I. Introduction*

For years there has been an intriguing tendency for many aspects of today's worldwide legal profession to be subjected to an ever-increasing Anglo-Saxon influence as well as a growing Americanization. This is of course particularly true of all European legal professionals and academics. However, it is not just this pan-European process of "Anglification" but also the growing American dominance and the predominance of Anglo-American legal thinking and legal practice that lawyers in the International Practice of Law are having to deal with, exposed, as they are, to the challenges of these new realities and the Internationalization of the Practice of Law in their day-to-day professional lives.

For the legal practitioners, the function of professional legal English has fundamentally changed in recent years: English has become their lingua franca. These new realities having not only a great impact on all legal professionals of a particular jurisdiction but also on the jurisdiction itself. Very little is known about the mechanics and the wide impact of these new realities; particularly, if one considers their enormous significance. In a changing world, there will be a need for a new awareness and new strategies in the areas of legal education, research and scholarship and the international legal profession. The ever growing importance of the English language increasingly affects our society. All this of course must also be seen in the context of many initiatives to deal with the larger issue of the function of the English language in our society, our daily lives and the education of our children.

In this essay we shall attempt to outline what we believe to be the most significant issues in this regard. We will also try to identify possible elements of a strategy.

---

* The authors are most grateful to Janine Rensh, Radka Vogt-Donnell and Tom Wesel for reviewing and clarifying the text and to Ms. Susanne Meier Schmid and Ms. Adriana Masciullo for working on the many drafts and versions of this text.


4. Jens Drolshammer started this project during a stay as Visiting Scholar and Fellow at the Harvard Law School in the spring term 1999. He would like to thank Professors Mary-Anne Glendon, Detlev Vogt, Arthur von Mehren, David Kennedy, David Wilkins, Peter Murray and Harry S. Martin III for valuable insights and suggestions to write a series of essays under the working title "The Changing International Practice of Law - Aspects of International Compati-
for action to increase the comparability, compatibility, interoperability and competitiveness of the Swiss legal system and Swiss legal professionals. We will look at the changed function of legal English in the area of government policy, education and research, legal professions, professional legal associations and associations of legal academics. We are also attempting to deal with the issue of The New International Lawyer in a post-national constellation, beyond the issues of English as a legal language and of language and national concepts of legal systems, legal professions and national legal educations.

In dealing with these issues we have used "lists" and "catalogues" as "outlines" to describe the continuously changing impact of English as the Language of Law. We should like to make the following caveats: In view of the multidimensional task of coping with the new realities of legal English, the authors have favoured an issue-driven and topical approach. We would also add that we do not claim to have embarked on an academic venture in the traditional sense. Many of our statements are based on observations and experiences and not on survey and research.

This essay is intended to serve as a quarry to provide building blocks, gravel and sand for further discourse or analysis. Our approach is a practical one from the perspective of legal professionals and with a specific focus on the international practice of law, but we are well aware that not all members of the legal professions are affected in the same way by the issues dealt with in this essay.

Law follows language and language often carries the law: Now is the age of Anglo-American law and of English as the Language of Law.

II. The International Practice of Law

The growing importance of international law practice begs the question, "Are there any particular functions and challenges for a lawyer in international law practice that are not faced by other lawyers? What kind of education and training would best equip young lawyers and experienced practitioners to perform these functions and face these challenges?"

Without attempting to be definitive, international law practice, unlike its domestic counterpart, requires the practitioner to advise, opine, draft or litigate, often with reference to more than one body of national law and with reference to laws, treaties and regulations of international bodies and organizations such as the EU which provides a body of "supranational law".

Addressing legal issues involving more than one nation's law is likely to require an understanding of the world's two great legal systems, the Anglo-American common law, and the Civil Law system in force in those parts of the world not colonized by Great Britain. While these legal systems may share many similarities, their fundamental approaches to many legal problems vary to such an extent that they can be considered different legal cultures. Practitioners in confederations and "dualist" legal systems see BERNHARD ZIMMERMANN, "Common Law" and "Civil Law", America and Europe – zu diesem Band, p. 1-11, in: Amerikanische Rechtswissenschaft und europäisches Privatrecht, Impressionen aus der neuen Welt, Tübingen 1995, with contributions of JOACHIM ZERHILL, SIGAL HERMAN, REINHARD ZIMMERMANN and MATTHIAS REIMANN; see also JOHN MERRYMAN, On the Convergence (and Divergence) of the Civil Law and the Common Law, in: The Loneliness of the Comparative Lawyer, p. 13-17; on the transatlantic comparative law based views on the American and European tradition see REINHARD ZIMMERMANN (ed.), Amerikanische Rechtswissenschaft und europäisches Privatrecht, Impressionen aus der neuen Welt, Tübingen 1995; JOACHIM ZERHILL, Zwischen den Welten – Das Privatrecht von Louisiana als europäisch-amerikanische Mischverfassung, p. 11-44; SIGAL HERMAN, Schicksal und Zukunft der Kodifizierungsödeme in: Amerika, p. 45-86; REINHARD ZIMMERMANN, Law Reviews – Ein Streifzug durch eine fremde Welt, p. 87-131 and MATTHIAS REIMANN, Amerikanisches Privatrecht und europäische Rechtsetzung – Können die USA als Vorbild dienen, p. 132-185; MATTHIAS REIMANN, Towards a European Civil Code: Why Continental Jurists Should Consult Transatlantic Colleagues, Tulane Law Review, Vol. 73 1999, p. 1337-1346; on the European influence on American law see MATTHIAS REIMANN, Com
tions such as the United States or Switzerland will have some familiarity with addressing legal problems governed by the laws of more than one subsidiary state or canton. Within a single national jurisdiction, however, there is likely to be a basic consistency of doctrine and approach which is wholly lacking between the common law, of say, Canada, and the civil law of Japan. Lawyers who seek to complete transactions, cement legal relationships, or resolve disputes involving two legal systems must have some real understanding of how each system works.

Today’s international lawyer is not only required to deal with multiple legal regimes and cultures, but to relate successfully to people, be they clients, opposing counsel, or judges from socio-economic cultures other than their own. Understanding other cultures and an ability to relate comfortably to persons and institutions in terms of such cultures can be important to the success of an international endeavor. A successful international negotiator must have an appreciation of the deep-seated cultural and social values of all parties to the negotiation. The structuring of business entities and the creation of successful business relationships requires a sensitivity to the cultural and social values of the participants and an ability to reflect these values in the international entity or relationship.

Although English may have become the international language of business and legal discourse, documents important to international transactions are frequently in various national languages. National laws and most books and research sources about national laws are in the national languages of the countries that have proportional Path to Success, with pertinent citations on the relevance of the topic to lawyers of Rokoff Todd and Minnow Martin, Professors at Harvard Law School, in Harvard Magazine, Sept-Oct. 1998, No. 1, p. 60 et seq.


At least in continental Europe there is a certain lack of conceptualization of the planning and structuring of legal transactions. The international dimension of these legal activities, which are core activities in the "international practice of law," is thus not conceptualized either. The "decision-oriented legal education has not been adequately supplemented by an "action or "creation-oriented legal education. The original legal discipline of Kautlerbasisjurisprudence (discipline on the making of contracts) has not developed into a full-blown theory of legal creation. See Jens Drechselmann, Ein didaktisches Experiment an der Universität St. Gallen und ein Pfudler für eine transaktionale Lehrmethode im modernen Wirtschaftsrecht, in Solothurner Festgabe zum Schweizerischen Juristenjahr 1998, Solothurn 1998, pp. 381-411 and Jens Drechselmann, Internationalisierung der Rechtsausbildung und Forschung – eine Agenda für die interdisziplinär ausgerichtete Ausbildung zum in Wirtschaft und Management tätigen International Lawy; Basel/Gont/München 2000 (Bibliothek zur Zeitschrift für schweizerisches Recht, Band 35), p. 243-250 and Jens Drechselmann, The Effects of Globalization on Legal Education – an Agenda for the Interdisciplinary Education of a New International Commercial Lawyer, in: Neem Peter Vogt/Jens Drechselmann (eds.), Transatlantic – Culture, Languages and Law in a Transatlantic Context, Volume 2, Zurich/The Hague 2002.

mulated them. Even if translated, the governing version will be the version in the national language. Clients and other persons important to a transaction or dispute may be more comfortable talking in their own national language. For these reasons the ability to read, and if possible converse and write in several languages is important to an international lawyer.

Even though the globe is continuously shrinking with improvements in travel and communications, international law practice typically involves logistical challenges greater than domestic legal activity. The international lawyer must cope with different time zones, long travel times, and extended communications and supply lines to carry on legal campaigns abroad. The ability to use the Internet with its global communications and information storage, transcription, and exchange facilities is an indispensable skill for the international practitioner.7

Finally, the international lawyer needs to have a sense of "globality", to enable him to step outside the boundaries of his own jurisdiction and consider international transactions, relationships and disputes from a global rather than a national perspective. As professional agents and advocates, lawyers are expected to provide their clients with a perspective and objectivity over and above that of their clients. On an international scale, the lawyer must be able to bring a legal perspective to his client which transcends the national and cultural perspective of the client and seeks solutions based in part on a real appreciation of the national and cultural perspectives of other parties and ultimately on global values and considerations.8

It is always dangerous to try to list the required or recommended components of educational preparation for any specific career. Successful legal practitioners come from every kind of educational background. The line between formal legal education and "on the job" training is not clear. What should be taught "in school" and what should be learned "by doing" continues to be actively debated. The following is a checklist of the intellectual capital that a lawyer in international practice might want to acquire early on:


8 E.g., an appreciation of global economics and the possibilities of comparative advantage in international transactions will assist lawyers in developing "win-win" deals on the international scene. The lawyer has to be able to understand business visions and strategies, be able to work with business consultants and investment banks, appreciate and understand new technologies such as biotechnology and information technology, serve clients' needs to understand the entrepreneurial and economic side of lawyering in an international context.

---

- **Substantive law training in the national law of the lawyer's home jurisdiction.** The international lawyer should have a thorough knowledge of his own national law.9 In many instances the international lawyer will be required not only to assist a client in the application of local law, but also to educate an international colleague on the ramifications of local law. One has to understand one's own legal system in enough depth to be able to interpret and utilize local law in unusual international contexts, and to be able to compare and evaluate legal solutions available under local law with alternatives under other legal systems.

