**Canada's All-White Supreme Court Must Evolve**

*It's is a severe weakness and has the practical effect of ensuring a white and privileged worldview remains ascendant in Canadian law.*

Huffington Post

Joe Killoran

August 1st, 2017

Only white people have ever sat on the Supreme Court of Canada. Some believe it is high time this should change, while others continue to defend the idea of "merit" as the basis for appointments, evidently finding nothing suspicious about an ostensibly meritocratic system in which only white people rise to the highest positions. The fact is the homogeneity of the lily-white court is a severe weakness and has the practical effect of ensuring a white and privileged worldview remains ascendant in Canadian law.

In the landmark case R. v Grant, the Court admitted a handgun found on a young black man as evidence following an illegal detention and search by Toronto police. The court, applying s. 24 of the Charter of Rights and Freedoms, held that to exclude such evidence would "bring the administration of justice into disrepute." This decision seems reasonable from a white, privileged perspective. Illegal handguns are a menace, the breach of Mr. Grant's rights was relatively minor, and he was a gun-toting criminal in any case. Never having experienced racial profiling, the all-white justices found public safety to be more important than the rights of one black man.

What the justices failed to consider is the effect their decision would have on black and other minority communities. Essentially the Grant decision sanctified "carding," illegal detention, and police harassment of people of colour. Police need only ensure they discover significant evidence which outweighs "minor" Charter breaches. The Supreme Court casually ignored the foreseeable consequences of their decision: the continued intimidation and illegal searching of thousands of innocent people of colour throughout the country. For every handgun that police discover, hundreds of non-white citizens are humiliated and degraded by the police forces sworn to protect them. For example, journalist and activist Desmond Cole says he has been stopped and questioned more than 50 times by Toronto Police without cause. Law-abiding minority citizens face repeated "minor" breaches of their rights and dignity, while the state-sanctioned discrimination they endure never reaches the white and privileged consciousness Canada's highest court. This pervasive, systemic bias is why, among segments of the Canadian population, the administration of justice has always been viewed with contempt and suspicion.

In the case of Hill v Hamilton-Wentworth Police, an Indigenous man sued the police after he was falsely convicted and imprisoned for a series of thefts due to police negligence. While the Court agreed police negligence had caused his imprisonment and found for the first time that police owed a "duty of care" to suspects, they found in favour of the police. They argued the series of negligent police actions did not breach the standard of care police owe to suspects, in part because "At that time (1995), awareness of the danger of wrongful convictions was less acute than it is today."

It is hard to imagine such a naïve statement passing unchallenged, except among a group of privileged white people whose experience with the justice system has been uniformly positive. Indigenous Canadians have been acutely aware of the danger of wrongful convictions by the Canadian legal system for centuries, and every vulnerable Canadian would benefit from the wisdom of an Indigenous Justice who could speak to that reality.

In the Provincial Electoral Boundaries Reference (Sask) case, Justice Beverley McLachlin upheld the legality of awarding proportionally more voting power to rural and sparsely populated ridings, writing "problems of representing vast, sparsely populated territories, for example, may dictate somewhat lower voter populations in these districts." This is a reasonable point and likely informed by Justice McLachlin's childhood experience growing up on a farm in Pincher Creek, Alberta. However, the effect of this decision was to approve the practice of granting more voting power to rural Canadians. As rural voters are disproportionately white, and a disproportionate share of urban voters are visible minorities, the result is that the average white Canadian's vote counts for more than that of the average Canadian person of colour.

Justice McLachlin was not wrong to defend the interests of rural Canadians, but, on a truly balanced court, a visible minority raised in an overpopulated riding could have spoken to the difficulty of representing a district inhabited by dozens of nationalities and cultures, struggling with high poverty and crime rates, and requiring many services. Citizens of these ridings also deserve a voice before the justice system dilutes their voting power.

Few would suggest we return to the days before women or Jews were appointed to the Court. Efforts are made to ensure the Court has a full breadth of legal expertise and experience, ranging from Justice Abella's in-depth knowledge of human rights law to Justice Cote's extensive understanding of business and commercial law principles to Justice Rowe's experience as a constitutional lawyer. Regional considerations also play a role as Quebec is guaranteed three justices and convention dictates how many justices each region deserves. Gender balance is also a well-established goal.

This principle of balance and diversity should be extended with respect to justice for the 23 per cent of the Canadian population that is not white. Asked about the current composition of Canada's highest court, famed human rights lawyer and law professor, Peter Rosenthal said, "The Supreme Court of Canada was created less than ten years after Confederation. It is astonishing that, in all the time since then, every justice of the court has been Caucasian. When will Indigenous peoples and members of visible minorities finally see someone of their heritage appointed to the highest court in our land?"

Three Supreme Court Justices will reach mandatory retirement age in the next five years. For the Supreme Court to become truly representative and legitimate for the first time in its history, at least two of those appointments must be people of colour, one of whom ought to be Indigenous.

Anything less will likely mean Canadians can expect to suffer decades more privileged, white "justice."

**Update on annual Public Service Pension and Insurance Benefits Statement**
PR Newswire
August 1, 2017

This year, to ensure plan members do not receive inaccurate statements due to issues with the Phoenix pay system, the Pension and Insurance Benefits Statement will not be issued in either print or electronic format. While statements will not be available, employee pension and benefit plan eligibility or entitlements will not be affected.

The Pension and Insurance Benefits Statement provides plan members with personal information about pension and insurance benefit entitlements and options. Data to populate the statement is drawn from both the PenFax pension and Phoenix systems. Due to issues with the Phoenix pay system, some statements may not be accurate for some employees.

Employees who are within six months of retirement or who are leaving the public service can contact the Government of Canada Pension Centre to obtain a personalized pension estimate.

Employees who are dividing their pension as a result of a relationship split or need information about a service buyback can contact the Government of Canada Pension Centre.

Employees can also use an online calculator to manually estimate their pension entitlements based on information they input into the calculator. Alternatively, they can refer to their previous statement and visit Canada.ca/pension-benefits for general information.

Employees can also contact either their departmental compensation office or the Public Service Pay Centre for personal insurance benefit information.

Since 2000, the Government of Canada has routinely issued an annual Pension and Insurance Benefits Statement to all active public service pension plan members, with the exception of 2012. In 2012, due to temporary data issues from the conversion of the legacy pension system to PenFax, the annual statements could not be produced.

Additional information is available in an Information Notice on Canada.ca.

**CBA looking for volunteers for East Africa project**
Lawyer's Daily
Amanda Jerome
August 2nd, 2017

Lawyers interested in volunteering for a project in East Africa should keep an eye on the Canadian Bar Association website as the CBA International Initiatives group will be sending out a call for CVs to engage legal professionals in its latest venture.

The CBA's International Initiatives has committed to a project to support inclusive resource development in East Africa. This project will be carried out in partnership with law societies in Kenya, Uganda, Tanzania and the East Africa Law Society. It is supported by Global Affairs Canada.

According to Jennifer Johnson, CBA International Initiatives director, the project is worth over $9 million with funds coming from both Global Affairs Canada and the CBA.

"The ultimate outcome is to increase sustainable economic growth for East Africans, particularly women and vulnerable groups, affected by extractive industries," said Johnson.

The project will last five years and has been broken down into three streams: increased engagement by the legal profession to support participation in the extractive industries; increased advocacy by legal professionals to reform laws; and increased community participation in consultations, negotiations and advocacy to advance citizen's rights.

