



**6 DEGREES
6 DEGRÉS**

Centre for International
Governance Innovation



Final Report

CLOSED SHOPS:
OPENING CANADA'S LEGAL PROFESSION TO
FOREIGN-EDUCATED LAWYERS

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INTRODUCTION

Miriam El Ofir was born and raised in Casablanca, Morocco. The daughter of a Moroccan father and French-Canadian mother, she is fluent in Arabic, English and French. After graduating from Casablanca American School in 2009, she — like most of her peers — decided to go abroad for university.

In 2012, Miriam began studying law at Queen Mary University of London, a law program that *The Guardian's* 2018 University Guide ranks as the third best in the United Kingdom, and first in Greater London.¹ In the course of her studies, the British government started changing its visa requirements, making it more difficult for international students — and in particular non-Europeans like Miriam — to obtain work visas after graduating.

Miriam knew she did not want to return to Casablanca. Not only is Morocco a civil-law jurisdiction (which her common-law education had not trained her for), she did not want to join a legal profession that is male-dominated and corrupt. “I didn’t want to prepare all night for a case only to realize it was unwinnable because the other side had been bribed,” she noted dryly.

So Miriam set her sights on Canada. A Canadian citizen by birthright, she knew she would not face any immigration hurdles. And since Canada is a predominantly common-law country,² she was confident her legal education had equipped her to practise here — in particular since she had taken a number of the Canadian law courses that Queen Mary offers to the Canadian students who study there.

When asked if she was aware of the challenges she would face becoming a lawyer in Canada, Miriam’s refrain was one the author heard repeatedly in her conversations with internationally educated lawyers. “Not at all,” she said emphatically. She had thought that, if anything, coming from England would lend an element of prestige to her qualifications. And surely being fluent in both official languages could not hurt either. Little did Miriam know she was about to try breaking into Canada’s closed legal profession — one in which foreign credentials are treated more as a liability than as an asset.

1 See www.theguardian.com/education/ng-interactive/2017/may/16/university-guide-2018-league-table-for-law.

2 With the exception of Quebec, the Canadian provinces and territories are common-law jurisdictions. Quebec is a mixed jurisdiction, with common law for its public law and civil law for its private law.

STARTING A DIALOGUE ABOUT CANADA'S CLOSED LEGAL SHOP

Nearly two years after immigrating to Canada, and tens of thousands of dollars poorer,³ Miriam is currently still looking for employment. She is one of the hundreds of internationally educated lawyers who come to Canada each year with the goal of practising law. Many of these lawyers are Canadian citizens; many are new immigrants. In general, these individuals will face far more obstacles to becoming licensed and employed as lawyers than those who come up through the Canadian legal education system.

Some of these internationally educated lawyers will get there eventually⁴ — often after years of trying and considerable expense. Others will never make it. As David Ben, a French lawyer observed: “When you come here, the feeling from the NCA [National Committee on Accreditation] is that you’re not welcome: we’ll make your life so hard, we’ll either break you and you leave; or maybe you’ll pass the requirements, but it will be almost impossible to find a job.”

Like David, many of the internationally educated lawyers interviewed for this report described feeling unwanted, isolated, discouraged and depressed as they worked toward becoming licensed and gainfully employed. Clearly, there is room for Canada to improve how it integrates these talented individuals, who tend to have strong work

ethics, global outlooks, diverse work experiences and mastery of multiple languages.

This report aims to start a dialogue about the key barriers internationally educated lawyers face in Canada’s licensing and employment processes,⁵ and makes recommendations for how *unnecessary* barriers can be mitigated or dismantled. Barriers are considered unnecessary if they are not relevant to testing an individual’s professional competency, or make it unduly difficult for internationally trained lawyers to achieve licensure or employment relative to their Canadian counterparts. These recommendations are directed at a variety of stakeholders, including the NCA, provincial law societies, law schools, fairness commissioners, legal employers, immigration officials and internationally trained lawyers themselves.

3 Miriam enrolled in Osgoode Hall Law School’s master of laws (LL.M.) for internationally trained lawyers. In 2017, tuition is \$24,132 for domestic students, and \$35,500 for international students.

4 See Zietsma (2010); Augustine (2015b); and Cambridge Professional Development (CamProf) (2017, 20).

5 This report is national in scope, although it focuses predominantly on the provinces with common-law jurisdictions, and within that subset, focuses most on Ontario’s system, as 64 percent of all common-law licensing candidates go through Ontario’s licensing process, and 57 percent of all internationally educated lawyers became licensed in Ontario in 2015.

Crucially, these recommendations are not aimed at getting the legal profession to relax its high standards, either directly or indirectly. It is assumed that the public is well served by a profession that holds all lawyers to exacting educational, experiential and ethical requirements. And it is recognized that this commitment to high standards will mean, in some cases, that internationally educated lawyers are not able to practise as lawyers in Canada.

However, as conversations⁶ with internationally trained lawyers and members of Canada's legal community made clear, many internationally educated lawyers are struggling to become accredited, not due to a lack of ability, but because they lack many of the supports that Canadian-educated lawyers enjoy. Where this is the case, the system is failing these individuals, forgoing an opportunity to increase the strength and diversity of Canada's legal profession, and impeding access to justice by Canadians who require legal services.

This report begins by discussing some of the data on disparities between Canadian and internationally educated lawyers, as well as important industry trends. It then reviews the processes for becoming a lawyer in Canada — both as a student in the Canadian legal system and as a foreign entrant — and highlights the ways in which foreign lawyers face unique barriers in these processes. Finally, it makes a series of recommendations for how these barriers could be addressed.

The Challenge

Match Rates

Canada's immigrant population is, in general, highly educated. But skilled immigrants are frequently underemployed and undercompensated. One 2011 study found that foreign education is valued at about 70 percent of a Canadian credential, while international work experience is frequently not rewarded at all (Augustine 2015a).

Within the legal profession, hundreds of internationally trained lawyers immigrate to Canada each year, and hundreds of Canadian citizens return to Canada after obtaining law degrees abroad (Law Society of Upper Canada [LSUC] 2017a).

Many of these internationally educated lawyers will never practise in Canada (Augustine 2015b). A 2010 study evaluated 2006 census data to determine how well individuals' fields of study matched their occupations in Canada (what the study calls "match rates") (Zietsma 2010). As seen in Tables 1 and 2, match rates were found to differ significantly between Canadian-educated and internationally educated immigrants, and of all 15 regulated occupations that the study assessed, law was by far the worst. Only 12 percent of internationally educated lawyers were "matched" to legal jobs, compared to an average match rate of 24 percent for all occupations, and a match rate of 84 percent for internationally educated chiropractors.

As seen in Table 2, the disparity between Canadian-educated and internationally trained lawyers is also substantial at 57 percent. In other words, Canadian-educated lawyers are far more likely to practise as lawyers. Of course, it is significant that the match rate for Canadian-educated lawyers is only 69 percent; this likely reflects the fact that the supply of lawyers exceeds demand in some markets (Prism Economics and Analysis 2016), and the fact that many lawyers leave legal practice to work in other fields.

Using 2011 National Household Survey data, a 2014 study replicated the 2010 study's methodology and had similar findings (Augustine 2015b). In the five years between the first and second studies, the match rate rose slightly for internationally educated lawyers, to 13.3 percent nationally, and 14.3 percent in Ontario.

The match rates cited in the 2010 and 2014 studies may no longer reflect current realities. In 2017, the NCA engaged the consultancy CamProf to

⁶ For the purposes of this project, the author interviewed numerous internationally educated lawyers, as well as Canadian immigration officials, immigration lawyers, regulators, employers and professors.

Table 1: Canadian Professions with the Least Disparity in Employment Match Rates, 2006

Profession	Canadian born and educated		Internationally educated		Gap (in percentage points)
	Total	Employed in profession of training	Total	Employed in profession of training	
Engineers	167,260	42%	157,930	19%	23
Nurses	78,880	73%	13,150	56%	17
Occupational therapists	9,345	82%	560	65%	17
Chiropractors	5,745	87%	345	84%	3
Total study population	937,050	62%	284,080	24%	38

Source: Office of the Fairness Commissioner (OFC) (2013, 33).

