

# **WHITE ON BAY STREET:**

**Considering white privilege at Toronto's corporate law firms**

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# Table of Contents

<b>1. Introduction.....</b>	<b>1</b>
<b>a. Defining white privilege .....</b>	<b>1</b>
<b>b. Methodology .....</b>	<b>1</b>
<b>2. Findings .....</b>	<b>2</b>
<b>a. White privilege is a black box .....</b>	<b>2</b>
<b>b. Recruiting practices are not always inclusive .....</b>	<b>3</b>
<b>c. Diversity initiatives exist for diverse individuals .....</b>	<b>4</b>
<b>d. This is an industry-wide problem .....</b>	<b>5</b>
<b>3. Recommendations .....</b>	<b>5</b>
<b>a. Encourage engagement with diverse interests .....</b>	<b>5</b>
<b>b. Focus on diversity in action.....</b>	<b>6</b>
<b>c. Acknowledge privilege .....</b>	<b>6</b>
<b>d. The message needs to come from the top .....</b>	<b>6</b>
<b>4. Conclusion .....</b>	<b>7</b>
<b>Appendix A: Interview Protocol and Methodology .....</b>	<b>8</b>
<b>Appendix B: 2L Recruitment Processes .....</b>	<b>10</b>
<b>Appendix C: StopSOP Primer .....</b>	<b>11</b>
<b>References .....</b>	<b>12</b>

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## 1. Introduction

Shortly after I started law school in the fall of 2017, Hadiya Roderique released an article in *The Globe and Mail* entitled “Black on Bay Street”, describing her experiences as a woman of colour in Toronto’s corporate law market [1]. Coming into Canada’s top law school, I expected that some of my peers would come from privileged backgrounds, but I did not expect that this would have the industry-wide impact that Roderique described.

Through my research, I sought to understand how white male law students perceive white male privilege at corporate law firms on Bay Street. I wanted to learn whether they think this privilege exists, how they interact with it, and what thoughts they had on increasing the inclusivity of corporate law firms. As a white man myself, I am in a comfortable position to press my peers on their thoughts and to have an open and comfortable dialogue with them, in a way that another person might not be able. This is a privilege in itself.

The insights shared in this report are intended to be illustrative or indicative of how some white men may experience the manifestation of their privilege while working at corporate law firms on Bay Street. This information is not intended to be conclusive. My hope is simply that this report can continue the discussion around diversity and inclusion in corporate law firms moving forward.

### a. Defining white privilege

Peggy McIntosh’s “White Privilege: Unpacking the Invisible Knapsack” has been viewed as the leading source on discussions of white privilege [2]. In it, she describes privilege as enabling systemic benefits to one group of people at the expense of another. She also explores the similarities between white privilege and male privilege, noting that both put their respective privileged parties at an advantage relative to others in society, which results in unconscious oppressiveness. She then proceeds to list 50 different impacts of white privilege, which are exacerbated by male privilege. Although there is no single definition of white privilege, McIntosh’s description provides a good starting point.

### b. Methodology

I recruited eight J.D. students from the University of Toronto, Faculty of Law, all of whom identify as white, male, straight, cisgender, and able-bodied. Although I did not control for socioeconomic status, my intention was simply to maximize the participants’ experiences of privilege. Each student successfully secured a summer job at a corporate law firm on or near Bay Street in the second-year J.D. recruitment process (“2L Recruit”) and will be returning to that firm to complete their articles.

This study sought to explore notions of white male privilege at Bay Street law firms through the eyes of those who experience that privilege. Through open conversation, I asked each individual a series of questions relating to their experiences in the recruitment process and while working at their firm. All students’ identities shall remain anonymous. A more detailed protocol can be found in [Appendix A](#).

If you are not a lawyer, or if you require a greater understanding of recruiting processes at corporate law firms on Bay Street, I recommend that you read [Appendix B](#).

## 2. Findings

Across all interviews, a few common themes arose. These themes pertained to the notion of white privilege itself, recruiting practices and diversity initiatives at Bay Street law firms, and concerns about the broader legal industry's approach to diversity and inclusion.

### a. *White privilege is a black box*

Each participant was asked to define white privilege in a general sense. Some of the provided definitions related to law school, the legal industry, or whiteness more generally, each of which is explored following the quote.