"We're looking at both harms and benefits," said Johnson. "The harms being: pollution, sexual exploitation of women, increased domestic violence because of an increase of drinking, displacement, land grabbing — these are the harms of the extractive industry.

"Then on the benefits side we're also looking at … what the contracts are between the mining companies and the oil and gas industry? What are the royalty agreements? What are the contracts that are being made, because often they're not transparent and they're not public between the companies and the government. To see what kind of agreement has been made in terms of profit sharing and what piece of that goes down to the citizens and to the countries," she said.

Johnson said the CBA will be working with East African law societies to build their knowledge and skills in areas of law directly related to extractive industries. The CBA will be calling on its members to provide expertise and guidance for this project.

"For example, [we'll call on the] Aboriginal law section because they have a lot of expertise in mining in the North ... and best practices," said Johnson. "We'll target the different sections in the Canadian Bar Association and pick from lawyers that are interested to help us train the

lawyers in those countries on contracts, on environmental laws, on approaches in extractive industries."

Johnson said another issue the project will be focusing on is "local content," in which there is a clause in a mining contract that says the company has to employ a certain number of local contractors. Local content can include jobs such as guards, cleaning services and catering services.

"We're looking at those local content issues at the Canadian level and we realized that a lot of the time in Africa the employment sector is mostly informal at the village level, in the rural areas, where the extractors are operating. So you don't have companies, per se. They have kiosks on the road, or they have a fruit stand, or a vegetable stand, but they're not organized as companies. So they lose out on getting local content contracts. The oil and gas company, for example, may issue a tender, but if they're [the locals] not registered they don't know how to apply to a tender because of language issues, or illiteracy. They lose out on all that local content. So what happens is mainly more organized companies from the urban centres can come down and apply for those contracts, so the local community doesn't really benefit," said Johnson.

To address this issue, the CBA will be helping train locals, women in particular, on how to apply for tenders as well as how to become a registered company.

"The lawyers will do a lot of training with the women on how to register and how to be able to apply for tender, so that they can apply for that. So they have that option to make more money," said Johnson.

Another aspect of the project is to tackle law reform as it relates to extractive industries in East Africa.

"We will use those Canadian technical experts from the Canadian Bar Association membership to help train lawyers on how to draft regulatory frameworks and legislation to enable better systems for the communities and the citizens of those countries," said Johnson. "For example, right now in Tanzania there's an issue with the mining companies because the government is … cracking down on exports of gold, for example, to keep more of the profit in the countries. So there's quite a bit of conflict between international gold mining companies, and other extractives in Tanzania, and the government. The government is rushing through about three new bills right now to change the legislation and the regulator frameworks to be better for the government and less interesting for the extractives."

Johnson said Canadian mining companies are involved in that part of East Africa, so the CBA wants to help the communities in that area to better interpret bills, so they can respond with reform submissions.

“That’s a really big piece, the law reform piece, because that’s where from a higher level we’ll be able to effect change on what the actual laws are or what the actual regulatory frameworks are to make sure that it benefits people,” said Johnson.

The CBA will also be training lawyers to go back to their communities as part of mobile legal clinics to increase access to legal services.

“We will have a huge public legal education exercise to let all the people in the communities know what their rights are vis-a-vis the contracts and other legal frameworks. For example, environmental laws, laws that protect the people. If somebody’s land is being covered with dust because big trucks are moving through, or they’re getting sick because there’s dust in the water, or there’s pollution and poisoning because of mining, so they know what their rights are [in these situations],” said Johnson.

Johnson said a huge focus will be on women in the community as extractive industries are generally more harmful to women.

The CBA International Initiatives has more than 25 years of experience working on developing access to justice and the rule of law in developing countries. Johnson said this project is not only important to the CBA, but also to the government of Canada as it has interests in mining industries.

“The Canadian government is very sensitive to us doing the right thing and having Canadian extractives have good corporate, responsible extractive operations in developing countries. The Canadian government is very interested in this. We, the Canadian Bar Association, have a plethora of experts in this area because of the strong [extractive] industry here. So we’re best placed to provide this support to the developing countries to learn best practices internationally,” said Johnson.

**Insistence on French for SCC judges could block historic appointment of first Indigenous judge**
Lawyer’s Daily
Cristin Schmitz
August 2nd, 2017

The Trudeau government’s pledge to fill the Supreme Court of Canada’s impending western vacancy with a bilingual jurist who can function in French is liable to block the historic appointment of its first Indigenous judge, lawyers say.

The Indigenous Bar Association (IBA) has pressed Ottawa for years to make an Indigenous appointment to the 142-year-old court and will do so again for the spot that is opening up when Chief Justice Beverley McLachlin retires Dec. 15, said IBA president Koren Lightning-Earle of Maskwacis, Alta.

However the Trudeau government's insistence that all its Supreme Court appointees be able to read and understand French, without translation, is an additional and unfair hurdle for Indigenous candidates and a "detriment to Canada," Lightning-Earle told The Lawyer's Daily.

If the government "starts to think outside the box on what the language prerequisite actually means to Indigenous people, and [to] truly understand history and reconciliation … then they'll understand why the [French] language prerequisite is ridiculous," she explained. "Our first language is our Indigenous language. And then we were sent to residential school where we were told we were not allowed to speak our language, and we were forced to speak a colonial language [English]. And now we have to speak another colonial language — just to get a seat at the table!"

The Trudeau government vowed during the election to appoint only Supreme Court judges able to function in both English and French. This was in response to concerns expressed by Quebecers, Acadians and other francophones outside Quebec that it does a disservice to their appeals when the top court's anglophone judges can't understand nuanced French oral argument (because interpretation is not always perfect) or read French written briefs and supporting materials (which are usually not translated).

However Lightning-Earle points out the prime minister and his government have also committed to reconcile with Indigenous peoples, as a top priority. "You don't just get to put up a barrier and say 'Well this is our requirement' — without acknowledging the history — which is the spirit and intent [of] the reconciliation that the government supposedly signed on to," she remarked.

Certainly the language prerequisite is a major obstacle for Indigenous candidates. There are, at most, a handful of Supreme Court-calibre Indigenous jurists in the west who are able to understand and read French without translation. Saskatchewan provincial court judge Mary Ellen Turpel-Lafond, who is Cree, is one, as is Vancouver litigator and Indigenous law expert Jean Teillet, who is Métis.

"There are barriers that Aboriginal lawyers and judges face that non-Aboriginal people don't face," Teillet told The Lawyer's Daily. "And language is always one of those things. And so putting that kind of qualification on a Supreme Court appointment … will mean, as a fact, that we will have not an Aboriginal judge on the Supreme Court of Canada for a very long time. It won't be because there are not really excellent Aboriginal lawyers and judges who are capable — more than capable — of doing the job. It will be because of the language barrier."

Among those who appear to be affected is internationally acclaimed Indigenous law scholar John Borrows, 54 — who many see as a star candidate.

A member of the Chippewas of the Nawash First Nation on Georgian Bay, Borrows is currently in immersion French studies in Montreal. He is a visiting professor at McGill University's

faculty of law where he is learning about the civil law while on sabbatical leave from his post as Canada research chair in Indigenous law at the University of Victoria's faculty of law, where he is co-developing the first joint program in Canadian common law/Indigenous law, expected to start up in 2018.

Osgoode Hall Law School dean Lorne Sossin believes Borrows "would be an outstanding choice to join the court." He should not be blocked as he gets his French up to speed, Sossin opined.

