



THE CANADIAN
BAR ASSOCIATION
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BARREAU CANADIEN

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Via email: marc.noel@fca-caf.ca; Paul.Crampton@fct-cf.ca

The Honourable Chief Justice Marc Noël
Federal Court of Appeal
90 Sparks Street
Ottawa ON K1A 0H9

The Honourable Chief Justice Paul S. Crampton
Federal Court
90 Sparks Street, Main Floor
Ottawa ON K1A 0H9

Dear Chief Justices Noël and Crampton:

Re: Improving inclusivity in the Canadian Justice System

We are writing on behalf of the Equality Subcommittee, the Federal Court Bench and Bar Liaison Committee, and the Immigration Law Section of the Canadian Bar Association about protocols to ensure that all people appearing before the courts have their names pronounced correctly. We are writing to you given the Federal Court and Federal Court of Appeal's leading roles in setting best practices for the Canadian legal community.

The CBA is a national association of 37,000 members, including lawyers, notaries, academics and law students, with a mandate to seek improvements in the law and the administration of justice. The CBA Equality Subcommittee is dedicated to achieving equality in the legal profession, in particular based on sex, gender, sexual orientation, gender identity, race, national or ethnic origin, colour, religion, language, age or disability. The Federal Court Bench and Bar Liaison Committee serves as a link between the Court and the Bar on issues of mutual concern. The Immigration Law Section has approximately 1,200 members practicing all areas of citizenship and immigration law. Members deliver professional advice and representation to thousands of clients in Canada and abroad.

Mispronunciation of names is an issue that significantly, though not exclusively, impacts racialized minorities.¹ Racialized minorities face significant barriers to access to justice and are overrepresented in the criminal justice system, which reinforces their ongoing social and systemic marginalization.² Redressing systemic racism in our justice system requires multifaceted and long-

¹ Racialized minority is used here as an umbrella term for a person or group of people categorized according to ethnic or racial characteristics and subjected to discrimination on that basis. See Government of Canada, Guide on Equity, Diversity and Inclusion Terminology, [online](#).

² Department of Justice Canada, Rooting Out Systemic Racism is a Key to a Fair and Effective Justice System, [online](#).

term measures. This includes everyday practices that ensure people who have been historically marginalized are given equal respect in our justice system.

Mispronunciation of names contributes to stigma and marginalization³ by signaling to certain individuals and groups that they do not belong, are less valued, and are not respected.⁴ While counsel and witnesses must announce and spell their names as part of regular procedure in many courtrooms, the mispronunciation of names remains a common occurrence in courtrooms across the country. Implementing practices to ensure proper pronunciation of names would not only improve the experience of racialized minorities who appear before our courts, but also influence the justice system more broadly sending the message that people of all races, cultures and ethnicities are to be accorded equal respect and dignity.

Negative Impact of Mispronunciation of Names on Counsel and Parties

Names hold ancestral and historical significance for many people. A name can be a core aspect of identity.⁵ Names bring stories, which people are often forced to adapt to fit in to the dominant culture.⁶ While the mispronunciation of names can happen to anyone, the impact on racialized minorities is particularly damaging.⁷

Mispronunciation of names can sometimes amount to as a micro-aggression and an indicating factor for systemic racism.⁸ It is a subtle, but common behavior that supports a racial and cultural hierarchy of minority inferiority.⁹ Despite being generally unintentional, it remains harmful.¹⁰

When mispronunciation happens in court, it becomes a barrier to equal access to justice and reinforces harmful beliefs that marginalized communities are not seen as equal by the justice system. The cumulative effects of systemic racism and discrimination, when coupled with having one's name mispronounced during a court proceeding, may take a heavy toll.