At the University of Toronto, Faculty of Law, there is an event held every March called

**“White privilege is seeing yourself everywhere.”**

*Participant #8*

“See Yourself Here”. The day-long event was started by the Black Law Students' Association to encourage Black high school students to pursue legal studies. Over time, the event has shifted to include all people of colour, and people from socioeconomically disadvantaged backgrounds irrespective of their race. White privilege is not needing an event to help see yourself somewhere to the same extent that a person of colour would.

In August 2018, *PrecedentJD Magazine* released an article highlighting the discrimination problem in the legal profession [3]. The article cited a survey

**“White privilege means never being discriminated against.”**

*Participant #4*

from 2014 of over 1,000 second-year lawyers across Canada, which asked them about their level of satisfaction with the profession. Of individuals who worked in law firms with more than 250 lawyers, 83% of white respondents were satisfied, 71% of South and Southeast Asian respondents were satisfied, 50% of Asian respondents were satisfied, and a mere 33% of Black respondents were satisfied. White privilege is feeling welcome in the corporate law sphere and feeling satisfied with your choice to have entered it.

The very notion of white privilege, as described by McIntosh, isn't that a white person's skin colour is irrelevant to their life, but that it advantages them relative to non-white individuals [2]. While one's non-white skin colour may put them at a disadvantage relative to a white person, the white person is accordingly being advantaged by their whiteness. White privilege is thinking that your skin colour is the baseline against which other skin colours compare.

**“White privilege is knowing that your skin colour won't affect your life.”**

*Participant #3*

Big corporate law firms frequently discuss diversity initiatives as focused on improving representation within the firm and claim that they desire to champion underrepresented voices by giving them a seat at the table. However, a discussion of diversity and an advancement of non-white individuals cannot materialize without an acknowledgement and understanding of the whiteness that privileges many of the existing voices.

**“White privilege is not something I really understand.”**

*Participant #2*

***b. Recruiting practices are not always inclusive***

The participants in this study had between 10 and 18 OCIs, and between three and six in-firms. When asked about the interview process, participants explained that questions seemed to focus on the interests sections of their resumes, with very few questions centering around their work experiences or extra-curricular activities.

**“I felt like once I got my foot in the door, my spot was secured. I went into the [OCI] booth, told lawyers about the different places I’d travelled, and that was it. It felt like the interview was just a formality to make sure I was could hold a conversation.”**

*Participant #1*

White privilege accompanies certain benefits that aid interviewees in ways that they might not recognize. On balance, many students from marginalized backgrounds do not have the benefit of taking a summer off to go travel, but instead must work during the summer to afford tuition, rent, and other costs of living. During interviews, this might negatively impact these students, who do not have luxurious adventures to discuss with interviewers.

**“At least half of my interviewers asked about hockey—it really dominated most conversations. My parents put me in a hockey league as a kid [...] I guess it’s unfair that someone else might not have that on their resume. Talking about hockey made me feel very comfortable and like the interviewers were interested in me. Any conversations about work experience felt less genuine.”**

*Participant #7*

The connection between race and socioeconomic status cannot be understated when it comes to the biases inherent in recruiting practices. While Participant #7’s privilege was a direct result of his affluence growing up, he recognized that other applicants may not have had the same opportunities. This intersection of wealth and whiteness has been identified in academic literature and might materialize in the recruitment process [4].

The way that these experiences materialize has been described by anonymous submissions to *Ultra Vires*, the student-run newspaper at the University of Toronto, Faculty of Law. One individual detailed their experience with a lawyer who downplayed the lived experiences of non-white individuals, directly referring to Roderique’s article [5]. Another individual explained how firms that emphasize ‘fit’ and ‘culture’ actively work against non-white applicants who are not inherently comfortable at the firm [6]. The latter is perhaps most actively seen during in-firms at cocktail receptions and dinners.

**“My dinner was great, although I probably drank too much wine. I wasn’t too worried, since everything was going well. I felt bad for my friend though, since she didn’t drink, and it was clear that the discussion at her table was hitting a wall. The partner at her table was on his third or fourth glass of wine by the time they finished the night, and my friend kept telling me how uncomfortable it made her, since she felt like such a buzzkill. She didn’t get hired.”**

*Participant #3*

In general, corporate law recruiting practices favour a certain type of person: One who already ‘fits’ at the firm. By focusing conversations on sports and travel—which are privileged experiences stereotypically associated with whiteness—those who can relate will be favoured in the hiring process. Ultimately, people like people who are like themselves. Without paying mind to how their firm’s culture is being perceived, some Bay Street corporate law firms are suggesting that they value an “old boys’ club” environment, where the white male is the standard lawyer.

