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## Doctoral Studies in Law: From the Inside Out

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Jocelyn Stacey\*

Doctoral Studies in Law: From the  
Inside Out

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*This article explores the purpose, structure and experience of doctoral studies in Canadian law schools. Relying on an auto-ethnographic methodology, where we draw on our personal experience as doctoral students, we identify three tensions in doctoral studies in law. We explore how these tensions—between practice/theory, structure/space, and supervisory/other relationships—emerge from the structure of doctoral studies in law and how they manifest themselves in the lived experience of doctoral students. We detail how these tensions are a product of the ambiguous and underexplored nature of doctoral studies in law. By making these tensions explicit, we encourage doctoral students, law professors and administrators to reflect more critically on the place of doctoral studies in Canadian law schools.*

*Cet article examine le but, la structure ainsi que l'expérience d'études doctorales dans les facultés de droit canadiennes. Inspirées par une méthodologie dite auto-éthnographique, les auteures s'appuient sur leurs expériences personnelles à titre de doctorantes et identifient trois tensions dans les études doctorales en droit. Cet article examine comment ces tensions—soit entre la théorie/pratique, la structure/l'espace et le directeur de thèse/autres relations—émergent de la structure des études doctorales en droit et se manifestent dans l'expérience vécue des doctorantes. Cet article détaille ces tensions comme étant le résultat de la nature ambiguë et peu explorée des études doctorales en droit. En rendant ces tensions explicites, cet article invite une réflexion plus critique par les doctorant(e)s, professeurs de droit et administrateurs sur la place des études doctorales dans les facultés de droit canadiennes.*

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*Introduction*

- I. *Methodology*
- II. *The doctorate as a privileged research space vs the doctorate as job training*
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*Introduction*

Just over 30 years after the Arthurs Report, legal education in Canada today is experiencing a renewed period of dynamic conversation, reflection and change.<sup>1</sup> Debates on the future of law school<sup>2</sup> and its relationship to the legal profession abound. Many commentators even suggest that legal education faces a “crisis.”<sup>3</sup> Without going this far, we can certainly observe that many significant changes are afoot. Law schools are placing greater emphasis on experiential and clinical learning;<sup>4</sup> law professors are moving

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1. See e.g. Social Sciences and Humanities Research Council of Canada, *Law and Learning/Le droit et le savoir. Report of the Consultative Group on Research and Education in Law* (Ottawa: The Council, 1983); Task Force on the Canadian Common Law Degree, *Final Report* (Ottawa: Federation of Law Societies, 2009) [Arthurs Report]; Eric Adams, “Introduction: Back to the Future of Law School” (2014) 51:4 Alta L Rev 695 at 701. See also Rosalie Jukier & Kate Glover, “Forgotten: The Role of Graduate Legal Education in the Future of the Law Faculty” (2014) 51:4 Alta L Rev 761 [Jukier & Glover] at 763-765 for a review of various critiques and sources.

2. We use “law school” throughout the article in line with the *Future of Law Schools* special edition of the Alberta Law Review: (2014) 51:4. We recognize that some law programs in Canada are self-described “law faculties,” (see i.e. Jukier & Glover, *supra* note 1). We recognize that neither label is value-neutral and have simply selected one for consistency.

3. Jukier & Glover, *supra* note 1 at 763-764 for a nice review of the crisis commentary.

4. Lorne Sossin, “Experience the Future of Legal Education” (2014) 51:4 Alta L Rev 849; Deborah J Cantrell, “Are Clinics a Magic Bullet?” (2014) 51:4 Alta L Rev 831.

toward “flipped classrooms”<sup>5</sup> and multi-faceted assessment.<sup>6</sup> In short, legal education—at least, JD or LLB education—is a live and lively issue.

Despite the renewed attention being paid to legal education in Canada, graduate studies, and particularly, doctoral studies in law largely have been absent from the conversation. Indeed, graduate legal education has been a rare subject of literature to date,<sup>7</sup> despite the fact that doctoral programs in Canadian law faculties have grown significantly since the Arthurs Report was published in 1983.<sup>8</sup> In the past decade, a doctorate has become an expected standard for entry into the legal academy.<sup>9</sup> At the same time, the number of law doctorates awarded in Canada is fast outpacing the number of available legal academic positions in Canada.<sup>10</sup> It seems that now, more than ever, the doctorate’s place in Canadian law schools requires sustained attention.<sup>11</sup>

In light of the rapidly changing landscape of doctoral studies in law, and legal education more broadly, the objective of this article is to examine doctoral studies in law from the inside out in the hopes of initiating more comprehensive and formal conversations about the purpose and future of doctoral studies within the legal academy. As we explain in section I, we use our individual experiences as law doctoral students to identify three collective tensions in doctoral studies in law. These tensions capture the challenges of individual doctoral students as well as the challenges of

5. Peter Sankoff, “Taking Instruction of the Law Outside the Lecture Hall: How the Flipped Classroom Can Make Learning More Productive and Enjoyable (for Professors and Students)” (2014) 51:4 *Alta L Rev* 891.

6. Ian Holloway, “A Canadian Law School Curriculum for this Age” (2014) 51:4 *Alta L Rev* 787 at 792.

7. See Sanjeev S Anand, “Canadian Graduate Legal Education: Past, Present and Future” (2004) 27 *Dal LJ* 55 at 60-76 for a review of existing literature on graduate legal education. See also Desmond Manderson, “Asking Better Questions: Approaching the Process of Thesis Supervision” (1996) 46:3 *J Leg Educ* 407 [Manderson]; Arlie Loughnan & Rita Shackel, “The Travails of Postgraduate Research in Law” (2009) 19 *Leg Educ Rev* 99 [Loughnan & Shackel]; Gail Hupper, “The Rise of an Academic Doctorate in Law: Origins to World War II” (2007) 49 *Am J Leg Hist* 1 [Hupper 1]; Gail Hupper, “The Academic Doctorate in Law: A Vehicle for Legal Transplants?” (2009) 58:3 *J Leg Educ* 413 [Hupper 2]; Jukier & Glover, *supra* note 1.

8. *Supra* note 1 at 767.

9. Craig Forcese, “Want to be a Law Prof? Data on Whether You Should Do a Doctorate” (9 July 2014) *Bleaching Law* (blog), online: <craigforcese.squarespace.com>; Jukier & Glover, *supra* note 1 at 780 footnote 97.

10. There are no good data available on this point. However, conservative assumptions about doctoral programs and hiring at Canadian law schools shows that this must be the case. Jukier and Glover reported that 98-114 new doctoral students are admitted to Canadian law schools each year. Even if only half these students successfully complete their degrees, this still far out numbers the faculty positions advertised in a big hiring year by Canadian law schools (~15-20): Jukier & Glover, *supra* note 1 at 767.

11. See Anand, *supra* note 7, Manderson, *supra* note 7.

doctoral programs in law and their institutional structure.<sup>12</sup> The purpose of this article is deliberately descriptive. We do not prescribe reform but rather inquire into purpose, structure and experience of doctoral studies in law.<sup>13</sup> This article challenges those grappling with law doctoral studies—supervisors, administrators, current and future law doctoral students—to engage in a deeper and more critical reflection of the place of doctoral studies in law in Canadian law schools.

This article explores three underlying themes—indeed tensions—that we have experienced in our doctoral studies. We examine the tension between competing conceptions of the doctorate as a privileged space for academic research on the one hand, and its broader role in job training on the other hand. We address the tension that arises from the doctoral student's need for both structure and space when we query how law schools can provide adequate support to their doctoral students while allowing adequate space for students to develop into independent scholars. Finally, we discuss the tensions that can arise between the formal emphasis on, and intimacy of, the supervisory relationship, and the value of cultivating multiple intellectual relationships and sources of feedback in the process of completing a doctorate.

