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THE VALOUROUS PATH FORWARD:

A POLYGLOT LEGAL EDUCATION IN CANADA

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Abstract

At the Future of Law Conference at the University of Saskatchewan in 2013, President Arthurs called Canadian faculties of law to show “valour rather than prudence.” Today, the large majority of law faculties across the country harbor teaching and research in law exclusively in one language, generally English. This is despite the fact that law at the federal and sometimes provincial levels is made, interpreted and applied in both French and English. Legal vocabulary, institutions and structures of thoughts develop in Canada in both official languages. Moreover, Indigenous languages have maintained a central role in Indigenous legal orders in Canada. We cannot forget either that many citizens form families and conduct business across the country in immigrant languages as well. This essay will make the case that valour should take the form of including more languages in Canadian legal education. A careful review of the historical developments of languages in Canadian law faculties and an assessment of how multilingualism furthers the philosophical political, and professional objectives of legal education in Canada will demonstrate how this evolution would contribute to public good and positive social change. This essay will then articulate proposals regarding the languages and polyglot pedagogies that law faculties could embrace in accordance with their culture, environment and resources.

TABLE OF CONTENTS

<i>Abstract</i>	ii
<i>Introduction</i>	1
Part 1: Historical Evolution and Current Situation of Languages in Canadian Legal Education	2
<i>a. First Wave of Development of French-Language Legal Education Outside of Quebec (1970s-1990s)</i>	3
<i>b. Second Wave of Development of French-Language Legal Education Outside of Quebec (2010s)</i>	5
<i>c. English and Aboriginal Languages in Canadian Legal Education</i>	7
Part 2: The Benefits of Introducing Multilingualism in Legal Education	9
<i>a. Multilingualism and the Philosophical Objectives of Legal Education</i>	10
<i>b. Multilingualism and the Political Objectives of Legal Education</i>	12
<i>c. Multilingualism and the Professional Objectives of Legal Education</i>	14
Part 3: The Modalities of Multilingualism in Canadian Legal Education: Defining the Voices	16
<i>a. Official Languages: French and English</i>	16
<i>b. Canada's Other Languages : the Aboriginal Languages</i>	19
<i>c. Other Languages in Canada</i>	21
Part 4: The Modalities of Multilingualism in Legal Education: Incorporating the Voices.....	23
<i>Conclusion</i>	26
<i>Bibliography</i>	28

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Introduction

Canada is officially a bilingual country, and several provinces grant significant languages rights to their French or English speaking minorities. A wealth of Aboriginal languages have flourished for centuries in Canada, and some have remained prominent in certain regions. Through immigration, numerous more languages are spoken across the country. In short, Canada is formally and informally polyglot. Yet, legal education in Canada remains largely monolingual.

This is despite the intimate connection between law and language articulated by Constable: “Law is matter of language... Law and language accompany one another. And language is our law, saying ever imperfectly who we are and what to do.”¹ Indeed, a language reflects its speakers’ relations to the world and others. It emanates for the speakers’ culture and history. It is a primary vehicle for the affirmation of their cultural identity. Legal structures and legal relationships also reflect a community’s sense of morality and power dynamics. Law and language alike constitute their communities as much as they emanate from them. Law faculties educate citizens who will go on to provide legal services, represent fellow citizens in court, judge them, make laws and shape policies. Law faculties thus need to open their doors to languages to fulfil their promises.

At a conference on the future of law in 2013, President Arthurs called Canadian faculties of law to show “valour rather than prudence” for their future.² A few months later, at a similar conference on the future of law schools, he made the prediction that faculties of law will be celebrated and remembered for their “long-term contributions to the public good [and

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¹ Marianne Constable, *Our Word Is Our Bond* (Stanford University Press, 2014) at 140.

² Harry W Arthurs, "Valour Rather Than Prudence: Hard Times and Hard Choices for Canada's Legal Academy" (2013) 76 Sask L Rev 73.

their] role as an agent of change”.³ Committing to multilingualism would be an act of valour for Canadian law faculties and a contribution to public good. In the first part of this essay, I will first of all describe the historical evolution and current situation of languages in legal education across Canada. The most striking and exciting changes have been with regards to legal education in French outside of Quebec; they have taken the form of two waves of development, the second of which is still underway. I will say a few words on the situation of English language education in Quebec, and I will also speak to the absence of any Aboriginal language in legal education in Canada, except Inuktitut at the temporary Akitsiraq Law School in Nunavut. The historical perspective in this first part will be an opportunity to show how and why languages have taken greater roles in legal education in Canada, and discuss how these developments contributed to the public good where they occurred. I will then move on to articulate how a polyglot legal education furthers the aspirations of legal education in the second part of this essay. I will discuss in turn the philosophical, political, and professional aspirations with a view to demonstrate how multilingualism constitutes a valourous path forward in legal education in terms more generalizable than what the specific examples examined in the previous part could suggest. Once I will have made this broad case for a polyglot legal education in Canada, it will lead me to discuss its modalities. To this end, in the third part of this essay I will give avenues for reflection regarding which languages to include in legal education in Canada. In particular, I will suggest ideal sites to incorporate diverse languages next. In the fourth part of this essay, I will then offer a taxonomy of existing forms of multilingualism in Canadian law faculties, before proposing several modes to implement polyglot legal education. This will not be an exhaustive list, and the proposals will not be exclusive of each other nor other innovative possibilities. I will insist on the many resources that are already present, even if invisible, in the academic and professional circles surrounding the law faculties and on which institutions can rely to offer forms of multilingualism fitted for their own culture and environment.

Part 1: Historical Evolution and Current Situation of Languages in Canadian Legal Education

³ Harry W Arthurs, "The Future of Law School: Three Visions and a Prediction" (2013-14) 51 Alta L Rev 705 at 718.

The language of legal education in Canada used to reflect the social structures inherited from the victory of Britain over France in the colonial competition in North America, and the complete domination of the Aboriginals by the settlers. Legal education happened exclusively in English outside of Quebec, including in regions with significant French speaking communities such as New Brunswick or the Prairies. In Quebec, most of the law faculties were and still are francophone institutions, but Roderick Macdonald could nevertheless write in 1997 that “English-language civil law education ha[d] a distinguished history”.⁴ He was referring mainly to McGill University Faculty of Law (“McGill Law”), which defined its mission for most of its history “in terms of training English-speaking members of the Quebec Bar”.⁵ Let me now offer an historical perspective on the developments that took Canadian legal education away from this starting point, and show how the broadening of the linguistic offer has sought to contribute to the public good.

a. First Wave of Development of French-Language Legal Education Outside of Quebec (1970s-1990s)

This situation has significantly evolved in the past few decades. French-language education to the civil and the common law has extended outside of Quebec in two waves. The first wave occurred in the late 1970s, consolidating until the 1990s, and the second wave has been happening since the early 2010s and may trigger new developments in the coming years. The impetus for the first wave came from the recommendations of the Royal Commission on Bilingualism and Biculturalism in 1967 to grant French and English equal official languages status for the federal government, in Ontario, and in New Brunswick.⁶ The federal government and New Brunswick quickly followed the recommendation, and both languages became official for the federal government and institutions and for New Brunswick

⁴ Roderick A Macdonald, "Legal Bilingualism" (1997) 42:1 McGill L J 119 at 127.

⁵ Ian C Pilarczyk, *"A Noble Roster": One Hundred and Fifty Years of Law At McGill* (Montreal, QC: McGill University Faculty of Law, 1999) at 12. McGill Law has however long been a bilingual institution as one can see from the components of its early days and later developments of its history: see e.g. *ibid*; Stanley B Frost, "The Early Days of Law Teaching at McGill" (1985) 9 Dal LJ 150; David Howes, "The Origins and Demise of Legal Education in Quebec (or Hercules Unbound)" (1989) 38 UNBLJ 127

⁶ See André Laurendeau & A Davidson Dunton (co-chairs), *Report of the Royal Commission on Bilingualism and Biculturalism*, "Book I: General Introduction – The Official Languages," (Ottawa, Queen's Printer, 1967).

government and institutions.⁷ Although Ontario did not follow the recommendation for itself, it nevertheless endeavored to broaden significantly the possibilities to use French in the provincial courts shortly after and amended its laws accordingly.⁸ This new situation created for the first time a substantial need for French-speaking lawyers outside of Quebec, for proceedings before Ontario, New Brunswick and federal courts. It provided the critical impetus for education to the common law in French in different parts of Canada. Two universities would seize this opportunity: the University of Ottawa (“uOttawa”) in the nation’s capital and the Université de Moncton (“Moncton”) in New Brunswick.

uOttawa harbors a Faculty of Civil Law, established in 1953, and a Faculty of Common Law, established in 1957. At their inception, the two faculties were headed by a single dean: the Honorable Mr. Justice Fauteux, then a member of the Supreme Court of Canada but who had previously held the deanship of McGill’s Faculty of Law. He aspired “to create national faculty that would reflect the legal traditions of both of Canada’s colonial founders.”⁹ It is twenty years after the creation of uOttawa’s Faculty of Common Law (“uOttawa Common Law”) that merged the pressing need for legal training and materials in French for legal services in Ontario and federal courts. The history and experience of law teaching at uOttawa had committed then Dean Hubbard to advancing bilingualism and bijuralism.¹⁰ The needs of the time meeting the identity of the institution, uOttawa therefore started offering several first year common law courses in French in 1977.¹¹ This innovation served to train and develop Ontario’s French-speaking bar, thus providing a response to the Franco-Ontarian community’s needs, but also matched the philosophical and political aspirations of the institution. In the following years, uOttawa Common Law strengthened its offering in French by adding more courses, creating an official dedicated program in 1980, and finally giving this program an equal status in the Faculty than the common law program

⁷ Official Languages of New Brunswick Act, S.N.B. 1969, c.74; Official Languages Act, R.S.C. 1970, c.0-2, later replaced by Official Languages Act, R.S.C. 1988, c.38.

