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## Canadian Graduate Legal Education: Past, Present and Future

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Sanjeev S. Anand\*

Canadian Graduate Legal Education:  
Past, Present and Future

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*Canadian graduate legal education has seldom been the subject of scholarly inquiry. This article seeks to fill the vacuum by describing and evaluating various features associated with master's and doctoral programs offered by the nation's law schools. A number of criteria are used in this analysis, some of which have been garnered from the broader literature on higher education. The article concludes with a series of specific programmatic and policy reform proposals aimed at strengthening the state of graduate legal education in this country.*

*Les programmes canadiens d'études de deuxième et de troisième cycles en droit ont rarement fait l'objet de recherches scientifiques. Pour combler cette lacune, cet article décrit et évalue les diverses caractéristiques liées aux programmes d'études de maîtrise et de doctorat offerts par les facultés de droit canadiennes. De nombreux critères, dont certains tirés de l'abondante documentation sur les études supérieures, sont utilisés pour cette analyse. En conclusion, l'article dresse une liste de propositions précises sur la réforme des programmes et des politiques, propositions qui visent à renforcer la situation des études de deuxième cycle en droit au Canada.*

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*Introduction*

Doctoral and master's degree programs in law are relatively neglected areas of legal education. Graduate law degrees are not offered by every law school and of those schools that do offer such programs, most devote the bulk of their resources to professional undergraduate (Bachelor of Laws (LL.B.) or Juris Doctor (J.D.)) students and curricula.

Nevertheless two recent events have drawn attention to, and created a renewed interest in, graduate legal education in Canada. At its annual meeting in May 2002, the Canadian Association of Law Teachers (CALT) held a full day conference session on postgraduate legal education in Canada. The centerpiece of this session was the release of a survey of all Canadian master's and doctoral degree programs in law conducted by Professor

DeLloyd Guth of the Faculty of Law, University of Manitoba.<sup>1</sup> Then in July 2003, McGill University launched its first annual symposium on graduate legal education. This symposium brought together legal academics from Canada, the United States, the United Kingdom, and Australia with graduate students from a number of Canadian law schools over a two day period to discuss various aspects of graduate legal education as well as the expectations, pressures and rewards of institutional life.

Professor Guth's survey of Canadian graduate programs is valuable because it constitutes the first publicly disseminated outline of the different types and requirements of graduate programs offered by each of the Canadian law schools: however, important information about these programs is not revealed in the survey. For instance, although the survey documents whether or not various Master of Laws (LL.M.) programs incorporate compulsory seminars, the subject matter of these seminars is not discussed. While the survey indicates which law schools offer doctoral programs, little else about these programs is comprehensively dealt with in the survey. No course or admission requirements concerning these programs are provided, not every doctoral degree's designation is given, and the information pertaining to doctoral dissertation defences is incomplete. The survey information is displayed in table form to facilitate comparisons between institutions, but this format fails to reflect adequately the diverse nature of graduate legal programs at Canadian law schools. For example, the survey presents aggregate financial information about the internal funding of graduate students. Yet the survey does not reveal how that funding is divided between doctoral and master's students or if any of the funding is strictly devoted to supporting research in specific subject areas. For some law schools no funding information is provided. In addition, the survey identifies which law schools offer course-based (non-thesis) master's programs but the survey makes no mention of what, if any, specific courses must be taken and what, if any, writing requirements must be met in order to obtain these degrees. Finally, although the data presented in the survey are accurate, the specific sources for the information are not provided and hence the data cannot be readily verified.

At the McGill symposium two other problematic aspects of Professor Guth's survey surfaced. The first was that many of the participants at the McGill symposium were not aware of the survey because it had not been published. The second was that the information provided in the survey

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1. DeLloyd Guth, "Presentation of Survey Data" (Paper presented to the Annual Conference of the Canadian Association of Law Teachers, May 2002) [unpublished].

had, to a certain extent, been dated by recent developments in some law school graduate programs.

Thus, the discussions at both the CALT and the McGill conferences demonstrate the need for a comprehensive published inquiry into the state of Canadian graduate programs in law. Although this paper seeks to address this need, at least with respect to those programs offered by English Canadian law schools,<sup>2</sup> its goals go beyond the merely descriptive. The penultimate objective of this article is to articulate a new vision for Canadian graduate legal education.

The bulk of material published on the subject of legal education tends to focus on undergraduate programmatic and pedagogic developments.<sup>3</sup> In order to explore the state of Canadian graduate legal education, this study utilizes a novel research methodology. The raw data pertaining to the different Canadian graduate programs in law were obtained largely by examining internal law school reports describing these programs and, where the information was obtainable, external assessments of these graduate

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2. The University of Ottawa and McGill University are considered English Canadian law schools for the purposes of this study because both institutions admit English speaking graduate students and offer them supervisory services and instruction in English. Moreover these institutions permit theses to be written in English. Despite the fact that Carleton University offers a graduate degree in law, it is not included in this study because Carleton is not a law school that grants a professional undergraduate degree that constitutes a prerequisite for being admitted to the Bar of a province. Moreover, admission to the graduate degree program in law offered by Carleton, the Master of Arts in law, does not normally attract individuals who already hold LL.B. or J.D. degrees. The decision to refrain from describing and analyzing the graduate programs offered by the four purely civil law law schools in Quebec is based on the fact that these graduate programs in law also do not normally attract individuals who hold common law degrees. Finally, please note that this article only addresses the graduate programs in law currently in existence at English Canadian law schools. In September 2004, the University of Victoria will launch a thesis-based, as well as a course-based, LL.M. program, and a Ph.D. program in law and society. In addition, the University of Western Ontario's law school is currently awaiting approval of its proposal to establish an LL.M. program. The first students in this program will begin their studies, at the earliest, in September 2004.

3. The amount of published work that can be characterized as dealing with the programs and pedagogy of professional undergraduate legal education is too voluminous to cite in its entirety. For some examples of this type of material, see W. Twining, "Pericles or the Plumber" (1976) 83 *Law Q. Rev.* 396. R.J. Scragg, "Laws, Skills and Transactions: The Opportunity for an Expanded Curriculum" (1995) *N.Z.L.J.* 234. Richard Grimes, Joel Klaff & Colleen Smith, "Legal Skills and Clinical Legal Education - A Survey of Undergraduate Law School Practice" (1996) 30 *Law Teacher* 44. Deborah Maranville, "Infusing Passion and Context into the Traditional Law Curriculum Through Experimental Learning" (2001) 51 *J. Legal Educ.* 51, and Charles Sampford & David Wood, "Legal Theory and Legal Education - The Next Step" (1989) 1 *Legal Education Review* 107. Evidence of the lack of attention paid to graduate legal studies by legal education scholars can be found in recent special issues devoted to legal education found in Canadian, American, and Australian law journals. Not one of the contributing articles to these journals mention the subject of graduate legal education. The articles comprising the special issue on Canadian legal education are found in (2001) 20 *Windsor Y.B. Access Just.* 3-330. The papers in the symposium on American legal education are published in (2001) 15 *Notre Dame J.L. Ethics & Pub. Pol'y* 5-153. The essays on Australian legal education appear in (2000) 25 *Alternative Law Journal* 264-287.

programs.<sup>4</sup> The data from these documents was supplemented by information from a number of Law Deans, Associate Deans, Faculty members, and law school administrative staff, and all such contacts were documented. The analysis proceeds to use the broader literature on higher education as a lens through which to view and evaluate reform proposals.

This paper proposes many reforms that go against prevailing practice. For example, it argues that Canadian law schools should discontinue offering monolithic LL.M. programs requiring lengthy theses and limited (mainly undergraduate LL.B. or J.D.) coursework. Instead these law schools should introduce differentiated master's programs that cater to the different constituencies of students interested in pursuing graduate work in law. Doctoral programs in law should continue to require the completion of substantial dissertations that constitute original contributions to legal literature. However, prior to the granting of these degrees, students must demonstrate that they have achieved satisfactory standing in particular courses aimed at assisting budding academics to better prepare for a life of teaching and intellectual inquiry. When giving advice to aspiring graduate students and when hiring colleagues, Canadian legal academics should re-evaluate the value of certain graduate degrees, particularly course-based master's degrees from prestigious universities abroad. Specific action must be taken by law school administrators to foster the supervisor-student relationship, support graduate students professionally and financially, and recognize the importance of rigorous graduate legal education to the academy.

This article is divided into three parts. The first section is a literature review of the subject of graduate legal education with a particular emphasis on Canadian graduate programs in law. The second part describes and analyzes the state of such programs offered by each English Canadian law school. The third portion of the paper examines the broader literature on higher education with a view to determining what lessons it, as well as the previously examined literature on graduate legal education, can offer for reforming Canadian graduate programs in law. This portion of the paper concludes with a series of specific programmatic and policy reforms that, if implemented, will strengthen these programs while simultaneously allowing them to better meet the objectives and needs of students and the professoriate.

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4. Although each university requires the periodic review of each of its academic units' graduate programs, many law schools refused access to these assessments, claiming that the information contained within them was confidential. However most law schools were willing to release the internal briefs pertaining to their graduate programs that were prepared for the assessors, and some law schools also made available their responses to the assessors' reports.

### 1. *The Graduate Legal Education Literature Review*

The literature on graduate legal education is not well known, and is far from vast. No books are devoted to this subject, although three editions of a directory of American graduate law degree programs have been published in book form.<sup>5</sup> Of the few articles on this subject that can be found in law journals, almost all deal with various facets of American graduate legal education.