- **Training in other legal systems.** Significant basic knowledge of the civil law system and its principal institutions should be a basic component of the formal education of lawyers in common law jurisdictions, and vice versa. Lawyers involved with particular foreign jurisdictions should obtain greater in-depth knowledge of the legal structures and doctrine of those jurisdictions. An ability should be developed in employing basic comparative law techniques to the study of foreign law. Ignorance of foreign law and of comparative law techniques may lead to a parochial preference for local law to the detriment of international clients.

- **Foreign and international legal research abilities.** Legal research training should encompass methods for researching foreign and international legal sources in addition to national legal sources. The Internet has made many legal sources globally accessible to lawyers and law students. The international lawyer must understand where and how to access the relevant legal sources in any jurisdiction involved with an international transaction or dispute. This capability includes not only accessing the legal sources, but also understanding them in a cultural context.

- **An understanding of the international legal profession.** All international lawyers need to have an appreciation of the international legal profession, of the roles lawyers play in legal transactions and dispute resolution under many national and international regimes, and the principles and regulations governing the activities of lawyers in foreign and international practice.

- **Proficiency in relevant foreign languages.** For Europeans and Asians the ability to speak, read and write English is essential. For British and Americans, the ability to read a major European language (to facilitate the study of a Civil Law system) or an East Asian language and the ability to speak, read and write the language of any area with frequent or important foreign legal contacts is highly desirable. An international lawyer managing a complex multinational
transaction should have linguistic capability in the national languages of the
chief participants. An excessive reliance on translation or the other partici-
pants' second language capabilities can place the lawyer at a serious disad-
vantage. All foreign language capabilities should include a thorough knowl-
edge of technical and legal terminology.

- **Interdisciplinary background knowledge.** Nowadays, most lawyers have a
degree of interdisciplinary knowledge in economics, business, political sci-
ence, etc. Such knowledge is particularly important to the lawyer in interna-
tional practice, who may be required to address problems in those areas outside
the conventional structures of any single national legal system.

- **General educational background.** A sound and comprehensive general edu-
cation in international history, politics, economics, social, cultural and govern-
mental institutions helps the international lawyer to gain the global perspective
essential to the successful representation of parties in international transactions
and disputes.

- **Experience in global transactions.** The final component of the training and
education of the international lawyer is some meaningful exposure to the
unique kinds of international transactions, institutions and disputes that char-
acterize this branch of legal activity. This exposure, in addition to a sound
command of the methods and applications of substantive law is what is needed
to develop the problem-solving abilities of the international practitioner. This
kind of experience is often difficult to acquire. "Hands on" learning in the in-
ternational as well as the domestic legal arena is generally not a part of the cur-
riculum of institutions of higher education or professional training. Tradition-
ally it has been absorbed during "on the job training" in the early years of
practice or during certain more formal programmes of continuing professional
education.

We use the reference points of "The International Practice of Law" and the "In-
ternational Lawyer" as metaphors for activities which best show the changed
function of the use of the English language in the legal profession outside the
Anglo-Saxon world. It is fair to say that the "internationalization of legal prac-
tice" goes way beyond the "internationalization of law" and has brought about a
multiplicity of functions and levels of use of the English language in a legal con-
text. If one looks at the realities of legal English outside the Anglo-American
world, one also has to look at the increased role of the media in and the ever in-
creasing technical dimensions of the international legal process.

An interesting new perspective affecting the function of language is that legal
systems, professions and education have become factors in assessing the "com-
petitiveness" of nations; information and communication about those competitive
factors is nowadays likely to be exclusively in English.

One has also to take into account the shift from an industrial society to a knowl-
edge-based society where the use of legal language forms part of modern knowl-
edge management.

---

III. The Internationalization of the Practice of Law and the English Language

The international practice of law has grown over the past 30 years from an obscure specialty to a standard concept in many of the world’s developed economies. Today, there is hardly a company of any size in Europe or North America that has a thriving business without reference to international markets and international competition.¹

The internationalization of business and commerce has been fostered by revolutionary advances in all forms of communication, culminating in the Internet. Regulation of national economies has been accompanied by international mergers of businesses in fields as diverse as banking and automobile manufacturing. The variety of forms of international business combinations boggles the imagination as different legal structures, regulatory environments and national cultures are accommodated in different mergers of economic interests.² The internationalization of business in Europe has been tremendously spurred on by the course of


European unification from the post WWII “European Coal and Steel Community” to the European Union as it exists now? A recent trend of great importance in the international business scene is the prevalence of international business alli-
ances of every description, in which business entities enter into short- or long-term partnerships, joint ventures and other joint relationships to complete a particular project or exploit a particular market. 5

Inevitably, the growth in international business transactions and relationships has led to a growth in disputes. Manufacturers of products sold worldwide face world-wide exposure to product liability. 6 Litigants in many countries are no longer shy about asserting claims for compensation against foreign firms under local law. 7 Transnational litigation and international arbitration have become growth industries.

This internationalization of business activity and dispute resolution has been accompanied by the internationalization of lawyers that serve business and resolve its disputes. The burgeoning of transnational business lawyers has ushered in a spate of international combinations of law firms. Major law firms based in London, Frankfurt and New York have gone far beyond the different branches and correspondent relationships that existed 20 years ago to become worldwide networked enterprises with partners and major offices in many countries. 8 English, and to a lesser extent, American firms have emerged as early leaders in this trend for globalization. 9 Multinational business firms have developed their own international in-house legal staffs composed of lawyers from the various areas in which they do business. One recent development on the international scene causing concern, if not consternation, on the part of the traditional legal profession, is the growing presence of the mighty - now "Final Big Four" - international accounting and management consulting firms with huge multinational legal staffs operating in areas of professional practice formerly considered the preserve of the legal profession. 10

This trend towards the internationalization of business and legal practice that has characterized the last two decades is unlikely to change in the near future. Improvements in communications, the dismantling of financial and currency barriers and the waning significance of any practical impediments to the widespread

Practice of Law, Kluwer Law International, 2001; Special Issue Global Boom, The American Lawyer, November 1998; Lawyers Go Global, The Battle of the Atlantic, The Economist, February 26, 2000; Surviving in the New Europe: Strategies for European Firms, in: International Counsel, March 1998, p. 31. The "new global" law firms incorporate such elements as offices in the major European jurisdictions dispensing both international and national legal services, teams of employees with dual competences (international law and national law specialists) and integrated networks of branches providing the ability to exchange teams relating to individual projects.


6 Manufacturers of all breast implants sold worldwide are embroiled in worldwide litigation and are seeking worldwide settlements of claims of citizens of many countries. Other well-known current examples include international plane crash litigation against Swissair and TWA, consumer class action cases against BMW and Roco, the Microsoft antitrust case with international implications; international patent litigation involving the biggest patent; international fraud claims against BBC. Overviews of the most prominent ongoing transnational litigations are found in the specialized publications of the International Legal profession cited below in N 25.


adoption of English as a world of business language will only hasten the process of internationalization of business, financial and commercial activity. "International legal practice" will become an ever greater component of lawyers' professional activity in practically every part of the world, but particularly in Europe, North America and East Asia where both major business enterprises and major legal resources are currently concentrated. The effect of this internationalization of business activity has been the "internationalization" of the practice of law.

Over the last 30 years in the United States and the last 20 years in Europe, the Bar as perceived by the public and by its own membership has evolved from an organ of the public administration or officer of justice to a market-oriented service provider. In the good old days the degree of specialization was low and the lack of business understanding and judgment widespread. Law firms were small units in locally structured markets. The markets were well protected and were only partly competitive. At that time, the national economies were regionally fractured, consisting of small and middle-sized markets developed around dominating centres. The economy was made up to a considerable extent of medium-sized and family owned enterprises. The importance of the financial sector was small and legal matters were generally undervalued by the business community. Consequently, the big industrialized firms had large legal departments with a high degree of specializations and retained outside counsels as experts, particularly in litigation. Medium-sized enterprises would have personal, long-term and loyal consulting relationships. The international practice of law was focused heavily on incoming investment and on trade relations. This led to a concentration of a few internationally orientated law firms who organized their cooperation nationally and internationally on a best-friends-system.

Since the 80's, drastic changes have taken place in the economy and the consulting scene. Industry has undergone a far-reaching process of concentration and internationalization. The complexity of economic and legal matters has grown. Increasing specialization has been accompanied by increased sensitivity to costs on the part of many clients. Liberalization of freedom of service provision and establishment have brought about more competition. Greater orientation towards finances and the growing influence of the predominantly Anglo-Saxon financial service providers have led to a concentration of the most lucrative segments of legal consulting in the financial centres of London and New York.

These developments in turn have led to more specialization, an increased capacity for major transactions, greater understanding of business and economic matters, the development of technical infrastructure and changes in work structures, and new cooperations with other service providers. The respective changes in the Bar can be characterized as follows: development marked by a forced growth, often by national and international mergers; increased focusing, specialization and team-work; reorganization of law firm management; specialized working groups and market orientation; a priority on legal-management; the inclusion of tax law; specific and specialized accounting capabilities; market internationalization; the increased importance of languages and a clear demand for entrepreneurial thinking by the Bar. The international practice of law has led to new demands such as the provision of legal advice in the major legal systems; one-stop shopping; high specialization and limitation to fields of practice specifically suitable for specialization; high availability of manpower and teams, an ability for legal-management; high standards of quality and education as well as the development of new and proprietary legal products and services.

Traditional law firms on both sides of the Atlantic have encountered problems in adapting to these changed circumstances. These resulted from limited financial and professional resources, limitation of legal knowledge outside the local legal community, traditional professional structures, cultural differences between the countries on the European continent, insufficient market orientation and a limited ability for legal management. These changes have brought about an increased market orientation of the practice of law. New regional markets have come into existence and are served by small and medium-sized law firms with a comparatively broad range of services. Niche markets have also emerged to be served by smaller law firms with a distinct focus on the range of services they offer. International business and commercial law has always been serviced by large international firms.

This process marks a revolutionary phase of development. The developments have led to a need to analyze these new roles of lawyers, legal services, legal ob-
At the beginning of the new millennium, the term “International Lawyer” applies to a large number of players on the legal scene. First, there are the traditional international lawyers attached to governments and international organizations who are concerned with questions of public international law such as treaties, conventions, boundaries and the like. With the growth in private international law transactions and relationships, this body of law and the lawyers who practise it have also been undergoing a sustained growth cycle. The second major group of “international lawyers” comprises partners and associates of law firms that have a major stake in international law practice as described above. The number of mergers and other fusions of law firms in different countries, the number of foreign branches of major law firms domiciled in major commercial centres, and above all the transformation of the business activities of the clients of these firms attest to the rapidly growing size and importance of this branch of the traditional legal profession. This group is augmented by lawyers employed by multinational accounting and management consulting firms who now perform many services for their clients that were traditionally performed by lawyers in private practice. Another growing group of lawyers in international practice are members of in-house legal staff of multinational corporations. Over the last 20 years the growth of this group has been compounded by the movement in America and other countries to increase in-house legal competence.


