



March 26, 2026

Via e-mail: pm@pm.gc.ca

The Right Honourable Mark Carney, P.C., M.P., O.C.
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa ON K1A 0A2

Dear Prime Minister,

The way judges are appointed ultimately shapes public confidence in our courts. It is with this principle in mind that I write on behalf of the Canadian Bar Association to address recent calls from some premiers for a major overhaul of Canada's judicial appointment process. The process as it currently exists has real strengths, above all its meaningful insulation from political considerations. Proposals that would politicize it, such as by granting vetoes to provincial governments, should be resisted.

The CBA participates directly in the system of Judicial Advisory Committees that evaluate and recommend candidates for the bench. These committees have substantial – often majority – representation from provincial institutions: law societies, justice ministers, chief justices, and the CBA's provincial branches. By choosing from among the candidates recommended by these committees, the federal government invites extensive provincial input, while preserving the apolitical nature of the process. Any change that lets a provincial government discard committee recommendations would invite politicization, and thus be a step backward.

Canada's judicial appointment system is different from that of many other countries by design. This isn't a flaw; our court system is unique, and every country's appointment process should reflect the constitutional framework it serves. In Canada, provincial superior courts have broad jurisdiction to hear both federal and provincial matters, and are empowered to strike down both federal and provincial laws. The reality is very different in countries such as the United States and Australia, where state courts mainly restrict themselves to state matters. Our current system of federal appointments based on substantial provincial input makes sense in the Canadian context.

It is also the system set out in our constitution. The federal government's authority to appoint superior court judges under Section 96 has been understood and accepted for over 150 years, and repeatedly affirmed by the Supreme Court.

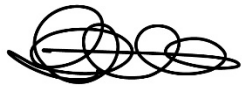
Of course, we should always be open to improvements. The CBA strongly supports efforts to bolster public confidence in our courts and enhance the diversity of the bench. However, public confidence

will not be bolstered, and diversity will not be enhanced, by replacing a merit-based, relatively apolitical process with provincial government vetoes.

More promising reforms would focus on filling vacancies faster, addressing systemic barriers to judicial careers, boosting recruitment in under-represented communities, and increasing the transparency of the appointment process. Canadian political leaders should also be making every effort to relieve the significant resource pressures that contribute to court delays and complicate recruitment and retention of qualified judges, as well as to protect judges from threats and personal attacks.

The CBA is eager to keep working on these issues with your government, and with provincial and territorial governments, while safeguarding judicial independence.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line, likely representing the name Bianca Kratt.

Bianca Kratt, K.C.
President of the Canadian Bar Association

cc: The Honourable Sean Fraser, P.C., M.P. | Minister of Justice and Attorney General of Canada