⁸ See e.g. The Judicature Amendment Act, 1978, LO 1978, c.26, and The Juries Amendment Act, 1978, LO 1978, c.27, cited in Mathieu Demilly & Darius Bossé, “Le statut du français au sein de l’appareil judiciaire ontarien : une révolution tranquille inachevée” (2012-2013) 44:1 Ottawa L Rev 161 at 165, note 12. On these and subsequent reforms in Ontario, see e.g. *ibid*; Louise Bélanger-Hardy & Gabrielle St-Hilaire, “Bilinguisme judiciaire et enseignement de la common law en français en Ontario : un bilan historique” (2009) 34 R du Nouvel-Ontario 5.

⁹ University of Ottawa Faculty of Law - Common Law Section, “Reunion: Common Law History at the University of Ottawa” (2007) at 8, online: <<https://commonlaw.uottawa.ca/en/about/history>> [*uOttawa Reunion*].

¹⁰ *Ibid* at 43.

¹¹ *Ibid* at 67ff.

in English by 1993.¹² A few years later, the Civil Law Faculty mirrored the efforts of its counterpart by creating a track in English in its program.¹³ By the end of the 20th century, uOttawa thus harbored fully fledged civil and common law programs in both official languages, more or less on an equal footing.

The context and aspirations leading up to the creation of a school of law at Moncton are similar to what the history of uOttawa reveals. The idea of offering legal education to Acadians in their native language had been around for some time already, and the University of New Brunswick (“UNB”) had then recently started making attempts to equip its French-speaking students with some common law terminology in their own language.¹⁴ The legal changes to linguistic rights in the province and elsewhere in the country triggered the establishment of a more ambitious program. In 1978, the Ecole de droit de l’Université de Moncton (“Moncton Droit”) opened its doors, and inaugurated the first common law curriculum in Canada fully taught in French. The founders had sociolinguistic objectives in mind; they wanted to provide French-Canadians outside of Quebec the training and credentials to affect social change and claim back a role in in the socioeconomic and political order.¹⁵ It is therefore a common feature of the two university programs that constituted the first wave of development of French-language legal education outside of Quebec: they purported to act on society. The empowerment of a linguistic minority was a core objective, even if they also constituted a response to emerging market needs. uOttawa and Moncton were trailblazers on the valourous path forward that I am advancing in this paper.

b. Second Wave of Development of French-Language Legal Education Outside of Quebec (2010s)

The second wave has been the occasion of extending possibilities for French-language legal education westward. In 2013, the University of Manitoba’s Robson Hall Faculty of Law

¹² *uOttawa Reunion*, *supra* note 9 at 67ff.

¹³ University of Ottawa, Faculty of Law - Civil Law Section, “History of the Faculty”, online: University of Ottawa, <<https://droitcivil.uottawa.ca/en/about/history-of-the-faculty>>.

¹⁴ David G Bell, *Legal Education in New Brunswick: A History* (Fredericton: University of New Brunswick, 1992) at 199—200.

¹⁵ Université de Moncton, Faculté de Droit, « Objectifs » online : <www.umoncton.ca/umcm-droit/node/3>; See also generally Jacques Vanderlinden, *Genèse et jeunesse d'une institution : l'école de droit de l'université de Moncton* (Moncton: Université de Moncton, 1998).

("Manitoba Law") started offering a French Language Program composed of two first year core classes and three upper years elective offered in French.¹⁶ Then, in March 2016 the University of Saskatchewan's College of Law ("Saskatchewan Law") announced a partnership with uOttawa Common Law to offer a Certificate in Common Law in French, starting in September 2016.¹⁷ In this program, students will spend time in the French-speaking environment of uOttawa, take part in a moot court competition in French, and have the opportunity to intern with law professionals that work in French. Lastly, uOttawa's Pan-Canadian French Common Law Program partnered with the law faculties at the University of Calgary ("UofC Law") and University of British Columbia ("UBC Law") to offer the first law course in French at these institutions in the fall 2016, and with the University of Alberta ("UofA Law") to make a similar "introduction à la common law en français" course available in winter 2017.¹⁸ If this pilot project is successful, they hope to develop further the partnerships and eventually offer a certificate program similar to the one at Saskatchewan Law in these three universities.

It is striking to observe that legal education in French is making its first steps in Alberta and Saskatchewan only months after that the Supreme Court rejected historical and constitutional arguments that would have imposed legislative bilingualism in these two provinces.¹⁹ In contrast with the first wave described above, the second wave of development for legal education in French started in a period when the political and legal context were not favorable to the advancement of languages rights.²⁰ It therefore seems to be more the result of intellectual entrepreneurs' efforts than a market response to a fertile political economy context. The tide is changing however, as illustrated with the new commitment of the federal government to ensure that future appointees to the Supreme Court of Canada be "functionally bilingual."²¹ A further example is the willingness of the Albertan government to adopt an

¹⁶ University of Manitoba's Faculty of Law, "Studying in French", online: <law.robsonhall.ca/french-language-program#studying-in-french>.

¹⁷ University of Saskatchewan's College of Law, "Certificate in Common Law in French (CCLF)", online: <law.usask.ca/programs/law-degree/certificate-in-common-law-in-french-cclf.php>.

¹⁸ Professor Caroline Magnan (University of Ottawa), director of the Pan-Canadian French Common Law Program, kindly provided the following information on this course: she will be teaching it in Calgary and students in Vancouver will be able to participate thanks to video-conference technology, moreover part of the course will be offered online. The course aims at giving bilingual students in English-speaking faculties the opportunity to learn legal vocabulary in French in context.

¹⁹ See *Caron v. Alberta*, 2015 SCC 56, 3 SCR 511.

²⁰ The Caron decision, see *ibid*, represents to culmination of this unfavorable period. In the decade leading up to it, federal and provincial governments had shown little interest in advancing bilingualism in Canada.

²¹ Canada, Prime Minister, *Minister of Justice and Attorney General of Canada Mandate Letter*, 16 November 2016, online: <pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>; Office of the

official policy regarding provincial services in French in the coming months.²² This newly auspicious environment undoubtedly provides much better conditions for the second wave to successfully establish legal education in French in the Western half of Canada.

These developments are very recent; it is very early to write their history. Very limited information is available publicly to date regarding the identity of the entrepreneurs who promoted them and their aspirations. We will undoubtedly learn much more on this topic in the coming years and decades, and we will also only be able to assess their fate by then. There are nevertheless characteristics of these developments upon which we can already elaborate here. First of all, French-language legal education is coming to all but one of the law faculties located West of Ontario.²³ It is a widespread phenomenon that will of course initiate discussions on the languages of legal education in the said institutions, but likely in many others as well. uOttawa's crucial role in these developments demonstrates that the aspirations that led to the creation of the French common law program in the late 1970s are still very much alive, and that their scope is now pan-Canadian. The champions of French-language legal education at uOttawa and in the Western universities aim to empower the Western French-speaking communities. They aim to improve access to legal knowledge, rights and protections for linguistic communities that have long played a distinguished but often forgotten role in the history of their regions. The *francisation* of the legal professions and of the legal instruments and processes through legal education, if those experiences become as successful as in Ottawa and Moncton, will constitute a noteworthy social change.

c. English and Aboriginal Languages in Canadian Legal Education

Commissioner for Federal Judicial Affairs Canada, Independent Advisory Board for Supreme Court of Canada Judicial Appointments, "Qualifications and Assessment Criteria", 2 August 2016, online: <<http://www.fjacmf.gc.ca/scc-csc/qualifications-eng.html>>. This new requirement will first be applied to fill the vacancy created by Justice Thomas Cromwell's retirement in September 2016.

²² Philip Orfali, "Vers une première politique de services en français en Alberta" *Le Devoir* (4 May 2016), online : *Le Devoir*, <www.ledevoir.com/politique/canada/469905/vers-une-premiere-politique-de-services-en-francais-en-alberta>; Geneviève Normand, « Le gouvernement de l'Alberta et la communauté francophone à la même table » *ICI Radio-Canada* (30 March 2016), online : *ICI Radio-Canada* <ici.radio-canada.ca/regions/alberta/2016/03/30/007-rachel-notley-acfa-jean-johnson-gouvernement-loi-services-francais-politique-ricardo-miranda.shtml>

²³ To date, I have not come across any indication that the University of Victoria will be taking part in uOttawa's Pan-Canadian French Common Law Program or offer courses in French on its own.

