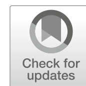
Bilingual Study and Research: The Need and Challenges



Nicolás Etcheverry Estrázulas and Sofía Cairo

1 Introduction

To begin with, my most sincere gratitude to the extraordinary group of National Reporters that have so well responded to our requests, with dedication, commitment and excellence during the last months and throughout almost one year.

It would be unfair if I would not also give a big thank you to my Uruguayan collaborator Sofia Cairo, as well as to Alexandre Segenackic for his permanent dedication towards this academic event. And finally to our moderator, Dominique Custos, who was so diligent in helping us to organize the oral session of our topic in the last weeks before the Congress.

How many hours per semester should be required in legal courses so that such education may be considered and become bilingual? This is a difficult and even impossible answer to respond because it may vary significantly from country to country. Especially if you have in mind that in several of the National Reports we received, those countries or regions are already bilingual or even multilingual. If you add the amount of dialects or sub-languages that are spoken in some of them, the answer is even harder. Take for example China, Italy, Finland or Belgium and we will find the huge difficulty to establish what a bilingual or multilingual legal education should be considered as such.

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On the other hand, it has been a significant coincidence that all the Reports agree on one issue: Learning a second or even sometimes a third language in order to be skillful as a lawyer, judge,, or whatever legal profession you may practice, is much more than simply use the correct words and pronounce them properly. Much more important than this, Bi-lingualism aims at something higher and tougher at the same time. It is supposed to achieve a fair—if not complete—understanding and comprehension of the culture you are dealing with. Consequently, the way the questions are asked, the emphasis employed in such and such sentences or phrases, or the way the questions are responded when everyday issues and problems arise, may reflect a deeper or lighter knowledge of that culture.

Needless to say, it is in my opinion actually outdated and even absurd to focus the debate of bilingual legal education in terms of nationalism versus internationalism, because both need to co-habitate and complement each other in order to survive, expand and look towards the future.

Donc, une veritable et profonde education juridique Bi-lingue doit se fournir d' une nourriture assez variée, qui comprend non seule et exclusivement la langue, mais aussi l' historie, la geographie, les coutumes, l' ethique et meme encore la psicologhie du pays ou le juriste va travailler. Tout cela n' est pas facile a acquerir pendant seulement quelques mois. Si le but est vraiment d' obtenir une vraie et intégrale education juridique Bi—lingue, élèves et professeurs doivent se proposer un difícile—mais au meme temps appassionant—defi: celui de comprehendre une differente culture non seulement par sa langue, mais par sa vie, ses gens et son historie.

Comme citoyens d' un monde de plus en plus interdependant, nous avons, je crois et suis meme convaincu, une urgente necessité de trouver les moyens d' accepter ce defi et d' obtenir cette education et comprehension le plus vite et le plus largement possible. C' est n' est pas simplement pour des raisons académiques ou bien culturelles; c' est sourtout pour des raisons de survivance, de justice et de fraternité que le monde entier a besoin d' accepter ce defi et d' obtenir ce but. C' est serait vraiment tragique d' oublier notre histoire et une fois de plus, renouveller la chute de la Tour de Babel…

Nowadays it seems almost mandatory to support not only a bilingual education, but rather a trilingual education, if the circumstances allow it. Globalization and increasingly growing cultural interdependence not only require it, but they practically impose it. We refer to an education in general, which before targeting the legal field, focuses on learning and mastering more than one language, that is, one's own language properly read, spoken and written and one or two foreign languages, if possible.

In other words, perhaps quite frankly, having the possibility of learning foreign languages and not doing so by choice, out of laziness or simple disinterest, is equivalent to opting for educational atrophy, or what is more, a cultural suicide. It is clear that we are not referring to other types of circumstances that actually and objectively prevent reaching those goals. We do criticize those cases of mental fatigue, or contempt for what is foreign or different that leads to having certain persons or social groups culturally isolated, who only pay respect to what is theirs,

being content with a well-defined territory, fair and small from the cultural point of view, however broad and extensive it is territorially speaking. This becomes even more serious when such indifferent or contemptuous attitude becomes clearly aggressive and combative of everything that is different to their way of life; escalating from defending to attacking and destroying any other way of thinking and believing.

Therefore, thinking about the need to target, extend and strengthen bilingual and multilingual educational systems is a priority. Common sense, interdependence and shared convenience require it.

If we deem that the aforementioned is important in terms of languages in general, more so it will be if we focus on legal education specifically. We do not intend to exhaust the reasons and arguments in defense of this point of view; we will simply mention a few that we consider most relevant:

1. Unless a Law Firm is managed in a very local and insular working and professional context, nowadays being proficient in a second language is "a must" for any professional seeking to join such Firm.
2. Knowing and mastering (which are not the same) one or more foreign languages broadens our way of thinking, our willingness to comprehend (which is not exactly the same as understand) different cultures and this eventually improves the chances of obtaining better remuneration for any professional work.
3. Learning about the origin, roots and etymology of different words or expressions allows us to learn in greater extent and depth the history, geography and culture of the countries. Consequently, the advantage of a bilingual or if possible, multilingual legal education, broadens the horizon of any professional.

Not only will professionals know "more about the law", but they will also have a better understanding of the world, of different societies in general, as well as their different ways of learning, thinking and acting in very different life circumstances. In the case of jurists, having the possibility of learning to read and speak a specific language which they usually foresee that they will be using for work, study or research reasons, is acquiring a tool or key that may open many doors. Not acquiring such tool or key when one has the possibility of doing so, is as already said, a professional and cultural atrophy.

Two examples can better illustrate this point: (a) In several Latin countries it is common to find expressions that begin with a negative form such as "*¿no le gustaría otro café?*" ("*wouldn't you like another coffee?*"); or "*¿no es verdad que este paisaje es muy agradable?*" ("*Isn't it true that this landscape is very nice?*"*);* or "*¿no me haría el favor de decirme la hora?*" ("*Wouldn't you do me the favor of telling me what time it is*?"). In different cultures those negative forms may seem shocking or contradictory, while in other places they convey courtesy. (b) Really learning a language implies understanding not only words and their meaning, but also the intonation of phrases or sentences. The same phrase or sentence can have very different meanings and interpretations according to the intonation. As an example: "*¿Qué quiere insinuar con su pregunta?*" ("*What do you seek to imply with your question?*"), or "*Esto puede llevarnos por caminos insospechados…*" ("*This can*

take us through unsuspected paths ...”*),* or “*¿Qué está sucediendo aquí?*” *(*“*What is going on here?*”) or “*No sabes lo que te espera*...” *(*“*You don't know what is waiting for you*...”). Failure to properly perceive the intonation used can lead to misunderstandings and unrepairable flaws in the communication of the subjects involved. A final example: asking “*¿Qué es la verdad?*” (“*What is the truth*?”) can be done with the actual intention of discovering it or in an indifferent, haughty and ironic manner, without having the least interest of finding out.

If Latin was once the universal tool that allowed people to approach and interact, in this twenty-first century the key has been atomized into an almost essential bunch of keys that includes English, Spanish and Chinese, but also others such as French, German, Russian and Portuguese. These are not so universal from the quantitative perspective, but do have an enormous qualitative efficiency. Being proficient in all seven is a utopia but learning and mastering three of them is an achievable goal, with discipline and dedication. Undoubtedly, having an educated ear is a great advantage which is not achieved by everyone. Nonetheless, without a good ear, one may learn to read and speak a language, especially if there is a chance to live for some time in the country where it is spoken. The opportunity offered through the academic exchange agreements between the universities of places as distant and different as Uruguay and China, Brazil and Canada, London and Moscow, Berlin and Buenos Aires is a tremendous kick-off to start acquiring or polish those skills. Experience indicates that the intellectual and cultural enrichment of students, teachers and researchers who are part of these exchanges is invaluable.

Learning and becoming proficient in a foreign language involves a lot more than knowing and being able to convey foreign words and expressions. It implies learning about the cultural context, the way of life and the idiosyncrasy underlying that language. In short, it is not only about understanding the language, but also learning it in a more comprehensive manner.

I would like to recall some ideas expressed by S.I. Strong in the ***Review Essay – Bilingual Education in the United States***—when she quotes two books written by Xabier Arzos,

> “**Bilingual Higher Education in the Legal Context**...” and Katia Fach Gómez, “**El Derecho en Español: Terminología y Habilidades Jurídicas para un Ejercicio Legal Exitoso**...”: In that review he says “While no one would dispute that English should be the primary language of instruction in U.S. law schools, the failure of the U.S. legal academy to consider issues relating to secondary instruction in other languages fails to take into account the significant and potentially growing number of U.S. citizens, residents and visitors who have limited proficiency in English... As various commentators have recognized, the shortage of U.S. lawyers with foreign-language skills increases the risk that certain segments of society will be unable to obtain useful legal advice and assistance. Shortcomings in law schools' foreign-language offerings have also injured U.S. law students' ability to function in a globalized world...”[1]

Further ahead she adds:

[1] Strong (2014), p. 356.

> Some people believe that conversational fluency, supplemented by a good bilingual legal dictionary, is all that is needed to provide legal advice across linguistic barriers. In fact, nothing could be more dangerous. Law is intimately bound up in a particular cultural and legal context, and bilingual lawyers must do more than simply acquire a specialized vocabulary. Instead, a lawyer functioning in a foreign language must be able to understand how certain concepts are interpreted and applied within a foreign legal system or by a client with limited English proficiency. Therefore, specialized coursework concerning bilingual lawyering is necessary if U.S. law students are to learn how to practice in multiple languages. (. . .) There are numerous ways to approach multilingual legal education, and the United States needs to adopt a system that is tailored to U.S. legal, historical and cultural norms. (. . .) Some readers might look at the English-instruction efforts of European law faculties as evidence that English is currently operating as an international lingua franca, which would subsequently suggest that there is little need for bilingual legal education in the United States. However, closer analysis of international legal practice indicates that lawyers working in certain regions often need to know languages other than English. . . Furthermore, U.S. law schools still need to address problems associated with domestic clients who have limited English proficiency. . .[2]

I fully agree with Professor Strong. Her comments reflect some of the more important issues and challenges we have for the following years in the field of bilingual education.

Having made this introduction, we will now try to develop the topic of bilingual legal education in a more objective and academic framework, thanks to the generous contributions of the national reporters from different countries who have seriously and dedicatedly collaborated with us. My most sincere thanks to our colleagues Bert Demarsin, Sébastien Van Drooghenbroeck, Nicholas Léger-Riopel, Xiangshun Ding, Marcus Noorgård, Alicia Nylund, Anne Brunon-Ernst, Stefan Grundmann, Elena Ioriatti, Mark Fenwik, Efrén Chávez-Hernández, Ramona Popescu, Carmen Achimescu, Alan K. Koh, Andrew Jen-Guang Lin, Mathias Reimann, as well as to Sofía Cairo Duaso, my assistant during these months, who with great patience and very good humor has helped me significantly in building up this General Report.

2 Bilingual Legal Education in Belgium

Belgium has three official languages: Dutch, French and German. The Kingdom's territory is divided into four linguistic areas: the monolingual Dutch-speaking area, the monolingual French-speaking area, the monolingual German-speaking area and the bilingual area (French-Dutch) around the nation's capital, Brussels. About 60% of the Belgian citizens speak Dutch, slightly over 38% speak French and the remaining 1% speak German.

Besides, the use of English is undoubtedly on the rise, due to Brussels' role on the international political scene. Given the city's role as the capital of the European Union and the home to many international institutions, Brussels is commonly

[2] Id, pp. 358–359.

referred to as *World Decision Center II*, after Washington DC. Considering the multilingual Belgian society, as the Reporters point out, it is hard to imagine how the legal education provided at university—both bachelor (180 credits) and master (120 credits)—could not take into account that context and remain merely monolingual. There are several reasons why the bilingualism or multilingualism is promoted in Belgium. First of all, the openness to foreign languages is essential for academic reasons. In addition, there is also a professional and cultural need for multilingualism in Belgium, as clear communication between the country's communities should remain possible at all times.

Hence, it is not surprising that languages courses (general or legal) in at least two target languages other than the program's main language are a compulsory part of the curriculum of all bachelors in law organized at Belgian law schools. In addition, in most bachelor programs and even all master programs numerous legal courses are taught in a foreign language.

However, the amount of language courses offered as part of the curriculum at Belgian law schools is subject to some important restrictions. In particular, all programs have to comply both with the maximum limits laid down by the decrees of the Communities, and the potential minimum threshold set forth in interuniversity agreements. Consequently, both the foreign language courses and the legal courses thought in a foreign language may take different forms even independent from the Erasmus system. As a result, the landscape is very heterogeneous, ranging from the inclusion of some foreign language courses in the curriculum, to the creation of master programs entirely taught in a foreign language.

The National Reporters focused on the bilingual (and even trilingual) programs of two universities: Université Saint-Louis – Bruxelles and KU Leuven.

Belgium is a federal State composed of Communities and Regions (art. 1 of the Constitution). Belgium comprises three Communities: the Flemish, the French and the German-speaking Community.

According to Article 127 of the Constitution, education—including university education—falls within the competence of the Communities and their decrees. The decrees of the Flemish Community apply to universities located in the unilingual Dutch-speaking area, as well as universities located in the Brussels bilingual area, which—because of their activities—are said to belong exclusively to the Flemish Community. On the other hand, the decrees of the French Community not only apply to the universities located in the unilingual French speaking area, but also to the universities located in the bilingual area which are said to belong exclusively to the French Community. There is currently no university in Belgium's unilingual German-speaking area.

According to Article 129 of the Constitution, the Communities regulate by decree the use of languages in the field of education as far as the unilingual areas are concerned. In Brussels, however, the use of languages is regulated by the federal state. The Community determines in particular whether, under what conditions, and to what extent the education provided by the francophone Brussels universities may be in a language other than French. The same goes, mutatis mutandis, for the

Flemish Community as far as the Dutch-speaking universities in Brussels are concerned.

The Flemish Parliament has regulated the use of language at institutions of higher education, for both administrative and educational matters.

According to Article II.260 Codex Hoger Onderwijs (*Flemish Code on Higher Education*) institutions for higher education are supposed to function in Dutch, since it is the language that should be used for administrative purposes. Article 261 of the same body requires the education itself to be in Dutch too. In this way the legislature tries to preserve Dutch as the prime language for education at universities that fall under the authority of the Flemish Community. At the same time, the Flemish authorities recognized the importance of foreign languages as a sensible and justified means of communication in certain scientific fields, as a facilitator for foreign exchanges and a boost of international professional mobility.

At Flemish universities, education is supposed to be in Dutch, as a matter of principle. However, at bachelor and master level, there are four exceptions to the above principle: (1) foreign language courses should be taught in that language; (2) Visiting professors from abroad; (3) Non-Dutch courses that students at their own initiative follow at another institution of higher education; and (4) Courses can be taught in a foreign language, provided that the institution explicitly motivates why a change of language is functional for the course and beneficial.

In addition, courses taught in Dutch may have some foreign language component. For example, course material may include a reader which is partly composed of English or French articles. According to Article 261, a bachelor program is Dutch-spoken as long as the number of courses taught in a foreign language is below 18.33% of the entire program. For master programs, that threshold is 50%.

The Flemish Legislature obliges institutions that offer the same program to determine in close collaboration the program's "domain-specific learning outcomes".

In the French Community, university education is organized by the decree of 7 November 2013 defining the landscape and organization of higher education. Article 75 of this decree provides that all educational institutions, without any exception have to use French for administrative purposes. However, some exceptions are possible here as well, taking into consideration if there are enrolled in undergraduate or graduate studies some number of credits can be organized in other languages. Other exceptions are made for Advances Masters and PhDs.

The Université Saint-Louis – Bruxelles is active in a number of disciplines in the field of humanities and social sciences, including Law. Of the 3978 students enrolled in the university, 1712 are in the Faculty of Law: 1566 in the bachelor program, 136 in the Advanced Masters, and 10 in the PhD program. The 1566 bachelor students either signed up for the daytime program or the off-schedule program for those who are already professionally active.

At the Université Saint-Louis – Bruxelles 15.52% of the law students do not have the Belgian citizenship, or have two nationalities, one of which is not Belgian.

Among the Academic staff (187 members), 10% is not Belgian. 13% of the teaching staff and the senior researchers obtained their PhD abroad. Every year, the

Université Saint-Louis – Bruxelles hosts about 10 foreign researchers during their sabbatical leave.

KU Leuven is an institution for research and education with international appeal. It is a comprehensive university, offering top-level study programs in almost every scientific domain. Currently, KU Leuven offers some 240 programs in Dutch, 86 in English, 2 in French and 1 in Spanish.

In 2017–2018, KU Leuven had a total of 57,335 students. Among them 9784 are international students. The foreign countries with the largest student populations are, in descending order, the Netherlands, China, Italy and Spain.

The Law school is one of the biggest faculties at KU Leuven. Some 70 law professors work at the Faculty of law among whom 10% are foreigners. Additionally, over 50 visiting professors teach in various programs. Hence they significantly contribute to the multilingual environment at the KU Leuven law school. Currently (year 2017–2018) the Faculty of law is home to 5455 students spread over 3 campuses: Leuven, Brussels and Kortrijk. At the Brussels campus, law students can either choose for the unilingual bachelor in law (taught in Dutch) or the bilingual program set up in collaboration with the Université Saint-Louis – Bruxelles, its partner university.