The best sources of information on the internationalization of the legal professions are the specialized publications on the legal profession cited in N. 29, which appear on a bi-weekly or monthly basis. A broad picture is also presented in Lawyers Go Global, The Battle of the Atlantic, The Economist, February 26, 2000.

On the dispute resolution side of international practice, one finds growing numbers of lawyers occupied with international legal disputes. This is especially true in international centres of dispute resolution such as New York, London, Paris and Zurich. There are other lawyers focusing on human rights who can be found in London, New York, and Strasbourg, or any other city where there are clients with international human rights claims. Almost any lawyer in Europe, East Asia or North America can become involved in an isolated international business dispute or products liability claim. As the internationalization of economic activity proceeds, the number and proportion of legal practitioners who practise "international law" can only be expected to grow.

IV. The Importance of English as a Legal Language

In Switzerland, the English language is recognized as the language of science, business and culture. This is nowadays seen as a necessity within the overall trend towards a general Anglo-Saxonization and globalization. There is, however, tension between a politically driven tendency to try to limit the spread of English on the one hand and a wish by the business community on the other to further the trade and industry driven use of the English language with regard to education, professional activities, science and arts. The public perception of English seems to be intimately linked with motivation, challenge, dynamics, modernity, mobility and even seduction and has led to intensified scientific research into this phenomenon. In the case of Switzerland evidence of this can be seen in recent publications by Richard J. Watts and Heather Murray, "Die fünfte Landessprache? Englisch in der Schweiz" (The fifth national language, English in Switzerland), which summarizes the results of a symposium based on a one-year pilot research project.


McArthur's, The English Languages, as well as The English Language (by David Crystal) and The Oxford Companion to the English Language (by Tom McArthur) are explicit and complete in describing the emerging dominance of English in various spheres of life around the world, however in these publications, the role of legal English, if dealt with at all, is hardly ever the focus of attention. The reluctance or disinclination in dealing with English as a legal language coincides with the state of education in legal English outside the Anglo-Saxon world. This is all the more striking, since the spectacular internationalization of the legal professions, which goes way beyond the anticipated internationalization of the practice of law, has led to a dramatically increased use of the English language on the European Continent and in all commercial centres of the world.

In this essay we make a series of observations on the present function of legal English for the legal professions in Switzerland based upon our own experiences and observations and will we therefore first describe the growth and the present state of the international practice of law in this context:

- The International Legal Practice which has developed over the past 30 years, cannot be understood without understanding the changing and changed functions of legal English as a professional language.
- The variety of situations in which international lawyers have to operate and communicate in a professional context nowadays necessitates understanding the importance of the role that legal English plays.

Whilst we characterize a number of elements of the present use of legal English by professionals primarily in Switzerland, we also suggest that those elements are relevant in comparable circumstances in other continental European jurisdictions.
V. The Current Use of the English Legal Language by the Legal Professions

1. Switzerland – Facts and Figures

According to the Swiss national census 1990 – (the figures for 2000 have not yet been published) – the role of English and English speakers in Switzerland\(^1\) shows that in 1999 60,786 spoke English as a main language (Hauptsprache), representing 0.9% of the total population or 9.9% of the speakers of non-national languages (Nicht-Landessprachen). From that perspective, English appears to be relatively unimportant in Switzerland. Its real importance in Switzerland is in its use in the family, schools and in particular in professional life as a colloquial language (Umgangssprache). The research report “Englisch in der Schweiz” (English in Switzerland) by the Swiss Federal Office of Culture and Science\(^2\), concludes that English in Switzerland at that time was of a certain importance as a common language of communication (“Verkehrssprache”).

According to the census of 1990, English as a professional language is used particularly in the German speaking part of Switzerland. 18.5% of the German speakers residing in the German speaking part of Switzerland in 1990 stated that they use English in a professional context. The report of the Federal Office of Culture and Science shows, that in professional contexts at that time English was still slightly less used than French, but far more intensively used than any other language (with the exception of German and French). Scientific research shows that English plays an important role as a business language and in external communications. From a regional perspective, it is more often used in the German speaking part and in economically strong regions. On the highly controversial subject of the use of English as inter-lingua between German, French or Italian speakers within Switzerland, scientists were of the opinion that English as an inter-lingua amongst Swiss citizens is of minor importance\(^3\). However, English is generally considered to be the most important Second Language (“Zweisprache”). It should be noted that the studies consulted and cited do not make any reference to the use of legal English in legal professions.

---

1. GEORGES LIEB ET AL., Die Sprachensellschaft Schweiz. Auswertung der Eidgenössischen Volkszählung 1990 (The Language Landscape Switzerland. Analysis of the official Population Census of 1990), Bern 1997; the use of English in Switzerland is likely to have increased considerably in the past decade since the last national Census. When this essay was finalized the relevant figures of the 2000 census were not yet available.

2. See FN 9.


---

For the purpose of this essay, we assume that respective percentages with regard to in-house legal counsels and practising attorneys are on average higher compared to government offices and judges. It is obvious that based upon the changes in the international practice of law the use of legal English has substantially risen in the past 20 years in the areas of attorneys and in-house counsels.

2. Observations as to the Actual Use of Legal English by the Swiss Legal Profession

It is obvious that the mere reference to the use of legal English as such does not reflect the multi-dimensional and multi-functional use of written or spoken English in various professional legal activities. English may be used as a legal and business language, as an inter-lingua between regional professional populations as well as an accepted means of communication in professional, business and legal matters totally unaffected by and unrelated to the Anglo-Saxon world (for instance a German and Indonesian contract written in English on the applicability of Swiss law).

The expression of legal English in Switzerland which attempts to summarize “the use of English by lawyers in Switzerland” would have made us believe that we are talking about a professionally accepted, controlled and benchmarked use of English. Of course, this is not the case, since most Swiss legal professionals (and for this purpose most other continental European professionals) using English neither speak English as their mother tongue nor as their first professional language. Their spoken and written legal English represents a special form of “pidginization” of the English language in multi-dimensional and multi-functional contexts (mostly outside the Anglo-Saxon language area). Only a minority of Swiss legal professionals have had an opportunity to study or to work in an English speaking country. The actual use of legal English in Switzerland in day-to-day professional activities is not formally taught, benchmarked or supervised. This is an interesting aspect of professional self-teaching, which has largely come about because of the time constraints on professionals and the lack of formal language education in the professional use of legal English. It also results in a largely unconscious and unanalyzed pidginization of professional English. This will change when formal education improves with reference to Anglo-Saxonization in general and continuous formal training in legal English is included as part of the formal legal (university) education.
The following observations can be made:

- In professional contexts an average continental European law student generally overestimates his ability as an English speaker. The same is probably true for practising professionals.

- We assume, that the perceived need to have English language abilities as a member of the legal profession is limited, for the time being, to internationally active continental European law firms and the legal departments of larger continental European companies operating internationally. Obviously, in certain environments a good working knowledge of English is necessary for professional acceptance. Speaking English and having a certain accent is no longer a professional status symbol. It is however sometimes surprising how frequently many of the very able and prominent members of the legal professions have a below-average ability to speak or write English in legal contexts.

- It has to be noted that e.g. Switzerland – although a sophisticated market for legal services – has not yet attracted non-Swiss law firms from Anglo-Saxon countries. Also, internationally orientated Swiss law firms only occasionally employ English speaking non-Swiss lawyers in their firms. There are only a few Swiss law firms who have offices outside Switzerland, in particular in the Anglo-Saxon area.

- In most business enterprises where English is the corporate language, it is also the language of the legal department. This means that for instance Swiss lawyers have to communicate internally in English in legal matters, which is not the case within a comparable international law firm in Switzerland. Furthermore, legal departments of major Swiss multinational firms are often internationally staffed and usually have at least one Anglo-Saxon lawyer in their own ranks. It is quite possible that the head of a legal department of a multinational firm is non-Swiss and an Anglo-Saxon educated lawyer. This development in turn affects the relationships of those legal departments with outside counsel in Switzerland. In most Anglo-Saxonized areas of practice, the legal professionals dealing with those issues within law firms and within legal departments of multinational companies show a comparable ability to speak and write English.

- An interesting example for the use of legal English is the international professional service firms, which foster an across-the-board, integrated, internal and external culture, in which the English language plays a dominant and pivotal role. It would be an interesting topic for further analysis to see how certain parts of business law (in which the “Big Four”) have traditionally been very interested and are strong service providers have been influencing the intensity and professionality of the use of legal English in Switzerland. This certainly holds true for tax law.

- The leading position of Switzerland in international arbitration has also to be seen in the light of the history of Anglo-Saxonization of international commercial arbitrations with a forum in Switzerland, and a choice of Swiss law. This history has yet to be written.

- Amongst the legal professionals in the administration of justice, for instance in the area of international taxation, legal assistance, organizations, economic law and in some regulatory agencies, etc. legal English is widely used. There are parts of the Swiss federal administration that are fully equipped to operate in English, which includes the issuing of orders or decisions and publication of annual reports of the agencies in English.

- When looking at the general acceptance of English amongst legal professionals in Switzerland, one also has to bear in mind that a comparatively large number of Swiss attorneys have been trained in graduate schools of American law schools and/or have worked in American law firms. This has led to an above average internationalization of certain parts of the population of legal professionals.

- The Swiss liberalisation towards English is also shown by a systematic “parallelization” of its university education system based upon the Bologna model introducing bachelor and master degrees, by the introduction of post-graduate programmes on Swiss territory, which are entirely taught in English such as the Master of International Management at the University of St. Gallen and the Master of International Economics and Law at the World Trade Institute in Bern.

- English also dominates the Internet and the information society as a legal language and the lingua franca of professional discourse as well as of legal education also in the area of distance learning.

- The inter-disciplinary provision of professional services in the context of an integrated service concept favours English, since related social sciences such as management, economics and political science are in a more advanced stage of Anglo-Saxonization, which for these purposes is mostly Americanization. The fact that these topics are dealt with in English will inevitably require the use of legal English in dealing with the legal aspects if the professionals involved are to render interdisciplinary services.


