

**Equality of Official Languages in Canada: Judicial Bilingualism and  
Linguistic Bilingualism - a Variable Geometry Model**

**Brief by Louis Beaudoin presented to the Standing Senate Committee on  
Official Languages**

**as part of its study of Canadians' perspective on the  
MODERNIZATION OF THE *OFFICIAL LANGUAGES ACT***

**October 15, 2018**

## **The Equality of Official Languages in Canada: Judicial Bilingualism and Linguistic Bilingualism - a Variable Geometry Model**

First of all, I would like to thank you for the opportunity to present my point of view on a subject that is particularly close to my heart as a front-line intervenor and justice professional called to work closely on issues related to the administration of justice in both official languages.

As a jurist-translator and jurilinguist who translates the judgments of the various federal courts (Federal Court, Federal Court of Appeal, Supreme Court of Canada, administrative tribunals such as the IRB) from English to French for the past 35 years, I know the whys and wherefores of the issue of implementing the federal government's legal and linguistic obligations with respect to the administration of justice in both official languages.

In this document, I would like to emphasize one aspect that has so far received very little attention, namely the language of publication of judgments. In particular, I wish to address the issue of the lack of formal recognition in the *Official Languages Act* of the authenticity of the two versions of judgments and to point out the repercussions of this unequal treatment.

### **The non-recognition of the equal value of the French and English versions of judgments**

In terms of bilingualism and bijuralism, Canada is a model all over the world and is often cited as an example for its achievements and innovations. Our system, however, hides a major flaw, which is a marked imbalance between legislative bilingualism and judicial bilingualism.

This imbalance manifests itself on the judicial plane by an inequality of treatment whose most blatant expression is the lack of recognition of the equal value of French and English versions of judgments.

As explained by professor Karen McLaren:

The current solution to the decisions from some tribunals is to treat the translation as though there was one main official language, the language the judgments are written in, and an obligation to accommodate with respect to the use of the other official language, the language to which these decisions are translated.<sup>1</sup> [Translation]

Indeed, what is the use in translating a judgment if the two versions do not hold equal authority?

In this respect, as Michel Doucet rightly points out: “How can we speak of equality if one of these languages is disadvantaged when it comes to relying on the version of a judicial decision translated into that language?”<sup>2</sup>

As everyone knows, common law is first and foremost based on precedents. How can we imagine that common law will thrive in French in Canada if it is practically only spoken in English by the judge? To quote Michel Bastarache:

A judicial decision, once rendered, is part of the law. This is particularly true of common law matters. This fact emphasizes once again that it is essential to recognize that there are important reasons to consider judgments as fully bilingual documents, both of which hold authority.<sup>3</sup> [Translation]

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<sup>1</sup> Karen McLaren, “La langue des décisions judiciaires au Canada,” *Revue de droit linguistique*, 2 RDL 1, 2015.

<sup>2</sup> Doucet, Michel, “[La privatisation des services de traduction du gouvernement du Nouveau-Brunswick et la traduction des jugements](#),” *Blogue de l’Observatoire international des droits linguistiques*, octobre 2015, p. 2.

<sup>3</sup> Michel Bastarache et al., “Le droit de l’interprétation bilingue,” *LexisNexis*, 1<sup>st</sup> ed., Montréal, 2009 [Bastarache].

Thus, what we see is an inequality between, on the one hand, the treatment of laws, of which the English version and the French version hold the same value and the same authority, and the decisions of the courts, of which only the original version is held to be authentic.

How, under these conditions, can we speak of equal access to law and justice in both official languages? How, more specifically, can we speak of equality of languages in jurisprudence?

The equal value enshrined in the Constitution of the French and English versions of federal laws and the refusal to recognize the same value in court decisions has had many consequences. We will point out some of them.

## **Consequences of the non-recognition of the authenticity of the two versions of judgments**

### **1. The development of a unilingual jurisprudence**

We notice the existence of an almost exclusively unilingual jurisprudence (case law) for each legal system in our country (common law and civil law).

