

1. What would you regard as your most significant contribution to the law and the pursuit of justice in Canada?

- This question is not easy to answer. It requires a degree of self-awareness and reflection. Also, it is not in who I am to trumpet my accomplishments. However, I will endeavor to answer this question the best I can.
- My most significant contribution to the law and the pursuit of justice is not a single case I tried or appealed, a decision that I wrote, or a legal ability I may possess. Stripped to its essence, I believe it is my ardent passion to do what I can to remedy injustice whenever and wherever I see it.
- Let me contextualize that answer and give it some actual content. Firstly, I recognize that our world is far from a perfect one when it comes to the actualization of justice and equality. Injustice and unfairness remain and likely will remain a part of that world for the foreseeable future. A truly just society may well be a Utopian fantasy or a Platonic ideal. I hope not. But one must be a realist. Secondly, I am not blinded by this passion. I appreciate the limits of the pursuit of this passion in my chosen profession. Law and the rule of law define the pathways to that goal.
- I hope that I have contributed to that objective. It has defined my career path. When I was young, it inspired me to study politics and philosophy. I advocated for those who were being unjustly treated both locally and globally. I volunteered for organizations that helped the vulnerable and the marginalized. When I became a lawyer, I eschewed more lucrative areas of practice to become a criminal defence lawyer whose focus was on civil liberties. When I reached a point in my career where I felt that I could further myself in other ways in pursuit of this goal, I joined a public self-regulatory body and the government. I have immersed myself in constitutional law as a vehicle to achieve justice; especially the *Canadian Charter of Rights and Freedoms* that balances the rights of individuals and defined collective groups with the important interests of the state and the public. This pursuit of justice has been the beacon by which I have guided my professional life.
- When I felt that the time was right, I applied and joined the bench. As a judge, I have had the privilege of being able to directly contribute to the advancement of justice in Canada. My decisions speak for themselves. I believe they are balanced, soundly analyzed, and compassionate. I believe that they have contributed to the body of jurisprudence that advances the pursuit of justice in this country.
- Throughout, I have tried to be an educator. Firstly, directly as a teacher and a professor of students. Also as a speaker at the various conferences or presentations that I have the good fortune of being invited to. I have written. I have been a mentor to many younger lawyers. My door, phone, or email is always available. I take the time to speak to the interested parties in a plain and simple manner so they understand why I have decided in the way I have. At times in the right case, I try to speak in a way that inspires or engages the larger community. We all are ultimately responsible for the society that we live in. I hope I have contributed to the education of the public in a small but significant way.
- At the end of the day, it is truly for others to decide what contributions I have made. It is for others to say whether they are significant. Speaking for myself, I would be just grateful when I retire that people will say of me, "He tried his best."



## 2. How has your experience provided you with insight into the variety and diversity of Canadians and their unique perspectives?

- Canada is an expansive nation. By this I am not simply referring to its large geographic boundaries. Canada is by its nature expansive in its diversity and its reputation for tolerance of difference. This is a good thing. But it has not always been so. And not everyone adheres to this positive evaluation with the same degree of enthusiasm.
- My experiences through my life have provided me some insight into the variety and diversity of Canadians and the differing perspectives that they hold. I provide some detail of my family background in question #6. I am a member of a visible minority. My community suffered historical discrimination by the government. I have found myself doubting the value of my own race and culture as a child. I cannot pretend to be able to experience the perspectives of all different races and cultures in this country. But I do feel that my own experiences have opened a window into their perspectives. Their perspective is my perspective in many ways. This is something that has been valuable to me in my decade of judging.
- In addition to this, I grew up poor. I grew up in a rural community. This is very different from the large urban environment that I have worked and lived in for over thirty years. Where I have raised my own children in. This rural community to which I still have ties has given me perspective into those parts of our country and those Canadians who do not live in cities. They are become fewer with each new generation. But I do appreciate and remember my roots. How this nation has been built by those who have worked the land with their own labor.
- From those roots I have lived in what I think is the most diverse city in this country, if not perhaps the world. Toronto. Here I have learned from my neighbors and fellow city dwellers what diversity really means. I have been able to celebrate the vibrant cultures of the world. I have gained considerable insight from the experience of living in this rich tapestry. I have added to this by my love of travel whereby I have gone to many of the countries from where Torontonians have come.
- Through my professional career as a lawyer, I have dealt with issues and clients that reflect this diversity. Many of my clients were vulnerable and from marginalized communities. Many suffered from addiction and mental illness. Many were poor. Many were visible minorities. In my work through the legal clinics I learned firsthand about their lives as it intersected with the law. It provided me considerable insight into their perspectives. I have worked with psychiatric and health issues in my time as a criminal defence lawyer, a lawyer for the College, and as a member of the Criminal Code Review Board. I have been a member of and spoken at professional organizations that promote racial and social equality and diversity in the profession. One such organization is the Federation of Canadian Asian Lawyers.
- Finally, as a judge of the Ontario Court of Justice, I have had a front-row seat in the judicial system when it comes to the diversity and variety of Canadians and their unique perspectives. The Ontario Court of Justice is at the front lines of the justice system. Many accused are unrepresented. In Toronto, accused and witnesses come from all backgrounds. I have learned so much in doing what I do when it comes to the different perspectives and values held by Canadians. The lessons I have learned have been invaluable. I recognize that this learning is lifelong. I am ready for the challenge.