The experiences and tensions explored in this article are part of an ongoing process of defining doctoral programs in Canadian law schools. That this process of definition is ongoing is unsurprising. The law doctorate is a relatively recent innovation in common law education, which is itself a youthful academic discipline.<sup>14</sup> In many respects, the ambiguous nature of the law doctorate is a product of the enduring tension in legal education at the JD/LLB level. Legal education is caught between the twin horns of providing professional training and being an intellectual discipline in its own right. The significant increase in doctoral programs has helped signal the arrival of law as an intellectual field.<sup>15</sup> The law doctorate therefore aligns in many ways with a traditional PhD in the humanities,<sup>16</sup> while its

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12. The scope of this article is limited to exploring these three tensions. We do not maintain that these are the only three challenges experienced in doctoral studies in law.

13. Desmond Manderson & Sarah Turner, "Coffee House: *Habitus* and Performance Among Law Students" (2006) 31:3 Law & Soc Inquiry 649 at 673. Thanks to an anonymous reviewer for pointing out the similarity between our project and that of Manderson and Turner in unpacking McGill's Coffee House.

14. Hupper 1, *supra* note 7. Compare this with civil law jurisdictions, which have a much longer history with doctoral legal education.

15. Manderson, *supra* note 7 at 408. Hupper 2, *supra* note 7 gives a detailed review of American doctorates in law, which reveals that those schools with deeper theoretical traditions also have a longer history of SJD or JSD programs.

16. But see Anand, *supra* note 7 at 96-97 (discussing the differences between a true PhD and the modified SJD or JSD model).

relationship with legal practice is perceived as more obscure. Thus, while many of the themes explored in this article may be relevant to doctoral education more broadly, there exists a particular and demonstrable need to consider the role and future of doctoral education *in law* specifically. Understanding the unique aspects of doctoral programs in law is critical not only for their independent future, but also for better understanding of how they are best integrated into, and reflect, a law school's more holistic purpose and mission, particularly given that, "quite simply, many of today's doctoral students will be tomorrow's leaders of legal education."<sup>17</sup>

We first set out the methodology that guided our research and writing of this article. We then elaborate each of the three tensions introduced above. The purpose of the paper is not to suggest that these tensions can be eliminated, nor to offer any easy solutions to students for managing them. Rather, we seek to expose deeper structural tensions in the law doctorate and give some sense of how they manifest themselves through the daily experiences of three doctoral students. In doing so, we hope to demonstrate that doctoral studies in Canadian law schools require the kind of sustained reflection that JD and LLB programs are currently receiving.

### I. *Methodology*

In conceiving our article, we were broadly inspired by an "auto-ethnographic approach"<sup>18</sup> which relies on our individual experiences to generate the themes for analysis and ground our discussion of the themes that we present. Auto-ethnography "seeks to describe and systematically analyze personal experience in order to understand cultural experience."<sup>19</sup> In contrast to more conventional legal methodologies where one would begin with a literature review or doctrinal review, our approach begins with our personal experiences and moves outward to the (scant) existing literature. But this is not just a matter of sequence. Our approach acts as our guiding thread in both framing our "experiences" and "opinions" (theory) and also shapes how we develop the questions, and identify common themes (methodology).

17. Jukier & Glover, *supra* note 1 at 780.

18. Sally Sambrook, Jim Stewart & Clair Roberts, "Doctoral Supervision...A View from Above, Below and the Middle!" (2008) 32:1 J Further & Higher Ed 71 at 74 [Sambrook et al]; Kamila Beňová, "Research(er) at Home: Auto/ethnography of (my) PhD" (2014) 4:1 European J Higher Education 55-66 [Beňová].

19. Carolyn Ellis, Tony E Adams & Arthur P Bochner, "Autoethnography: An Overview" (2011) 12:1 Forum: Qualitative Social Research, online: <[www.qualitative-research.net](http://www.qualitative-research.net)>. See also Sarah Wall, "An Autoethnography on Learning about Autoethnography" (2006) 5:2 Intl J Qualitative Methods 1.

Auto-ethnography means that we are simultaneously participants and authors, observers and critics. We therefore do not conceal our own perspectives and we do not purport to offer a universal account of the doctoral experience in law. Auto-ethnography challenges traditional conventions of research formulated along lines of objectivity and distance and it generates critical,<sup>20</sup> if at times uncomfortable,<sup>21</sup> reflections on the place of the subject in this conversation. We employ it here to bring personal, experiential voices of law doctoral students directly into the scholarly conversation about legal education, while also questioning and critically reflecting on our own place within the landscape of legal education.

Auto-ethnography is described as “both process and product” because it is a method of reflective analysis that leads to the production of a text.<sup>22</sup> Doctoral education is also process and product.<sup>23</sup> As we document in this article, it is a process of developing one’s academic identity, which culminates in the production of a written text: the dissertation. The deliberate and self-reflective method of auto-ethnography is therefore an ideal and novel methodology for critical engagement with doctoral programs in law.<sup>24</sup>

Our interest in this article stems, in part, from our participation in an ongoing peer review group beginning in our second year in the doctoral program. Along with a fourth member, we formed this group independent of any formal requirements of our program and met regularly over two years to review each other’s written work. This group also proved a lively site for conversing about and reflecting upon our individual and shared experiences as doctoral students, which provided the impetus for this article.

Building from these initial conversations, and consistent with the auto-ethnographic approach, we collectively developed a set of questions about our doctoral experiences to which we each responded with individual reflections. This allowed us to identify several trends that seemed to

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20. Susan S Hanson, “Critical Auto/Ethnography: A Constructive Approach to Research in the Composition of the Classroom” in Stephen Gilbert Brown & Sidney I Dobrin, eds, *Ethnography Unbound* (Albany: State University of New York Press, 2004) 183 at 185 [Hanson].

21. Sally Denshire, “On auto-ethnography” (2014) 62:6 *Current Sociology Rev* 831 [Denshire] at 831.

22. Carolyn Ellis, Tony E Adams & Arthur P Bochner, “Autoethnography: An Overview” (2011) 36:4 *Historical Social Research* 273 at 273.

23. Hupper 2, *supra* note 7 at 429.

24. Auto-ethnography is a methodological extension of the idea that legal education is a reflexive process of self-discovery, or indeed, the idea that law itself is autobiographical (e.g. Martha-Marie Kleinhans & Roderick A Macdonald, “What is a Critical Legal Pluralism?” (1997) 12:2 *CJLS* 25).

cut across our experiences, despite the fact that our backgrounds and approaches to doctoral studies diverge in notable ways. Three underlying tensions captured much of the uncertainty, anxiety, and ultimately growth that characterize our individual experiences. We selected these tensions to guide the substantive content of our article. Following from this selection, we each wrote personal narratives developing our individual perceptions and experiences in relation to each identified theme. Quotations from the personal narratives are included to frame our analysis of the issues and were selected to show a range of experiences and to ground the discussion throughout the article. While the quotations are personal and reflect the individual views of their authors, the surrounding discussion is the collective product of all three authors.

Consistent with an auto-ethnographic approach, we are not “silent authors.”<sup>25</sup> It is therefore important to acknowledge at the outset some pertinent characteristics of us as co-authors and subjects of this article. We are all doctoral students in the same Canadian law school, but have received our law degrees (JD/LLB) from different Canadian institutions<sup>26</sup> and our master degrees (LLM) from different Canadian and international universities.<sup>27</sup> We are Canadians in a Canadian doctoral program. We all aspire to be legal academics and indeed have accepted positions in law schools in Canada and abroad; we are all nearing completion or have recently completed our doctorates. We are all female and in stable, long-term relationships; one of us is a mother. We offer these details, not because attribution to any particular quotation is significant for the purposes of the article, but to acknowledge the limits of our approach. We share many life experiences. Yet, despite the commonalities present with respect to some aspects of our experience and background, the auto-ethnographic approach has provided an entry point for identifying, examining and analyzing three core tensions that extend well beyond our personal experiences, and to which we have responded in divergent ways in our own doctoral studies.