Table 2: Canadian Professions with the Greatest Disparity in Employment Match Rates, 2006

Profession	Canadian born and educated		Internationally educated		Gap (in percentage points)
	Total	Employed in profession of training	Total	Employed in profession of training	
Veterinary medicine	6,580	83%	2,225	29%	54
Optometry	2,760	95%	340	38%	57
Law	82,615	69%	11,295	12%	57
Total study population	937,050	62%	284,080	24%	38

Source: Ibid., 34.

undertake a comprehensive program review of the NCA,⁷ which is one of the key stakeholders in Canada’s licensure process. It found that both the volume of applications that the NCA receives from internationally educated lawyers and the number of Certificates of Qualification⁸ it issues, increased dramatically between 2008 and 2016 (see Figure 1). An increase in the number of Certificates of Qualification issued would not necessarily result in higher employment outcomes for internationally educated lawyers (and, by extension, higher match rates), but the changing

licensure landscape may have had a positive impact on the match rate in recent years.

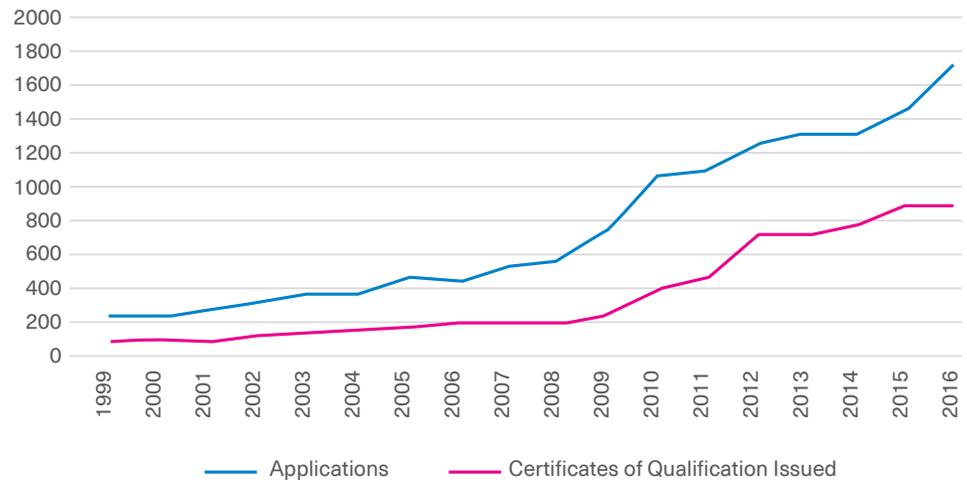
Labour Market Trends

It is also important to recognize that the legal profession as a whole is undergoing change. This creates new challenges for Canadian and internationally educated law graduates alike. As the LSUC observed in a recent report, “slowing demand for legal services and a rising supply of law school graduates have weakened labour market outcomes for new lawyers aspiring to enter the profession.... As the supply and demand

⁷ The results of CamProf’s review are summarized in the report, “Program Review of the National Committee on Accreditation for the Federation of Law Societies of Canada” (known as the Program Review Report).

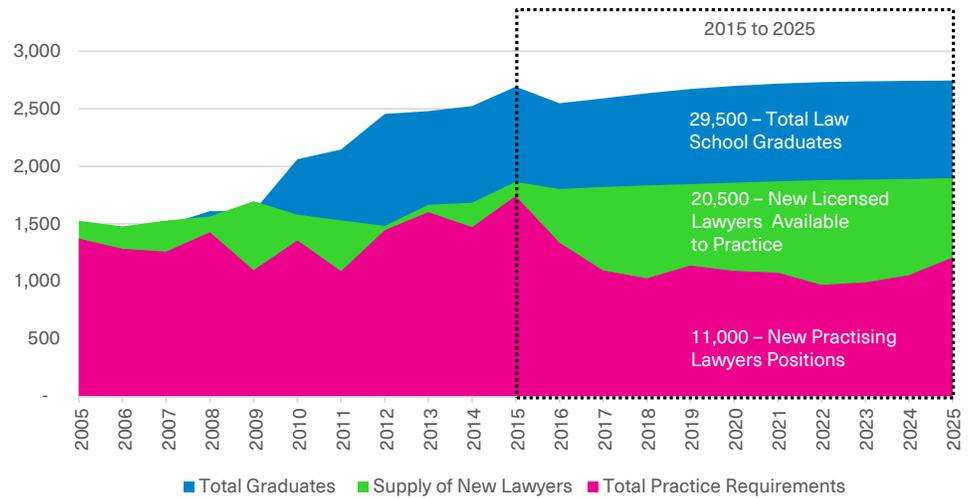
⁸ Certificates of Qualification are discussed in greater detail below.

Figure 1: Volume of Applications and Certificates of Qualification



Source: CamProf (2017, 20).

Figure 2: Annual Change in Supply and Demand for New Lawyers in Ontario, 2005 to 2025



Source: LSUC (2017b). Reprinted with permission.

trends intensify, future cohorts of law school graduates will face greater competition for fewer articling positions and falling earnings. *They will increasingly need to leverage their law degree to seek employment outside the legal profession*” (LSUC 2017b, 25, emphasis added).

A 2016 analysis of the Ontario market by the Higher Education Quality Council of Ontario found that the number of lawyers already exceeds demand in the

province, and is expected to increase significantly in the next 10 years. As seen in Figure 2, by 2025, the number of law graduates in the province is expected to exceed new practising positions by 16,800 (ibid., 40). These challenges are addressed in some of the recommendations discussed later in the report.

THE LICENSING PROCESS IN CANADA

While this report focuses on the obstacles foreign lawyers face in the Canadian legal system, it is necessary to understand the pathway to law within Canada in order to appreciate the challenges internationally trained lawyers face in context.

It is also important to acknowledge that Canadian law students must invest substantial time, money and effort into becoming qualified lawyers. In every province, candidates must complete a law degree, bar admissions or professional training course, and an experiential component. Most of these processes are competitive and costly⁹ and, increasingly, Canadian law graduates are by no means assured of good jobs.¹⁰

Education

From start to finish, the process for becoming a lawyer in Canada's common-law provinces takes at least seven years, counting the three years of undergraduate studies that are a prerequisite for admission into most Canadian law schools¹¹; the three years of law school; the months of study that go into bar courses and exams; and the experiential component, which runs between eight and 12 months.

Applicants to law school are generally required to demonstrate strong academic performance in their undergraduate courses. Additionally, almost

all of Canada's 20 common-law programs require applicants to submit a Law School Admission Test (LSAT) score, and to have performed competitively on it. The average LSAT score of students at most law schools is very strong, ranging from a 74th percentile class average at some schools to a 93rd percentile class average at others.¹²

Quebec is a mixed civil-and-common-law jurisdiction, so students receive a different legal education, but the process for licensure is largely the same as in the common-law provinces. In Quebec, students must complete a three-year degree at one of the province's five law schools or at the University of Ottawa; write a licensing exam; and complete six months of legal training.

Bar Admissions Course and Exams

Every province and territory requires law candidates to complete a bar admissions or professional legal training course (CamProf 2017, 7 and 8). While the subject matter is consistent across the provinces and territories, the length and format varies (OFC 2010). In Quebec, the course runs for four weeks;

9 The average cost of a three-year law degree in Canada is now \$34,285, and that figure can be considerably higher depending on the program one attends. Students graduating from the University of Toronto or Osgoode law faculties, for example, can easily have more than \$100,000 in student debt.

10 Currently, approximately 3,000 students graduate from Canada's 20 law schools each year. A 2016 study commissioned by the Higher Education Quality Council of Ontario projected dire labour trends for the law profession, estimating that by 2026, there will be 1.6 lawyers for every legal job (Prism Economics and Analysis 2016).