The new world of mediated communication has also created new aspects of the function of legal English in Switzerland. Nowadays, legal issues regarding general business matters are primarily communicated by international economic journals of English or American origin. Those journals which have journalists specialized in legal matters, are widely read by the same professional communities which use legal English as their professional language, which means that the majority of new legal commercial and business terms are coined in (legal) English and then used by the international professional community. Since law and lawyers have a much higher visibility in the Anglo-Saxon media, information and communication about legal issues and developments is provided much faster than in other non-English media and for this reason legal English becomes of primary and controlling importance in a professional context.

Whilst economists or scientists can function with one single language – English – the legal profession outside the USA and the UK always needs to be bilingual (e.g. German/English).

A related phenomenon is the new Anglo-Saxon tabloid-like press for the legal professions and the international practice of law, which is widely read by Swiss legal professionals. In the absence of a similar press or media in Switzerland, all the general information on changes in the international practice of law is written in English and read by the Swiss legal professionals in English.

3. The Creeping Standardization of Law and of English as the Language of Law

It would be wrong to argue that the dominance of English in professional matters is a mere tendency for Americanization. The need for English goes way beyond dealing with this American – or British – challenge. Internationalization has brought about the need to have English as a lingua franca amongst all members of the legal profession.

As to the question of a special professional language, a more in-depth analysis would have to deal with the fact that certain markets for legal and financial services are linguistically standardised to the point that the same lingua franca or speaking entre nous6 namely English is being used by the participants of a specific professional sub-community in the major economic centres of the world. This standardised technical English does not need translation and is used as the need arises.

Obviously English as a technical legal language ("Rechtssprache") and linguistic system, can be better understood in connection with a thorough understanding of the underlying legal system. The predominant use of English as a legal language blurs the conceptual and institutional differences between the various legal systems and cultures of the world. Unfortunately this is coupled with a decline in comparative law and international law as teaching subjects.

---

VI. The International Impact of Swiss Law

Switzerland is well positioned in the international competition amongst legal systems. In particular amongst non-Swiss parties it has traditionally been and continues to be the legal system and also the substantive law chosen by a large number of those who seek an impartial and neutral body of law.

- As regards the historic international recognition of Swiss law, a more in-depth "interest analysis" should look at the status and function certain parts of the Swiss legal system had in the past in international contexts. These in themselves are strong reasons to re-assess the issue of legal English in Switzerland.

- As far as we are aware, there is no available data showing the extent to which and in what circumstances Swiss law is chosen by non-Swiss parties. This occurs mostly in the international practice of law. In our opinion, this choice reflects international recognition of Swiss law and an appreciation of the quality of the Swiss legal system as a whole. This area is an important component in the analysis of the "competitiveness" of the national legal system as well as in a reputational analysis of the perception of the Swiss legal system by non-Swiss, including foreign states and governments.

- Statistics show that the choice of law or jurisdiction with regard to Swiss law and Switzerland is significant in areas such as matrimonial property, inheritance law/estate planning, sales contracts, service agreements, construction (turnkey) contracts, telecommunication/carrier/service agreements, agreements for the televising of sporting events, sponsoring agreements, artists/athletes' agreements etc., joint ventures and shareholders' agreements.

- In this context, Marc Blessing speaking of an acknowledged legal culture rightly remarks: "Swiss law has developed (within the context of Roman and Germanic law) into an outstanding legal system of precision, balance, liberalism and liberty. Amongst foreign contracting parties, in particular, it has therefore become a legal system to trust, i.e. a legal system of preference in those cases where a contract between two non-Swiss parties was to be based on a "neutral" system of substantive law. There is therefore a high percentage of choice of law clauses in favour of Swiss substantive law to be found in contracts between non-Swiss parties, e.g. on the construction of offshore oil platforms, the construction of pipelines in oil producing countries, the construction of infrastructure projects in developing countries (e.g. telecommunications equipment, water and electricity supplies, power stations, port facilities, highways, military installations, hospitals, universities, dams, airports etc.) - in fact for the construction of all kinds of industrial plants and the supply of equipment. Choice of law clauses in favour of Swiss substantive law are found equally often in all kinds of commercial contracts, in joint-venture agreements, in long-term power and natural gas supply contracts, in mining concessions as well as in transactions on commodity futures exchanges."

- A number of large international professional service firms (originally Arthur Andersen Worldwide, Deloitte Touche, Coopers & Lybrand, KPMG) have chosen Swiss private law vehicles to structure their international organizations. The majority of international sports organizations are now incorporated in Swiss vehicles. The international deregulation of the telecommunications industry has led to a multiplicity of private telecom organizations using Swiss law vehicles. A large number of multinationals have chosen Switzerland as a jurisdiction to incorporate or as headquarters for worldwide or regional operations.

- Switzerland has the highest number of lawyers per capita who are members of the leading international lawyers' organizations. There have been Swiss presidents of professional associations like IBA, AIJA, UIA, IFA and AIPPI.

- Swiss law has had and continues to have an impact on the legislation of various countries such as Turkey, Japan, Greece and most recently Serbia.

- Switzerland has a reputation as one of the leading jurisdictions for international arbitration and great efforts have been made, for instance by the Association Suisse pour l'Arbitrage, to foster and further this position.

In order to remain well positioned in the international competition amongst legal systems we propose the following:

- Swiss law statutes and regulations should not only be translated into English, but guidelines should be laid down for their effective communication. Translation and communication apart, legal English should be classified as an official language. As part of these communication efforts, agencies of the Federal Government, which work in an international context, should issue public statements and decisions in English. Accessibility to the Swiss legal system in

---


3 In contrast we note that the Swiss Federal Tribunal in an administrative law based appeal against a decision of the Swiss Communication Commission (ComCom) in preliminary injunction proceedings concerning interconnection in an obiter dictum clearly stated that the totality of the decision has to be issued in an official language and precipitated the ComCom for having issued part of the sentence in English (SR 123 III 193).
legal English would be vastly improved by including parts of the legal system in state-of-the-art information technology.¹

- A Bibliography on English materials and on Swiss law should be available² and continuously up-dated and made accessible on the Internet.

- An intensive international marketing policy for the distribution of Swiss legal literature in English should be pursued by Swiss publishers in cooperation with publishers specializing in International and Anglo-American law.

- The Swiss National Fund and Pro Helvetia should sponsor special English language publications on behalf of the Swiss legal system and actively participate in its distribution and marketing. The far-reaching effort to refocus the image of Switzerland in the Anglo-Saxon world through the project “Presence Suisse”, should include texts in legal English on Swiss law, since the quality and worldwide recognition of the Swiss law and legal system are an important competitive factor contributing to the recognition of the country on an international level.⁵

- Swiss law schools should encourage selective teaching in English and academic publications in English at seminar, master-, Ph.D.- and habilitation thesis levels.

- The necessary change of culture in publication practice would be helped if the Swiss legal journals were to accept English texts on Swiss law or add abridged English versions to non-English texts. The same holds true for the publication of law books in general and Ph.D. theses, which should provide for English summaries.

- With regard to the use of the Internet one could envisage a public/private partnership of the Swiss members of the International Bar Association, AIJA and UIA, the Swiss Association of Lawyers, the Swiss Association of In-house Counsels and other professional and academic associations including the Swiss-American, Swiss-Australian and the Swiss-British Chambers of Commerce to orchestrate a joint effort to pool all information and publications on Swiss Law available in English, including pursuing the possibility of making

⁴ On top of the predominance of the Anglo-Saxon professions, the predominance of the mediatization, partially Anglo-American controlled, which has a direct effect on this area, has to be taken into account.


⁶ It is counterproductive and dangerously detrimental to Switzerland and the Swiss legal system to suggest as has been done by a high-ranking bureaucrat of the Swiss Federal Administration as late as in 2001, that the translation and communication of Swiss law should be left to non-Swiss publishers and organizations.

³ English materials on Swiss law available in full text to English speaking professionals abroad as well as in Switzerland.

- It is clear that funding should be made available for the principal prerequisites for such a project such as a standardized thesaurus³ and dictionaries.

- A task force should be set up to develop a policy aimed at increasing and improving the effectiveness and efficiency of communication on Swiss law in English.

- Of course one has always to be aware that the integration of English and legal English into Swiss (legal) culture is a politically sensitive issue.⁷

⁷ The Eurodictotom-database of the EU in Luxembourg provides unified terminology, see MAX BAUMANN, Europäische Sprachvielfalt, Festschrift für Roger Zäch, Zurich 2001.

⁸ Without such efforts, the opportunities to increase the comparability, the compatibility and (what JENS DROELHAMMER, On the Way to Globalization, op. cit. N. 3, p. 13, has coined) the “competitiveness” of the legal systems would be badly missed.

⁹ It is however interesting to note that the far-reaching projects of “Avenir Suisse” (Swiss Think Tank) and “Presence Suisse” (world-wide Swiss Image Campaign) or the smaller project “Dienst Suisse” (network for an open discussion on key issues) have French names obviously in the belief that this allows sufficient distance to the Anglo-Saxon world but is already removed from the most used Swiss language. The same thinking may have led to the name “Credit Suisse” (other than that it rhymes with “don’t miss”).
VII. The Relevance of Legal English for Switzerland

1. Legal English as a Reality for the Legal Profession

We suggest that facing the realities of legal English in Switzerland should be part of an issue-driven, integrated effort involving all stakeholders (government, legal professions and legal educators) in order to better face the challenges of internationalization and globalization. Whilst we do not think that “change management” and “re-engineering” as such are at issue we would like to suggest that these metaphors have an indicative value for such an enterprise as well. “Best practices” and “state-of-the-art” as understood in other social sciences should be used to indicate the desirability and necessity of benchmarking one’s efforts on emerging international “standards” such as comparability, compatibility and competitiveness; however, the apparent sensitivities of the political and professional dimensions of these issues should be taken into account.

The following issues should be dealt with:

- Legal English is an essential part of the professional competence and skills of international lawyers and a pre-condition of professional access to and success in the international legal process.
- Legal English comprises dimensions of English as a lingua franca, an interlingua, as business English, legal language, specialized professional language, all linked together as a professional language with a multi-dimensional and multi-functional reach to be used in specific oral and written forms. These dimensions generally manifest themselves simultaneously.
- Legal English is part of a larger cultural process of globalization and internationalization of the legal professions; the importance of legal English has therefore to be determined in relation to these two larger processes.
- Legal English is mostly used in external, but also to a lesser extent in internal communication.
- Legal English is an essential element in bringing about the necessary comparability, compatibility and interoperability of legal cultures. International lawyers are the players in and between these legal cultures.
- Legal English is an essential element and instrument in coping with the effects of globalization in societies in which the international legal process is an integral part of information and communication.