## II. *The doctorate as a privileged research space vs the doctorate as job training*

This section addresses the tension between the law doctorate as a privileged space for research and the doctorate as a space for job training. Understanding the law doctorate as a privileged space for research has a strong anchor in the humanities, where the object of the doctorate is

25. Denshire, *supra* note 21 at 832, 834.

26. University of British Columbia; University of Calgary; Université de Montréal.

27. McGill University; Yale Law School; Université de Montréal.



to produce a significant and original scholarly work, the dissertation.<sup>28</sup> In contrast, law doctoral programs are situated within law schools whose core mandate is to educate future lawyers. This section explores how the scholarly vision of the law doctorate sits in tension with the “practice-ready” lawyer narrative.

The most recent iteration of the enduring tension between academy and professional training centres on the production of “practice-ready” lawyers through JD/LLB legal education.<sup>29</sup> The Federation of Canadian Law Societies envisions graduates as “practice ready” when they possess “competencies in basic skills, awareness of appropriate ethical values and core legal knowledge.”<sup>30</sup> While the merits and flaws of the practice-ready rubric for JD/LLB programs have received much consideration in the legal education literature,<sup>31</sup> it is worth directly considering the implications of this pressure for law doctoral programs. We see two potential macro-implications. The first is that doctoral programs reinforce the practice/theory dichotomy assumed by the “practice-ready” lawyer language. The second implication is that doctoral programs themselves become a microcosm of the broader practice/theory tension that plagues the legal education conversation, albeit one in which the future legal career of a law doctoral student is somewhat more nebulous. As our narratives reveal, this tension manifests itself through our personal experiences of managing the dissertation with everything else.

I see the doctorate as my chance to stop trying to juggle everything, clear away the potential distractions, and do the hard work of the dissertation. Focusing on the sustained research effort that is the dissertation is how I will deepen my thinking about law and find my own academic voice.

This quotation reflects a classical view of the doctorate as a privileged space for research, where the student enjoys the intellectual freedom of having an extended period of time to develop her own thinking. This view

28. Departing from this “traditional model,” Osgoode Hall Law School and Université de Montréal allow for a doctoral thesis by articles. See “PhD and Dissertation,” online: <[www.osgoode.yorku.ca](http://www.osgoode.yorku.ca)>; and, “Guide des études,” online: <[www.droit.umontreal.ca](http://www.droit.umontreal.ca)>.

29. Harry W Arthurs, “The Future of Law School: Three Visions and a Prediction” (2014) 51:4 Alta L Rev 705.

30. *Task Force on the Canadian Common Law Degree, Final Report* (Federation of Law Societies of Canada, 2009), Federation of Law Societies of Canada, online: <[www.flsc.ca](http://www.flsc.ca)>.

31. For an incisive critique of the “practice-ready” lawyer model, see Arthurs, *supra* note 29. On the enduring nature of the practice/theory dichotomy in Canadian law schools, see Eric M Adams, “Introduction: Back to the Future of Law School” (2014) 51:4 Alta L Rev 695; Douglas D Ferguson, “The Great Disconnect: Reconnecting the Academy to the Profession” (2014) 51:4 Alta L Rev 819.

reflects the basic institutional structure of the humanities doctorate.<sup>32</sup> The doctoral student is left largely to her own devices to craft her dissertation, and the dissertation (and its defence) is the near-exclusive focus of the doctoral program. The limited existing literature suggests there remains much institutional support within law schools for this model.<sup>33</sup> It has clear merits. As the quotation suggests, the doctorate promises a pause for reflecting on the barrage of new information and the “new way of thinking”<sup>34</sup> that comes with LLB or JD education. It is a privileged space to entertain one’s legal curiosity and plumb the depths of different ideas.

This model resists the “practice-ready” concept in that it makes no explicit connection to training for any career. It emphasizes the inherent value in doctoral education, rather than viewing it solely as a means to future employment whether in academia, legal practice or elsewhere. While those who hold this view of the law doctorate would likely reject the fraught—but perennial—theory/practice distinction, the “practice-ready” lawyer narrative plants the law doctorate firmly on the theory side.<sup>35</sup> From this perspective, the law doctorate is responsible for the “academization” of law schools, the idea that graduate legal education pulls graduates (and the future lawyers they may teach) further away from the everyday practice of law.<sup>36</sup> On this view, the doctoral program becomes increasingly polarized with the JD/LLB program.

But even doctoral students who lament a purely instrumental view of graduate education must still grapple with the relationship between their doctoral education and prospects of future employment. In this way, the doctorate in law has come to develop its own “practice-ready” logic.

In applying for, and beginning, doctoral studies, I expressly envisioned the experience and program as not only an opportunity for deep engagement with research, but also as an opportunity to utilize my time to prepare myself for an intended career in academia, and felt that many of the ways in which I could accomplish the latter would, in fact, serve the former goal.

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32. *White Paper on the Future of the PhD in the Humanities* (Montreal: Institute for the Public Life of Arts and Ideas, McGill University, 2013), Institute for the Public Life of Arts and Ideas, online: <[www.mcgill.ca](http://www.mcgill.ca)> [White Paper].

33. Anand, *supra* note 7 at 154, 157; *White Paper*, *supra* note 32 (noting the dominance of the dissertation model of the humanities PhD and suggesting alternative project-based and applied models).

34. This idea originated with Christopher Columbus Langdell and the introduction of the case method at Harvard Law School in the late 1800s but persists: see e.g. Frederick Schauer, *Thinking Like a Lawyer: A New Introduction to Legal Reasoning* (Cambridge, Mass: Harvard University Press, 2009).

35. The LLM is more complicated because it often serves as a desirable professional credential in highly technical areas of legal practice such as tax, and air and space law.

36. Jukier & Glover, *supra* note 1 at 765; Hupper 2, *supra* note 7 at 427.

A long-held assumption is that law doctorates serve as a natural stepping-stone for aspiring law professors.<sup>37</sup> This assumption requires more attention as a doctorate in law is now a *de facto* prerequisite for a tenure-track position at most Canadian law schools.<sup>38</sup> There is much to commend in making this assumption explicit. It reveals that the exclusive focus on the dissertation leaves the doctoral student ill-prepared for careers in academia.<sup>39</sup> Specific critiques note that students do not receive systematic training in all aspects of research (grant writing, for example) or teaching.<sup>40</sup> And with little exposure to the less visible responsibilities of law professors such as administrative roles, students emerge from the doctorate with a poor idea of the multitude of additional tasks that law professors perform on a daily basis.<sup>41</sup> Moreover, as the number of doctors of law increases, doctoral programs that fail to provide their students opportunities to develop competencies in these other respects will do their students a real disservice in the competitive academic job market.<sup>42</sup>

The quotation also suggests that there are many ways in which the two visions of the doctorate can be compatible. Teaching and research opportunities beyond the dissertation can facilitate, rather than inhibit, writing the dissertation.<sup>43</sup> Moreover, a law doctorate can be understood as a privileged space for developing one's full academic identity, including an area of research expertise, a teaching philosophy, and a better understanding of how to be an active citizen in the wider university community.

I don't consider these two elements to be in conflict, but rather, part of a symbiotic relationship that can, at times, seem / feel toxic.

But this view, too, contains potential drawbacks that in some ways mirror the push for "practice-ready" lawyers. As doctoral students, we have been presented with numerous wonderful opportunities to grow as scholars and

37. Hupper 2, *supra* note 7 at 428; Anand, *supra* note 7 at 154; Manderson, *supra* note 7 at 407.

38. Jukier & Glover, *supra* note 1 at 780 footnote 97.

39. See Angela Campbell, "À notre image? Forming future academics and colleagues" in R Sefton-Green, ed, "*Démoules*": *Du carcan de l'enseignement du droit vers une éducation juridique* (Paris, Société de législation comparée, 2016) [Campbell].