On the other hand, English-language legal education in Quebec has not significantly progressed or regressed in this period. McGill Law is officially a bilingual program, but English is still prevalent and French is often passive due to the history of the institution and current structure of the program. For instance, it is possible for students in the BCL/LLB program to graduate without having taken a single course in French during their law studies, whereas it is impossible to take only classes given in French.²⁴ A few specialized programs in English exist in other law faculties in Quebec.²⁵ Moreover, there is some level of linguistic accommodation for Anglophone students even in the general law programs of Quebec's Francophone universities.²⁶

In a very limited way, legal education in Canada has also happened in an Inuit language at the Akitsiraq Law School. This was a temporary program coming out of a partnership between the Nunavut Arctic College and University of Victoria Faculty of Law ("UVic Law"), and was tailored to train lawyers for the Arctic communities, in Nunavut in particular.²⁷ After four years of study, a cohort of 11 students graduated from the program in 2005. There was an attempt to train a new cohort in 2011, in collaboration with uOttawa instead of UVic Law, but the project did not succeed for financial reasons. The Nunavut government is committed to reliving the program in 2017; this time the Nunavut Arctic College will partner up with Saskatchewan Law, and the program will take in as many as 25 students.²⁸ The Akitsiraq program incorporates "traditional law and knowledge from elders, while promoting the need for more legal experts fluent in an Inuit language."²⁹ In Nunavut, a

²⁴ In a non-binding referendum organized by their Law Students Association in April 2016, they overwhelmingly approved a policy that would require every student to have taken such a course, or a French class, to graduate.

²⁵ E.g. the "Business Law in a Global Context" LLM program at the Université de Montréal, see Faculté de droit de l'Université de Montréal, "Programmes de 2^e cycle", online: Faculté de droit de l'Université de Montréal, <droit.umontreal.ca/programmes/programmes-de-2e-cycle/>

²⁶ See e.g. Faculté de droit de l'Université de Montréal, "Politique concernant l'usage et la qualité du français à la Faculté de droit", online: <droit.umontreal.ca/programmes/etudiants-actuels/reglements-et-guides/>. This situation has sparked some controversy however, see e.g. Guy Lefebvre, "Accusations non fondées", *Le Devoir* (3 February 2014), online: *Le Devoir*, <www.ledevoir.com/societe/education/398884/accusations-non-fondees/>, and op-eds by students in the preceding days in the same newspaper.

²⁷ See e.g. Serena Ableson, "Bringing Legal Education to the Canadian Arctic: the Development of the Akitsiraq Law School and the Challenges for Providing Library Services to a Nontraditional Law School" (2006) 34 *Intl J L Information*.

²⁸ "Nunavut government, college to launch Iqaluit-based law program in 2017" *Nunatsiaq Online* (23 August 2016), online: *Nunatsiaq Online* <www.nunatsiaqonline.ca/stories/article/65674nunavut_government_college_to_launch_iqaluit-based_law_program_in_2017/>.

²⁹ Elyse Skura, "Nunavut-based law program on track to return next year" *CBC News* (15 March 2016), online: *CBC News*, <www.cbc.ca/news/canada/north/nunavut-law-program-restart-set-for-2017-1.3491489/>.

vast majority of inhabitants speaks primarily an Inuit language,³⁰ and Inuktitut has the status of official language in Nunavut alongside French and English.³¹ The question of language is therefore crucial for any program tailored to the needs of the Arctic communities, in addition to the need for considering the social, cultural and economic specificities of the Arctic region. This example represents the only instance of significant attention to an Aboriginal language in legal education across Canada. The linguistic context of Nunavut is unique in the country since an overwhelming majority of inhabitants in this territory speak primarily Inuit languages; it is not however the only region of Canada where many citizens would benefit from the provision of legal services in their own Aboriginal language.

The linguistic situation in legal education across Canada has thus been evolving mainly with regards to the availability of French-language opportunities. In spite of this, legal education in Canada remains largely monolingual. Only McGill and uOttawa offer fully-fledged programs in both French and English, a handful of faculties offer courses in their non-dominant official language, and the only program that includes an Aboriginal language has graduated less than a dozen of students in the past 15 years. Legal education in Canada fails to reflect the vibrant linguistic diversity across the country. It also fails to fulfil its plural promises of philosophical, political and professional character. To date, law faculties seem to have chosen prudence over valour in this regard.

Part 2: The Benefits of Introducing Multilingualism in Legal Education

Arthurs insists that the path forward for Canadian legal education consists in shaping social change to contribute to public good.³² Let me now show how multilingualism constitutes a prime avenue to realize this prophecy. There is an abundance of literature suggesting that raising a child in a bilingual context is extremely beneficial for the development of his or her cognitive abilities, compared to a monolingual environment.³³ The scientific literature also shows that bilingualism also helps the brain to function at a higher level longer, thus delaying the appearance of degenerative diseases symptoms affecting

³⁰ In 2011, two thirds of the population in Nunavut identified Inuktitut as their mother tongue, see Statistics Canada, “Population by mother tongue, by province and territory, excluding institutional residents (2011 Census)” (2013), online: Statistics Canada, <www.statcan.gc.ca/tables-tableaux/sum-som/101/cst01/demo11d-eng.htm> [*Census 2011 - Languages – Provinces & Territories*]. See also *infra* note 61 and accompanying text.

³¹ Official Languages Act, S.Nu 2008, c 10, s 3 [*Nunavut Official Languages Act*].

³² See *supra* notes 2 & 3.

³³ Maria Konnikova, “Is Bilingualism Really An Advantage?” *The New Yorker* (22 January 2015), online: The New Yorker, <www.newyorker.com/science/maria-konnikova/bilingual-advantage-aging-brain>.

cognitive capacities.³⁴ Law students would undoubtedly benefit from these advantages in much the same way as everyone else.³⁵ Notwithstanding the wonders that multilingualism can do in general, I want to focus here on the benefits for legal education in particular. I will endeavor to show how a greater diversity of languages, with greater intensity, furthers the philosophical, political, and professional goals of legal education.

a. Multilingualism and the Philosophical Objectives of Legal Education

“The limits of my language mean the limits of my world.”³⁶ A language shapes one’s relation to the world. The vocabulary is a set of concepts that one can apprehend. The grammar defines how ideas and things interact with one another. A language is a universe of possible structures of thought. What the language does or does not articulate, and how it does so instills “habits of mind”.³⁷ The cliché of many more ways to express the idea of snow in Inuit languages than in English illustrates this idea.³⁸ A language therefore carries a way to perceive the world.

Pue affirms that there is a wide consensus in Canada to commit to “the ideal of liberal legal education”.³⁹ He characterizes this liberal ideal as according high value to “intellectual development as a goal in itself”, and purporting to nurture “breadth, critical enquiry, tolerance, and cultural literacy”.⁴⁰ Nussbaum equally defends such a view, and argues that “while [law students are in law school], while they have time to deliberate and imagine, let us cultivate their humanity”.⁴¹ The core values that she argues are embedded in this approach and should be developed in law school are Socratic self-examination, world citizenship, and narrative imagination.⁴² A polyglot pedagogy furthers the philosophical aspirations articulated

³⁴ *Ibid.*

³⁵ One could even wonder whether bilingualism could have some positive impact on law students’ mental health generally, although I have not encountered any evidence supporting this possibility.

³⁶ Ludwig Wittgenstein, *Tractatus Logico-Philosophicus* (London: Kegan Paul, Trench, Trubner & Co., Ltd., 1922) at proposition 5.6, online: Gutenberg, <www.gutenberg.org/ebooks/5740>.

³⁷ Guy Deutscher, “Does Your Language Shape How You Think?”, *The New York Times Magazine* (26 August 2010), online: <www.nytimes.com/2010/08/29/magazine/29language-t.html>

³⁸ The accuracy of this popular cliché has been the object of much debate for over a century, see e.g. David Robson, “Are there really 50 Eskimo words for snow?” *New Scientist* (18 December 2012), online; *New Scientist*, <<https://www.newscientist.com/article/mg21628962.800-are-there-really-50-eskimo-words-for-snow>>.

³⁹ W Welsey Pue, “Legal Education’s Mission” (2008) 42:3 *The Law Teacher* 270 at 278. See also generally Sherman J. Clark, “Law School as Liberal Education” (2013) 63:2 *J Leg Ed* 235.

⁴⁰ *Ibid* at 275.

⁴¹ Martha C Nussbaum, “Cultivating Humanity In Legal Education” (2003) 70 *U Chicago L Rev* 265 at 279.

⁴² *Ibid* at 269–271.

by Pue and Nussbaum. Indeed, multilingualism stretches the limits of one's world. It opens alternative ways to apprehend realities and relate to others. It allows to imagine and represent situations with different words and syntax, thus challenging the embedded assumptions that statements in a given language implicitly carry. Surrounded by a multiplicity of ways to apprehend the world, law students may develop greater capacities to "deliberate and imagine", they may extend further the breath of their "critical inquiry, tolerance, and cultural literacy". They will thus "cultivate their humanity" and grow into better citizens.