The shortage, if not the virtual absence, of French common law jurisprudence and civil law decisions in English, either in the original language or in translation, is creating a serious problem for judicial bilingualism in Canada. Not only is the letter and spirit of the law and the Constitution not being respected, but we are witnessing in Canada, apparently in the most total indifference, the development in isolation of parallel jurisprudence that corresponds to the “Two solitudes”: unilingual and “unijural” (in French, essentially, for civil law, and in English only, for all intents and purposes, for common law), with the notable exception being that of the Court Supreme Court of Canada, which goes it alone.

An overview of the databases and case law of the Canadian common law provinces and territories shows the scarcity of French common law case law.

One of the most striking examples of this scarcity is that of Ontario. We must deplore the surprisingly limited number of decisions translated into French published on the Center for Legal Translation and Documentation website, whose mission it is to publish on its website the judgments of the Court of Appeal of Ontario it has translated since 1998.<sup>4</sup> Certain decisions are rendered directly in French and published on the official website of the administrative or judicial tribunal concerned or on the CANLII website.<sup>5</sup> Still others are translated at the request of the parties and are not published. The linguistic rights recognized in [s. 126](#) of the [Courts of Justice Act](#) are, as the Ontario Court of Appeal has recognized, quasi-constitutional in nature [*Belende v. Patel*, 2008 ONCA 148].<sup>6</sup> Be that as it may, for a province with *de facto* legislative status, but not *de jure* bilingual<sup>7</sup> we can only be shocked by such a shortage of French language original or translated decisions.

In Manitoba, the situation is even worse. Although legislative bilingualism is even more formal and anchored than in Ontario, French case law is almost non-existent. Lack of political will? Negligence or indifference of the legal profession or legal publishers?

In Quebec, the situation is hardly better. In principle, the courts do not translate their judgments, which are published only in the language in which the judge wrote them, that is to say in French in the vast majority of cases. The litigants – anglophones or francophones – can obtain a translation at the expense of the State and then request a decision written in

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<sup>4</sup> <http://ctdj.ca/en/ontario-case-law-french-translations/>

<sup>5</sup> <https://www.canlii.org/en/>

<sup>6</sup> <https://www.canlii.org/en/on/onca/doc/2008/2008onca148/2008onca148.html>

<sup>7</sup> <https://www.ontario.ca/laws/statute/90f32> The preamble of this law is worth quoting: “Whereas the French language is an historic and honoured language in Ontario and recognized by the Constitution as an official language in Canada; and whereas in Ontario the French language is recognized as an official language in the courts and in education; and whereas the Legislative Assembly recognizes the contribution of the cultural heritage of the French speaking population and wishes to preserve it for future generations; and whereas it is desirable to guarantee the use of the French language in institutions of the Legislature and the Government of Ontario, as provided in this Act;

their language.<sup>8</sup> The delays that this entails discourage a large number of litigants from exercising their right to demand a decision in their language.

It should be noted that, for the year 2017, only 18 (out of about 700) decisions of the Quebec Court of Appeal have been translated into English.<sup>9</sup> For 2018, the harvest is scarcely more abundant, with only eight decisions translated as of September 1<sup>st</sup>.

It is also important to point out a little-known perverse aspect of the “parallel” elaboration of case law being almost exclusively French in Quebec and almost exclusively English elsewhere in Canada. We come to the absurd situation: despite the fact that the *Criminal Code* applies uniformly throughout Canada - which obviously includes Quebec - lawyers, litigants and courts in other provinces risk being deprived of the opportunity to have access to decisions of national interest and jurisprudence for the sole reason that Quebec decisions exist only in French and that nobody has bothered to create an English version.

One might think that this is an illusion, but it is not so.

In an article published on July 17, 2012, in the *Financial Post*,<sup>10</sup> Julius Melnitzer sums up the problem quite well:

More recently, the Quebec Superior Court, in the Global Fuels<sup>11</sup> case, rendered a Canadian judge’s first interpretation of broadened Criminal Code provisions governing the criminal liability of corporations — a matter of considerable concern throughout the country.