"He is the leading scholar on Indigenous law and constitutional ideas/perspectives — among several other topics," Sossin told The Lawyer's Daily. "He has both a national and global reputation, and is certainly among the top handful of Canadian legal academics [in any field] in terms of impact on law and policy, and in particular in shaping the public dialogue on reconciliation."

Borrows, whose father, grandfather and great grandfather attended residential schools, has for years dedicated himself to learning Ojibwe. "Knowledge of an Indigenous language is an important asset, and speaks to the broader recognition that expertise with Indigenous legal traditions will be critical to the future capacity and credibility of the Supreme Court," Sossin said.

University of Toronto constitutional and criminal law professor Kent Roach agreed that Borrows — recent winner of the prestigious Killam Prize in social sciences for his "substantial and distinguished scholarship and commitment to furthering our knowledge about Indigenous legal traditions," would be an "excellent" choice to succeed Chief Justice McLachlin, who writes much of the court's lndigenous law jurisprudence.

"He has done so much to raise awareness about Indigenous law in Canada and is a globally recognized innovator in his scholarship," Roach said of his former colleague and friend. "The [Supreme] Court has relied on his scholarship in the past, and would benefit greatly from his expertise, including his excellent writing skills. John also has the perfect disposition to be a judge. He is an excellent and empathetic listener and a person of the highest integrity."

Robert Janes of Victoria's JFK Law also said Borrows "would be an excellent choice. [He] has a good grasp on the law generally, and has thought deeply about the Indigenous law question."

Borrows did not comment for this article. But there is plenty of information about him publicly available. He has written or co-edited seven books, including a constitutional law textbook and published more than 50 law journal articles. Six years ago he won the Canadian Law and Society Best Book award for Canada's Indigenous Constitution, and in 2002 Recovering Canada won the Donald Smiley award for Best Book in Canadian Political Science.

“He’s brilliant — there’s no doubt about that,” said one constitutional law expert who did not wish to be named. “He is a superb writer. … He has a lot of knowledge about constitutional law — not necessarily just Indigenous, but division of powers, Charter [etc.]”

Among Borrows’ awards and fellowships, in June the Law Society of Upper Canada awarded him an honorary doctorate for his “leadership in Indigenous law,” adding to another from Dalhousie University, and his own PhD from Osgoode Hall. He is a lifetime Trudeau fellow for his outstanding achievement in political social sciences, a fellow of the Canadian Society of Arts, Humanities and Sciences and the Royal Society of Canada (Canada’s highest academic honour) and was declared an Indigenous People’s Counsel in 2012 by the IBA for his “outstanding achievements in the practice of law and service to Indigenous peoples.”

He has taught law full time at Osgoode, UBC, University of Toronto and the University of Minnesota and had visiting appointments internationally in Australia, New Zealand and the United States.

He joined the Law Society of B.C. after articling with prominent constitutional litigator Joe Arvay, and assisted both the Indian residential schools Truth and Reconciliation Commission and the Ipperwash inquiry.

In addition to Indigenous law, he has taught contracts, U.S. federal law and U.S. constitutional law, Canadian constitutional law, criminal law, property law, environmental law and land use planning, as well as given seminars to judges of almost all courts. He won the University of Victoria Law Students Society Teaching Award in 2009.

Borrows grew up on an Ontario reserve on the shores of Georgian Bay and graduated from the University of Toronto with a bachelor’s degree in political science and history and a master’s in geography. Married for 32 years to visual artist Kim Borrows, he has two daughters, ages 31 and 29 — of which the younger will soon be called to the bar. A passionate outdoorsman, Borrows kayaks, hikes and cycles. He has made it a habit for 30 years to run one hour each day.

**The Supreme Court of Canada Examines the Discriminatory Nature of an Alcohol, Illegal Drugs and Medication Policy**
Lexology
Borden Ladner Gervais LLP
August 1 2017

In June 2017, the Supreme Court of Canada in the matter of Stewart v. Elk Valley Coal Corp, 2017 CSC 30, rendered an important decision with respect to workplace policies concerning the consumption of drugs and alcohol. The Supreme Court held that it was reasonable for the Alberta Human Rights Commission to conclude that the dismissal of an employee who tested positive for drugs was not discriminatory as it resulted from the application of a policy that offered the possibility to employees of being accommodated if they revealed their dependency to the

employer. In this particular case, the reason for the employee's termination was not addiction but breach of the policy.

## The Facts

Mr. Stewart worked in a mine operated by the Elk Valley Coal Corporation (the "Employer") where he drove a loader. The mine operations were dangerous, and maintaining a safe worksite was a matter of great importance to the Employer and employees. In order to ensure safety in the mine, the Employer implemented an alcohol, illegal drugs and medication policy (the "Policy").

Pursuant to the Policy, employees were expected to disclose any dependence or addiction issues before any drug-related incident occurred in the workplace. If they did, they would be offered treatment. However, if they failed to disclose and were involved in an incident and tested positive for drugs, they would be dismissed. The aim of the Policy was to ensure safety by encouraging employees with substance abuse problems to come forward and obtain treatment before their problems compromised safety. Mr. Stewart attended a training session at which the Policy was reviewed and explained. In addition, Mr. Stewart signed a form acknowledging receipt and understanding of the Policy.

Mr. Stewart used cocaine on his days off. He never disclosed to the Employer that he was using drugs. One day, Mr. Stewart's loader was involved in an accident near the end of his shift. Although no one was injured, Mr. Stewart tested positive for drugs. Following the positive drug test, in a meeting with the Employer, Mr. Stewart said that he thought he was addicted to cocaine. Subsequently, in accordance with the Policy, the Employer dismissed Mr. Stewart who at the time of his termination of employment was credited with nine years of service.

## History of Proceedings

Mr. Stewart claimed that he was dismissed as a result of his addiction and, as a consequence, his dismissal constituted discrimination under Alberta's Human Rights, Citizenship and Multiculturalism Act, where addiction is a recognized disability.

In first instance, the Alberta Human Rights Tribunal1 (the "Tribunal") concluded that Mr. Stewart was not dismissed as a result of his addiction but rather because he breached the Policy by not revealing his addiction before an accident occurred.

The decision of the Tribunal was affirmed by the Alberta Court of Queen's Bench2 and by the Alberta Court of Appeal3.

## The Decision of the Supreme Court of Canada

On appeal before the country's highest court, the decision of the Tribunal once again was confirmed. Madam Chief Justice McLachlin, with whom Justices Abella, Karakatsanis, Côté,

Brown and Rowe concurred, held as reasonable the Tribunal's conclusion that the reason for Mr. Stewart's dismissal was not addiction but breach of the Policy.

Relying on expert evidence, the Tribunal concluded that Mr. Stewart was addicted to drugs (even though he did not recognize his addiction at the time) and that this addiction constituted a disability protected under Alberta's Human Rights, Citizenship and Multiculturalism Act.

However, the Tribunal concluded that the addiction did not constitute a factor in Mr. Stewart's dismissal. In the Tribunal's view, Mr. Stewart was dismissed for failing to comply with the Policy which required him to disclose his drug use prior to the accident.