The first published article on graduate legal education was by Dean Griswold of Harvard Law School and appeared in a Canadian law journal.<sup>6</sup> In describing Harvard's graduate program in law as it existed in the 1950s Griswold makes observations that resonate today. He finds it perplexing that foreign students come to Harvard but desire to study topics pertaining to their own legal systems that they might better study at home.<sup>7</sup> What Griswold fails to understand is that the large private American universities' collections of the law of foreign nations were and continue to be more comprehensive than the holdings of the libraries in many of those nations.<sup>8</sup> In fact one of the main reasons that the first faculty members of Canadian university law schools tended to receive their graduate training in the United States was because of the inadequate state of Canada's law libraries. Writing in 1950, Maxwell Cohen states "[i]t is no secret that for serious research into early Canadian statutes and caselaw, the Harvard Law School library offers a better collection than can be found in Canada[.]"<sup>9</sup> Griswold also characterizes foreign graduate students whose training is not in the Anglo-American common law as being highly problematic

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5. The most recent version of the directory is Richard L. Hermann, Linda P. Sutherland & Jennifer L. Cox, eds., *Directory of Graduate Law Degree Programs*, 3d ed. (Washington, D.C.: Federal Reports, 1992).

6. Erwin N. Griswold, "Graduate Study in Law" (1950) 28 *Can. Bar Rev.* 172.

7. *Ibid.* at 177.

8. Indeed at the McGill symposium on graduate legal education, Arun Thiruvengadam, a doctoral student from New York University's law school remarked that the holdings in Indian law of the New York University law school library were far superior to any Indian law school's law library holdings. He went so far as to say that New York University's law library was better equipped for researching Indian law than the law library utilized by the Indian Supreme Court! (Arun Thiruvengadam, "Balancing Teaching and Research" (Roundtable presentation on teaching presented to *Professing to Educate ... And Educating to Profess: A Symposium on Graduate Legal Education for Academics (Present and Future)*, July 2003) [unpublished]).

9. Maxwell Cohen, "The Condition of Legal Education in Canada" (1950) 28 *Can. Bar Rev.* 267 at 272. Cohen notes that the largest law libraries of the time were at the University of Toronto and McGill University and that these libraries had only 25-35,000 active volumes in them. This situation causes him to remark that although many Canadian law school libraries "have the makings of good, small working libraries - ... nearly all are deficient in materials for serious research on the graduate level[.]" (Cohen, *supra* note 9 at 272.)

because many of them lack sufficient proficiency in the English language.<sup>10</sup> Finally, although Griswold believes that law professors should hold doctoral degrees in law, he does not think that such degrees should be obtained prior to entering the professoriate. He reasons as follows:

Teachers of law ought to be encouraged by leaves of absence from their School to ... [pursue] ... graduate work at a time when their interests and needs have become so crystallized that work for the doctorate is intrinsically rewarding. In general, it seems better to defer this kind of graduate work until a man has had some experience than to take it as a matter of course at the conclusion of LL.M. work. Law faculties should not require such a degree in imitation of the unimaginative quest for holders of Ph.D.'s on the part of most American undergraduate colleges, but should rather work out a system by which members of their faculty will be given an opportunity to take the requisite period of study when the time is ripe.<sup>11</sup>

It must be remembered that Griswold is writing at a time when the publication demands for tenure were not as onerous as they are today. Now professors hired on a tenure-track basis, at least in Canada, must achieve a substantial record of juried publications within approximately four years from the time they are hired in order to obtain tenure. Those who do not have thorough research training and substantial writing experience prior to being hired to tenure-track positions invariably find it difficult to meet tenure publication standards, particularly when they are asked to do so at the same time as they are required to perform teaching duties.

Banks McDowell and Alan Mewett subsequently critiqued graduate study in the United States on the basis that it provided insufficient training for future teachers of law.<sup>12</sup> The authors recognized that graduate legal studies fulfill a number of purposes but the pursuit of coursework degrees for professional purposes was not their primary concern.<sup>13</sup> They also did not focus on the needs of foreign graduate students who pursued graduate work in law in the United States so as to gain a basic understanding of the American legal system. However, the authors stated that in order for graduate studies to meet this objective for civil law trained students, their coursework should not emphasize the teaching of substantive rules but should instead concentrate on communicating an understanding of the at-

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10. Griswold, *supra* note 6 at 176-177.

11. *Ibid.* at 183-184.

12. Banks McDowell, Jr. & A.W. Mewett, "What are Teachers Made Of? A Critical Appraisal of Graduate Study in the United States" (1955) 8 *J. Legal Educ.* 79.

13. *Ibid.* at 80.



titudes and methods of the common law system.<sup>14</sup> The authors' principal concern was to address the needs of those students who embark on graduate studies in law with a view to becoming professors of law in the Anglo-American world. McDowell and Mewett felt that the LL.M. degree offered by American universities, consisting of mere coursework and limited writing requirements, provided insufficient training for law professors. However, they were also dissatisfied with the contemporary form of doctoral work in law.

As a result, McDowell and Mewett articulated a blueprint for reforming the curriculum of doctoral studies by first indicating the ideal educational background of a law professor. Such an individual needs training in the philosophical background of his/her area of interest so that he/she can better teach the rules of law and their rationale, a strong understanding of legal analysis and method that he/she can convey to students, and the ability to view the law as a complete system with certain social aims toward which the legal profession is obligated to work.<sup>15</sup>

The authors then explained why the completion of a doctoral dissertation, by itself, insufficiently prepares graduate students for life as law professors.

The major criticism of a research project as the primary training of a prospective teacher is its narrowness - it rarely covers a general field of law, but rather focuses on a small segment of a field. As a result, it does not directly train the student to view the legal system as a whole nor to consider the major social ends toward which law should move — training which, although valuable to the scholar, is indispensable to the teacher. Furthermore, since it is hoped that the study will be original and useful to the profession, the subject will be in an area where little work has been done, which, needless to say, will receive little consideration in a course taught to undergraduates. Thus, the narrowness which makes a research project a valuable and exhaustive study is the very factor which makes it a poor means of teacher-training.<sup>16</sup>

The authors did not eschew the requirement of a doctoral dissertation constituting an original and significant contribution to legal literature, but maintained that such a research project must be supplemented by coursework aimed at giving graduate students the background required to be effective teachers. Interestingly, the authors assume that working on the

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14. *Ibid.* at 86.

15. *Ibid.* at 82.

16. *Ibid.* at 82.

doctoral dissertation meets all of the research and writing needs of graduate students and that no coursework on research methodology or scholarly writing is required. This conclusion assumes that graduate students are already competent researchers and writers or that any assistance that they require in these areas can be adequately addressed through the supervisor-student relationship.

McDowell and Mewett did not advocate that doctoral students in law take courses that directly address the teaching enterprise, such as practical skills training for teachers or courses that deal with learning theory or ethical considerations in the classroom. Instead the authors' primary concern is that graduate students considering a career in academia have a sufficiently broad and deep understanding of law and its place in the larger world so that this knowledge can be passed on to students. Consequently, they feel that doctoral students must study jurisprudence, the relationships between other fields of knowledge and law, and comparative law.<sup>17</sup>

Because they envisioned adding a heavy coursework component to doctoral studies in law, which at that point consisted almost entirely of a dissertation requirement, McDowell and Mewett suggested changing the designation of the doctoral degree in law from Doctor of Juridical Science (S.J.D.) to Doctor of Philosophy (Ph.D.).<sup>18</sup> One wonders if they were also troubled by the fact that although the Ph.D. degree has, since its inception, always been a research degree of high repute, the S.J.D. was, at its inception at Harvard Law School and for many years thereafter, a course-based graduate degree.<sup>19</sup>

The next article to address the topic of preparing graduate students for teaching careers is one that describes what eventually became Harvard Law School's Law Teaching Colloquium.<sup>20</sup> The Colloquium is a non-credit

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17. *Ibid.* at 85-86. In urging mandatory coursework in comparative law for doctoral students, McDowell and Mewett assert that a person who wishes to teach or to do productive research in the Anglo-American legal system must be able to get outside the traditional approaches of legal thinking and evaluate the system objectively and that this requires a fairly thorough knowledge of a foreign legal system that is quite different from the Anglo-American one (*ibid.* at 85).

18. *Ibid.* at 87-88.

19. Harvard first offered the S.J.D. degree in 1911. It was not until 1924 that Harvard law school announced it was going to offer two graduate degrees in law: the S.J.D. and the LL.M.. Both degrees required one academic year's study consisting of 12 hours of coursework a week. Those awarded the doctoral degree passed their course examinations "with distinguished excellence" whereas master's degree recipients passed their course examinations "with high rank." It was not until 1935 and thereafter that Harvard required the production of a doctoral dissertation that made "a significant contribution to legal literature" before it would grant the S.J.D. degree (see Arthur E. Sutherland, *The Law at Harvard: A History of Ideas and Men, 1817-1967* (Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1967) at 233-234).

