



**李金艳教授**  
**Professor Jinyan Li**

## 一位中國農村姑娘成為 加拿大法學權威

### 李金艷教授苦盡甘來

1963年一位出生在中國河北省涿縣向陽鄉人民公社一個農家的小姑娘李金艷(Jinyan Li)，憑著自己的努力和把握住加拿大國際發展總署(CIDA)提供的留學機會，克服困難，最後成了加拿大著名的奧斯古法學院的法學權威。她的成功絕非偶然，更不是僥倖，而是苦學奮鬥得來的。

### 農村姑娘遇貴人勤學英文

在市北一個寧靜寬敞的房舍裡，李教授(Professor Jinyan Li)接受筆者的訪談，她是一位謙虛而自信的學者專家，在加拿大法學界的知名度甚高，但相信在大陸移民以外的華人社區，知道她的人並不多。她從來就沒想過要與知名度打交道，但是一位「紅楓傳奇」人物一再的懇求，希望將她奮鬥的故事與年輕一代的華人分享，她幾經考慮終於答應。

根據一位校友所撰的一篇訪問稿「投向遠方的標槍」文中所述，李金艷不但學習方面很有成績，體育運動方面也很有天賦，她在中學時就被選入體育運動隊，曾經創下北京外貿學院女子標槍和鐵餅兩項的紀錄。

60年代大陸農村的教育環境相對較差，英文教學的師資和設備更是不足，李金艷到高中時對英文還是知之甚少。她後來英文學得這麼有進步，倒是一個奇遇。據這篇「投向遠方的標槍」的文章所述，李遇到「貴人」，當時她所就讀的中學操場邊上有個豬欄，負責飼養豬隻的是一位老先生，談吐不俗，氣質高雅，李金艷幫著他餵豬，老先生看這位來自農村的姑娘善良聰慧，交

談之後才知道這位長者是美國耶魯大學畢業的知識份子，文革中被打成反動學術權威，此時正在涿縣農村接受勞動改造。這一老一少成了忘年之交，她幫老先生餵豬，老先生教李金艷學英文，1980年高考，李金艷的英文成績名列河北省最高分，老先生對她的啟發，讓她受益匪淺。

### 六年考獲三個法學學位

她早年在河北省涿縣就讀的小學，由於師資和設備的缺乏，三個不同年級的學生都在同一班上課，涿州中學畢業後，1980年她以河北省英語最高分的成績，考進北京外貿學院（後來改名為對外經濟貿易大學），1984年她以外貿英語專業本科畢業後，再繼續攻讀法學碩士，第二年她獲得加拿大國際發展總署(CIDA)提供的獎學金，被派往加拿大學習，由訪問學者轉成研究生，由1985至1991年，她以6年的時間，先後獲得皇后大學法學碩士，多倫多大學法學博士(JD)和約克大學哲學博士學位(PhD)，期間她接觸了大量的法律文獻，不論是閱讀和論文寫作都突破了困難。由於她的專業知識和學歷，她不必經由實習和考試就取得律師的資格，同時在加拿大著名的貝克律師事務所擔任法律顧問和律師的工作。

此期間，她每週的日程都排得滿滿的，每天奔波於兩個大學校園和一個律師事務所之間，平日不是上課，就是在律師事務所打工，周末找資料撰寫博士論文，數年如一日，除了運動就是讀書，除了讀書就是運動，如果不是她擁有健康的身體，這樣緊密的生活節奏，普通人是吃不消的。

1991年，28歲的李金艷受聘為西安大略大學法學院教授，當時她已在貝克律師事務所擔任法律顧問和律師工作，同時她已證明自己可以成為一名成功的律師，但她認為賺錢不是最重要

的，她希望挑戰自己想做一些事情。她覺得在課堂上用不是自己母語的英文去教授法學院的學生，是一項不容易，但有挑戰性的工作，她最後選擇了去應聘當教授。當時西安大略大學法學院的教授都是白人，只有她一位是華裔，但通過她個人的努力，證明她的實力是足以勝任教職的，1996年，她從助理教授(Assistant Professor)升為副教授(Associate Professor)，再升為終身教授(Professor)。