40. Campbell, *supra* note 39; Anand, *supra* note 7 at 154; Ann E Austin, "Creating a Bridge to the Future: Preparing New Faculty to Face Changing Expectations in a Shifting Context" (2003) 26:2 Rev Higher Ed 119 at 130.

41. Campbell, *supra* note 39; Austin, *supra* note 40 at 129, 133.

42. There are limited data on this, but see Craig Forcece, "Want to Teach Law in Canada? How Many Pubs Do You Need to be Competitive?" (10 July 2014) *Bleaching Law* (blog), online: <craigforcece.squarespace.com>; *Entering the Law Teaching Market* (New Haven: Yale Law School, 2012), online: Yale Law School <www.law.yale.edu> at 8-14 (note the emphasis on publications, but also the benefits of a teaching fellowship).

43. Campbell, *supra* note 39; see Jukier & Glover, *supra* note 1 at 774 (on how graduate students benefit from exposure to McGill's transsystemic curriculum).

teachers, ones that we know will serve us well in our future careers. Yet our largely positive experiences need to be set against a backdrop that reveals the precarious position of many doctoral students. Doctoral students are impacted by a confluence of factors affecting Canadian universities: rising tuition, limited public funding for graduate research and the increasing casualization of the academic workforce.<sup>44</sup> This confluence of factors means that it is all too easy for law schools to treat doctoral students as “cannon fodder for tasks that professors would rather not undertake.”<sup>45</sup> Some of these tasks may be genuinely helpful for developing scholarly and teaching portfolios, but they frequently are not.<sup>46</sup> Irrespective of their long-term value, these activities come into tension with an institutional model that prioritizes the dissertation and pushes students to completion.

Moreover, the toxicity of the tension is enhanced by the fact that the number of law doctorates is fast outpacing available academic positions. Aspiring law professors must contemplate what an alternative career might look like. There is a pressing need to address the value of a law doctorate for careers outside the academy.<sup>47</sup> We can attest to the fact that doctoral students in law worry that the persistent theory/practice trope means our doctorates will be viewed as weaknesses rather than strengths in the legal profession. We also worry that we will be viewed as failures because we did not secure an academic position or that prospective employers may think we are flight-risks who will pounce on an academic appointment should one become available. Our mentors try to assure us that these fears are misplaced or are, at least, exaggerated. But the marginal treatment of doctoral studies in law within scholarly and institutional conversations about legal education leaves our anxieties unabated.

Some scholars have taken tentative steps to rebrand law doctoral programs by making explicit the bundles of skills they hone.<sup>48</sup> Campbell, for example, argues that doctoral studies in law deepen students’ understanding of law as an “interpretive practice” that better equips graduates to understand the role of law in constructing all human

44. See e.g. Zane Schwartz, “Why U of T, York Strikes Are More Than Labour Disputes,” *Globe and Mail* (4 March 2015), online: [Globe and Mail](http://www.theglobeandmail.com) <[www.theglobeandmail.com](http://www.theglobeandmail.com)> [Schwartz]. These factors are not limited to Canadian universities: Rebecca Ratcliffe, “University Protests Around the World: a Fight Against Commercialism,” *The Guardian* (25 March 2015), online: <[www.theguardian.com](http://www.theguardian.com)>.

45. Roderick A Macdonald, “Still ‘Law’ and Still ‘Learning’” (2003) 18 *Can J L & Soc* 5 at 19.

46. One of the major complaints of the teaching assistants was that funding and salary do not reflect the amount of marking teaching assistants must complete: Schwartz, *supra* note 44.

47. Campbell, *supra* note 39; *White Paper*, *supra* note 32. See also the Université Laval’s revised doctoral program, which is described as “focusing on the development of professional competency and specialized course offerings,” online: <[www.fd.ulaval.ca](http://www.fd.ulaval.ca)> [translated by authors].

48. Campbell, *supra* note 39; Jukier & Glover, *supra* note 1 at 771-772.

interactions.<sup>49</sup> Alternatively, she continues, we might focus on the heuristic capabilities of completing a doctorate in law; i.e. attributes of self-awareness, decisiveness and self-direction that are developed and refined through the completion of a substantial research project.<sup>50</sup> While we do find it comforting that at the programmatic level the tension between research and job training is perhaps more artificial than real, our individual doctoral experiences have nonetheless been shaped by our attempts to grapple with the ambiguous nature of the law doctorate.

The doctorate is a space of intellectual freedom that includes, but is not limited to, the dissertation.

As the quotation here illustrates, the doctorate is, in one sense, a space of intellectual freedom, malleable to each doctoral students' strengths and weaknesses, and accommodating of their interests and goals. The authors perceive this tension to different degrees, which has led us to take on varying levels of commitment beyond our dissertations. All of us have sought to engage in the "four inter-related dimensions of scholarly life: the scholarship of discovery, governance and community engagement, teaching, and integration and interdisciplinarity."<sup>51</sup> We all participate in the peer review group, the birth place of this article, which allows us to examine and critique the work of our peers and provides us with a kind of "doctoral safety valve" that allows us to constructively channel stress and anxieties with our own work. As aspiring law professors, we all participated in the teaching fellowship program offered in our law school, which allowed us to take baby steps into law teaching without bearing the full weight of a delivering a course in its entirety.<sup>52</sup> But beyond that, our doctoral experiences diverge. As the opening quotation suggests, one of us is quite jealous with her time, only participating in activities that directly contribute to

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49. Campbell, *supra* note 39 (relying on Roderick A Macdonald & Jason MacLean, "No Toilets in Park" (2005) 50 McGill LJ 721).

50. *Ibid.*

51. Jukier & Glover, *supra* note 1 at 781.

52. The McGill Faculty of Law offers a Teaching Fellowship Program for its doctoral students. The program is optional, but if elected, contains three steps. Doctoral students are first required to take the Legal Education Seminar, a course dedicated to examining legal pedagogy. The student then progresses to the Teaching Mentorship, where she is paired with a professor in a course, typically outside her area of expertise, so that she can observe, discuss and participate in the professor's pedagogical techniques. Finally, a student can then apply for a Teaching Fellowship, where she is paired with a professor to collaborate on the delivery of the course. While the professor retains ultimate responsibility for the course, the fellow takes on a substantial role in its delivery.

the production of her dissertation. The others have embraced a variety of activities—conferences, serving on university committees, co-authored publications related to their research areas. Seeking out (or avoiding) these activities has been part of our self-reflexive processes of developing as academics, discovering our individual strengths and weaknesses, and learning the conditions under which we work best. Our choices are often sources of anxiety, but we have all come to view the doctorate as a space for learning about how to make the most of the opportunities it affords.

As we will now see, the sense of “intellectual freedom” identified in the quote is malleable only to an extent. The next two tensions explore the ways in which the malleability of a doctorate in law is constrained by institutional structures and the network of relationships within any doctoral program.

### III. *Adequate support vs adequate space throughout doctoral studies*

This section turns to explore a second tension inherent in the doctoral experience: the need for adequate support and guidance in completing the dissertation, while also having adequate space for free exploration and self-discovery. Like many doctoral programs, doctoral programs in law tend to reflect a traditional “sink or swim approach to scholarship,”<sup>53</sup> where students undertake little coursework and have few formalized progress-tracking mechanisms or milestones between starting and completing their dissertation. The lack of institutionalized guidance in doctoral programs leads to high rates of attrition, delays in completion and significant stress in the daily experience of study for doctoral students.<sup>54</sup> Yet both the purpose and process of undertaking a significant research project rests, in part, on the need for free and autonomous exploration by the doctoral student, both in relation to their substantive research topic, as well as in relation to developing her academic identity. Thus, finding a balance between adequate support and adequate space for independent development is likely one of the greatest challenges for doctoral programs and doctoral students alike.

