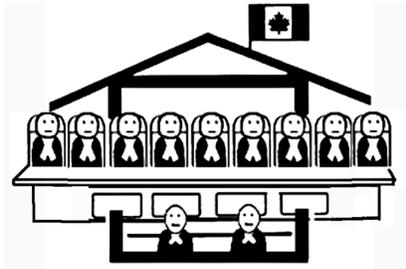


HANDOUT 1: Canada's Federal Courts



Supreme Court of Canada

- The Supreme Court of Canada in Ottawa is where it all stops. It is the final court of appeal for any dispute – civil or criminal – decided in any court in Canada.
- The Supreme Court of Canada's origins date back to 1875; however, until 1949, it was not the 'court of last resort.' Criminal cases could be appealed to the Judicial Committee of the Privy Council of England until 1933 and civil cases until 1949.
- In 1949, the court also added two judges to reach the total of nine that sit on the court now. This includes the Chief Justice of Canada and eight other judges who are appointed by the Governor in Council. These judges have practices for 10 years or more.
- By law three of the nine judges must be from Quebec and traditionally three are from Ontario, two are from the West and one is from Atlantic Canada.
- It took some time for the first woman to sit on the court, but in 1982 Bertha Wilson broke the equality barrier.
- At present the Chief Justice of the Supreme Court is Beverly McLachlin who has resided over the court since her appointment in 2000.
- It is a lawyers' court because the accused or the parties involved in the dispute hardly ever present their own cases to the court or are even present when the appeal is argued.
- The court does not hold trials but can hear appeals from civil, criminal or federal court cases. It has the authority to grant 'leave to appeal,' meaning that it can choose to hear a case and is not mandated by any law to hear an appeal from a superior court of a province.
- The Supreme Court of Canada hears only a limited number and type of appeals. The court will normally choose to hear an appeal if the case involves an important application of the law that has national significance.
- In its role as the 'court of last resort' its judgments set precedent for all of Canada's lower courts and often impact the daily lives of Canadians.

- Since the inception of the Canadian *Charter of Rights and Freedoms*, the role of the Supreme Court has been more important as many of its judgments impact our legal, democratic and mobility rights in addition to our freedoms.
- Judgments need not be unanimous but a majority ruling is given in each case with dissenting judges also offering a judgment.

Information adapted from the Supreme Court of Canada website www.scc-csc.gc.ca

Federal Court

- The Federal Court was formerly called the Court of the Exchequer
- The court has existed in some form since 1875 and came to its present form in 2003 when the two divisions of the Federal Court (the Trial Division and Appeal Division) were split in two separate courts: The Federal Court and Federal Court of Appeal
- The Federal Court hears disputes originating in judgments from:
 - Civil matters involving disputes by individuals or groups with the federal government
 - Disputes by provincial governments with the federal government
 - Cases in specialized areas of federal law, including income tax, patents, customs, and maritime law
- Like most other federal agencies, the Federal Court is based in Ottawa, but its judges travel around the country “on circuit.” At present, the Court consists of a Chief Justice and 32 other judges
- These judges are appointed by the federal government and are addressed in court as “My Lord” or “Your Lordship” or “My Lady” or “Your Ladyship”
- The court does not have juries

Federal Court of Appeal

- The Federal Court of Appeal reviews decisions that have been made by the Federal Court, as well as federally appointed administrative tribunals such as the Immigration Appeal Board and the National Parole Board (Canada’s System of Justice)
- The Federal Court hears an initial dispute, and, if either party is unhappy, the decision can be appealed to the Federal Court of Appeal. Federal Court decisions can be appealed to the Supreme Court of Canada.