11 Or at least 90 credit hours at a university, which is equivalent to three years of full-time study. In many provinces, most undergraduate programs involve four years of study. Many law school applicants have also completed master's degrees. See Office of the Fairness Commissioner (OFC) (2010).

12 See www.oxfordseminars.ca/LSAT/lSAT_profiles.php.

in British Columbia, it runs for 10 weeks; in many provinces, it runs the full length of the articling term (discussed below). In Ontario, British Columbia and Quebec, applicants must also pass formal licensing examinations; in the other provinces, the evaluations are staggered and included in the bar admission or professional training course (ibid.).

Ontario and British Columbia require candidates to write both barrister and solicitor licensing exams. In Ontario, each exam costs \$750¹³ to write (which is frequently paid for by a student's articling employer), and must be completed within seven hours. Ontario's bar exams are open book and multiple choice, and comprehensively test the minimum requirements expected of both barristers and solicitors in the profession.¹⁴ Candidates are permitted to write the exams up to three times (or four, in exceptional circumstances).

In Ontario and British Columbia, many law students study full time for their exams for approximately four to six weeks. Law candidates are often accommodated in this process by employers who are willing to defer their employees' start dates until after the date of the bar exams, in order to provide them with adequate time to study.

Experiential Requirement

Articling

During law school, the vast majority of Canadian law students line up articling positions, which are professional internships in which articling students work under the supervision of licensed lawyers. The required length of articling varies between the provinces, from six months in Quebec to between nine and 12 months in the other provinces and territories (CamProf 2017, 7 and 8).

Within Canada's largest cities, legal employers will often recruit law students from Canadian law schools during their second or third year of law school. This recruitment process is known as the

¹³ See www.lsuc.on.ca/licensingprocess.aspx?id=2147489426.

¹⁴ Test takers must demonstrate proficiency in hundreds of individual competencies that professional regulators have determined to be most critical and frequently performed in Canadian legal practice.

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on-campus interview (OCI), in reference to the fact that law firms and other legal employers send recruiters to campuses (or nearby convention centres) to meet with numerous students over a couple of days. They will then invite the ones they are particularly impressed by to their offices for more in-depth job interviews.

Depending on the size of the employer and its workplace needs, employers will often extend summer job offers to a number of law students. These summer positions typically lead to salaried articling positions for these students, after their third year of law school. The OCI recruitment process is highly regimented,¹⁵ and greatly facilitates Canadian law students' entrance into the legal job market.

Law Practice Program

In 2014, Ontario's LSUC rolled out a pilot Law Practice Program (LPP), which is an eight-month alternative to the articling process in Ontario.¹⁶ The LPP was designed to enable law candidates who are unable to line up articling positions to fulfill the law society's experiential requirement for licensure.¹⁷

The LPP is divided into two parts: four months of virtual training, conducted through either Ryerson University (for English students) or the University of Ottawa (for French students), and a four-month work placement. In its first year, there were approximately 230 students in the LPP, almost all of whom received work placements (typically with sole practitioners or small firms). In the second year, all students received placements. In both years, just over two-thirds of the placements were paid positions (usually very low wages). Students in the LPP can apply to many employers, but are required to accept the first work placement offer they receive.

In September 2016, LSUC's Professional Development and Competence Committee recommended that the LPP be discontinued after its third year (LSUC 2016). The committee expressed concerns about the program's financial sustainability, its role in creating a two-tier system where LPP graduates are regarded as second-tier, and its inability to adequately prepare LPP students for independent practice. In response to a large number of submissions opposing the program's discontinuation, the committee passed a motion in November 2016 approving a continuation of the LPP for the 2017-2018 and 2018-2019 licensing years.¹⁸ If the program is not further extended, it will be discontinued at the end of April 2019.

Professional Practice

After law candidates complete their legal education, bar admissions or professional training course, and experiential requirements mandated by their provincial law society, they are eligible to be called to their province's legal bar. As qualified lawyers, they are free to open their own legal practices, although most new lawyers choose to work for employers in the private or public sectors.

If a student impressed his or her employer during articling, the employer may extend a permanent job offer to the individual at the end of the articling term. If an employer does not hire an articling student back, it may nonetheless assist the person with finding alternative employment, by providing references or by connecting the student with professional contacts.

¹⁵ OCIs are overseen by law schools' career development offices.

¹⁶ See www.lsuc.on.ca/licensingprocess.aspx?id=2147497057.

¹⁷ Law students at Lakehead University in Thunder Bay, Ontario, are able to fulfill the law society's experiential requirement through a combination of in-course training and work placements.

¹⁸ See www.lsuc.on.ca/licensingprocess.aspx?id=2147497057.

THE LICENSING PROCESS FOR INTERNATIONALLY EDUCATED LAWYERS

Given the high educational and experiential standards Canadian-educated lawyers must meet, it is appropriate — indeed necessary — for internationally educated lawyers to meet these exacting requirements as well.

It would create an unfair double standard if foreign lawyers could qualify as Canadian lawyers by meeting less rigorous standards elsewhere. The reputation of the legal profession and the interests of the public could also suffer as well. It is therefore appropriate for the provinces' law societies to establish standards for internationally educated lawyers that ensure these candidates have the competence to practise as lawyers in accordance with Canadian standards.

Each year, there are between 4,000 and 5,000 candidates completing the licensing process in Canada. Internationally educated lawyers make up roughly one-quarter to one-third of this cohort, and their number has been increasing over the past five years (see Figure 3).

Exam Requirements

NCA Assessments

The Federation of Law Societies of Canada's NCA assesses internationally educated lawyers to determine if they have a thorough understanding of Canadian law, equivalent to that of a graduate of a Canadian common-law degree program.¹⁹ Once an

applicant is determined to have such knowledge, the NCA issues the applicant a Certificate of Qualification. In 2015, the NCA received 1,700 applications from internationally educated lawyers (CamProf 2017, 20).

The NCA assesses each applicant on a case-by-case basis. Assessments are based on the NCA's assessment policies. The NCA considers each applicant's individual path, looking at factors such as the type of legal system in place where the person was educated (i.e., common law, civil law, hybrid); the nature of the school's law program; the subject areas studied; the candidate's academic performance; licensure status; and the nature of the person's legal experience.²⁰

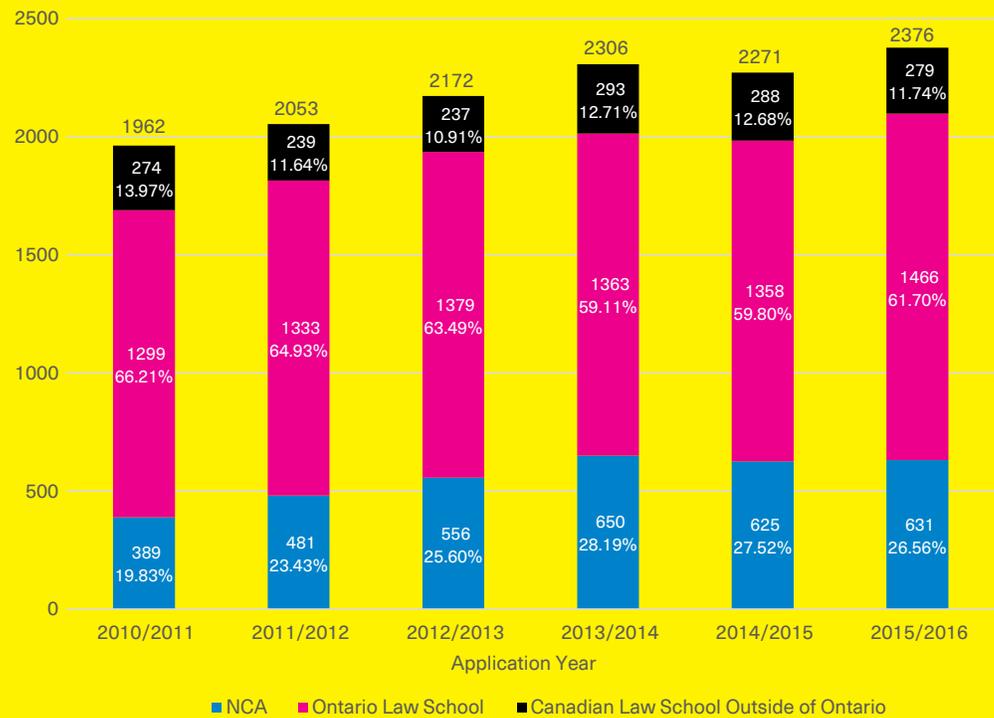
The NCA can require an applicant to do one of three things: pass NCA exams; take prescribed courses at a Canadian law school; or complete a Canadian law degree.²¹ The NCA requires all applicants to demonstrate competency in nine core subjects. An applicant who was educated in a common-law jurisdiction may be exempted from four of these nine subjects (Contracts, Torts, Property and Business Organizations) if they meet the NCA's academic performance policy.