### 從西安大到奧斯古法學院

1999年，李金艷再轉到約克大學奧斯古法學院(Osgoode Hall)任教，當時的法學院長莫納漢(Patrick Monahan)曾有意勸說她出任法學院副院長之職，但被她婉拒，前兩年約克大學進行罷工，法學院長莫納漢調任約大副校長，她才勉為其難擔任了一年的法學院代院長，當時奧斯古法學院正面臨關鍵時刻，有一個投資五千萬元的建築工程正要推出，代院長必須安排許多有關教學研究及人員調配的工作，李金艷和她的同事們逐一克服了困難，奧斯古法學院同仁看出她完全沒有私心，沒有個人利益，對她敬佩有加。關於這件事，李金艷告訴筆者說：「作為院長，應該看整體的利益，不要把自己看得太重，協助每一位同事把事情做好，整個法學院就搞好了。」做了一年的法學院代理院長，今年六月才卸下代院長的職責。

在約克大學奧斯古法學院任教的這些年，李金艷先後擔任法學院招聘和公平委員會的主席，並負責改革法學院高年級的課程。奧斯古法學院(Osgoode Hall)成立於1889年，約大於1965年成立，奧斯古法學院於1967年併入約大，該法學院一向是全國著名的學府，但是課堂教學用的仍是一百多年前的方法，不能適應當今社會的需要，李教授負責課程的改革，輸入許多新的教育

理念。2004年，李金艷贏得了奧斯古法學院年度最佳教學獎，2006年，李金艷被評為正教授。從1991到現在，李金艷以自己的實力和表現，證明了移民亦絕對可以衝破任何障礙，取得成功。

### 精通中加兩國稅務金融法

李金艷的先生陳力，來自中國，南京人，也是運動健將，他們結緣於加拿大，是一位機械工程師，他們育有一名11歲的可愛女兒，儘管李教授在事業和學術上成就非凡，但是她仍然時時督促自己鑽研新的領域，繼續寫書和發表論文。她最專業的領域是稅務法、比較法、退休金法，以及有關中國稅務和金融方面的法律，她曾擔任過美國哈佛大學的訪問學者，也為國際貨幣基金會(IMF)等機構做過法律顧問。她早在1992年就曾參與中國的稅務改革，但是當筆者問她，中國稅務當局到底採納了多少有關她建議改革的事項，她謙虛地表示，中國有它自己的稅務和經濟發展模式，她只能提供一些參考的意見。李教授說，中國以前是計劃經濟，一切公有制，不用徵稅，1979年改革開放之後，才逐漸走向市場經濟，才引進一些外資企業，允許私有財產制，才有徵稅，但是中國走向市場經濟的過程中，並未完全放棄計劃經濟，像國營企業中的鋼鐵、能源、交通等都還在過度時期，「摸著石頭過河」就是這個意思。但是據了解，早年她曾應邀到大陸為一些稅務官員開班上課，其中有些官員的位階已經很高，對稅務改革的影響力很大，這些官員曾告訴她，當年她所提供的建議非常有用。

談到中國的司法和人權改革，她不諱言東西方在這方面的差異太大，中國的司法不是獨立的，屬於「人大」之下，而西方國家的法官雖然由政府任命，但是一旦成為法官，他或她就完全獨立作業，不受任何政治勢力或官員的左右；至於人權方面，雖

然一般人認為是「普世價值」，理論上應該沒有國界之分，但是李金艷指出，人權的實施是有國界的，適用於西方的人權實施準則，在中國並不一定是相同的。這位東西方的法學權威認為這是人文的問題，東西方對於這個問題的觀念不同，國情不同，強求一定的標準是不實際的。她認為，過去20年來，中國在人權和司法領域的進步是很明顯的，透明度已逐漸增加。她希望中國能增加司法和人權的透明度，開放媒體的自由和提升媒體監督政府的功能，如果Accountability很高，她認為即使中共不開放黨禁，仍然是一黨執政，人民也能防止政府濫權。