The advanced master in IP-ICT law is multilingual per se, as courses are taught in English, French and Dutch.

Bilingual (and trilingual) bachelors in law at the Université Saint-Louis – Bruxelles and the KU Leuven – Campus Brussels

Twenty-six years ago, the former Facultés Universitaires Saint-Louis *(now Université Saint-Louis – Bruxelles)* and the former Katholieke Universiteit Brussel *(now KU Leuven – Campus Brussels)* blazed a trail by **creating a bilingual (French-Dutch) undergraduate program in law for their respective students**. The following year, they continued along that path by setting up the bilingual French-English and the trilingual programs in French-Dutch-English.

The motives underlying the creation of bi- and trilingual programs were diverse. One of the reasons was the ambition to arm students with the linguistic skills required for legal practice, in particular in a multilingual work environment such as Brussels. A report entitled "Horizon 2025" approved by both the French and German-speaking Bar Association and the Flemish Bar Association, emphasized that, at the end of curriculum any lawyer should master her/his mother tongue, but should also have studied English and the country's other dominant official language. Another reason to implement this programs was the wish to allow students to conduct research as wide as possible, and to increase their ability to consult source material in a foreign language. Furthermore, the desire to promote student mobility between the undergraduate and graduate level. Finally, another reason was the ambition to promote cultural openness to the other community.

Neither the students nor the teaching staff or the academic authorities opposed to the implementation of these bi-/trilingual programs.

All students get basic language training, yet the more intense bilingual (or trilingual) program is fully optional. Indeed, students are free to sign up for

this language-wise more challenging type of legal education. These programs are growing in popularity from the Reporters view. In particular they attract an increasing number of students who grew up in linguistically mixed families or who passed through content and language integrated learning.

Overall bilingual education tends to be quite challenging for teachers, as these programs normally require them to fully master the foreign language too. However, this problem does not arise with regard to the bilingual program co-organized by the above mentioned universities, since all teachers are native speakers.

In respect with the profile of students following a bilingual program, it must be said that neither at the Université Saint-Louis – Bruxelles, nor at KU Leuven, Campus Brussels enrollment in the bilingual program is dependent upon an entrance exam.

The joint bilingual bachelor program of KU Leuven-Campus Brussels and Université Saint-Louis – Bruxelles is essentially based on a system of exchanged courses. Students in this program who enrolled at Université Saint-Louis will take a number of courses taught in Dutch at KU Leuven – Campus Brussels while being exempted from the corresponding courses in French (and the other way around, for the students enrolled at KU Leuven – Campus Brussels). In practice, these exchanges are very easy, as the walking distance between both universities is not even 10 min. Since both universities teach "Belgian law", in theory all courses are eligible for exchange. Accordingly, the partner universities agreed to exchange the following courses: *Introduction to Law, Constitutional Law, Law of Obligations, Property Law, Family Law, Administrative Law and the Law of Contracts & Torts*.

The evaluation methods used in the courses that are taught in a foreign language are quite diverse. They might consist in written exams with open questions or multiple choice questions, oral examinations, written assignments, taking part in a bilingual moot court (e.g. Moot Court in constitutional law, in which all Belgian universities participate).

At the Université Saint-Louis – Bruxelles law students can also choose to sign up for the bilingual bachelor program taught in French and English. In this program, a number of courses that are taught in French in the standard (monolingual) program, will instead be offered in English. The program is exclusively run by the Université Saint-Louis – Bruxelles and its staff. All teachers are Saint-Louis faculty. Some of these courses concern "non-legal" topics, such as *Introduction to the culture of the English speaking world*, *Economics* or *Political Science*. In legal courses the language is altered to English whenever this seemed relevant. That is obviously the case for courses concerning foreign law (e.g. Introduction to the Common Law), but also for courses that are highly comparative in nature (e.g. Introduction to comparative law).

At the Université Saint-Louis – Bruxelles, in both bilingual programs (French-Dutch or French-English), USL students may choose to add a third language (English or Dutch) and thus render their bachelor program truly trilingual. In this case, over 50% of their program will be taught in a foreign language.

Related to the materials the Reporters pointed out that they use the course material (book, syllabus, slides, and exercises) that they developed themselves in Dutch.

Documentary resources (legislation, doctrine, case law) are easily available in their language, since both Dutch and French are official languages in Belgium. Legislation is enacted in both French and Dutch; case law is produced in either French or Dutch; some court decisions are entirely and systematic translated.

The command of English required to teach at university is quite high. Indeed, in article 270 Codez Hoger Onderwijs, the Flemish Community set several requirements in order to guarantee the quality of the language used for teaching. The Decree states that the teaching staff has to have a language proficiency at level ERK C1 for the language in which the course is organized.

It is worth mention, that KU Leuven has an impressive list of ERASMUS destinations.

From the Reporters view, it could be said that both at the Université Saint-Louis – Bruxelles and the KU Leuven, law schools undeniably promote the bi- or even trilingual curriculum. Moreover, these programs have expand and intensified over the years. This tendency towards multilingualism seems to exist at all Belgian universities, as they all have recently intensified the language training in their curriculum. Some new initiatives are the English master programs the law schools of KU Leuven (in collaboration with the University of Zurich) and the University of Antwerp which were recently set up. Without any doubt, other universities will follow these examples in the near future and will establish new kinds of bilingual programs as both students and employers cheer the above evolutions with joy.

Overall, neither the students, nor the public authorities perceive the above development towards multilingualism as a threat to the cultural/national identity.

3 Bilingual Legal Education in Canada

The Canadian reporter delivers a particular, specific and original vision concerning Bilingual Legal Education. His approach tends to explain the differences between two ways of understanding legal positivism; the Rule—paradigm and the realist epistemology. To better explain and understand what the main cornerstone of his essay is, here are some hints of what le Cas de L'Acadie means. To do this we rely on the work of Annette Boudreau, a member of the Université de Moncton, from which the author of this report is also a professor:

> Ce texte traite de la construction des représentations linguistiques en Acadie en partant de l'analyse des articles de presse publiés dans deux journaux importants, soit L'Évangéline (1887–1982) et le Moniteur Acadien (1867–1926). L'accent est placé sur trois périodes clés de l'histoire acadienne, la première s'étalant de 1880 à 1910, la deuxième de 1950 à 1967, et la troisième de 1970 à 1973, périodes choisies en fonction de leur importance à illustrer les moments forts de la construction de l'espace social acadien. L'article décrit d'abord les principales idéologies linguistiques trouvées dans les éditoriaux et les lettres d'opinions du lecteur, puis s'attarde à la période contemporaine et montre comment les discours sur les pratiques linguistiques se sont diversifiés. Les différentes stratégies mises de l'avant par les artistes sont présentées. Ceux-ci participent à la construction de nouvelles façons d'appréhender les pratiques linguistiques qu'ils voient plurielles et polivalentes.

> Un langue n'est jamais trop riche. Mais notre langue est assez riche de son propre fonds sans que nous soyons obligés d'aller si souvent faire des emprunts à l'étranger. Quelle nécessité y a-t-il de dire "club" au lieu de cercle, la "season" pour la saison, le "hall" qui vient de notre halle, à nous, est "lunch" et "luncher" pour collation ou goúter? (Parlons français, L'Évangeline, 29 mai 1890)

> Si vous êtes descendants acadiens le sang français coule encore dans vos veines, conservez le français ainsi que votre langue. N'ayez pas peur d'une langue que des génies n'ont pasée honte de parler avant vous. (Le Moniteur acadien, 20 novembre 1884)

> Depuis la fin de années 1970, des sociolinguistes ont souligné l'importance du recours aux représentations dans l'analyse des situations linguistiques pour expliquer le maintien, le développement ou la disparition des langues...

Having established this, we will go on to analyze the National Reporters essay. The Faculty of Law of the *Université de Moncton* "...is host to a variety of - sometimes unique and surprising - events that could be could considered "phenomena" of transystemism in a multilingual context of legal education..." The Faculty of Law, which offers a unique training of common law taught exclusively in French, was founded in 1978 in the City of Moncton, in the Province of New-Brunswick, Canada:

> The University of Moncton was founded by integrating three colleges: College Saint-Louis, College du Sacre-Coeur and College Saint-Joseph. Undergraduate degrees in adult education had been founded by the university in the year 1989. Students get admission in this school on the basis of their extracurricular activities, GPA, letter of reference, as well as interview questionnaire. As all the classes of this school are conducted fully in French, student who are seeking admission must have a strong command on French language. University of Moncton doesn't require its students to take the LSAT (Law School Admission Test) as it considers the score of LSAT, if provided.

> University of Moncton Faculty of Law offers the basic LL.B. and also the graduate LL.M. Besides this, the university also offers degrees such as: the LLB-MEE (Masters of Environmental Studies), LLB-MAP (Masters in Public Administration) and LLB-MBA (Masters of Business). Moreover, students who have a degree of B.C.L or LL.L. (Civil law degree) from any Canadian school have the permission to enroll their names in the school for two semesters and complete a J.D. For international students who are willing to understand the common law tradition, the faculty offers a D.E.C.L (Degree in Common Law) as well.[3]

> ...Transsystemic teaching of law, as is also often found in multilingual contexts of legal education, can and have been celebrated as powerful remedies to the dominant paradigm of legal education, rooted in a legal positivistic ("LP") view...

As the National Reporter sharply remarks this view is generally accepted[4] as the dominant model of teaching, reasoning, and adjudicating legal matters.[5] The limits

[3] See the interesting presentation offered by the Canada Law Schools resources, available online at http://www.canadalawschools.ca/atlantic-canada/new-brunswick-universities/13-university-of-moncton-faculty-of-law.

[4] Generally, see: Samuel (2003).

[5] This is not to be understood as meaning that the notion of Legal Positivism *itself* is non-contentious. Many myths exist *about* what Legal Positivism is or is not, as a variety of authors

of such a model are, perhaps incidentally, made more visible in a transsystemic or multilinguistic contexts of teaching, as those are the conditions in which they train legal minds at the *Université de Moncton*. In the author words "...may these short iterations be of use to many who face the challenges of multilingual, or multisystemic, contexts of legal education..."

A First Dogma of Legal Positivism: The Rule-Paradigm[6]

The National Reporter states that the multilingual and transsystemic education, be it through the generally available mean of comparative law, unravel the deeply rooted polysemy inherent to even the most casual legal concepts to be encountered. "...Multiple explanations to this un-fixedness of the meaning of legal concepts are offered by the legal literature; this polysemy is perhaps one the first "terrors" to be faced by legal students. How tragic it is to be facing norms purporting to be just and universal, which are also modeled using that profoundly imprecise medium of language! This finding, in itself, as stemmed a whole field of legal studies gravitating around the now classic *themata* of the hartian open texture of the (legal) language..."

Further on the author addresses a crucial repercussion of this issue, pointing out "...One of the many consequences of this relative imprecision of legal language, as most eloquently revealed to a lawyer endeavoring a transsystemic reflexion, is to reveal the relative unvavailability of the rule-paradigm as the only method of resolving legal matters. The "canonic" syllogism, as a means of resolving legal problems was developed, and possibly meant to be applied, to premises that are fixed, and objective.[7] How can the syllogism as a tool retains its centrality when the major premise, the enunciation of the Rule, be it enshrined in common law judgments or in a piece of legislation, is often times irremediably mobile?..."

The National Reporter explains that this aftermath of legal interpretation, rendered highly vibrant through the problems of transsystemism, has led some scholar to offer a variety of means to understand "...what is *really* happening when one speaks of *legal method* or *legal reasoning*. A now well-documented[8] field of legal research covers the means by which legal solutions take place, especially in the context of transsystemism. For some of these scholars, it is unavoidable to take into account the profoundly cultural dimension of legal institutions, as to avoid the risk of "faux amis": similarly phrased concepts buttressed by different cultural context accounts for sometimes very different legal solutions or means of enforcing what seemingly may be the same notions..." In order to see the true nature of legal

have suggested such as Norberto Bobbio, John Gardner. For the finality of this short note, we are concentrating on myths conveyed by LP itself and not the myths *about* LP.

[6]For Samuels, the success of Legal positivism is in part due to two fundamental assumptions: "The first is that legal knowledge consists of legal rules; the second is that these legal rules are identifiable in terms of their particular sources and independent of all other social norms arising from other, non-legal sources". Samuel (2003).

[7]See: Huhn (2002), p. 813.

[8]As a seminal source, see: Teubner (1989), pp. 727–757.

reasoning the National Reporter encourages us to engage in a multidisciplinary approach, approaching different perspectives such as law and economics, law and literature, law and society.

The author establishes that "…As any fiction, the Rule paradigm has roots in reality and reflects the *habitus* and in many cases the actual practices of legal problem solving. May it be only noted that this method is relative to the complexity of the legal problems at hand, which in some case need to be addressed through a richer matrix, especially in the case of transsystemic or multilinguistic questions of law. In such circumstances, law perhaps cease to be a matter of rules, and students, lawyers and judges alike encounter law-as-a-social-fact, a living, and forever context-bound content-matter that it would be of disservice to treat only through the lens of a rule paradigm meant for much simpler matters…. than human ones…"

A Second Dogma of Legal Positivism: A "Realist" Epistemology

The National Reporter explains that a recent field of legal methodology and legal epistemology covers a ground that remained relatively un-touched up until the recent years: that is, the role of **facts** in the legal reasoning, as opposed to the role of rules. Likewise to rules, facts themselves have long held a status of undisputable objectivity, but this status has often been put into question through the works of comparative law, and transsystemic contexts.

> …It may very well, according to prominent legal epistemologists such as Geoffrey Samuel, Christian Atias or Theodor Ivainer, that facts themselves are an object of construction and interpretation and: "the idea that legal science is a discourse that has its objet actual factual situation is to misunderstand, fundamentally, legal thought."…[9]

Un important apport des travaux récents en épistémologie juridique concerne précisément l'étude des modalités particulières de traitement des faits par le droit. Il n'est pas ici question uniquement d'une étude des règles de preuve et de procédure, mais plutôt de l'adoption d'un regard apte à révéler les principes et les présupposés qui président au passage des faits à la norme, c'est-à-dire des modes par lesquels le droit construit l'intelligence de son objet.[10] Le professeur Samuel reconnaît même dans l'étude du modèle par lequel le droit « construit » les faits qui sont appelés à interagir avec la normativité juridique l'objet premier de la science juridique et le thème central de son épistémologie.

Pour cet auteur, soucieux de faire bénéficier aux juristes des acquis issus du champ de recherche de l'épistémologie des sciences, l'objet de l'épistémologie juridique est plus précisément la structure par laquelle le droit procède d'opérations de médiation entre la réalité empirique (les faits) et le domaine des normes :

> [Legal science is to be envisaged through a constructive form]. That is to say it has to be envisaged through a structure which mediates between facts and science (law), allowing the legal scientist both to make sense of the facts and to discover solutions from transformation within the structure. Such a structure is what one calls a "model". What, then, is the basis for

[9] Samuel (2004), p. 74.

[10] L'expression est de Berthelot (2008), p. 124.

> such a legal model? This, of course, is the fundamental question that should motivate and direct any work on legal epistemology.[11]

À ce titre, l'épistémologie invite à reconnaître que la factualité juridique est un construit : le juriste sélectionne des éléments de la réalité empirique, en disqualifie d'autres. Ainsi, un « point de vue » sur le fait opère une transition chez ce dernier de phénomène en objet du savoir juridique. Le fait est ainsi naturalisé[12] aux besoins du savoir juridique, s'y incorpore. Astolfi ajouterait que les faits n'ont aucune existence a priori : ils ne prennent tout leur sens qu'en relation avec un système de pensée, une théorie, bref en passant par le filtre d'une vision des choses ; nous pourrions penser qu'il s'agit là de la conception juridique du monde.[13]

Que se passe-t-il alors? Le « fait » cesse d'être le rempart que l'on a toujours bien voulu reconnaître contre l'évolutive et changeante règle de droit. Le fait cesse de lutter contre l'arbitraire, mais est dès lors tout entier devenu lui aussi objet d'*arbitration*, de *méditation* tant par les parties que par la raison juridique, construit de part en part par le droit et ses (méta)méthodes, et non à l'extérieur de celle-ci. Or comme l'a à si juste titre posé Gilles-Gaston Granger, que Samuels trouve tout à fait applicable au droit, l'objet d'une discipline justement n'est pas le « monde » dans sa phénoménalité observable, mais plutôt :

> This epistemological thesis is [. . .] applicable to law since this is a discourse or « science » (*intellectus*) which does not operate directly on the facts (*res*). What the lawyer does is to construct a model of the social world and it is, arguably, this model which acts as the bridge between the social and the legal worlds. That model is both the *res* (object of knowledge) and the *intellectus* (knowing subect).[14]

Il est maintenant clair que le traitement des faits par le droit n'est que superficiellement[15] capté par les règles de preuve et de procédures dont se dote un système juridique donné. Dans sa structure profonde, le traitement de la factualité par le droit est le produit de présupposés tacites qui échappent à l'étude des seules règles de preuve et de procédure : certains auteurs nous invitent par ailleurs à

[11] Samuel (2004), p. 19.

[12] Thomas (1973), pp. 103–125. Voir plus généralement, Teubner, "Pour une épistémologie constructiviste du droit".