¹⁹ The NCA program serves all law societies in Canada except those in Quebec. The NCA ensures all applicants deal with a single, convenient point of entry (CamProf 2017, 19).

²⁰ See <http://flsc.ca/national-committee-on-accreditation-nca/applying-to-the-nca/how-we-assess-your-file/>.

²¹ Ibid.

**Figure 3:
Applicants by
Education Path**



Source: LSUC (2017a, 18). Reprinted with permission.

All applicants are required to write the following five NCA exams: Foundations of Canadian Law, Canadian Professional Responsibility, Canadian Constitutional Law, Canadian Administrative Law and Canadian Criminal Law.

The NCA may assign additional subjects²² if an applicant took fewer than three years of legal education in a foreign jurisdiction; an applicant does not have any undergraduate education; or an applicant's legal education or experience is stale (which is defined as five years or more from graduation) (CamProf 2017, 9).

The NCA exams are similar to the ones administered in Canadian law schools. They present exam takers with lengthy fictional scenarios that include many legal issues for analysis. Candidates are expected to self-study, and are responsible for obtaining their own course material.²³ Some Canadian law

schools offer support courses or programs for NCA subjects.²⁴ Each exam costs \$340 to write. The five mandatory exams are offered four times a year in major Canadian cities; the exams for the other courses are offered twice a year.

LL.M. Programs

While students are free to fulfill their NCA requirements independently, they can also apply to one of the legal master's programs offered at a handful of Canadian law faculties. These programs are primarily designed to enable internationally educated lawyers to fulfill their NCA exam requirements, and to provide them with a network to access the job market. The programs are very expensive, and space in them is limited:

- York University's Osgoode Hall Law School offers the Canadian Common Law LL.M., which

²² Additional course offerings are: Commercial Law, Civil Procedure, Taxation, Remedies, Family Law, Evidence, and Trusts. See NCA (2017).

²³ The NCA outlines this information in syllabi.

²⁴ See <http://flsc.ca/national-committee-on-accreditation-nca/meeting-the-assigned-requirements/completing-nca-exams/>.

can be completed over one or two years, either full time, part time or by distance. In 2017, tuition for the program was \$24,000 for Canadians and \$35,500 for international students. Osgoode offers many different specializations within this LL.M., four of which are available on a full-time basis.

- The University of Toronto's Faculty of Law offers a Global Professional Master of Laws (GPLLM),²⁵ which runs for 12 months. Students must attend evening classes, as well as Saturday classes every other week. Tuition for the program is \$35,500 for Canadians and \$56,000 for international students.
- The University of British Columbia's Allard School of Law offers the Master of Laws (Common Law) Program, which is a one-year, full-time, course-based program (with a two-year, part-time option). Students must complete a minimum of 30 credits of coursework; the cost is \$850 per credit for Canadians and \$1,000 per credit for international students.

These LL.M. programs attract a variety of students, who often have quite diverse goals. While many enroll for the purposes of fulfilling their NCA requirements and increasing their likelihood of finding employment in Canada, some have no intention of remaining in Canada after completing the LL.M., while others only become interested in becoming licensed in Canada during the course of the program.

Bar Exams

Like Canadian-trained lawyers, internationally educated lawyers must also pass their province's bar admissions course or professional training course. In Ontario and British Columbia, this means passing the seven-hour barrister and solicitor licensing exams. Internationally trained lawyers are much less likely to pass the Ontario bar exams on their first write than Ontario-educated lawyers (see Table 3).

The percentage of students who pass also varies considerably based on the jurisdiction from which the entrants are coming.

There are a number of possible explanations for why internationally educated lawyers are, on average, less likely to pass these exams:

- **Education:** Quebec-educated lawyers, or lawyers from civil-law jurisdictions, have not been educated in the Canadian common-law system, and may struggle especially with the exams. It is notable, for instance, that the number of Quebec exam takers who pass the bar on their first attempt is roughly 50 percent, which is well below the percent of students who pass on their first attempt when educated in foreign jurisdictions with common-law systems comparable to Canada's — namely, the United Kingdom, the United States and Australia.
- **Study time:** In Ontario, law students typically devote four to six weeks to studying for their licensing exams. They graduate from law school at the end of April, receive their study materials in early May and write the bar exams in June. Their employers will often accommodate their study schedules by asking students to start work after their exam dates. Foreign lawyers operate outside of this "schedule." While they receive the study materials months in advance of the exams, many work full- or part-time jobs while trying to study, and many cannot afford to take time off work.
- **Exam indexes:** In Ontario, law students often approach exam preparation collectively and strategically. They form study groups, and divvy up responsibility among themselves for creating detailed exam indexes. These indexes are valuable resources during the exams, enabling students to quickly locate the correct answer to questions in their voluminous bar materials. Foreign lawyers frequently study in isolation. Some purchase exam indexes online from strangers, with little assurance as to their

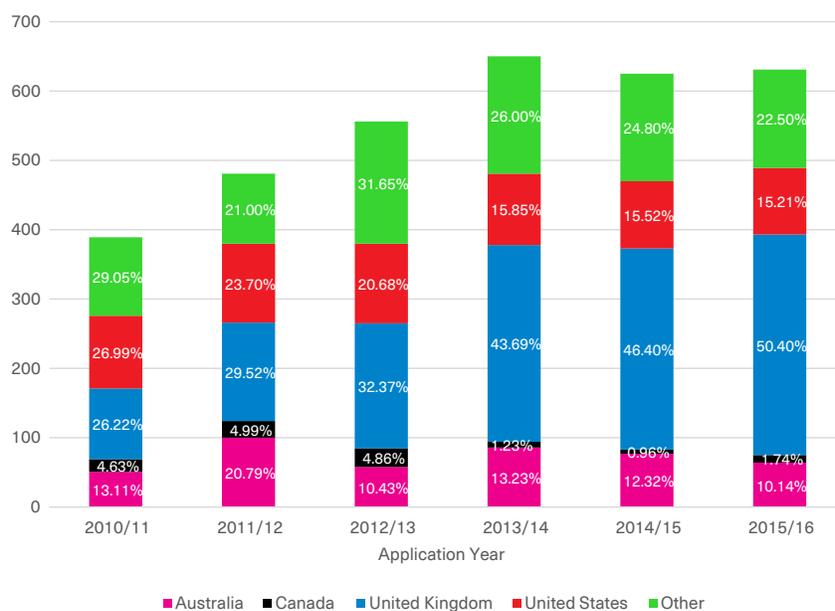
²⁵ The GPLLM is also open to professionals who do not wish to become licensed to practise law, but who want to obtain a professional graduate-level legal education in the Canadian common-law tradition.

Table 3: Three-year Aggregate Licensing Examination Results by Country of Training for Internationally Trained Applicants — First Attempts

	Barrister examination	Solicitor examination
Australia	3-YRS	3-YRS
Number of candidates	220	213
Number passing	146	141
Percent passing	66.36%	66.20%
Canada (Quebec civil-law degree)	3-YRS	3-YRS
Number of candidates	31	28
Number passing	16	12
Percent passing	51.61%	42.86%
United Kingdom	3-YRS	3-YRS
Number of candidates	788	770
Number passing	403	425
Percent passing	51.14%	55.19%
Other international	3-YRS	3-YRS
Number of candidates	408	393
Number passing	139	171
Percent passing	34.07%	43.51%
United States	3-YRS	3-YRS
Number of candidates	268	269
Number passing	197	187
Percent passing	73.51%	69.52%

Source: LSUC (2017a, 30). Reprinted with permission.