Mr. Stewart had the capacity to comply with the terms of the Policy and he would have been dismissed for breach of Policy whether he was an addict or a casual user. While Mr. Stewart may have been in denial about his addiction, he knew the Policy prohibited taking drugs before working and he had the ability to decide not to take them, as well as the capacity to disclose his drug use to his employer. According to expert evidence, Mr. Stewart's addiction did not diminish his capacity to comply with the terms of the Policy. As a consequence, the Tribunal was founded in concluding that the employee's dismissal was not discriminatory in nature.

Mr. Justice Gascon dissented and held that a drug policy that automatically terminates employees who use drugs prima fascie discriminates against individuals burdened by a drug dependence.

Conclusion

Where a termination of employment is based on the breach of a workplace policy or some other conduct attracting discipline, the mere existence of addiction does not establish prima facie discrimination.

It goes without saying that the drafting of the policy in question is critical. The expectations of the employer must be clearly set out. In addition, the policy must clearly and explicitly outline for the employees the consequence resulting from their omission to denounce their addiction, namely, dismissal.

Lastly, where such is the case, the dismissal letter must be carefully drafted in order to make sure that there is no ambiguity with respect to the reason for the dismissal. The disciplinary measure must be imposed as a result of the violation of the policy, rather than as a result of an addiction.

**Government not issuing PS pension statements due to Phoenix problems**
Public servants asked to call pension centre, go online for pension information instead
CBC News
August 3, 2017

The federal government will not be sending out annual pension and insurance benefits statements to public servants due to the ongoing problems plaguing the Phoenix payroll system.

In a notice posted to the Treasury Board Secretariat website on Tuesday, government workers are being told not to expect their statements because they "may not currently be accurate." The statements usually provide personal information about pension and insurance benefit entitlements.

"To ensure plan members do not receive inaccurate statements, the pension and insurance benefits statement that would have been available in spring 2017, will not be issued in either print or electronic format," reads the notice.

Despite the problems with statements, beneficiaries are still receiving their payments, said Alain Belle-Isle with the Treasury Board of Canada Secretariat in a statement to CBC Ottawa.

"While the statements will not be available, employee pension and benefit plan eligibility or entitlements will not be affected," he wrote.

The Professional Institute of the Public Service of Canada, which represents close to 60,000 federal government workers, fears this latest debacle will prevent some members from properly planning their retirement.

The union could not be reached for comment on Thursday.

But the federal government is urging employees not to change their retirement plans because of the ongoing issues.

The federal government has put a number of measures in place to help employees in the interim, Belle-Isle wrote. Those short-term actions include an online tool to help employees figure out how much they're entitled to for their pension and allowing employees who are nearing retirement or who have questions about a relationship separation to contact the Government of Canada Pension Centre.

**Canadians still wildly overestimating the level of violent crime**
Global News
Monique Scotti
August 3, 2017

Canadians are still wildly overestimating the amount of violent crime taking place across the country, a recent government study shows, with women and people with less education more likely to inflate actual crime rates.

The extensive study was conducted last year in four parts (online survey, in-person focus groups, a secondary online survey and online discussion groups). It was contracted out to EKOS Research for Justice Canada at a cost of $234,000, and the results were just recently made public.

They reveal that around half of respondents to EKOS' first online survey believed that overall crime rates in Canada are on the rise, when in reality they've been dropping for over a decade. Just 30 per cent knew the rates had fallen steadily over the last five years, while another 20 per cent believed they'd been stagnant.

When it comes to violent crime, the gap between reality and perception widens even further.

"The average percentage of crime that is violent is also believed to be 45 per cent, when in fact it is actually less than half of this percentage (20 per cent), highlighting the same exaggerated sense of crime in Canada," the final report noted.
"This aligns with previous research that indicates members of the public tend to overestimate the proportion of crimes committed in Canada that are violent."

The research team found that women and Canadians with lower levels of education were more likely to overestimate the amount of violent crime going on around them. Female respondents, for instance, believed that about 52 per cent of crimes involve the threat or act of violence, while men thought it was around 38 per cent.

There are a few possible explanations for the ongoing tendency to inflate crime statistics, the research suggests, and one of the strongest is linked to where Canadians get their information.

Most of the focus group participants cited the media as their primary source of information about the criminal justice system, for instance.

They told researchers that "media coverage, the incidence of hearing about many crimes, and, in particular, sensational stories in the criminal justice system," have helped create a sense of ongoing danger and more prevalent crime in their minds.

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The second online survey, conducted by recontacting 1,863 of the original participants, revealed more detail about Canadians' priorities. Respondents were presented with four "objectives" for the criminal justice system and asked to rank them as being more or less consistent with their values.

Eight in 10 ranked "ensuring safety and lasting protection for the Canadian public" and "accountability" above "providing support to offenders" and "providing opportunities to repair harm."
Online discussions held after the second survey bore out those results, again indicating that many Canadians place more emphasis on safety and accountability of offenders, and less emphasis on opportunities to repair harm and support offenders through rehabilitation.

The survey also tackled the chronic over-representation of Indigenous Canadians in the criminal justice system. In the second online survey, a majority of respondents supported increasing community-based alternatives to prosecution, and nearly half agreed that governments need to increase the number of Indigenous support workers helping people to navigate the system.

**Une vague de migrants sans précédent au Québec**
Hugo DeGrandpré et Martin Croteau
LaPresse
3 aout, 2017
(Ottawa) Près de 1500 demandeurs d'asile sont actuellement hébergés par le gouvernement du Québec, a appris La Presse, tandis que l'arrivée de centaines de migrants à la frontière de la province depuis quelques jours force les gouvernements à prendre des mesures extraordinaires, comme l'ouverture du Stade olympique pour en accueillir des dizaines en attendant de décider de leur sort.

Huit lieux ont été mis à contribution par le gouvernement du Québec, dont un ancien centre de soins de longue durée, un hôtel de Pointe-aux-Trembles et même les résidences de l'UQAM. Des agents frontaliers ont été dépêchés de l'Ouest canadien et des provinces atlantiques pour prêter main-forte à leurs collègues de Saint-Bernard-de-Lacolle, où la majorité des demandeurs franchissent la frontière avant d'être interceptés par la Gendarmerie royale du Canada (GRC). Et un centre temporaire pour le traitement des réfugiés a été aménagé près du poste frontalier.

Les renseignements en provenance d'Ottawa arrivaient cependant au compte-gouttes, mercredi, et il était impossible de confirmer le nombre exact de personnes qui sont ainsi arrivées au Québec au cours des derniers jours, dont plusieurs d'origine haïtienne. Citant des «sources», le maire de Montréal (et ancien ministre de l'Immigration) Denis Coderre a écrit sur Twitter que 2500 personnes étaient arrivées depuis le début du mois de juillet et que, mercredi seulement, 500 étaient à Lacolle.

Devant ce qu'il décrit comme une «crise nationale», le président du syndicat des douaniers, Jean-Pierre Fortin, a lancé une charge à fond de train contre les autorités fédérales, les accusant d'être mal préparées et d'être complètement dépassées par la situation.

«C'est une situation sans précédent qui a pris l'Agence [des services frontaliers du Canada] carrément de court.»

Cette vague migratoire vers le Canada avait défrayé la chronique il y a quelques mois, dans la foulée des changements annoncés par l'administration Trump aux règles d'immigration américaine.

Mais «tout a explosé il y a environ une semaine et demie à deux semaines», a expliqué M. Fortin.

