Bodied	89.89%	91.47%	90.24%	89.63%	82.35%	82.35%	88.39%
PNTA	3.61%	2.98%	3.99%	N	N	N	1.98%

Table 5: Disability Status by Role.

Table 5 shows that Person with a Disability Respondents are **not noticeably under-represented** in any Role. Their representation in Equity Partner Roles, at 6.50%, aligns with their representation in the Profession overall. Further, their representation in Income Partner and Associate Roles are not very different, at 5.56% and 5.78%, respectively. Note that they are over-represented in Counsel, Consultant / Contract Lawyer Roles, and Articling or Summer Student Roles, at 7.41%, 14.71%, and 9.63%, respectively.

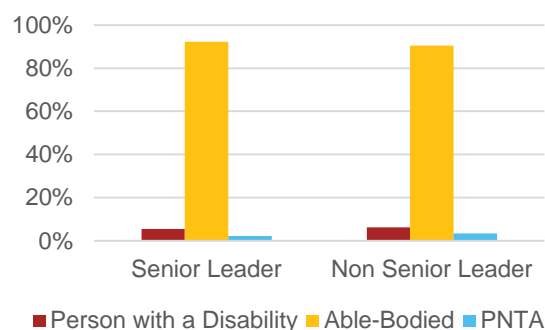


Figure 6: Disability Status by Leadership Status.

Omitted: "PNTA" Leadership category.

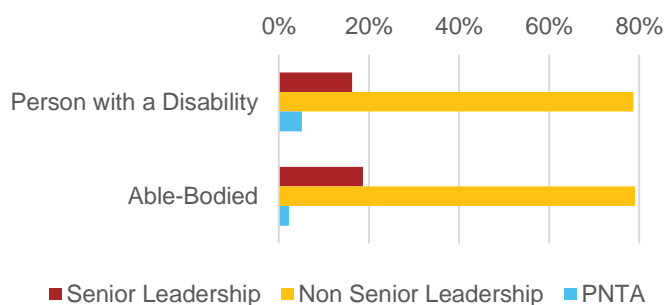


Figure 7: Leadership Status by Disability Status.

Omitted: "PNTA" Disability category.

Finally, we found that there is **no statistically significant association** between Disability Status and Senior Leadership. If we look at Leadership Status (Figure 6), we see that Person

²⁸ We do not compare Person with a Disability Representation in the Profession with provincial labour force representation because we could not find this data.

with a Disability Respondents are **proportionally represented** as Senior Leaders in the Profession, when compared to their overall representation. Of Senior Leaders, 5.52% have a Disability.

If we reverse these variables and examine Leadership Status distributed by Disability Status (Figure 7, page 31), we see that 16.24% of Person with a Disability Respondents are Senior Leaders, compared to 18.66% of Able-Bodied Respondents. This is a small difference that indicates that Able-Bodied Respondents **do not have a significantly higher likelihood** than Person with a Disability Respondents of attaining a Senior Leadership Role.

Although we did not find barriers to advancement for Person with a Disability Respondents, note that data does not point to whether lawyers come into firms with mental illness, or whether they have developed it while working at the firm. Recent research from the United States found that lawyers show rates of depression that are three times higher than the general population, and that they show rates of addiction to alcohol that are two to three times higher than other highly educated professionals. These findings are considered applicable to Canadian lawyers, and are important to take into account when looking at Disability Status in the Profession.²⁹

²⁹ Nicole Ireland, “‘The impact on society is enormous’: In legal profession, depression, addiction hurt clients, too”, *CBC News*, Nov. 26, 2016, <http://www.cbc.ca/news/health/lawyers-mental-health-addiction-problems-1.3865545>.

Areas to address.

Under-representation of Woman Respondents overall and in high-ranking Roles.

Section summary

- » Woman Respondents are **under-represented** in the Profession overall when compared to Canadian labour force data.
- » Woman Respondents are also **under-represented** in Equity Partner and Senior Leader Roles, and are **over-represented** as Associates and Articling or Summer Students.
- » By Place of Work, Woman Respondents are particularly **under-represented** in Saskatchewan and Newfoundland and Labrador.