20. The article is Frederick E. Snyder & Jerome A. Cohen, "Harvard's Program in Law Teaching - A New Dimension in Graduate Legal Education" (1981) 31 *J. Legal Educ.* 140.

offering of seminars in which law professors and those close to the hiring process share their thoughts and experiences about teaching and life in the academy. However, when the Assistant Dean of Harvard Law School, a co-author of this article, first conceived of this Colloquium, it had a more ambitious and structured agenda. Graduate students in law were supposed to be given access to a number of seminars. The first seminar was to be a session on the current state of domestic and foreign legal education. The plan for the second seminar was an exploration of the history and evolution of professionalism and legal education in the United States. In the third seminar, students were to study the relationship between law schools and other faculties in the university as well as the role of undergraduate liberal arts legal studies. The next seminar was supposed to examine the work of psychologists regarding learning theory and the impact upon student learning of such law learning models as the case method, simulation exercises, and clinical legal education.<sup>21</sup> In yet another seminar, students were going to be exposed to the role of ethics in legal education through discussions of such questions as, "Should law professors advocate for law reform in the classroom and should there be a code of ethical conduct for academicians?"<sup>22</sup> The conclusion of the seminar series was to take the form of an inquiry into the life cycle of a law professor and an examination of the kinds of problems that are likely to arise during the course of his/her career. Subjects such as the tenure obtainment process and the management of interpersonal relationships with colleagues and students were scheduled to be addressed.<sup>23</sup>

Perhaps the most comprehensive discussion of the state of American graduate legal education, its objectives, its standards, and its relationship to the American legal academy is found in an article by Henry Gabriel.<sup>24</sup> Gabriel highlights a very important and distinctive aspect of the professoriate at American law schools. Although many American law professors hold Ph.D.s in disciplines other than law as well as J.D. degrees, the highest law degree most American law professors hold is the J.D.<sup>25</sup> To the extent that Americans hoping to obtain university teaching positions

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21. *Ibid.*

22. *Ibid.* at 148.

23. *Ibid.* at 148-149.

24. Henry D. Gabriel, "Graduate Legal Education: An Appraisal" (1988) 30 S. Tex. L. Rev. 129. An article that draws heavily on Gabriel's work and sources but that also deals with combined degree programs such as the J.D./M.B.A. programs is Linda R. Crane, "Interdisciplinary Combined-Degree and Graduate Law Degree Programs: History and Trends" (1999) 33 J. Marshall L. Rev. 47.

25. Gabriel, *supra* note 24 at 138. Only 1/3 of law professors in the United States have graduate degrees of any kind (*ibid.* at 155). See also David Luban, "Legal Scholarship as a Vocation" (2001) 51 J. Legal Educ. 167 at 168.

enroll in graduate programs in law in the United States, they tend to be admitted into LL.M. programs from more prestigious law schools than the law schools in which they took their J.D. studies. Indeed, a 1978 preliminary report of a survey of graduate degree granting programs of American Bar Association accredited law schools by the Section on Graduate Studies of the Association of American Law Schools reported that a number of Ivy League law schools' graduate programs have as one of their objectives the remedying of perceived deficiencies in students' American undergraduate legal education.<sup>26</sup> Thus, those Americans who graduate with a J.D. from tier one law schools can enter the academy directly while those who did not receive their J.D. from prestigious tier one law schools must undertake a fourth year of undergraduate law school courses in the form of an LL.M. from an Ivy League or similarly ranked school.<sup>27</sup>

Gabriel outlines the inauspicious origins of the LL.M. degree in the United States. He recounts that the LL.M. was born when, in 1874, Columbia Law School began offering the degree to any of its students who completed a third year of LL.B. courses.<sup>28</sup> Several other universities followed this pattern and eventually the then two-year LL.B. degree was extended to three years, and the LL.M. became a fourth year of law school.<sup>29</sup>

Two types of modern American graduate law students are described. The first is one who pursues an "academic" LL.M. that requires a fourth year of undergraduate legal work consisting largely of elective courses and the completion of a law review size paper under faculty supervision.<sup>30</sup> Such a student enrolls in this form of program in order to upgrade his/her credentials, both in terms of degrees obtained and publications authored, so that he or she will be hired onto a law faculty. The other type of student enrolls in a "professional" LL.M. program that consists of more advanced courses than those offered to J.D. students. The courses are largely mandatory and the student's objective is to become a specialist for the purpose of

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26. Cited in Snyder & Cohen, *supra* note 20 at 144.

27. Even after a student from a second tier law school obtains an LL.M. from a tier one school, it is sometimes more difficult for them to obtain a faculty position with an American university than it is for a student who simply has a J.D. from a tier one U.S. school. The type of sentiment that the former type of student runs up against was expressed in 1928 by the Dean of Yale Law School. He stated that, "[a]ll the institutions which offered graduate work are dissatisfied with the caliber of the men to whom it appeals. . . . With a few notable exceptions graduate study appeals to second-class men who must have some decoration to make them attractive." (Cited in Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill and London: University of North Carolina Press, 1983) at 160.)

28. Gabriel, *supra* note 24 at 131.

29. *Ibid.*

30. *Ibid.* at 134, 138. Gabriel also observes that students in such LL.M. programs often have the option of pursuing a more extended writing project under faculty supervision (*ibid.* at 138).

legal practice. Most “professional” LL.M. programs are concentrated in the area of taxation.<sup>31</sup>

Doctoral work at American law schools is also discussed by the author. Some U.S. law schools require that those wishing to take a doctoral degree at the institution must also take the LL.M. there. This requirement exists even though the almost universal requirement for doctoral degrees in law is the completion of an extensive dissertation with minimal, if any, course requirements.<sup>32</sup> Gabriel cites survey data illustrating that the majority of doctoral students are from abroad.<sup>33</sup> According to him, the reasons for this are highly pragmatic:

The prestige of the top American institutions, combined with the opportunity to live and study in the United States and utilize outstanding research facilities, makes the American graduate law programs attractive to foreign scholars ... Once ... [an American] faculty member begins to establish his or her academic career, taking time off for a doctoral degree may appear to be unnecessary to that faculty member, given the fact that publications, not degrees, will determine professional advancement.<sup>34</sup>

In fact, according to survey data cited by the author, fewer than eight percent of law faculty at American universities hold S.J.D. degrees.<sup>35</sup>

Gabriel tackles the perennial question concerning graduate legal education: why do law schools offer such programs? He articulates a number of reasons. The first is the generation of capital and the provision of resources for the J.D. program.<sup>36</sup> For instance, funds from graduate programs are often diverted to offset fee increases to the undergraduate program or otherwise financially support the latter program. In addition, graduate students are often used as sessional instructors or teaching assistants to deliver the first year J.D. legal research and writing course.<sup>37</sup> A second reason for offering such programs is prestige.<sup>38</sup> When a law school claims that it

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31. *Ibid* at 139.

32. *Ibid*

33. *Ibid* at 154.

34. *Ibid.* at 154-155.

35. *Ibid* at 138. The low number of American faculty members that hold the S.J.D. degree is not surprising given the fact that, at least well into the 1960s, elite U.S. law schools actually looked down upon the degree (see Stevens, *supra* note 27 at 284)

36. Gabriel, *supra* note 24 at 135

37. See, for example, the Associates in Law program at Columbia Law School in which graduate students are given a yearly stipend and tuition exemption in exchange for teaching the legal research and writing course to the first year J.D. students or assisting in the teaching of this subject to civil law trained LL.M. candidates.

38. Gabriel, *supra* note 24 at 140.

is one of the leading producers of law faculty or practitioner specialists at home or abroad, it enhances the reputation and influence of the school. Finally, graduate programs that involve a large proportion of foreign students are often touted as providing important educational experiences to these students and to American law students through the exposure of these two groups to each other and the ensuing exchange of information concerning their respective legal systems.<sup>39</sup>

Two articles have been written concerning non-common law-trained graduate students and American graduate legal education. The first one, penned by Leon Trakman, explains the unrealized potential of such foreign graduate students to benefit greatly from American legal education while simultaneously contributing substantially towards the enrichment of life at U.S. law schools.<sup>40</sup> First the author notes that it is often difficult for admissions committees of graduate programs to assess the academic merit of degrees acquired at different foreign law schools.<sup>41</sup> When this fact is coupled with the notorious unreliability of the Test of English as a Foreign Language (TOEFL), which is supposed to measure the ability of nonnative speakers of English to understand North American English as it is used in university settings, many foreign graduate students admitted to American graduate programs in law are either academically or linguistically unsuitable (or both) for graduate work in law at an American university.<sup>42</sup> Those students who do have the language capability and academic acumen to succeed in American graduate legal studies are often given no special accommodation, and they are expected to simply take J.D. courses and write supervised papers using American legal research techniques to meet their LL.M. degree requirements. Trakman concludes that

[S]ome foreign lawyers, it is true, may return to their homelands with some degree of dissatisfaction with their experiences and training in the United States. The American experience, it must be remembered, is almost invariably a cultural and academic shock to a foreigner who is suddenly introduced to wholly novel methods of education and approaches to legal study — the case and socratic methods. A failure to recognize and attempt to counteract these distinctive difficulties will account for the unstable integration of the foreigner into the law school environment and his ensuing

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39. *Ibid.*

40. Leon E. Trakman, "The Need for Legal Training in International, Comparative and Foreign Law: Foreign Lawyers at American Law Schools" (1975) 27 *J. Legal Educ.* 509. Trakman, then teaching at Dalhousie, had studied law first in his native South Africa and later at Harvard.

41. *Ibid.* at 526.