Figure 4: Country of Training for Internationally Trained Applicants



Source: LSUC (2017a, 19). Reprinted with permission.

quality. Others write the exams without detailed indexes. Some endeavour to prepare their own indexes, thereby devoting less time to learning the material.

- **Language:** For many immigrant and Quebec exam-takers, English is not their first language. The exams test reading and comprehension abilities. It would be very difficult to perform well on the exams within the allotted time without complete fluency in English.
- **Aptitude:** Some internationally educated lawyers may lack the aptitude to pass these exams. Many foreign-educated lawyers are Canadian citizens who went abroad for their legal studies (see Figure 4). Presumably, many of these students were unable to gain admission to Canadian law schools, which require applicants to demonstrate strong academic and LSAT records. It stands to reason that some of these students — as well as immigrants coming from jurisdictions with laxer admission standards to their legal programs — may lack the aptitude to succeed on these exams.

Experiential Requirement

Internationally educated lawyers must fulfill an experiential requirement, unless they can qualify for a complete or partial exemption based on their previous work experience.²⁶

Foreign entrants often struggle to line up articling positions. There are a number of reasons for this. They are either unable or ineligible to participate in summer or articling recruitment processes. Employers often favour Canadian applicants because they are familiar with the quality of their legal credentials, and are confident they understand Canadian law. International students are less likely to meet prospective employers and form professional contacts. They may also lack

some of the learned social behaviours that are essential to success in job interviews.

Ontario's LPP enables internationally educated lawyers to satisfy the experiential component if they cannot secure articling positions. Many are taking this path: approximately 50 percent of the students in the LPP are internationally educated. Ontario is currently the only province to offer this kind of alternative to articling, which could create its own challenges if it disproportionately incentivizes foreign lawyers to seek licensure in Ontario, when the labour market does not warrant increased demand for legal services.

Presence in Canada

None of the provinces require individuals to be citizens or permanent residents of Canada in order to qualify as lawyers in their jurisdictions (OFC 2010). Many of the licensure steps can be completed outside of Canada, including submitting an application to the NCA, registering with a law society for the licensing process, writing NCA exams, and, in some cases, completing one's articles. The NCA offers exams at six Canadian locations and one other location in Delhi, and has some ad hoc arrangements overseas in cities such as London and Chicago (CamProf 2017, 10). Candidates must be physically present for certain functions, such as writing licensing exams and, in some provinces, attending a province's call to the bar ceremony.

²⁶ In Ontario, Alberta and Quebec, internationally trained applicants can be exempted from this requirement if they have sufficient professional experience. In British Columbia and Manitoba, applicants can have the articling term reduced by as much as one-half if they demonstrate equivalent experience. See OFC (2010).

RECOMMENDATIONS

The purpose of the licensing process — for both Canadian and internationally educated candidates — should be to ensure professional competency. The process should not penalize foreign-trained candidates simply because they are coming from a foreign jurisdiction.

Currently, most of the requirements applicable to international candidates are, on their surface, equivalent to the standards imposed on Canadian-educated lawyers. Indeed, an NCA-issued Certificate of Qualification certifies that the holder's education is equivalent to that of a Canadian-educated law graduate.

Nonetheless, foreign lawyers can be uniquely disadvantaged by the formal licensure requirements in various ways. They lack clarity about the licensure process: what will be demanded of them, what it will cost and how long it will take. They lack institutional and social support when preparing for exams, which use examination methods that are often unfamiliar to foreign students. They are often working full-time, low-paying jobs while trying to meet these exacting, expensive requirements.

In addition, once internationally educated lawyers have obtained their Certificate of Qualification, they often face barriers to lining up articling positions to fulfill their experiential requirement, and, after that, to lining up employment within the legal job market (CamProf 2017, 15). There are a number of reasons for this. Internationally educated lawyers operate outside of the campus hiring processes that facilitate Canadian law students' entry into the legal market. They face skeptical prospective employers, who generally prefer to hire students from Canadian law programs. In some cases, they also lack the learned social behaviours one needs to impress prospective employers.

This section makes a series of recommendations for how unnecessary barriers to licensure and

employment for foreign lawyers could be mitigated or removed. The recommendations are organized around the different stages of immigration, licensure and employment. Since many of the challenges can be best understood from the vantage point of lawyers in the system, this section shares some individuals' experiences, and their recommendations for how the process can be improved.

Transparency around Immigration, Licensure, LL.M. Programs

Nakul Kohli is a 29-year-old Indian citizen and permanent resident of Canada. He studied business and law for five years at Symbiosis Law School, one of India's top-ranked, integrated law programs. After graduating, he worked as in-house counsel at a mining company for several years, before deciding to immigrate to Canada to join his sister, who was studying dentistry at the University of Western Ontario.

Prior to moving, Nakul spoke to a couple of people in the legal profession. He did not receive adequate information about the licensure process he said, or the difficulties of becoming employed as a lawyer. Nakul enrolled in Osgoode's LL.M., specializing in international business law. Once in the program, he spent little time trying to pursue legal work — he realized he wanted to work in transfer pricing, and figured he would almost certainly be unable to secure an articling position.

This is indeed where Nakul finds himself now. He works in transfer pricing at international accounting firm PwC, and really likes the job. When asked

about the value of Osgoode's LL.M. to his career, he said it definitely helped him line up law-related internships, which ultimately led to his current employment. But, he also noted that students who hoped to get articling positions through the LL.M. tended to be disappointed.

Recommendations:

- **Increase labour market awareness.** The government should require internationally educated immigrants to read and certify their understanding of a labour market report discussing current and projected labour market trends for their respective professions.²⁷ The government could provide both national and province-specific reports,²⁸ to ensure immigrants are making educated decisions about where to settle within Canada. Immigrants should be required to certify that they have read and understood these reports before they immigrate, said Gerrit Nieuwoudt, a former director of policy at Canada's Office of the Minister of Citizenship and Immigration.
- **Conduct a new match rate study.** Fairness commissioners and the NCA/Federation of Law Societies of Canada should conduct a new match rate study for the legal profession. The two existing studies on match rates are based on 2006 and 2010 data, and may no longer adequately reflect employment trends within law — not least because there has been a significant influx of internationally educated applicants since 2008 (CamProf 2017, 20), and because Ontario's LPP program has made it easier for internationally educated lawyers to fulfill the province's experiential requirement. A current match rate study would enable regulators to provide internationally educated applicants with an accurate picture of the risks

and challenges they face prior to immigrating, and would also help regulators to focus their efforts on dismantling remaining barriers to entry.

- **Improve NCA transparency.** The NCA has a comprehensive website that presents its program clearly;²⁹ however, the NCA should provide candidates with an estimated timeline for obtaining a Certificate of Qualification, which it could provide after conducting a preliminary assessment of a candidate's file. Numerous NCA candidates expressed frustration with the opacity of the NCA's "case-by-case" approach, which leaves candidates uncertain about the number of NCA exams they will be required to write and the total amount that these exams will cost them.
- **Publish pathway reports.** The NCA and every law society should publish a "pathway" report, which sets out the law society's process, individual and aggregate estimated costs, and expected timeline for achieving licensure. Some law societies already publish pathway documents, but these often fail to disclose pertinent information (such as timeline and aggregate costs). Law societies should also have phone conversations with registrants. Nakul noted, "Immigrants need to be prepared to sustain themselves without professional work for two to three years." The reports should also help applicants to make informed decisions about whether to pursue the licensure process by, for example, disclosing the success rates on exams, Certificate of Qualification attainment rates and information on alternative career opportunities (CamProf 2017, 29).
- **Ensure students understand limitations of LL.M. programs.** Law faculties that offer LL.M. degree programs for internationally educated

²⁷ The requirement for immigrants to certify understanding of labour conditions was one of the most common recommendations made by foreign-educated lawyers, immigration policy advisers, immigration lawyers and law professors.