### 3. Describe the appropriate role of a judge in a constitutional democracy.

A judge has a fundamental role in a constitutional democracy. The starting point is that the judiciary along with the legislature and the executive form our governance structure. The roles of each are separate and different but all are vital for a constitutional democracy. One distinguishing feature of the judiciary is that we are not elected. While we are appointed by the executive, the unwritten constitutional principle of judicial independence ensures that judges can adjudicate without interference, influence, and bias. Many other nations do not have an independent judiciary. The negative effects of this are most apparent. The health of our democracy very much depends upon an independent judiciary.

Traditionally, it is the role of the judiciary to interpret statutes, regulations, and other forms of law and in our country, to apply and develop the common law. Strictly speaking, judges do not create law. That power and responsibility lies with the other organs of government. On the other hand, a positivist view would recognize that judges do fashion the law to a certain degree. In other words, the judicial role in its effect, albeit perhaps not its purpose, may encroach into what is perceived as law-making. Whatever the reality of this view, without doubt judges play a significant role in the life of our country and its residents. As a result, judges must be accountable and what we do must be transparent.

In Canada, we are a constitutional monarchy. We are governed by our Constitution. Within the Constitution, there are some explicit references to judicial authority such as s. 96. However, much of what shapes the limits of judicial authority is found elsewhere in statute, common law and convention. In addition, the Canadian Charter of Rights and Freedoms has expanded the role of the judiciary. This expanded role is not without its critics. That said, it is now a constitutional responsibility vested in the courts. It is a responsibility that cannot be ignored. It is a power that must be wisely and prudently exercised.

This definition of rights and freedoms found in the *Charter* and the delineation of the appropriate boundary between the rights of the individual and our collective interests is a challenging one for the judge in our constitutional democracy. Judges are not conferred any legitimacy through the ballot box. Judges do not hold a monopoly in defining societal norms and values. Judges are as much creatures of their own upbringing, experience, and education as other individuals.

While these limitations must be acknowledged, our constitutional order requires judges to protect individual rights and freedoms from undue encroachment by the state or oppressive wishes of the majority. Judges have to apply their best judgment and wisdom into delineating those social norms and values as they apply to the specific facts of the case. History teaches us that minorities and those out of favor with then prevailing majority attitude can sometimes be best protected by constitutional documents that are interpreted, applied, and enforced by an independent and vigilant judiciary. When rights and freedoms are protected for those who are brought before the courts such as a criminal accused, the decision of the court ensures that they are enjoyed by all law-abiding Canadians of every stripe. When the courts uphold equal rights and benefits for those who do not have a large voice because of the paucity of their numbers, the dignity of all Canadians is enhanced. Of course, it goes without saying that all of this must be accomplished within the parameters defined by the rule of law. Respect for the rule of law goes to the heart of what it means to be a judge in a constitutional democracy.