### 勸勉華人想重返專業應改變思維

較早時她應「中國專業人士協會」之邀請，作了一次公開的演講，以過來人的經驗，獻身說法，她提醒原先在中國從事專業工作的大陸移民，如果想回到專業本行，一定要改變思維模式，專業標準是有國界的，各國有自己的運作機制，你不能橫向切入，說人家不接受你原居國的標準就是種族歧視，這是不現實，也不客觀。李教授說，加拿大有自己的認證標準，你如果選擇走回專業的道路，就必須去適應當地的環境，你不能叫加拿大去適應你、去遷就你。否則的話，你就覺得天天背負著沉重的包袱，到處都覺得受到歧視。



年輕時候的李金艷  
Young Jinyan



李金艷教授與雙親攝於中國。  
Jinyan with her parents in China.



2001年，李金艷教授與先生陳力及愛女  
同遊魁北克。  
Jinyan with her husband, Alex and daughter,  
Joan-Shiao in Montreal, 2001.



李金艷教授與陳力工程師  
於1993年結婚。  
Jinyan and Alex tied the knot  
in 1993.



2004年，李金艷教授與家人同遊  
滿地可(Montreal)所攝時合影。  
Jinyan with her parents-in-law  
in Quebec, 2004.



2000年，李教授一家歡度聖誕。  
Family Christmas photo, 2000.





李教授於1994年獲得執業律師資格。

Jinyan was called to the bar in 1994.



2001年，李金艷博士與約大校長Dr. M. Shoukri(左)及校友會會長Mr. John Tobin合影。

Spring Convocation at York University, Osgoode Hall Law School, 2001:  
[from left] Dr. M. Shoukri, President of York University, Jinyan and Mr. John Tobin, President of Alumni Association.



奧斯古法學院教授和他們的配偶合影，李金艷教授(中排右一)與先生陳力(後排右一)。

Deans of Osgoode Hall Law School with their spouses, 2010: [front row] Prof. Peter Hogg, constitutional law expert, advisor to Governor General during prorogue of parliament (centre),

Prof. Patrick Monahan, Vice-President Academic and Provost of York University (first from right); [middle row] current Dean of Osgoode Law School, Prof. Lorne Sossin (second from left); [back row] Prof. Harry Arthurs, former President of York University and commissioner of several Royal Commissions (4<sup>th</sup> from right); Prof. Jinyan Li and Mr. Alex Chen (middle and back rows, first from right).



2008年，約大奧斯古法學院與多大法學院籃球隊在加航中心舉辦慈善球賽，圖為約大籃球隊隊員合影，圖中右一為李金艷教授，中間持球者為當時的法學院院長莫納漢，現為約大副校長。

Charity basketball game, 2008: Osgoode basketball team against UofT law school at the Air Canada Centre. Jinyan (first from right) with Patrick Monahan, Dean of Law School at that time (centre, holding ball), now Vice-President Academic, and Provost of York University.



## Professor Jinyan Li

*Jinyan Li was born in 1963 to a farming family in a small Xiangyang People's Commune in the town of Zhuoxian, Hebei Province, China. A woman of tremendous character and determination, she took advantage of an opportunity to study in Canada. Overcoming extreme difficulties, Jinyan Li became a leading legal scholar teaching at the Osgoode Hall Law School of York University. Her success was in no way accidental, nor was it by luck; it was purely due to tremendous hard work.*

Professor Li was interviewed at her spacious and quiet home north of Toronto. She is a modest but confident scholar, well-known in the Canadian legal community, but aside from some immigrants from Mainland China, there are few in the public who know her. She has never thought much about fame, but after much urging from another Chinese Canadian Legend Award recipient that she should share her inspiring story of struggle and success with the younger generation of Chinese-Canadians, she finally accepted the nomination for the Chinese Canadian Legend Award this year.

According to an article written by one of her schoolmates: 'A javelin aiming for the stars', Jinyan Li not only excelled in academics, but she was also very talented in sports. In high school she was chosen to be on the sports team. She had also set new school records in discus and javelin throwing events at the Beijing Institute of Foreign Trade (now known as the University of International Business and Economics).