42. *Ibid.* at 526, 528.

educational frustration and disillusionment. There is, in the final instance, the risk of detriment and prejudice to future international and foreign legal developments, those very purposes upon which such programs should have been founded.<sup>43</sup>

While Trakman diagnoses some of the problems faced by non-common law-trained graduate students at American law schools, the second paper published on this topic suggests possible solutions. Julia Hanigsberg acknowledges that non-common law-trained graduate students enrolled in American graduate programs are often allowed to sink or swim.<sup>44</sup> She does not advocate creating a wholly separate and distinct curriculum of legal studies for such students because in taking J.D. courses they obtain a valuable non-watered down view of the American method of legal education, while they and the J.D. students both gain a comparative perspective on legal issues.<sup>45</sup> Nevertheless, some accommodation should be made to assist these foreign graduate students with American legal pedagogy, research, and theory. Hanigsberg goes on to describe the orientation course she taught at Columbia Law School to non-common law graduate students, one that she felt adequately addressed the needs of her students.

However, Hanigsberg first addresses the summer orientation programs for foreign graduate students offered by some American law schools since the 1960s. The goal of these non-credit programs is to provide some advance preparation to foreign students so that they are not grappling with adjusting to American law school pedagogy, legal process, and legal research at the same time as coping with the substantive rules and assignments of their for-credit course offerings. Hanigsberg dismisses these programs, as they currently exist, as having variant levels of quality and intensity which may not fully prepare foreign students for the rigour of American legal education.<sup>46</sup> In addition, she characterizes these summer programs as often not including skills training in the use of American law libraries.<sup>47</sup> While she accepts that an orientation program offered in the summer has the advantage of not competing with substantive law courses for the student's time and attention, and admits the value of arming the students with skills and knowledge prior to taking J.D. level courses,<sup>48</sup> she

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43. *Ibid* at 528.

44. Julia E. Hanigsberg, "Swimming Lessons: An Orientation Course for Foreign Graduate Students" (1994) 44 *J. Legal Educ.* 588.

45. *Ibid.* at 590.

46. *Ibid.* at 591.

47. *Ibid.*

48. *Ibid.*

still inexplicably concludes that an orientation course taken more or less concurrently with some of the J.D. courses is the preferred model to follow.

Hanigsberg's orientation course had a number of objectives and components. One was to introduce civil law-trained students to common law methods of teaching law. Because civil law students are often trained to search for the "right" answer whereas common law trained students are more concerned about finding good arguments, the orientation course had to address the frustration that civil law-trained students feel as a result of the case method's fragmenting of knowledge. Students were told that the case method of legal education will not yield the synthesis of the law that they received during their civil law training.<sup>49</sup> By directly drawing attention to the difference between the case method of legal pedagogy and the civilian method of legal pedagogy, students' concerns that they were being asked to jump through hoops for no purpose in their substantive law classes were allayed.<sup>50</sup>

The orientation course also introduced the non-common law graduate students to a number of specific common law ideas and skills, such as the doctrine of precedent and the technique of distinguishing cases, through an examination of a fact situation that utilized substantive law principles from one of the first year J.D. courses.<sup>51</sup> The limited extent to which substantive American law was examined in the orientation course is not seen by the author to be problematic. A larger survey of substantive American law could not be accommodated within a one semester course and, in any case, at least in the author's view, foreign students would much prefer to spend their time learning substantive law in the areas that interest them by taking upper year J.D. courses.<sup>52</sup> Yet Hanigsberg fails to advert to the fact that many law schools do not allow their graduate students to take courses from the first year undergraduate offerings. As a result, the non-common law graduate student may take courses from the upper year offerings even though he/she does not have the substantive background for those courses.<sup>53</sup>

Another objective of the orientation course was to give the non-com-

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49. *Ibid.* at 593.

50. *Ibid.* at 594.

51. *Ibid.*

52. *Ibid.* at 600.

53. Of course, students can always audit first year J.D. courses while taking upper year J.D. courses for credit toward their graduate degree. However, such a practice can be time consuming, expensive (if the institution charges to audit courses), and may still leave students with an unsatisfactory educational experience. One can imagine the frustration on behalf of foreign students who must grapple with, for example, a course they are taking for credit in advanced criminal law while they simultaneously audit an introductory criminal law course.



mon law graduate students a rapid overview of the contents of an American law library and the research tools available to American lawyers. Because many of the students were required to use their legal research skills in the early days of their substantive law courses, the legal research and writing component of the orientation course was taught one or two weeks prior to the commencement of the substantive law courses.<sup>54</sup> The time frame for learning these skills certainly seems short considering that many first year J.D. students spend a full semester or even two on the subject. Interestingly, Hanigsberg does not indicate how her students handled the rapid pace of this component of the orientation program.

The final component of the orientation course addressed legal theory. Hanigsberg describes how she gave her students brief synopses of the major schools of jurisprudential thought and sometimes accompanied her classroom presentations with short readings.<sup>55</sup> As a result although the students obtained a taste of jurisprudence, they were not forced, at least in the orientation course, to struggle with a large amount of complex theoretical material.

Despite the centrality of supervised research projects to so many graduate programs in law, there exists only one published journal article that addresses the supervisor-student relationship in the context of graduate legal studies. At the core of Desmond Manderson's paper is a portrait of what he believes constitutes the ideal supervisor.<sup>56</sup> While this individual need not be an expert on the narrow topic of his or her student's thesis, the supervisor must be familiar with the literature pertaining to the student's thesis and the issues surrounding it and must be able to direct the student to relevant sources.<sup>57</sup> As Manderson eloquently states,

The supervisor's role is to help the student *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 her student find answers, but rather should encourage the process of asking better questions.<sup>58</sup>

The ideal supervisor should approach the supervision of his or her students not as a chore but as a privilege, offering the opportunity for mu-

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54. *Ibid.* at 596.

55. *Ibid.* at 601.

56. Desmond Manderson, "Asking Better Questions: Approaching the Process of Thesis Supervision" (1996) 46 J. Legal Educ. 407.

57. *Ibid.* at 410-11.

58. *Ibid.* at 410.

tual intellectual engagement.<sup>59</sup> The supervisor should encourage intellectual effort on behalf of his or her students without either demanding conformity or displaying disrespect.<sup>60</sup> Supervision should be treated as part of the academic's job description, as basic as teaching, research or publication.<sup>61</sup> Finally, the ideal supervisor's duties extend beyond what is required to complete the thesis to include assisting the student to fully become a part of the academic community.<sup>62</sup> Towards this end, the supervisor should provide his or her student with teaching experience, perhaps by offering the student an opportunity to team-teach some of the supervisor's classes.<sup>63</sup> In addition, when the supervisor is made aware of certain conferences that are in the student's area, the supervisor should encourage the student to present papers at these events.<sup>64</sup> Finally and perhaps most importantly, the student should be advised and encouraged to publish and publish often.<sup>65</sup> Few would take issue with the characterization of Manderson's supervisor as ideal. Nevertheless, the key question that Manderson leaves unanswered is, "How does one encourage supervisors to adopt these attitudes and behaviours?"

The first and, to date, only published study to devote a significant amount of attention to Canadian graduate studies in law is the Report to the Social Sciences and Humanities Research Council of Canada by the Consultative Group on Research and Education in Law.<sup>66</sup> One of the terms of reference for the Consultative Group was to examine and advise upon the state of legal education in Canada, especially in relation to the extent and quality of graduate education in law.<sup>67</sup> However, the Consultative Group was not asked to, nor does it provide a comprehensive description and analysis of each Canadian graduate program in law.

In the Arthurs report, the history of law as a university discipline in Canada is briefly recounted, and this history is related to the development of Canadian graduate programs in law. With a few noteworthy exceptions such as Dalhousie's law school, it was not until after World War II that the initial training for professional certification to practice law began to be transferred from downtown law offices to university law faculties.<sup>68</sup> Even

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59. *Ibid.* at 414.

60. *Ibid.* at 415.

61. *Ibid.* at 414.

62. *Ibid.* at 416.

63. *Ibid.*

64. *Ibid.*

65. *Ibid.* at 416-417.

66. Consultative Group on Research and Education in Law, *Law and Learning* (Ottawa: Minister of Supply and Services Canada, 1983) [Arthurs Report].

67. *Ibid.* at 165.

68. The evolution of Canadian law faculties is described *ibid.* at 12-22.

with this change, the largest common law faculty in the 1950s had only approximately four full-time members.<sup>69</sup> During this same time period, university law libraries were completely inadequate for anything but minimal undergraduate student requirements.<sup>70</sup> Thus it comes as no surprise that prior to 1950, graduate studies at Canadian law schools were virtually non-existent.<sup>71</sup> However, Canadian law libraries and faculty complements grew dramatically in the 1960s and 1970s, and with these developments a number of graduate programs in law emerged in Canada.<sup>72</sup>

The picture painted by the Arthurs report of the state of Canadian graduate legal education in 1983 is not a pleasant one. The Consultative Group finds that none of the Canadian graduate programs in law were large, few had developed specialities, and all were underfunded.<sup>73</sup> Although these programs were attracting more and better students, many of the best students continued to study abroad.<sup>74</sup> As evidence that graduate studies in law had not generally achieved an adequate level of development in this country, the Consultative Group note the lack of graduate level courses offered by Canadian law schools. When the Consultative Group conducted its examination, five faculties with graduate programs in law offered no courses or seminars specifically for graduate students and only four faculties were able to list any dedicated graduate courses.<sup>75</sup> Consequently, the graduate student's coursework was drawn largely from LL.B. course offerings. Moreover, the Consultative Group reports that in only three Canadian law faculties were professors who supervise students given any relief from their other duties and in only one faculty did this relief extend to professors' teaching loads.<sup>76</sup> With only half of the admitted graduate students in law being supported by internal funds of the university, and with funding providing on average between \$4700-8000, the deans of Canada's law faculties believed that inadequate funding of graduate students was the major issue facing Canadian graduate legal education.<sup>77</sup>

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69. *Ibid.* at 64.