Section details

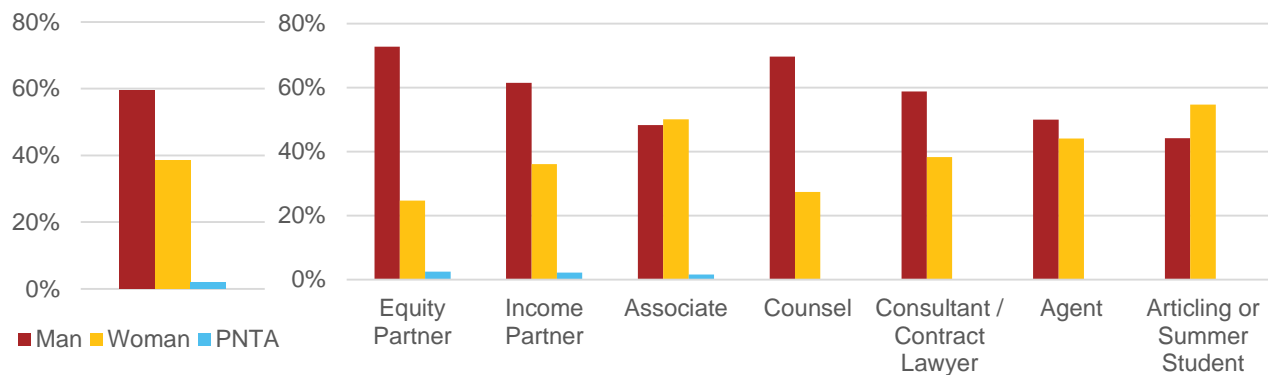


Figure 8: Gender by Role.

Omitted: "All Other Genders" and "Other" Gender categories.

In the left side of Figure 8, we see that 59.32% of Respondents identify as a Man and 38.56% as a Woman. Compared to Canadian labour force data, where 47.8% are Women, this shows an **under-representation** of Woman Respondents.

On the right side of Figure 8, we see that Woman Respondents are under-represented in high-ranking Roles. In particular, they are **under-represented** as Equity Partners, at 24.64%, and as Counsel, at 27.41%. On the other hand, they are **over-represented** as Associates, at 50.12%, and as Articling or Summer Students, filling 54.67% of these Roles.

If we reverse these variables and look at Equity Partner Track Roles³⁰ distributed by Gender, we find a statistical association between them. This suggests that Gender may have an influence on likelihood of being in a specific Role and of advancing to Partnership.

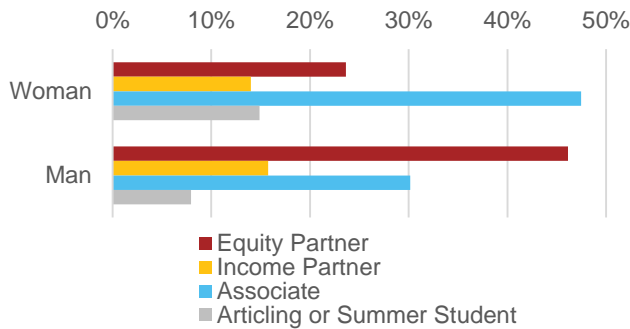


Figure 9: Equity Partner Track Role by Gender.

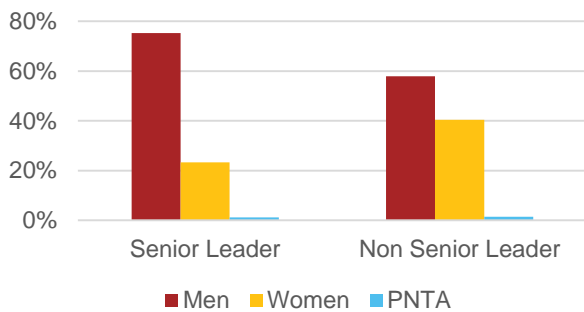


Figure 10: Gender by Leadership Status.

Omitted: "All Other Genders" and "Other" Gender categories and "PNTA" Leadership category.

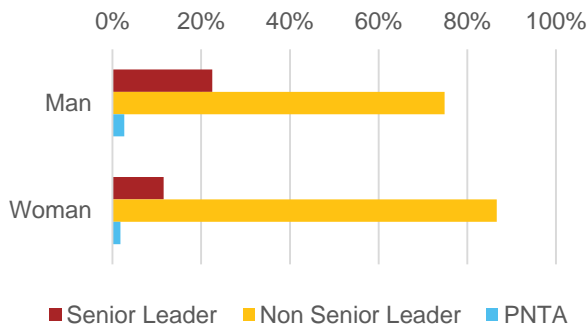


Figure 11: Leadership Status by Gender.