I came into the doctoral program with no background in writing, having not completed a master’s thesis, and with little experience developing academic legal arguments.

53. Manderson, *supra* note 7 at 408.

54. Miia Martinsuo & Virpi Turkulainen, “Personal commitment, support and progress in doctoral studies” (2011) 36:1 *Stud in Higher Ed* 103 at 104 [Martinsuo & Turkulainen]; *White Paper*, *supra* note 32 at 6-7.

Doctoral studies in law present unique features in exploring this tension because the disciplinary training at the JD/LLB level is often markedly different from the academic world we step into in graduate studies. Prior legal experience may be seen as an obstacle or hindrance to adopting one of a range of non-doctrinal methodologies or theoretical perspectives that comprise legal scholarship. Moreover, completing a master's thesis is not a prerequisite to beginning a doctorate in law. In this way, law doctoral students differ from those in other humanities doctoral programs who have received prior theoretical and methodological training through their undergraduate and master's education. These features suggest that, whatever its merits in the humanities, the "sink or swim approach" to doctoral education needs to be re-evaluated in law schools. And, as we discuss, that approach can be particularly anxiety-inducing if law doctoral programs do not provide adequate support for the actual *how* of producing legal scholarship.

Indeed, the theory/practice tension reappears when we consider the methodological tensions that can arise when completing a doctorate in law. Legal research is comprised of many different methodologies. At the broadest level, methods can be grouped into the following categories: doctrinal, interdisciplinary, comparative, and empirical. The doctrinal method is, by some accounts, the most distinctly legal method,<sup>55</sup> and drives the approach to law in JD/LLB education and in legal practice. Most graduate students are thus familiar with this method (though this does not always guarantee that they understand how to effectively apply it).

Within scholarship on legal research methodologies, tensions appear in both defending the doctrinal method as one with academic substance, while also finding a place for the doctrinal method within the broader academic spectrum.<sup>56</sup> Comparative legal analysis and socio-legal analysis are now well-accepted legal methodologies, but are by no means straightforward or uncontroversial.<sup>57</sup> Empirical methodology is a rapidly emerging field of legal research in its own right that requires rigorous training that potential

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55. See Terry Hutchinson & Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research" (2012) 17:1 Deakin L Rev 83.

56. See generally, *ibid*; Susan Bartie, "The lingering core of legal scholarship" (2010) 30:3 Legal Studies 345.

57. See e.g. Roger Cotterrell, "Why Must Legal Ideas Be Interpreted Sociologically?" (1998) 25:2 J L & Society 171; Oliver Brand, "Conceptual Comparisons: Towards a Coherent Methodology of Comparative Legal Studies" (2007) 32:2 Brook J Intl L 405; Geoffrey Samuel, "Taking Methods Seriously (Part One)" (2007) 2 J Comp L 94; Geoffrey Samuel, "Taking Methods Seriously (Part Two)" (2007) 2 J Comp L 210.

supervisors may not possess.<sup>58</sup> And, while interdisciplinary legal research is a current buzzword, poorly trained students run the risk of dilettantism.<sup>59</sup>

Moreover, a tension arises from how these methodologies fit with doctrinal legal research. Indeed, law doctoral students are largely encouraged to reject the overarching “think like a lawyer” approach from their JD/LLB education. Rod Macdonald frames this as a question of whether law professors think of themselves as inside or outside the profession.<sup>60</sup> The idea that legal academics are “anti-lawyers”<sup>61</sup> whose work fits into a distinct normative project from legal practice<sup>62</sup> serves to exacerbate the tensions experienced by doctoral students as we work out what it means to do legal scholarship. Balancing adequate support and adequate space requires, therefore, an acknowledgment of the tension of *how* doctoral students in law position themselves in the legal academy, but also in the methodological spectrum that has just been described.

One of the biggest challenges in my doctoral experience has been figuring out how to structure and balance my time. Particularly in the latter years of the program, after completion of the comprehensive exam, my time has essentially been my own, with no real deadlines to meet. The idea that I can spend my days how I please is sometimes thrilling, but also very anxiety producing, since I must constantly self-evaluate and often feel like I could, or should, be doing more.

The open-ended structure of writing a dissertation can leave students feeling uncertain about their progress, and overwhelmed by the enormity of their project. As a result, students may often question whether they are working enough, being efficient or productive enough, and progressing enough, both on the material aspects of their project and in their intellectual development. Studies conducted in relation to doctoral progress in a variety of disciplines have identified that students’ abilities to self-regulate and be disciplined with their time is a significant factor in determining progress and completion.<sup>63</sup> Specifically, “plan commitment” was found in one study to be critical for research progress in doctoral programs.<sup>64</sup> However, most doctoral programs in law provide few concrete deadlines

58. Peter Cane & Herbert M Kritzer, “Introduction” in Peter Cane & Herbert M Kritzer, eds, *The Oxford Handbook of Empirical Legal Research* (Oxford: Oxford University Press, 2010) 1.

59. Elizabeth Fisher et al, “Maturity and Methodology: Starting a Debate about Environmental Law Scholarship” (2009) 21:2 J Envtl L 213 at 224-225.

60. Macdonald, *supra* note 45 at 23.

61. *Ibid.*

62. Hupper 2, *supra* note 7 at 433-440 (on the theoretical/interdisciplinary model of doctoral studies at the top American law schools).

63. Martinsuo & Turkulainen, *supra* note 54 at 106-107.

64. *Ibid* at 115.



from which to formulate detailed plans, and little formalized instruction on how to approach planning and management for a significant research project like the doctoral thesis.

While the specific design of law doctoral studies varies across Canadian law schools, most include three core elements in addition to the dissertation: required coursework in the first year, a comprehensive exam and an oral defence.<sup>65</sup> However, these existing structures have proven controversial in the existing (albeit limited) literature. Rod Macdonald boosts a “true comprehensive” exam where students are examined on breadth of knowledge.<sup>66</sup> In contrast, Sanjeev Anand argues that comprehensive exams “do not serve any useful pedagogical purpose” and act as a “hurdle that tends to prolong graduate study beyond the funded years.”<sup>67</sup> Anand would also dispense with the “anachronistic” oral defence.<sup>68</sup> He would, however, institute more robust course requirements, including legal theory, interdisciplinary perspectives, comparative law, along with training in legal education.<sup>69</sup> Macdonald, in contrast, views conventional graduate course requirements with skepticism because they do not contain “deep theory” and “verge...on dilettantism.”<sup>70</sup>

A novel reform introduced by our law school during our studies is emblematic of the inherent tension within proposals for more programmatic structure at the doctoral level. Our law school, recognizing that the lack of structure allows struggling students to “fall off the radar,” implemented a doctoral seminar, which requires students to give an oral presentation to their supervisor and committee members during their third or fourth year of studies.<sup>71</sup> We recognize the value of the seminar to ensure continued supervisory and committee engagement and constructive feedback before the eleventh hour of dissertation submission. However, we also appreciate that many doctoral students may perceive these additional requirements as

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65. For example, McGill requires the completion of at least one compulsory course (depending on the student's stream), a comprehensive exam in the student's second year and, most recently to help counter the challenges raised in this section, a seminar presentation by the student's fourth year (online: <[www.mcgill.ca/law](http://www.mcgill.ca/law)>); Toronto requires one compulsory course, the completion of a comprehensive exam and a seminar presentation during the student's second year (online: <[www.law.utoronto.ca](http://www.law.utoronto.ca)>); the University of British Columbia requires completion of two compulsory courses, a comprehensive exam and a defence of the thesis proposal (online: <[www.law.ubc.ca](http://www.law.ubc.ca)>). Osgoode Hall's research-stream PhD requires students to complete three required courses (including a graduate seminar) and a dissertation proposal (online: <[www.osgoode.yorku.ca](http://www.osgoode.yorku.ca)>).