70. *Ibid.* at 18.

71. *Ibid.*

72. *Ibid.*

73. *Ibid.* Indeed the Consultative Group noted that relative to the undergraduate population, there were only one fifth as many master's students in law as in other disciplines and only one tenth as many doctoral students as in other disciplines (*ibid.* at 27, 29). Moreover the Arthurs Report states that each year fewer than ten doctorates in law and 110 master's degrees in law were granted by Canadian law faculties (*ibid.* at 29).

74. *Ibid.* at 18.

75. *Ibid.* at 36. Of particular concern to the Consultative Group is the lack of courses on research methodology offered at both the undergraduate and the graduate level (*ibid.* at 94).

76. *Ibid.* at 36.

77. *Ibid.*

However, the Arthurs report notes a significant non-financial impediment to the creation of vibrant, intellectually stimulating and research productive graduate studies in law. The Consultative Group observes that:

[M]any law professors have no graduate degrees, most have only terminal [course based with limited writing requirements] master's degrees, and relatively few have doctorates in law or graduate degrees in other disciplines. Most, therefore, have neither specific training in research nor the experience of the intensive graduate programs common in other disciplines. Thus they are not readily equipped to . . . offer proper graduate supervision to advanced students.<sup>78</sup>

In fact, 87% of the law professors of common law faculties surveyed by the Consultative Group did not hold a doctorate, and 30% of all the Canadian law professors surveyed (common law and civil law) did not hold a master's degree.<sup>79</sup> Although the Arthurs Report acknowledges that undue emphasis on doctoral degrees may sometimes degenerate into credentialism, it concludes that the rarity of doctoral degrees in law among the Canadian legal academy deprives law of an important source of scholarly stimulus and standards.<sup>80</sup>

Nevertheless, the Arthurs Report offered some hopeful signs that Canadian graduate programs would become stronger in the future. The Consultative Group records that the proportion of Canadians enrolled in full-time graduate studies in Canadian law schools increased from 55% in 1976 to 67% in 1980-81.<sup>81</sup> This increase is attributed, in part, to steep fee increases for foreign students wishing to study in Canada as well as for Canadians wishing to study law abroad.<sup>82</sup> Consequently the best Canadian students were beginning to choose to study at home rather than in the U.S. or U.K., which in turn would invigorate Canadian graduate studies in law.<sup>83</sup> The Arthurs Report also emphasizes that, although Canadian law faculties with a sufficient number of professors and adequate libraries to sustain an academic environment had existed for only a few decades, these resources

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78. *Ibid.* at 135.

79. *Ibid.* at 41.

80. *Ibid.* at 94.

81. *Ibid.* at 29.

82. *Ibid.*

83. *Ibid.* Presumably, however, some of the best foreign students are increasingly unmotivated to come to Canadian law schools for graduate studies due to financial concerns. Thus, implicit in the Arthurs Report conclusion, is the idea that a drop in foreign student enrollment in Canadian graduate legal programs will not constitute a detriment to these programs because these students tend not to add significantly, or at least not as significantly, to the intellectual climate of law schools as do top Canadian students. This assumption is certainly contentious, albeit not totally novel.

were finally well enough established to support rigorous and stimulating graduate programs.<sup>84</sup>

The Arthurs Report concludes its analysis of graduate legal education in Canada with a key controversial recommendation aimed at strengthening Canadian programs. The fundamental problem is identified as critical mass. The Consultative Group believes that, due to the small number of students enrolled in graduate studies in law, adequate coursework and supervisory resources are not put into place by Canadian law schools.<sup>85</sup> Until a critical mass of good Canadian students is present in a particular program at a particular time, it will not become feasible to offer them the graduate level instruction and supervision that they deserve.<sup>86</sup> Moreover, this critical mass will itself create a challenging intellectual atmosphere properly associated with outstanding graduate studies.<sup>87</sup> To create this critical mass, the Consultative Group suggests that while some law schools can continue to offer general programs, most should begin to offer programs in which thesis research is limited to a few areas based on faculty strength.<sup>88</sup> It does not address whether the academic job market can accommodate the increased number of graduate law students that the Arthurs Report envisages is required to create a critical mass. Nevertheless, the Consultative Group's recommendation is clear: graduate programs in law should be both expanded and intensified, especially with a view to educating future law teachers and legal researchers.<sup>89</sup>

To make this recommendation a reality, the Arthurs Report makes a number of other recommendations. One is that enhanced funding must be provided for graduate studies in law.<sup>90</sup> Yet viable means to achieve this objective are not addressed. Canadian law professors are also urged to encourage the best Canadian students to consider Canadian graduate programs in law.<sup>91</sup> It is also envisaged that these programs will be improved immensely if existing faculty are given the opportunity to go on study leaves to improve their academic skills or immerse themselves in related disciplines.<sup>92</sup> Law schools' hiring, tenure granting, and promoting

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84. *Ibid.* at 100. The Consultative Group states that "Canadian law schools are now sufficiently developed that our best students no longer need a 'fourth year' at Oxford or Harvard to give them a final polish ... [G]raduate study can and should be a more ambitious enterprise." (*Ibid.* at 142.)

85. *Ibid.* at 135.

86. *Ibid.* at 142.

87. *Ibid.* at 94.

88. *Ibid.* at 142-143.

89. *Ibid.* at 156.

90. *Ibid.* at 143.

91. *Ibid.* at 156.

92. *Ibid.* at 157.

activities should be supportive of improving and expanding graduate studies.<sup>93</sup> Specifically, faculty members should be hired, given tenure, and promoted on the basis of their promise or proven records as researchers.<sup>94</sup> Finally, even though the bulk of the Arthurs Report is concerned about research-based graduate degrees in law for those interested in joining the academy, it does make a recommendation pertaining to a different type of graduate degree in law. The Consultative Group recommends that law schools consider establishing special graduate programs with strong intellectual and theoretical components designed specifically for legal practitioners.<sup>95</sup> This recommendation emanates from a concern that the Consultative Group expresses about the lack of academic rigour associated with some part-time LL.M. programs offered by Canadian law schools that cater to a professional constituency.<sup>96</sup>

Although some individuals expressed disagreement with some of the Consultative Groups's conclusions, the amount of attention to Canadian graduate legal education garnered by the publication of the Arthurs Report was minimal. Mark Weisberg characterizes as "dubious" the Arthurs Report's proposition that more education produces better scholarship.<sup>97</sup> Moreover in a background paper to a large conference on legal education in Canada held in Winnipeg in 1985, Waddams takes issue with the Consultative Group's recommendation that graduate student enrollment be increased. He states as follows:

The enrolments in the common law [graduate programs] ... tend to be small (15 a year or fewer) ... [I]t is doubtful whether large increases in numbers can be expected or whether such increases would be beneficial. There is a limited pool of applicants who are likely to make a significant contribution to legal research: graduate law programmes will always have to compete with practice for the best graduates. It may be that the law schools contribute best to legal research by maintaining graduate programmes that are small in terms of numbers but high in quality. Individual supervision of theses is an essential part of a good graduate programme. This cannot be offered to more than a few students. If the numbers are low, and the quality is high, supervision of graduate students becomes not a burden to a faculty but a positive benefit, for a good graduate

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93. *Ibid.* at 156.

94. *Ibid.* at 144.

95. *Ibid.* at 160.

96. *Ibid.* at 135.

97. Mark Weisberg, "On the Relationship of *Law and Learning* to Law and Learning" (1983) 29 McGill L.J. 155 at 162.

student will stimulate and assist his supervisor's research, and ideally, the research of other students and faculty members.<sup>98</sup>

However, the above quoted paragraph is the longest discussion of graduate legal education contained within any of the background papers emanating from the legal education conference.

Indeed, the only other of the 37 background papers to even mention the subject of graduate legal education is McLaren's paper on the history of legal education in common law Canada.<sup>99</sup> McLaren simply notes that three law schools, Toronto, Manitoba, and Dalhousie, had graduate programs in law prior to 1957 but that it was the period between 1957-1970 in which the first significant interest on the part of Canadian law schools in mounting graduate programs in law was expressed.<sup>100</sup> He observes that, for the most part, the programs failed to attract a large number of Canadian graduates and the foreign students they did enroll were often disappointing.<sup>101</sup> More success was reported to have been achieved by larger schools such as Osgoode Hall, in which a wealth of expertise was available for graduate supervision, and by schools that limited their programs to fields in which they had strength and depth, such as Queen's and the University of British Columbia.<sup>102</sup>

It has been twenty years since the Arthurs Report released its descriptions of and recommendations for Canada's graduate legal programs. The time is past due to update the state of Canadian graduate legal education and articulate a new vision for reform.

## II. *Description and Analyses of English Canadian Graduate Programs in Law*

### 1. *Preliminary Observations*

Before each English Canadian graduate program in law is described, a few preliminary matters need to be addressed. The first one deals with the assessment of law library holdings. The Arthurs Report makes clear that law library holdings are of central importance to legal scholarship and

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98. S.M. Waddams, "Research and Scholarship" in Roy J. Matas & Deborah J. McCawley, eds., *Legal Education in Canada* (Montreal: Federation of Law Societies of Canada, 1985) 179 at 184.

99. John P.S. McLaren, "The History of Legal Education in Common Law Canada" in Roy J. Matas & Deborah J. McCawley, eds.,

*Legal Education in Canada* (Montreal: Federation of Law Societies of Canada, 1985) at 111-145.

100. *Ibid.* at 135 and 145.