Omitted: "All Other Genders" and "Other" Gender categories.

As Figure 9 shows, Man Respondents are **twice as likely** as Woman Respondents to be Equity Partners.

» While 46.13% of Man Respondents are Equity Partners, only 23.65% of Woman Respondents are.

Man and Woman Respondents have an equal likelihood of being Income Partners, but when looking at Associate and Articling or Summer Student Roles, Woman Respondents become noticeably **over-represented**.

» Of Woman Respondents, 47.46% are Associates, compared to 30.16% of Man Respondents.

» Of Woman Respondents, 14.87% are Articling or Summer Students, compared to 7.93% of Man Respondents.

We also see an association between Gender and Senior Leadership. While 38.56% of Respondents identify as a Woman, only 23.28% of Senior Leaders do (Figure 10).

Further, if we reverse these variables and look at Leadership Status distributed by Gender, we see that Man Respondents are **twice as likely** as Woman Respondents to be a Senior Leader (Figure 11).

» Of Woman Respondents, 11.54% are Senior Leaders, compared to 22.51% of Man Respondents.

³⁰ Equity Partner Track refers to Articling or Summer Students, Associates, Income Partners, and Equity Partners.

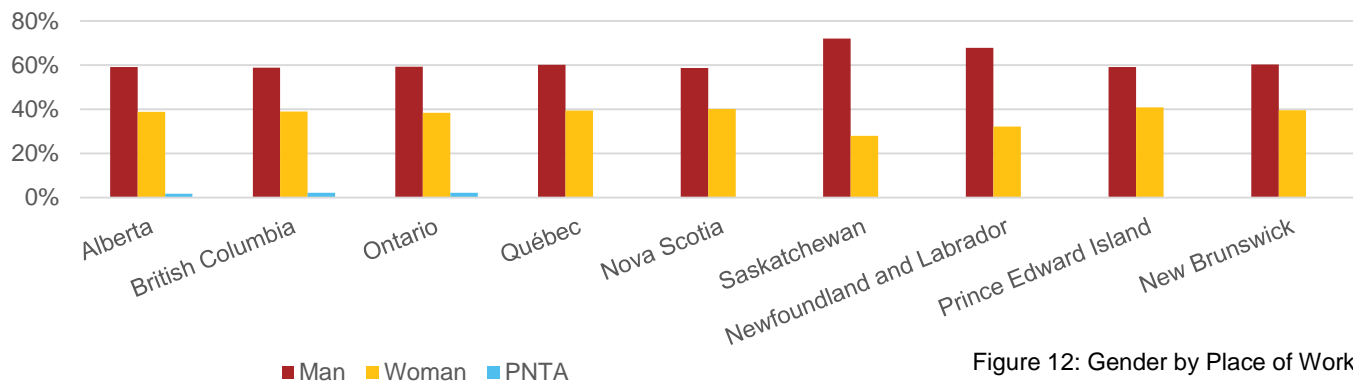


Figure 12: Gender by Place of Work.
 Omitted: "All Other Genders" and "Other" Gender categories, and Northwest Territories Place of Work category.

Finally, Figure 12 shows that Saskatchewan and Newfoundland and Labrador have **lower representation** of Woman Respondents in the Profession than the other provinces, at 28.00% and 32.14%, respectively. For all other provinces, the representation of Woman Respondents in the Profession is around 40.00%.

We do not provide a comparison of the Profession's data with Women's representation in each province's labour force, because the representation of Women in each province's labour force is around 50.00%. Thus, every province shows under-representation.

Under-representation of Racialized Respondents overall and in high-ranking Roles.

Section summary

- » Racialized Respondents are **under-represented** in the Profession when compared to the Canadian labour force.
- » The majority of Racialized Respondents in the Profession identify as Asian.
- » Racialized Respondents are **under-represented** in Partnership Roles and in Senior Leadership, and are over-represented as Associates and Articling or Summer Students.
- » Racialized Respondents in the Profession are **under-represented** in Ontario, British Columbia, and Alberta, when compared to provincial labour force data.