### ***c. Diversity initiatives exist for diverse individuals***

While going through in-firms most interviewees admitted that they did not ask about diversity initiatives at the firm—and some acknowledged that they just didn’t have to.

**“Diversity didn’t really matter to me, since I’m not the target audience for that kind of stuff. I knew some of my friends researched lawyers with similar cultural backgrounds or sexual orientations as them, but I didn’t really have to do that. I focused more on lawyers who did work I was interested in.”**

*Participant #6*

When the onus falls on diverse applicants to research lawyers who look like them, another layer of stress is added onto these individuals. Not only do they need to ensure that the firm does the sort of work in which they are interested and that the people are the types of people with whom they want to work—both of which any applicant should be doing—they also face the additional task of seeking out diverse employees and diversity initiatives at the firm. Diverse applicants must glean from websites and through networking whether the firm to which they’re applying shares their values and will champion their growth through the pipeline. Academic commentary has noted that law students and lawyers of colour have “no choice except to learn about white culture if they are to survive” [7].

The search for diversity does not end once the applicant is hired. Law students and lawyers are able (and often implicitly expected) to join affinity groups, both internal and external to the firm, to continue networking with their identity groups [8]. These groups often intend to help employees at the firm foster professional connections, make friends, and organize professional development experiences (i.e., volunteering, *pro bono* work, and educational panels) [9]. Ultimately, these groups create an environment in which diverse individuals can experience all of the same benefits that their privileged colleagues have as the default.

**“At work last summer, I know some diversity events and panels happened, but I didn’t really take notice of them. I don’t think they were for me. Maybe that’s the point. As someone who actually cares about whether my firm is doing a good job with diversity and inclusion, I guess I just wonder what my role is in all of this. Can I attend? Or am I just ‘taking up space’?”**

*Participant #5*

When it comes to programming, law firms need to ask themselves why they're doing it. Are they seeking to accomplish a sense of diversity, where different individuals have their own spaces at the firm, or are they seeking to foster inclusion, where everyone feels like they're part of the conversation? These interviews suggest the latter could be useful.

#### ***d. This is an industry-wide problem***

When asked more broadly about the industry, all participants brought up the Law Society of Ontario (LSO) and its controversy around the Statement of Principles (SOP). A primer on the SOP and the related StopSOP campaign can be found in [Appendix C](#).

**“How is anyone supposed to take diversity seriously when the benchers who won exclusively campaigned on a platform of StopSOP? It makes it easy for me to dismiss that this is something I’m supposed to care about.”**

*Participant #2*

While law firms on Bay Street are fighting their own internal cultures, a bigger battle is at play in the legal industry. If law firms remain silent on the discussion going on at the LSO, they signal to law students and lawyers that diversity initiatives only matter to check boxes and not to fight for systemic change.

**“I remember when I started law school and Black on Bay Street really shook things up. I was just a 1L, so maybe I missed it, but did anything ever come of that? I feel like everyone was up in arms and then it was kind of over.”**

*Participant #7*

Law students may not be attuned to the specific happenings in the legal industry, but they are at least aware of some broader issues. As they enter the legal profession with certain preconceptions, law firms can help them understand, explore, and engage with difficult issues in the industry, in order to effect change on a broader scale.

### **3. Recommendations**

The discussions with the eight participants also unearthed some suggestions for corporate law firms to better address the impacts of white male privilege.

#### ***a. Encourage engagement with diverse interests***

Many legal recruiters encourage students to be honest about their interests, since the things about which someone is genuinely passionate will enable them to talk interestingly and freely about them in an interview. However, some participants instead suggested that recruiters encourage interviewers to engage with uncommon interests and to do some research in advance of the interview to enable a more meaningful conversation.

**One lawyer had researched something kind of “odd” on my resume in advance and asked me to speak more about it, which made me feel so comfortable and welcome. She had taken the time to learn more about me which made me want to open up to her.”**

*Participant #6*

### ***b. Focus on diversity in action***

Some participants noted that diversity felt like a checkbox process at their firms. That is, they thought their firms were only interested in diversity because society told them they needed to be. Instead of just talking about diversity and inclusion initiatives, some participants instead suggested on finding ways to engage non-diverse candidates in diverse initiatives.

**“‘Diversity in action’ is what I would call it. Give me something to do to teach me about diverse perspectives. Maybe some *pro bono* requirement or a hands-on workshop. Panels just feel like they’re paying lip service without doing anything about it. I know diversity matters, now what?”**

*Participant #8*

While not every participant agreed that they “know diversity matters”, there is something to be said about materializing the importance of diversity in a way that people can experience.