- Legal English is an essential element and instrument for law and lawyers to participate in the discourse about global governance in an emerging global community beyond the professional use of legal English.
- Legal English is an essential part and instrument of the Swiss legal system and is necessary in order for the Swiss legal system to be able to compete, to be noticed, understood and respected throughout the world.
- Legal English is an important element and instrument of the Swiss legal system from the point of view of the emerging function of law as an element of the competitiveness of a nation.
- Legal English is of considerable importance in connection with the preservation and augmentation of the international recognition of Swiss law de facto.
- Legal English is an important element of academic and professional legal education and training on all levels and a pre-condition for access to and success in academic as well as professional legal work.
- Legal English is the key to accessing the evolving legal cyberspace affecting and transforming law.
- Legal English is a key element of modern business language communicated through the international media.
- Legal English is a key element in the better understanding of the Anglo-Saxon and international legal process.
- Legal English is a key element in improving and refocusing the understanding of one’s own law and culture in view of the necessity to interpret, translate and communicate one’s own law and culture internationally.
- Legal English is a key component of interdisciplinary professional activity, in which the most frequently used related social sciences such as management, economics and political science, have reached a far higher level of internationalization and Anglo-Saxonization than law.
- Legal English is the most frequently used language in professional contexts in Switzerland apart from German, French and Italian. The importance of legal English has to be benchmarked with the importance of English as a professional language in Switzerland as a whole.
- Legal English does not replace or displace legal German, French and Italian, even in the areas in which it is most frequently used by Swiss professionals; it is the most important complementary professional language.
- Legal English functions as an inter-lingua between different legal professionals.
Legal English is an undisputable reality for the legal profession. Its progress should be followed attentively. The legal system is a key component in the organization and operation of a state. Despite the ongoing internationalization of the world, the legal process, largely based on the principle of territoriality, is still determined by the state as a sovereign political entity. This holds true for the whole of the legal process, from the generation and enactment of law, to its administration and enforcement. The same applies to legal education and to the legal professions involved in the process of law.

Historically, the Swiss legal system has reacted and adapted to international developments in a flexible and responsible way. When the question of the importance of legal English to the Swiss legal system is raised today, one is confronted by a distinct time lag with respect to legal perception of the challenges of globalization as highlighted at the 2001 annual meeting of the Swiss Lawyers' Association, which chose the effects of globalization on the Swiss legal system as one of its key topics.

We believe there is an absolute necessity to put this issue on the political, professional and educational agenda.

Over the last few years the Swiss legal system has shown itself unprepared for certain developments. We believe that certain aspects of a changing world have a profound impact on key qualities of a national legal system.

The quality of a legal system has become an important element of the "competitiveness" of a nation in international contexts. The increasing importance and presence of the media in the world has further led to a fundamental change in the role of information and communication with regard to legal systems. An analogy can be drawn from the corporate sector, where "corporate reputation" has become a pivotal object of concern and protection, similarly the "legal system" has become a pivotal factor in its relevance for the respect and recognition of a nation.

The way a legal system is communicated in international contexts has become an area of great concern.

It should also be noted that the Holocaust-related class actions, which pitted Switzerland against the United States and some important parts of the rest of the world, finally acted as a belated wake-up call. In international relations, the perception of a legal system by others, particularly other states, has become an important area in which Swiss actions and reactions have been – to say the least – helpless at times. It is obvious that these are recent phenomena yet to be integrated in a systematic analysis and political plan. In view of the predominance of the Anglo-Saxon world and the corresponding predominance of English and legal English in legal matters, the proposed "interest analysis" should in our view lead to a change in perception of legal English in Switzerland, corporate Switzerland and the concerned professions alike.

It must again be emphasized that if one wishes to make English as a legal language in Switzerland part of an issue-driven, integrated effort to refocus the attitudes of all the English speakers concerned, one has to take into consideration certain "constraints" and "potentials" of the realities of legal English in Switzerland.

---

1 Legal English is an uncontrollable reality for the legal profession. It is advisable not to fight but to solve the problem. It goes without saying that the relevance and importance have to be defined from the perspective of the interested and directly concerned players.


2. The "Potential" of the Use of English as a Legal Language in Switzerland

Situationality analysis describes an already existing practice rather than a formula to be applied to it. The starting point is that existing modes of work can be analyzed, developed and made into guidelines which increase our understanding of this complex legal world and of the future influences on our common working environment. We will try to focus on issues which help to identify a strategy to deal with the reality of legal English in Switzerland:
- Switzerland is a multilingual country with knowledge and experience of dealing with and bridging the gap between the four national languages.
- Switzerland is a country of immigrants and emigrants with experience in integrating other cultures and languages.
- Switzerland has a tradition of professional multilingualism from doctors, lawyers and concierges to mountain guides.
- English has established itself as the most important secondary language in professional matters.
- There is a growing academic and political consensus with regard to the importance of the English language for all dimensions of Swiss life.
- Switzerland seems to have an above average affinity for the Anglo-Saxon and the Anglo-American world and can claim a special "sister-republic" relationship with the United States.
- The use of English generally and professionally presents no emotional difficulties.

Situationality analysis according to Olli Korhonen in remarks concerning the situationality of the commercial lawyer entails "the tracing of the contextual coordinates of the lawyer's work as it is in practice and relating them back to the structure of constraints provided by the law in all its different facets, from managerial and technical, to epistemological. By doing so, a truly realistic account of the every-day advisory and consultative functions of the lawyer - in our context all the actors involved in the use of legal English and interested in effecting changes - can be brought under examination"; see Olli Korhonen, International Lawyer: Towards Conceptualization of the Changing World and Practice, in: JENS DROELHAMMER/ MICHAEL PFERDE (Eds.), The Internationalization of the Practice of Law, op. cit. (EN 3), p. 373-384. This methodological option is in line with a "turn to the person of the lawyer" as the main and pivotal reference point and actor in the legal process. According to the philosophical foundations of Gadamer and Jaspers, the concept of situation represents a standpoint that limits the possibility of vision. Our situations and, consequently, our imaginative freedom are conditioned by the factual realities of the economic, sociological and political world, the human epistemic abilities and the variety of personal and ideological affiliations and developments.

- In the social sciences (economics, management and political science), the use of legal English is well developed.
- Swiss law continues to enjoy an above average degree of recognition outside Switzerland.
- There are still several countries making express reference to Swiss law as a model for their own national statute laws.
- Switzerland as a small nation has a tradition of giving high priority to matters of international law.
- Switzerland will be exposed to the freedom of legal services, the recognition of diplomas as well as the freedom of establishment based upon the bilateral agreements between Switzerland and the EU and the GATS-agreement with the WTO.
- Switzerland has an above average IT-infrastructure and telecommunications infrastructure.

Legal profession and professional organizations:
- Switzerland has a great number of readers of international economic media containing instant and detailed information on English language developments in modern business law.
- Switzerland has an above average internationalized population of academic and practising lawyers, who were mostly trained in Anglo-American graduate schools.
- Switzerland has an above average membership of international professional associations such as the IBA, IFA, AIPPI etc.
- Switzerland has an above average number of law firms of international standing.
- Swiss firms have an above average reputation for delivering services.
- Switzerland is home to the headquarters of a very substantial number of multinational enterprises using English as their corporate language, which includes their legal departments.
- Switzerland has large and sophisticated chambers of commerce such as the Swiss-American and Swiss-British Chambers of Commerce, which act as vehicles for the organization of English speaking professionals.

Education and research:
- The Swiss university reform is gradually increasing the importance of English and legal English in legal education and research.
- Selected Swiss universities are now being subjected to reforms along the lines of the so-called Bologna Recommendations.
Swiss international graduate and post-graduate law programmes emphasize English or use legal English as the teaching and research language.

3. The “Constraints” of the Use of English as a Legal Language in Switzerland

With respect to the change in the use of legal English, one has to accept limitations. They might consist of attitudes, beliefs and opinions affecting the basic willingness and ability to act. Switzerland like any other country in continental Europe has to deal with these constraints and appears to be very well placed to do so.

The constraints may be seen as follows:
- Due to lack of analysis and data available, those concerned are not fully aware of what the realities are and how and why they affect them.
- It is not generally considered to be a public task or obligation to translate Swiss laws into English.
- It is not generally considered to be a need or obligation of the government to communicate on Swiss law in English.
- The issue of legal English is not perceived as an element of the competitiveness of a nation in an international context.
- There are political sensitivities which make it difficult to put the issue of legal English on the government’s agenda (four national languages).
- There is no governmental interest analysis on the relevance of legal English for the Swiss legal system.
- There is no coordinated legal, educational, foreign, commercial or cultural policy as regards the issue of legal English.
- There is no strategy to deal with these issues.
- There is no systematic analysis of the effects of globalization on the legal system, in particular of the effects of Americanization.
- There is a time lag in understanding the function of international communication on legal systems in English.
- The issue of legal English is generally viewed as exclusively linked to the phenomenon of direct and indirect influence of Anglo-American law.
- Switzerland has only limited governmental instruments and institutions to assess the direct and indirect effects of Anglo-American legal culture on the

Swiss legal system as well as the respective effects of the changing function of legal English.
- Switzerland is not participating in certain key international fora in which internationally relevant law is developed and in which legal English is used.
- And most importantly, those concerned do not consider themselves responsible for addressing or cultivating the issue and are not subject to any obligation to do so.

In the area of legal education and research, some of the “constraints” are:
- The access to Swiss law in English is relatively limited.
- The present academic discourse on the function of English as a professional language in Switzerland does not address the issue of legal English.
- It is incorrectly assumed that the proficiency in English at the end of High School is sufficient to successfully master this new professional reality.
- There is no compulsory training in legal and professional English at university level.
- We generally make no effort to understand and deal with Anglo-Saxon distance learning techniques.
- Generally, we do not provide sufficient training in international legal research and the new research tools of the Internet.
- In many cases Swiss libraries lack law books in English.
- There are no Swiss bibliographies on law, which include publications on Swiss law in English.
- The possibilities of teaching English at university level are not yet sufficiently developed.
- The possibilities of writing theses in English are not sufficiently explored.
- Anglo-Saxon and Anglo-American law are only taught selectively at Swiss law schools.
- The possibilities of publishing on Swiss law in English in Swiss law journals are still limited; the possibilities of publishing legal books on Swiss law in English in Switzerland and have them distributed outside Switzerland, are limited.
- There are only a few Swiss law professors teaching outside Switzerland in English.
- Swiss academics in general do not publish in English.
- The possibilities of appointments of Anglo-Saxon law professors to chairs at Swiss law schools are limited.
- There is relatively little active participation of Swiss legal scholars in Anglo-Saxon legal scientific communities.
- Unlike in European law, there are no special institutes for Anglo-American or American law at Swiss universities.