[13] Astolfi and Develay (1996), p. 25. Il est possible de trouver une autre formulation de cette idée chez Hanson (1958).

[14] Samuel (2003), p. 2.

[15] Ce mot n'étant pas utilisé dans son sens péjoratif. Comme le souligne Dubouchet, certains problèmes simples ne requièrent que l'application du syllogisme juridique et pourraient être entièrement régis par une intelligence non nécessairement réflexive : (1) une raison formelle. Là où les problèmes deviennent plus complexes, là où les faits présentent une moins grande isomorphie avec le droit statutaire et jurisprudentiel applicable, rend nécessaire l'application de la (2) raison dialectique. Pour Dubouchet, s'appuyant sur les travaux de Carl Schmitt, certaines situations factuelles peuvent émerger qui ne soient tout simplement pas régies ou visées par le droit applicable et exigent alors l'expression de l'autorité confiée au juge, qui usera alors de raison réthorique. As cite in Nicholas Léger-Riopel, "Transsystemic and Multilingual Contexts of Legal education: le Cas de L'Acadie", p. 4.

découvrir la *véritable* méthode d'un savoir disciplinaire par l'étude de ses paradoxes, de ses controverses, plutôt que de ses apparentes unités, réussites et succès techniques. À ce titre, comme l'a souligné l'auteure Hammer, les fictions juridiques et l'imagination juridique auxquels président ces présupposés tacites font par moment « disparaître » les faits.[16] La fiction juridique et la « tendance de toute fiction à se substituer purement et simplement à la réalité »[17] devient alors par l'alchimie toute particulière de la raison juridique la seule vérité juridiquement officiellement reçue.[18] La méthode d'interprétation des faits par le juge, si elle ne trouve pas son explication dans des règles juridiques muettes à ce sujet, devient dès lors un objet pressant de l'épistémologie juridique. La voie pour une épistémologie constructiviste du droit est dès lors tracée.

4 Bilingual Legal Education in China

The first thing to bear in mind when it comes to this immense country, as the Chinese Reporters remind us, is that bilingual legal education in other languages in China is rare. The reason for this is that few teachers know other languages. Furthermore, due to China's primary and secondary education system, students who understand other languages are accounted as a relatively small proportion. A second aspect to take in consideration is that China is a multi-ethnic, multi-lingual, multi-dialect, and multi-character country, which includes 56 ethnic groups, many of which have their own languages.

Nevertheless, in the last 20 years this country has experienced enormous changes in terms of going global and taking the One Belt and one Road initiative which promotes international multidisciplinary exchanges; legal affairs and legal knowledge are not an exception.

[16] Gail Hammer, "Transparent: when legal fictions and judicial imagination make facts disappear, they enforce transphobic discrimination". As cite in Nicholas Léger-Riopel, "Transsystemic and Multilingual Contexts of Legal education: le Cas de L'Acadie", p. 5, note 13.

[17] Ch. Atias, précité, note 1, à la p. 21.

[18] "Competent judges should be able to prioritize facts over legal fictions. Judges should not be so distracted by difference that they fail to recognize facts. "The politics of control and domination are interrupted when we embrace our own fears and anxieties to transcend them." Competent judges should be able to notice, recognize, acknowledge, evaluate, and then set aside their own discomfort and emotional reactions. Those reactions are a source of information, but just one of the sources of information available to judges. They are not the guiding principles. Even if courts do not love transgender people, they are tasked with working justice and, at a minimum, tolerating difference. In courts' decisions, love, or the lack of it, should not determine whether the result is justice." Gail Hammer, "Transparent: when legal fictions and judicial imagination make facts disappear, they enforce transphobic discrimination", précité, note 12, à la p. 161 et suiv. As cite in Nicholas Léger-Riopel, "Transsystemic and Multilingual Contexts of Legal education: le Cas de L'Acadie", p. 5, note 14.

As stated by the National Reporters, Bilingual Legal Education can be divided into two kinds from the perspective of subject and object: (1) One is based on Chinese students as the object of acceptance; teachers of this type are mostly domestic teachers who have good foreign languages ability or foreign teachers invited from other countries as the subjects of teaching; (2) The other is to recruit foreign students as the object of education, such as the "Chinese Law" program. Therefore, the expression "bilingual" for Chinese students does not only focus on Chinese and one foreign language; it may also mean Chinese and one of the ethnic minorities' languages for those students (i.e. Mongolian). This is what offers Inner Mongolia University School of Law since 1988 in order to train its students in the acquisition of skills to deal with legal matters both in Chinese and Mongolian.

Besides this, the most common form of bilingualism is the combination of Chinese and English such as the Program offered by ***Renmin University*** in Comparative Law since 2009; it has different courses such as the Comparative Law Academic Seminar, the International Business Course (that combines litigation, arbitration, contracts and corporate business planning), American Law courses mainly taught by American professors, or EU law courses mainly taught by teachers from Sweden, the Netherlands and France, focused in the EU constitution, EU trade, tort and intellectual property law.

At the same time, the Comparative Law Program uses the international resources of Renmin University to hire first-rate scholars from the universities of Geneva, Tokyo University and Waseda University to teach courses such as "Comparative Contract Law", "Comparative Trust Law between China and Japan" "Comparative Contract Law between China and Japan".

According to the National Reporters,

> **Peking University School of Transnational Law (STL)** is the only law school in the world that combines an American-style Juris Doctor degree (J.D.) with a China law Juris Master degree (J.M.) and enroll students from China and other countries in the world. STL provides an academically rigorous, bilingual four-year program of legal education that prepares students for the mixture of common law, civil law, and Chinese legal traditions increasingly characteristic of the global economy…

The ***China-EU School of Law (ECSL) at the China University of Political Law and Science (CUPL)*** was co-sponsored by the Chinese government and the European Union in 2008. It is a unique institution for educating law students; for conducting and facilitating legal research and consultancy; for professional training of judges, prosecutors, lawyers, and other legal professionals; and a platform for China-EU research, teaching, legal academic and professional exchanges and collaboration. It aims at

> (…) "implementing a qualification program leading to a Chinese post-graduate qualification and/or a European post-graduate qualification (the "Master Program"), an exhaustive program of professional training (the "Professional Training"), and engaging in research and consultancy activities, including joint training for Ph.D. students (the "Research and Consultancy Activities".
>
> The "Double Degree Program" consisting of the "Juris Master of Chinese Law" (JM) and the "European Law Master Program" (LL.M.), is the central program of ECSL. As an

> integrated part of the Double Degree Program which will last for 3 consecutive academic years/6 consecutive semesters, the duration of "Juris Master of Chinese Law" can be technically identified as for 3 semesters. (. . .) Upon graduation, these students receive both a graduate diploma and a master's degree certificate from China University of Political Science and Law and a master's degree certificate from the University of Hamburg (the European partner of ECSL).
>
> Courses of the European Law Master program should be taught in English and courses of the Chinese Juris Master program should be taught in Chinese (. . .) If necessary, ECSL will provide for the translation of lectures and class materials in order to meet the audience's needs. (. . .) ECSL has also developed a Chinese Law Program (LL.M in Chinese Law) in English teaching for foreign students. All the courses of this program are taught by Chinese professors in English, the content mainly focus on China's laws (. . .)

The College of Comparative Law of CUPL, founded in 2009, integrates the Institute of Comparative Law, the School of Sino-German Law and the School of Sino-American Law.

> It is the only comparative law teaching and research institution in the Chinese higher education and research sector. The College comprises 42 staff members, including 30 academic staff. Among the academic staff, 29 of them hold doctoral degrees, accounting for 97%. The College boasts high qualifications of its academic staff and distinctive features of internationalization, as 16 academic staff have attained their degrees from world-known overseas universities, making up 53% of the total. The academic staff are proficient in the world's major languages like English, German, Italy, Russian, French and Japanese. . .

Shanghai Jiao Tong University adopts the "three plus three years system" legal education model to break the traditional curriculum system to cultivate undergraduate and master's law school students. It emphasizes the integration of foreign languages and law major during the curriculum. The undergraduate education finishes at the end of the third year, and as from the fourth year to diversion in order to select a few outstanding undergraduate students to accept three consecutive years of high-level legal education, and eventually receive a master's degree. This project calls for mastery of two UN languages and mastering the knowledge of economic, financial, trade, business management and international relations.

Southwest University of Political Science & Law, School of International Law has developed the "Foreign Legal Talents Education Program". Its general object is to cultivate a host of foreign legal talents who are well-versed in international rules, competent in dealing with transnational legal affair. Through the admission process, the School of International Law will select 10 people to implement the 3 + 2 + 1 year mode: 3 semesters to learn professional knowledge that focus on case study and are supplemented by practice. They carry out the activities for legal negotiations, debates and other legal skills competitions that target at cultivating foreign legal capabilities through the course practices in addition to foreign legal expertise knowledge. After those courses, there are two semesters practice training, which includes 3 months foreign law practices or overseas short-term study and one semester graduation thesis writing (WTO cases and foreign laws practice cases) and career choosing and planning. The program is bilingual. Bilingual courses cover one-fourth of the whole courses which focus on the WTO cases and other foreign-related cases. There are also many kinds of legal English activities like Legal English

Debate Competition, Legal English Writing Competition or other forms of competition, so as to develop students' professional English ability.

Shanghai University of Finance and Economics sets up a training program for senior legal personnel in the free trade area through the integration of specialization and localization. 75% of the courses (international financial law, international trade law, international investment law) are taught in English. The project is also served as an elective course. After finishing the course, students can obtain a certificate of "Free Trade Zone Senior Legal Person Training Program"

Law School of Shandong University has an original program because it uses not only the combination of Chinese and English selected by most of the colleges, but also set the "Chinese-Japanese Economic and Trade Law Class" for undergraduates.

> (. . .) It is the first university in China that uses Japanese as a professional foreign language for Legal undergraduate education which aims to cultivate legal professionals with a high level of Japanese proficiency and familiarity with the economic and trade laws in China and Japan. Students in this class should not only need study English and Chinese law like general undergraduate classes in law school, but also have to study most Japanese language courses and the Introduction of Japanese law, Japanese civil law, Japanese criminal law and other courses such as Comparative Law between China and Japan (. . .) The law school also sends students to law schools in Japan for exchange study. . .

The National Reporters highlight some aspects that need to be taken in consideration: (a) In China bilingual teachers are relatively weak and unevenly distributed (b) In many national famous law schools, mostly teachers have overseas exchanged experiences and most of them are Doctor returnees. (c) However, undergraduate colleges are unable to attract Doctor returnees because they are located in remote areas (d) Although in those undergraduate colleges there is no problem in their English abilities, they are still not able to realize the goal of bilingual legal education very well because of their poor understanding of professional legal knowledge. (e) The use of textbooks is relatively scarce, there are very few. One exception can be the "Introduction to Law", edited by Jiang Dong, which makes some changes that are more suitable for Chinese students on the basis of another original textbook. It chooses ten chapters of the original twenty-four, which are more suitable for Chinese students to learn, divided into two parts—Chinese and English. The English part still uses of the original textbook, the Chinese part is added by "basic vocabulary definitions" "key words" "key legal knowledge analysis" and so on. The textbook takes into account the integrity of English textbooks and students' English level, from a practical point of view to make it easier to promote.

Concerning Bilingual Legal Education for Foreign Students, the Chinese Law Program was first launched by ***Tsinghua University*** as a Master's Program on Chinese Law Education in 2005. Hence, it has developed to eight universities including Peking University, Renmin University of China, China University of Political Science and Law and Beijing Normal University. The Ministry of Education has no special regulations on the enrollment of Chinese law masters and the teaching methods, therefore, as the Program follows the general requirements of an LLM American Law but adapted to set up a Master's program in Chinese Law for foreign students (LL.M Program in Chinese Law, hereinafter referred to as Master of

Chinese Law Project). Teaching all in English has facilitated the study of Chinese law by foreign students and has expanded the student community with great potential for development. The Chinese Law Program takes generally 2 years. Most of the legal systems involved in these courses are similar to Anglo-American law because they transplant American laws or are based on international conventions and treaties. "*They are less affected by the differences in legal cultures and traditions...*"

Besides this, and as it usually happens in other countries, obtaining the Chinese lawyer qualification requires passing the national bar examination. One of the qualifications for joining the bar examination is that students need the citizenship of the People's Republic of China. This means that foreigners are currently unable to obtain the Chinese lawyer qualification. According to the law of our country, foreign law firms and foreign lawyers are also not allowed to engage in legal affairs in China.

In many cases, the Master of Chinese Law program not only teaches Chinese language knowledge, but also Chinese culture knowledge. Law is more of a "local knowledge," legal education, so it must be combined with China's special national conditions, traditional culture and values to carry out. Many colleges and universities have opened "Chinese traditional law" and "Chinese society and law" or "Chinese language" courses in Chinese Laws programs. Representative examples of this tendency are the courses recently offered by ***Peking University, Tsinghua U., Fudan U., China University of Political Science and Law, Xiamen U., University of International Business & Economics, and Renmin University***. The latter offers an LLM Program in Chinese Law fully in English (2 years) that is of special interest for students from abroad such as Hong Kong, Macau and Taiwan. As the National Reporters affirm,

> (...) The teaching faculty in the LL.M Program have extraordinary academic credentials. Most professors have experience studying and/or teaching in leading law schools in the most prestigious universities, such as Harvard, Yale, Oxford and Cambridge. They all have deep understandings of both Western law and Chinese Law. At the same time, Renmin Law School offers valuable internship opportunities in top law firms and other institutions for students to achieve their career planning...

5 Bilingual Legal Education in Czechia

It is significant to begin this summary by saying that this National Report was submitted because of the interesting contributions of other national reports and lively debate that took place during the 20th Congress of the IACL in Fukuoka—Japan. In the words of the Czech reporter, those contributions and debates "inspired his asking for an opportunity to join subsequently and deliver the report", which was consulted in due time and authorized.

In his view, the process of "Anglicisation" in Czechia has been growing steadily in the recent years, especially among the new and young generations, but at the same time some resistance has been appearing, supported by reasonable arguments. Pressures for further Anglicisation have found complications because of the

protection of minorities and their own specific languages as well as the recent growth of immigration. Although monolingualism is still very strong and obvious in this country (and the Constitution of the Czech Republic did not find necessary to proclaim Czech as the national or state language) there is no doubt that English has become the complementary second language for communication with foreigners in international trade, investment, modernisation, culture and tourism.

Nevertheless, the question whether this process of Anglicisation is in a point of no return or finding stronger resistances and will recede is very difficult to answer. Some politicians, entrepreneurs, journalists and officials began to question Anglicisation as a different form of "language imperialism" and even proposed a discussion about compensation or taxation to this new procedure of obtaining great benefits and profits.

As shown, the tendency to use the English language more and more often is either seen with sympathy and practicality or with discomfort and disgust.

Some intents to find alternative second universal languages such as Esperanto, Latin, German, French (gradually fading especially in academia), Russian (especially strong during the 1948–1968 period), Polish and Spanish have not been successful insofar. Even Slovak—which is a mutual intelligible language with Czech—is becoming less and less useful, especially because of the diversity of laws that emerged after the dissolution of Czechoslovaquia.

So all in all, English remains the most accepted global *lingua franca* in the country. It has many academic advantages, especially for Universities and not so much for primary and secondary education. As the national reporter explains

> This dominance of English has apparent advantages. Academicians and students need not master several languages for understanding in international settings. Translations of scientific and expert literature decreased significantly. Interpretation at conferences disappeared. (. . .)
>
> Many politicians, officials, journalists, professors and students think that any international exchange and cooperation is beneficiary if not essential for excellence. Universities become mentally xenophile. Internationalisation has become slogan and mantra. Anglicisation seems to ease this internationalisation. Education in English can attract more international students than education in other languages. It also eases recruitment of professors and lecturers. Unsurprisingly, internationalisation overlaps with Anglicisation. . .

The information obtained by this General Reporter is that there are four Schools of Law in Czechia (Charles University in Prague, University of New York, Masaryk University and Cevro Institute that also has a School of Political Studies). These four offer the top LLM Programs in Czech Republic.

Despite some attempts to strengthen the Anglicisation process, such as the one pursued by the **Masaryk University in Brno and its Faculty of Law**, not everything is in favour of this tendency, because of several reasons explained by the national reporter: as Czechia is a welfare state, public money to finance tertiary education is scarce, there are no study fees, underfinancing is chronic, governance of universities and their faculties is problematic and there is weak patriotism, (at least in what is concerned with preserving a national language and culture). On the other hand, a rising patriotism and disgust towards Anglo-American models of society,

government and law could result into hostility, which is also dangerous and inefficient for the Czech population, especially if we consider legal practitioners that always find English as a pragmatic, strong and useful weapon to use and perform when international issues and problems arise.

An interesting comment and advice from this national reporter is that until now,

> (. . .) few evaluate the quality of English in mentioned activities. Support for its enhancement is perfunctory if not absent at all (. . .) we should expect misunderstandings resulting from imperfect translations and be cautious towards eventual misuse of shortcomings. On the contrary, national administration and judiciary is rigid, it usually requires translation. . .