The arguments for multijuralism in legal education rely on aspirations strikingly similar as those articulated by Pue and Nussbaum. Kasirer wrote that teaching the civil law tradition in common law faculties in Canada and in the United States for instance provided students with a "vehicle for thinking about law differently", and that it served "to expand [their] sense of what law is".⁴³ He further argued that it helped students develop their "cosmopolitan citizenship".⁴⁴ The same can be said with regards to arguments in favor of transdisciplinarity. For example, Manderson argued that dialogue between disciplines, just like dialogue between languages, enables us to "learn new concepts and images through a growing appreciation of the richness and difference of the language of the other."⁴⁵ He exposes the positive outcome of this process in the following words: "[t]hese new words and approaches are then able to be incorporated into our own languages. ... Such a dialogue is a crucial experience through which we learn, and change, and grow."⁴⁶ While multijuralism and transdisciplinarity are not widespread in Canadian law faculties, they rely on the same values generally embraced by Canadian legal education. Those interested in advancing such pedagogical projects should consider a polyglot enterprise as an ally and consistent complement instead of a competitor among fellow principles proposals for the future of legal education.

To borrow once again Manderson's words, "We live in Babel".⁴⁷ This is a Babel of languages, of course, but also of cultures, identities, approaches to the world. As law students are called to play an influential role in our Babel, we should educate them to attend to this diversity. Reducing their legal education to a single language runs counter to this primordial

⁴³ Nicholas Kasirer, "Bijuralism in Law's Empire and Law's Cosmos" (2002) 52 J Leg Ed 39 at 36, 38.

⁴⁴ *Ibid* at 39.

⁴⁵ Desmond Manderson, "Some Considerations About Transdisciplinarity: A new Metaphysics" in Margaret A Somerville & David J Rapport, eds, *Transdisciplinarity, recreating integrated knowledge* (Oxford: EOLSSS, 2002) 86 at 92.

⁴⁶ *Ibid*.

⁴⁷ *Ibid*.

objective. Macdonald also uses the metaphor of Babel, this time to introduce his ideas regarding Canadian legal bilingualism.⁴⁸ In his opinion, Babel presents a paradox: “we might actually be richer rather than poorer for having many languages.”⁴⁹ Indeed, confronted with the imperfections of translation, which are always manifest in our Babel, we are permanently confronted with the expressive capacities and limitations of each human language. It is the simultaneous presence of different languages that allows us to perceive this reality; surrounded by a single language, we could otherwise live with the illusion of perfect communication. He also reminds us that many intellectual movements such as the Kabbalists and the critical legal scholars grappled with the illusory neutrality and determinacy of language in legal theory.⁵⁰ Legal bilingualism, in Canada as elsewhere, serves as a constant reminder that the legal rule and its expression cannot correspond perfectly. This is so even if practices across the legal system ignore this observation, as they are often “content [to] merely [produce] legal artifacts in both languages.”⁵¹ He concludes that “legal understanding can only come from accepting and adopting the multiplicity of expression, linguistic and nonlinguistic, as our own.”⁵² I embrace his analysis and argue that polyglot legal education would allow to fulfil this objective. The theoretical implications of Canada’s legal bilingualism revealed by Macdonald show us that engaging with at least two languages offer more than practical capacities: it also, and more importantly perhaps, enables us to comprehend the philosophical promises and shortcomings of law. Learning law through the lenses of one more than one language thus does more than shaping better cosmopolitan citizens since it conjointly educates fuller jurists. Law faculties across Canada would therefore enhance the education they offer and further fulfill their philosophical mission by integrating multilingualism in their approach.

b. Multilingualism and the Political Objectives of Legal Education

“Legal education takes place in the larger context of affirmation of a community’s cultural identity”.⁵³ Lawyers, judges, law professors, policy advisors, politicians, and a

⁴⁸ Roderick Macdonald, “Legal Bilingualism” (1997) 42 MLJ 119 at 121ff

⁴⁹ *Ibid* at 124.

⁵⁰ *Ibid* at 124–126.

⁵¹ *Ibid* at 127.

⁵² *Ibid* at 167.

⁵³ *Vanderlinden, supra* note 15 at 9 [my translation]

number of other influential members of society are frequently law graduates. A great number of law students will go on to make law, or at least shape the production of legal norms. Their legal education will undoubtedly affect their future activities in this field. Whether they associate more closely with the majority or the minorities, law students can only affirm their identity and relate to the identity of others largely to the extent that their legal education makes room for it.

This rationale was key in the creation of the Ecole de Droit in Moncton.⁵⁴ Until then, Acadians who aspired to acquire legal knowledge and skills in order to shape the future of their community were caught in a daunting dilemma. Neither of the two options available to them until then corresponded to this desire: they could study the common law applicable in the Maritimes at UNB, but only in English, or they could move to Quebec to study in French but would only learn the civil law of that province. In one case they had to renounce the core of their cultural identity and learn law only through habits of minds of the English-speaking majority; in the other, most of their legal education would have no currency back home. This is why it became so important for the Acadians as a political community to open French-language common law school in Moncton. Similar considerations fueled the Akitsiraq Law School program. Whereas Inuktitut is the main language of an overwhelming majority of Nunavut inhabitants, no law program in Canada included the tiniest part of Inuit language. To date, Nunavut suffers from a massive lack of lawmakers and law drafters fluent in this language. Furthermore, the conditions and needs in the Arctic region are very distinct from those found in the southern half of Canada where all other law faculties are located. It is crucial for the people of Nunavut to educate elites and representatives with legal ability in Inuktitut in order to affirm and develop their governing capacity.

A language entertains an intimate connection with the cultural and social communities from which it emanates and which use it to express themselves. It reflects their past and announces their future. For instance, French still permeates the vocabulary of the common law as a testimony to the crucial role of the francophone Normans in the creation and development of this legal tradition.⁵⁵ Canada is committed to the liberal state and multiculturalism as political ideals.⁵⁶ Yet, legal education in many Canadian law faculties

⁵⁴ See *ibid* at 8—17.

⁵⁵ See e.g. JH Baker, “The Three Languages of the Common Law” (1988) 43 McGill LJ 6; see also *Vanderlinden*, *supra* note 15 at 10, note 6.

⁵⁶ This particularly evident in the context of the Canadian Charter of Rights and Freedoms. On multiculturalism: Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada

only gives a voice to the dominant community as it only happens in its language. The making of law needs to include the voices of society's many communities; it needs to listen to their voices. When legal education only speaks in one language, it fails to take its mission seriously in the preparation of future law-makers.

c. Multilingualism and the Professional Objectives of Legal Education

“Legal education can ... [engender] the capacity to see from different perspectives different potential sources of meaning, to make sense of and take responsibility for experience, to wrestle with the connections between individual and community life”, “even as it teaches the substance and practice of law” argues Clark.⁵⁷ The philosophical and political goals that I explored above need not conflict with the professional objective of training future lawyers in the craft of law. They are often pitched against each other whereas they truly complement one another. This is equally true when it comes to introducing more languages in legal education.

Many law graduates will go on to enter the legal professions and offer legal services. Law schools aim to prepare them for this trade. Lawyers welcome members of society in their office, listen to their stories, and identify their needs. They negotiate on their behalf, and represent them in courts. It is crucial that law students be able to understand their future clients most accurately to perform their services to the best of their ability. Part of this is cultural literacy. The Truth and Reconciliation Commission of Canada found that lawyers often lacked cultural knowledge and sensibility to adequately serve residential schools survivors who came to them;⁵⁸ this tells an important story about the necessity for lawyers to be able to relate truly with their clients. Hearing a client's story in her own language goes a

Act 1982 (UK), 1982, c.11 at art 27: “This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the *multicultural* heritage of Canadians” [emphasis added]. On liberalism: *Granovsky v. Canada (Minister of Employment and Immigration)*, [2000] 1 SCR 703, 2000 SCC 28 at para 56 (“The very adoption of a constitutional charter is in keeping with the purest liberalism”), citing Ron Graham, ed., *The Essential Trudeau*, (Toronto: McClelland & Stewart, 1998) at 80 citing Pierre-Elliot Trudeau; see also *Pue, supra* note 39 at 270—271 “There's no place for the state in the bedrooms of the nation” citing then Prime Minister Pierre-Elliot Trudeau.

⁵⁷ Sherman J. Clark, “Law School as Liberal Education” (2013) 63:2 J Leg Ed 235 at 245.

⁵⁸ Truth and Reconciliation Commission of Canada, “Honouring the Truth, Reconciling the Future Summary of the Final Report of the Truth and Reconciliation Commission of Canada” (2015) at 168, online: <nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf>

long way to identify which are her best interests, and advising her in her own language improves greatly her experience with the legal system. Speaking the language in general is not enough though; it takes technical training to legal vocabulary and concepts to properly engage in the exercise. It takes practice to easily switch from “biens” to “property” and avoid the traps of “propriété” and “goods”.⁵⁹ There is certainly already a great number of lawyers in Canada who were trained in English or French, and who now work primarily in the other language or mainly serve communities that speak non-official languages. Law faculties, but also professional bodies, should help them rather than take them for granted.