When the decision came out a few weeks ago, I had a number of lawyers across Canada emailing and asking for the English version of the decision, but it simply wasn’t available,” Mr. Eljarrat says. “And until someone takes it upon themselves to translate it, that won’t change — and even when it does, it will be a non-official version.”

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<sup>8</sup> <https://www.justice.gouv.qc.ca/programmes-et-services/services/demander-la-traduction-dun-jugement/>

<sup>9</sup> <http://citoyens.soquij.qc.ca/php/resultat.php?liste=108654574>. Since January 1, 2018 SOQUIJ, gradually took over from the Centre de services partagés du Québec for all translation needs of the courts.

<sup>10</sup> Melnitzer, Julius, “[Court decisions may be lost in translation](#),” *National Post*, July 18, 2012.

<sup>11</sup> *Jacques v Pétroles Irving inc.*, [2012] QCCS 2954, available online: <https://www.canlii.org/fr/qc/qccs/doc/2012/2012qccs2954/2012qccs2954.html#showHeadnotes>.

Although some criminal cases are translated from their original French to English by legal publishers, there is no obligation on the Quebec Court of Appeal or other courts in the province to translate decisions from French to English except in very limited circumstances.

Quebec's language law allows the use of English or French in court and administrative tribunals, allows them to render judgments in English or French as they choose, and provides for the translation of judgments into English or French at the request of a party to a proceeding.

This framework, however, means that most often an official translation is not available from the court or other authorized source, and even unofficial translations are few and far between.

[...] Ontario courts [...] are no more encouraging of official translations to French than Quebec is of official translations to English.

Ontario legislation parallels Quebec law in providing French-speaking individuals with the right to a proceeding conducted in French. In such a proceedings, a party may have the court translate a judgment rendered in either English or French to the other language.

What that means, of course, is that the even the few French-language judgments rendered in Ontario are not necessarily translated, and it's unlikely that more than a handful of English judgments are ever translated into French. [Emphasis added]

The problem is real. Here is another recent illustration:

Let us quote the words used by a commentator - whose name we will not mention - in an article published on October 20, 2017, about an important decision of the Quebec Court of Appeal concerning the professional liability of a lawyer. The Supreme Court has agreed to hear the appeal against this judgment and should render its decision shortly:

This interesting case, now on its way to the Supreme Court, came to my attention through Supreme Advocacy and their newsletter. They summarize its key issue: "Can lawyers be liable for professional referrals." Put that briefly, that seems pretty scary, and, equally scary, the Quebec Court of Appeal's answer was "yes." I looked back at the appeal judgment to see what was going on.

**I should note that I am not bilingual, I read and interpreted the Quebec Court of Appeal decision through the assistance of Google Chrome machine translation**  
[...]

Not only is this lawyer not bothered by the fact that there is no official English translation for this key judgment of the Quebec Court of Appeal, but he does not hesitate to resort to Google Translate to understand the meaning of this decision! And to illustrate the absurdity

of the situation, our author marvels at the translation that Google Translate provides of the metaphor of the key concept of causation proposed by the Court of Appeal. I quote:

In an excellent metaphor for causation, the Court of Appeal described the doomed investments as “inextricably linked in a gear where the appellants were trained by Mr. Salomon’s faults”. [sic]

One thing is certain, even a beginner translator would never have dared to propose such gibberish in rendering the original:

These investments were inextricably tied together in such a way that the appellants were entangled by Mr. Solomon’s errors.<sup>12</sup>

As it stands, judicial bilingualism in Canada is compromised. Not only is it for all practical purposes limited to the Supreme Court of Canada and, to a lesser extent, to the courts of New Brunswick, but its existence is at stake and is often trivialized by the judges in charge of stating the law.