Lastly, in the area of professions and professional and academic associations, we have observed the following "constraints":

- Generally speaking professional and academic associations in Switzerland do not deal often enough with their topics in English.
- Switzerland does not have an association like the Deutsch-Amerikanische Juristenvereinigung in Germany, which is a forum broadly fostering the use of professional English in legal matters.
- The Cantonal and the Federal Bar Association do not integrate the international practice of law and legal English into their organizations.
- There is very little analytical writing on this issue by Swiss legal professionals in the professional media, which leaves writing about the Swiss legal market and the Swiss legal system to non-Swiss authors writing in English for non-Swiss publishers outside Switzerland and often only selectively distributed in Switzerland.
- There appears to be some decline in the numbers of Swiss lawyers acting in executive functions in international professional associations, despite the fact that Swiss membership in these associations is way above average.
- The skills programmes of the Swiss professional associations, for example those on negotiation, are not being taught in English and do not include special courses in legal English.
- Continuing legal education within law firms does not generally include formal training in legal English.
- There may also be some time lag in Swiss law firms in introducing modern tools of information technology such as the Internet on law, which are of particular relevance for the use of legal English.

---

VIII. Elements of a Strategy to Deal with English as the Language of Law in General

The Federal and State governments have to be seen as interested parties in the network of those concerned about legal English. Despite the fact that English is not an official language, governments may be seen as having a duty to formulate a public policy with regard to legal English. This entails a series of key questions such as

(i) why a re-orientation (language policy in a changing world)?
(ii) what lies ahead of us (chances and risks)?
(iii) what position do we want to take and how do we want to act (goals and strategy of a specific language policy)?
(iv) how do we realize this strategy (our means of language policy)?
(v) what decisions lie ahead of us (open questions and assessment of proposals)?

This presupposes that governments realize and accept the need for governmental analysis and action in the first place. A strategy in the area of legal policy and in particular of language policy with respect to legal English would have to address

(1) the continued "competitiveness" of the legal system, (2) the continued compatibility, acceptance and recognition of a particular legal system in an international context, (3) the ability to communicate effectively on a particular legal system (in our case the Swiss legal system).

Elements of such an international strategy of legal policy include:

(i) raising awareness of the effects of globalization on the legal system, profession and education,
(ii) ensuring adequate compatibility and interoperability of the lawyers participating in the network through information, education and active communication of a particular (in our case the Swiss) legal system,
(iii) participation in bilateral and multinational governmental relations and international organizations to pursue respective "governmental interests",
(iv) determination of official positions on law within the framework of globalization and contribution to the general "competitiveness" of a particular country (in our case Switzerland) by legal means. All this raises the issue of the allocation of resources from the perspective of:

(1) legal, foreign and foreign trade policy,
(2) the IT-competence of the national economy in the area of legal English,
(3) the policy of education and research,
(4) language and cultural policy,
(5) the institutions of legal policy such as the legislator,
(6) the administration and application of law and the strategic leadership of such legal policy.

In the area of legal policy with regard to Switzerland we would suggest for example:

- systematically analyzing the effects of globalization on Swiss legislation with a special emphasis on Anglo-Saxon developments
- defining the issues of the cross-sectional relevance in legal policy, foreign affairs policy, foreign trade policy as well as educational and cultural policy
- refocusing Swiss legislation with the aim of increasing the competitiveness of the legal system vis-à-vis the Anglo-Saxon world
- making the management of successful strategic positions in Swiss legislation an on-going task vis-à-vis the Anglo-American world
- establishing a cross-sectional minimum standard for the use of legal English by Government
- requiring federal administrations to selectively perform certain (cross-border) functions in English
- forming a special section at the Department of Justice to compare Anglo-American law with European law, including the issues of legal English
- providing an official or government-approved English translation of key parts of Swiss legislation
- testing compatibility of new legislation with European and Anglo-American law
- including English as a special quasi-official language where it appears necessary
- refocusing the approach of the Swiss Institute of Comparative Law on Anglo-American law and on the use of legal English
- compiling a thesaurus for the use of legal English with reference to Swiss law under the auspices of e.g. the Department of Justice and the Swiss Institute of Comparative law
- forming an interdisciplinary task force to assess the relevance of legal English for Switzerland

- extending the theory based description and periodic reporting on Swiss law in English as practiced within the WTO, OECD etc. to other key areas of Swiss law
- including a bibliography on Swiss law in English in the governmental website updated by the Swiss Institute of Comparative Law
- publishing the annual report of the Swiss Federal Supreme Court in English
- publishing the (annual) reports of the Federal administration in English
- increasing the capabilities and capacity of the Federal Chancellery translation office
- establishing an Anglo-American working group studying the migration of English (legal) terminology into the Swiss legal language and ultimately the Swiss legal system.

In the area of science, research and technology policy, we suggest that it would be appropriate to:

- finance research centres and institutes at Swiss universities specializing in Anglo-American law, in particular in legal English, and set up specialized libraries for Anglo-American law, comparable to the Swiss Institute for Comparative Law
- encourage the National Fund for Research to finance a project on the analysis of law, language and legal English as a professional language from a linguistic and legal perspective
- extend the research project of the Federal Office of Education and Research regarding English in Switzerland to include the issue of legal English in Switzerland
- coordinate the implementation of the Bologna Recommendations to include the education and training in Anglo-American law and legal English as a compulsory subject in the curriculum of Swiss law schools
- influence the “virtual campus” project involving a number of Swiss universities to give a certain priority to dealing with Anglo-American law and legal English
- commission a supplementary report to the report on the strategy for the advancement of information technology in Switzerland with a report on the influence of the Internet and information technology on the use of legal English in legal matters
- formulate a communication policy in English for political emergency situations
IX. The Need for a Strategy in the Area of Education and Research

It is fair to say that proficiency in English at university entrance is insufficient for professional purposes after graduation. Training in legal English must therefore be integrated into the law school curriculum so that the proper foundations can be laid before practical self-teaching takes over. The high level of self-teaching in legal English amongst professionals indicates the necessity for more formal education in the future.

Legal English is not systematically taught at university level and there is not enough research into the function of legal English with respect to globalization. Opportunities for students to learn legal English at university are often lacking or not pursued.

With regard to a strategy for education and research one has to bear in mind the implementation of the Bologna Recommendations in the European university systems. As education is ongoing, more emphasis has to be placed on professional education. This also applies to legal English.

In the area of education on the level of university governance and organization we suggest that the following proposals are given further consideration:

- forming a sub-strategy for the law faculties of continental European universities to deal with the effects of globalization on legal systems, professions and education
- forming a strategy concerned with legal English as part of the above
- providing for a consistent strategy for the use of English, particularly legal English in the graduate, post-graduate and continuing legal education programmes of the universities
- appointing a dean for academic foreign relations with a focus on aspects of (legal) English
- providing for an information infrastructure to facilitate teaching on globalization and the use of the English language
- refocusing libraries to improve the available English language material, in particular with regard to the international legal process
- providing international cooperation to increase student mobility into the Anglo-Saxon world and selective teaching and research joint ventures in subjects in which the English language is used
- fostering a culture of teaching, writing, publishing and consulting in English

- encouraging interested parties such as the corporate sector and the legal profession to actively participate in teaching and research in cutting-edge fields in which English is used and which otherwise are unlikely to be taught in law schools
- determining areas of teaching and research to be taught in an integrated international and interdisciplinary manner across the relevant social sciences and provide for an adequate use of English, particularly in legal English
- requiring that in every subject taught, the major literature in English is referred to and the respective terminology used throughout the curricula
- facilitating summer clerkships in the Anglo-Saxon world
- providing appointments for Anglo-Saxon professors
- providing special chairs for practising international lawyers from the Anglo-Saxon world
- entertaining a programme for English speaking guest professors and guest lecturers

In the area of education at law school governance and organization level we suggest the following for further consideration:

- offering a general course on the effects of globalization on legal systems, professions and education
- offering courses on Anglo-American law
- maintaining comparative law as the pivotal subject for understanding the international legal process as well as Swiss law itself in view of the realities of the principle of territoriality
- obliging professors teaching Swiss law to teach the terminology in legal English and make it part of the examinations
- establishing minimum requirements in every subject with reference to the respective situation in Anglo-Saxon law and a specific reference to legal English
- having legal English taught by an Anglo-Saxon professional as a compulsory course throughout law school
- encouraging applicants to take TOEFL-tests before entering law school
- using distance learning methods in English
- teaching international legal research as a basic course
- standardizing the participation in international moot court competitions, which are usually in English

1 It should be noted that e.g. at the University of Zurich more than 20% of the tenured professors of the law faculty hold an LLM degree.
- encouraging the organization of student-run bodies in international organizations
- establishing a philosophy of open access for students to courses taught in English in graduate and post-graduate programmes at the university
- encouraging students who want to earn money while studying, to work in institutions and firms in which legal English plays a central role
- encouraging students to work as summer clerks in clerkship programmes in Anglo-Saxon legal institutions and consulting firms.

In the areas of research on globalization and the use of the English language at university level, we suggest the following for further consideration:

- to conceive research programmes on the effects of globalization on legal systems, professions and education, stressing selective issues of the “international legal process”, primarily undertaken in English and legal English
- to engage in international research cooperations in order to assure access to international research, in which the English language and legal English in particular play an important role
- to determine and follow a language strategy in research with respect to sources, writing, publication and written and oral discourse across the universities
- to make legal English a specific research topic from the linguistic and the legal perspective along the lines of the concepts for research described in the report on English in Switzerland by the Federal Office of Education and Science, (2001)2 and the plans described in Richard J. Watts/Heather Murray, eds. Die Fünfte Landesprache? Englisch in der Schweiz, of the Academic Commission of the University of Bern (2001)3
- to commission a research project in the area of law and communication, analyzing the specific impact of the communication of the international legal process in legal research, modern media and the Internet on the range and use of legal English in scientific and professional contexts
- to form a group of librarians to analyze the issue of access to Swiss law in English in all media used in the present knowledge generation, management and distribution on a continuing basis
- to convince professional and scientific associations to conduct research on the use of English and legal English, within their associations in order to clarify, enhance and improve the use of legal English in the areas concerned

2 See I/N 5.
3 See I/N 3.

- to create an international standard of proficiency in legal English and develop methods to standardize the education in legal English at an international level.
X. Strategy for the Legal Profession and Professional Associations

We now turn to the legal profession and professional organizations and the role they play in the development of legal English. These professionals have a responsibility to target and actively discuss the effects of globalization on the legal world.