66. Macdonald, *supra* note 45 at 18.

67. Anand, *supra* note 7 at 155-156.

68. *Ibid* at 156.

69. *Ibid* at 154.

70. Macdonald, *supra* note 45 at 19.

71. *Supra* note 65.

a form of micro-management, or symptomatic of a culture of surveillance and control.<sup>72</sup>

Existing discussions of specific institutional reforms seem to presume an ideal balance of support can be found in a one-size-fits-all approach. They miss the tension that is inherent in any structural reform proposal for doctoral studies. Moreover, they miss that adequate support will mean something different to each doctoral student, and that a key underlying goal of doctoral programs is for doctoral students to take greater ownership over both the product and the process of doing rigorous legal research.<sup>73</sup>

Part of why I struggle with the doctorate is that, as a successful student at the undergraduate level and during law school, I was very good at understanding the expectations and delivering on those. Academic success was clearly defined—there were concrete requirements and immediate positive feedback. The doctorate is like one long detox from the constant validation and feeling of mastery that comes with successfully completing coursework.

As this quotation demonstrates, the process of undertaking the significant research project, at the core of doctoral programs, represents a notable transition and change from prior educational models. Unlike undergraduate education and the JD/LLB, where the “right” answer exists and certainty is rewarded,<sup>74</sup> doctoral research and “success” is far more ambiguous. Having adequate support in planning and carrying out the dissertation project is both desirable and necessary, to an extent, for successful completion of a doctoral program. However, a broader goal of doctoral studies lies in transforming the student from “consumer to producer of knowledge.”<sup>75</sup> Increased structure at the doctoral level thus risks reinforcing the undergraduate mentality of mastery.

Doctoral work “requires students to read widely, deeply and critically, to be able to summarize, adapt, apply, and engage with the scholarship with which they are in conversation in ways that are demanding and creative.”<sup>76</sup> The freedom and space to explore and think about our research topics, theoretical perspectives and methodology is a critical component to

72. We witnessed these concerns first hand, among our colleagues, but it is also noted in the broader literature on doctoral studies with respect to formal progress reporting requirements: Inger Mewburn, Denise Cuthbert & Ekaterina Tokareva, “Experiencing the progress report: an analysis of gender and administration in doctoral candidature” (2014) 36:2 J Higher Ed Policy & Management at 155-156.

73. This is especially evident in Loughnan & Shackel, *supra* note 7, which purports to offer a “student-centred perspective” of the law doctorate, but only provides an introductory overview of the doctorate in law.

74. Manderson, *supra* note 7 at 408.

75. *Ibid.*

76. *White Paper*, *supra* note 32 at 9. See also Manderson, *supra* note 7 at 408.

doctoral studies, and to the production of a quality dissertation. As described by Manderson, “the writing of a thesis is about *asking questions*” and involves a dialectical approach to learning and scholarship; the doctoral dissertation is “a journey, not a system.”<sup>77</sup>

This process of asking questions extends not only to the substance of their research, but also to the process of conducting research. Creative and innovative work is as much the product of strong, independent managerial skills as it is the product of an imaginative intellect. Thus, doctoral students should also be asking questions about how they work best. “The intellectual creativity and individuality required for innovative work is mirrored in the doctoral candidate’s ability to work independently and to develop techniques of self-governance.”<sup>78</sup> Therefore, the need for adequate space supports the goal of learning to replace the external expectations and rules from which we have “detoxed” with our own, internal expectations and rules about our work. Thus, while transitioning from “consumer to producer of knowledge,” we must also undertake a transition from “employee to entrepreneur,” in a way.

I envision this tension differently—it is not one of expectations—but rather, how we construct the spaces that we now inhabit as doctoral students. At this point in our careers, we are starting to ascribe our own understanding, our own social meaning, to these spaces. Hence, our understanding of what is “support” and “space” changes as we move through the doctoral experience.

As this quote alludes to, a key part of the underlying struggle that doctoral students must face in the course of their education is determining their place, or position, within academic tradition or thought, as well as within academic culture. The tension between space and support may be more acute in law, where the very concept and purpose of doctoral studies is, itself, still grappling with its identity within both broader academic and professional settings. This uncertainty may increase doctoral students’ own anxieties about their place and position as academics in law.

Research on graduate studies shows that student progress is linked to whether their “expectations and values mesh well with the demands of their academic environment.”<sup>79</sup> In other words, it is better when students and their faculty are on the same page about the material aspects of the doctorate (e.g. time to completion, publishing and knowledge sharing,

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77. Manderson, *supra* note 7 at 408.

78. *White Paper*, *supra* note 32 at 9.

79. Jody D Nyquist et al, “On the Road to Becoming a Professor: The Graduate Student Experience” (1999) 31:3 *Change* 18 at 20.

teaching and job-training opportunities, and participation in the broader faculty) as well as normative values about law, the place and purpose of the doctorate in the faculty, and political and theoretical orientations. However, where students perceive misalignment between these values and expectations, their excitement and motivation for research may diminish.<sup>80</sup> This process of determining the fit for doctoral students within their program can be complicated by the fact that many of these values and expectations are rarely made explicit.<sup>81</sup> Indeed, as doctoral studies in common law schools are comparatively young and have largely been left out of discussions about legal education more broadly, law schools may not be consciously attuned to the expectations of or for doctoral students in this regard.

Finding one's place in both academic culture and thought is an important goal of doctoral studies in and of itself, and particularly for those students who envision an academic career. Thus, at least a part of the underlying struggle to locate and articulate one's academic identity is a necessary step of self-discovery facilitated by the sustained and deep research undertaken for the dissertation. However, inaccessible or inadequate support can inhibit students' progress toward this goal as much as it can inhibit progress toward the material production of the dissertation.

As our quotations suggest, each of us has experienced this tension to varying degrees and at different stages of our doctorates. How we each manage this tension—and indeed the constant questioning we inevitably engage in (Am I working hard enough? Is this the right way to support my argument?)—is the source of anxiety. Yet we are learning that this is a necessary part of the journey we are on. We are learning to embrace and also shape and define the conditions that allow us to manage our anxieties and move forward with our dissertations. For one of us, this has meant preventing paralysis by seeking out and creating opportunities to present very rough, work-in-progress drafts in small, informal settings. One of us built confidence early on in her doctorate by test-driving potential theoretical frameworks at conferences and seminars at different universities. And one of us found that, by seeking out multiple supportive relationships within the faculty, she was motivated to better articulate her own approach by considering which advice to take on and which to reject. For all of us, the tension between support and space was not relieved through any institutional structure, but rather by the relationships we

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80. *Ibid.*

81. *Ibid* at 23-24.

formed through our studies. As we shall now see, however, these multiple relationships can often sit in tension with one another.

#### IV. *The supervisory relationship vs other relationships in the doctoral experience*

This final section of the article addresses the perceived tension between the formal emphasis on, and intimacy of, the supervisory relationship, and the value of cultivating multiple intellectual relationships and sources of review and feedback during doctoral studies in law. Indeed, the very structure of a doctorate encourages a close relationship between student and supervisor, where the supervisor represents the entry point into the program, acts as an indispensable referee and serves as a gateway to future projects.<sup>82</sup> The supervisory relationship is an essential, and seemingly inevitable, part of doctoral studies. It is central to the university's post-graduate make-up and necessary to ensure good governance within the institution. Yet doctoral students will inevitably seek out additional relationships to further shape their academic identity and nourish their doctoral experience. Our auto-ethnographic approach is particularly apt for exploring this tension, which is highly contextual and dependent on each student's personality and characteristics, those of her supervisor, as well as the general environment and culture of the doctoral program and institution.<sup>83</sup> This tension examines why doctoral students in law may turn to other relationships and how these relationships interact with the supervisory relationship. We will see that this tension is found throughout doctoral studies in the humanities, but we will highlight the particular challenges that emerge in the supervision of law doctoral students. We then end on a positive note by introducing our peer review group, which has proved indispensable to each of us in our doctoral studies.