## **2. Poor quality of translation**

In recent years, the translation of judgments by federal courts has been managed by the Courts Administration Service (CAS), whose only imperative seems to be cost. Since 2015, translation contracts have been awarded to large firms with no legal or jurilinguistic translators. The quality of the French version of judgments of the Federal Court, the Federal Court of Appeal and the Tax Court of Canada since CAS entrusted in 2015 the translation to two or three non lawyer firms is so worrying that it will probably require the retranslation of most of those decisions. One only has to go through the site of the Federal Court of Appeal or the Federal Court to see the mess and the waste of public funds. This crisis alone deserves a thorough analysis.

**RECOMMENDATION:** Stop using large translation firms. Those firms have not saved money, quite the opposite. Large firms do not have legal translators capable of

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<sup>12</sup> *Matte-Thompson v. Salomon*, [2017] QCCA 273, at para. 140.

translating specialized texts such as court decisions, especially if they are to be given the same value in both languages.

It will be necessary to review and retranslate all FC, FCA, TCC, etc. decisions, translated since December 2015. The additional cost will come to several million dollars.

**1. We recommend entrusting once again the management of translations of federal court decisions to the Translation Bureau or to small independent firms under the direction of the CAS.**

**2. We recommend the establishment of a system to ensure the quality of decisions translated into the other official language.**

**3. The problem of access to law and justice**

In practice, the negligible amount of common law decisions rendered or translated into French and the civil law judgments rendered or translated into English in Canada ensures that citizens have partial and limited access to justice in their language.

Moreover, even if the right to a trial in one's language is guaranteed, the fact that no obligation is required of judges to render their decisions in the language of the litigant or of the courts to publish their judgments in the two official languages is absurd in a country that wants to be a model for bilingualism and bijuralism.

In this regard, we wonder how we can still argue about the need for a judge of the Supreme Court of Canada to grasp the subtleties of Canada's two official languages, when all the principles of statutory interpretation are based on the rule of bilingual interpretation of legislative enactments and when the mission of the judge is precisely to say what the law is, to interpret the law and to apply it.

Contrary to what one might think, the rationale for this requirement is not political, nor even linguistic. It is due to the very nature of the judge's work. The role of the judges of the Supreme Court of Canada is to interpret the law, and they must do so taking into account the principles of statutory interpretation, which forces them to confront the English version and the French version in case of conflict. By the very nature of their task definition, they must be able to work in both languages and compare the English and French versions of the law to discern the will of the legislator and settle disputes.

## RECOMMENDATIONS

- 3. We recommend adding to the conditions of appointing judges to the Supreme Court of Canada the obligation that they master English and French.**
  
- 4. We recommend that the *Official Languages Act* require the publication of all judgments from the Federal Court of Appeal simultaneously in both official languages and that of judgments from other federal courts within a reasonable time.**

### Legislation and case law: double standards

- 1. The origins of constitutional obligations with regard to bilingualism**

Section 133 of the *Constitution Act, 1867*, provides for constitutional obligations with respect to judicial bilingualism and legislative bilingualism.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or

133. Dans les chambres du parlement du Canada et les chambres de la législature de Québec, l'usage de la langue française ou de la langue anglaise, dans les débats, sera facultatif; mais dans la rédaction des archives, procès-verbaux et journaux respectifs de ces chambres, l'usage de ces deux langues sera obligatoire; et dans toute plaidoirie ou pièce de

Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec. The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

procédure par-devant les tribunaux ou émanant des tribunaux du Canada qui seront établis sous l'autorité de la présente loi, et par-devant tous les tribunaux ou émanant des tribunaux de Québec, il pourra être fait également usage, à faculté, de l'une ou de l'autre de ces langues. Les lois du parlement du Canada et de la législature de Québec devront être imprimées et publiées dans ces deux langues.

**19.** (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.

**19.** (1) Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent.

As we can see, subsection 19(1) of the *Constitution Act, 1982*, is very similar to section 133 with respect to the right to use English or French in federal courts.

The underlined words are important. They are meant to guide the courts in interpreting the meaning and scope of both the rights these provisions confer on citizens and the obligations that these provisions place on the state and its institutions. We will return later to their interpretation.