²⁸ See, for example, Prism Economics and Analysis (2016).

²⁹ As the Program Review Report notes (CamProf 2017, 20), the NCA website has separate web pages describing the program, the assessment process and how to meet assigned requirements and obtain a Certificate of Qualification. It also lists NCA exam rules and information, policies, exam schedules and notices, as well as providing resources such as sample exams.

lawyers should ensure that students are aware of the limitations of their LL.M. programs by requiring them to read and certify their understanding of what the program does and does not offer.³⁰

- **Improve settlement services.** The federal and provincial governments should mandate immigration settlement service providers to work with internationally educated immigrants to ensure they are familiar with labour market conditions and licensure and language requirements, and to assist them with satisfying as many of these requirements as possible prior to immigrating.

NCA Process

David Ben obtained his civil-law degree in France's competitive legal system, and practised for almost 10 years in Paris and London before coming to Canada in 2011. He completed the University of Toronto's LL.M. program, which, at that time, did not help foreign lawyers fulfill their NCA requirements. Despite completing advanced contract and tort law courses in that program, and having extensive work experience with international law firms, David is still working toward obtaining his law licence in Canada today (he did return to the United Kingdom for a couple years after completing his LL.M.).

Now, David splits his time between driving for Uber and studying for the nine NCA exams he is required to write, which will set him back roughly \$3,500. Notwithstanding that he's a University of Toronto alumni, he is not allowed to sign out any of the faculty's books to study, and he cannot afford to purchase the pricy textbooks himself. "There is no financial support or help to prepare," he said. "There is nothing to help foreign lawyers; there is a Facebook group...and the people on Facebook are trying to sell you their notes."

Nakul agreed. "The exams here are much different than the ones in India," he noted. "I failed the first two exams; after I finally sat down with someone who'd written them, I was able to pass. [The fact-pattern testing method] was just a different approach to writing and thinking through the questions."

Recommendations:

- **Offer NCA preparatory materials.** The NCA should provide affordable and electronically accessible study materials to NCA candidates once they register for course exams, along with the syllabus, practice exams and guides the NCA currently provides. The NCA should provide links to agencies that offer materials and course instruction online,³¹ to enable candidates to begin learning the materials prior to immigrating.
- **Provide NCA exam support.** The NCA should publish examples of model NCA exam answers,³² and should offer exam-writing tips through online videos. Canadian law students learn how to write the fact-based law exams with guidance from their professors, access to model precedents and the benefit of study groups. The NCA could also host an online forum on its website that NCA candidates could use to communicate and make arrangements to study in person.
- **Offer micro-loans.** The federal and provincial governments should offer micro-loans to eligible internationally educated immigrants to enable them to move expeditiously through the licensing process. Loans should be scalable to the aggregate costs of licensure for an immigrant's profession, enabling individuals to cover the costs of study materials, preparatory courses, exam fees,

³⁰ Almost every lawyer who went through an LL.M. program for foreign lawyers made this comment.

³¹ NCA candidates also have the option of enrolling in Osgoode's NCA online exam preparation courses.

³² The NCA does currently provide some exam preparation resources on its website, such as NCA practice exams and the NCA guide "How to Answer Fact Based Law Exam Questions." Publishing model exam answers (including examples of excellent, moderate and poor-quality exam answers) would further assist students with their preparation efforts, and would ensure that internationally educated students are receiving exam assistance that is comparable to what Canadian law students receive in law school.

licensure fees and living costs during study periods.³³ The \$5,000 bursaries available to international professionals through the Ontario Bridging Participant Assistance Program is a good example of this kind of bridge financing, although \$5,000 would not be adequate to cover the total costs of the legal licensure process. While aggregate costs will vary based on the number of NCA exams a candidate is required to write, the person's method of preparation, the articling program/LPP fees, and the number of times a candidate must write the licensing exams, the costs can easily range between \$7,500 and \$10,000.³⁴

Licensing Exams

Raj Badami³⁵ is an Indian citizen and a Canadian permanent resident. He did his law degree at Guru Nanak Dev University in Punjab, India, and worked for several years as a litigator on criminal and civil cases before immigrating to Canada. He enrolled in a two-year legal office assistant training program at Centennial College in Toronto to learn the basics of Canadian law. After obtaining his diploma, he landed a four-month, unpaid internship at a law firm.

A year or so later, Raj started working toward becoming a licensed lawyer. He passed all the NCA exams without difficulty, and qualified for an exemption from the articling requirement on account of his work experience back home. The bar exams were trickier though. "I failed the first time," he admitted, "I was working full-time as a legal assistant; it was hard to find the time to study." He was also only making \$15 per hour as an assistant, so it was a strain to register for the exams again.

But after some reflection, he decided to write them one more time. "How long am I going to work as a legal assistant," he thought, "when I'm trained as a lawyer?" He passed the second time around,

and his employer hired him on as a lawyer shortly thereafter.

Recommendations:

- **Offer exam preparatory courses.** The Ontario and British Columbia law societies should offer optional licensing exam preparation courses, either directly or through an endorsed third-party provider. These courses should be optional, but open to Canadian and internationally educated lawyers. The courses would help to ensure exam-takers actually understand the materials that the law societies deem core to competency, and would also provide students with a supportive study community.
- **Publish exam indexes.** The LSUC should provide all registrants with detailed licensing exam indexes, which could be brought into the licensing exams. This would help to ensure exams test students' understanding of the materials, and not their ability to prepare excellent exam indexes. Currently, success on Ontario's licensing exams may depend to some extent on the quality of the exam indexes students are able to create. Canadian law students are able to prepare these indexes in large study groups, while foreign lawyers must either prepare them on their own, go without them or buy them from strangers.
- **Waive exam fees.** The Ontario and British Columbia law societies should waive — or provide a structured payment plan³⁶ for — licensing exam fees for candidates who can demonstrate serious financial need. In Ontario, it costs \$1,500 to write the solicitor and barrister exams, and \$2,800 for the articling program/LPP fee. In British Columbia, it costs \$2,890 to register for the full bar admissions program, which includes the fees for the licensing

33 See <http://ort.fairnesscommissioner.ca/report.php?qid=25&year=2014>.

34 See <http://www.lsuc.on.ca/licensingprocess.aspx?id=2147489426>.

35 Name has been changed at the interviewee's request.

36 The LSUC does already offer financial assistance programs. See www.lsuc.on.ca/FinancialAssistance/.

exams. Canadian law students frequently have these fees paid for by their employers. Foreign lawyers are far less likely to line up articling positions, and far less likely to have these fees covered. The inability to cover these costs could delay or prevent some foreign lawyers from completing the licensing process.

- **Ensure English proficiency.** The NCA, law societies and immigrant settlement agencies should inform internationally educated lawyers as early as possible in the immigration process that English proficiency is essential to success in the licensure process, and should publish language test scores that guide immigrants on the level of proficiency they need to achieve.³⁷

Experiential Requirement

Salma Malik³⁸ is a Pakistan citizen and permanent resident of Canada. She attended law school at Punjab University and practised for eight years in her father's law firm before moving to Canada a few years ago to do her LL.M. at Osgoode. She decided she wanted to stay in Canada, so she completed her NCA exams and — on the advice of some lawyers — decided to article (rather than applying for an exemption) to get some Canadian legal experience.

She was not able to line up an articling position during the Osgoode LL.M. or find a placement on her own. "Networking is really important in Canada in terms of employment opportunities," Salma noted. "In Pakistan, it's a segregated society: men and women are not on equal footing, so I was lacking the social skills when it came to networking." She said she's become a lot better at it, but still finds she does not socialize with others as easily as Canadians seem to.

Salma ended up enrolling in Ryerson's LPP program in August 2015. Through it, she landed a four-month work placement at a real estate law firm in Mississauga that paid just above minimum wage. It was not her first choice, she admitted, but she was happy to work somewhere.