He reminds the readers of his report that it is not so common and easy to master both foreign law and language and also, if we consider law as a science and lawyers,

> ascertain legality of human behaviour (required/allowed/prohibited) when interpreting statutes. They formulate pros and cons and rebut their opponents. Attorneys and in-house counsels argue in favour of their clients, enterprises and institutions. Officials and judges balance legal argumentation in their decisions and judgments. Legal scholars analyse law in academic treatises for education of students and information of legal practitioners.

Bluntly Said, Law Is Enacted, Interpreted and Applied in Particular National Language

Therefore, meaning of words in this language is crucial. National discourse is primary in law. It has thus little sense to write and publish texts about national law in any foreign language. Even argumentation with international review is unconvincing. Respectable foreign reviewers would argue with unfamiliarity with Czech law.

Ultimately, international communication of legal scholars is also specific. Comparative studies rely on national reports written by authors from particular countries, while their initiators and organisers summarize findings in general reports. Despite huge effort spent by reporters, we frequently read summary of national law and its practice together with outline of political, social and economic aspects. Necessary unifying set of questions contorts results, while selection of topics usually reflects interest of leading professors from elite countries.

Ultimately, legal practice is comparable. Attorneys and in-house counsels hesitate to provide advice on foreign law, not talking about representation of their clients and employers at offices and before courts of other country even if allowed. Few master both foreign law and language. Instead it, they contact local lawyers. Many law firms establish international networks for this purpose.

An example given by the national reporter is that the Masaryk University has also mandated that **theses** submitted within so-called habilitation shall be in English since 2020.

> (. . .) Habilitation consists of an evaluation of pedagogic and scientific performance of an academician. Czech academicians become docents at various ages. The procedure is lengthy, demanding, cumbersome, and its results unpredictable. Success generally enhances individual position and usually results into an indefinite labour contract (tenure). Professors are the supreme rank. Many academicians do not achieve this rank altogether. Supporters justified this requirement principally with extended pool of reviewers. . .

The national reporter finds this initiative unsatisfactory and he would be pleased if the University could be more flexible in relation to this exigence prepared for next year. The arguments that support his point of view are strong: such praising in further Anglicisation could become a short way to undermine Czech nationality, especially when it refers to core law studies that should not be de-nationalized.

What we observe in this national report and his prudent comments is the following: As in any other country, the use of a second international legal language must always be considered useful and even necessary; but it should never become an abusive way of losing or forgetting the national roots of its own history and transform the specific culture and way of life of its population.

6 Bilingual Legal Education in Finland

Finland has two constitutionally recognized national languages Finnish and Swedish, which means that bilingualism is a national cornerstone.

Finland's judicial system is a civil law system and the primary source of law is the codified laws and statues. The court system has two branches: courts with civil and criminal jurisdiction (District Courts—Courts of Appeal—Supreme Court) and courts with jurisdiction in administrative matters (Administrative Courts—Supreme Administrative Court).

The official languages of Finland are Finnish and Swedish, which is stated in the Constitution. However on the Åland Islands which is an autonomous and demilitarized region, the official language is Swedish only. The Constitution further states that everyone has the right to use either Finnish or Swedish in communication with the national authorities. Finnish is spoken by approximately 90% of the population and Swedish by little over 5%. The Swedish-speaking Finns live mostly in the coastal areas of Finland and on the Åland Islands.

Children permanently residing in Finland must attend compulsory schooling, which stars in the year the child turns seven (7 years old). Finland does not have compulsory school attendance since a child can be given instructions at home on the condition that the instructions correspond to the basic education. Basic Education is free of charge and encompasses nine years from the age of seven to sixteen years (7–16 years).

Section 12 of the Basic Education Act (628/1998) states that, in keeping with the instruction language of the school, the pupils shall be taught Finnish, Swedish or Saami as a mother tongue, alternatively the Roma language, Sign language or some other language which is the pupil's native language. The instruction in mother tongue stars in the 1st form.

In schools which the instruction language is Swedish, the instruction in Finnish as the second national language normally stars in the lower forms (1st and 2nd form), while in Finnish schools the instruction in Swedish as the second national language generally stars later in the 6th or 7th form.

In the Upper Secondary Education (optional after the completion of the basic education), there are also compulsory as well as optional (advanced) courses in the second national language. *Since 2005, the only compulsory test is the one in the mother tongue. English is normally taught as the first foreign language in the basic education as well as in the upper secondary education.*

The higher education in Finland is divided into universities and polytechnics. Most of the universities have as their administrative language Finnish. These universities also do not, generally, have any of the teaching in Swedish. Courses given in English are nowadays, however, prevalent at all Finnish universities. Hanken School of Economics (with campuses in Helsinki and Vaasa) and Åbo Akademi University (with campuses in Turku and Vaasa) are the only two universities that are Swedish-speaking. The University of Helsinki is bilingual (Finnish/Swedish), which makes it a bit peculiar.

Bilingual Legal Education in the University of Helsinki The University of Helsinki was established in 1640 and is the oldest and largest university in Finland. The total number of the students at all level is little over 32,000.

The University of Helsinki is the only bilingual university in Finland. The language of instruction and examination are Finnish, Swedish or English. The University of Helsinki is the only university in Finland that offers academic education in Swedish in the fields of law, medicine, social work, social psychology, veterinary medicine, agronomy, geography and journalism. According to section 74 of the Universities Act (558/2009), there shall be at least 28 professorships with Swedish being the teaching language at the University of Helsinki. Services and student counseling are provided in Finnish, Swedish and in English. There are also education programmes and courses in English in some fields at the university.

There are eleven faculties at the University of Helsinki. The Faculty of Law is the leading institute of legal education and research in Finland. The Faculty employs about 140 teachers and researchers.

About 2300 students are pursuing degrees in Finnish, Swedish and in English at the Faculty of Law. In addition, the Faculty hosts on a yearly basis around 140 exchange students from all over the world. Doctoral studies can be completed in any of the three languages as well. Studying abroad for a period is also a popular choice among law students. **Since 1991, there is a Master of Laws diploma programme fully taught in English at the Faculty**. This particular Master's programme is focusing on International Business Law (IBL). Including: contract law, company law, intellectual property law, competition law and commercial disputes resolution.

There are separate tests and quotas for Finnish-speaking and Swedish-speaking applicants; therefore the applicants must, when applying, choose which of the two national languages will be the main language of their law degree. About 200 Finnish-speaking and 22 Swedish-speaking applicants are annually admitted to the education programme in Helsinki.

The Bachelor of Laws Degree comprises 180 ECTS credits, which is equivalent to 3 years of full time studies. The Bachelor's programme includes a variety of

studies and examination in compulsory as well as optional disciplines. It is possible to complete the Bachelor's degree as a bilingual degree, this implies that the student completes at least one third of the Bachelor's programme in the national language (Finnish or Swedish), that is not the student main language of the degree. The student will then get a specific mention of the bilingualism in the degree diploma.

The legal studies include courses and examinations, which generally require a lot of individual reading of textbooks. Lectures series are held annually in every compulsory discipline. And normally the lecture series end with a minor exam, an essay or a study diary. The final exams are usually in the form of book exams or take-home exams.

The teaching language depends on the teacher, in some disciplines, there are parallel lectures in Finnish and in Swedish, and in other disciplines the lectures are given in one language only. Sometimes there are also lectures in English if the teacher does not speak either of the two national languages or if the subject is very international such as public international law or energy law. The students are, however, always entitled to write their exams and course work in Finnish or in Swedish regardless of the language of the lectures. In exceptional cases, though, where the teacher is foreign the students may be asked to do the lecture exam or the written assignment in English, but then the students are allowed to use dictionaries.

The course material is usually in the language of the lectures or the language of the course. However, the literature relating to the specific disciplines, i.e. the exam literature, is mainly, in Finnish. There is a shortage of Swedish legal literature dealing with Finnish law, which puts the students who are pursuing a degree in Swedish at a disadvantage.

There are compulsory seminars in specific disciplines, where the students train in academic legal writing and in acting as an opponent of another student's text'; hence the seminar courses comprise of both writing and discussions. These seminars are held in Finnish, Swedish and/or English.

The Vaasa Unit of Legal Studies Since 1991, the Faculty of Law at the University of Helsinki has maintained a unit of legal studies in Vaasa. The population of Vaasa is about 67,000, 70% of whom have Finnish, 23% Swedish and 7% other languages as their mother tongue.

The Main Reason Behind the Establishment of a Campus in Vaasa, Was the Need for Bilingual Legal Practitioners in the Region The city has a District Court, a Court of Appeal and Administrative Court with special competence in environmental matters, a prosecutor's office, a Regional State Administrative Agency, a Center for Economic Development, Transport and the Environment, a Tax Office and many solicitor's officers. In addition to this, the Vaasa region is the home of the largest energy technology cluster of the Nordic Countries and many international enterprises. Due to this there is a growing need for multilingual legal expertise in these business fields.

In the late 1980s it was felt that there was a clear shortage of lawyers competent in both national languages in the Vaasa region. Thus, the Faculty of Law at the University of Helsinki established a campus in Vaasa.

The aim at the Vaasa Unit is to ensure that equal instruction proportions are given in Finnish and in Swedish. The study environment in Vaasa is truly bilingual; both students and teachers use Finnish and Swedish interchangeably. The students are not required to become fully fluent in both national languages, but they must be able to understand instruction and study materials in Finnish, Swedish and also in English to some extent.

It is essential for a country with two national languages and where the citizens have the right to communicate with either one of them, that their Faculty of Law is able to educate lawyers with sufficient skills in both national languages.

The language policy of the Vaasa Unit is a bit peculiar; it could be characterized as extremely liberal: everybody—teachers, students, and administrative staff—can use either Finnish or Swedish of their own choosing and the recipient must accept that choice and be prepared to understand the speaker.

The discussion on bilingualism is, at least in Finland, **actually more a question of multilingualism**. The University of Helsinki has a great national responsibility regarding the legal education in Finland, since it is the only provider of a full law degree in both national languages.

Over the years, the legal education has been permeated with an international perspective. In addition to the International Master's programme, the Faculty of Law is involved in several international projects. Collaboration with researchers outside Finland is also very common. Furthermore, the main publication language in some of the more international fields English. Companies and thus also legal counsel work increasingly in an English-speaking environment with all communication (including contracts) being drawn up in English. Thus, **legal education programmes are today in fact tri- or multilingual, albeit that officially degrees are still only mono or bilingual**.

7 Bilingual Legal Education in France

The national French Reporter, Anne Brunon-Ernst begins her work with argumentative considerations that are important to quote:

> Language has always been key to the building of nation-states in Europe, thus explaining the prevalence of monolingual States. Their promotion was justified on grounds that the territory of a State ought to be defined by common linguistic and cultural boundaries. Conversely, this gave rise to independence movements and greater demands for minority-language recognition, thus paving the way for the first bilingual higher education institutions as early as the nineteenth century. Nowadays, the preservation of national and regional language has been given supra-national legal support by France's membership of the European Union (EU). Bilingual education thus has a long-standing history, which predates the EU integration, and which cannot be isolated from the social, political and institutional contexts of its creation and continued existence. Because of the relative decline of the nation-

> state models in the Post War era and globalised higher-education and employment markets, it is reasonable to assume that bilingual education is bound to be on the rise. The case of "bilingual legal education" (BLE) is unique in more ways than one. Law cannot exist outside language. Law is drafted, enforced and administered through acts of language. Moreover, legal concepts take meaning within their own legal system, thus they are highly dependent on the frame of reference set by the legal order. To a more limited extent, this can also be true of trans-national legal subjects such as EU law. Far more than in any bilingual programme involving any other discipline, BLE has always entailed more than simply using a different language as a teaching medium, as the very content of the law is system-bound. Some concepts might not have any equivalent in another legal system (e.g.: there is no translation for the English legal concept of trust in French law), or might describe a particular position in the justice system which has no equivalent in another (e.g.: there is no equivalent in the common law of the French juge d'instruction). Thus, BLE has to teach also skills which are not legal per se, but linguistic, such as, but not restricted to, the ability to translate, switch languages and design information bilingually…(…) France has one official language, French (…)The present report therefore considers the use of BLE as referring to the teaching of a law programme in two different languages, one of which would be French, and the other a foreign language (referred to for the purpose of the report as the target language (…)The report excludes from its scope any programme which might be taught exclusively in an institution outside France. It thus considers only programmes taught either in France, or part in France and part abroad …

Further on she adds an interesting and difficult question:

> Does a law programme require a minimum number of hours taught in the target language to qualify as "bilingual"? Is one module (18 to 37,5 hours of teaching per year) sufficient to fulfil the "bilingual programme" requirement, or should a more substantial proportion of the teaching be taught in the target language to meet the standard?(…)

The answer to this is not simple as there are no universal standards that may establish when a bilingual legal programme is considered as such. Especially when each country and each university, throughout different guidelines and controls, may have very different perspectives and commitments in terms of what may be or not considered a BLP (Bilingual Legal Programme).

The French report indicates that in 2015–2016 there were around 210,000 students enrolled in law and political sciences programmes at university, with 14% of foreign students, half of them coming from the African continent. 125,000 of those students were undergraduates, 78,000 studied postgraduate courses and around 7000 were taking PhD programmes. As she points out,

> There is no legal obligation to teach a foreign language at undergraduate level. Each university is free to make it a mandatory requirement for the award of a bachelor's degree. In practice, very few programmes do not offer either optional or mandatory language classes at undergraduate level…(…) The heterogeneous audiences for which standard-track or specific-track programmes are designed might have a direct or indirect impact on which subjects are taught, how, by whom and when.

Anne Brunon-Ernst identifies four categories of BLE: (1) Exchange programmes (2) Double and joint-degrees (3) Degrees partially taught in a foreign language (4) Degrees exclusively taught in a foreign language. As it generally happens in most countries, the French public university system is fully or partially State-funded.

Certification of programmes for the award of national degrees is granted exclusively by the State.

> The same procedure applies also to private higher education institutions which are allowed to award standard French undergraduate and post-graduate degrees (licence (LLB), master (LLM), doctorat (doctorate)) if their legal programme complies with the standards set by the French Ministry of Higher Education and Research. Although over the past decade, there has been a drive towards more autonomous management of French universities, which has not always been successful, the certification system has not evolved significantly. Thus the French State has sufficient leverage to create effective incentives for universities to comply with any education policy. However, it stands in a double-bind. On the one hand, it seeks to encourage foreign student enrolments and French student mobility, but on the other hand, it imposes French as the compulsory language of teaching. Only a certain number of exceptions to the **Loi Toubon** make it possible for French universities to teach their programmes in another language than French. In practice, law faculties have been able to make use of the exceptions provided in the **Loi Fioraso** to develop the wide range of BLE . . . Nonetheless the official language requirement might slow down the growth of BLE in the future.

Also, as in several other countries, as said by A. Tsu and J.W.Tollefson in the paper "The Centrality of Medium of Instruction Policy in Social-Political Processes",

> behind the educational agenda are political, social, and economic agendas that serve to protect the interests of particular political and social groups.

The National Reporter quotes another research paper written by L. Purser that sustains

> (. . .) linguistic policies are "never simply an accident, but rather results of deliberate decisions involving more than simply the academic community".

In conclusion to these reflections Anne Brunon—Ernst affirms that

> (. . .) among the other players which have a stake in legal education policies, students and employers have a key role in creating a demand-led market for BLE.

This General Reporter is inclined to say that these players will have a major and increased role in the near-by future.

> (. . .) The increase in global business makes graduates who have bilingual legal skills extremely attractive. However, as of yet BLE does not train fully competent jurists in two legal systems (except for the notable exception of joint-degrees, which still require additional qualification). BLE skills are nonetheless adequate for most workplace tasks. BLE skills are not expert skills in another legal system but rather comparative legal and language skills which allow jurists to find their way around the institutional setting, legal rules and procedures of another legal system, translate and design information bilingually in their own system for jurists from other systems and to negotiate efficiently with target country lawyers.
>
> If French jurists want to meet employment demands in a global economy, they need to master the legal and linguistic tools of comparative communication. Only BLE trains jurists for these skills. . . ¨

The challenges still to face in BLE accordingly to the French report are multiple and complementary: skills in listening, reading, writing, in oral communication as well as in oral interaction and interpretation. Because "*language is embedded in*

culture" those skills need to combine language and legal issues. That is why the national French Reporter mentions the importance of disciplines such as Language for Specific Purposes (LSP) as well as the use of English in a particular domain (ESP) an approach to language learning based on the needs of the learner. These kind of programmes will be more and more helpful

> (. . .) to identify ways in which the target language is embedded in the legal and professional culture of a given community. What is the specific terminology in the field? What are the recurrent language structures student will use in the different tasks they will be asked to carry out in the workplace? How does language reflect the professional culture of the target country? Research is carried out in these fields to bring answers to these questions, and help devise programmes that are tailored to the professional needs of students . . .

Finally, another tool that is more and more on request in France are the Specific English Courses (Anglais de specialité or ASP) that help its students to identify relevant features of communication (terminology, phraseology, genres, communicative situations, culture, etc.) in a specialized domain such as law.