This also applies to lawyers who are racialized minorities, many of whom regularly had their name mispronounced throughout law school and in the workplace. Lawyers belonging to marginalized communities likely faced systemic discrimination and racism in law school and continue to do so in

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- 3 Nadja Schlote, "Too Hard to Pronounce-Examining Newcomer ideologies in the treatment of Newcomer Youth's names," University of Western Ontario, April 2018, p.63-71, [online](#).
 - 4 Zulekha Nathoo, Why Getting a Name Right Matters, BBC, January 2021, online; Darin Flynn, It's Comma-la: Insisting on mispronouncing Kamala Harris's name is racist, University of Calgary, August 2020, online; Adam Dodek, Mispronouncing names isn't okay, and it has nothing to do with being woke, Globe and Mail, June 2022, [online](#).
 - 5 Department of Psychology Equity, Diversity and Inclusion Committee, Queens University, Psychology launches name pronunciation project, April 2022, [online](#).
 - 6 Clare McLaughlin, The Lasting Impact of Mispronouncing Students' Names, National Education Association, January 2016, [online](#).
 - 7 Karen Pennesi, "Universal Design for Belonging: Living and Working with Diverse Personal Names," *Journal of Belonging, Identity, Language and Diversity* 1(1): 25-44, online; see also: Sepideh Afshar, Say My Name Right: Death by a thousand micro-aggressions, McGill Tribune, [online](#).
 - 8 Talisa Lavarry, Ask an Expert: My Colleagues Can't Get my Name Right, Harvard Business Review, February 2021, [online](#).
 - 9 Karen Pennesi, *supra* note 7.
 - 10 Talisa Lavary, *supra* note 8.

practice.¹¹ Many CBA members report having their names mispronounced in court, and the resulting harms they experience.

Mispronunciation of names in a courtroom results in difficulty engaging in focused thinking and engagement.¹² The person questions whether they have equal standing before the court, whether to make a correction, and whether a judge is biased against them. It is a distraction and adds to the burden and stress of appearing in court. These consequences are magnified when the mispronunciation comes from a person in authority, such as a judge, and in front of lawyers and members of the public in the courtroom. The result is a message to racialized minorities that they are “others” in society and in the courtroom.

In contrast, having one’s name pronounced correctly fosters a culture of respect and a sense of belonging. Developing ways of treating names to better accommodate the diversity of Canada helps us move toward a more inclusive society, by setting an example within the justice system.¹³

Suggestions for Best Practices

We suggest the following best practices to increase the sense of inclusion for racialized individuals appearing before the courts:

1. As a practical step to reduce mispronunciation in court and improve inclusivity, we suggest that the court update its standard practices to include a request for pronunciation, using the syllabic method,¹⁴ of all names when participants are introduced in court.
2. When in doubt, the presiding judge should be encouraged to request a confirmation of pronunciation.
3. Correct pronunciation for all counsel and parties should also be verified by the court clerk prior to the hearing.
4. The Court could issue a practice directive on form of address for parties and lawyers, to outline how parties and lawyers can advise the court of the pronunciation of their name.
5. Education of judges and court staff on cultural competence, unconscious bias and anti-racism is central to any change in court practices and policies. Understanding why these issues are important equips individuals to internally assess their own practices for misplaced assumptions and unanticipated harmful impacts.

In assessing which approach is appropriate for the Federal Court and Federal Court of Appeal, we encourage you to consider the following:

- As with pronouns, changes that apply to all participants are better at reducing barriers and making the justice system more inclusive. If racialized minorities are the only ones confirming the pronunciation of their names, they are still singled out and the burden of the ensuring proper pronunciation falls on those who are marginalized.

11 Amanda Jerome, LSO benchers debate need for professional name reader, mailing of certificates at call to bar ceremonies, Law360 Canada, May 2022, [online](#).

12 Karen Pennesi, *supra* note 7.

13 *Ibid.*

14 Breaking the name down into syllables.

- Having everyone communicate the pronunciation of their names is a simple way to avoid errors, treat everyone equally, and signal that it is important to avoid mispronunciation of anyone's name.
- Mistakes will happen. Acknowledging and correcting the mispronunciation at the earliest opportunity is paramount.
- If the changes are permissive, strongly encourage their use and have staff and judges model the change. Having people with authority proactively ask for pronunciation of names creates a respectful and inclusive environment for racialized minorities who already face systemic barriers. It also underlines that assumptions about race, ethnicity or religion are discouraged.
- Whichever approach is adopted, publicize the change so that other courts, lawyers and the public learn from it and have the opportunity to follow the Federal Court and Federal Court of Appeal's lead.

We appreciate this opportunity to dialogue with the Federal Court and Federal Court of Appeal on this important issue. We trust our comments are helpful and would be pleased to provide further information.

Sincerely,

(original letter signed by Véronique Morissette for John W. Gailus, Audrey Boctor and Lisa Middlemiss)

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