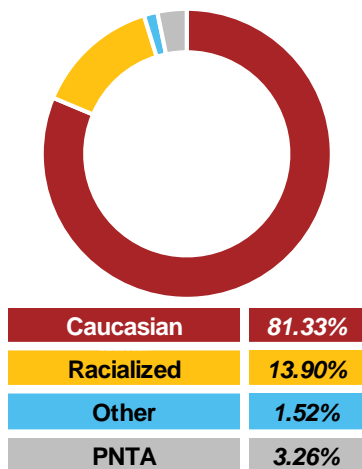


Figure 13: Race, overall.

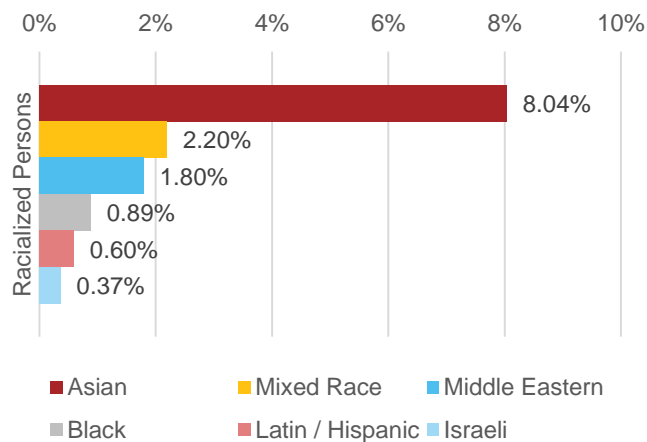


Figure 14: Representation of main Racialized groups.

Above, Figure 13 shows that 81.33% of Respondents are Caucasian and 13.90% are Racialized. This representation of Racialized persons is **low** in comparison to the Canadian labour force, where 18.01% identify as a Visible Minority.³¹

Figure 14 shows that the majority of Racialized Respondents identify as Asian (8.04% of Respondents). Next is Mixed Race at 2.20%, Middle Eastern at 1.80%, Black at 0.89%, Latin / Hispanic at 0.60% and Israeli at 0.37%.

³¹ We use the term Visible Minority here because it is the term Statistics Canada uses in their surveying. “Visible Minority” and “Racialized” have different meanings (e.g. a Racialized person may not identify as a minority in the region where they live); however, this is the best comparator available.

	Legal Profession	Canadian labour force
Racialized Persons	13.90%	18.01%
Asian	8.04%	11.98%
Black	0.89%	2.62%
Latin / Hispanic	0.60%	1.24%
Middle Eastern	1.80%	1.56%
Israeli ³²	0.37%	--
Mixed Race	2.20%	--

Table 6: Comparison of representation of Racialized groups in the Profession and the Canadian labour force.

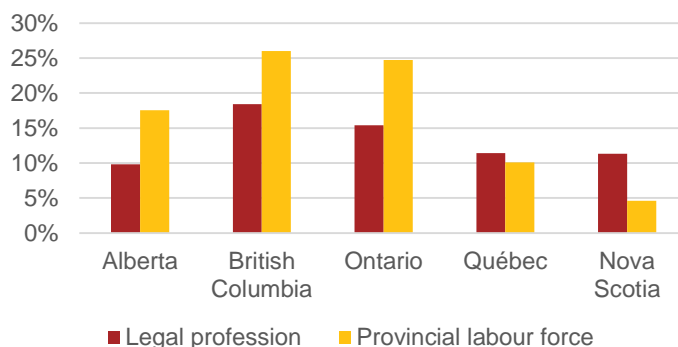


Figure 15: Comparison of Racialized representation by Place of Work.

Omitted: Saskatchewan, Newfoundland, Prince Edward Island, New Brunswick, Outside of Canada, and "PNTA" categories.

Further, we can see in Table 6 that Asian, Black, and Latin / Hispanic Respondents are **under-represented** in the Profession when compared to the Canadian labour force. The only Racialized group that is in line with labour force representation is Middle Eastern.

Figure 15 shows a comparison of the representation of Racialized Respondents by Place of Work in the Legal Profession as compared to each province's labour force. We see that in Alberta, British Columbia, and Ontario, the representation of Racialized Respondents is **lower** in the Profession than it is in those province's labour forces. For instance, in Ontario, the percentage of the labour force who identifies as Racialized is 24.72%, but in the Profession, it is only 15.40%.