Moreover, languages are not important only for lawyers representing their clients. It bears significance also for judges and prosecutors, career paths that law students might also want to pursue. The new requirement that appointees to the Supreme Court of Canada be “functionally bilingual” serves to highlight this issue.⁶⁰ Many of the arguments I advanced above in defence of a polyglot legal education lend themselves to support this new rule. In addition, Canada’s official bilingualism purports to give equal recognition to French and English voices in federal political and legal process; it is therefore of utmost importance that members of the highest court in the land be able to comprehend the stories that came before them in the law subjects’ own terms. Van Praagh explained that her bilingualism proved extremely useful during her clerkship at the Supreme Court of Canada and “allowed [her] to comprehend more fully some of the cases before the court.”⁶¹ Any judge could undoubtedly say the same. It is thus as much a question of actually hearing the citizens in their own language as one of improving the bench’s ability to handle the cases. The criminal code also guarantees that the accused can request to be heard by a judge who speaks the official language in which she is most fluent.⁶² There thus needs to be judges fluent in both official languages at the very top of the judicial system, as well as in every province, even those with the least Francophones. It is part of the law faculties’ mission to equip their students with the tools allowing them to pursue legal and judicial careers. Multilingualism in general, and French-English bilingualism in particular, is a key professional asset for law graduates. An often-encountered argument against a requirement of bilingualism for judicial appointments revolves around the absence of appropriate training in legal bilingualism in many parts of the

⁵⁹ See e.g. the following testimony: Sara Lande, “Open Letter to the Université de Montréal from a Former Law Student” *Global News* (5 February 2014), online: Global News, <globalnews.ca/news/1130043/open-letter-to-the-universite-de-montreal-from-a-former-law-student/>.

⁶⁰ See *supra* note 21.

⁶¹ Shauna Van Praagh, « Stories in Law School » (1992) 2 :1 Colum J Gender & L 111 at 141

⁶² *Criminal Code*, RSC 1985, c C-46, s 530.

country. It is the law faculties' duty to address this concern and offer some linguistic education in regions of Canada where bilingualism is not common. Failing to do so would further curtail the students' professional opportunities, including to the highest judicial offices. On the contrary, taking this route would contribute positively to the Canadian society and local communities by enabling citizens from diverse backgrounds to take part in the making of the most influential legal decisions. This would certainly represent a positive social change and advance public good.

Part 3: The Voices of Multilingualism in Canadian Legal Education

Now that I have showed how multilingualism furthers the different goals of legal education and can contribute to making law faculties agents of positive change in society, let me articulate proposals regarding how it can play out. Before exploring changes to programs and environments harbored in law faculties in the next part of this essay, it is necessary to take the time to define which voices should be heard in a polyglot Canadian legal education. The two official languages are of course a starting point for this purpose, but it is crucial to take our discussion beyond them, toward Aboriginal and immigrant languages. I will explore these avenues in turn in the present part. I will also take the opportunity to identify some ideal sites where new languages could be introduced. When considering the modalities of multilingualism in legal education, it is crucial to bear in mind that they need not be the same in every law faculty in Canada. The nature and role of the voices of a polyglot legal education should be tuned according to the characteristics of the faculties such as their culture, the communities they serve, and the resources they can develop to this end.

a. Official Languages: French and English

Laws in Canada are enacted in French, English, or both.⁶³ Federal and provincial courts issue judgments in either of the two official languages. Law professors publish books and articles in both languages. Yet, English is the exclusive language of instruction in most law faculties outside of Quebec. Legal education in French presents a meagre record in

⁶³ Although Inuktitut is an official language in Nunavut, see *Nunavut Official Languages Acts*, *supra* note 31, most laws for the territory are not enacted in Inuktitut due to a shortage of lawyers fluent in this language, see *Skura*, *supra* note 29.

Canada's 18 faculties of law outside of *la belle province* : Moncton proposes an education to *la common law en français* in the region where the University of New Brunswick and Dalhousie University offer an equivalent in English, uOttawa provides similar opportunities in French and English, Saskatchewan Law and Manitoba Law now offer part of their undergraduate law degree in French, and the first law classes in French are starting in the 2016-17 at UofA Law, UofC Law, and UBC Law. French-language legal education is hardly making its debuts west of Saskatchewan.

The strongest candidate for a new significant step for francophone legal education appears to be the University of Alberta in Edmonton. French was the first and main Western language spoken in Alberta before the region joined the Canadian federation. French-speaking Metis communities have a long and distinguished history in Alberta, as they do in Saskatchewan and Manitoba.⁶⁴ In 2009, the Government of Alberta took pride in the facts that “the number of Alberta students enrolled in French language programs ... is increasing steadily, numbering approximately 185,000 or more than 30% of the Kindergarten to Grade 12 student population”, and that “Alberta’s Francophone population has grown by more than 17% since 1996.”⁶⁵ Alberta features the fastest growing French-speaking population in Canada.⁶⁶ As of 2011, Alberta hosted more than 80,000 inhabitants who listed French as their mother tongue or one of them, almost 30,000 of whom lived in the Edmonton area.⁶⁷ This number is equivalent to the francophone population of Winnipeg or Vancouver, and significantly higher than that of Saskatchewan.⁶⁸ Moreover, the University of Alberta already hosts numerous francophone program with its Campus Saint Jean.⁶⁹ The Campus Saint Jean is located in Edmonton’s francophone neighborhood, Boonie Doon, and nearby La Cité Francophone, a vibrant cultural and community center for Edmonton’s francophone population which hosts many other community and professional services for French-speaking

⁶⁴ See e.g. the arguments supported by historical evidence in the Caron case, *supra* note 20.

⁶⁵ Government of Alberta, “La Francophonie albertaine : une communauté solide et vibrante / Alberta’s Francophone Community: Strong & Vibrant” (2009) at 3, online: Association Canadienne-Française de l’Alberta, <www.acfa.ab.ca/Documents/AB-Gov-francophonie-albertaine.pdf>.

⁶⁶ From 2006-2011, the growth (+17%) was similar to that reported between 1996 and 2009 in a period 2,5 times shorter, see Statistics Canada, “Census in Brief No 1 – French and the *francophonie* in Canada” (2012) at 6, online: Statistics Canada, <www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_1-eng.pdf>; international migration played a significant role in this growth, see *ibid* at 9.

⁶⁷ Statistics Canada, “Population by mother tongue, by census metropolitan area, excluding institutional residents (2011 Census)” (2013), online: Statistics Canada, <www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo12g-eng.htm> [*Census 2011 – Languages – Metropolitan Areas*].

⁶⁸ *Ibid*, and *Census 2011 - Languages – Provinces & Territories*, *supra* note 23.

⁶⁹ See University of Alberta, “Campus Saint Jean”, online: University of Alberta, <<https://uofa.ualberta.ca/campus-saint-jean>>.

Albertans.⁷⁰ Most notably, the Association des Juristes d'Expression Francophone de l'Alberta (AJEFA) set up a legal information clinic in April 2015 (Centre Albertain d'Information Juridique) which served over 1,000 clients within during its first year in operation, over 70% of which in French.⁷¹ Lastly, as noted above, we can also remark here that the Albertan government has committed to introduce an official policy regarding services in French in the province by 2017.⁷² This remarkable set of convergent factors places the University of Alberta in a unique position to initiate some form of legal education in French.⁷³ Beyond the first introductory course to common law in French that will be offered in the winter term 2017 thanks to a partnership with uOttawa, UofA Law is ideally situated to develop programs at least as ambitious as Manitoba Law and Saskatchewan Law in this regard.

Legal education in French in Canadian law faculties is not only important for francophone students and their communities; it also matters for English-speaking students. Indeed, after an extensive survey of the courses offered in law faculties across Canada, Grenon concluded that “an indeterminate number of students graduating from the general programs do not know that insofar as federal legislation and the legislation of certain provinces are concerned, both language versions are authoritative and that a misleading analysis of legal issues because of a ‘failure to read half the relevant law’ could give rise to a malpractice suit.”⁷⁴ Extending the possibilities of French-language legal education in Canadian faculties of law would provide better opportunities to fulfil the law school’s mission to train their students for the legal issues and professional obligations they will face in the context of bilingual statutory interpretation.

The same reasoning holds for the place of English in francophone law faculties. I am however much less concerned about this flipside since even in exclusively French speaking

⁷⁰ See La Cité Francophone, online: <www.lacitefranco.ca/>.

⁷¹ See Association des juristes d'expression francophone de l'Alberta, online: <www.ajefa.ca/>.

⁷² Philip Orfali, “Vers une première politique de services en français en Alberta » *Le Devoir* (4 May 2016), online : *Le Devoir*, <www.ledevoir.com/politique/canada/469905/vers-une-premiere-politique-de-services-en-francais-en-alberta>; Geneviève Normand, « Le gouvernement de l'Alberta et la communauté francophone à la même table » *ICI Radio-Canada* (30 March 2016), online : ICI Radio-Canada <ici.radio-canada.ca/regions/alberta/2016/03/30/007-rachel-notley-acfa-jean-johnson-gouvernement-loi-services-francais-politique-ricardo-miranda.shtml>.