## **2. Interpretation of constitutional obligations with respect to judicial bilingualism**

### **(i) The principle of the equal authority of the two versions of the law**

To put the problem in context, it is useful to recall that the rule of equal authority of the two versions of the law prevailed in Canada, not because of the wording of section 133 of the *Constitution Act, 1867*, but because of the interpretation that the courts have gradually developed. As Michel Bastarache explains:

It is the courts that have changed section 133, slowly but surely, from a limited provision conferring the right to access the law in one's own

language to a broadly applied principle by which both versions of a law have the same value and are equally authoritative.<sup>13</sup> [Translation]

The first decision that launched this movement to recognize the equal authority of both versions of the statutes is an 1891 decision in which the Supreme Court of Canada recognized that the French version and the English version of *the Civil Code of Quebec* had the same value.<sup>14</sup> Of the six judges in the panel, three wrote motives: Strong J. and Taschereau J. (a francophone Quebecer!), in English, and Fournier J., in French. The decision, which deals with Quebec civil law, is, ironically, written primarily in English. There is no translation to date. It was not until 1983 that the Supreme Court of Canada began to publish its judgments in both English and French simultaneously.

The Supreme Court gradually broadened the scope of the rule of equal authority to bilingual federal laws in 1935,<sup>15</sup> and the federal legislature subsequently codified this principle in 1985 at section 13 of the *Official Languages Act* and then at section 18 of the *Canadian Charter of Rights and Freedoms*. This rule applies to federal, New Brunswick, Quebec, and Manitoba legislation under the Constitution and, to a lesser extent, to those of other provinces, according to the laws they adopt, without being constitutionally required to do so.

### **(ii) Restrictive interpretation - The 1986 Trilogy**

The Supreme Court of Canada relied on the wording of the applicable sections of the Charter to adopt, progressively, a liberal interpretation of legislative bilingualism and, conversely, an extremely restrictive interpretation of judicial bilingualism. Based on a textual analysis of the above-mentioned section 133 and subsection 19(1), the Court, in three judgments rendered almost simultaneously in 1986<sup>16</sup> (commonly referred to as

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<sup>13</sup> Bastarache, *supra* pp 16-18.

<sup>14</sup> *The Canadian Pacific Railway Co. v. Robinson*, [1891] 19 SCR 292, CanLII 37.

<sup>15</sup> *The King v. Dubois*, [1935] SCR 378.

<sup>16</sup> *MacDonald v. Ville de Montréal*, [1986] 1 RCS 460, 27 DLR (4<sup>th</sup>) 321 [*MacDonald*], *Bilodeau v. P.G. (Man.)*, [1986] 1 SCR 449, 27 DLR (4<sup>th</sup>) 39, and *Société des Acadiens v. Association of Parents*, [1986] 1 SCR 549, 27 DLR (4<sup>th</sup>) 406 [*Société des Acadiens*].

the 1986 trilogy), concluded that the French terms “facultatif”, “à faculté” and “pourra” used in these provisions (“may” in both English versions) could not be construed as imposing obligations, whereas the French terms “obligatoire/devront “ and “obligatoire/seront” – used in sections 133 and 23 (“shall” in both English versions) with respect to laws were clearly binding.

In *MacDonald*, Beetz J. went so far as to recognize for judges the right guaranteed to litigants under section 133. In other words, just as a litigant has the constitutional right to express himself in the language of his choice before the courts, the judge would have the constitutional right to write his reasons in the language of his choice, “even if all the parties appearing before him are unable to understand the judgment which he has rendered”<sup>17</sup> [Translation]. As Karen McLaren rightly points out:

...the State... by way of judicial tribunals, would confer on itself a right – in this case the right of judges to write their reasons in the language of their choice – without any corresponding obligation on the part of the State itself to make those reasons available in the language of the litigant. The fact that a judge has the right, as a person, to write a judgment in the language of his choice is not put to question, but in no way does it mean that the state does not have obligation to provide a translation in the official language of the litigant... The real question is therefore not to know whether the State has an obligation, which corresponds to the right that section 133 grants to the litigant, since he clearly has one, but to know the scope of this obligation and how the state must satisfy it.<sup>18</sup> [Translation]