#### 4. Who is the audience for decisions rendered by the court(s) to which you are applying?

- A judicial decision reaches many different audiences. These audiences overlap. In some cases, one audience may be more deserving of the judge's focus in her decision. In other cases, the audience may be large. That audience may scrutinize each word of a judge's decision.
- Regardless of the audience involved, I recognize that every decision, whether it be a brief endorsement, an oral decision, or a reported case must be sensitive to the audiences that a judicial decision may touch.
- The first audience are the parties themselves. Parties have a vested interest in the outcome of the case. They are acutely impacted by the decision. Even in criminal cases, while the Crown is a minister of justice and has no personal interest in the outcome, realistically speaking, Crown counsel or an Assistant Crown Attorney is acting in the public interest and is not indifferent to how a judge decides, whether it be the words used in the decision, the principle of law applied or developed, or the verdict. The reason for the existence of the judicial system is to solve disputes. Thus, every case decided must be focused on this audience. They are the most important audience regardless of what is being litigated or what is at stake. No matter how minor or trivial it might seem to others.
- In expressing the decision, I recognize that the losing party will be the most aggrieved by the decision. As a result, it is important to be fair and respectful to the losing party. It is important to address legal and factual issues that are raised by that party. It is important to let the party know that the judge has heard them. This is a particularly important part of any audience.
- In certain cases, there are other individuals in a trial or an appeal that are important members of this audience. For instance, there may be complainants or victims that need to be addressed specifically in a decision. Occasionally, these decisions involve difficult assessments of credibility. It is vital that in articulating these difficult decisions that everyone understands the basis for the findings. In addition, especially for offences of violence, victims and their families need to be heard and their voices need to be validated. The judicial system needs to be respectful of everyone. The needs and rights of victims should never be forgotten in criminal trials.
- Expanding beyond those intimately involved in the trial or appeal, there is a broader audience that is the legal community. This involves lawyers, those who study the law, academics, and fellow judges. Some cases are either novel or have jurisprudential impact beyond the particular facts of the case. Here the audience includes all justice stakeholders and decisions should reflect this broader audience.
- There is then the largest audience. That is the public. There is a great respect for the courts. However, to ensure their continuing legitimacy, the courts have to be transparent and accountable to the public. Decisions are a significant part of that. While perhaps the public may not always be tuned into every court case or decision, the public is always a vital audience that we must acknowledge and address in our decisions.
- Finally, there is an audience that is somewhat more abstract and intangible. Despite that, it is fundamental. I can best describe that audience as judicial legacy. Here I am not speaking about my personal legacy as a judge. It is not about self-aggrandizement or ego. Rather, it is about the overall administration of justice in this nation. Each decision made by a judge, regardless of the subject matter or its significance, must always have in mind the lasting impact it will have on the respect for our system of law. Each decision rendered reaches this audience.
- Each decision is like another brick in the foundation and edifice of the rule of law. When well-made, they support and strengthen. When ill-considered without regard to judicial legacy, they weaken. In my mind, this audience is always present when I decide.



5. Please describe the personal qualities, professional skills and abilities, and life experience that you believe will equip you for the role of a judge.

- I am fortunate that I have been a judge for the past decade. Through the lens of that experience, I will comment on this question in the following way.
- As a base foundation, sound legal knowledge and an ability to conduct legal analysis is indispensable. I believe that I have demonstrated that throughout my career. I have dealt with evidential issues, complex factual ones, and highly normative constitutional questions. Being able to analyze something quickly, efficiently, and fairly is invaluable. There are other skills and abilities that I believe I have. I have good writing and communication skills. The ability to work hard and to focus. To have confidence in the decisions one must make. To be able to truly listen. To be patient. To be fair yet efficient in running a trial or an appeal. An aptitude and willingness to undertake administrative aspects of a judge's role. The ability to facilitate negotiations and encourage alternative dispute resolution techniques. These are a part of the day-to-day toolkit that a judge must have.
- Overriding all of this is good judgment. That may seem obvious in order to be a judge. However, having a good intuitive sense of what is right or fair even when one has not had the luxury of time to reflect is not something every individual possesses. This is not a criticism of the personality of others. Rather in my experience, it is an ability that you either have or do not. I believe I have good judgment.
- I have a commitment to public service. This is evidenced by the career path I have chosen. Being a judge does require sacrifices. It requires hard work. It is very rare to receive any public or private acknowledgment of one's work. A commitment to public service sustains a judge in her labor.
- A judge cannot be isolated from society. A judge must be educated about more than the law. I am aware of and continue to educate myself about the social problems that give rise to the cases that come to court. I am also sensitive to the social values that relate to the subject matters that come before the courts. Continuing education in these matters is key. This is particularly so as these values continually evolve. For the judicial system to remain relevant to those who we serve, we have to maintain our connections to the community.
- In my opinion, a good judge is someone who has compassion and empathy. A compassionate judge should not be confused with a judge who lacks moral courage or has an antipathy to making tough decisions. Especially in the criminal law, laws must be enforced and sentences must promote community safety. That being said, I believe that being compassionate and empathizing with those who appear in court is not a weakness. It is a source of strength in the judiciary. I believe the Canadian judicial system like Canadians in general is compassionate and empathetic. I believe that I am such a compassionate and empathetic judge.
- I feel one of the most fundamental qualifications of a judge is integrity. A judge must have respect for the essential dignity of all. When respect is given, respect is received. Integrity encompasses one's personal life as well as one's professional life. A judge must have high ethical standards. A reputation for integrity is built over a person's life. It is slowly built and can be easily lost. I am confident that I do have a reputation for integrity and fairness. I can say from experience that it has been an invaluable asset to me in my judging.