Recommendations:

- **Open legal associations.** Legal associations should provide free memberships or discounted membership fees for law students, NCA candidates, articling students and LPP participants.³⁹ For law students at least, Salma suggested, these associations should provide opportunities to make connections with the legal community.
- **Offer professional mentorship.** Provincial bar associations and law societies should offer mentorship programs that partner licensed Canadian lawyers with internationally educated ones,⁴⁰ and should try to raise awareness about the availability of these programs. Miriam El Ofir applied three times to be matched with a mentor through a number of law associations, but was never paired with anyone. The responsibilities of mentors would not need to be onerous, she noted. "We just need someone who we can approach with questions, and who can help us access a professional network."
- **Expand articling alternatives.** The LPP program should be continued in Ontario in light of its important role in ensuring internationally educated lawyers are able to achieve licensure. Law societies in other jurisdictions should consider offering alternatives to articling as well, or potentially partnering with Ontario's LPP providers — Ryerson University and the

³⁷ The NCA now requires that candidates either have completed their legal studies in English or French in a jurisdiction in which English or French is an official language or have obtained a minimum specified score on stipulated English or French language tests.

³⁸ Name has been changed at the interviewee's request.

³⁹ A number of legal associations, such as the Toronto Lawyers Association and the Ontario Bar Association (OBA), do already offer free memberships for candidates in the licensing process and lawyers newly called to the bar. The OBA website specifically states that students in the NCA process qualify for the fee exemption.

⁴⁰ The LSUC does already offer mentorship through, for instance, its Coach and Advisor Network, which provides lawyers and paralegals with access to shorter-term, outcome-oriented relationships with coaches and advisors drawn from the professions.

University of Ottawa — and having these universities provide the LPP to out-of-province law candidates. This approach would realize economies of scale, and would mitigate the risk of internationally educated lawyers choosing to practise in Ontario on account of the LPP articling alternative (rather than labour market demands).

Entering the Job Market

Matthew Fleming is a partner in the Toronto office of Dentons LLP, a global law firm. A few years ago, Dentons partnered with the Toronto Region Immigrant Economic Council Mentorship Program, which helps immigrant professionals find employment. Matthew, along with a number of other lawyers and staff members at the firm, started volunteering with the program.

About once a year, Matthew mentors a foreign lawyer, usually meeting with the person every week or two for approximately four months. Matthew helps these lawyers with their resumes, making sure they conform to Canadian employers' expectations. He also helps mentees draw out their expertise and present their foreign experience in the best possible light.

Prior to job interviews, he will do mock interviews with mentees (and will rope his colleagues in for help as well). His goal is to get foreign lawyers prepared for the types of questions lawyers are likely to be asked in Canadian interviews.

As part of its commitment to diversity, Dentons also tries to hire one foreign lawyer each year into its articling program. For a global firm, it makes good business sense to do so, given that foreign lawyers often have impressive international work experience, and are fluent in multiple languages.

Recommendations:

- **Provide job advice.** Law firms and legal employers should partner with employment agencies, law associations or settlement service organizations to help mentor foreign lawyers, in particular to help them emphasize

their prior work experience on their resumes and in interviews. “We want people with experience,” said Chris McKenna, the recruitment officer at Bennett Jones LLP. “It helps if someone’s worked at a firm or company with a recognizable name. If that hasn’t been someone’s experience, applicants need to figure out how to differentiate themselves.”

- **Equalize application opportunities.** Firms should encourage or require job applicants to apply through an online common portal that is accessible to applicants outside of the summer or articling student recruitment processes. Some Toronto law firms, for example, have started to require candidates to apply through VI Portal. These kinds of portals not only make it easier for candidates to submit applications, they can “also level the application field,” said Shannon Leo, a recruitment officer at Cassels Brock LLP.

Quasi-legal Roles

Stephen Green is one of the founding partners of an immigration law firm in Toronto. Like most law firms, his firm employs paralegals that are trained to assist lawyers with legal tasks, such as appearing before small claims courts, provincial boards and agencies on certain matters.

Stephen also employs a woman with a law degree from Israel who is not licensed to practise law in Ontario. The absurdity of being able to send his paralegals off to court but not this trained lawyer is not lost on him. “The legal industry needs to take a look at the paralegal industry’s regulations,” he said. There may be opportunities to enable internationally trained lawyers to qualify as paralegals.

Recommendations:

- **Track non-licensed law graduates.** The NCA, law schools and/or regulators should make a joint effort to track the labour market outcomes of law school graduates who do not become licensed as lawyers. National household and

labour force surveys tend to be too general to provide this information; regulatory bodies' administrative data and membership surveys likely provide the best opportunity to gain insight into the market status of these "lost" lawyers (i.e., those lawyers who begin the licensure process but never complete it). Understanding the types of employment opportunities that non-licensed, internationally and domestically educated lawyers pursue could be used to inform government and regulator policy making.

- **Increase transparency around alternative certifications.** Immigration agencies, the NCA and law societies should publish reports to inform internationally educated lawyers about the alternative legal and non-legal career opportunities that may be available to them if they choose not to become practising lawyers. Within the legal industry, there are many "allied professions"⁴¹: common- and civil-law lawyers, paralegals, law clerks, legal assistants and notaries. Outside of law, licensed lawyers also often have employment opportunities in consulting, management and human resources. These reports could highlight market trends, the accreditation pathway, general costs and timeline for becoming accredited or employed within these alternative careers.
- **Fast-track pathways to quasi-legal qualifications.** Professional regulators⁴² and fairness commissioners should consider whether a "fast track" could be created for foreign-educated lawyers to become licensed paralegals or qualified legal office assistants. According to immigration lawyer Chantal Desloges, it would be nice if there were quasi-legal careers where foreign-educated lawyers could be involved as a paralegal or consultant, to ensure these "people can get their foot in the door and see how the practice of law differs [in Canada]."

Access to Justice

After completing Ryerson's LPP program in April 2016, Salma Malik was called to the bar in Ontario, and by September 2016, had been hired as an associate in a small firm in Elliot Lake, a town of 11,000 people in northern Ontario. Salma had not expected to work in northern Ontario, but when she had not heard back from the Mississauga-based real estate law firms she had applied to, she decided she could not afford to wait around any longer.

A year into her position, Salma spoke enthusiastically about the job. The community is laid back, she says, and the people are very nice. She's also gained a wide range of practice experience. In addition to handling real estate and estate matters, she is now also doing legal aid work, acting as duty counsel and accepting cases from Ontario's Office of the Children's Lawyer. "So far it's been a wonderful experience," she said.

Salma wants to return to Toronto eventually for personal reasons. When she does, she will be capable of serving a far broader range of clients than she would have if she had joined a firm in the Toronto area right after being called to the bar.

For years, Canada's legal profession has been wrestling with how to improve access to justice for Canadians who have modest legal needs in areas such as family, immigration, real estate, estates, criminal and civil law. Salma's experience provides one solution: lawyers can learn to meet these needs, if they are trained on how to do so.

In addition to mitigating the access to justice crisis, equipping lawyers to become sole practitioners capable of providing basic legal services to "ordinary" Canadians would be one way for the profession to address the growing labour market imbalance lawyers face in some provinces. If demand grew to include services required by ordinary Canadians, and more firms were in the business of providing affordable basic legal services to this segment of the population, the supply of lawyers may not exceed

⁴¹ This term appears in the Program Review Report (CamProf 2017, 32).

⁴² Since 2007, the LSUC has been the regulator of the paralegal profession in Ontario.

demand for legal services. Currently, new lawyers may simply lack the training and confidence to start up firms that cater to this type of clientele.

Recommendations:

- **Train lawyers to run law firms.** Canadian law schools or law societies should offer law courses, intensive seminars or short legal clinics that instruct interested law students and foreign lawyers on how to run their own law practices, bring in legal work (including through legal aid or other government service providers) and perform basic legal tasks commonly required in small legal practices.
- **Consider unconventional job opportunities.** Foreign lawyers who are keen to practise law should consider accepting legal opportunities in less conventionally desirable markets, at least as a way of getting experience and building professional contacts.