### **(iii) Beaulac: the principle of substantive equality**

In *R. v. Beaulac* [*Beaulac*]<sup>19</sup> At the turn of the century, the Supreme Court gave a serious blow and put an end to the restrictive and literal interpretation of the linguistic rights and obligations that had hitherto characterized case law. Henceforth, the guiding principle became that of “the substantive equality of those constitutional language

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<sup>17</sup> *Macdonald*, at para. 32 [Beetz J.]

<sup>18</sup> Karen McLaren, “La langue des décisions judiciaires au Canada, “ *Revue de droit linguistique*, 2 RDL 1, 2015.

<sup>19</sup> *R. v. Beaulac*, [1999] 1 SCR 768.

rights”,<sup>20</sup> a right enshrined in subsection 16(1) of the *Charter* that requires the state to take concrete steps to implement language guarantees. As Bastarache J. explains:

Language rights are not negative rights, or passive rights; they can only be enjoyed if the means are provided. This is consistent with the notion favoured in the area of international law that the freedom to choose is meaningless in the absence of a duty of the State to take positive steps to implement language guarantees.<sup>21</sup>

The *Beaulac* judgment, which is regarded as a leading case in matters of language rights interpretation, thus confirms that the principle of substantive equality, which is expressly enshrined in the Constitution, “makes it possible to reject the idea that language rights do not give rise to any corresponding obligation on the part of the State”.<sup>22</sup> [Translation]

In summary, in our opinion, the real question is:

Of what use are the translations of these judgments if both versions of judicial decisions do not hold equal authority?

Karen McLaren adds and makes an irrevocable diagnosis:

How to justify, in a legal system that advocates the equal status of two official languages as a constitutional value, that one or other of its official language communities does not have access in its language to a reliable version of such a fundamental part of the law? Substantive equality means that members of each of Canada’s two official languages groups must have access to the corpus of law, and thus to case law, in their language. In addition, substantive equality implies that the linguistic versions of judicial decisions must be of equal quality and status.<sup>23</sup> [Translation]

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<sup>20</sup> *Ibid.*, para. 24.

<sup>21</sup> *Ibid.*, para. 20.

<sup>22</sup> Karen McLaren, “La langue des décisions judiciaires au Canada,” *Revue de droit linguistique*, 2 RDL 1, 2015.

<sup>23</sup> Karen McLaren, “La langue des décisions judiciaires au Canada,” *Revue de droit linguistique*, 2 RDL 1, 2015.

## Conclusion

Some possible solutions are available to us.

### **1. Recognition of the equal authority of the translated version of judgments – the Supreme Court of Canada model**

The quality of the translated versions of Supreme Court judgments gives each of their published versions – French and English – a status equivalent to that of two authentic versions. It is interesting in this regard to point out that the rigorous process of translation, technical and legal review, and quality control by the Court's team of jurilinguists has some similarities to the one required of jurilinguists tasked with drafting in tandem the federal laws according to the co-drafting model.

We could thus draw inspiration from the translation model used in the Supreme Court to produce French and English versions of judgments that would be equally authoritative, in accordance with the principle of the equality of laws.

### **2. The legislator's intervention**

Given the shifting legal interpretations of case law, of which the 1986 trilogy is the most egregious example, of the unequal and inconsistent treatment of minority language rights in Canada, both geographically (we are saddened by *Caron*<sup>24</sup> of the Supreme Court of Canada, which recently sounded in some way the death knell of linguistic rights' recognition of francophones in Alberta) and historically (we can only regret the retroactive abolition by the various provincial legislatures, especially in the late nineteenth century and early twentieth century, of the rights of the francophone

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<sup>24</sup> <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15629/index.do?r=AAAAAQAFQ2Fyb24B&alternateloale=en>

minority to education, justice and their language, in Manitoba,<sup>25</sup> Ontario and elsewhere) and the ambiguous wording of the Constitution (sections 18 and 133), it is clear that we can only rely on the intervention of the legislator to finally recognize with force and without ambiguity the principle following which Canadian citizens are entitled not only to a trial in the official language of their choice, but also to have a judgment written or translated in their own language. Current loopholes in the Canadian Constitution are blatant and cause gross injustices.