101. *Ibid.* at 135.

102. *Ibid.*

graduate studies in law. The Consultative Group found that library-based research far outstrips any other research method or technique used by law professors and, presumably, graduate students in law, and that the law library is the principal library in which this research is carried out.<sup>103</sup> The difficulty in these modern times with computer databases containing full length journal articles is this: how does one assess a law library's holdings? A simple example illustrates the difficulty of this enterprise. Suppose a paper on the legal regulation of stem cell research is sought. The researcher discovers that the article is in a well-known medical journal. However, that full text of the medical journal can be retrieved from the computer terminal in the law library by accessing a university-wide database. Should this medical journal be considered part of the law library, the medical library (where the hard copy of the journal can be found) or neither? One of the regular forms of communication of research knowledge in law is through the publication of monographs. Because publishers keep titles in print for only very short periods of time, there is little prospect of remedying in the future any gaps left in collections by the failure to purchase monographs as they appear.<sup>104</sup> Consequently, instead of reporting on total volumes of material, periodicals and monographs, held by particular law libraries, the decision has been made to communicate the annual monograph budget for each library as well as the total number of volumes of monographs held by each library.

Another preliminary matter concerns the expression of minimum grade point average for admission to Canada's graduate programs in law. The survey conducted by Professor Guth of Canadian graduate programs in law contains this information but the grades are expressed in accordance with each university's unique grading scale. As a result, it is difficult to compare the grades required by each institution. For this reason, the data on minimum grade point average for admission to Canada's graduate programs in law presented in this paper includes the grades as expressed by each institution as well as a converted equivalent of this grade that will facilitate a comparative analysis. The grades are converted through the grade guide provided by the Office of the Registrar at the University of Alberta,<sup>105</sup> and the final converted grades are expressed as grades on the nine-point scale, which was used by the University of Alberta until

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103. Arthurs Report, *supra* note 66 at 38.

104. The University Research Committee of the Royal Society of Canada, *Realizing the Potential: A Strategy for University Research in Canada* (Ottawa: Royal Society of Canada, 1991) at 22.

105. Office of the Registrar, University of Alberta, *Grade Point Average and Grade Guide* (2000) [unpublished, archived at the Office of the Registrar, University of Alberta, Administration Building].



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Tuition fee data is reported for only the first year of programs because most programs, particularly those at the master's level, allow students to pay a reduced rate of tuition in their second year of studies while they are working on their theses.

Yet another preliminary matter relates to the funding data for graduate students. Most, if not all, Canadian universities offer lucrative scholarships for graduate students. The problem for graduate students in law is that the scholarship winners are selected from a university-wide pool and largely on the basis of undergraduate marks. In such competitions, students with undergraduate degrees in law fare poorly. The reason is that undergraduate marks given to students in many disciplines tend to be more generous than those given to undergraduates in faculties of law. For example, in the fall semester of 1998, the average "A" grade distribution per undergraduate course for faculties and departments at Dalhousie University were as follows: 13% for Law, 57% for Business Administration, 47% for Computer Science, 36% for Microbiology, 34% for Sociology and Social Anthropology, 53% for Social Work, 29% for Psychology, 33% for Physiotherapy, 67% for Pharmacy, 56% for Occupational Therapy, 53% for Nursing, and 68% for Marine Affairs.<sup>106</sup> In addition, because most Canadian students embark on undergraduate studies in law after completing an undergraduate degree in another discipline, it is readily ascertainable that students who obtain "A" averages in other disciplines often receive "B" averages in law school.<sup>107</sup> Although there has been a recent inflation of law school grades, there is still a significant gap between the percentage of high grades given by law and other departments. Consequently, a truer measure of the level of financial support offered by each graduate program in law to its students is the amount of money devoted strictly to graduate students in law by the Faculty of Law through endowed scholarships or other sources. Therefore this article limits itself to reporting only such "internal funding."

Finally, before each law school's graduate programs are individually described and assessed, some of the data about these programs are presented in tables. This form of organization facilitates a comparative analysis and ensures a complete yet relatively compendious account of the English Canadian graduate programs in law.

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106. Cited in The Graduate Studies Committee, *Dalhousie Law School's Graduate Programme: A Self-Study* (1999) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, Dalhousie University] at 36-37 [hereinafter *Dalhousie Self-Study*]. For data showing similar results from the University of Calgary, see *Dalhousie Self-Study*, *ibid.*

107. *Ibid.* at 39.

## 2. Data Tables

*Program Information 1 - Admission Requirements*

<b>Degree Program</b>	<b>Stated Admission Requirements</b>	<b>Converted Admission Requirements</b>	<b>Required TOEFL Score</b>
<b>University of British Columbia</b>			
LL.M.	LL.B. with 12 credits of coursework at the 80% level or an average of 76% in the final two years of the LL.B. program.	LL.B. with 12 credits of coursework at the 77 level or an average of 7.1 in the final two years of the LL.B. program	600
Ph.D.	LL.B. and LL.M. The standing in the LL.B. must be such that it would have allowed the student to pursue the LL.M. at U.B.C. The LL.M., wherever it was obtained, must indicate a superior level of academic performance.		600
<b>University of Alberta</b>			
LL.M.	LL.B. with an average of 6.5 in the final two years of the LL.B. program	LL.B. with an average of 6.5 in the final two years of the LL.B. program.	600
Post-graduate Diploma in Laws	LL.B. with two years' experience in the practice of law.		
<b>University of Calgary</b>			
LL.M.	LL.B. with an average of 3.0 in the final two years of the LL.B. program.	LL.B. with an average of 7.0 in the final two years of the LL.B. program.	600
<b>University of Saskatchewan</b>			
LL.M.	LL.B. with an average of 70% in the final two years of the LL.B. program.	LL.B. with an average of 6.5 in the final two years of the LL.B. program.	550

*Program Information 1 - Admission Requirements*

<b>Degree Program</b>	<b>Stated Admission Requirements</b>	<b>Converted Admission Requirements</b>	<b>Required TOEFL Score</b>
<b>University of Manitoba</b>			
LL.M	LL.B. with a cumulative average of 3.25.	LL.B. with a cumulative average of 71.	600
<b>University of Toronto</b>			
LL.M (thesis-intensive)	LL.B. with a cumulative average of B+	LL.B. with a cumulative average of 73.	600
LL.M (course-intensive)	LL.B. with a cumulative average of B+	LL.B. with a cumulative average of 73.	600
M.S.L.	A doctorate in a discipline other than law and a demonstrated record of scholarship that is law-related.		600
S.J.D.	LL.B. and LL.M. with a cumulative average of B+ or an LL.B. with a cumulative average of B+.	LL.B. and LL.M. with a cumulative average of 73 or an LL.B. with a cumulative average of 73.	600
<b>York University</b>			
LL.M. (research stream)	LL.B. with a cumulative average of B. In exceptional cases students may be admitted into the program without an LL.B., if they have a cumulative B average and can demonstrate academic experience directly relevant to their proposed graduate study in law.	LL.B. with a cumulative average of 6.5. In exceptional cases students may be admitted into the program without an LL.B., if they have a cumulative 6.5 average and can demonstrate academic experience directly relevant to their proposed graduate study in law.	600
LL.M (professional stream)	LL.B. with a cumulative average of B or LL.B. with a cumulative average of C+ coupled with five years of experience in the area of sub-specialization that the student is interested in pursuing.	LL.B. with a cumulative average of 6.5 or LL.B. with a cumulative average of 5.5 coupled with five years of experience in the area of sub-specialization that the student is interested in pursuing.	600

*Program Information 1 - Admission Requirements*

<b>Degree Program</b>	<b>Stated Admission Requirements</b>	<b>Converted Admission Requirements</b>	<b>Required TOEFL Score</b>
<b>York University (continued)</b>			
DJur.	LL.B. and LL.M. with a cumulative average of B. In exceptional cases York University LL.M. students may be admitted into the program if they have completed the course requirements for the LL.M. but not the thesis requirement. In exceptional cases students without an LL.B. or LL.M. may be admitted into the program if they have a cumulative B average over their academic work and can demonstrate academic experience directly relevant to their proposed graduate study in law.	LL.B. and LL.M. with a cumulative average of 6.5. In exceptional cases York University LL.M. students may be admitted into the program if they have completed the course requirements for the LL.M. but not the thesis requirement. In exceptional cases students without an LL.B. or LL.M. may be admitted into the program if they have a cumulative 6.5 average over their academic work and can demonstrate academic experience directly relevant to their proposed graduate study in law.	600
<b>Queen's University</b>			
LL.M.	LL.B. with a cumulative average of B+	LL.B. with a cumulative average of 7.5.	600
<b>University of Ottawa</b>			
LL.M. (without concentration)	LL.B. with a cumulative average of B	LL.B. with a cumulative average of 6.5	600
LL.M. (with concentration in law and technology)	LL.B. with a cumulative average of B.	LL.B. with a cumulative average of 6.5.	600
LL.M. (with concentration in civil law theory)	LL.B. with a cumulative average of B	LL.B. with a cumulative average of 6.5.	600
LL.M. (with thesis)	LL.B. with a cumulative average of B.	LL.B. with a cumulative average of 6.5.	600
LL.M. (with specialization in Women's Studies)	LL.B. with a cumulative average of B.	LL.B. with a cumulative average of 6.5.	600
LL.D.	LL.M. with a cumulative average of B+ or in-progress LL.M. with a cumulative average of A- in the LL.M. coursework.	LL.M. with a cumulative average of 7.3 or in-progress LL.M. with a cumulative average of 8.0 in the LL.M. coursework.	600