8 Bilingual Legal Education in Germany

In a similar way, the German Report written by Stefan Grundmann points out the relevance of plurilingualism in actual times, which should be seen as a powerful tool instead of an obstacle for communication:

> (. . .) "reduction to one global language carries the risk to impoverish law, namely its pluralism that conveys as well the idea and the essence of a pluralism in societal models. . ." (. . .) La langue – c'est une arme, et en me référant en ceci librement aussi à Foucault, je soutiens dans cet article que le **plurilinguisme**, en droit, de nos jours, est considéré surtout comme un obstacle où il devrait en vérité être entendu comme **un des plus grands pouvoirs**. . . (. . .) language informs or influences formation of thought and language – strongly, very strongly, perhaps even as the major factor of all (. . .) language forms thought, thought about legal and societal models. Hence, reduction to one language is completely at odds with a world of multiple legal and societal models and even more at odds with a world in which pluralism of societal models – a form of individualism – is seen as being paramount and foundational also from a normative perspective. One may point to the fact that pluralism in legal and societal models and believes is even seen as a foundational value enshrined in constitutions (at least in the Western world). One may even go so far to say that the global legal community, if it does not want to betray to some extent the foundational value of pluralism, has a moral duty to foster (much more vigorously and actively) a form of discourse that is based on a variety of languages".

When writing his report Grundmann frankly shares some of the objections he had to face with some of his colleagues at Humboldt University who are strongly in favour of the Europeanization of private law and consequently upholding the flag of German language as an instrument to enhance the practice of law "made in Austria, Germany and Switzerland". Additionally, he explains

> (. . .) Indeed, while this may not be of similar importance for small countries or less important universities, it may be paramount for leading universities in jurisdictions that really

> substantially have shaped and still shape legal thought – other than that in the Anglo-American world. . .

Some academic adversaries at Humboldt therefore blamed him for having accepted and indeed proposed the name of **'European Law School'** for the network he describes further on in his report and the title of **'Juriste Européen'** for those who have successfully completed its curriculum and the Master exams in three European countries.

> It did not help that I insisted on the fact that this institution and curriculum is, in its essence, about multiplicity of languages ('plurilinguism'), of styles and of models – more than any other offer and model existing before. Similarly, he will blame me for writing this account in English and perhaps not even 'forgive' me for the mere fact that, at the end, I add a shorter variant of this text in German (and also in French), containing all major arguments (. . .)

The German Reporter agrees with his opponents when they argue that

> reduction of the global discussion to one language, a lingua franca, carries the risk that a good number or even most of the ideas developed in the larger part of the world, in their native languages, is de facto excluded from the discourse or strongly reduced in importance. This risk is exacerbated by a dominant attitude in the global discussion of law to see a diversity of languages mainly as an obstacle to a common discourse and much less as a chance for richer, more nuanced, more pluralist discussion of legal and societal models. This implies that poverty in languages is seen as constituting the most efficient arrangement of discussion while it could also well be perceived as an intellectual shortcoming – reducing knowledge and diversity in the global discourse(s). (. . .)

The German report then highlights the increasing relationship between law and economics as well as how both influence on the evaluation and the development of legal solutions. This phenomena, which was for a long period of time neglected, is nowadays seriously taken into account and develops two different approaches in terms of understanding and trying to resolve economical and legal issues and problems: a more economic approach instead of the ordo-liberal school approach. Both approaches differ in substance and methods at the time of finding better regulations and solutions to those issues and problems. This has—in his view—three major consequences:

> (1) The difference between both approaches is enormous, the law and economics approach having the main advantage of being so readily 'applicable', but also the main shortcoming of basing its results on assumptions that often abstract (strongly) from real world settings and often fail to have plausibility checks. One could speak in the one case of an approach more rigorously based on a formalisation and calculus, in the other of a value based approach that is more reality oriented and inspired and fuzzy. (2) Despite the importance of the difference, the latter is relatively little discussed and therefore we are relatively little aware of the comparative advantages and disadvantages of the two approaches either. We do not really discuss whether dependence on models and calculus does not exclude large parts of lawyers' communities from the discourse to a larger extent than an approach that is more principle and value oriented. (3) This lack of discussion is by no means limited to the Anglo-American world, but would seem to be influenced by the virtual lack of a pluri-linguist global discussion platform. This lack of pluri-linguist global discussion would seem to have different outcomes on both sides of the Atlantic – namely that an alternative approach is more easily neglected in the Anglo-American world, but also that, in jurisdictions such as those of continental Europe, the law and economics approach as shaped in the U.S. is either 'followed' or rather rebutted, not discussed, modified and transformed. . .

An interesting example of these distinctions is presented by Grundmann when he asks

> (. . .) If a calculus and model oriented approach to transnational economic transactions was not able to detect the flaws of a process bundling masses of sub-prime loans via securitization and outsourcing into SPVs, manufactured into CDO/CDS under the guidance of global rating agencies and then rated by them, with an investor community relying collectively and in a uniform way on the correctness of such models, might not the existence of alternative approaches in a global discourse have been helpful to cast doubt? Approaches that favour more robustness and plausibility checks instead of 'exact' calculus.
>
> These considerations pose the question of who has responsibilities in maintaining enough linguistic diversity, and they explain as well why (academics such as Alex Flessner) are right at least in categorical terms when insisting on German as a tool for explaining a whole legal world of thought. . .

Cautiously, the National Reporter adds that this universal and plurilingual view of issues and problems which in one hand could diminish the **personal or national navel focus of them**, should by the other hand be limited to a certain amount of languages:

> (. . .) This plea for more diversity – in languages and hence in societal models – can remain realistic only if one admits that the circle of languages consistently participating in a global discourse will (and must) remain relatively restricted even in a global discourse community more adequately shaped than that based on English only. . .

In his opinion, English, French, German, Spanish, Chinese, Arabic and Portuguese should probably be sufficient for this purpose. Philosophically speaking he adds a defiant and interesting challenge:

> (. . .) If law is about fairness and social sciences discussion should be shaped such that it can most adequately further the common understanding and welfare, responsibilities for a more diversified discourse environment are probably just as much and perhaps even more with the Anglo-American world itself. This may sound counter-intuitive, but **it could well be still more convincing if the impetus for a discourse rich in languages and hence in legal and societal models came as well – and very prominently from key institutions and key players in the Anglo-American world**. The role of the U.S. may even be paramount in this as it is not renowned for taking in ideas and diversity views from other parts of the world very easily (some even speak of 'academic imperialism'). Opting for diversity, formulating a plea of diversity would seem particularly convincing if formulated based on the particular strong position of those who start from the dominant language. . .

In this General Reporter point of view, this could and should be very necessary as well as revolutionary, but it seems that we shall need some time to see it happen, especially while the actual American Presidency is governing the USA. . .

After these considerations, the report presents a survey on the German Universities that offer pluri-linguist legal education. Basically there are three options: (a) Courses taught in other languages than German are often required in the German general final law exam, the so-called State's exam ('Staatsexamen'); these kind of foreign language courses apply to all lawyers leaving German universities with the regular law degree (close to 100%). (b) Curricula and study courses for foreign students (more accurately: requiring a law degree other than the German State Exam) leading to Master degree at German universities. These courses can be found in

German, but as well in other languages, mostly English. (c) Genuine double degree programmes, with integration of genuine university leaving exams both in a German *and* in a foreign university.

Separately, and as something that this General Reporter finds especially attractive and innovative, is the offer which goes well beyond such double degree Programmes. This is the **European Law School network (Berlin/London/Paris/Rome/Amsterdam).**

As said, many Universities in Germany have extended Programmes of Foreign Law taught in Mother Tongue; the report explains that in a good number of cases, the foreign language taught courses in foreign law are also part of the (more extended) double degree programmes—if those universities have such a scheme—i.e. are used in both contexts. Other Universities as well allow a year of specialisation to be passed abroad, but this is discretional; if so they develop a regime which allows for substitution of some requirements and courses by a parallel curriculum at a university abroad.

In other cases, Universities have developed Master Programmes (L.L.M.) in German and foreign languages; large number of those curricula are on business law designed for students and practicing lawyers from Germany or abroad. The most common foreign language used is English. Other Master Programmes (L.L.M.) are focused on German Law or EU Law, as well as on Large or Targeted Subject Areas or Regional Contexts.

The Double Degree Programmes is a third alternative in which many German Universities have become more and more involved. The list of the foreign Universities participating in these DDP is too long to mention them.

Apart from the funding and scholarship issues that are common to most European Universities, the survey mentions some interesting aspects when it comes to **the Educational and Policy** considerations.

As it is common in several other countries, legal education in two or more languages is absorbed between a 10 and a 15% of the graduates. The arguments that support it are similar everywhere: it develops open-mindedness, enhances professional and labour initiatives and different skills, promotes cultural exchange and integration, etc. As said before, this diversity instead of being seen as an obstacle should be considered as a powerful weapon to encourage those same arguments.

Let us quote Prof. Grundmann once again:

> (. . .) "In law, the comparative law method would probably first come to mind when differences of language and of legal styles are at stake. It forms the natural key discipline for questions of diversity. Looking at this discipline and also comparing it to parallel strands of theoretical approach(es) in the social sciences, may not really be conclusive with respect to questions of pluralism, but still be telling to some extent. In a nutshell: German and French were the languages of comparative law. The founding fathers were writing in French and German – translated into English. . ." These remarks may not be shared by everyone, but this General Reporter strongly agrees with them. Further on he adds another shared remark: (. . .) "the endeavour of developing uniform rules or principles has completely dominated the comparative law world in Europe in the last two or three decades. Would this not imply that diversity was rather seen as an obstacle than as richness in the European main stream discourse..?"

As a way to conclude these interrogations the National Reporter makes a final challenge:

> (. . .) In a comparative law approach, one trend which would perhaps come closest to such a 'varieties' approach could be called '**comparative legal foundations' approach'**. Instead of looking at single solutions for concrete problems, it would focus on the interplay of the main structures and determinants of the legal architecture, for instance which role plays the **constitution, namely fundamental rights,** in the development of private law (direct/indirect/no application), which **court** develops these ideas, how do other social sciences influence the development of the legal academic discourse, how practice and which social sciences, etc. etc., and relate this to the institutional structure of this jurisdiction, including the question of **who are the main law authorities**. Such a comparative legal foundations' approach acknowledges these varieties, it also does not follow an approach of—in principle—the 'superior model'. It could even add foundations to an approach in which a pluralism of models is positively seen, at least in principle. While there is in my view no equally seminal piece in legal scholarship to the 'varieties of capitalism' work by Hall and Soskice yet, a prominent and parallel line of thinking could clearly be developed on this basis and this could be the basis of a broad, innovative research agenda. . .

As a good example of entailment and commitment towards this kind of legal education, the report describes the labour of the European Law School. Created in 2007, the purpose of ELS is that graduates must study and sit exams in three languages and in three countries with three major "styles" of legal thinking and practice, doing a full domestic exam in their home country and passing two LLM curricula in two other different countries, all three purposefully aligned. The first three Universities that developed this Programme were Humboldt—Berlin, King's College—London and Paris 2—Pantheon-Assas. As from 2013, Rome, Amsterdam, Athens, Lisbon, Madrid and Warzaw joined the ELS, which means, as said by the German Reporter, a sufficient example of different legal styles and problems that may be found in actual Europe. This broad representation is strengthened by the fact that the full majority of the students that are taking these international courses and sit for the exams have better overall performances and results in comparison with the national law students. Creativity, team work, networking activities, coordinated curricula, joint summer schools, and even more fluence in their own mother tongues are some of the aspects reflected in their students after the first 10 years of the ELS. The German Reporter concludes:

> (. . .) The European Law School is designed to give life to a 'narrative' of Europe in which diversity of languages and styles is seen as opening up the realm pluralist thought, and not mainly as an obstacle to one global approach on the basis of English. . .

9 Bilingual Legal Education in Italy

The Italian Reporter Prof. Elena Ioriatti describes a complex and very sui generis situation in her country. Although foreign languages and particularly English is increasing in Italy's Academia, there are some special characteristics that need to be taken in consideration:

> Italy is not a monolingual State and its regional dimension offers evidence as to the presence of protected minority languages and cultures. However, even if ethno-linguistic groups have gained not only political and linguistic autonomy, but even independence in the recruitment of the key legal professions (notably lawyers and judges), legal education remains monolingual in those areas. Bilingual legal education in Italy is much more linked to a trend of favoring the spread of English as a lingua franca, facilitating mobility in the European area, as well as to become a differentiating feature for universities in a competitive context. The core of these changes lies in the academic autonomies of the Italian universities – most of them are state universities – but this trend to a more multilingual academic model as opposed to the one of linguistic homogeneity is facing some forms of resistance on the governmental level. (. . .)

Until early sixteenth century Latin was the most used language for the educated population; the development of vernacular languages such as Florentine (a type of Tuscan language) was afterwards completed with what is now referred as Italian, a recent phenomenon that spread over the last quarter of the twentieth century, mostly due to the pressure of the media and the Fascist policy of linguistic unification. From then onwards,

> (. . .) a very complex language system developed, in which people often tend to use the Italian language to read, write or speak for the purposes of elevated discourse, and at the same time use a local dialect when dealing with more domestic/local kinds of conversation. . . (. . .)

The Reporter explains that there are two important bilingual regions in Italy which are that are Valle d'Aosta and the South Tyrol, the first with the obligation to draft laws in Italian and French, the second to do so in Italian and German, sometimes Ladin as well. This third option is an officially recognized Romance language spoken in the provinces of Trentino, South Tyrol and a small part in the Veneto region.

In Valle d'Aosta the full bilingualism is well established in primary and secondary school but is not so strong in advanced education, especially in the field of law. The main University (Aosta) does not offer a full curriculum in law and all the legal classes taught in the other curriculums are held exclusively in Italian.

The other interesting region where normative bilingualism can be found is the Province of Bolzano (Bozen) that, along with Trento, is part of the autonomous Region of Trentino Alto-Alto Adige (South Tyrol). Here, the most common spoken language is German, almost a 70% of the population speaks it, 25% speak Italian and 5% Ladin.

> (. . .) Today South Tyrol enjoys a broad administrative and legislative autonomy and is known as the territory in which the linguistic minorities have been recognized the greatest degree of protection and widest range of rights. The institutional setting of the province is specifically designed to permit the cooperation of the two main linguistics groups (German and Italian speakers), and every person has the right to use either language when relating to both the judiciary and the organs/offices of the public administration. As a consequence, documents directed to the public are also usually bilingual and the civil servants who work in the judicial and administrative fields are required to speak both languages. Furthermore, all laws and normative acts have to be drafted in both languages, and, when involving interests of the Ladin community, in this third language too (. . .) In both regions bilingual law drafting concerns institutions – and therefore concepts – of Italian law, which are applied

> within one single legal system, namely the Italian one, and are merely expressed both in Italian and in a second legal language which is not only Italian, but German. A special organ has been founded to address this specific set of problems: in South Tyrol the **Joint Terminology Commission**, composed by both Italian and German speaking experts, with the scope of creating, developing and expressing the terminology of the Italian legal systems in German. In Valle d'Aosta laws are drafted predominantly in Italian and subsequently translated by translators working within the **Service de promotion de la langue française.** Therefore, particularly in South – Tyrol, the legal professions – lawyers, judges, notaries – but civil servants too, even having a predominant language skill, are required to understand the translation and the correspondence of legal terminology adopted in both languages (...)

As for University legal education in these bilingual regions, the difficulties that arise are similar to many other countries. As said by the National Reporter,

> To be able to enforce law and administrative justice in the two languages, the system should be able to count on a sufficient number of legally educated bilingual legal professionals and bilingual law graduates in general (...)

Consequently, until now Italian is still the ruling language in tertiary education, although several courses are offered in other residual languages such as English, German or French.

This characteristic also applies to post graduate legal education in those bilingual regions. Graduates who like to enter the classical legal professions such as lawyer, judge or notary are not really trained in two languages; the responsibility for this specific need relies more in the respective Law Bar Association rather than in the Universities.

> The Bolzano school for the legal profession ensures that post-graduate legal education complies with the requirements for access to the Bar exams, also with regards to bilingualism. Students may attend classes in either Italian or German, but not all the programs in all disciplines are available in both languages. This depends mostly on the availability of the German speaking professors more than on the subject of the lecture, even if experimental double language classes have been recently introduced. This model is based on a co-teaching method of the same legal subject by two teachers, each being bilingual, but prevalent in one of the two languages. However, these bilingual classes are part of the general program of the school the aim of which is not to train young jurists in bilingual legal terminology or legal translation. As a consequence, in most case readings and pedagogical material are not available in the two languages...

Similarly, at the French speaking area of Valle d'Aosta, students are not especially motivated to study law in a language other than Italian. Moreover, this also is due to the fact that the regulation of legal language in Valle d'Aosta is a lot less incisive compared to South Tyrol, where all citizens have the right to use their language when dealing with legal offices and court cases. Consequently, decrees and sentences must be translated in the chosen language. On the other hand, in Valle d'Aosta, translation is foreseen only for specific legal deeds.

> (...) For the time being, the nearest universities which offer a full law curriculum in law are the **University of Trento (Italy) and the University of Innsbruck (Austria**); it is interesting to notice how the latter that is located in the Austrian region of Tyrol, offers an integrated curriculum in Italian law, which covers both the Austrian and Italian legal systems and in which the classes are taught in German as well as in Italian.

> Finally, and strange enough, the only University offering a bilingual German-Italian training course for lawyers (avvocato/Rechtsanwalt) is the **University of Florence,** offering a program in which Italian students interested in the legal profession in Germany attend part of the courses in Köln (Germany) (. . .)