The supervisory relationship is typically characterized as the most intimate intellectual relationship a doctoral student will develop, and is often presented as the most crucial one in successfully navigating and completing doctoral studies. The institutional model, or "1:1 model of doctoral studies,"<sup>84</sup> speaks to an interdependent relationship—or partnership<sup>85</sup>—between supervisor and doctoral student. Both student

82. Manderson, *supra* note 7 explores the essential role of the supervisor in detail. See also: Jukier & Glover, *supra* note 1 at 780; Roderick A Macdonald & Alexandra Law, "On Letters of Reference as Frames of Reference" (2006) 29:1 Dal LJ 159.

83. This is in contrast to the methodology of Manderson, *supra* note 7, who explores the supervisory relationship through "supervisor archetypes."

84. Campbell, *supra* note 39.

85. Anne Lee, "How are doctoral students supervised? Concepts of Doctoral Research Supervision" (2008) 33:3 Studies in Higher Education 267 at 267 [Lee].

and supervisor are heavily invested in the student's success.<sup>86</sup> Practically speaking, this relationship speaks to two roles that must be played: first, one of "scholarly socialization and pedagogy,"<sup>87</sup> where doctoral students develop their academic voice, and second, one of "mediating disciplinary traditions, practices, cultures, and norms."<sup>88</sup> The supervisory relationship is one of continual intellectual and emotional push-and-pull between supervisor and doctoral student. But this model is also heavily critiqued by the academic literature, which consistently suggests that multiple forms of intellectual support are desirable. Missing from the existing commentary, however, is the genuine challenge that doctoral students face in managing and balancing the multiple perspectives on—and pressures from—their doctoral project and experience more broadly.

My supervisor provides me with excellent detailed substantive feedback on my written work and I rely heavily on him for direction on my research.

The above quotation intimates a supervisor who cares deeply about his or her student and offers constructive commentary to further their intellectual development and dissertation writing. The supervisor's actions are not put into question within this discussion. Underlying the supervisory relationship is the idea that

[t]he supervisor's role is to help the student to *learn how to learn*. This means a focus on the processes of learning: how to research, how to read, how to write, how to structure an argument. We might even go so far as to say that a supervisor should not be helping students find answers, but rather should encourage the process of asking better questions.<sup>89</sup>

Supervision is not only reflected in *what* the doctoral student writes in her dissertation but *how* she learned about the questions to ask in order to get there. One perspective on the supervisory relationship encourages the doctoral student to locate herself in the supervisory process, and understand *why* the supervisor proceeds with commentary, feedback and, generally, their relationship in the way that they do. Others insist on building "good feedback practices," which include in-depth comments and constructive

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86. Campbell, *supra* note 39.

87. Jukier & Glover, *supra* note 1 at 780.

88. Kirsi Pyhälto, Jenna Vekkaila & Jenni Keskinen, "Exploring the Fit between Doctoral Students' and Supervisors' Perceptions of Resources and Challenges vis-à-vis the Doctoral Journey" (2012) 7 *Intl J Doctoral Studies* 395 at 395.

89. Manderson, *supra* note 7 at 410.

feedback.<sup>90</sup> Communication, in other words, remains key for developing a sustainable—and indeed healthy—relationship between the supervisor and doctoral student. Hence, it is not only a question of *what* feedback the supervisor provides to her student, but also, *how* and *why* this information is shared.

How the supervisor approaches this task is a product of her own experience and ideas about the supervisory relationship.<sup>91</sup> But an additional and unusual challenge exists within the field of law. Although a doctorate is becoming the new standard for obtaining a position in a Canadian law school, the same cannot be said of prior academic generations. As a result, a supervisor may not have completed a doctorate herself. In the absence of a personal doctoral experience, the cultivation of a supervisory relationship in the context of doctoral studies in law is rendered more challenging.

Even still, it is not clear that a supervisor, even if executing his or her role in a perfect fashion, can provoke a depth and range of self-reflection. Critics of the “1:1 model of doctoral studies”<sup>92</sup> argue that it does not expose the student to the broad intellectual horizons that exist within any given department, faculty or, indeed, the wider university.<sup>93</sup> If modelled exclusively on her supervisor, the student may not be challenged and tested by the questions and subsequent reflection that would result from exposure to a diversity of perspectives. In this way, the intellectual dependence associated with the 1:1 model may also produce constraints for doctoral students in their personal development, as “students are given few opportunities to reflect on who they are becoming, how they are aligning themselves, or whether they wish to reproduce certain disciplinary logics and values.”<sup>94</sup> This is no longer a question of simply what information is being transmitted to the student, but rather whether the doctoral student has the necessary encouragement to reflect upon what this means in her intellectual journey.

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90. Claire Aitchison, “Learning from Multiple Voices: Feedback and Authority in Doctoral Writing Groups” in Claire Aitchison & Cally Guerin, eds, *Writing Groups for Doctoral Education and Beyond* (Abingdon: Routledge, 2014) 51 at 54-55 [Aitchison].

91. Lee, *supra* note 85 at 276-277 (on the effect of a supervisor’s own supervision as a graduate student).

92. Campbell, *supra* note 39.

93. *Ibid* (also noting that the 1:1 model reinforces a relationship of intellectual dependence and can encourage the student to develop into a replica of her supervisor); Jukier & Glover, *supra* note 1 at 783.

94. Anthony Paré, Doreen Starke-Meyerring & Lynn McAlpine, “Knowledge and Identity Work in the Supervision of Doctoral Student Writing: Shaping Rhetorical Subjects” in Doreen Starke-Meyerring et al, eds, *Writing in Knowledge Societies* (Colorado: The WAC Clearinghouse, 2011) 215 at 233.

Interestingly, both proponents and critics of the 1:1 model do agree on one thing: the doctoral supervisor cannot fulfill all the necessary roles to the doctoral student. Choosing a supervisor has been characterised as requiring “a two-sided honesty: a sincere assessment of the student’s own needs accompanied by a fair appreciation of the capacities and limitations of potential supervisors.”<sup>95</sup> This form of honesty—to borrow from Manderson—also underscores how a student might navigate the doctoral relationship in the face of such candour, as illustrated in the quotation below.

I have worked with this tension by identifying my supervisor’s strengths and then developing supportive relationships to supplement the guidance I receive from my supervisor.

This quotation demonstrates that the supervisor is only one member of a network of forces that shape the doctoral experience. A doctoral student therefore can, and should, reach outside of her supervisory relationship to fill gaps, whether personal or institutional in nature.<sup>96</sup> This perceived gap opens the door to fostering a multiplicity of relationships outside of the institutionally recognized supervisory one—such as with official committee members,<sup>97</sup> other faculty, and peers. A student’s intellectual development will typically benefit from these multiple relationships during the doctorate in law.<sup>98</sup> In law, however, the practice/theory tension re-emerges yet again. To the extent that doctoral studies are viewed as falling on the theory side of this fraught dichotomy, doctoral studies can become marginalized from the broader law school community. This makes seeking out additional relationships even more daunting.

There is another challenge in balancing the supervisory and other relationships that come with learning to filter the feedback received from a multitude of persons and perspectives. To successfully complete a doctorate, students require approval from multiple senior academics: supervisors, committee members, and dissertation and defence examiners.

95. Manderson, *supra* note 7 at 411.

96. As noted by Manderson, a supervisor cannot be all things to the doctoral student: *ibid* at 410.

97. Law faculties in Canada require a formal committee; this committee is struck after the student gains entry to the doctoral program and before the comprehensive exam is held (usually by the fourth term of enrollment). In addition to the supervisor, the formal committee is composed of two other committee members. The committee members can come from both within and outside the law faculty in some cases (e.g. UBC, UVic, Queen’s, UOttawa, McGill, U of T, Osgoode, Carleton). Other doctoral programs in law allow for a change in the composition of the supervisory committee following the comprehensive exam (see, for example, the University of British Columbia guidelines online: UBC Faculty of Law <[www.law.ubc.ca](http://www.law.ubc.ca)> at 4).