### ***c. Acknowledge privilege***

**“Language matters. If part of the problem is privilege, then say that. If you talk about diversity, I don’t see myself as part of the discussion.”**

*Participant #5*

By pivoting away from diversity and toward inclusion, corporate law firms can start acknowledging that privileged power structures affect everyone, not just “diverse” individuals. While affinity groups can provide diverse individuals with a space to network, connect, and grow together, addressing broader issues with culture and ‘fit’ will require everyone working together. This means that privilege needs to be acknowledged and that those privileged individuals must be part of the conversation. Otherwise, the onus falls on diverse individuals to organize themselves and combat the power structures in place that actively work against their successes. Participant #4 noted that, without buy-in from all stakeholders, the fight for inclusion might be a losing battle.

### ***d. The message needs to come from the top***

At the same time that law firms need to be wary of paying unsubstantiated lip service to the importance of diversity, the firm’s position is strengthened when senior partners and executives at the firm support the importance of diversity and inclusion at their firms. Addressing current and future lawyers’ worries of law firms simply being “old boys’ clubs” starts with the old boys at the top.

**“Obviously recruiters support diversity initiatives but let me hear from corner office partners or, better yet, managing partners. Now that would be impactful.”**

*Participant #1*



## 4. Conclusion

Although all participants in this exploratory study shared similar traits, they had a diverse set of perspectives to bring to the conversation. Discussions of diversity, inclusion, and privilege push people to be uncomfortable in their skin. By working through that discomfort, multifaceted and interesting outcomes and suggestions can arise.

As corporate law firms on Bay Street are in constant competition with one another for clients, they are also in competition for the types of applicants that they attract, and that interest is often contingent upon the firm's culture. I encourage these firms to continue engaging in these difficult but meaningful conversations, to keep exploring ways to fight firm-specific and industry-wide inequalities, and to foster cultures where everyone has the opportunity to 'fit'.

## Appendix A: Interview Protocol and Methodology

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*“To be a responsible and constructive member of legal organizations, a white lawyer must therefore acknowledge that whiteness is a racial identity and not a background norm.”*

*Russell G. Pearce, “White Lawyering: Rethinking Race, Lawyer Identity, and Rule of Law” [7]*

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I recruited eight 3L (third-year law) students from the University of Toronto, Faculty of Law. I wanted to ensure that all participants met the following requirements:

- a. Identifies as white;
- b. Worked at a Bay Street law firm during the previous summer; and
- c. Will be returning to the same firm for articling.

Each interview took place in a study room at the University of Toronto, Faculty of Law in the Bora Laskin Law Library. Interviews lasted between 25 and 55 minutes.

The interview process was conducted as described below. I kept the conversation open-ended and free flowing, with few pointed questions. I only used direct questions if I found that the conversation was not producing enough meaningful content (or, more interestingly, if I believed that the individual was uncomfortable pushing the conversation of race and facing the reality of their privilege).

### 1. Personal background

I asked about the individual’s background and upbringing. This helped me get a sense of their family dynamic and what work their parents do, allowing me to gauge household income, socioeconomic status, and whether they are the first in their family to attend law school and/or be a lawyer. I wanted to begin by focusing on the individual to ease into the conversation, and to have this information in the back of their mind as we proceeded with discussions of white privilege.

### 2. Project background

I explained the premise of the project: Whether white privilege exists in the corporate law sphere and, if so, how it arises in recruiting processes and actual work experience.

I asked the individual how they would define white privilege and what it means to them.

### 3. Watch video

Through my research, I found a video from the Chicago Theological Seminary [10], which has an accompanying guide for discussing white privilege with people [11]. While I did not intend to follow the guide, I thought the video was a useful gateway from participants’ personal perceptions of white privilege into how it’s been explained visually by others.

### 4. Relate it to the firm at which they worked

I asked the individual to keep our conversation so far in mind as we shift gears to discussing the firm at which they worked this past summer and to which they will return for articling after graduation.

I was interested in capturing experiences of white privilege from two angles. First, during the recruitment process (indicating perceptions of diversity and how white privilege may have assisted them in securing a job); and second, during the actual work experience (indicating actual experiences of diversity and how white privilege manifests in everyday life at the firm).