⁷³ uOttawa seems interested in offering to universities in Alberta and British Columbia partnerships of a similar kind as the one they just enacted with Saskatchewan Law, in pursuit of their ambition to “offer training to bilingual students more or less everywhere in Canada”, Caroline Magnan cited in Theodora Navarro, “L'Université d'Ottawa promeut le bilinguisme” *Droit-Inc* (14 April 2016), online: *Droit-Inc*, <www.droit-inc.com/article17565-L-Universite-d-Ottawa-promeut-le-bilinguisme>.

⁷⁴ Aline Grenon, “Roadmap for a truly Canadian legal education” (2015) 93 *Can Bar Rev* 183 at 199-200.

programs, I am convinced that francophone students are fully aware that their language is in a minority situation in Canada overall. They must undoubtedly use documents in English on occasion, and acutely understand the need to cultivate some level of English proficiency for their education and future professional activities. The main challenge for conveying Canada's official bilingualism in legal education therefore lies with the exclusively Anglophone institutions.

b. Canada's Other Languages: Aboriginal Languages

French and English are not Canada's only languages. Many Indigenous languages have long been the vehicles for their communities' culture and identity. Aboriginal communities across the country have maintained strong linguistic identities in spite of the vehement efforts by the governments of Canada for most of the country's history to erase them. In 2015, the Truth and Reconciliation Commission of Canada concluded that Canada had engaged in conscious policy of cultural genocide in its dealings with Aboriginal people.⁷⁵ In order to create positive relationships for the future, and in particular in response to the significant hurdles that Survivors of residential schools experienced when they sought the help of lawyers and the justice system to obtain redress, the TRC recommended that law societies and law schools take action.⁷⁶ They called upon law societies and law schools ensure that lawyers receive "*appropriate cultural competency training*, which includes the history and legacy of residential schools, [international and domestic legal instruments] Indigenous law, and Aboriginal–Crown relations", and noted that "this requires skills-based training in *intercultural competency*, conflict resolution, human rights, and anti-racism."⁷⁷ The Federation of Law Societies of Canada ["FLSC"] quickly responded to this request by requiring all common law programs, effective 2015, to include provide the following "knowledge of core principles of public law in Canada, including: ... human rights principles

⁷⁵ Truth and Reconciliation Commission of Canada, "Honouring the truth, reconciling for the future: summary of the final report of the Truth and Reconciliation Commission of Canada" (2015) at 1, 55, 133 [*TRC Summary*], online: Truth and Reconciliation Commission of Canada, <www.trc.ca>.

⁷⁶ *Ibid* at 164–169.

⁷⁷ Calls to Action no. 27 & 28, *TRC Summary*, *supra* note 43 at 168 [emphasis added]. The TRC issued similar recommendations for medical and nursing schools (Call to Action no 24, *ibid* at 164) and journalism programs and media schools (Call to Action no. 86, *ibid* at 296).

and the rights of Aboriginal peoples of Canada.”⁷⁸ All law faculties, including civil law faculties who are not bound to follow the FLSC National Requirement, will now give all of their students a basic “understanding of certain Aboriginal law concepts.”⁷⁹

For reasons that I developed in previous sections of this essay, “intercultural competency” must include some sensibility to the linguistic features of Aboriginal identities. The Aboriginal law concepts reflect the relation to the world and to others nurtured in Aboriginal cultures, much like Aboriginal languages. It would be self-contradictory to ignore the ways of apprehending the world that Aboriginal languages offer when teaching concepts of Aboriginal legal traditions.

A prominent candidate for the inclusion of Aboriginal languages in legal education seems to be the proposed Joint Program in Canadian Common Law and Indigenous Legal Orders at UVic Law.⁸⁰ This new program aspires to teach “trans-systemically”, involve “intensive engagement [with and] by Indigenous community members”, and study “use of oral histories and stories to convey legal knowledge.”⁸¹ It is, however, revealing that nowhere in an 11 pages long document released by the Faculty is the question of languages discussed. This should be a crucial element for students to be able to engage deeply with Aboriginal legal traditions and the stories that vehicle them.

Notwithstanding this shortcoming, UVic Law rightly identifies the challenge raised by the “number and diversity of Indigenous legal orders”.⁸² In implementing the TRC Calls for Action and the FLSC National Requirements, all law faculties will face this difficulty, and its corollary regarding Aboriginal languages. There cannot be a common pan-Aboriginal approach to languages, and law faculties should engage with Aboriginal languages in their specifics. The Aboriginal languages to include in legal education will of course depend on the concepts to be taught, the composition of the student body, the faculty, and local circumstances. Nevertheless, I think an overview of linguistic demographic statistics would be useful for this purpose. There are indeed at least 60 Aboriginal languages spoken in Canada, each belonging to 1 of 12 distinct language families. Despite this apparent dispersion, there is

⁷⁸ “Approving Canadian Common Law Degree Programs”, Federation of Law Societies of Canada, s 3.2.a [emphasis added], online: <http://www.flsc.ca/> [“FLSC National Requirements”].

⁷⁹ Grenon, *supra* note 74 at 189.

⁸⁰ University of Victoria Faculty of Law, “Joint Program in Canadian Common Law and Indigenous Legal Orders”, online: University of Victoria Law Students Society, <www.uviclss.ca/blog/wp-content/uploads/2016/02/JID-Scope-and-Components-26-January-2016-1.pdf>.

⁸¹ *Ibid* at 4.

⁸² *Ibid* at 3.

significant concentration on a handful of them. Two-thirds of the 2011 census respondents (213,500) who reported an Aboriginal language as their mother tongue indicated an Algonquian language, and more than half among those indicated Cree. Algonquian languages are vibrant from the Maritimes to Alberta. Cree and other Algonquian languages are therefore obvious candidates in most situations. The dispersion is much greater in British Columbia however, and Algonquian languages are almost absent in the territories. The second most prominent Aboriginal language family is the Inuit languages. Inuktitut overwhelmingly dominates this family, and more than two thirds of Nunavut inhabitants reported this language as their mother tongue.⁸³ Inuktitut is, moreover, an official language in this territory.⁸⁴ The Akitsiraq Law School program incorporated Inuktitut and aimed to increase Inuktitut fluency among Nunavut lawyers.⁸⁵ Although the program will likely be revived in 2017 for a cohort of 25, it remains a very limited initiative and there is a great shortage of drafters and translators for Nunavut legislation.

Canada's Aboriginal languages should play a role in legal education across the country. They offer an approach to the world that greatly differs from the perspectives embedded in Western languages. They are crucial to the affirmation of their speakers' cultural identity. They are fundamental to teach intercultural competency in law schools, and contribute to the reconciliation between settlers and Aboriginal peoples in Canada. They are prominent in many communities, and certain regions display a strong need for lawyers fluent in an Aboriginal language. Law faculties in Canada cannot ignore their duty to entertain a dialogue with and in these languages.

c. Immigrant Languages in Canada

English, French and Aboriginal languages are all chiefly Canadian. There are nevertheless other significant language communities in Canada, in large part due to historical and recent immigration. More than 20% of the Canadian population reported an immigrant

⁸³ Statistics Canada, "Census in Brief No 3 – Aboriginal languages in Canada" (2012) at 1, online: Statistics Canada, <www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_3-eng.pdf>.

⁸⁴ See *Nunavut Official Languages Act*, *supra* note 31.

⁸⁵ See *Skura*, *supra* note 29.

language as their mother tongue in 2011. The census indicated that there are over 1,000,000 Chinese languages native speakers, including at least 390,000 Cantonese speakers and 255,000 Mandarin speakers (a great number of respondents indicated Chinese as their mother tongue without otherwise specifying). There are over 460,000 Punjabi native speakers, 384,000 Tagalog (Filipino) speakers and 374,000 Arabic speakers. Regarding European languages, between 330,000 and 340,000 reported Spanish, Italian, and German as their mother tongue. Overall, 22 immigrant mother tongues regrouped more than 100,000 speakers in Canada.⁸⁶ These sizable language groups often correspond to vibrant cultural communities. They are concentrated in Canada's principal Metropolitan areas, and one can observe their presence in the urban organization (e.g. Chinatowns, Little Italies...). They constitute lively communities that express themselves primarily in their mother tongues every day.⁸⁷ Their members seek legal services for their personal needs or professional businesses. Some, about 600,000, are unable to conduct a conversation in either French or English.⁸⁸ It is therefore crucial that they be able to find lawyers proficient in their own language when they need to deal with the justice system, civil litigations, or complex administrative processes. As I explained above, their language carries their relation to the world and others, and comprehending their approach to things is crucial to represent them accurately even if the legal processes mainly happen in an official language. Law students who come from these communities and intend to serve them once they enter the profession need to be well equipped to go back and forth between their legal knowledge and their comprehension of their clients' stories. Law schools situated in the main metropolitan areas should therefore help them in this difficult task rather than leave this professional development to chance.