«Ça arrivait à coup de 200, 250, 300. Et [lundi], c'est une journée exceptionnelle, je pense que c'est la première fois : on a franchi 500. Alors, imaginez si cette tendance se maintient pour quatre jours. C'est 2000 qui viennent de rentrer. Et toute la logistique de nourrir ces gens-là, de les envoyer dans des endroits salubres... C'est tout ça. On n'est pas outillés [pour faire face à une telle affluence].»

Cette situation survient de plus alors que les travailleurs de la construction s'apprêtent à revenir de vacances dimanche prochain, ce qui inquiète le leader syndical encore davantage, étant donné les pressions accrues qui seront exercées sur le système déjà mis à l'épreuve.

## Peu de détails

L'Agence des services frontaliers du Canada s'est défendue en disant qu'elle «surveille en permanence ses activités afin de consacrer l'attention et les ressources nécessaires» pour garantir la sécurité et une circulation fluide aux frontières.

Un porte-parole du ministre fédéral de la Sécurité publique, Ralph Goodale, a de plus démenti le chiffre de 500 avancé par le président du syndicat des douaniers pour la journée de lundi, évoquant plutôt le chiffre de 200.

Ottawa a toutefois été incapable de fournir un aperçu de la situation ou de chiffres exacts sur les arrivées au cours des derniers jours. Les dernières données disponibles remontent au mois de juin. Nos demandes d'entrevue avec les ministres de l'Immigration et de la Sécurité publique sont restées lettre morte. Les partis de l'opposition n'ont pas non plus rappelé La Presse.

## Hébergement temporaire

Lorsqu'un demandeur d'asile se présente à la frontière, c'est le gouvernement fédéral qui traite son dossier afin de déterminer s'il est recevable, et de faire les vérifications de santé et de sécurité

nécessaires. Dans l'intervalle, le demandeur est pris en charge par le gouvernement du Québec, qui lui offre plusieurs services de base. Les migrants ont ainsi droit à un hébergement temporaire qui peut durer jusqu'à quelques semaines ainsi qu'à une aide financière dite «de dernier recours» afin qu'ils puissent louer un appartement et se nourrir.

En temps normal, les demandeurs d'asile qui arrivent au Québec sont tous hébergés au YMCA, rue Tupper à Montréal. Or, l'afflux est devenu si important que Québec a dû mobiliser plusieurs établissements publics dans les derniers jours. En plus du YMCA, des migrants sont désormais hébergés à l'Armée du Salut, dans trois immeubles du réseau de la santé - Boscoville, Notre-Dame, Grace Dart - ainsi qu'au Stade olympique. On a également réquisitionné certains hôtels, mais dans une moindre mesure, car c'est la haute saison touristique. À lui seul, le Stade olympique peut accueillir 300 personnes.

Au cabinet de la ministre déléguée à la Santé, Lucie Charlebois, on convenait hier que les mesures «temporaires» déployées dans les derniers jours sont liées au «nombre exceptionnel» de demandes d'asile.

Mme Charlebois et sa collègue à l'Immigration, Kathleen Weil, feront le point sur la situation aujourd'hui.

Quant au rôle des politiques de l'administration Trump dans cette situation, le gouvernement canadien a continué à refuser de s'avancer sur ce terrain. «Nous ne spéculons pas sur les raisons qui poussent des individus à demander l'asile au Canada à l'heure actuelle, mais pouvons dire que les taux de demandes d'asile fluctuent avec le temps et peuvent dépendre de plusieurs choses [y compris] l'éclatement d'un conflit dans une région, et des changements de politiques gouvernementales à travers le monde qui pourraient mener à la persécution de certaines personnes. Nous avons vu une augmentation du nombre de demandes d'asile au cours des dernières années. Cela peut refléter des changements dans la situation mondiale», a déclaré par courriel une porte-parole du ministère fédéral de l'Immigration.

Denis Coderre n'a quant à lui pas hésité à établir ce lien. Sur les réseaux sociaux, il a noté que la hausse subite du nombre de demandeurs d'asile était «encore une conséquence de la politique d'immigration de Donald Trump».

Le premier magistrat de la métropole québécoise a indiqué que Montréal compte aider ces nouveaux arrivants qui craignaient d'être expulsés des États-Unis. «La Ville de Montréal souhaite la bienvenue aux réfugiés haïtiens. Vous pouvez compter sur notre entière collaboration», a-t-il écrit. Il a ajouté, en créole : «Ne lâchez pas.»

- Avec la collaboration de Pierre-André Normandin, La Presse

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DEMANDEURS D'ASILE ARRIVÉS DEPUIS JANVIER

3350 : Nombre de demandeurs d'asile qui ont été interceptés par la GRC au Québec de janvier à juin, sur un total de 4345 au Canada.

220% : Augmentation du nombre de demandeurs d'asile interceptés par la GRC au Québec de janvier à juin. Ce nombre est passé de 245 à 781.

6505 : Nombre total de demandes d'asile de janvier à juin 2017. En une demi-année, le Québec a ainsi déjà dépassé le nombre total de demandes d'asile de chacune des deux années précédentes, comparativement à 5505 en 2016 et 2920 en 2015. Ces demandes incluent les interceptions par la GRC.

**Six strange Canadian laws still on the books**
CTV News
August 4, 2017

Did you know it's illegal to intentionally alarm or frighten the Queen in Canada? Or that it's against the law to paint a wooden ladder in Alberta? How about the legal limit on the number of coins you can use at a store?

These are just a few of the strange laws that many Canadians might be breaking and not even know. Here are a few of the laws that Toronto-based lawyer Peter Henein discussed on CTV's Your Morning:
COIN OVERLOAD
Under Canada's Currency Act of 1985, there are limits to how many coins can be used in a single transaction. Merchants can refuse your money if you try to buy something with more than $5 in nickels, $25 in loonies or $40 in toonies.
NO SORCERY OR ENCHANTMENT
In the Criminal Code, under Section 365, it reads it is illegal to: "fraudulently pretend to exercise or to use any kind of witchcraft, sorcery, enchantment or conjuration" or to tell fortunes for payment.
ENOUGH GARAGE SALES
Under Toronto's municipal code, it is illegal to hold more than two garage sales a year. Those who try to set up a perpetual yard sale on their front lawn could face a fine of up to $5,000.
NO DUELLING
Under the Criminal Code's Sec. 71, it is illegal to challenge or be challenged by someone to a duel. This is considered a serious, indictable offence that could result in a punishment of up to two years in jail.
NO FAKE MAPLE
There is a complete set of laws about maple syrup, aimed at keeping fake maple products off of Canadian store shelves. It's called the Maple Product Regulations and it states that "no person

shall market a product in import, export, or interprovincial trade in such a manner that it is likely to be mistaken for a maple product."

LEAVE THE QUEEN ALONE

The Queen's peace is so important that there is a separate section in the Criminal Code – Sec. 49 – that states it is prohibited to intentionally alarm or frighten the Queen. That too is a serious indictable offence that could result in a prison sentence of up to 14 years.

Lawyer Peter Henein, who practices in intellectual property law in Toronto, says most of these laws were created during times when they addressed issues that concerned the community at the time.

The witchcraft laws, for example, were likely meant to be like anti-gambling or anti-"grafter" laws. Others are simply bylaws that affect only a certain community, and were likely drafted, Henein says, after several "nosy neighbours" complained enough about a certain issue to their local city or town councilor.

Henein notes that the Criminal Code is set to be reviewed soon. Justice Minister Jody Wilson-Raybould promised back in March to expunge the Criminal Code of so-called "zombie laws" that remain on the books even after having been deemed unconstitutional by the courts.

