

TEACHING LAW IN CANADA

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Introduction

For historical reasons Canada is a bijural country (civil and common law) and a bilingual country (English and French)(I). What is the impact of these factors on the education of lawyers in Canada(II)?

I- Canadian bijuralism and bilingualism

A- Bijuralism (civil and common law)

Under the Canadian federal constitution property and civil rights are within provincial jurisdiction. This means that the civil law applies in the province of Quebec (7.5 million inhabitants), while the common law applies in the nine other provinces and three territories (22.5 million inhabitants). Public law is based on the common law and applies throughout the country.

Canada thus has the benefit of the two legal systems of the Western world: the civil law and the common law. According to a recent study made at the University of Ottawa and published on our website,* these two legal systems now govern 97% of the world's population.

With the development of a world economy, characterized by ever-increasing exports and cross-border contracts, contacts between the two legal systems are bound to multiply. During the fifty years of the GATT/WTO, the volume of world business has multiplied thirteen times. This means that for a country like Canada 43 per cent of its economy now depends on its exports, which produce one in every three jobs. Young Canadian lawyers thus have every reason to take advantage of their country's bijural experience in their training if they wish to function in the globalization of markets. The same applies to bilingualism.

B- Bilingualism (English/French)

Canada also benefits from these two official languages: English and French. English is regarded as the first language of communication in the world. It is apparently spoken as the second, third or fourth language by a quarter of the world's population.

French appears to be competing with Spanish for second place. In any case, French is the language spoken in the various Francophonie countries and is also one of the official languages of the various international organizations.

What is the impact of bijuralism and bilingualism on legal education in Canada?

II- Impact on legal education in Canada

* World Legal Systems, <http://www.uottawa.ca/world-legal-svstems> . see also attached map.

For the reasons mentioned above, it appears that for the last five to ten years bijural education has been expanding, with certain significant language combinations (A). However, traditional monosystemic and unilingual education still occupies a very dominant position(B).

A- Bijural education is expanding with certain language combinations.

- Certain universities offer complete bijural education.

This is true at the *University of Ottawa*, which offers two degrees, in civil law (LL.L.) and common law (LL.B.), in a combined four-year program. About a third of the graduates (85) end with both degrees.

McGill University also has a combined program which can be done in three or four years and which is required for all its law students.

Other universities have concluded cooperation agreements to enable their graduates to do a one-year law degree in the other legal system. These agreements involve three Quebec universities (Laval U., U. of Montréal and U. of Sherbrooke) with three Ontario universities (Western U., Osgood Hall, Queen's U.). However, these agreements only cover a limited number of students.

- Influence of bijuralism in other Canadian universities

Most of the other universities participate in the "*Erasmus*" *student mobility program* financed by the federal government. This program enables degree students from one legal system to spend a semester in a university which teaches the other legal system. They subsequently receive credit from the original university for the courses taken at the host university. This program involves about forty students a year.

Additionally, most Canadian universities offer at least one *comparative law course* or *introduction to the other legal system* in their list of options.

- Bilingualism

McGill University offers a civil law degree program in French and in English and the common law program in English. The contracts and torts courses are however taught in a trans-systemic way.

The *University of Ottawa* offers a common law degree program (LL.B.) in French and English. The civil law degree (LL.L.) is given in French with a branch in English under the combined LL.B./LL.L. program. The University of Ottawa is thus the only one to teach both legal systems in the two language combinations.

Other Canadian universities only teach one language, namely French (5) or English (14). However, it is interesting to note that the University of Moncton teaches the common law in French.

- What are the results?

Our survey indicate that *students* who have dual legal training and are bilingual or multilingual are very well placed in the job market in Canada, the U.S., Europe and elsewhere in the world.

Additionally, several *Canadian universities* are considering altering their curricula to introduce more international and comparative law to meet the challenges of the globalization.

The *University of Ottawa* also plans to create a civil law LL.M. program in English for Anglophone common law students from abroad. At the same time, it is considering the creation of an LL.M. program in the business side of the common law that would be taught in French for Francophone civil law students from abroad.

In *other law faculties*, namely those not mentioned above, legal education remains monosystemic and unilingual for the most part.

B- Monosystemic and unilingual education continues to predominate

In these law faculties a *law degree* is generally obtained in three years. In Quebec it is an LL.L., courses for which are given in French. In the other provinces it is an LL.B., courses for which are given in English (except at the U. of Moncton). In general, apart from exceptions in various civil law faculties, these programs are reserved for full-time students.

In the common law provinces *students are selected on entry* depending on their LSAT results, their academic record and the holding of a B.A. In Quebec they must hold a CEGEP diploma (13 years' study) or a B.A. (14 years' study). They are then chosen on merit according to the quality of their academic record.

Degree programs in law are determined by each faculty, subject only to certain basic parameters established by the Bar in each province (and in Quebec the Chamber of Notaries). The holder of a law degree is entitled to sit examinations for the professional bodies which control practice of the legal profession.

Law *professors* must have at least an LL.M. They are hired, following a public announcement, by a competition organized by the Law Faculty.

Students with this training generally find openings in the traditional practice of the law or in the business world.

Conclusion

In Canada as elsewhere the weight of tradition is great, but the new opportunities in business and employment offered by the world economy are leading law faculties to review their programs so as to give them a more international flavour. In this regard, bijuralism and bilingualism are sources of inspiration and important assets.