As for the vast majority of the cases, what concerns the degree of internationalization of high education in the legal fields depends of the State. The State is the exclusive authority to regulate the development and recognition of the legal degrees and titles to access the legal professions (lawyer, judge, notary). This is what is known as the **Laurea Magistrale in Giurisprudenza** obtained after a 5 year legal study program. The program is mostly mono-linguistic (Italian) due to technical, cultural and linguistic reasons rather than because of other nationalist or protective measures implemented by the State. As from 1933, Italian is the official language of teaching and of the examinations in all university structures.

> (. . .) Actually, the foreign language of teaching – any language other than Italian – is the only requirement which is necessary to qualify a University program as "international". The internationalization process of legal education is a complex phenomenon that has gradually interested all the European educational systems, responding to the need of the state to be competitive in a global market, as well as with the neo-liberal idea that universities "produce" services of economic values, that have to be competitive and attractive, as all the other economic activities. Within this complexity, aspects such as competition among law schools, convergence of academic curricula, student attraction, mobility of researchers and students are the ingredients of a successful educational system in the legal fields. Like many other European educational systems, internationalization has been the "engine" of the recent development of bilingual education in Italy. It is therefore not surprising that the language of instruction in bilingual programs is English, and legal education is no exception. . .

As shown in other reports, the process of internationalization in Italy has been centered more in Europeanization, especially after the implementation of the protocol signed in Bologna in 1988. In this "Bologna Process" this country was one of the first European countries to enforce the necessary reforms in order to harmonize the university systems. This was done by introducing the 3 plus 2 system that complete and finishes the Laura Specialistica. This has shaped two different models of graduate legal training: one more traditional and cultural, the other mostly operational and variegated that aims more to the business world and the labor market; the first is more theoretical (listen and learn) the second is more practical, where students have to develop more creative and participative skills. Although not bilingual per se, the use of other languages apart from Italian is much valued (especially English, German, French and Spanish) in order to achieve better training skills and better jobs in the nearby future. The recent European economic crisis also played a significant role, especially in the last 10 years, forcing many young students to migrate, searching new labor opportunities in foreign countries. The knowledge of other languages in addition to the native one, is more and more recognized as a powerful weapon to succeed outside national frontiers.

The Italian Reporter describes a recent and very relevant example of the new Bologna Process of aiming at a wider and more global vision in education, by explaining the model established at the Faculty of Law of Trento where she helds

a teaching post and where she created and coordinated the Program described below: the first law bachelor entirely offered in English; a "cultural mission" with the main goal of training students in comparative and transnational law; as she relates,

> the Faculty of Law of Trento has always been cultivating the language skills of its students through International mobility programs, double degree projects, as well as by offering a good number of elective courses in other languages besides Italian. With the passing of time, these choices in legal education have been reinforced with the introduction in the students' curricula of legal language courses as well as with the launch of a "Law and Language program".
>
> Thus, it is no surprise that the very first law course entirely offered in English in Italy – and the fourth in Europe – was established in this environment. The program **Comparative European and International Legal Studies (CEILS)** is, at present, the only law three year English bachelor in Italy, as well as one of the very few established in Europe.
>
> This three-year school is included within an overview in which courses offered in English are developing progressively.

Afterwards, the interested students may continue and finish the post-graduate or double degree programmes offered in various languages, and mainly taught by guest visiting professors or professionals who are experts on a certain topic. As the Reporter admits,

> (. . .) The Faculty's professors were involved in the difficult challenge of teaching their subjects in a new language. The Author of this report also took part in this new teaching approach and was able to directly experience the tight relation between language and teaching methodology. As regards some experimental teachings, as in the case of the Author, with a course in Comparative Legal Systems, language is not just a means to communicate comparative knowledge. This choice for bilingualism is due to the need to take steps in the direction of the Europeanisation of the law curriculum: in these terms, language is method, as "the law practitioners need to be capable of crossing national borders not only physically but also intellectually and English, as according to the Eurobarometer, at present is the most spoken foreign language in Europe (. . .) Given the positive result of this teaching experiment, the law bachelor Comparative European and International Legal Studies CEILS (three years) was launched in 2017 and it is now offered alongside the traditional program in Italian of the Faculty of Law (five years).
>
> The students enrolled in the Italian five year program have also the possibility to join the Law and language program and so attending language courses, legal language courses and other training activities in French, German, Spanish and English language.

The challenges and difficulties that lie ahead for the Italian academic international law culture are still strong. The protection policy enforced by national institutions to preserve Italian language will not diminish for the moment. To achieve the 5 year degree Laurea in Giurisprudenza or the Master degree in Law, Italian will continue to be mandatory. And this was recently confirmed in November 2017 when the Consiglio de Stato applied a principle that had already been laid down by the Constitutional Court: judgement No 42/2017 which guarantees that the overall teaching of universities must respect the primacy of the Italian language, along with the principle of equality, the right to education and academic freedom.

For many Italian academics the application of this principle is a good way of preserving the Italian culture and language. For others, this is only a draw back and a way of cooling down the emergent need of legal internationalization. In between

these two radical positions we may find the ones who ponder how much foreign languages, and especially English, should be reasonable and required in the legal academia in the years to come.

10 Bilingual Legal Education in Japan

Japan's situation regarding BLE is, at least in the National Reporter's point of view, quite original because of its complexities and somehow contradictions.

To begin with, two different stages must be taken into account: before and after 2004. That year was a "key" one to introduce and develop a new educational system more alike with the US-style of the law schools. In reality, Japan has experienced two different and competing institutional pressures in the context of BLE. (a) One pushing to a more diverse form of legal education but aiming to reinforce and enhance better Japanese lawyers inside the country, (b) the other one, with the commitment of the Ministry of Education, to internationalize Japanese universities and undergraduate law faculties in view of globalization and commerce.

The results of the new plan have not been—until now—the ones expected. The reformers and builders of the first current or pressure, hoped for a significant rise in the pass rates for the bar examination in Japan and this did not occur: it still remains low, currently between 20% and 25%. Consequently, law schools and law school students actually have focused their limited study time on "core" examination subjects, leaving little time or reason to pursue more diverse and creative course offerings, including courses taught in languages other than Japanese or courses making extensive use of foreign language materials.

On the other extreme, the interest of the Ministry of Education to internationalize its education has obtained some new developments, although it is still uncertain which of these two tendencies shall prevail in the nearby future. The National Report reflects some of the innovations and challenges taken by the University in which the reporter is based, that is Kyushu University, which clearly is not following the traditional educational trends, but rather a much more actualized and modern view of the issues at hand.

A little bit of history: "*Prior to 2004, the only pre-condition to take the national bar examination was high school graduation. A university law degree of any kind was not necessary. The bar examination was, however, notoriously difficult, with a pass rate fluctuating between 2-3%. This meant that by the year 2000, Japan had less than 30,000 lawyers for a country with a population of over 120 million.*" *(...) In order to assist candidates taking the bar examination, a network of private, specialized* "*cram*" *schools emerged independent of the universities. For those talented enough to pass, the bar examination was a gateway to, rather than the end-point of, professional legal training. A special institution run by the Supreme Court, the Legal Research and Training Institute would enroll those who had passed the bar examination and train them for a two-year period. In this way, future*

prosecutors, judges, and practicing lawyers would be trained together, before entering into the work force. . ."

The National Reporter adds a clarifying aspect:

> This does mean that Japan had no university-level legal education. Quite the contrary. Rather, the vast majority of students who enrolled on an undergraduate law degree at one of the many (90+) law faculties (hougakubu) **had no intention or prospect of pursuing a career in legal practice**. Rather, **there was a clear separation – at least, in comparison with other jurisdictions – between university legal education and the legal profession.** Instead, an undergraduate law degree **was seen as providing a general education, ideally suited to a career in the public sector – as a national or local government official – or in a private company.** As such, a law degree from a good university was seen as a ticket to a stable career in the life-long employment system that functioned so effectively in the post-war development of Japan. (The underlying is General Reporter's responsibility).

As a consequence, this way of understanding legal education, so separated from the finalities pursued in the legal profession, the "encyclopedian" or generalist culture provided by Universities such as the undergraduate law faculty of Tokyo had one main objective: to produce and form the elite of the Japanese—level bureaucrats as well as the new leaders in the fields of finance and commerce. In this process, academic performance at university was accorded much less weight than the particular university one attended. High school students were placed under enormous pressure to get into the best university possible (such as the mentioned above), in order to secure their future employment prospects.

> (. . .) As such, pre-2004 undergraduate university legal education in Japan was a high status, generalist training, rather than a specialized, graduate, or professional style of legal education. Undergraduate legal education was certainly not designed with a view to produce practicing lawyers or other legal professionals. . .

Complementary, previous to 2004 the main Universities both public or private, had graduate schools of law that offered Master's and Doctoral level courses mainly oriented on comparative law, but again, with one main and specific target: to prepare its students for a career as university teachers and researchers (not as legal practitioners) with a certain mastery of a foreign language and the law of that country in a special field. The two main preferences in terms of language, due to historical reasons, were German or French.

Hence,

> "pre-2004 "legal education" in Japan could be divided into several different components: (i) university legal education, comprising a generalist undergraduate program; (ii) research-oriented graduate schools with a strong focus on comparative law; (iii) a series of specialized "cram" schools which would prepare candidates to pass the bar; and, (iv) a professionalized legal education, which came **after** passing the Bar examination and served as the only real practical legal training one would receive before entry into the three main legal professions of lawyer, prosecutor or judge. . ."

In 2004 the Educational Japanese Authorities enhanced what was meant to be a sort of radical change in terms of Legal Education: the introduction of Law Schools with a US JD style education in a 2 or 3 years—program, depending on whether students had studied law as undergraduates. Completing law school became a

pre-condition for taking the new national bar examination. Significantly, the new law school system was added “**on top**” of the undergraduate and graduate level legal education described before. This means that—contrary to what other countries such as Korea did a few years later—Japan did not close down the undergraduate law faculties or the research-oriented graduate schools of law. The origin of this reform was the general dissatisfaction with the state of the legal profession by the mid 90ties:

> (. . .) it was often difficult to obtain legal services and much of the supposed “non-litigiousness” of the Japanese could be better explained by the difficulties and costs of finding a reliable lawyer. Most lawyers tended to be concentrated in the big cities of Tokyo and Osaka, creating an uneven geographical distribution. Many people also criticized the quality of legal professionals, as the lack of genuine competition created little incentive for legal professionals to offer a better standard of service (. . .) after the Japanese economy fell into recession, pressure emerged to reform the system. The pressure came from several sources. The Ministry of Justice and Supreme Court in Japan wanted to increase the number of prosecutors and judges. Big business began to complain about the lack of quality in the legal profession. And, as the economy declined, more disputes emerged. The trend towards de-regulation meant that government control over the economy was decreasing. The capacity of government to manage conflict was diminishing. . .

As one can observe, this is just another example of how economic issues may impose legal, social and cultural reforms; on the other hand, many legal, social and cultural changes have played a significant role and had tremendous impact in the economy of certain countries and regions.

In any case,

> the key event in the reform of legal education was the creation of a Justice System Reform Council in June 1999. After two years of deliberations, the Council’s recommendations were released in June 2001. These recommendations were to the have a profound impact on legal education of Japan and provided the template for the new post-2004 system.
>
> The primary aim of the Council’s recommendations was to reform the justice system and increase reliance on the law as a means of social ordering. A key element of the transition towards a “law-governed society” was the call for an expansion in the number of lawyers, judges and prosecutors. . .

There was great optimism and confidence in the creation of these new law schools. The market would determine the number of the new and well prepared lawyers, which in an average of 70–80% would be admitted to the legal profession after passing the bar examination. To support the newly created law schools, it was proposed that (at least, until 2011) only those who graduated from a law school could be eligible to sit the new examination, which would still have to be passed to qualify as a lawyer, public prosecutor or judge. Two programs would be offered: a 2-year program for those who had studied law as an undergraduate and a 3-year program for those who hadn’t. The expectations were to have around 3000 lawyers graduating every year. The bet was to increase the quantity but also the quality and diversity of the new lawyers. The new law schools would move away from the narrow focus of private cram schools that had emerged to support students competing to pass the old-style bar examination. In order to accomplish this the Council recommended

recruiting law school applicants from a wide range of academic and professional backgrounds:

> A lawyer with a degree in medicine, for instance, would be better placed to assist a client in the context of medical malpractice suite. Or, a lawyer with experience of the creative industries would be more effective in handling a copyright dispute…

Another aim was to enlarge and cover the gaps of geographic diversity in order diminish the centered influence of urban cities such as Tokyo and Osaka. And finally, to frame "internationalized lawyers" experts in business and international exchange.

Curiously enough, and maybe because of the pressure and resistance of the stakeholders of the traditional legal education system, the undergraduate law departments or faculties were maintained as a source of employees for government and internal business. As already mentioned, Korea did not follow the same path and many undergraduate law programs and departments were closed down when they opened the new law schools, as it happened in Seoul National University.

Therefore, as from 2004 the majority of law faculties in Japan offered: (1) the traditional general undergraduate legal education; (2) a research-focused graduate school; and (3) a new professional Law School, responsible for preparing students for the bar examination.

Sixty-six new law schools opened in that year and the competition to attract the best students was fierce. But the first results of launching and recruiting the new model of lawyers in the new era were not the ones expected. The number of students allowed to pass the bar examination increased much more slowly than originally envisaged. The government had to accept that instead of 3000 graduations per year, only half was reaching that goal. Not only this, but also the percentage pass rates began to drop to disappointing figures: from 48% in 2007 to around 25% in the period 2009–2015. The government's officials tried a feeble excuse: all in all, Japan should not become a litigious society, so 1500 new lawyers per year was enough, especially to avoid unnecessary competition and also to promote quality instead of quantity.

The introduction of an alternative way to pass the bar exam in 2011—a preliminary qualifying bar examination centered in six basic subjects—didn't obtain satisfactory results and simply supposed a return to the basic and traditional roots: the new kind of lawyers were not meant to be so necessary and the new generation of students would focus again in becoming well trained administrative officers, bureaucrats or researchers. The five more distinguished Universities in producing the best pass rates have been Keio, Tokyo, Chuo, Kyoto and Waseda in that order.

Another issue that has to be taken in consideration is the economic cost of attending to private law schools in relation to public ones. In average, it implies a 50% higher and not many students can afford that difference, especially if the light at the end of the academic tunnel seems so distant, dim, and ineffective. A logical consequence of all this is that applications to Law Schools are down from a decade ago, and some schools have been forced to merge or even close down. The persistent declining pass rate for the bar examination—25% on average—forced law school

students again to focus on core examination subjects, leaving little time or incentive to pursue courses offered in other languages.

A different path to reimplement the new type of internationalized lawyers in some universities has been the introduction of programs mainly or exclusively taught in English. This can be a way of considering and accepting the term "*Bilingual Education*" in Japan in the last 10 years. It was the path, as the National Reporter explains, to "re-invent" the graduate education by offering in some universities Master's and Doctoral programs taught mainly or exclusively in that language.

In order to better understand the trends that have been followed in Japan's BLE the reporter separates three different kinds of programs: (a) the ones offered by professional law schools (b) undergraduate programs with general legal education (c) graduate-level programs. Finally, the reporter signals the personal experience of Kyushu University where he is based, which offers all the three programs mentioned above.

(a) **Law Schools**: As said before, these new institutions experienced an optimistic start that collapsed a few years later. An article written by Dan Rosen—from Chuo University Law School in Tokyo—reflects both stages. From his point of view, many of the subjects taught at the beginning of the new Law Schools never appeared in the future bar exams. At first, they were accepted and chosen by the students as a way to expand their general culture and obtain some level of legal diversity. But things changed radically when the bar exams began to prove that only some core and traditional topics were frequently and persistently asked. What was required to pass the exams was memory and repetition; no need to intertwine knowledge or compare systems. The result? The students learned the lesson: forget the idea and hopes of diversity and internationalization; disregard all subjects and courses that are complementary such as law & economics or law & sociology, legal ethics, Roman or German law. Stick to the only courses and subjects required to approve the bar examination and if that is achieved, afterwards say goodbye to the law schools altogether. Dan Rosen, like many other professors are wondering how many students per year shall be attending courses that are considered a luxury and a waste of time for the new generation of students. As stated by the National reporter,

> (. . .) No matter how much the government may have emphasized the need for broadly trained lawyers, by maintaining a strict bottleneck on entrance to the profession, students are pushed into focusing on the bar-exam related subjects and away from other courses that can quickly come to be seen as a distraction from the core task. This includes courses with a strong foreign language component. . .

In view of this situation two alternatives may rise. Adopt the Korean model that limited the number of law schools but also required some universities with accredited law faculties to stop their undergraduate legal education, or increase the bet on internationalization, such as Luke Nottage's proposition that shows the case of the University of Sydney as a good example of cooperation between Australia and China, by promoting a 3 plus 2 double degree program (see page 19 of the report). Whether any of these alternatives shall be adopted remains doubtful in the National reporter's point of view.