98. Campbell, *supra* note 39.



Thus, while relationships cultivated outside of the supervisory circle should be understood as complementary to the supervisor's role, they can often produce internal conflict for a doctoral student navigating both the relational and intellectual aspects of "outside" supporters.

Earlier on, I worried about conflicts between advice and feedback that I received from each of them [committee members], but what became clear was that my own conception of my dissertation was distinct from both of theirs and was positioned in between their work.

Thesis committee members often supplement the supervisory role in doctoral programs, and provide not only another set of eyes on a dissertation, but also, ideally, different perspectives (whether theoretical, methodological or disciplinary) from that of the supervisor. Committee members can also be great resources for the other facets of a doctoral student's life: they can provide "big picture" advice on both the dissertation and one's professional goals. Indeed, as the above quotation demonstrates, committee members—as with other relationships—can assist a student in their academic or intellectual growth, and in cultivating their independent identity in this regard. Yet as this next quotation suggests, developing our sense of intellectual identity also requires that we cultivate the ability to parse out the different viewpoints, in understanding and evaluating the disciplinary mappings of each person with whom we enter into a relationship.

However, when seeking out external viewpoints, it is critical to feel confident in adjudicating and evaluating them, as not all comments or ideas will necessarily be useful in developing the dissertation. This is, I think, the biggest "danger" when cultivating relationships outside of the supervisory relationship, and may, at times, result in feeling overwhelmed by a lot of "noise."

Indeed, this "noise" can take many shapes.<sup>99</sup> Just as different pedagogical, theoretical and methodological approaches employed by other interested parties can lead to framing suggestions in a way that resonates better or differently than those of the supervisor, it can also create tension for a student faced with numerous, and sometimes competing, ideas about her work. Yet, it can also push us to acknowledge—and perhaps even vocalise—our growing intellectual situatedness and independence.

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99. Aitchison, *supra* note 90.

I rely on my peer review group for setting deadlines and reviewing unpolished drafts to ensure that I push my project forward, as I know I tend to procrastinate when it comes to writing.

We have found that our peer review group has provided fertile testing ground for our academic identities and ideas. It is a space largely removed from the power structures and hierarchy of the formal institutional relationships we otherwise encounter in the law school. It has therefore provided important intermediate milestones throughout our program and has filled the institutional gaps left by sparse formalized progress reporting and deadlines. For example, it created a venue for airing rough drafts, versions that we were not always ready to circulate to our supervisors.

Moreover, our peer review group was diverse. The four members of our group differed significantly in the substance of our dissertations, our methodologies and our styles of writing. We found, for example, that peer review compelled us to articulate our ideas and arguments without relying on too much legal jargon that only a specialist in the area would grasp. We also found that we enjoyed and improved at offering each other constructive comments—as is the objective of the peer review. An important by-product of this peer-to-peer exercise is therefore refining our commentary and critique skills, an indispensable part of a legal academic's job.

Existing literature has noted that peer support has a positive effect on both coursework and research.<sup>100</sup> The positive effect of the peer-review approach has been attributed to the absence of power relations between group members, the non-institutional reasons for its existence as well as its "sociality."<sup>101</sup> Peer review boosts collegiality. Although the doctorate in law, like other doctoral studies, can seem like a very solitary exercise, relationships such as the ones engendered through peer review demonstrate that we struggle *collectively* with similar issues. "Unlike expert peer review, which is blind and temporal, these scholars [engaging in a doctoral writing group] develop intimate knowledge of their reviewers over time, coming to appreciate their strengths and weaknesses as writers and reviewers, and as particular kinds of disciplinary scholars."<sup>102</sup> Put differently, our peer review group has enabled us to know ourselves better through working with others, developing both our self-awareness and our sense of what we require from our supervisors and other supportive relationships. The peer review group has therefore supplemented our understanding of, and

100. Martinsuo & Turkulainen, *supra* note 54 at 115-116.

101. Aitchison, *supra* note 90 at 55, 58.

102. *Ibid* at 61-62.

engagement with, doctoral legal education within the context of the law school.

This section has teased out the tension between the intimacy and primacy of the supervisory relationship, and the values and challenges that can arise from multiple non-supervisory relationships during the doctorate. Although this tension was perceived as being particularly contextual when the authors first began writing this article, it has proven to be far more emblematic of the doctoral experience in law as a whole. Indeed, our choice to pursue other supportive relationships stems in part from our individual personalities, personal experiences upon entering doctoral studies and prior research surroundings, but also our need, as creatures of academia, to develop our networks of understanding. Our quotes suggest that our doctoral experiences, through our relationships, contribute to a heightened sense of self-awareness, critical to embracing our identity as budding legal scholars and academics.

### *Conclusion*

Legal education and the state of law schools in Canada are in an exciting and challenging period of renewal. Doctoral studies in law play a crucial role in considering and shaping what this future will look like, and in many ways, epitomize the current crossroads facing law schools and legal education in Canada today. As doctoral studies produce, among other things, the next generation of legal educators and scholars, doctoral students are positioned to become the producers of future ideas and knowledge about law, legal education, and the place of law school in the university. Thus, the time for reflecting upon the place and identity of both doctoral programs and doctoral students in law is now.

This article has sought to contribute to both the broader conversation about law and legal education moving forward in Canada, and specifically, to bring new energy and dialogue to the underexplored and often ignored place of doctoral studies within the legal academy. We have done so by introducing an auto-ethnographic methodology to scholarship on legal education. Specifically, we have done so in service of three ends. First, we hope that an auto-ethnographic approach provides law professors in their vital roles as supervisors, committee members and graduate student administrators with a grounded analysis of the tensions that their doctoral students experience through their studies. Second, we offer current and prospective law doctoral students a framework for reflecting upon their individual doctoral experiences and the extent to which these experiences are constructed and constrained by deeper tensions in legal education. Third, we offer this article as a starting point and invitation to

others—in different law schools, with diverse backgrounds, experiences and ambitions—to participate in an auto-ethnographic analysis of legal education more broadly.

Our article identified and explored three tensions which appear to cut across individual experience: the doctorate as a privileged space for research versus the doctorate as job training; the provision of adequate institutional support for doctoral students versus the need for adequate space for students to develop independent academic identities and the necessary emphasis on the supervisory relationship versus the value of cultivating multiple intellectual relationships during doctoral studies. What is apparent from our individual narratives and analysis is that each of these tensions is tied to deeper structural tensions within the nature of legal education and the ongoing process of definition in which Canadian law schools participate. Moreover, each tension bears significantly on the doctoral student experience. These tensions work in concert—for better or worse—in developing our academic identity and voice, and in guiding us through the process of self-discovery that underlies the doctoral process. Equally evident from our experiences and explorations is the varying and divergent ways we each cope with these tensions. To borrow from Rod Macdonald (who, in turn, borrowed from Tolstoy), “unhappy doctoral students tend to be unhappy alike, and happy doctoral students tend to be happy each in their own way.”<sup>103</sup>

As we advance, collectively and individually, toward the future of legal education in Canada, our goal for this article is to invite further reflection and conversation about the ways in which doctoral studies and doctoral students in law will contribute to new visions and momentum about law school and legal education in the coming years, and provide a foundation for dedicated and sustained attention to doctoral studies in their own right.

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103. Roderick A Macdonald, “Pluralistic Human Rights? Universal Human Wrongs?” in René Provost & Colleen Sheppard, eds, *Dialogues on Human Rights and Legal Pluralism* (Dordrecht: Springer, 2013) 15 at 16.

