

Trudeau appoints loyal servant of ruling elite to Canada's Supreme Court

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Canadian Prime Minister Justin Trudeau appointed Ontario Court of Appeal Judge Mahmud Jamal to the Supreme Court of Canada on June 17 as the replacement for Rosalie Abella, who had reached the mandatory retirement age of 75. Justice Jamal took office July 1.

Justice Jamal's appointment was welcomed by the political establishment, the corporate media and the legal community across Canada, with his South Asian ethnic background inevitably cited as bringing much needed "diversity" to the country's highest court. Born in Kenya in 1967 to parents of Indian descent, Jamal is the first Justice of "color" in the history of the Supreme Court. The fact that he is also bilingual has pleased Quebec nationalists.

By focusing reactions to Jamal's appointment on his ethnicity, the ruling elite seeks to cover up the main reason he was chosen—that he has proven throughout his career to be a faithful representative of the Canadian corporate elite.

After a detour through England, Jamal's family settled in Edmonton, Alberta in 1981. He has made much of his immigration and ethnic minority status. In a pre-appointment questionnaire and his appearance before parliament's Justice and Human Rights Committee, he spoke of the discrimination he had experienced and the challenges he faced as an immigrant.

However, Jamal has not shared the experience of the majority of immigrants in Canada as exploited workers in low-paying jobs who struggle to make ends meet. As a Supreme Court justice, he will earn \$379,900 per year, not including other benefits, a salary that places him comfortably in the top one percent of Canadians.

His career path is one of privilege and reward for services rendered to the Canadian ruling class.

After graduating from one of Edmonton's top high schools, Jamal studied at the London School of Economics, the University of Toronto's Trinity College, McGill University and the prestigious Yale University. He was called to the Ontario Bar in 1996 and began practicing at Osler, Hoskin & Harcourt, a prestigious national law firm that charges hundreds of millions of dollars in fees each year

to its wealthy clients. He became a partner in the firm in 2001 and remained there until his appointment to the Ontario Court of Appeal by Trudeau in 2019.

Jamal's annual salary while at Osler has not been made public, but the average compensation for Canadian associate lawyers is estimated at \$217,000 per year. There is no doubt that the compensation for a high-profile lawyer in the Toronto head office of a firm such as Osler would be much higher and likely reached \$1 million per year.

In addition to this privileged lifestyle, his career in private practice has brought him into close contact with the financial and business elite. The clients he represented before the courts are a veritable Who's Who of Canada's corporate elite. They include all the major Canadian banks and their lobby group, the Canadian Bankers Association, major insurance companies, Dell (a personal computer manufacturer and the 34th largest company in the world, according to Fortune 500), mining companies Placer Dome Canada (which owned 16 mines in seven countries when it was bought by Barrick Gold in 2006) and Inco (which was bought by Brazilian giant Vale in 2006 and whose Ontario operations were recently the scene of a militant strike), General Motors of Canada, Petro-Canada and Honeywell (another corporate giant with a market value of over \$160 billion).

It is sufficient to mention a few specific cases to demonstrate that Jamal was willing to do anything to serve the parasitic class that runs Canada:

**Class action lawsuits against tobacco companies*

For more than a decade and until his appointment to the Ontario Court of Appeal, Jamal represented Imperial Tobacco Canada (IT) in a class action lawsuit that resulted in his client and two other tobacco companies being ordered to pay more than \$15 billion in moral and punitive damages, the highest damages ever awarded in Quebec judicial history. The Quebec Superior Court found that the three major tobacco companies (IT, JTI-Macdonald and Rothmans, Benson & Hedges) were responsible for nicotine addiction and fatal diseases among Quebec smokers. The

evidence showed, among other things, that these companies knowingly concealed scientific information they had held since the 1960s about nicotine addiction and the link between smoking and lung cancer.

Jamal's client was ordered to pay substantially more damages than the other two tobacco manufacturers because of its "particularly unacceptable behavior." Among other things, IT destroyed incriminating documents during the legal process to avoid having to produce them as evidence.

Since the 2015 Superior Court ruling, the three manufacturers have done everything they can to avoid paying the amounts owed to their victims and the families of those who died. They launched an appeal, which was rejected by the Quebec Court of Appeal while Jamal was still IT's attorney, and began a restructuring under the protection of the Ontario courts that will likely allow them to pay only a tiny portion of the \$15 billion, if anything at all.

**KPMG and tax avoidance*

Jamal represented the accounting firm KPMG in a tax avoidance case after the Canada Revenue Agency (CRA) uncovered a shell company scheme set up in the early 2000s to allow dozens of its multimillion-dollar clients to hide money in the tax haven of the Isle of Man. KPMG has not been charged with anything, even though the firm profited handsomely from the scheme it created, by claiming a percentage of the taxes it "saved" for its clients. In order to recover the money, the CRA asked KPMG to provide the names of its clients. KPMG, represented by Jamal, refused and dragged out the case for years despite several court defeats. The company used a wide range of legal delaying tactics to shield a bunch of multimillionaire crooks from any repercussions and allow them to keep their ill-gotten gains.

**Imperial Oil's attack on pensions*

In 2009, Jamal represented Imperial Oil Limited, the Canadian subsidiary of oil and gas giant ExxonMobil, in a dispute with Ontario's pension regulator. The regulator demanded that 409 employees, who were laid off or retired early, be removed from the company's pension plan and transferred to an annual pension scheme managed by a licensed insurance company. Feigning concern for the employees it had thrown out without hesitation in previous restructurings, Imperial Oil challenged the regulator's decision on purely economic grounds: It would have cost \$16.5 million to create the annuity, and the company would have had to replenish the pension fund. During the hearing, in the presence of several pensioners, Imperial Oil sought to apply pressure by threatening to terminate the pensioners' insurance if it lost the case. The court ruled in favour of the company.

Judge Jamal has thus spent his career faithfully serving the ruling class, its banks, its large corporations and its wealthy

shareholders. The emphasis on his ethnic minority background serves to cover up his role as a staunch defender of big business and to give a "progressive" veneer to an entirely reactionary appointment. It is also meant to bolster the reputation of the Trudeau Liberals as promoters of "multiculturalism" and self-proclaimed opponents of racism.

The fraudulent nature of this perspective becomes even more apparent if one examines the similarity of Justice Jamal's profile to that of the last judge appointed by Stephen Harper's right-wing Conservative government in 2014, Suzanne Côté.

Côté was also a wealthy partner at Osler, who spent her career representing banks and big business. She even defended Imperial Tobacco alongside Jamal. To avoid any discussion of her role as a legal mercenary for the ruling class, media coverage of her appointment focused on the fact that she was the first woman to have been appointed to the Supreme Court directly from a private firm. Côté's "feminist" appointment was even endorsed by the supposedly "left-wing" New Democratic Party.

Since her appointment, Côté has proven to be one of the most right-wing judges on the Supreme Court. This confirms once again the reactionary nature of identity politics, which downplays the central class divisions in society in favor of superficial distinctions of gender, ethnicity, language, religion or sexual orientation.

Identity politics is being promoted by powerful sections of the ruling elite to divert attention from growing social inequality under conditions of intensifying class conflict. It also serves to solidify the support of affluent sections of the middle class for the profit system by offering them access to well-paid positions in government, the corporate boardroom or academia on the basis of their identity.

One can say with certainty that the newly-appointed Justice Mahmud Jamal, notwithstanding all the hype about his ethnicity, the colour of his skin, and the importance of "diversity" and "inclusion," will prove to be yet another implacable defender of big business and bitter opponent of the working class on Canada's highest court.



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