*Program Information 1 – Admission Requirements*

<b>Degree Program</b>	<b>Stated Admission Requirements</b>	<b>Converted Admission Requirements</b>	<b>Required TOEFL Score</b>
<b>McGill University</b>			
Graduate Certificate in Comparative Law	LL.B. with a cumulative average of B.	LL.B. with a cumulative average of 6.5.	600
Graduate Certificate in Air and Space Law	Some type of undergraduate degree (it need not be in law) with a cumulative average of B and professional experience in the fields of air and/or space law.	Some type of undergraduate degree (it need not be in law) with a cumulative average of 6.5 and professional experience in the fields of air and/or space law.	575
LL.M.	LL.B. with a cumulative average of B.	LL.B. with a cumulative average of 6.5	575 if admitted through the IASL 600 if admitted through the ICL
D.C.L.	LL.B. with a cumulative average of B and LL.M. with a cumulative average of B.	LL.B. with a cumulative average of 6.5 and LL.M. with a cumulative average of 6.5.	575 if admitted through the IASL 600 if admitted through the ICL
<b>Dalhousie University</b>			
LL.M. (thesis)	LL.B. with a cumulative average of B	LL.B. with a cumulative average of 6.5.	600
LL.M. (non-thesis)	LL.B. with a cumulative average of B.	LL.B. with a cumulative average of 6.5.	600
J.S.D.	LL.B. with a cumulative average of A and an LL.M.. Preference is given to candidates with publication records	LL.B. with a cumulative average of 8.7 and an LL.M.. Preference is given to candidates with publication records	600

*Program Information 2 – Residency and Enrollment*

<b>Degree Program</b>	<b>Residency Requirements</b>	<b>Enrollment Types</b>	<b>Maximum Enrollment</b>
<b><i>University of British Columbia</i></b>			
LL.M.	One academic year (eight months)	Full-Time or Part-Time	None
Ph.D.	Two academic years	Full-Time	None
<b><i>University of Alberta</i></b>			
LL.M.	One academic year (eight months)	Full-Time	None
Postgraduate Diploma in Laws	One academic year	Full-Time	None
<b><i>University of Calgary</i></b>			
LL.M.	Two terms (eight months)	Full-Time	Five new students/year
<b><i>University of Saskatchewan</i></b>			
LL.M.	One academic year (eight months)	Full-Time	None
<b><i>University of Manitoba</i></b>			
LL.M.	One academic year (eight months)	Full-Time	Six new students/year
<b><i>University of Toronto</i></b>			
LL.M. (thesis-intensive)	One academic year (eight months)	Full-Time or Part-Time	None
LL.M. (coursework-intensive)	One academic year (eight months)	Full-Time	None
M.S.L.	One academic year (eight months)	Full-Time	None
S.J.D.	One academic year (eight months) if admitted with an LL.M. Two academic years if admitted without an LL.M.	Full-Time	None

*Program Information 2 - Residency and Enrollment*

<b>Degree Program</b>	<b>Residency Requirements</b>	<b>Enrollment Types</b>	<b>Maximum Enrollment</b>
<b>York University</b>			
LL.M. (research stream)	Two academic semesters (eight months)	Full-Time	None
LL.M. (professional stream)	None	Part-Time	None
D.Jur.	Two academic semesters (eight months) for those students admitted with an LL.B. or LL.M. and those students admitted with an in-progress York University LL.M. (research stream). Four academic semesters (16 months) for those students admitted without an LL.B. or LL.M.	Full-Time	None
<b>Queen's University</b>			
LL.M.	None for part-time students and 12 months for full-time students	Part-Time or Full-Time	15
<b>University of Ottawa</b>			
LL.M. (without concentration)	None for part-time students and three academic semesters (12 months) for full-time students	Part-Time or Full-Time	None
LL.M. (with concentration in law and technology)	Three academic semesters (12 months)	Full-Time	None
LL.M. (with concentration in civil law theory)	None for part-time students and three academic semesters (12 months) for full-time students	Full-Time or Part-Time	None
LL.M. (with thesis)	Three academic semesters (12 months)	Full-Time	None
LL.M. (with specialization in Women's Studies)	None for part-time students and three academic semesters (12 months) for full-time students	Full-Time or Part-Time for those students pursuing this program via the research paper route. Full-Time only for those students pursuing this program via the thesis route.	None

*Program Information 2 – Residency and Enrollment*

<b>Degree Program</b>	<b>Residency Requirements</b>	<b>Enrollment Types</b>	<b>Maximum Enrollment</b>
<b><i>University of Ottawa (continued)</i></b>			
LL.D.	Six academic semesters (24 months) for those admitted with a completed LL.M. Nine academic semesters (36 months) for those admitted with an in-progress LL.M. (but this includes the semesters already completed for the master's)	Full-Time	None
<b><i>McGill University</i></b>			
Graduate Certificate in Comparative Law	One full academic term (eight months)	Full-Time	None
Graduate Certificate in Air and Space Law	One full academic term (eight months)	Full-Time	None
LL.M.	Three academic semesters (12 months)	Full-Time	None
D.C.L.	No physical residence required, although doctoral students must pay full-time tuition for three calendar years	Full-Time	None
<b><i>Dalhousie University</i></b>			
LL.M. (thesis)	Two academic years (24 months) for part-time students One academic year (12 months) for full-time students.	Full-Time or Part-Time	None
LL.M. (non-thesis)	Two academic years (24 months) for part-time students One academic year (12 months) for full-time students.	Full-Time or Part-Time	None
J.S.D.	One academic year (12 months)	Full-Time	None



*Program Information 3 – Duration and Tuition*

<b>Degree Program</b>	<b>Maximum Duration</b>	<b>Tuition Fees</b> (for Full Time Students Unless Otherwise Indicated)
<b>University of British Columbia</b>		
LL.M	Five years	\$3,200/y for Canadians and Permanent Residents. \$7,200/y for international students.
Ph.D	Six years	\$3,200/y for Canadians and Permanent Residents. \$7,200/y for international students.
<b>University of Alberta</b>		
LL.M	Four years	\$3,622 60/y for Canadians and Permanent Residents \$6,654 52/y for international students.
Postgraduate Diploma in Laws	Four years	\$1,226 66/y
<b>University of Calgary</b>		
LL.M	Three years	\$4,548 /y for Canadians and Permanent Residents. \$9,096/y for international students.
<b>University of Saskatchewan</b>		
LL.M	Five years	\$5,313/y for Canadians and Permanent Residents. \$5,313/y for international students.
<b>University of Manitoba</b>		
LL.M.	One year, but with an extension of an additional year if the extension is approved by the student's supervisor.	\$4,177/y for Canadians and Permanent Residents \$4,177/y for international students.

*Program Information 3 - Duration and Tuition*

<b>Degree Program</b>	<b>Maximum Duration</b>	<b>Tuition Fees</b> (for Full Time Students Unless Otherwise Indicated)
<b>University of Toronto</b>		
LL.M. (thesis-intensive)	One year, but with an extension of time if the student requests it, the Faculty of Law supports it, and the School of Graduate Studies approves it.	\$6,147.62/y for Canadians and Permanent Residents. \$10,560.09/y for international students.
LL.M. (coursework-intensive)	One year	\$6,147.62/y for Canadians and Permanent Residents \$10,560.09/y for international students.
M.S.L.	One year	\$6,147.62/y for Canadians and Permanent Residents \$10,560.09/y for international students.
S.J.D.	Six years	\$6,147.62/y for Canadians and Permanent Residents \$10,560.09/y for international students.
<b>York University</b>		
LL.M. (research stream)	Four years	\$1,744.40/academic term (four months) for Canadians and Permanent Residents \$3,743.93/academic term (four months) for international students
LL.M. (professional stream)	Four years	\$1,700/36-hour course. \$1,275/24-hour course. \$850/18-hour course.* This program can only be pursued on a part-time basis.
D.Jur.	Six years	\$1,744.40/academic term (four months) for Canadians and Permanent Residents \$3,743.93/academic term (four months) for international students.
<b>Queen's University</b>		
LL.M.	Five years	\$5,737/y for Canadians and Permanent Residents. \$11,178/y for international students

*Program Information 3 – Duration and Tuition*

<b>Degree Program</b>	<b>Maximum Duration</b>	<b>Tuition Fees</b> (for Full Time Students Unless Otherwise Indicated)
<b>University of Ottawa</b>		
LL.M. (without concentration)	Four academic semesters (16 months) for full-time students. Eight academic semesters (32 months) for part-time students.	\$5,349/y for Canadians and Permanent Residents. \$12,027/y for international students
LL.M. (with concentration in law and technology)	Four academic semesters (16 months)	\$5,349/y for Canadians and Permanent Residents. \$12,027/y for international students.
LL.M. (with concentration in civil law theory)	Four academic semesters (16 months) for full-time students. Eight academic semesters (32 months) for part-time students	\$5,349/y for Canadians and Permanent Residents. \$12,027/y for international students.
LL.M. (with thesis)	Four academic semesters (16 months)	\$5,349/y for Canadians and Permanent Residents. \$12,027/y for international students
LL.M. (with specialization in Women's Studies)	Four academic semesters (16 months) for full-time students and eight academic semesters (32 months) for part-time students pursuing this program via the research paper route. Five semesters (20 months) for students pursuing this program via the thesis route.	\$5,349/y for Canadians and Permanent Residents. \$12,027/y for international students.
LL.D	Five years	\$5,349/y for Canadians and Permanent Residents. \$12,027/y for international students