**Recruitment process:** I asked questions about topics such as:

- The individuals with whom they interviewed: Trying to see what kinds of diversity the firm put forward as representative of their culture and lifestyle.
- Whether diversity was a factor for them when deciding whether they wanted to work at the firm.
- The recruiting practices they experienced: Attendance of receptions, questions asked during interviews.
  - This question is the most geared toward discerning white privilege, since many law firm interviews tend to focus on individuals' 'interests' section of their resume. Historically, some students have identified that this practice prefers a prototypical affluent white male, since they are more likely to fill their interests with travel and professional sports.

**Work experience:** I asked questions about topics such as:

- The dynamics when they attended group meetings, court or tribunal hearings, and/or negotiations.
- The dynamics when they attended social events.

I also directly asked some participants about StopSOP and about Hadiya Roderique's *Black on Bay Street* article. For both topics, I tried to encourage participants to relate that content back to their experiences and perceptions in the workplace.

## 5. Final discussion

How this went depended on whether the individual had acknowledged that white privilege exists and impacts law firm cultures on Bay Street.

**They don't agree:** I asked what they would say to someone who asserts that it does exist. I was interested to see if they're open to learning more or if they have defined reasons for disagreeing.

**They do agree:** I asked how they thought white privilege can be combatted. Is it enough to increase diversity, as law firms have tried to do, or do we need to do something more?

## Appendix B: 2L Recruitment Processes

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*“I didn't want to work for a firm that wouldn't want me as I am. But I knew this principle might come at a cost.”*

*Hadiya Roderique, “Black on Bay Street” [1]*

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The 2L Recruit is a process through which many law students attain summer employment, which often results in being hired back for one's articling job. Most, if not all, Bay Street law firms participate in this process, hoping to secure promising legal talent at their firms. The Law Society of Ontario (“LSO”) oversees the process, dictating application deadlines, interview timelines, and certain practices around hiring. Applications are due in August, followed by two days of first round on-campus interviews (“OCIs”) in October, and three days of second round in-firm interviews (“in-firms”) in November.

Each OCI is 17 minutes long and all interviewers are in booths at a convention centre of some sort. In-firms have less structure to them. In-firms might include one-on-one interviews, interviews by panels of lawyers, cocktail receptions, coffee chats, or a meal of some sort (typically a lunch or dinner, but breakfast receptions occasionally make their way into the mix). In-firms take place either inside the firm or at a restaurant or coffeeshop, depending on the format of the in-firm. In-firms usually span all three days, requiring candidates to continue returning to meet with additional lawyers and hiring personnel.

During both OCIs and in-firms at Bay Street firms, the interview style is typically described by most as conversational. The interviewers are typically asking questions about a candidate's academic and work experiences, extra-curricular activities, and the interests section of their resume. Some firms also employ behavioural questions. The general purpose of these interviews appears to be (1) to get to know the candidate and (2) to identify if they are a good ‘fit’ at the firm.

## Appendix C: StopSOP Primer

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*“A diverse bar is more responsive to the needs of the public it serves. A diverse bar is a more competent bar.”*

*Law Society of British Columbia v Trinity Western University, 2018 SCC 32 at para 43. [12]*

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Until September 11, 2019, the Law Society of Ontario (LSO) required all lawyers to adopt a ‘Statement of Principles’ (SOP), which was a “pledge promoting diversity and inclusion” [13]. Although the statement was intended to be in support of inclusion, opponents of the requirement stated that it was compelled speech. Twenty-two of these opponents to the SOP ran in the 2019 election to become benchers for the LSO, with “StopSOP” as the crux of their platforms [14]. All of them were elected and were successful in repealing the LSO’s SOP.

The StopSOP benchers do not hold themselves out to be anti-inclusion, -equality, or -diversity, claiming that “not a single lawyer contributing to [the StopSOP] website condones racism or wants to see a homogenous profession” [14]. Instead, these benchers claim to oppose the SOP as compelled speech. However, in support of their position to repeal the SOP, they released three essays:

1. [Equality, Diversity, and Inclusion] Initiative as a Threat to Traditional Freedoms
2. The Evidence [for the Law Society's determination that there is “Systemic Racism” in the legal profession in Ontario]
3. Accelerating Culture Shift: On the requirement to cooperate with the advancement of a "Culture Shift" as defined, implemented, and monitored by the Law Society of Ontario.

Notwithstanding the StopSOP benchers’ stated position, some lawyers did not believe them. Atrisha Lewis, a lawyer and newly elected bencher in favour of the SOP, has publicly stated that StopSOP is not about freedom of expression, but rather about “denying the existence of racism” [15].

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