(b) **Undergraduate Law Faculties:** These institutions have been "pushed" towards a different direction, especially by several governmental Ministries: internationalization of undergraduate teaching, learning and research. A example of this tendency was the 2009 Global 30 project that offered English only undergraduate courses and programs, or the Top Global University Initiative which began in 2014 and finishes in 2023. Funded by the Japanese government that approved US$77 million to attract more foreign faculty and students in the main Japanese Universities classifying them in two categories, A and B and accordingly giving more or less funds per year to each of them. Kyushu University, rated A, receives US$4.2 million annually because of its potential to be ranked among the top 100 in world university rankings. Type B universities receive US$1.7 per year. Two main "pushers" of this initiative have been Prime Minister Shinzo Abe and several Japanese companies that need to re-shape and re-invent the new professionals in order to compete in the global race where Japan has been losing presence and markets.

In 2013 the government launched Japan's Revitalization Strategy that aims to double the number of Japanese students studying abroad by 2020 (from 60,000 to 120,000). This was complemented with

> the "Tobitate (Leap for Tomorrow) Study Abroad Initiative". This scheme which hopes to make Japan a nation in which "ambitious young people are given the opportunity to go global" offers various chances for students to study abroad. A standout among these opportunities is the so-called "Young Ambassador Program". This program provides scholarships and other aid with the help of private-sector contributions aiming to collect 20 billion yen. The goal is to help 10,000 of these young "ambassadors" by 2020…

It is still very soon to predict and evaluate the results of all these strategies and initiatives. At least ten more years will be needed to reap what has been sown.

As already mentioned, Japanese legal education has not followed the usual standards of launching skilled and specialized professionals in such and such area of expertise. On the contrary, it has developed the encyclopedian, general approach helpful to work afterwards in different levels of the government or local companies. Hence, one can find two different and parallel trends or paths in Japanese education: (1) the scientific-research (2) the practice—oriented. Until recently, the comparative legal education was mainly or exclusively taught in Japanese, although German or French law was the target of the comparative investigation. The finality of such education was to have a better knowledge and understanding of the Western World, but mainly as a mere intellectual curiosity or search for diversity. And there were no urges from up-ward companies or administrations to receive new well practiced and skilled professionals.

But something began to change since the last end of the twentieth century and beginning of the twenty-first century: (a) the realization that English would still be the lingua-franca necessary to move in commerce, business and politics (b) the realization that the Asian region (and particularly China) was beginning to acquire more and more economic and political influence in the Western world. Kyushu University was one of the first to understand these changes and began to do

something about it by hiring more and more foreign academic professors. Consequently, as the National reporter explains,

> there has been the creation of new four-year undergraduate programs that can be described as genuinely bilingual in the narrow sense that it involves a combination of law courses that are taught in both Japanese and English with the stated aim of producing "global lawyers" or, at least, those with the necessary language and legal skills to become global lawyers. An example of this type of bilingual law program is the so-called "Global Vantage" program (GV) launched in Kyushu University in 2015. This program is only open to 10 students per year and involves a separate English-language entrance examination from the traditional undergraduate program, but students are offered a genuinely bilingual program that aims to build language skills in English, as well as legal knowledge in both Japanese and English. . .

To put this in Samuel Huntington words, in China the slogan was "Ti-Yong" (Chinese knowledge for basic principles, Western knowledge for practical skills) and in Japan the slogan was "Wakon Osey" (Japanese spirit for Western techniques). (**) Samuel Huntington—The clash of civilizations and the remaking of world order.—Ed. Paidós SAICF—1997—page 86—Spanish edition.

Some of the aims of the GV program are to foster expertise in the fields of law and political science, to develop creative and flexible problem solving, proactive leadership roles both nationally and internationally. Again it is too soon to evaluate the results of this program, especially because of the low number of students that are involved each year. Nevertheless, employers are optimistic with GV in the long term.

Graduate Schools The establishment of the new law school system in 2004 reduced the number of students wishing to enter the research-oriented post-graduate law programs offered at a Master's or Doctoral level. The reasons for this decline of interest in a more research oriented graduate level legal education may vary, but one logical one to extract is that the new students have a more practical and very "consumer" way of understanding education. If it is useful and provide skills in the short term, they will take it; if it is a long term and therefore uncertain way to obtain a future employment, they will not. This may explain why several law faculties have broadened their recruitment to bring in former lawyers, prosecutors and judges (i.e. those with practical experience) to teach as professors in the new law schools. The national reporter finds also another reason for this change of orientation:

> . . .Of course, this "opening up" legal academia to those with more experience of the realities of legal practice makes a lot of sense given the demands of the law school system. One of the design issues with the new law school system was that **the overwhelming majority of the faculty members responsible for preparing students for the new bar examination had not passed the bar examination themselves, nor did they have any experience of legal practice. They were researchers and not practitioners. "Opening up" of faculty recruitment has been a logical response to the law school system**. . .

Consequently, the role of graduate schools after the reform in 2004 remains with a big question mark. The Japan example is another of many which reflects what usually happens when reforms and new programs are designed by persons who may

have great theoretical ideas that confront and clash with the practical realities that appear in the short or long term.

The intermediate key that may open new doors in BLE is again internationalization. This is the big focus of Universities such as Kyushu that is more and more providing graduate programs taught either entirely, or substantially, in English at both a Master's and Doctoral level:

> The such first program, the LL.M. in International Economic and Business Law (IEBL) was established in 1994. At the time, it was the only Master's course taught entirely in English within Japan and was designed to overcome the main obstacle to studying law in Japan, namely the Japanese language. Kyushu University's IEBL program focuses on international and comparative trade and business law. An LL.D. program allowing students to complete a doctoral dissertation in English was added in 2000…

Other universities such as Keio, Kobe, Nagoya and Waseda followed the path opened by Kyushu. The bilingualism of the programs is quite peculiar, because in strict sense one cannot say they are taught both in English and Japanese; in reality Japanese is offered as an option, but in general, legal education is proposed and taken in English. The advantage of the "*relative*" *l*ow cost of graduate school tuition fees in Japan compared to the US, makes it attractive for Asian students to choose a Master's law degree in English geographically situated in the Eastern region.

Another initiative from Kyushu was to host a new program, the **Young Leaders Program (*YLP in Law*)**. The Ministry of Education designated Kyushu to host and develop

> (…) this Master's level graduate program (that) targets young legal professionals and government officials from designated emerging economy countries. Initially the geographical focus of the program was North East and South East Asian countries but recently a number of other countries have been added including India, South Africa and Turkey. Students on the YLP are integrated into the IEBL program where they study legal issues with a particular focus on international and comparative trade and business law. Again, these programs are taught entirely in English…

Kyushu University's Bilingual Master's (*LL.M.)* degree program in Law (*BiP*) is another attempt and innovation to offer bilingual legal education. It offers overseas graduates of Japanese language undergraduate programs or those with a legal background and a strong background in the Japanese language, the opportunity to take a Master's degree in law in a bilingual environment:

> The program is designed for students who already have a solid foundation in the Japanese language. (…) As such, the program is principally intended for Japanologists or lawyers with strong Japanese interested in (i) Obtaining a deeper understanding of Japanese culture and society through the study of historical or contemporary issues in Japanese law & politics; or (ii) Preparing for a legal career in Japan or connected to Japan by studying Japanese and international business law…

As a part of the Program students have to do a Master's thesis under the supervision of two faculty members. It can be on any legal topic and must be written in either English or Japanese. They are also expected to complete a 20 page's summary of the thesis in the other language. Finally, students are offered the

opportunity to participate in an internship of 2–4 weeks at either a Tokyo-based international law firm, company or government agency. The *BiP* program is still very small, with only 2–3 international students per year enrolling.

The conclusion that arises after this panorama of Japanese education is somehow enigmatic: Is Japan striving for still a traditional and "core subjects" education, towards new and original forms of internationalization, or thirdly, to somehow a middle-road kind of legal education that remains modern and open to the Western world while keeping faithful to its own culture? The three kinds or types of students found in Japan nowadays do not give us yet a conclusive answer. As it usually happens in the Eastern World, much more time is required to see the result of these tendencies. . .

11 Bilingual Legal Education in Mexico

The official languages in Mexico are Spanish (Castilian) and 68 indigenous languages called "linguistic groupings". It is estimated that in 2015 there were 7,382,785 people aged 3 years and over who speak an indigenous language. The languages with the highest number of speakers are: Nahuatl, Maya and Tseltal.

Regarding the number of people who speak English in Mexico, according to estimates from the National Institute of Statistics and Geography (INEGI), the population over 18 who speak English is approximately 9.4% of the population.

The Teaching of Law In Mexico there are 1770 Higher Education Institutions (universities) that offer a degree in Law. The number of students of the law degree in 2016 was 354,753 of which 176,232 are males and 178,521 women.

The **main educational institution in Mexico is the National Autonomous University of Mexico (UNAM)**, whose enrollment of law students in 2016 was: 11,603 students. In 2017, the Law School of the UNAM has a population of 11,856 undergraduate students and 1002 postgraduate students (Masters and PhD).

The Reporter addressed the proportion of foreign students to local students pointing out that in 2016, 101 foreign exchange students were received, who studied a semester at the UNAM. This indicates that the proportion of foreign students is just 1.14%.

In the Postgraduate Studies, the proportion is 99.6% of national students and 0.4% of foreign students in the Master of Law; and of 95.7% of national students and 4.3% of foreign students, in the Doctorate in Law.

Furthermore, it is important to underline the proportion of foreign professors to local professors. There are 40,184 academics throughout the UNAM, and in 2015, 300 foreign visiting professors were received (that means approximately 0.74%). Regarding the Faculty of Law, the proportion is similar (less than 1%).

Regarding the nationalities represented in the student body, the main foreign nationalities represented in the student body are Colombians, as well as Spaniards, Peruvians, Canadians and Americans.

In the **School of Law of the UNAM there is no bilingual legal education program** because the number of foreign students and professors is still limited.

However, in the field of Postgraduate Studies in Law, the Institute of Legal Research of the UNAM has a "Master's Degree in American Law" which is taught in four semesters, whose content is equivalent to the Juris Doctor taught in the United States, but offered in Mexico. This program is aimed at Mexican students who want to be more than bilingual lawyers: "bi-legal" lawyers.

Number of visiting professors per year. In 2006, there were 1293 visiting professors from abroad at the UNAM (3.22%).

In the area of undergraduate education, no attempt was made to initiate perhaps because the number of foreign students, or nationals who are fluent in English or another foreign language, is even lower.

However, in populations where there is an indigenous majority, so-called "**intercultural universities**" have been implemented, **which teach classes in Spanish (Castilian), but incorporate some indigenous languages into the substantive functions, becoming bilingual schools**. According to information from the Ministry of Public Education there are eleven intercultural universities located in eleven states of the Republic, whit 14,008 students enrolled in 2015–2016. Among them, the Intercultural Universities of Chiapas, of the State of Tabasco, of the State of Puebla and the Veracruzana Intercultural University have a degree program in Law with an intercultural approach.

There is **the "Master's Degree in American Law"** taught by **the Institute of Legal Research of the National Autonomous University of Mexico** (national public university), the **Illustrious and National Bar Association of Mexico** (national association of Mexican lawyers), as well as **the School of Law of Sinaloa** (private university of local character), **a postgraduate program that is an example of bilingual legal education in Mexico**.

All the teachers engaged in this Master's Degree in American Law are local and they teach the classes in both languages, but the own and specific institutions of the American common law are taught in English. There is only one American professor that is the coordinator of the Master's Degree.

The program began in 2011 as an initiative of the law doctors Hector Fix-Fierro (at the time director of the Institute of Legal Research of the UNAM) and Oscar Cruz Barney (at that time president of the illustrious ad National Bar Association of Mexico); with the idea of studying the legal system of the United States of America. The objective of the Master's Program is to train Mexican jurists to advise companies, offices and organizations in the United States, which carry out activities in Mexico or Latin America.

As the Reporter sharply pointed out there has been no resistance from students, faculty or authorities. However, **it is clarified to the students that the Master's degree does not accredit them to practice law in the United States, nor to present the Exam before the Bar of that country**.

There are many areas of law taught in a foreign language: Private Law, Commercial Law, History of Law, Constitutional Law, Administrative Law, Procedural Law, Legal Methodology, Legal Deontology, and International Commercial Law.

One of the main positive effects of this Master is that the students are more competitive in the work force because they can be hired by companies, associations or other foreign institution that carry out activities in Mexico and Latin America, since the students are experts in Mexican Law (Civil Law) and United States Law (Common Law) in a globalized world.

The methods for evaluating students used in the United States are followed for the students in the American Law, that is, the case method for teaching, and the evaluation through written exams, under the system of “encrypted name”.

The selection of professors has been carried out among researchers from the Institute of Legal Research of the UNAM. The textbooks (casebooks) of the subjects have been purchased directly from the publishers of the United States. The same texts are used, as if they were studied in the United States,

All students are Mexican, who speak and understand English language very well.

From the Reporter’s perspective it can be said that there has been an improvement in the last 5 years regarding BLE in Mexico. There is a plan to teach the Master in other States of the Mexican Republic.

There is coherence between BLE offered from the academic point of view and the vision of the Law Firms in Mexico, since the Master in American Law is oriented to solve the needs of the law firms, especially those that deal with foreign and international entities.

The National Reporter believes that the interest in BLE will grow in the country due to the fact that more offers of education will arise. Furthermore, the Law Firms will have more interest in hiring “bi-legal” lawyers.

The main language as an option for bilingual legal education is English. Once again, as we have seen throughout the report, English is the first choice since it is the most common worldwide. Other languages that could be chosen as part of bilingual legal education are French or German. The bilingual legal education is conceived as an opportunity to compete better in the international order.

12 Bilingual Legal Education in Romania

Taking as leading example the Faculty of Law of the University of Bucharest, Romanian National Reporters Ramona Popescu and Carmen Achimescu, as so do other Reporters, mention the Constitutional duty to impart all levels of education at their respective national language, also providing the right to minorities to receive education in their own language. Therefore, it is commonplace to discover in all the submitted reports a mixture of self-preservation of the native language combined with a flexible acceptance of foreign languages either to protect minorities or to promote bi-lingual or even tri-lingual education in view of the growing demands of the students, the future employers of these students, as well as internal and external reasons linked with political, cultural or commercial needs.

Recurrently, the increase of migration in several countries has played a major role in the foundation and development of Bilingual Legal Education.

Apart from the traditional courses that can be found at the University of Bucharest offered to 3200 undergraduates, 600 postgraduates and 180 doctorates, the Romanian Reporters mention the original **College juridique franco-roumain d'etudes europeennes**. It is a part of the School of Law which offers a bilingual course that may take 3–5 years with specialization on European Law. Several French Universities are entwined to offer this course together with the University of Bucharest. Among them, Paris 1 Pantheon-Sorbonne. An average of 250 students take this course every year. The College Juridique was created in the 1990s after the fall of the Romanian communist regime and was enhanced by the strong cultural influences of the French law in Romania as from the nineteenth century. The principal purpose of its foundation was to open Romania to the Western World and to promote a new generation of young jurists with the skills to exercise the law beyond Romanian boundaries.

Another project in the nearby future is a double degree course Spanish-Romanian in partnership with Universidad de Valencia, also aiming at European Law but taught in Spanish.

Programs such as Erasmus have been very helpful to expand student's international mobility not only in Europe, but throughout the different continents.

Yet, in several European countries BLE courses strongly depend of the material and financial resources of each university. This occurs due to the lack of professors who are able to teach courses in other languages rather their own native one. Romanian Reporters confirm this view when they sustain that, although the need for universities to adopt a broader international scope is understood, this goal can hardly be met due to the fact that the organization of BLE courses is still very difficult since there is a shortage of technical, economic and human resources. As a result of these difficulties, only between 10% and 15% of Romanian students are actually focusing their careers with an international perspective.

Another important reason for this, as the National Reporters point out, is that **Law Faculties are generally less able to attract foreign students because of the specificity of their subjects, an issue that can be more easily overcomed in other Faculties with a more technical profile.**

13 Bilingual Legal Education in Singapore

Singapore is officially a multi-ethnic, multi-religious, multi-language nation-state with four official languages (English, Mandarin Chinese, Bahasa Melayu, and Tamil) to be used in Parliament or the provision of essential government services. Although, Bahasa Melayu is a national language, as the National Reporter states, apart from the Malay ethnic community in Singapore, relatively few other citizens are conversant in Malay at any serious level. There is a government-run programme under which middle-school students who are not classified "Malay" may enroll in Malay language classes, but the take-up rate is low.

Singapore citizens are classified for official purposes into four racial categories: "Chinese", "Malay", "Indian" and "Others". A person classified into a particular racial category is required to be taught the language(s) ("Second Language") corresponding to that racial category i.e. Mandarin Chinese for "Chinese", Bahasa Melayu for "Malay", Tamil, Hindi, or another Indian language for "Indian", and the closest relative or a foreign language (French, German, or Japanese) for "Others".

As local university admissions—and especially for law faculties which are the most selective faculties next to medicine—generally require a good grade on the Second Language subject on school-leaving examinations/qualifications, it can be assumed that most local law students in Singapore have some working knowledge of at least their Second Language on top of high proficiency in English.

However, legal proceedings must be conducted in English (with interpretation possible) and all documents not in English translated into English. There is no right, whether at civil or criminal law, to legal proceedings in any of the three official languages other than English.

Hence, for legal purposes, Singapore is **de *facto* a monolingual jurisdiction**, using only **the English language**.

For education purposes as well, save for language or language-related special subjects, all education—whether at pre-university or university level—is conducted in the **English language**.