In Quebec and Nova Scotia, which have relatively low representation of Racialized Persons in their labour forces (at 10.07% and 4.60%, respectively), the representation of Racialized

³² Statistics Canada does not include Israeli or Mixed Race as a category, so comparisons are not available here. It includes "Multiple Visible Minorities", but this does not infer the same meaning as Mixed Race, because Mixed Race can include Caucasian and Visible Minorities.

Persons in the Profession is **higher**, at 11.43% and 11.33% for Quebec and Nova Scotia, respectively.

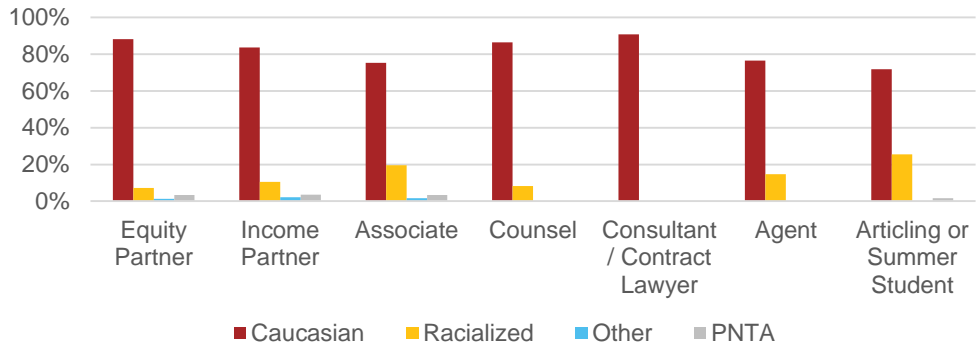


Figure 16: Race by Role.

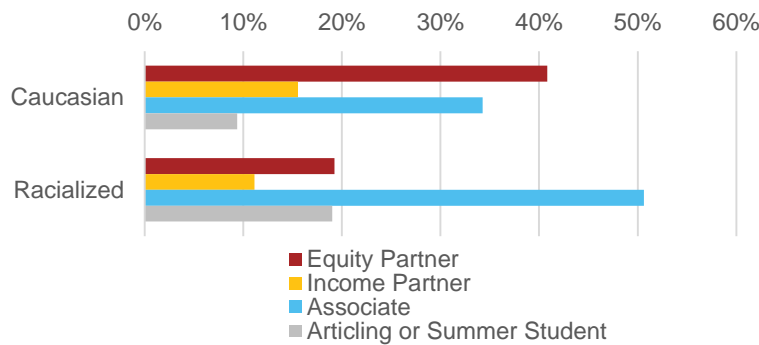


Figure 17: Equity Partner Track Role by Race.

Figure 16 shows that Racialized Respondents are **under-represented** in Equity Partner Roles, at 7.28%. They are also **under-represented** as Income Partners and Counsel at 10.48% and 8.21%, respectively.

On the other hand, Racialized Respondents are **over-represented** as Associates, at 19.51%, and as Articling or Summer Students, at 25.57%.

If we look at the distribution of Equity Partner Track Roles by Race, we find a **statistically significant association** between these variables. That is, the data suggests that Race affects likelihood of entering Partnership. In Figure 17 we see that Caucasian Respondents are **twice as likely** to be Equity Partners when compared to Racialized Respondents.

- » Of Caucasian Respondents, 40.83% are in an Equity Partner Role, compared to 19.23% of Racialized Respondents.

Further, while Caucasian and Racialized Respondents have close to an equal likelihood of being Income Partners, Racialized Respondents are **much more likely** than Caucasian Respondents to be Associates or Articling or Summer Students.

- » While 50.64% of Racialized Respondents are Associates, only 34.28% of Caucasian Respondents are.
- » Of Racialized Respondents, 19.02% are Articling or Summer Students, while for Caucasian Respondents this percentage is 9.36%.

Looking at trends in Senior Leadership also shows a statistically significant association. Figure 18 displays that only 5.91% of Senior Leaders are Racialized, which is **much lower** than their representation in the Profession overall (13.90%).

Further, if we reverse these variables and look at the distribution of Leadership Status by Race (Figure 19), we see that Caucasian Respondents are **twice as likely** as Racialized Respondents to be in a Senior Leadership Role. Of Caucasian Respondents, 20.12% are Senior Leaders, compared to 8.56% of Racialized Respondents.