The educational environment in Chinese rural villages in the 60s was very poor, English and mathematics teachers and supplies being always in short supply. Three different grades of students were taught in the same classroom in her village because of a lack of teachers. Even in senior high, Li's knowledge of English was minimal, and it was a

miracle that her English improved so much later in life. According to this article, Li met a mentor by chance. At that time her high school was next to a pigsty. The old gentleman looking after the pigs in this pigsty was uncommonly well-spoken, with an elegant and gracious manner. Li helped him feed the pigs. The old gentleman saw that this young girl was kind and smart. After some exchanges, Li learned that this older man was a graduate of Yale University, and had fallen into hard times during the Cultural Revolution, when he was labeled as a reactionary academic. He was sent to her village to be 'reeducated' through manual labour. The old gentleman and the young girl became very good friends. She helped him feed the pigs, and the man taught her English. As a result, in the 1980 National College Entrance Exam, Li had the highest English test score in Hebei Province. She had learned tremendously from the old man's teaching.

After graduating from high school, Li's high English marks allowed her to enter the Beijing Institute of Foreign Trade, (later called the University of International Business and Economics). In 1984 she graduated from the university with a Bachelor's degree in Economics, and entered a Masters of Laws program. In her second year, she was awarded a scholarship from the Canadian International Development Agency (CIDA) to study at Queen's University, Canada. From 1985 to 1991, in six years, she obtained three law degrees: a Master of Laws (LL.M) degree from Queen's, a Juris Doctorate (JD) degree from the University of Toronto and a Doctor of Philosophy (PhD) degree from York University. Normally, it would require at least 10 years to earn these three law degrees. During this period, she studied a large quantity of legal documents, overcoming many obstacles in both her studies and thesis work. Throughout her studies, she was also working as a legal consultant with the law firm of Baker & McKenzie (Barristers & Solicitors) in Toronto. Due to her professional and academic achievements, she was licensed as a lawyer without any internship or examination. For the years from 1987 to 1991, every day of her week

was solidly filled. Running between the two universities and the law firm, Jinyan was either attending class or working. On the weekend she would be gathering materials for her PhD thesis. After classes and work, she would be either exercising or studying. This went on for a number of years. If she was not as strong or healthy as she was, she would not have been able to survive such a hectic and rigorous schedule.

In 1991, the 28-year-old Jinyan Li joined the law faculty at the University of Western Ontario. At that time she had already been working as a legal consultant and proven that she could be a successful lawyer. However, she did not think that making money was the most important thing. Wanting to challenge herself, she decided to give up a potentially lucrative career as a lawyer to take on the job of teaching at a law school, which would be a challenging task for anyone whose mother tongue was not English. At that time all the professors at the Faculty of Law at the University of Western Ontario were white, and she was the only Canadian of Chinese descent. Through her hard work, she proved that she could do the job successfully. In 1996 she was promoted to be Associate Professor with tenure.

In 1999, Jinyan Li joined the faculty of the Osgoode Hall Law School of York University. During the past few years, the then Dean of Osgoode Hall, Patrick Monahan, tried to persuade her to take on the post of Associate Dean, but Li turned him down. In 2009, Monahan was promoted to become the Vice-President and Provost of York University. Monahan recommended Li to be the interim dean of the Law School, and Li reluctantly took on the post of interim dean for one year. At that time Osgoode Hall was facing quite a challenge because a \$50 million building renovation project was about to be launched. The interim dean must not only manage the “routine” decanal matters, but also the building projects. Research projects and teaching programs as well staff and students’ issues needed to be managed while the entire law school was in temporary locations scattered on York Campus. Li

and her team overcame many difficulties, and received tremendous recognition by her colleagues and York University leadership. By not having a private agenda or any self interest, she gained the utmost respect from her Osgoode Hall peers. On this, Li says, 'As the Dean of Osgoode Hall, I have to consider the overall good, and not to think about myself. If I help each colleague do his or her job well, then the whole school will do well.' Li only stepped down from her Interim Dean position this past June.