6. Given the goal of ensuring that Canadians are able to look at the justices appointed to the bench and see their faces and life experience reflected there, you may, if you choose, provide information about yourself that you feel would assist in this objective.

- With humility, I fervently believe that our system of law is second to none. Yes, as a human institution it is not perfect. There is always more to be done. We can always do better. That said many factors contribute to the considerable respect for the administration of justice in this country. The public service performed by the members of the judiciary is one of those factors.
- Being a judge is a great honour that comes with great responsibilities. It is one of the finest expressions of public service. Each woman and man brings his or her unique experience and insights to the position.
- I wish to provide some insight into my own background that has shaped me.
- As Japanese Canadians from very humble roots, my father's family lost what they had on the west coast during World War II. They suffered the indignity of internment and racism. My father moved to Alberta to work as a farm labourer. My mother spent the war years in Japan. Her home town was near Nagasaki on the island of Kyushu. She never spoke about the tragedy that occurred near her except in the most oblique fashion. She came to Canada to marry my father. Together as farm labourers they started their life. They had little other than a passion to better the future for their children.
- Thus, I was born and raised on a small prairie farm. My first language was not English. I did not start to learn English until my older brother started school. Although I did not appreciate it at the time, we were poor. The few photos of me as a child speak to that. Although I did not fully appreciate it, there was much discrimination around me as I grew up. Some of it was directed my way. Much towards others, in particular the Indigenous peoples who were my neighbours. Some with whom I worked beside in the fields.
- Do not get me wrong, there was much beauty and joy in my childhood. But there was the reality of a hardscrabble life in the dust bowls of southern Alberta that was significant in the development of character. I worked long hours after school and during the summer. It is my belief that this experience instilled in me a sound work ethic and strong moral values. It taught me the virtues of patience, tolerance, and perseverance. I also believe I have empathy and compassion.
- After graduation from school, I came out east to further my education. I remained in Toronto. As a legal professional, I have been active in the ethnic communities of Toronto, including organizations dedicated to a better understanding between different ethnic groups and the broader Canadian society. Throughout my time as a lawyer and a judge, I have developed a deeper understanding of the diversity of our communities. It continues to be a learning process. But one that I am enthusiastic to participate in.
- I mention these things not to assert any greater capacities than my fellow candidates. Each one of us has claim to attributes that can make us a good judge. I just hope that this experience can bring a valuable perspective to the Superior Court bench.
- In addition, it is my belief that for the community to see a member of a visible minority that has historically been disadvantaged on the higher courts of our country is important. This would serve as a reminder that the challenges of integration can be overcome. It serves as a symbol that the court is a relevant court for the people who appear in front of the court. It demonstrates a commitment by all institutions of government. That we care. We care about respecting those to whom we ultimately answer: the people. While appointments to the bench should not be based upon anything less than merit, judicial diversity would only enhance the reputation and respect for the administration of justice.
- I thank the members of the Committee for their kind consideration.