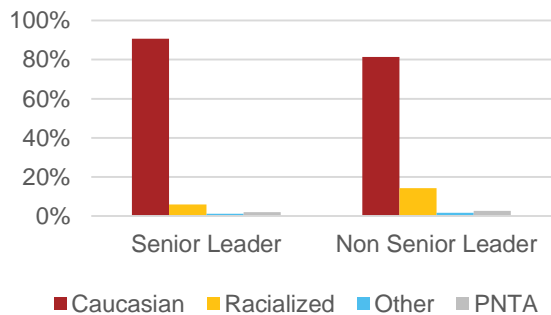


Figure 18: Race by Leadership Status.
Omitted: "PNTA" Leadership category.

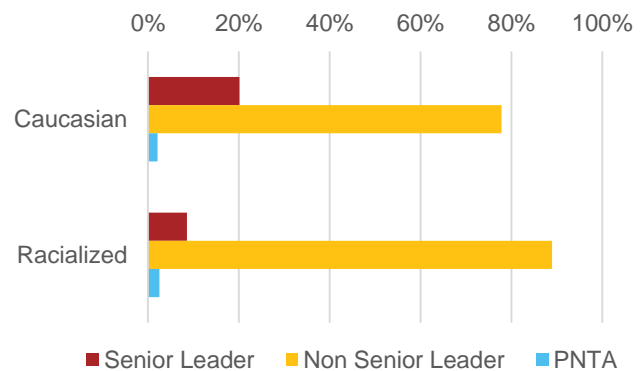


Figure 19: Leadership Status by Race.
Omitted: "Other" and "PNTA" Racial categories.

Intersecting Gender and Racial bias.

In previous sections, we have shown that Gender and Race individually have a significant association with whether a Respondent is in an Equity Partner or Senior Leadership Role in the Legal Profession.

However, Gender and Race also have a dual (i.e. intersecting) impact, so we looked at the odds of being an Equity Partner versus being in the aggregate group of Income Partner, Associate, and Articling and / or Summer Student, based on Gender and Race together.³³

Table 7 (page 41) shows that Race is more strongly associated with being an Equity Partner than Gender. Regardless of Gender, Caucasian Respondents have a **higher likelihood** of being an Equity Partner than Racialized Respondents.

The data also shows that:

- » Caucasian Man Respondents have **equal odds** of being an Equity Partner or in the aggregate group;
- » Comparing subgroups, Caucasian Man Respondents have the **greatest odds** of being an Equity Partner;
- » The largest difference in odds is between Caucasian Man Respondents and Racialized Woman Respondents. Caucasian Man Respondents' odds of being an Equity Partner versus being in the aggregate group are **over seven times** the odds showing for Racialized Woman Respondents;
- » Caucasian Woman and Racialized Man Respondents have **similar odds** of being Equity Partner over being in the aggregate group.

³³ See page 049 for details about odds ratios.

	Equity Partner	Aggregate of Income Partner, Associate, and Articling and / or Summer Student	Odds of being an Equity Partner
Caucasian Man	812 49.39%	832 50.61%	1:1 (for every Equity Partner Caucasian Man there is approximately one who is in the aggregate group)
Caucasian Woman	273 26.35%	763 73.65%	1:3 (for every Equity Partner Caucasian Woman there are approximately three who are in the aggregate group)
Racialized Man	60 24.79%	182 75.21%	1:3 (for every Racialized Equity Partner Man there are approximately three who are in the aggregate group)
Racialized Woman	27 12.05%	197 87.95%	1:7 (for every Racialized Equity Partner Woman there are approximately seven who are in the aggregate group)

Table 7: Odds of being an Equity Partner, by Gender and Race.

Glossary.

General terms.

Cross-tabulation – cross tabulation is a statistical tool that is used to analyze categorical data. It compares the counts for variables of interest to understand how these variables are related to each other. For example, cross-tabulating Gender with Place of Work provides counts for each subcategory - counts of Man Respondents in Alberta vs. Woman Respondents in Alberta, etc. This technique will allow us to investigate potential concentrations or absences of each demographic based on employment categories like Role and Place of Work. Cross-tabulation is also referred to as cross-referencing in the report.

Demographic terms.

Aboriginal – is a term used in Canada to describe the original inhabitants (or indigenous people) of Canada and their descendants. Aboriginal people in Canada include *First Nations*, *Inuit* and *Métis* people.

Age.

Traditionalist – a person who was born on or before 1946.