For example, Canada's laws on abortion is set to be removed, as are sections that cover the act of spreading false news, anal sex, and vagrancy.

Wilson-Raybould introduced Bill C-51 in June that would repeal or update sections of the Criminal Code deemed obsolete or redundant, including the ban on challenging someone to a duel and fraudulently practising witchcraft.

Henein notes that laws can also be repealed or amended without a full constitutional challenge that goes all the way to the Supreme Court, as the abortion provisions did.

"You don't need a big legal challenge to determine that a law is unconstitutional," he said. "Something can be struck from the laws when we decide it's a little outdated."

**Quebec Superior Court judges launch suit against governments**

Lawyer's Daily

By Luis Millan

In an extraordinary development at a time when the justice system in Quebec is grappling with the after-effects of the landmark Jordan ruling, Quebec Superior Court judges have launched a suit against the federal and provincial government over the exclusive jurisdiction of the Court of Quebec... (This article is subject to a pay wall )

**Lawyers make a case for saving preliminary inquiry**

The Globe and Mail

Sean Fine
August 7, 2017

A judge's dismissal of first-degree murder charges against three men after a preliminary inquiry is fuelling arguments that the pretrial screening mechanism should be preserved. The ruling in a Toronto case comes as the federal government prepares changes to the criminal-justice system aimed at reducing the time to bring a case to trial.

Next month, federal Justice Minister Jody Wilson-Raybould is to propose legislative action in five priority areas, including preliminary inquiries, at a meeting with her provincial counterparts. In a preliminary inquiry, which has been part of the Criminal Code since its beginning in the 1890s, a judge reviews evidence to determine whether the case should go on to trial.

The justice ministers are anxious to reduce delay, after the Supreme Court of Canada, in a case called R v. Jordan, set time limits last summer for completing criminal trials. Since then, judges have thrown out a handful of murder charges in Quebec, Ontario and Alberta over delay. Several provinces, including Alberta, Manitoba and Ontario, have called for the elimination of preliminary inquiries. The Supreme Court itself, in the Jordan case, said they may not be necessary any more. Next month's meeting follows an emergency session in April at which the provinces got behind wide-ranging changes to the system.

But the Canadian Bar Association, representing lawyers, points to the Garden Restaurant murder case this summer as a demonstration of the preliminary inquiry's importance. Even though the hurdle for going to trial is low – is there any evidence on which a jury can convict? – the mechanism strengthens the system's checks and balances, says Eric Gottardi, a Vancouver lawyer who is the past chair of the CBA's national criminal-justice section.

"Even on the defence side, people think that the test is so low that it's similar to the U.S. grand jury system – you can indict a ham sandwich if you want to. But [the Garden Restaurant case] shows it can fill an important screening function," he said in an interview.

Four men had been charged in a 2014 shooting in a Chinese restaurant that took the life of 31-year-old Tariq Mohammed, an airport employee. The preliminary inquiry took 25 days spread over six months. A month after that, Ontario Court Justice Rebecca Rutherford ruled that three of the men should not be tried for murder because of a lack of evidence. (They still face other serious charges but none directly connected to the killing.)

It was a circumstantial case in which the three men were accused of "constructive murder" – participating in a serious crime, such as forcibly confining another person, that ends in a killing. But Justice Rutherford said the evidence did not add up to a group acting together.

In her ruling, released July 13, she wrote that she found “no available reasonable and logical inference that the defendants acted in concert by formulating a plan to commit a robbery that included the possibility of murder.”

The Garden Restaurant case was a barometer of stress experienced in the criminal-justice system since the Jordan ruling set a time limit of 18 months for cases in Provincial Court and, after a preliminary inquiry, 30 months in Superior Court. Prosecutors in the case had threatened to seek to shut down the preliminary inquiry, and move straight to trial, unless the accused agreed to waive their constitutional right to a trial within a reasonable time. One prominent lawyer, Dirk Derstine, had shouted “that’s extortion” at a senior Crown attorney in a courtroom hallway. But Mr. Derstine and three other senior defence lawyers, after seeking their clients’ approval, ultimately accepted the condition, and went ahead with the preliminary inquiry.

The case “demonstrates the incredible importance of preliminary inquiries in the criminal process,” Mr. Derstine said in an interview, adding that a murder trial would have lasted three to four months. His client, Derek Oppong, cleared of the murder charge, is in jail still facing charges of aggravated assault, assault and forcible confinement.

“It’s fair to say that, no matter how much preparation you do, you always learn a lot about the case during the course of actually hearing the evidence,” Mr. Derstine said, adding that both sides become more aware of the strengths and weaknesses of the case and are more likely to resolve matters before trial.

But Rick Woodburn, president of the Canadian Association of Crown Counsel, said that cases like the Garden Restaurant shooting, in which the prelim was useful, are not the norm.

“There seem to be a lot of preliminary inquiries that are unnecessary. From our point of view, if a preliminary inquiry has a focus and a specific issue that the defence want to bring forth, that’s fine. But we find for the most part they’re turning into mini-trials,” he said.

In sexual assault cases, he said the hearings re-victimize victims, by subjecting them to an extra round of cross-examination for the purpose of trapping them in inconsistent statements. Historically, he said, prelims were designed to allow the defence to learn about the case it faced. But, echoing the Supreme Court in Jordan, he said they have become redundant because, since 1991, prosecutors have been required to disclose evidence to the defence.

“Prior to the Charter, you asked for a preliminary inquiry because you had no idea what the evidence was. You had no idea what the police officers or victims were going to say. You didn’t know what weapons were used. Now they’ve become tools of the defence to really attack the credibility of witnesses and that’s not what they’re meant to do.”

David Taylor, a spokesman for Ms. Wilson-Raybould, said that federal justice officials are working on a proposal this summer that will cover the five priority areas for legislative action

(aside from preliminary inquiries, they include bail, administration of justice offences, mandatory minimum sentences and the reclassification of some offences). “The necessary policy work continues among our officials,” he said in an e-mail.

Legal experts speak up for future prospect of online courts
Lawyer’s Weekly
Melissa Coade
August 7, 2017

The nation’s legal system has been described as too expensive and out of the reach of many people by former High Court judge Michael Kirby, who is advocating for the introduction of online civil courts as a way to improve the affordability of justice in Australia.

Retired High Court justice Michael Kirby has said that online civil courts set up in Canada and those soon to be introduced in the UK addressed an immediate need to make justice more affordable to everyday people.

In a recent interview with the ABC’s Lateline last week, the retired judge described the high costs required to run Australian courts as a “Rolls-Royce system”.

“We've got to be looking for something a little bit down market, particularly for smaller claims,” Mr Kirby said.

“We cannot be satisfied with a system where many people just go away from civil or criminal cases feeling that they have had second-class justice or no justice at all because they couldn't afford to get to first base,” he said.

Mr Kirby’s views were backed by the president of the NSW Law Society, Pauline Wright, who said that the online court initiatives in Canada and the UK were a step in the right direction.

She noted that some Australian courts, such as the Land and Environment Court, were a good example of utilising electronic processes to help with more efficient filing of submissions.

“In Australia, at the moment, we’ve had courts like the Land and Environment Court that started quite early allowing online document filming and some preliminary case management being done online,” Ms Wright said.

“This is especially good for people in rural and remote areas of Australia where it’s harder to get to your lawyer and you’ve got long distances to travel,” she said.