In view of the paradigmatic changes in the legal profession we have expanded the scope of our survey to include professional service firms. This is warranted by the fact that these firms have an integrated, world wide, internal and external English based language culture using legal English. These professional service firms have become the pre-eminent organizations in education and training as part of their human resource management structures and are very sophisticated in the generation, management and distribution of knowledge in legal matters. All these activities are pursued in English, which also functions as the corporate working language for the business areas concerned in a tailor-made, standardized form. There is formal legal English training in many of these organizations and the documents used to provide legal services are largely standardized and accessible through information technology throughout the organization and partly to major clients.

Further observations can be made with respect to the challenges faced by the professional associations on a national and international level. In view of the growing lack of homogeneity of the professional population on a national level and the growing competition amongst specialized professional organizations and associations, the Bar Associations are rather reluctant to reorganize themselves in order to address these challenges. In dealing with the changes in the "international process of law" they are competing with legal chapters of organizations such as the American and British chambers of commerce and the international professional organizations, which have a particular focus on those areas of legal practice in which legal English plays a prominent role.

With respect to the education and training in legal language, we note that both national and international professional organizations are heavily involved in training and education in legal practices in various specializations and in dealing with the general effects of globalization. Some are involved in formal training in legal English.

1 See JENS DROLHAMMER, op. cit. 18N., p. 457 et seq.
XI. Further Challenges in an Age of Globalization

Firstly, globalization is gradually being subjected to extensive globalization studies’ programmes dealing with legal matters, generally conducted by Anglo-Saxon institutions in English.

Secondly, there has been a sharp increase in globalization issues, related information and communication in our information society which has brought about a new awareness and research integrated in cutting-edge globalization studies. This brings about a complex inter-linking between law and communication, a phenomenon which has as yet hardly been analyzed1.

English is the language of globalization and its communication. This also holds true for legal English in the area of communication and law. This emerging body of globalized knowledge will produce yet another layer of lingua franca use of English and legal English.

If we consult the recent book by John Braithwaite and Peter Drahos, Global Business Regulations (2000), we are faced with the use of the following theoretical tools. The applicable methodology is developed primarily by looking at a “context of actors” (states, international organizations of states, businesses, individuals, epistemic communities), a “context of principles” (content, properties of principles), “mechanisms of globalization” (military cohesion, economic cohesion and systems of reward, modelling, reciprocal adjustment and non-reciprocal coordination, transaction capacity building), “regulatory webs and globalization sequences” (webs of influence, dialogue, reward and cohesion) all leading to a processual theory of contests of principles and the foundation of a theory of modelling. The same can be inferred from David Held, Anthony McGrew, David Goldblatt and Jonathan Perraton, Global Transformations, Politics, Economics and Culture (1999), and from Globalization: the Reader, Anthony Bynon and David Dunkerly (ed.), (2000)2, which contain special extracts in the areas of globalization culture and globalization media and technology. The presently leading globalization project at the Kennedy School of Government of Harvard University uses the theoretical con-


The function of English as a language and of legal English as a professional language has not yet been made an express topic even if one consults contributions by Neal M. Rosendorf, Social and Cultural Obligation: Concepts and America’s Role\(^6\), Viktor Mayer-Schönberger and Deborah Hurley, Globalization of Communication\(^7\) or Arthur Izak Applebaum, Culture, Identity and Legitimacy\(^8\). This lack of in-depth language analysis also applies to the analysis of the effects of globalization on the legal world. Research, information and communication activities to do with globalization will also bring the language issue in focus. The legal dimension of globalization and globalization analysis will be considered a part of that process and therefore legal English will also play a prominent role.

Obviously, one should add the quasi-hegemonic function of English in the New Economy and the Internet to this new potential function of English. As Kenichi Ohmae, (Vier strategische Imperative für die New Economy), rightfully underlines, English is the de-facto-language of the Internet and the New Economy and thereby confers on the English speaking regions of the world a remarkable lead in many forms of commercial activities carried out through the Internet\(^1\). We therefore propose to add the issue of the relevance of the Internet for English and legal English to the above-mentioned emerging function of English and legal English in globalization.

XIII. Defending Your Own: The Necessity of Communication in English

It will become increasingly important for non-English speakers from non-Anglo-Saxon jurisdictions to be able to communicate their own values and concepts of legal systems, professions and education in English in order to make themselves heard and understood by the English speaking legal community. This form of internationally orientated self-defence or self-assurance will be an important and very considerable challenge.

In this context, effectively and efficiently dealing with the Anglo-Saxon concept of professional roles is a key area of concern, because the direct and indirect harmonization of legal professions and educations has gone beyond what most people have anticipated.

There appears to be a fundamental lack of mutual knowledge of relevant legal cultures. We believe this to have been underestimated and the effect insufficiently considered with regard to developing a strategic effort to increase the ability to operate and communicate between the various members of the legal professions on the international scene. Without an increase of awareness with respect to the issue of communication and without an active change in the culture of understanding, we will all miss out on a key part of the reality of the "international legal process".

Promoting or defending your own law and your own legal system necessitates mastering the communication of one's law (and one's values) in the lingua franca of the international legal profession and of course the same applies if one wishes to promote a particular choice of law in international transactions.

XIV. English is the Language of Law – A Call for Further Action from a Transatlantic Perspective

We would like to sum up our thoughts and considerations and put them in a broader context as follows:

English has become the lingua franca not only for international trade and relations in general, but also for almost all cross-border legal transactions and international legal issues in particular. The function of professional legal English has fundamentally changed in recent years for the International Lawyer¹ and English has become the lingua franca of the International Practice of Law. The internationalization of all business activities and also of dispute resolution has been accompanied by the internationalization of lawyers who advise on international business transactions and the resolution of related disputes². Major law firms headquartered in London, New York and Frankfurt have become worldwide networking enterprises with partners in major offices around the globe. English and to a lesser extent American law firms have emerged as early leaders in this globalization trend³. The trend of international business and legal practice which has had such an impact over the last two decades, is unlikely to change in the near future⁴. Rapid improvements in communications, the dismantling of financial and currency barriers and the waning significance of language barriers with the widespread option of English as a world language of business will do nothing but further the process of internationalization of all business, financial and commercial activities. As a consequence, the relevance of the international practice of law will continue to grow⁵.

Law follows the language, and language often carries the law⁶. With the Anglo-Americanization of law a new phenomenon has also arisen: English is the Language of Law.

⁵ PHILIPPE NOUVEL, op. cit. N. 2, p. 190-205.
⁶ Or as the nursery rhyme would say: "Law piggy-backs the language".
Addressing cross-border and/or multi-jurisdictional legal issues is very likely to require an understanding of the Anglo-American common law as well as the civil law system. While these two far reaching bodies of law share many similarities, many of the approaches to legal issues differ fundamentally\(^7\) and are an indication of what is commonly labeled as the difference between two legal cultures.\(^8\)

Notions like the International Practice of Law or the International Lawyer are also a clear indication of the changed function of the use of the English language in the legal professions outside of the Anglo-American world. An interesting new perspective in this context is, that the legal system, the legal profession and the capability of the international practitioners of a country have become a relevant factor in the comparison of the political and economical relevance of a country. English has become the language of law, and in particular the language of business and commercial law - the capability of a country and its legal professionals to communicate about its legal system and its law in English is essential in the world-wide competition between the different national legal systems.

It is however obvious, that a lot of in-depth research is required to better understand the background of these developments, reflecting the different national legal systems and laws. In the wake of internationalization the issues of a special professional language for instance, have to be analyzed; such analysis would have to deal with the fact that certain markets for legal (and financial) services are technocratized and denationalized to the point that the same *lingua franca*\(^9\) is being used by the participants of a specific professional sub-community in the major economic centres of the world. These new special "languages" which are self-explanatory to everyone do not need translation as such and are used as and when the need arises. Legal English as a technical language and linguistic system can only be understood if the underlying legal system (or more precisely law) is also understood. The complex relationship between law and language from the viewpoint of commensurability and translatability\(^10\) requires further specialist analysis.

---

\(^7\) It appears, however, that in many areas the difference are over-emphasized and the similarities often neglected. In addition, the often over-emphasized differences between Anglo-American law as being case law and civil law as being codified is, if at all, a rough rule of some indicative relevance only. For years now, the observation can be made that Anglo-American law has increased codification while civil law increasingly relies on case law.

\(^8\) See e.g. ELDING TOWSEND, Bridging the Common Law - Civil Law Divide in Arbitration, Arch. Int. Vol. 18, No. 1, p. 59 et seq. and the further references above in N. 8.

\(^9\) Of speaking *extra nunc* as described by MARY JANE MORRISON, Excursions in the Nature of Legal Language, 37 Cleveland State Review 334 (1989).


---

From a practitioners perspective it seems that law often follows language and language often carries the law. Furthermore, it appears that form (language) begins to govern substance (law) through translation and the terminology of the language into which legal concepts are translated as well as the terminology of the language from which legal concepts are translated take on a life of their own. Once a legal concept such as breach of contract starts to be used - by translation or otherwise - with regard to e.g. one of the continental European legal systems, the notion of breach as perceived in the Anglo-American legal system starts to impact the approaches under the applicable substantive (continental European) law\(^11\). Observations also show, that those lawyers who have a better mastery of the language of the potentially applicable law also impose the legal concepts of such law which they know best or consider favourable to their clients.

Procedure already has been privatized (through arbitration) and we are now witnessing that the law as such (the actual substance of law) is also being privatized by what is commonly called lex mercatoria. This again is largely a language driven development and therefore Anglo-American dominated.