Baby boomer – a person who was born from 1947 to 1964.

Generation X – a person who was born from 1965 to 1979.

Millennials / Generation Y – a person who was born from 1980 to 1998.

Generation Z – a person who was born from 1999 to present.

Gender identity.

Intersex – A term used to describe a person who is born with a reproductive or sexual anatomy that doesn't necessarily fit the typical definitions of Woman or Man.

Other – This option was provided for those who did not identify by any of the survey options provided.

Trans - Woman to Man (also known as Trans Man) – A person who is born Female, but identifies as a Man. This person may or may not have undergone Gender reassignment surgery, but may (or may not) present as a Man on a day-to-day basis.

Trans - Man to Woman (also known as Trans Woman) – A person who is born Male, but identifies as a Woman. This person may or may not have undergone Gender reassignment surgery, but may (or may not) present as Woman on a day-to-day basis.

Two-spirit – A term used by some Native, Aboriginal or Indigenous peoples who identify as Trans in some way. Two-spirit can be a Gender Identity and/or a Sexual Orientation.

Sexual orientation.

Asexual – A person who has no sexual attraction or desire.

Bisexual – A person of any Gender who is attracted, sexually or romantically, to both Men and Women.

Gay – A person who is attracted, sexually or romantically, to people of the same Gender. This term is generally used by Men who are attracted to Men; however, some Women choose to identify with it, particularly those of older generations.

Heterosexual – A person who is attracted, sexually or romantically, to people of the opposite Gender.

Lesbian – A Woman or Trans Woman who is attracted, sexually or romantically, to people of the same Gender or Gender identity.

LGB2sQ+ – a combination of Lesbian, Gay, Bisexual, Two-spirit, Queer, Asexual, Pansexual, and Questioning (i.e. Non-Heterosexual Orientations).

Other – This option was provided for those who did not identify by any of the survey options provided.

Pansexual – A person who does not limit their sexual attraction to people of a specific sex, Gender, or Gender Identity.

Queer – An umbrella term for Sexual and Gender minorities who are not Heterosexual, nor Cisgender.

Questioning – A person who is unsure of or is exploring their sexual identity, or who does not wish to label their Sexual Orientation.

Two-spirit – A term used by some Native, Aboriginal or Indigenous peoples who identify as Lesbian, Gay or Bisexual in some way. Two-spirit can be a Gender Identity and/or a Sexual Orientation.

Appendices.

Appendix I: Data analysis.

Cross-tabulations.

The main form of data presentation and analysis in the report is through graphs based on cross-tabulations. A cross-tabulation is the measurement of the association between two variables, and it investigates how much the distribution of one variable differs according to the various levels of another variable. The examples in Figure 20 and Figure 21 below show the association between Gender and Leadership Status. The next two sections explain the different ways we calculate percentage representations and interpret them from a cross-tabulation.

Measuring the effect of workplace demographics.

The main function of the first type of graph in the “Key findings” section (modelled as in Figure 20) is to describe the demographic make up of workplace categories. These graphs show percentage distributions of personal demographics within workplace demographics (e.g. how many Senior Managers identify as a Woman vs. how many Senior Managers identify as a Man). We use this method of data presentation to see if there are concentrations of specific groups that we can compare across Roles. For example, below, 50.98% of those in Leadership are Man Respondents, while 7.41% of those that are Non-Leadership are Man Respondents.

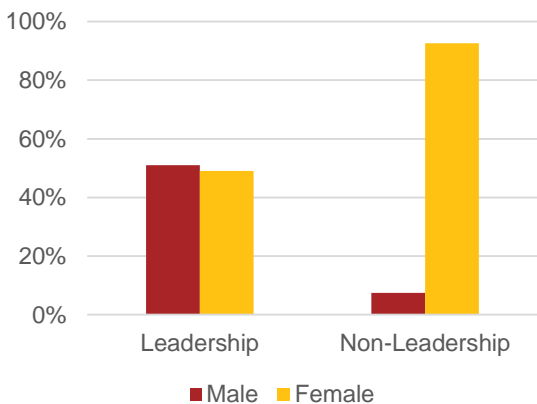


Figure 20: Example of Gender by Leadership Status.

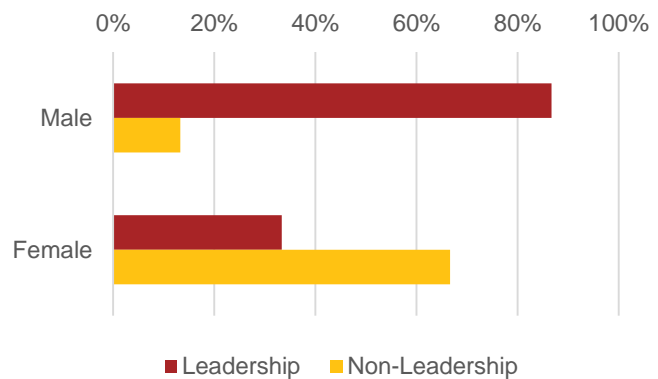


Figure 21: Example of Leadership Status by Gender.

Measuring the effect of personal demographics.

The main function of the second type of graph (modelled in Figure 21 on page 47) is to see if there are concentrations or omissions that can be compared across personal demographics, such as Gender. These graphs show percentage distributions of workplace demographics within personal demographics (e.g. the proportion of Woman Respondents who selected Senior Manager vs. the proportion of Woman Respondents who selected Non-Manager). In Figure 21, we can assess how Man and Woman Respondents vary in their Leadership Status, exposing potential Gender-based differences in representation. For example, 33.33% of Woman Respondents are in Leadership while 86.67% of Man Respondents are in Leadership.

Are the differences significant, and is there an association between the variables?

We establish association by performing a chi-square test of significance. A chi-square test assesses whether a disproportionate representation found in a cross-tabulation is caused by chance, or whether it reflects an association between variables.

First, we compare observed cell counts in a cross-tabulation with expected counts (expected counts reflect column and row proportions, and indicate no association between variables). We calculate expected counts for each cell by multiplying their column total by their row total and dividing by the grand total. In Table 8, the formula for the expected count for Man Respondents in Leadership is $(30 \times 51) / 105$. Given that the representation of people in Leadership is 48.57%, the formula expresses that you would expect 48.57% of the 30 Man Respondents to be in Leadership (i.e. approximately 14.57 Man Respondents).

			GENDER		TOTAL
			Man Respondent	Woman Respondent	
LEADERSHIP STATUS	Leadership	Observed	26	25	51
		Expected	14.57	36.43	(48.57%)
	Non-Leadership	Observed	4	50	54
		Expected	15.43	38.57	(51.43%)
TOTAL			30 (28.57%)	75 (71.43%)	105 (100.00%)

Table 8: Methodology, Example of Chi-Square Observed and Expected Frequencies.

We then calculate the chi-squared statistic by squaring the differences between observed and expected frequencies: if the observed count is close to the expected count, the square of the deviations will be small. Therefore, this step can pinpoint pronounced differences between observed and expected counts. The last step is to divide the result by the expected count, which weights the findings (if an expected count is 1000, a difference of 10 would not be as drastic as if an expected count was 20, so it is necessary to provide this weight). The resulting chi-squared

statistic is mapped to critical values for the statistic. These values infer whether there is or is not an association between variables. We set our probability level at 5% ($p=0.05$), meaning that there is only a 5% possibility that the association established in the cross-tabulation is due to chance (i.e. that we are 95% confident that there is an association between the variables).

Understanding odds ratios.

We use odds ratios to understand whether there is an association between **two** personal demographics (e.g. Gender and Race) and the likelihood of being in a certain Role.

Odds are the ratio of the probability of an event happening to the probability of an event not happening; for example, the probability that Man Respondents are in a Client-Facing Role to the probability that they are in a Non Client-Facing Role.

Odds of 1 mean that there are equal odds of the event happening or not happening. If the odds of Man Respondents being in a Client-Facing Role are 1, this means Man Respondents have equal likelihood of being Client-Facing or Non Client-Facing.

Odds larger than 1 mean that there are greater odds of the event happening (e.g. there are greater odds that a Man Respondent is in a Client-Facing Role). Odds less than 1 mean there are lower odds of the event happening (e.g. there are lower odds of a Man Respondent being in a Client-Facing Role).

Odds ratios are the comparisons of odds of different groups. An example odds ratio would be to divide the odds that a Caucasian Man is in a Client-Facing Role by the odds that a Racialized Man is in a Client-Facing Role. The resulting number would indicate how much more likely it is for a Caucasian Man to be in a Client-Facing Role than a Racialized Man.

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