Lawyers Weekly had previously interviewed Colin Rule, the founder of an online dispute resolution provider Modria, about the growing trend towards virtual courts around the world.

Mr Rule, who is also the architect behind the dispute resolution platforms of both eBay and PayPal, said that in addition to cost, online courts offered a solution to dealing with the huge volume of cases backlogged in the ordinary court system.

Justice systems are also gradually interfacing with online platforms to resolve disputes, not due to a collective willingness to transform, but rather because users expect it, Mr Rule suggested.

“When people see the kind of high-powered, well-designed, intuitive platforms being adopted [by the courts], they immediately get it because they’re using Facebook, Gmail and all those other services. And that is an extension of those types of capabilities into dispute resolution.

“It just feels like a really natural and intuitive way to solve problems that people couldn’t imagine 10 to 15 years ago,” he said.

According to the ABC, the online Canadian Civil Resolution Tribunal allows all submissions to be made electronically and means people do not have to appear in person in court. The completely online civil court was opened to handle disputes concerning strata apartment and small claims matters of less than $25,000.

“In Australia, we will see online solution courts for precisely the same reasons the developments are happening in the UK and Canada and elsewhere – because it’s just too costly,” Mr Kirby said.

**Phoenix facing another slowdown as feds struggle to beat down payment backlog**
iPolitics
Kathryn May
August 10th 2017

The Phoenix pay system faces another bottleneck in the federal government’s drive to eliminate a backlog of transactions as it tackles millions of dollars in payments owed in raises and signing bonuses for 80,000 public servants.

Public Services and Procurement Canada, the federal paymaster responsible for Phoenix, expects the surge in work to process these raises will bog down Phoenix and undermine productivity gains over the past two months that saw the backlog of unprocessed transactions shrink to about 228,000.

If all goes to plan, PSPC expects some 80,000 employees working in program and administration for departments across government will receive their raises and $650 signing bonuses on their Aug. 23 paycheques.

PSPC has been making some progress in clearing the backlog of transactions in recent months, but officials have long been braced to see that progress slow to a stop as it tackles the implementation of 27 collective agreements. It could take months to eliminate the transactions sitting in the queue.

The government began last weekend to make the needed payroll adjustments for the four year 5.5 per cent raise that Public Service Alliance of Canada and Treasury Board negotiated for program and administrative employees — the largest bargaining group in government.

The group is the largest Phoenix will have to handle as it implements the various contracts negotiated in the last round of collective bargaining. PSAC contracts are among the most complex, with a myriad of pay rules, allowances, overtime and shift premiums — all of which will have to be adjusted when the new contacts come into force.

Employees who will be getting raises on the next pay day include those working in administrative services, information services, program administration, welfare programs, communications, data processing, clerical and regulatory, office equipment and secretarial jobs.

Under the four-year deal, they are getting raises of 1.25 per cent year, dating back to 2014, in addition to the signing bonus and a 0.5 per cent raise — effective in 2016 — that covers all groups and levels of employees. The current contract expires next summer.

They will not start collecting the back pay owed to them until September. Those payments will be staggered over the 150 days the government negotiated with PSAC to implement the new contract. The government has until Nov 11 to implement the contract and pay employees the retroactive pay owed to them.

PSAC has advised employees that they could receive a lump sum payment for all back pay owing, or they could receive it in multiple payments — particularly if their files require manual processing.

The government is still facing new problems cropping up with Phoenix.

This week, PSPC notified departments that it was shutting down access to Phoenix because it had been overwhelmed by employees trying to access the system at once. Managers had limited access to the system –
between 3 p.m. and 6 p.m. – to sign off on or verify any pay requests, such as overtime, as required under the Financial Administration Act.

The problem has since been resolved and employees are able to access Phoenix again. PSPC said the glitch
will have no impact on pay or processing transactions for the next pay day.

The government also has decided not to send employees their annual pension and insurance benefits statements because it could not guarantee that Phoenix could issue them accurately.

Treasury Board posted a notice on its website warning employees not to expect the statements because they may not be “accurate”. The statements update employees on the benefits to which they are entitled. The data needed to compile the statement is gathered from both the government’s pension system and the Phoenix pay system.

The data problems won’t, however, affect pensions payments and anyone planning to retire over the coming months can directly call the pension centre for an updated statement.

The government has put more than $400 million into fixing the malfunctioning Phoenix system — more than the original $300 million pricetag to install the new system and consolidate pay operations at a new pay centre in Miramichi, N.B.

PSPC has promised regular updates on the repair of Phoenix but it will no longer be holding highly–publicized briefings with senior officials — who a faced steady barrage of questions from media on the latest glitches or problems employees were facing with their paycheques.

The department is still struggling to eliminate the backlog of transactions awaiting processing. According to its last update, the pay centre had processed 89,000 transactions between June 29 and July 26. That was more than the 71,000 new cases it received that month, which helped whittle the queue down to 228,000 outstanding files.

The government has been desperately searching for new compensation advisers to hire, or looking to hire back as many of the 700 compensation advisers the Conservatives laid off when gearing up for the rollout of Phoenix. The government aimed to hire 200 temporary workers on top the 300 it has hired already to help stabilize Phoenix.

PSAC negotiated a $2,500 yearly retention bonus for compensation advisers on top of the 5.5 per cent raises they are receiving.

**Stephenville Crown attorney Kari Ann Pike one of two new provincial court judges**
The Western Star
Gary Kean
August 8, 2017

Newfoundland and Labrador is getting two new provincial court judges, including one from the west coast.
Kari Ann Pike is originally from Corner Brook but has been working as a Crown attorney in Stephenville in recent years. Robin Fowler is a former Crown attorney who was appointed the

assistant deputy minister responsible for courts and corporate services with the Department of Justice and Public Safety last October.

Pike replaces Judge John Joy, who retired from the court in Happy Valley-Goose Bay on July 28, while Fowler replaces Judge Timothy Chalker, who retired from the court in Grand Falls-Windsor on July 12.

Kari Ann Pike, QC, graduated from Regina High School in Corner Brook in 1986. In 1990 she graduated from Dalhousie University with a bachelor of arts degree majoring in philosophy, with a concentration in jurisprudence.

In 1993, she graduated from the University of New Brunswick with a bachelor of laws degree. While attending school she was accepted into the Newfoundland and Labrador Crown Apprenticeship program, which set the path for her legal career as a Crown Attorney.

After articling with the Crown Attorney's Office in Corner Brook, she was admitted to the Bar of Newfoundland and Labrador in 1994. Since then she has remained with the Department of Justice and Public Safety and is currently in the Stephenville office.

Over the last 22 years she has appeared before the Provincial and Supreme Court and was appointed Queen's Counsel in March 2017.

Pike is of Mi'kmaq First Nations heritage and her family has always actively practiced and celebrated their culture.

Robin Fowler

Robin Fowler was appointed as the Assistant Deputy Minister responsible for Courts and Corporate Services with the Department of Justice and Public Safety in October 2016. He received a bachelor of laws degree from the University of Saskatchewan in 1999 and a Bachelor of Arts from Acadia University in 1994.

Fowler was called to the bar in 2000 and worked with the provincial Crown Attorney's Office, including the Special Prosecutions Office, for around 13 years.

In 2013, he joined the Public Prosecution Service of Canada. He has extensive experience prosecuting complex files at all levels of court across Newfoundland and Labrador, including acting as lead counsel in numerous jury trials. He is a bencher, a trained mediator and member of the Canadian Bar Association (CBA) who has served as the CBA Criminal Section Chair for Newfoundland and Labrador.