Obviously, the solution that immediately comes to mind would be to amend the Constitution to enshrine this right of litigants and provide for the obligation for the federal courts to establish, for their judgments, a French version and an English version having equal authority. However, the saga surrounding the failure of the *Meech Lake Accord* in the early 1990s and the requirement for almost unanimous provincial approval to amend the Constitution make this scenario illusive.

There is still hope: amend the *Official Languages Act* so that it expressly provides that every litigant has the right to receive a decision in the official language of their choice and that the State, through the court concerned, has the obligation to provide them with a translation free of charge.

The Act should also specify that federal courts are required to publish all their decisions in both English and French, both versions holding equal authority, just as the French and English versions of the federal statutes.

Let us hope that the provinces will follow suit, starting with Quebec, whose judgments of the Court of Appeal should systematically be translated into English by jurilinguists, and hope that Ontario and Manitoba will follow the same pattern, publishing in both

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government of Canada. The French fact in Manitoba:  
<http://publications.gc.ca/site/eng/9.851495/publication.html>

English and French the decisions of at least their respective courts of appeal. But this is another chapter in our legal and linguistic history that remains to be written.

### **Recommendation**

- 5. We recommend that the principle of equal value and equal authority of the French and English version of judgments from the federal courts be enshrined in the *Official Languages Act*.**

## RECOMMENDATIONS

1. We recommend entrusting once again the management of translations of federal court decisions to the Translation Bureau or to small independent firms under the direction of CAS.
2. We recommend the establishment of a system to ensure the quality of decisions translated into the other official language.
3. We recommend adding to the conditions of appointing judges to the Supreme Court of Canada the obligation that they master English and French.
4. We recommend that the *Official Languages Act* require the publication of all judgments from the Federal Court of Appeal simultaneously in both official languages and that of judgments from other federal courts within a reasonable time.
5. We recommend that the principle of equal value and equal authority of the French and English version of judgments from the federal courts be enshrined in the *Official Languages Act*.

## References

1. Gerard Cornu, *Linguistique juridique*, Paris, Montchrestien, 2005.
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3. Karen McLaren, "La langue des décisions judiciaires au Canada," *Revue de droit linguistique*, 2 RDL 1, 2015.

## Biographical note

### Louis Beaudoin, LL.L., cert. trad.

Mr. Beaudoin holds degree in law from the University of Sherbrooke. He has been working as a jurilinguist and a certified independent legal translator for the past thirty years. He is President and CEO of Universal Linguistic Services.

Mr. Beaudoin lectured at Université de Laval, McGill University, Université de Sherbrooke and the University of Ottawa, where he taught legal writing and translation.

He has been teaching the judgment drafting and legal terminology to Canadian judges for about 30 years, and he regularly conducts training and development workshops in legal French for lawyers, judges, translators, language professionals and support staff in Canada and elsewhere.

He has developed numerous writing, terminology and refresher courses in legal French.

Mr. Beaudoin is co-author of [Expressions juridiques en un clin d'oeil](#), a guide to the proper use of the key words of the law which aims to help jurists write texts in a correct and elegant language mainly through the use of good co-occurents.

In 2008, he published the third edition of [Les mots du droit – Lexique analogique juridique](#). This bilingual analogical lexicon is for anyone looking to find the right word and write legal texts in a flexible, rich and idiomatic language.

He is regularly invited to participate in international conferences and symposiums as a lecturer specialized in jurilinguistics.

He was an expert consultant and reviser at the International Criminal Tribunal for Rwanda (UN) in Arusha, Tanzania, where he participated in the translation and revision of ICTR judgments.