At Osgoode Hall, Jinyan Li is the Chair of the Faculty recruitment committee and was Chair of the Equality committee before. She is also a former Chair of the Law School's Upper-Year Curriculum Reform Working Group. While Osgoode Hall was established in 1889, York University was established later in 1965, and the two were merged in 1967. Now the Law school has become the most renowned in Canada, but its hundred-year-old curriculum suffered from century-old thinking, despite constant innovations. The Li-led Curriculum Reform Working Group was responsible for revamping the curriculum to meet the needs of legal education in a changing world. In 2004, Li won the teaching excellence award at Osgoode Hall. In 2006, Li was made a full professor. Li has set an example of how, through hard work and perseverance, immigrants can break down any barrier to succeed.

Li met her husband, Chen Li, in Canada. He was from Nanjing, China, also an athlete. He is a mechanical engineer, and they have a lovely daughter. Although Professor Li's academic and career achievements are stellar, she still insists that she needs to explore new territories, and continues to write books and thesis. Her areas of expertise are in taxation law and policy, social security law, pension law, and Chinese law. She was a visiting scholar at Harvard Law School, and a legal consultant to the International Monetary Fund (IMF), the Organization for Economic Co-operation and Development

(OECD), Canadian governments, and a number of law firms. Since 1992, she has participated in China's tax reforms and development. When she was asked how much of her advice was used by the Chinese authorities, Li humbly replied that China had its own taxation and economic development models, and she could only provide opinions for their reference. Li says that China used to run a centralized planned economy, with everything owned by the government, and there was no taxation. After the 1979 market reforms, they slowly converted to a market economy, allowing foreign investments and private property ownership, and implementing a taxation system. But in this evolving process, China did not give up a centralized planned economy totally. Many industries such as steel, energy and transportation, are still in a transition stage. They are moving step by step and adjusting as they go. During the early years of market reforms, Li was invited to train Chinese tax officials, many of them now occupying high ranks in the administration. Later some of these officials told her that her teachings were very useful to them.

On China's constitutional and human right reforms, she says bluntly that there are huge differences between the east and the west. The main differentiation is that the judiciary in China is not independent and reports to the National People's Congress, whereas in western countries, although the government appoints the judges, the judiciary is fully independent, and not influenced by politics or government bureaucrats. On human rights, although many people feel it is a universal value without national boundaries, Li points out that the application of human rights is dependent on each country's conditions. The implementation of human rights principles in western countries may not be suitable for China. Li, with both eastern and western backgrounds, feels that is a huge social and political issue. The East and the West have different perceptions based on their different backgrounds, cultures and traditions. To force the same standard on both sides is not practical. She also says in the past twenty years,

China has made some obvious improvements in human rights and in the transparency of its legal system. She hopes China can continue to increase the transparency in both human rights and in law enforcement, and that it will allow more freedom of media to function as a government watchdog. If government accountability increases because of this transparency, the people can still exert some influence on the government and may even prevent the government from abusing its power, even in a single-party system where there is no opposition to the ruling communist party.

Earlier this year, she accepted an invitation by the Chinese Professionals Association of Canada to give a speech on her experience. She reminds the immigrants who have worked as professionals in China before and want to stay in the profession in Canada to be open-minded and be prepared to change and adapt to the Canadian environment. Professional standards have boundaries; every country has its own system. One cannot just drop into a new system, and feels being discriminated if their expectations are not met immediately. Professor Li says Canada has its own certification standards. If one chooses to practise in a chosen profession, one has to adapt to the local environment. One cannot expect Canada to adapt to one's individual circumstances. Otherwise a new immigrant may be carrying a heavy burden on their shoulders every day, feeling that they are discriminated everywhere.

These are indeed wise words from a woman who dedicates herself to writing and to teaching the younger generation. Professor Jinyan Li provides a role model, not only for the Chinese-Canadian community but also for the entire legal and academic world, and demonstrates what a Chinese-Canadian immigrant can achieve given the opportunity.