In September 2016, he trained prosecutors in Nairobi, Kenya, as part of the CBA's Supporting Access to Justice for Children in East Africa project.

**Le fédéral accusé de se traîner les pieds**
Un nombre croissant de migrants sont coincés à Lacolle
Journal de Montréal
Boris Proulx
10 aout, 2017

OTTAWA | Plusieurs voix des milieux politiques et de l'immigration s'élèvent pour critiquer sévèrement le gouvernement Trudeau qui semble se laver les mains de la vague de migrants qui prend de l'ampleur de jour en jour.

« Il y a peut-être des gens qui devraient revenir de vacances plus vite que prévu. Un gouvernement doit fonctionner 12 mois par année », exige Hélène Laverdière, porte-parole du NPD en matière d'Affaires étrangères.

Elle n'est pas la seule à juger que le gouvernement se traîne les pieds dans le dossier.

Même si son sentiment est partagé par des partis d'opposition, experts et par le syndicat des douaniers à qui Le Journal a parlé jeudi, le fédéral considère que la situation est « sous contrôle».

« C'est Ottawa qui a l'obligation d'accueillir ces personnes en tant que signataire de la convention de 1951 relative au statut de réfugiés », précise l'avocat en droit de l'immigration Stéphane Handfield.

« Rien fait »

À cause d'un accord avec les États-Unis, les demandeurs d'asile en provenance de ce pays sont automatiquement rejetés s'ils se présentent aux postes frontaliers réguliers, explique-t-il.
Même si de nombreux intervenants appellent à l'action cette semaine, l'avocate en immigration Stéphanie Valois souligne que le gouvernement n'a rien fait depuis des mois pour éviter cet afflux de personnes, qui pourrait encore s'empirer.

« La situation était pourtant prévisible », dit-elle.

Entre-temps, impossible d'obtenir du gouvernement une estimation du nombre de migrants qui traversent par des points de passage de fortune. Les données sur l'immigration d'août ne seront pas publiées avant encore plusieurs semaines, comprend-on des courriels d'Immigration, Réfugiés et Citoyenneté Canada (IRCC).

Les agents sur le terrain sentent aussi qu'Ottawa traîne à élaborer un plan pour endiguer le problème qu'ils voient grossir de jour en jour. Leur syndicat estime que le nombre de

demandeurs d’asile coincé à Saint-Bernard-de-Lacolle en attendant que leur dossier soit traité est passé de 900 à 1200 jeudi.

Direction claire

« Le commandement sur le terrain attend une direction du gouvernement. Le fédéral doit nous donner une direction claire à savoir où aller à moyen terme », indique Jean-Pierre Fortin, président du syndicat des Douanes et de l’Immigration.

Depuis une semaine, le gouvernement Trudeau reste discret et évite de parler de crise.

« Je suis persuadé que la situation qui prévaut au Québec est sous contrôle total [...] Ça va très bien, on a vu des années où le nombre de demandeurs était plus élevé », indique Serge Cormier, secrétaire parlementaire du ministre de l’Immigration, des Réfugiés et de la Citoyenneté.

Une douzaine d’employés supplémentaires ont été ajoutés au centre de traitement de Montréal et le ministre de l’Immigration, Ahmed Hussen, a visité le poste frontalier de Lacolle la semaine dernière, illustre-t-il en guise d’actions prises par son gouvernement.

À Québec

L’arrivée massive de migrants monopolise aussi l’attention des partis d’opposition à Québec. Le Parti québécois a écorché au passage la gestion et le silence du gouvernement Trudeau, qu’il accuse de ne rien faire pour diminuer la crise.

« Si au moins les gens qui sont en capacité de travail pouvaient travailler, subvenir à leurs besoins et ne pas être dépendants de la société, ce serait mieux », indique son chef Jean-François Lisée.

Pour sa part, François Legault, de la CAQ, trouve que la « capacité d’accueil » du Québec est déjà atteinte, et exige que cessent les traversées « illégales ».

**Letter: How the Jordan decision could affect you**
The Telegram
Letters to the Editor
August 12, 2017

How much do you know about civil versus criminal law?

In the July 8th edition of The Telegram, Llew Hounsell wrote to the editor decrying the Supreme Court of Canada decision in R. v. Jordan rendered in July 2016. As Hounsell noted, the decision “set very precise guidelines about how long a (criminal) case should take to move through the

justice system. If a case exceeded these guidelines, it would be thrown out and the accused freed."

To large insurance companies, to the wealthy and powerful, the justice system is a game. They can make it go fast when they desire a quick decision, or they can slow it down to a crawl when they want someone to go away.

His concern was not so much with the ruling itself, but with the application thereof, not only to cases that entered the system after the Supreme Court's ruling had been brought down, but as well to "cases that had already been in the system for any number of years." He rightly pointed out the injustice, in the latter, to the "victim of one of these accused criminals who walks free."

There is a second and unforeseen group of victims, consisting not only of those already in the system, but also of those coming into the system in future years. While they (you) may not even know it yet, this injustice will be made known in the very near future.

Civil, as opposed to criminal, cases are not referenced in this Supreme Court of Canada decision. Nevertheless, they are cruelly and harshly impacted. Civil law includes everything that is not criminal law. It includes breach of contract, real estate conflicts, personal injury, fraud, workers' compensation and employment-related claims, defective consumer products, and family law, the latter generally being dealt with through a separate court structure.

As we are painfully aware, there is a finite supply of legal infrastructure, including court buildings, judges, lawyers and staff, as well as governmental and support organizations and facilities. The current legal system is strained beyond its limits. If it now has to devote at least twice the time, with the attendant infrastructure, to the hearing of criminal cases over a much shorter period, what does that leave available for civil matters such as yours?

R. v. Jordan has effectively taken what was already a horrendous situation and made it much, much worse. For many of those wronged by others, otherwise than criminally, and currently pursuing remedies provided under civil law, their wait for justice has now been extended by one-and-one-half to two years more, and possibly even longer. How can this truly be called justice?

Anyone seeking legal redress of a wrong through our legal system is well aware of the challenges inherent in the process. The most significant challenge is the legal system itself, which (while now limiting the time that a criminal case can continue to anywhere from 18 to 30 months) provides up to seven years or more for the resolution of many civil cases.

To civil defendants (often insurance companies who have provided coverage for the wrongdoer, or larger corporations or individuals with the deep pockets to finance a lengthy case), this decision is an outright windfall! Prior to R. v. Jordan, a defending legal counsel could, and would, drag out a case for years in the hope that the plaintiff (you) would either run out of money or would, out of pure frustration with the process, simply walk away. They have been using this

deplorable tactic for years, along with the offering of rock-bottom settlement amounts just prior to Christmas. Now they will have justification to blame criminal case backlogs for even longer delays. For many of those wronged, that could be the last straw!

To large insurance companies, to the wealthy and powerful, the justice system is a game. They can make it go fast when they desire a quick decision, or they can slow it down to a crawl when they want someone to go away.

There is no justice when the big and powerful further disadvantage the already disadvantaged.

A better, and a more equitable decision than R. v. Jordan, at least from a layman's perspective, would have been one in which the time available for hearing both criminal, as well as civil, cases was limited to three-and-one-half to four years, applied to all cases entering the system from this point onward.

Dave Randell
Mount Pearl