The **National University of Singapore**, Faculty of Law (NUS Law) admits approximately 220–240 students every year for its 4-year LL.B programme. Over 100 students are admitted to its LL.M programme per year, and 3–5 candidates are admitted to the Ph.D. programme each year.

The vast majority of students (90–95%) enrolled in the NUS Law LL.B. programme are local students (Singapore citizens). The bulk of foreign students enrolled as undergraduates typically have received a substantial part of their pre-university education, ranging from 2 (high school) to 6 years (middle and high school), in Singapore, and usually under an established government scholarship scheme. However the proportion is reversed for the graduate programmes. LL.M. programmes are dominated by foreign students, with only a handful of local students enrolled each year (of whom a number are on generous scholarship terms), and there have, to the best of the Reporter's knowledge, only been 2 local students who have graduated from Ph.D. programme in the last 10 years or so.

Relating to the proportion of foreign professors to local professors, as of 23 of March 2017, counting full-time (excluding emerita), tenured, tenure-track and untenured positions at the rank of lecturer of above, foreign faculty represent 47.6% (30 out of 63). This does not include a number of special contract full-time positions created primarily for locals (for which 10 out of 11 are locals). The count does not include a considerable body of research staff based at the research centers or postdoctoral fellows.

As a matter of impression, NUS Law has a relatively diverse student population at the graduate level and in terms of incoming undergraduate exchange students, but official data on the composition of the student body is not available. As the National Reporter affirms, as a matter of impression, students from Malaysia, China and India are the most numerous (after local students).

There is no comprehensive or systematic bilingual legal education programme NUS Law, and only 1 course is taught in a language other than English ("Chinese Legal Tradition and Legal Chinese"). This is an elective course read by third-and fourth-year undergraduate, and is not compulsory except for students who are planning to go on students exchange at law faculties in the People's Republic of China. From the Reporter's personal recollection, less than ten students were enrolled in his year (AY 2012–2013).

For the academic year 2017–2018, NUS Law welcomed a total of 25 visiting professors based in Canada (1), Japan (1), England (9), Australia (8), United States of America (7). This figure only includes visitors who taught at least one intensive course over 3 weeks.

From the Singapore Reporter's view it is unlikely that a comprehensive bilingual legal education programme was seriously considered for implementation at NUS Law, despite a considerable and long-standing interest on the part of Associate Professor Gary Bell, who is on the Singapore's National Committee for IACL.

However, in light of the fact that there is one course that is taught in Mandarin Chinese (and also involves an English-language component), the Reporter considers this enters in the category of a bilingual legal education programme.

Historically there is no importance whatsoever attached to bilingual legal education except for the purpose of outgoing students exchange to exchange partners in the People's Republic of China. Students participating in this programme are expected to read and pass the sole bilingual course above mentioned as a condition of their exchange programme.

The only professor to teach courses in two languages was born in China (People's Republic of China) and educated in China (Bachelor's, Master's), England (Master's), and the United States (LL.M., J.S.D.).

To the best of the Reporter's knowledge, only two local professors can be said to teach in the Chinese language, but only in the context of students' consultations. One professor, was involved for many years in teaching a small group (tutorial) graduates students from China enrolled in the LL.M. in Corporate & Financial Services Law programme, for whom Company Law was a required subject for their degree.

Another professor is naturalized Singapore citizen, but was born and raised in the People's Republic of China, and received her first law degree there. She taught Company Law on a special LL.M. programme co-organized with the East China University of Political Science and Law (based in Shanghai, People's Republic of China), with classes spread over bot the NUS Law's campus in Singapore, and ECUPL's in Shanghai.

14 Bilingual Legal Education in Taiwan

In 2016, the total number of law students at **National Taiwan University College of Law** was 1526 (including students in the undergraduate, master and Ph.D. programs).

For the purpose of comparison, in 2016, there are 35 universities having the department, college or school of law or having a bachelor or advanced legal studies program. There were 119 legal studies programs, including 40 undergraduate programs, 66 master programs, and 13 Ph.D. programs.

In 2016, the total number of law students in Taiwan was 19,662, including 13,503 students in undergraduate programs (bachelor of laws), 5845 students in master of laws programs and 314 Ph.D. students.

Relating to the proportion of foreign students, a distinction must be made. There are two types of foreign students at NTU College of Law. The first type is "degree students" pursuing a degree, such as a bachelor of law degree (LL.B.), master of law degree (LL.M.) or doctoral degree (Ph.D.), who must comply with the same requirements in order to obtain the respective degree. The other type of foreign students is coming as exchange students who usually stay for one or two semesters and enroll in courses they select.

As for the **degree students, the number of foreign students at NTU College of Law has maintained at the range of 77 to 82 during 2007 and 2016**. The proportion of foreign students to local students at NTU College of Law was 5.6 to 100 in 2016 and 6.6 to 100 in 2007. In other words, **foreign students constitute 5.3% if the student body at NTU College of Law in 2016 and 6.19% in 2007**.

With regard to the Exchange students (foreign students not seeking for degrees) coming to NTU College of Law, there has been an upward trend in the number of exchange students over the last 18 years. The number was in the single digit by 2008, crossed 10 in 2009, and exceeded 100 in 2016.

In relation to the proportion of foreign professors to local professors, at the College of Law, National Taiwan University, 100% of full-time faculties are the nationals of Taiwan. However, there are visiting professors who are paid to teach a course (in a regular semester or complete teaching intensively in less than a month) and visiting scholars who are unpaid and come to conduct short-term research.

Many different nationalities are represented in the student's body, there were many international students enrolled in undergraduate, master and doctoral programs at NTU College of Law during the period from Academic Year 2000–2017. The top 5 foreign countries in terms of number of degree students at NTU College of Law during that period are China, Japan, Korea, Mongolia and Thailand.

The majority of courses are conducted in Mandarin at NTU College of Law. However, they do provide English courses and some conducted in German and Japanese for local and international students to enroll. In the last 10 years, there were 12 English courses offered in Academic Year 2009 (the fewest offered year), while there were 39 English courses offered in Academic Year 2015 (the most offered year).

The number of visiting professors in 2016 was 344 constituting 8.2% of the faculty at NTU.

The Reporter sharply addresses from his view what means bilingual legal education. What courses can be considered as bilingual legal education courses is, as mentioned by the National Reporter, an issue itself.

> (. . .) By the definition of bilingual education, we usually refer to courses that are conducted in the native language and another language. In Taiwan, a bilingual legal education course is a legal course that is taught in Mandarin (or Taiwanese), the native language of Taiwan, and English (or other foreign language). From personal observation, there may be very few courses that are considered to be bilingual legal education courses according the strictest definition. . .

As the National Reporter points out, the importance of bilingual legal education courses is that it provides students many benefits in learning the legal regimes. Firstly, students learn how to read foreign legal material in foreign languages, particularly in English. Secondly, they learn how a legal concept is expressed in other foreign jurisdictions. Furthermore, local students may interact with international student in the courses. Finally, students may learn the comparative approach in learning law.

In the National Taiwan University College of Law there are professors that teach courses in both languages. English courses are offered in line with the policy of NTU to accommodate more and more international students who have not yet been able to attend the courses conducted in Taiwan's language. Another type of English courses is designed to train the local students to learn in English environment. These courses are usually related to foreign law, Anglo-American laws and international law. Occasionally, local professors co-teach a course with foreign professors who come for the full semester or for only a few weeks. For example, during 2008 to 2012, Professor Ming-cheng Tsai, former Dean of NTU College of Law, **initiated a Comparative Law Course held in several semesters, inviting guest speakers from universities of different countries**.

Some of the aims for boosting bilingual legal education is to provide local students opportunities to learn directly from foreign scholars, to access to foreign legal regime, to get familiar with foreign legal materials, and partly to accommodate more and more international students, particularly exchange students, professors are encouraged to start a bilingual legal education course.

The first reason to start a bilingual legal education course from the Reporter's perspective is to correctly introduce foreign law and legal terminologies to local students. The second reason is to benefit local students to access to different sources of foreign legal materials so that they learn where to find foreign law and legal materials. The third reason is to accommodate the increasing international students who have not been able to attend courses conducted in local language. For this purpose, English courses have become the policy of several top universities to encourage professors to run English taught courses. Most English taught legal courses are in the master program and mainly in comparative legal studies in nature.

From several universities' point of view, to offer more English taught courses is in response to the trend of globalization and internationalization and to allow students to get used to the English learning environment.

In practice and in reality, from the National Reporter's perspective, there are, and I quote

> (. . .) several obstacles in carrying out the bilingual legal education program or in running English legal courses in Taiwan. . .

First, it takes more time to prepare an English taught legal course and there are not many incentives for local professors to conduct legal education courses in English. It is crucial to mention though, as the reporter later expressed, that he has not seen many objections or resistance against bilingual legal education directly, "these objections are mainly against university's policy requiring faculties to offer English taught courses". Professors offering BLE courses do not receive any additional financial concessions comparing with offering regular courses conducted in local language. The criticisms are mainly against the compulsory policy itself.

Another obstacle is that English taught courses are not popular among local students. A course not conducted in local language is not popular if it is not a required course to be taken.

The areas that they have decided to teach in a foreign language are the mentioned below. Firstly, a popular option is Comparative law or for the purpose of comparative studies. Secondly, it is also commonplace to find courses related to International Law. Thirdly, they may also offer courses to study Anglo American Laws. Furthermore, other topics of law that have caught attention of international society such as Arbitration and Intellectual Property Law, International Human Rights Law, International Disability Rights Law.

The majority of students who have received bilingual legal education or attended English taught courses have been able to outperform in terms of having better chances to getting into the top law firms and more internationalized listed companies as in-house counsels. Many top law firms look for lawyers with proficiencies in foreign languages, particularly in English.

Speaking of the evaluation methods, it can be agreed as the Reporter says that different professors evaluate students differently. In most bilingual or foreign language taught courses, students are evaluated by their performance in the class and the final exam or term paper.

Professors teaching bilingual legal education courses usually choose the area of law they specialize. Therefore, they usually are familiar with and able to obtain the necessary resources. Textbooks in some courses are used, such as Anglo-American Contract Law. Legislative materials, statutes, case law, scholarly writing, etc. are easily accessed from online legal research services, such as Westlaw and Lexis. Once again, one has to bear in mind that different professors design their reaching and materials differently.

Students enrolled in bilingual legal education courses are usually having different levels of proficiencies in the foreign language used in the courses. In order to encourage students with lower proficiency in English, it is a policy for many professors to explain, in the course description, that English is not the major element for evaluating the students.

For BLE courses or English taught courses, the National Reporter states that the number has increased gradually or at least maintained the same level in the past 5 years. The number of BLE courses is related with the number of visiting professors.

Most professors offer BLE courses mainly from the academic point of view. However, professors have noticed and encouraged students pointing out the

advantage that BLE students have when applying for a job in comparison with the rest of students who have not enroll in a BLE course. Law firms, particularly those with international businesses, will recruit students having received bilingual legal education.

The main language chosen as an option for bilingual legal education is, once again, English. The reason the National Reporter refers to English is because most of the literatures in the areas of law are in English.

If another language had to be chosen, due to the fact that Taiwan is a civil law country, they will chose German and Japanese laws, since many areas of law are patterned after those laws.

Finally, it must be underlined that from the National Reporter's perspective Bilingual Legal Education is not perceived by students, faculty members, State authorities or Law Firms as a threat to national roots or culture.

15 Bilingual Legal Education in the United States

The American Problem with English as a Global Legal Language
On a global level, English is the most predominant language. Since the late twentieth century, US-American and British law firms have shaped global legal practice. For US-American lawyers, this creates a peculiar situation. On the one hand, the global predominance of legal English gives them a significant professional advantage: their native language is the lingua franca of the world today. On the other hand, it dramatically diminishes their need to master any other tongue since they can get away with English most of the time.

Therefore, most Americans make little investment in acquiring even a reading knowledge of a foreign language. Efforts to train students in foreign legal languages play decidedly marginal role.

The Status Quo: The Marginal Role of Foreign Language Training The status quo of foreign language teaching in US-American legal education is difficult because comprehensive data are hard to come by. This report is based on the information obtained primarily from the individual law schools and websites by the research staff of the University of Michigan Law School. Although there are two nationwide organizations the American Bar Association (ABA) and the Association of American Law School (AALS), none of them collect information on the matter since foreign language teaching is not a requirement.

The picture shows that foreign language teaching in US law is currently quite rare. Nevertheless, a development has been made, since over twenty years ago Gloria Sanchez pointed out that there were no foreign languages courses at all. Today, there are a variety of curricular offerings introducing US law students to law in a foreign language, and a few law schools have made serious efforts in that direction.

The existing offerings can be divided into three groups: dual degree programs (1); individual foreign language courses at US law schools (2); and opportunities to study or work abroad (3).

More than 30 law schools claim to offer joint degree programs with foreign institutions. In most of these programs, US law students obtain the basic law degree in the respective foreign jurisdiction in addition to their home institution's JD; in some, they spent a year abroad and receive the more limited LLM degree. The total number of these law schools looks more impressive than it really is in the context of foreign language teaching. While almost all these joint programs are with institutions in non-English speaking countries, many do not require full fluency in, and some not even significant command of, the partner country's vernacular. In addition only a very small number of students actually pursue a joint degree with foreign language.

Still, where they do require fluency, they provide significant exposure to the law of another country in the vernacular. This does not necessarily lead to full-fledged bilingualism in the sense that the students become as capable in the foreign tongue as they are in English, especially in the legal and business context. But they can be expected to reach a level of proficiency that enables them to perform professional work in at least one foreign language.

Foreign language courses in US law schools have a long history. Today, of the accredited law schools in the United States, more than 40 claim on their websites to offer courses in one or more foreign languages. It is still a distinct 20% minority, also it is unclear how many of these courses advertised are actually taught on a regular basis and the number of participating students seems to be quite small. On the whole, it is fair to assume that, at the very most, a few hundred out of more than 100,000 US law students in the United States ever take a course in a foreign legal language.

The design and coverage of the courses varies. Most of them focus directly on foreign (legal) language training for American lawyers. Where they introduce students also to aspects of the respective foreign legal systems, they do so more or less incidentally and in order to provide cultural context. A few courses however are designed as introductions to the basic features of foreign legal systems in a foreign language.

Many US law schools run summer programs abroad, usually in attractive locations and often in non-English speaking environments, sometimes providing more touristic than educational value.

A large number of American law schools also offer semester abroad programs in partnership with foreign universities, often in multiple venues, some with different requirements of fluency in the local language.

The scope of languages covered by courses in US law schools remains somewhat Euro-centric but there is a trend towards a more global range. By far the most frequently foreign (legal) language in US law schools and programs is Spanish –a global language in its own right –. By now, Hispanics comprise nearly one fifth of the US population.

Language instruction is also offered in the other two most prominent Western European languages, i.e., French and German, and sometimes in Italian.

The published teaching materials fortify the primacy of Spanish in the language programs of US law schools. In recent years, three books were published for use by teachers of Spanish as a foreign legal language.

The advantage that most immediately comes to mind when listing the reasons to teach law in a foreign language is directly professional; a lawyer who can work in a foreign language can better attract and communicate with non-English speaking clients. In fact, lawyers with foreign language skills appear to be in growing demand. It is especially great in international practice, as well as in immigration and other public interest work.

Beyond that learning law in a foreign language is an opportunity to acquire sensitivity to foreign cultures—an important professional asset in its own right, particularly in a global environment.

Moreover, there is reason to believe that studying foreign languages is generally good brain training. To begin with, bilingual persons are particularly apt at "divergent thinking". Bilingualism opens the lawyer's mind to multiple options and solutions. Furthermore, bilingual individuals are often better at "executive control" of information. There are strong reasons to believe that studying law in a foreign language enhances a lawyer's "social intelligence" and "imaginative capacities" as well.

Finally, American scholars have also justly pointed out that communicating with a client in his or her own (native) language creates a human connection and avoids degradation. It is a sign of "respect for the individuality of the interlocutor and an acknowledgment of her basic human dignity".

Conclusion: A Question of Commitment

American law schools currently proffer very limited training in foreign (legal) languages. This is true even though such training generates multiple professional and educational benefits which are generally recognized in the literature. The potential for expanding such foreign language training is stronger than the American reputation for monolingualism intimates. Yet, a realistic assessment of the possibilities and a sober cost-benefit analysis suggest that courses in foreign languages neither will nor should be offered by all law schools or taken by a majority of students.

Still, the current situation is deficient. The vast majority of American law schools offer virtually no opportunities to experience law in a language other than English. Not offering a class even in Spanish is difficult to justify for any major US law school today. In light of the American law schools' virtually ubiquitous claims to promote diversity and to train students for practice in a globalized society, such disregard of the language dimension is actually somewhat embarrassing.

How can American law schools move towards offering instruction in foreign languages more broadly? From the National Reporters eyes, it would probably help if the American Bar Association as their accrediting body and the Association of American Law Schools as their professional organization pushed in that direction. Ultimately, however, offering foreign language instruction on a more regular basis is a question of every law school's institutional commitment. Such commitment needs

to be based on a wider appreciation of the professional and educational advantages of studying law in a foreign tongue.

In conclusion, it must be admitted that the current political climate in the United States is not so supportive of foreign language study as it was years ago. Nationalism is resurgent and hostility towards immigration and immigrants is a renewed widespread phenomenon.

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