Moreover, it is wrong to assume (or fear) that the internationalization of legal practice has brought about a compatible internationalization of substantive legal developments as such\(^12\); the predominant use of English as a legal language blurs the conceptual and institutional differences between the various legal systems and legal cultures of the world. Unfortunately, this blurring has been accompanied by a decline in comparative law and international law as teaching and professional subject\(^13\). It would be wrong to argue that the dominance of English in professional matters merely expresses a tendency for Anglo-Americanization. This might hold true with respect to the influence that Anglo-Saxon international law firms are having on the practice of law in international Continental European (and Swiss) law firms as a whole. However, the need for English goes way beyond dealing with this American - or nowadays also British - challenge. Internationalization has brought with it the need to have English as a lingua franca amongst many different members of the legal professions.

The first reason for the agenda-orientation of this essay is the obvious and marked gap in academic analysis of the phenomena behind the observations

---

\(^11\) Fascinating distortions can e.g. be observed with regard to the absorption of the Anglo-American concept of trust by civil law systems, see NEIDM PETER Vogt, Disputes Involving Trusts, Basle/Matric et al 1999, p. 7 et seq.


made. This vacuum in the area of law and language can best be characterized by Patrick Glenn's article Commensurability and Translatability, or more precisely its subtitles "commensurability of language-dependent concepts" and "translation of language-dependent concepts".  

The second reason is the obvious and substantial effect of Americanization, even hegemonization of the commercial world by the United States. This source of concern is best characterized in a text by Christian Mair, "The Continuing Spread of English: Anglo-American Conspiracy or Global Grassroots Movement?", pitting an exploitation theory against a grassroots theory accounting for the spread of English, which yet again does not specially deal with the relationship of law and language in that context. 

This essay attempts to identify the "opportunities" and "constraints" of the political actions necessary to increase the capabilities and willingness to act. We believe that all those concerned should assume their own particular responsibility. Our observations of the Swiss professional reality can only be a first step. In the future a continental European perspective should be developed as the start of a more adequate academic, action oriented response to dealing with the issues at stake namely confronting the Anglo-Americanization of the "international legal process" from a transatlantic perspective.

---

16 Mair, op. cit. N. 15, p. 158.

---

<table>
<thead>
<tr>
<th>Political value of English</th>
<th>exploitation model</th>
<th>grassroots model</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>imperialist language</td>
<td>post-imperial language</td>
</tr>
<tr>
<td>Chief cause for post World War II spread</td>
<td>organized/controlled language planning following Anglo-American master plan</td>
<td>Donor-driven, decentralized rational choices by individuals and groups</td>
</tr>
<tr>
<td>English is the language of...</td>
<td>Anglo-American capitalist interests</td>
<td>Modernization and globalization</td>
</tr>
<tr>
<td>English is...</td>
<td>a language that conveys an Anglo-Saxon/Western world view</td>
<td>an ideologically neutral language</td>
</tr>
<tr>
<td>English...</td>
<td>transforms recipient societies (usually for the worse)</td>
<td>is transformed by recipient societies (rise of New Englishes)</td>
</tr>
<tr>
<td>Chief beneficiary of &quot;global English&quot;</td>
<td>British and American capitalist interests</td>
<td>usually some segment of local users</td>
</tr>
<tr>
<td>Evidence for view proposed</td>
<td>historical analysis pointing out open and hidden continuities; evaluation of official statements of policy; and expert opinion (EFL professionals, writers, etc.)</td>
<td>strictly synchronic and descriptive sociometric analysis</td>
</tr>
</tbody>
</table>

---

XV. Further Reading and References

1. Alphabetical Listing

Alternatt Urs, Sprachblocke und Sprachneutralitaet, Lecture at the Dies academicus of the University of Fribourg 1 Br., November 15, 1996.


Beumani Moea, English as a lingua franca in the French-speaking part of Switzerland, Freiburg 1996.


Chomsky N., Cartesianische Linguistik, Tübingen 1971.


Coulibaly Florain, European Integration and the Idea of the National Language, in: Coulibaly, Language Policy, p. 1 et seq.

Coulibaly Florain, Der Westen auf dem Singen? Das Internet wirft die Frage nach einer Universalalschrift auf, Neue Zürcher Zeitung, April 22, 2002.


Crystal David, The Cambridge Encyclopedia of the German Language, Cambridge University Press, Cambridge, Mass. 1987, with an overview on further literature (p. 447 et seq.) and an overview on all areas that are referred to in the main text (p. 451 et seq.).


Fisher Roger, Beyond Machiavelli (with Kopelman Elizabeth and Kipfer Schneider Andrea), 1994.
Fisher Roger/ Sharp Alan, Getting it Done, how to lead when you are in charge, 1998.
Fulhamann Manfred, Bildung, Europäische kulturelle Identität, Stuttgart 2002 (Education, Europe's Cultural Identity).
Glenn Patrick H., Comparative Law and Legal Practice: On Removing the Borders, 75 Tulane Law Review 2001, p. 977 et seq.
Goldstein Tara, Two Languages at Work: Bilingual Life on the Production Floor, Berlin 1997.

Grin François, Langue et différentielles de statut socio-économique en Suisse, Rapport à l'Office fédéral de la statistique, Département d'économie politique, Genf 1996.

Haarmann Harald, Soziologie und Politik der Sprachen Europas, München 1975.

Haarmann Harald, Multilingualismus, Tübingen 1980.


Haarmann Harald, Monolingualismus versus Selective Multilingualism us – or the Future Alternatives for Europe as it Integrates in the 1990s, Linguistica 5 (1991), p. 7 et seq.


Herriman Michael, Burnaby Barbara (eds.), Language Policies in English-Dominant Countries, Clevedon 1996.


Müller, Max,


Murray Heather, Dingwall Silvia, English for Scientific Communication at Swiss Universities: "God helps those who help themselves", in: Babyonios 4/97, p. 54-59.


Neumann Rainer, Voluath Jann (eds.), Corporate University, Strategische Unternehmens-entwicklung durch massgeschneidertes Lernen, Zürlin/Hamburg 1999, in particular Corporate University im Internet, p. 185.

Neumann-Dießberg Horst, Newsletter, p. 3-39.


Nusbaumer Martin, Sprache und Recht, Studentenbibliographien Sprachwissenschaft, Heidelberg 1997 (Language and Law, Bibliography, Philology).


Pinker, Words and Roles, the Ingredients of Language, New York 1999.


2. Topical Listing

This section is meant to help the reader to pursue his own readings and studies. The publications listed herein deal also with issues not directly addressed in our essay on English as the language of law.

A. Globalization


Berger Peter L./ Huntington Samuel P. (eds.), Many Globalizations, Cultural Diversity in the Contemporary World, New York 2002

B. Internationalization and English Language


Ammon Ulrich, / The dominance of English as a language of science effects on other languages and language communities, Berlin 2001.


C. American Hegemony?

- Bergsten C. Fred, America and Europe: Clash of the Titans?, Foreign Affairs, March/April 1999, p. 20-34.

D. Language and Codes

- Chomsky N., Cartesianische Linguistik, Tübingen 1971.
- Stevin James, The Internet and Society, Oxford 2000.
E. Language and Law

Baumann Max, Recht und Rechtssprache, in ZSR 1990 I, p. 79 et seq.


Coulmas Florian, European Integration and the Idea of the National Language, in: Coulmas, policy, p. 1 et seq.


Elemente einer Rechtsetzungsliteratur, Zürich 1999.


Neumann-Dilaberg Horst, Sprache im Recht, 1949.


F. Internationalization and Language


Burgela-Chiappini F., Harris S., Managing Language: The Discourse of Corporate Meetings, Amsterdam/Philadelphia 1996.


Fisher Roger, Beyond Machiavelli (with Kepelman Elizabeth and Kipfer Schneider Andra), 1994.

Fisher Roger, Sharp Alan, Getting it Done, how to lead when you are in charge, 1998.


Furmann Manfred, Bildung, Europas kulturelle Identität, Stuttgart 2002 (Education, Europe’s Cultural Identity).
Mara Viviane,

Maritny Dieter,

Matsui Ugo

Newsletter,

Purushottam Nirmal

Reeves N.

Reimann Mathias,

Reimann Mathias,

Reimann Mathias,

Reimann Mathias,

Reimann Mathias,

Roulatt Norbert,
Les politiques juridiques de la France dans le domaine linguistique, Revue française de Droit Linguistique, Bulletin numéro 35, p. 517 et seq.

Schiffmann Harold,
Linguistic Culture and Language Policy, New York 1996.

Stone Douglas
Putton Bruce/Mein Scholz, Difficult Conversations, 1999.

Uly William,

Zimmermann Reinhard,

Wint Ruth,

G. Aspects of Internationalization of the Legal Practice

86

Conce Sidney M. III.

Déstal Yves

Déstal Yves

Déstal Yves


Economist,

Fine Toni M.,

Franzon Hans,

Galante Mare

Glück Alfred,

Glendon Mary Ann,

Glennon Mary Ann,
Global Boom, Goldman Daniel, Goldman Daniel,
Goldman Daniel,
Gressin Julian,

Heinz John P./


Haskett James L.,

Haskett James L./
Murray Peter,

Nemunait Rainer,
Volunte Joham (eds.), Corporate University, Strategische Unternehmen, Württembergisches Landes, Zürich/Hamburg 1999, in particular Corporate Universities im Internet, p. 185.

Paulus Andreas L.,

Rausch Arndt,

Report

Scott Mark C.,

Stevens Mark H.,

Streit Michael,

Trube D.M.

Vagts Detlev E.,

Vagts Detlev E./

Vagts Detlev E.,

Vagts Detlev E.,

Vagts Detlev E.,

Vogt Nedim Peter,

Wasserstein Bruce,
I. The English Language in Switzerland


Bunemann Monya, English as a lingua franca in the French-speaking part of Switzerland, Freiburg 1996.


Dürmüller Urs, Multilingual Talk or English Only? The Swiss Experience, Sociolinguistics, 5, 1994, p. 44-64.


Dürmüller Urs, Mehrsprachigkeit im Wandel, Zürich 1996.


Gris François, Language Policy in Multilingual Switzerland: Overview and Recent Developments, in: ECMF Brief No. 2 (March), Freiburg 1999.


Lötzerich Andreas, Der Stellenwert der Verständlichkeit in einer Hierarchie kommunikativer Werte von Gesetzen, in: Watts Richard J./Wicher Iwar (eds.), Perspectives...


Stählin Corinne, English as a lingua franca at the work place: A case study at an international company in Switzerland, Bern 1996.


K.

Language and Communication


3.

Access to Swiss Law

Access to Swiss Law is a new series of books which will primarily address topical issues in order to facilitate the access to certain defined areas of Swiss law to the English reading lawyer. The following volumes of this new series Access to Swiss Law will be published in the near future: