

# Chapter 19

## Building a Transsystemic Law Library Collection

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### ABSTRACT

*The Faculty of Law of McGill University decided to take an unprecedented step in 1999 in replacing the approach of training to undergraduate law students with the creation of a new legal education curriculum referred to as “transsystemic legal education.” This unique program, geared towards all undergraduate McGill Law students, consists of learning two legal systems, including civil and common law in a comparative and interdisciplinary approach. This article discusses how the law library at McGill had to break from a traditional approach of building a law library collection regarding the practice of Canadian law to acquire the scholarly material needed by professors and students. This meant a complete rethinking of the collection development profile with an increased focus on multilingual legal material from Europe and other legal jurisdictions worldwide, and could only be done with a good collaboration between the library and the faculty members.*

### INTRODUCTION

In 1999, the Faculty of Law of McGill University decided to take an unprecedented step in North American legal education, replacing the unique national program of separate common law and civil law education with the implementation of a transsystemic approach to teaching law. In other words as the author will explain, the Law School curriculum as a whole “consciously integrate[s] civil and common law perspectives, domestic

and international perspectives, the perspectives of state law and of non-state legal systems, and legal perspectives with those of other disciplines” in both of Canada’s official languages (Arthurs, 2009, p. 636). Founded in 1848, the Faculty of Law of McGill University is one of the oldest academic institutions in Canada located in the bilingual city of Montréal, Québec. The Faculty of Law has always been characterized by its teaching and its scholarly activity at the undergraduate and graduate levels in the area of civil law, compara-

DOI: 10.4018/978-1-4666-1897-8.ch019

tive law, constitutional law, international law and human rights, and air and space law. This new program of transsystemic legal education, which embraces the mixed legal roots and the bilingual nature of the Province of Québec, is also known as the McGill Program. The unique worldwide McGill Program of transsystemic legal education has been described by some jurists as “one of the most unusual curriculum experiments in the annals of legal education” (Arthurs, 2005, p. 709) and as among the most important developments in legal education in the last century (Strauss, 2006).

This chapter will look at the unequalled transformation of collection development in an academic law library that is necessary when a faculty decides to change the structure of undergraduate legal education. This will include an explanation of the concept of mixed legal jurisdictions and the reasons behind a law school decision in the creation of a transsystemic legal education curriculum. In addition, the author will illustrate the impact of this new program on the student’s legal education and enumerate the challenges of transforming a library collection development policy, its services, and the challenges facing the library that serves its clients in the Faculty of Law.

## **BACKGROUND**

### **Transsystemic Legal Education: The McGill Program**

The Province of Québec has been a mixed jurisdiction since 1774 when the *Act for making more effectual Provision for the Government of the Province of Québec in North America* (also known as the *Québec Act*) was enacted by the Parliament of Great Britain (14 Geo. III c. 83). This act restored, among other things, the application of French civil law in the area of private law, while it maintained the use of English common law for public administration, including criminal prosecution (Jukier, 2006). These rights were

maintained in subsequent constitutional changes to Canada and are still valid today. Thus, from 1774 to 1864, the *Coutume de Paris* was applied in the area of private law in the province before the creation of the *Civil Code of Lower Canada* in 1865. In 1994, a new version of the code entitled *Civil Code of Québec* came in effect. Both legal traditions in the Province of Québec are reflected in the legal education to which students are exposed at the Faculty of Law at McGill University. “To some degree, all students must possess the civil law tools necessary to analyze a private law problem as well as the common law training to apply Canadian public law” (De Mestral, 2003, p. 802).

The province of Québec is not the only mixed legal jurisdiction in the form of civil law and common law applied within a state or province. Similar mixed jurisdictions include Scotland (UK), the state of Louisiana (US), Puerto Rico (US), and South Africa among many others. There are also other types of mixed legal jurisdictions in the world, which include a blend of civil law, common law, customary law, and Islamic law. For an atlas of mixed jurisdictions through the world, the *JuriGlobe* website prepared by the World Legal Systems Research Group from the University of Ottawa provides a detailed illustration of the various legal systems worldwide (<http://www.juriglobe.ca>).

The Faculty of Law at McGill University embraced the reality of Québec as a mixed jurisdiction when the National Program was inaugurated in 1968. As Dean John Brierley wrote in 1982, McGill developed “a truly national legal education, one which academically and professionally raised the first legal training above local or provincial parameters” (Brierley, 1982, p. 364) with the combination of the civil law and common law curriculum. In 1968, the Faculty of Law at McGill became a pioneer by providing the opportunity to earn a law degree in three years in one stream with the possibility to earn the other in one additional year. “The philosophy of the National Programme was fairly straightforward. It was based upon the

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