

MOMENTUM **SUMMIT**
LOOKING TO THE FUTURE

ADVANCING GENDER EQUALITY IN THE LEGAL PROFESSION

A REPORT FROM THE OBA'S SOLUTION CIRCLES
AND WORKBOOK

oba.org/Momentum



ONTARIO
BAR ASSOCIATION
A Branch of the
Canadian Bar Association

INTRODUCTION

ABOUT THE SUMMIT

Welcome to the OBA's Momentum Summit. Following a year of dedicated efforts to advance gender equality in the legal profession, today's program brings together leaders from across the profession, around the globe, and in other industries to identify ways to create better workplace experiences for everyone. A profession where everyone can contribute fully creates workplaces where people want to be; lawyers continue to grow and improve, and the firms they are in get stronger.

ABOUT THE SOLUTION CIRCLES

One of the initiatives that the OBA led as part of its efforts to help identify and overcome barriers to advancing gender equality in the profession were Solution Circles. The Solution Circles were complimentary and productive opportunities to connect practitioners and give them an open forum to discuss the practical steps that can be taken immediately to advance gender equality in the profession. Topics included, "Unconscious biases and gender roles as barriers to gender equality," "Child care challenges as barriers to gender equality," and "Listening to and crediting individuals as a path to advancing gender equality."

Lawyers representing a wide range of practice areas, experience levels, ethnicity, and genders participated in the Solution Circles and helped identify some small steps that lawyers and firms can undertake immediately to help keep the momentum toward gender equality going.

The OBA also continues to offer an open invitation to any law firm, group, or organization to host a Solution Circle and hope that we can keep our momentum going. To host a Solution Circle, visit oba.org/momentum

ABOUT THIS WORKBOOK

The purpose of this workbook is to provide all OBA members and partners a glimpse into some of the modern conversations about gender equality in the profession and the solutions we can undertake together to begin harnessing our collective impact and improve equality and opportunity within the profession.

Unconscious Biases and Gender Roles as Barriers to Gender Equality

What we know:

- In general workplace settings, women are twice as likely as men to have been mistaken for someone in a more junior position. Black women in particular deal with a greater variety of micro-aggressions and are more likely than other women to have their judgement questioned in their area of expertise.¹
- Unconscious biases exist; humans gather information during the course of their lives and their brains process that information in a certain way – unconsciously categorizing it into familiar patterns based on gender, ethnicity, disability or sexuality.²

What we asked:

- Q:** What are the ways you have seen or experienced unconscious biases in the workplace?
- Q:** How do unconscious biases affect the advancement and retention of women in the profession?
- Q:** How can we, through formal or informal measures, break down these biases?

What we heard:

“Unconscious biases are often perceived as ‘someone else’s problem,’ but we all have biases.

“The way we speak to people (especially students) breeds a culture, creates long-lasting impacts and impressions of the profession.”

“Can’t eliminate unconscious biases, but we can be aware of them.”

“We often let small examples of bias go. It’s not easy to stand up when others’ experiences seem so much more significant.”

“It’s worth doing a personal self-assessment for understanding our own unconscious biases. A great tool can be found at: <https://implicit.harvard.edu/implicit/canada/selectatest.jsp>”

“Don’t give up on someone (no matter how embedded their biases may seem). Change takes time; we all have history, and we all have opportunity to learn.”

¹ Lean In and McKinsey & Company – Women in the Workplace 2018

² Forbes, Unconscious Bias: How it Affects Us More Than We Know, December 2018

Child Care Challenges as Barriers to Gender Equality

What we know:

- In 2015, women spent an average of 3.6 hours per day doing unpaid household work, 50 per cent more than the 2.4 hours men spent doing the same tasks. This includes chores, household shopping and caring for children or adult family members.³ Further, only approximately 12% of fathers (outside of Quebec) take parental leave⁴ compared with approximately 90% of mothers.⁵ This has resulted in tangible differences: In 2016, 51.9% of 0-5 year calls in Ontario were women yet only 9.3% of women lawyers were partners as contrasted with 25.8% of male lawyers.⁶
- A survey of 400 US lawyers who have left traditional law firms factors for leaving: (a) wanted to spend more time with family (18.3%), (b) toxic work culture (18.3%), (c) job demands too much time (17.6%), (d) lack of flexibility regarding hours (9.6%), (e) job was too stressful (7.3%), (f) work was not meaningful (4.7%), (g) felt disrespected (4%)⁷
- The Lean In Organization has compiled a series of studies⁸ suggesting that the pushback – or “maternal wall” – women experience when they have children is one of the strongest gender biases.
- A gender wage gap also exists – in the profession and world over. The most recent Statistics Canada data shows that gender wage gap in Ontario is 26% for full-time, full-year workers. This means that for every \$1 earned by a male worker, a female worker earns 74 cents.

What we asked:

- Q:** If, as the statistics show, women continue to carry most of the burden of responsibility for child care, how do child care challenges negatively impact a woman's ability to practice law?
- Q:** How does the gender wage gap impact child care and one's career? And how does this unfairly prevent women from having the same access to career as men?

What we heard:

“A frustrating culture exists for those interested in paternity leaves (few lawyers want to be the first in their firm to take a paternity leave).”

“The issues (and the solutions) are largely structural, not individual or personal.”

“It is important to consider the emotional and personal pressures of having to rush out, always be on demand, etc.”

³ <https://www.cbc.ca/news/canada/calgary/men-women-housework-unpaid-statistics-canada-1.4141367>

⁴ https://www.worklifecanada.ca/cms/resources/files/731/CURRENT_STATS_ON_PATERNITY_LEAVE_AND_FATHERS.pdf

⁵ <https://www150.statcan.gc.ca/n1/pub/11-008-x/2012002/article/11697-eng.htm>

⁶ <https://www.catalyst.org/knowledge/women-law>

⁷ Law Practice Today, Why Lawyers Leave Law Firms and What Firms Can Do About It, April 14, 2016

⁸ Lean In Org, 7 Tips for Men Who Want to Support Equality

"I feel excluded by all of the after-hour socials. I have obligations outside of work and can't ever be a part of the networking."

"Lawyers want to give full attention to all of their responsibilities (i.e., their files and their families). We need to find ways of making that happen for them."

"Firms are missing out on good people and talent because people are frozen in one place. We can't move from an organization that offers flexibility to one that doesn't."

"It is difficult to go from a "top action litigator" to "mom" as soon as you're pregnant. Does becoming a parent have to cost you your professional reputation?"

"Good lawyers are giving up good opportunities because of child care obligations and desires."

What we can do:

- ✓ **Identify senior male and female role models in your organization.**
- ✓ **Commit to testing and trying flexible and agile work arrangements, or seek staff input on whether flexible work arrangements would be helpful to them.**
Participants were keen to see more research on the productivity rates in at-home offices versus in-office settings. It could be worth exploring the research or creating pilot programs and assessing the results.
- ✓ **Review policies on shared parental leave and encourage their use.**
Participants discussed how valuable it would be for management training to include perspectives on what it's like to be a parent.
- ✓ **Commit to testing and trying initiatives focused on supporting lawyers balance their personal and professional responsibilities and interests.**
Some participants thought the availability of weekend tutoring at the office would encourage lawyers to dig into their work files knowing that their children's homework needs were still being met, while others talked about having at-home coaching skills available to them during parental leaves. There are a myriad of possibilities when it comes to supporting staff with their work-life balance and it's one way to invest in firms' people.
- ✓ **Commit to professional networking opportunities for a range of lifestyles, including parents.** Participants expressed interest in wanting to participate in networking opportunities and were disheartened that so many activities happen after work hours and compete with the demands of family and other obligations. Some ideas presented included organized play dates, daytime networking events, CPD programs with onsite child care, and child-oriented networking events such as Santa Claus Parade, summer picnics, etc.

To help address child care challenges for lawyers, I can:

Listening to and Crediting Individuals as a Pathway to Advancing Gender Equality

What we know:

- In a recent U.S. study, researchers found that men who spoke up with ideas were seen as having higher status and were more likely to emerge as leaders while women did not receive any benefits in status or leader emergence from speaking up, regardless of whether they did so promotively or prohibitively.⁹
- Another study has found that women gave more credit to their male teammates and took less credit themselves unless their role in bringing about the performance outcome was irrefutably clear or they were given explicit information about their likely task competence.¹⁰
- A survey of more than 300 high level executives from 55 markets worldwide found that 68% of women executives believe women's contributions are undervalued by men; 47% believe their careers would have been more successful if they were men; and 42% agree with the statement that women need to act like men in order to succeed in business.
- This is likely a contributing factor to lower partnership numbers and a gender wage gap in the legal profession. In 2016 approximately 9.3% of women lawyers were partners as contrasted with 25.8% of male lawyers.¹¹

What we asked:

Q: What systemic behaviours exist in the profession that would encourage and perpetuate these beliefs/assumptions?

Q: What role can each gender play to address these issues?

What we heard:

"Gender bias is not limited to any one demographic."

"Lawyers' best services and assets are their ideas. If we silence one, we are holding the profession and our business back."

"Gender differences exist (and need to be considered/addressed differently) for colleague-colleague relationships (including in the workplace, on panels, etc.), manager-employee

⁹ <https://hbr.org/2017/11/research-men-get-credit-for-voicing-ideas-but-not-problems-women-dont-get-credit-for-either>

¹⁰ <https://journals.sagepub.com/doi/full/10.1177/0146167213486358>

¹¹ <https://www.catalyst.org/knowledge/women-law>

HOST YOUR OWN SOLUTION CIRCLE

The Solution Circle concept originates with an organization called Inclusion Press¹ (inclusion.com) and has been used worldwide on a variety of topics including gender issues.

Solution Circles are an opportunity for engagement. They are brief, positive, results-oriented facilitated discussions where participants work together to identify solutions to problems or challenges they are experiencing.

To better understand and address some of the barriers and challenges to advancing gender equality in the profession, the OBA used the following framework for its Solution Circles and encourages lawyers and law firms to host their own Solution Circles as one more way to understand individuals' experiences and uncover some of the practical steps that can be taken immediately to help break down barriers and advance equality.

Method:

Step 1 Identify a problem or an issue to discuss

Step 2 Assign three essential roles

- I. **The Facilitator** – a person whose task includes managing the Solution Circle, establishing and enforcing the rules, and keeping time.
 - II. **The Problem Presenter** – a person whose task are to present the topic for discussion and facilitate dialogue.
 - III. **The Creative Brainstormers** (approximately 8-10 people) – the participants whose tasks are respecting the rules, sticking to the timing, discussing the topics, staying positive, and offering creative solutions to address the issues presented.
-

Step 3 Follow the format (approximately 45 minutes)

- I. Provide an **introduction** – 3 minutes to welcome participants, acknowledge the use of the Inclusion Network's format, and establish the "rules" of the Solution Circle (*The Facilitator*)
- II. **Present the topic/issue to tackle and key questions to participants** – 6 minutes to identify and explain the topic, provide background information, highlight statistics, and present key considerations (*The Problem Presenter*)
 - **Hear reaction from participants** – a 10 minute roundtable discussion to share sentiments and experiences as they relate to the topic. Each participant gets one minute to share a thought; participants may pass if they do not want to share a reaction. Remaining minutes can be shared among the rest of the participants. (*The Creative Brainstormers only*)
 - **Hold an open Dialogue** – a 10 minute discussion where participants consider one another's experiences, contributing factors to the issues at hand, the impact on the profession and the people in it. (*The Problem Presenter and the Creative Brainstormers*)
 - **Solutions** – a 10-minute roundtable where each participant will name one first step that could be taken to address the barrier to gender equality. It should be a small step that could easily be accomplished or implemented, ideally within 24 hours. Each participant will get one minute to share a thought; participants may pass if they do not want to share an idea and remaining minutes can be shared among the rest of the participants. (*The Creative Brainstormers only*)
 - **Conclusion** – a 6 minute wrap-up to summarize the discussion and outline next steps, including immediate steps each participant will take (ideally within the next 24 hours). (*The Problem Presenter and the Creative Brainstormers*)

¹ <https://inclusion.com/inclusion-resources/training-tools/solution-circle/>

To schedule a Solution Circle with the OBA, visit oba.org/momentum

For more information about Solution Circles, visit inclusion.com

oba.org/Momentum



ONTARIO
BAR ASSOCIATION
A Branch of the
Canadian Bar Association