Fairness Commissioners

In 2006, Ontario became the first jurisdiction in the world to pass fair access legislation,⁴³ which aims to narrow the gap in licensing and employment outcomes between Canadian and internationally educated professionals. The legislation led to the creation of the OFC, which is mandated with ensuring everyone who is qualified to practise in a regulated profession or trade in Ontario can get a licence to practise.

The OFC encourages regulators to identify “acceptable alternatives” for meeting licensing requirements. It also conducts biennial assessments of each regulator, reviewing their registration practices, making recommendations and monitoring implementation (Augustine 2015a). The OFC is governed by two key principles:

- all requirements for licensing should be relevant and necessary to the practice of a profession; and
- competencies are more important than credentials.

Manitoba,⁴⁴ Nova Scotia⁴⁵ and Quebec⁴⁶ have all passed fair access laws and appointed fairness commissioners as well.

Fair access legislation and commissioners appear to be having a positive impact. Ontario experienced sizeable growth in internationally educated licence holders in the five years following the implementation of its fair access legislation, as well as slightly improved match rates for immigrant professionals (Augustine 2015b).

Recommendations:

- **Extend fairness commissioners’ reach.** The large provinces that currently do not have a fairness commissioner — British Columbia, Alberta and Saskatchewan — should consider creating similar offices. The Atlantic provinces might benefit from having a fairness commissioner that is responsible for overseeing the entire region.
- **Expand the fairness mandate.** Provincial governments should consider expanding the mandate of fairness commissioners to look beyond licensing barriers to employment barriers as well. A 2014 study revealed that the OFC may have been responsible for the increase in licensing rates for internationally trained lawyers, but that this did not necessarily translate into higher employment rates, which suggests that merely breaking down barriers at the licensure stage may not be enough to level the playing field.

43 The Fair Access to Regulated Professions and Compulsory Trades Act, 2006, requires regulators to ensure that their registration practices are transparent, objective, impartial and fair.

44 Manitoba’s fairness commissioner began work in 2008.

45 Nova Scotia’s review officer began work in 2012.

46 Quebec’s complaints commissioner began work in 2010.

CONCLUDING REMARKS

As Gervan Fearon, the dean of the G. Raymond Chang School of Continuing Education at Ryerson University, noted in 2013: “If we were talking about running a major Canadian corporation or Canadian agency, or...running some of our elite programs in Canada, not for a second would we ask, “Where is that person from?” We would ask, “Can this person make the best contribution to the organization, to society?” And, in some sense, that should be the same language that we apply to our internationally educated professionals in Canada.”⁴⁷

Currently, Canada’s legal system is not structured to ensure all competent lawyers — regardless of their jurisdiction of training — are able to make their best contribution to Canadian organizations and society. To far too great an extent, Canadian licensing and employment processes present obstacles to foreign individuals practising as lawyers, whether it is by layering on hefty licensure fees while turning a blind eye to the financial constraints they face, or offering them expensive educational programs without disclosing their slim odds of landing legal jobs through them, or ignoring the difficulties they face passing exams when they are offered little guidance on how to succeed on them.

Of course Canada must ensure its licensing and hiring processes verify that lawyers from Canada and abroad are competent. No one is suggesting otherwise. But a profession that is committed to ideals like justice and equality should not be comfortable with so-called entry processes that really function as walls — walls that make it difficult for talented outsiders to get in.

Acknowledgement

The author would like to thank Joshua Watts, a J.D./M.B.A. candidate at the University of Toronto, for assisting her with the research for this report. She would also like to thank the many individuals who took the time to share their thoughts about Canada’s licensure process.

⁴⁷ See www.fairnesscommissioner.ca/index_en.php?page=highlight/protection_or_protectionism.

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ACRONYMS AND ABBREVIATIONS

CamProf	Cambridge Professional Development
CIGI	Centre for International Governance Innovation
GPLLM	Global Professional Master of Laws
ICC	Institute for Canadian Citizenship
LPP	Law Practice Program
LL.M.	master of laws
LSAT	Law School Admission Test
LSUC	Law Society of Upper Canada
NCA	National Committee on Accreditation
OBA	Ontario Bar Association
OCI	on-campus interview
OFC	Office of the Fairness Commissioner

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This report would not have been possible without the support of the following individuals:

- Rohinton P. Medhora, President, CIGI
- Charlie Foran, CEO, ICC
- Spencer Tripp, Director of Communications and Digital Media, CIGI
- Carol Bonnett, Publisher, CIGI
- Melodie Wakefield, Graphic Designer, CIGI
- Jennifer Goyder, Senior Publications Editor, CIGI
- Scott Young, Director, Ideas & Insights, ICC

ABOUT

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6 Degrees Citizen Space involves the brightest minds and the boldest methods, bringing thinkers, doers, executives, artists, politicians and civil society leaders together in order to get them talking about what is really happening in the world. The annual three-day Citizen Space took place in Toronto from September 25 to 27, 2017.

CIGI

We are the Centre for International Governance Innovation: an independent, non-partisan think tank with an objective and uniquely global perspective. Our research, opinions and public voice make a difference in today's world by bringing clarity and innovative thinking to global policy making. By working across disciplines and in partnership with the best peers and experts, we are the benchmark for influential research and trusted analysis.

Our research programs focus on governance of the global economy, global security and politics, and international law in collaboration with a range of strategic partners and support from the Government of Canada, the Government of Ontario, as well as founder Jim Balsillie.

Au Centre pour l'innovation dans la gouvernance internationale (CIGI), nous formons un groupe de réflexion indépendant et non partisan qui formule des points de vue objectifs dont la portée est notamment mondiale. Nos recherches, nos avis et l'opinion publique ont des effets réels sur le monde d'aujourd'hui en apportant autant de la clarté qu'une réflexion novatrice dans l'élaboration des politiques à l'échelle internationale. En raison des travaux accomplis en collaboration et en partenariat avec des pairs et des spécialistes interdisciplinaires des plus compétents, nous sommes devenus une référence grâce à l'influence de nos recherches et à la fiabilité de nos analyses.

Nos programmes de recherche ont trait à la gouvernance dans les domaines suivants : l'économie mondiale, la sécurité et les politiques mondiales, et le droit international, et nous les exécutons avec la collaboration de nombreux partenaires stratégiques et le soutien des gouvernements du Canada et de l'Ontario ainsi que du fondateur du CIGI, Jim Balsillie.

@cigionline

Institute for Canadian Citizenship

Powered by a passionate and committed national network, the Institute for Canadian Citizenship (ICC) delivers programs and special projects that inspire inclusion, create opportunities to connect, and encourage active citizenship.

The ICC is a national charity co-founded by The Right Honourable Adrienne Clarkson and John Ralston Saul.

Mené par un réseau national passionné et engagé, l'Institut pour la citoyenneté canadienne (ICC) offre des programmes et des projets spéciaux pour inspirer l'inclusion, favoriser les rencontres et encourager une participation active des citoyens.

L'ICC est un organisme caritatif national cofondé par La très honorable Adrienne Clarkson et John Ralston Saul.

6 Degrees Reports

1. *New Canadian Entrepreneurs: An Underappreciated Contribution to Canadian Prosperity?*
Bessma Momani. 6 Degrees-CIGI, 2016.
2. *Open for Business: Immigrant/New Canadian Entrepreneurs in Canada.*
Ricardo Meilman Lomaz Cohn and Eric Adebayo.
6 Degrees-Vancity, 2016.
3. *All of Us: What We Mean When We Talk About Inclusion.*
Sarmishta Subramanian. 6 Degrees-RBC, 2017.
4. *Closed Shops: Opening Canada's Legal Profession to Foreign-educated Lawyers.*
Lauren Heuser. 6 Degrees-CIGI, 2017.
5. *Innovation and Entrepreneurship: Powered by New Canadians, Fuelled by Youth.*
Jean-Paul Boudreau and Monica Jako. 6 Degrees-Ryerson-SSHRC, 2017.



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