Canadian legal education needs to entertain a dialogue in Canada's official languages, Canada's Aboriginal languages and prominent immigrant languages in Canada. This does not mean that legal education must become a cacophonous assemblage of voices. Law faculties should incorporate languages according to their own approach to law and legal education, as well as the need of the communities that they serve. The place they give to French and English, the way they account for Aboriginal languages in their answers to the TRC calls to

⁸⁶ Statistics Canada, "Census in Brief No 2 – Immigrant languages in Canada" (2012) at 1-4, online: Statistics Canada, <www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_2-eng.pdf>

⁸⁷ Ibid at 5—6.

⁸⁸ Statistics Canada, "Population by knowledge of official language, by province and territory (2011 Census)" (2013), online: Statistics Canada, <www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo15-eng.htm>.

action, and the consideration they give to immigrant languages can all develop and enhance their educational projects in unique ways.

Part 4: Modes and proposals of polyglot Canadian Legal Education

Now that I have analyzed the languages that legal education should welcome to fulfil its various goals, I would like to discuss a number of ways in which law faculties can go about incorporating these languages in the journeys they offer law students.

Looking at what exists at present in Canadian law faculties, I can already identify a number of ways to incorporate languages in legal education. A first option is to design a fully monolingual degree program in an environment where this language is in a situation of minority (Moncton Droit, uOttawa). Another option is to create a fully-bilingual degree program (McGill Law). A third option is to send students to a region where the second language is more prominent than at home to take courses and engage in other learning activities (Saskatchewan Law-uOttawa Common Law partnership). Fourth, and maybe less ambitious, comes the possibility for students to replace bits of the normal curriculum with targeted courses in another language (Manitoba Law). Lastly, the fifth option that has become known in Canada is the creation of ad hoc temporary programs to address specific needs (Akitsirag Law School). I should also mention here that in many law schools, students have the opportunity to go abroad on exchange, and can therefore expose themselves to another language during their legal education. This constitutes a solid point of departure to imagine many more possibilities. There is indeed a wealth of experiential or traditional possibilities in the design of law students' experiences in and outside of the classroom, and even on and off campus, to promote multilingualism.

The most obvious route for law faculties to offer polyglot legal education is for them to make dedicated courses available to their students. To make this a sustainable option, a critical mass of students need to register for such courses however. Depending on the object of the course and the language of instruction, this can be difficult to achieve. A promising fix for this issue is to share the offered courses across several law faculties to increase the volume of potential students. Few cities in Canada host more than one law faculty, but online technologies allow to share the same course across long distances. Professor Magnan is experimenting this strategy to bring legal education in French to Calgary and Vancouver at

the same time;⁸⁹ moreover, courses based on video conference and online platform technologies have already been tested in several Canadian law faculties.⁹⁰ Another possibility consists in bringing students together in a single location for a short period in the form of an intensive summer school.

Even if such courses are readily available however, the fierce competition among law students for internship and articling positions hinders their willingness to take risks in their course selection. Giving them the possibility to take language courses or, even better, courses in another language without attaching graded credits their achievements in such courses can lift some such inhibitions. This option only partially addresses the issue however since it leaves to students' the choice of integrating languages in their legal education. This cannot satisfy anyone convinced that multilingualism in legal education is as important as I have strived to demonstrate in this paper. Moreover, the competitive context I mentioned can still discourage students who fear that the time they would spend studying languages for non graded courses will make them perform worse than their unilingual friends in the courses that recruiters will judge them upon. Law faculties should thus require all students to complete a set number of hours of language education to obtain their law degree, on the model of the continuing education mandated by law societies for instance. Students could still choose how to attend language classes, courses in another language, or law-oriented events in another language, as well as the language(s) that they want to learn. In addition to placing all students on an equal footing in the pursuit of a core mission of the law faculty, this scheme also familiarizes law students with a kind of obligations that they will encounter if they join the bar.

Law faculties can arguably be concerned with giving (time) credits for activities over which they have little oversight. To ensure the quality of the language opportunities that students will seek credits for, law faculties can work with professional associations, cultural centers, and student organizations to identify the most valuable opportunities and advertise them. Whether they adopt a mandatory minimum time of language education, they should also promote multilingualism in their internal activities to ensure that there is a significant pool of opportunities readily available. For instance, they should encourage some level of multilingualism, at least in both official languages, in student-run journals. The research

⁸⁹ See *supra* note 18.

⁹⁰ See Douglas Harris et al, "'Community without Proximity': Teaching Legal History Intercontinentally (1999) 10:1 L Education Rev 1; Barbara Atwood et al, "Crossing Borders in the Classroom: A Comparative Law Experiment in Family Law" (2005) 55:4 J Leg Educ 542.

assistance contracts that professors offer students can also include multilingual research time. Faculty members can lead by example, and the institution can incentivize multilingualism in teaching and research activities. This of course requires that law libraries harbor basic resources in multiple languages, including physical or electronic documents from other jurisdictions in original language and multilingual legal dictionaries. When the expertise and fluency of faculty members allows, students should also be encouraged to use such resources to produce research papers or capstone projects in a different language than the main language of instruction.

Sensibility to language in legal education should include an understanding of how it affects legal argumentation. Canadian law faculties can constitute and fund teams to participate in moot court competitions in other languages than English, such as the *Concours de procès simulé en droit international Charles-Rousseau*,⁹¹ or the *Competencia Internacional de Arbitraje*,⁹² in order to offer a handful of students an intensive exposure to this. More universally applicable options include asking students to attend provincial or federal court proceedings in both official languages, as well as proceedings where a translator accompanies one of the parties. In addition to observing legal argumentation at play in several languages, this would lead students to get a sense of how language barriers can affect someone's experience of the justice system. Among other outcomes, they may thus develop empathy for immigrants or criminal defendants who do not master the language of the proceedings.

Law faculties are not responsible for the entirety of legal education. Once students leave with their degrees to article for instance, law faculties can hardly impart the important teachings of multilingualism in legal pursuits. They nevertheless can, and in fact do shape the paths their students take once they graduate. Law faculties host and advertise recruitment opportunities. They should encourage their students to apply for internship and articling possibilities in law firms, or clerkships with judges where another language than the main language of instruction is widely used. Such positions can be available at home as well as abroad. Before they even apply to such jobs, law students should be given opportunities to meet and discuss with professionals who work in different languages. Beyond events hosted by the faculty where this could happen, schemes pairing students with professional mentors

⁹¹ See Réseau Francophone de Droit International, « Concours de procès simulé en droit international Charles-Rousseau », online: RFDI <www.rfdi.net/rousseau.html>.

⁹² See Facultad de Derecho Universidad de Buenos Aires, “COmpetencia Internacional de Arbitraje”, online: Derecho UBA, <www.derecho.uba.ar/internacionales/competencia_arbitraje.php>.

practicing in the language of their choice appear to be particularly valuable opportunity for students to grasp the possibilities and implications of multilingual practice.

Any combination of the propositions I just exposed regarding programs, pedagogies, and environments will represent a step in the right direction. In order to succeed with any of these options, the law faculties can rely on a variety of resources, both internal and external. First, they often employ professors, librarians, and/or administrators with diverse cultural and linguistic backgrounds. Their personnel can therefore take the lead on certain initiatives, or at least connect their institutions with relevant resources from their communities. Having a completely unilingual faculty is only a slight obstacle, easily overcome. The law students also come from diverse backgrounds; they can help each other, formally or informally, and direct their institution to the external resources of which they are aware. Moreover, law faculties should not forget that they are part of larger universities, where there are often linguistics departments and other professionals of language learning and development. The alumni and other members of the legal professions can also come to help the law faculties to connect with existing resources, in particular the cultural and linguistic professional groups. They may already provide some form of linguistic training, and would certainly be happy to do it for law students. Any combination of these actors yields great potential to create innovative ways to open the doors of Canadian law faculties to multiple languages.

The range of options is wide, almost unlimited. Canadian law faculties generally display great imagination in their approaches to legal education. Most have built strong educational projects in connection to their market strategies. The faculties across the country already distinguish themselves in many ways: Lakehead University Bora Laskin Faculty of Law aims to train its students for small practices in rural areas, McGill Law made of its integrated and transsystemic curriculum a flagship, etc... Looking at this diversity in all the other domains, I have no doubt that they will find unique ways to incorporate a multiplicity of languages in their students' experiences of legal education.

Conclusion

Legal education needs more languages to fulfil its many goals, especially when it only speaks the majority's language. A handful of law faculties in Canada have come some way in this direction, others feature unique opportunities to do so, and all should feel concerned with

the responsibility to do more. The obligation of language training does not necessarily rest solely on the shoulders of law faculties. Professional bodies have a key role to play, especially through continuing education for legal professionals. Law faculties nevertheless have the crucial responsibility of initial legal education. They should embrace the principle of a polyglot education and implement it in the many ways they will imagine to fit their environment and identity. It is one of many ways to contribute to public good, and will indubitably constitute an act of valour for which they will be celebrated and remembered.

Bibliography

Serena Ableson, "Bringing Legal Education to the Canadian Arctic: the Development of the Akitsiraq Law School and the Challenges for Providing Library Services to a Nontraditional Law School" (2006) 34 Intl J L Information

Harry W Arthurs, "Valour Rather Than Prudence: Hard Times and Hard Choices for Canada's Legal Academy" (2013) 76 Sask L Rev 73

Harry W Arthurs, "The Future of Law School: Three Visions and a Prediction" (2013-14) 51 Alta L Rev 705

Association des juristes d'expression francophone de l'Alberta, online: <www.ajefa.ca/>

Barbara Atwood et al, "Crossing Borders in the Classroom: A Comparative Law Experiment in Family Law" (2005) 55:4 J Leg Educ 542

JH Baker, "The Three Languages of the Common Law" (1988) 43 McGill LJ 6

Louise Bélanger-Hardy & Gabrielle St-Hilaire, "Bilinguisme judiciaire et enseignement de la common law en français en Ontario : un bilan historique" (2009) 34 Revue du Nouvel-Ontario 5

Canada, Prime Minister, *Minister of Justice and Attorney General of Canada Mandate Letter*, 16 November 2016, online: <pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c.11

Caron v. Alberta, 2015 SCC 56, 3 SCR 511

Sherman J Clark, "Law School as Liberal Education" (2013) 63:2 J Leg Ed 235

Marianne Constable, *Our Word Is Our Bond* (Stanford University Press, 2014)

Consultative Group on Research and Education in Law, *Law and Learning: Report to the Social Sciences and Humanities Research Council of Canada by the Consultative Group on*

Research and Education in Law (Ottawa: Information Division of the Social Sciences and Humanities Research Council of Canada, 1983) [*Arthurs Report*]

Mathieu Demilly & Darius Bossé, “Le statut du français au sein de l’appareil judiciaire ontarien : une révolution tranquille inachevée” (2012-2013) 44:1 *Ottawa L Rev* 161

Faculté de droit de l’Université de Montréal, “Programmes de 2^e cycle”, online: Faculté de droit de l’Université de Montréal, <<http://droit.umontreal.ca/programmes/programmes-de-2e-cycle/>>

Faculté de droit de l’Université de Montréal, “Politique concernant l’usage et la qualité du français à la Faculté de droit”, online: <droit.umontreal.ca/programmes/etudiants-actuels/reglements-et-guides>

Federation of Law Societies of Canada, “Approving Canadian Common Law Degree Programs”, s 3.2.a, online: Federation of Law Societies of Canada , <www.flsc.ca/> [“FLSC National Requirements”]

Stanley B Frost, “The Early Days of Law Teaching at McGill” (1985) 9 *Dal LJ* 150

Granovsky v. Canada (Minister of Employment and Immigration), [2000] 1 *SCR* 703, 2000 *SCC* 28

Aline Grenon, “Roadmap for a truly Canadian legal education” (2015) 93 *Can Bar Rev* 183

Government of Alberta, “La Francophonie albertaine : une communauté solide et vibrante / Alberta’s Francophone Community: Strong & Vibrant” (2009), online: Association Canadienne-Française de l’Alberta, <www.acfa.ab.ca/Documents/AB-Gov-francophonie-albertaine.pdf>

Douglas Harris et al, “'Community without Propinquity': Teaching Legal History Intercontinentally” (1999) 10:1 *L Education Rev* 1

David Howes, “The Origins and Demise of Legal Education in Quebec (or Hercules Unbound)” (1989) 38 *UNBLJ* 127

The Judicature Amendment Act, 1978, LO 1978, c.26

The Juries Amendment Act, 1978, LO 1978, c.27

Nicholas Kasirer, “Bijuralism in Law’s Empire and Law’s Cosmos” (2002) 52 J Leg Ed 39

Maria Konnikova, “Is Bilingualism really An Advantage” *The New Yorker* (22 January 2015), online: The New Yorker, <www.newyorker.com/science/maria-konnikova/bilingual-advantage-aging-brain>

La Cité Francophone, online: <www.lacitefranco.ca/>

Sara Lande, “Open Letter to the Université de Montréal from a Former Law Student” *Global News* (5 February 2014), online: Global News, <globalnews.ca/news/1130043/open-letter-to-the-universite-de-montreal-from-a-former-law-student/>

André Laurendeau & A Davidson Dunton (co-chairs), *Report of the Royal Commission on Bilingualism and Biculturalism*, “Book I: General Introduction – The Official Languages,” (Ottawa, Queen’s Printer, 1967)

Guy Lefebvre, “Accusations non fondées”, *Le Devoir* (3 February 2014), online: Le Devoir, <www.ledevoir.com/societe/education/398884/accusations-non-fondees>

Roderick A Macdonald, "Legal Bilingualism" (1997) 42:1 McGill L J 119

Desmond Manderson, “Some Considerations About Transdisciplinarity: A new Metaphysics” in Margaret A Somerville & David J Rapport, eds, *Transdisciplinarity, recreating integrated knowledge* (Oxford: EOLSSS, 2002) 86

Theodora Navarro, “L’Université d’Ottawa promeut le bilinguisme” *Droit-Inc* (14 April 2016), online: Droit-Inc, <www.droit-inc.com/article17565-L-Universite-d-Ottawa-promeut-le-bilinguisme>

Martha C Nussbaum, “Cultivating Humanity In Legal Education” (2003) 70 U Chicago L Rev 265

Ian C Pilarczyk, *"A Noble Roster": One Hundred and Fifty Years of Law At McGill* (Montreal, QC: McGill University Faculty of Law, 1999)

Official Languages Act, R.S.C. 1970, c.0-2

Official Languages Act, R.S.C. 1988, c.38

Official Languages Act, S.Nu 2008, c.10

Official Languages of New Brunswick Act, S.N.B. 1969, c.74

W Welsey Pue, “Legal Education’s Mission” (2008) 42:3 *The Law Teacher* 270

David Robson, “Are there really 50 Eskimo words for snow?” *New Scientist* (18 December 2012), online; *New Scientist*, <<https://www.newscientist.com/article/mg21628962.800-are-there-really-50-eskimo-words-for-snow>>

Elyse Skura, “Nunavut-based law program on track to return next year” *CBC News* (15 March 2016), online: *CBC News*, <www.cbc.ca/news/canada/north/nunavut-law-program-restart-set-for-2017-1.3491489>

Statistics Canada, “Census in Brief No 1 – French and the *francophonie* in Canada” (2012) at 6, online: *Statistics Canada*, <www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_1-eng.pdf>

Statistics Canada, “Census in Brief No 2 – Immigrant languages in Canada” (2012) at 1-4, , online: *Statistics Canada*, <www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_2-eng.pdf>

Statistics Canada, “Census in Brief No 3 – Aboriginal languages in Canada” (2012), online: *Statistics Canada*, <www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_3-eng.pdf>

Statistics Canada, “Population by knowledge of official language, by province and territory (2011 Census)” (2013), online: *Statistics Canada*, <www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo15-eng.htm>

Statistics Canada, “Population by mother tongue, by census metropolitan area, excluding institutional residents (2011 Census)” (2013), online: *Statistics Canada*, <www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo12g-eng.htm>

Truth and Reconciliation Commission of Canada, “Honouring the truth, reconciling for the future : summary of the final report of the Truth and Reconciliation Commission of Canada” (2015) [*TRC Summary*], online: <trc.ca>.

University of Alberta, “Campus Saint Jean”, online: University of Alberta, <<https://uofa.ualberta.ca/campus-saint-jean>>

University of Manitoba’s Faculty of Law, “Studying in French”, online: <law.robsonhall.ca/french-language-program#studying-in-french>

University of Ottawa Faculty of Law - Common Law Section, “Reunion: Common Law History at the University of Ottawa” (2007), online: <<https://commonlaw.uottawa.ca/en/about/history>> [*uOttawa Reunion*]

University of Ottawa, Faculty of Law - Civil Law Section, “History of the Faculty”, online: University of Ottawa, <<https://droitcivil.uottawa.ca/en/about/history-of-the-faculty>>

University of Victoria Faculty of Law, “Joint Program in Canadian Common Law and Indigenous Legal Orders”, online: University of Victoria Law Students Society, <www.uviclss.ca/blog/wp-content/uploads/2016/02/JID-Scope-and-Components-26-January-2016-1.pdf>

University of Saskatchewan’s College of Law, “Certificate in Common Law in French (CCLF)”, online: <law.usask.ca/programs/law-degree/certificate-in-common-law-in-french-cclf.php>

Jacques Vanderlinden, *Genèse et jeunesse d'une institution : l'école de droit de l'université de Moncton* (Moncton: Université de Moncton, 1998)

James Boyd White, “Law as Rhetoric, Rhetoric as Law: The Arts of Cultural and Communal Life” (1985) 52 U Chicago L Rev 684

Ludwig Wittgenstein, *Tractatus Logico-Philosophicus* (London: Kegan Paul, Trench, Trubner & Co., Ltd., 1922), online: Gutenberg, <www.gutenberg.org/ebooks/5740>