*Program Information 3 – Duration and Tuition*

<b>Degree Program</b>	<b>Maximum Duration</b>	<b>Tuition Fees</b> (for Full Time Students Unless Otherwise Indicated)
<b>McGill University</b>		
Graduate Certificate in Comparative Law	No explicit time limit	\$316.67/course credit for international students. \$133.75/course credit for non-Quebec Canadian students \$55.61/course credit for Quebec students.
Graduate Certificate in Air and Space Law	No explicit time limit	\$55.61/course credit for Quebec students \$133.75/course credit for non-Quebec Canadian students. \$316.67/course credit for international students.
LL.M.	Three years	\$2,968.08/y for Quebec students. \$5,473.08/y for non-Quebec Canadian students. \$10,621.08/y for international students
D.C.L.	Six years	2,968.08/y for Canadian students (Quebec or non-Quebec) \$9,691.08/y for international students.
<b>Dalhousie University</b>		
LL.M. (thesis)	Five years for part-time students. Four years for full-time students.	\$3,594/term (four months) for Canadians and Permanent Residents \$4994/term (four months) for international students.
LL.M. (non-thesis)	Five years for part-time students. Four years for full-time students.	\$3,594/term (four months) for Canadians and Permanent Residents \$4994/term (four months) for international students
J.S.D.	Six years	\$2,478/term (four months) for Canadians and Permanent Residents \$3878/term (four months) for international students

*Library Information*<sup>108</sup>

<b>Law Library</b>	<b>Annual Monograph Acquisitions Budget</b>	<b>Total Number of Monographs</b>
University of British Columbia	\$ 98,149	No accurate estimates
University of Alberta	318,194	108,425
University of Calgary	40,500	58,736
University of Saskatchewan	92,931	45,000
University of Manitoba	73,162	58,532
University of Toronto	132,635	No accurate estimates
York University	108,147	269,702
Queen's University	80,000 (approximately)	40,000-50,000 (approximately)
University of Ottawa	40,000 (approximately)	71,793
McGill University	114,120	86,090
Dalhousie University	53,385	106,043

*Faculty Information*<sup>109</sup>

<b>Law School</b>	<b>Number of Full-Time Faculty Members (2002-03)</b>	<b>Percentage Holding Doctoral Degrees</b>
University of British Columbia	37	22
University of Alberta	28	11
University of Calgary	20	15
University of Saskatchewan	20	20
University of Manitoba	21	19
University of Toronto	55	49
York University	47	40
Queen's University	24	25
University of Ottawa	34 (in the English Common Law Section)	15
McGill University	36	69
Dalhousie University	38	18

108. The data in this chart come from the following sources: Interview of Sandra Wilkins, Head Librarian, University of British Columbia Law Library (12 September 2002), Canadian Academic Law Library Directors "Statistics 2000-2001," online: CALLDA <<http://www.yorku.ca/jdavis/callda/stats99-00.html/>> (please note: this is a password-protected web site), Interview of Ken Whiteway, Head Law Librarian, University of Saskatchewan (9 December 2002), Interview of Ann Rae, Reference Librarian, Faculty of Law, University of Toronto (16 September 2002), Interview of John N. Davis, Head Librarian, York University Law Library (30 September 2002), Interview of Nick Pengelly, Head Librarian, Law Library, Queen's University (13 September 2002), and Interview of Jules Lariviere, Head Law Librarian, University of Ottawa (21 October 2002).

109. Information obtained from relevant university websites.

### 3. *The University of British Columbia*

The University of British Columbia's graduate program in law has undergone many changes since its inception in 1962. Originally, the only degree offered was an LL.M.<sup>110</sup> In 1993, a doctoral degree was created and designated a Ph.D. in law.<sup>111</sup> Beginning in September 2004, a Master of Jurisprudence in Common Law degree (M.Jur.) will also be offered.<sup>112</sup>

Despite these developments, the core requirement of the LL.M. degree has not been altered. It is still a thesis-driven program.<sup>113</sup> It is true that when the LL.M. was first introduced, thesis research was restricted to three fields: International, Labour, and Natural Resources Law.<sup>114</sup> However a review of the program conducted in 1965 recommended that the restriction to these three fields be removed to allow students to enroll as long as satisfactory supervisory arrangements could be put into place.<sup>115</sup> This recommendation was swiftly implemented and, ever since, upon acceptance into the LL.M. program, students have been assigned supervisors. Although a prescribed length for the thesis is not given in any university documents, it is described as a "substantial piece of research, written in English, and of publishable quality."<sup>116</sup> A review of some LL.M. theses from the University of British Columbia reveals that theses as concise as 99 pages have been accepted<sup>117</sup> as have theses as lengthy as 230 pages.<sup>118</sup> The thesis is usually completed under the supervision of one member of the Faculty of Law who, along with another faculty member, reads and approves the final draft.<sup>119</sup> Oral exams may, but usually are not, required.<sup>120</sup>

The LL.M. degree also requires some coursework. One seminar, Concepts and Methodology in the Study of Law, is a full year, four credit,

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110. W. Wesley Pue, *Self-Study of LL.M. and Ph.D. Programs of the Faculty of Law University of British Columbia* (1998) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of British Columbia] at 4 [hereinafter *UBC Self-Study*].

111. *Ibid.*

112. Interview of Darline Beck, Graduate Secretary, Graduate Law Program, University of British Columbia (28 March 2003).

113. University of British Columbia Faculty of Law, *Faculty of Law 2000-2002 Calendar* (Vancouver: UBC Press, 2000) at 103 [hereinafter *UBC Calendar*].

114. *UBC Self-Study*, *supra* note 110 at 4.

115. *Ibid.*

116. *UBC Calendar*, *supra* note 113 at 104.

117. See, for example, Pierre Sigrist, *Standby Letters of Credit and Fraud* (LL.M. Thesis, University of British Columbia, 1990) [unpublished].

118. See, for example, Ian Violet, *The Allocation of Responsibility for the Maintenance of the Single Parent Family* (LL.M. Thesis, University of British Columbia, 1990) [unpublished].

119. Interview of Darline Beck, Graduate Secretary, Graduate Law Program, University of British Columbia (28 March 2003).

120. *UBC Calendar*, *supra* note 113 at 104.

mandatory offering, and one that is restricted to LL.M. students.<sup>121</sup> The first half of this seminar consists of examining scholarly work displaying different research methodologies. Scholars who utilize such methodologies are invited to deliver presentations to the class.<sup>122</sup> In the second term, students are required to deliver class presentations on the research methodologies that they intend to use in their theses.<sup>123</sup> Other than this mandatory seminar, a master's student can choose any graduate-level law courses, any upper-year undergraduate law courses, and may even be allowed to take courses in other faculties of the university, as long as the majority of coursework is undertaken within the Faculty of Law.<sup>124</sup> But the student must complete at least twelve credits of coursework in addition to Concepts and Methodology in the Study of Law.<sup>125</sup> When LL.M. students take undergraduate law courses, they are assessed by the same means as the undergraduate students.

During the past few years, the University has appeared to be very busy in developing a special curriculum for its graduate students in law. A number of new graduate level courses have been designated that are open to LL.M. as well as undergraduate students.<sup>126</sup> Be that as it may, the increased number of graduate-level course offerings is more illusory than real. Many of the so-called new graduate level courses seem to be introductory survey-type courses that were offered as part of the undergraduate curriculum and currently are offered in the undergraduate curricula of other law schools. For example, the graduate seminar entitled Sentencing, which is open to both graduate and undergraduate students, is an introduction to sentencing law. It is not an advanced course on sentencing nor is there anything in terms of the method of assessment that indicates it is truly graduate in nature. In fact, there is a practical component to the course consisting of exercises in sentencing advocacy that suggests that the course is really targeting the professional undergraduate student. Thus, it seems that the University of British Columbia is bolstering its graduate course offerings, in part, by simply renumbering previous undergraduate course offerings.

An area in which the LL.M. program has made significant progress is

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121. *Ibid*

122. *Ibid.*

123. *Ibid.*

124. *Ibid.*

125. *Ibid.*

126. *Ibid.* at 108-111. More precisely, in 2000-2002 five half-year graduate level law courses were open to both undergraduate and graduate students: Sentencing, International Criminal Law, Proceeds of Crime, Asian Law Tutorial, and Modern Legal Culture: Historical Explorations.

student funding. The 1998 University self-evaluation of the graduate program in law notes that the Faculty of Law has no large scholarship that it can offer applicants of extraordinary quality and, as a result, fine candidates are declining offers of admission to the LL.M. program in order to pursue graduate work at other universities.<sup>127</sup> The Faculty of Law now has substantial new scholarship money for its LL.M. program. One of the new main sources of stable LL.M. student funding comes in the guise of Law Foundation of British Columbia Fellowships. These fellowships are allocated only to LL.M. students and only to those students who are appointed as Teaching Assistants for the First Year Legal Writing and Research Program.<sup>128</sup> In conjunction with a faculty member, and under the supervision of the Director of the Legal Research and Writing Program, fellowship recipients teach legal research and writing to first-year LL.B. students, lead library tutorials, and grade a series of assignments in one of the first year substantive courses.<sup>129</sup> For the 2002-2003 academic year, there were eight fellowships valued at \$8,000 each for a total of \$104,000 of LL.M. student funding.<sup>130</sup> The other major source of stable LL.M. student financial aid consists of a single graduate entrance scholarship in the amount of \$16,000.<sup>131</sup> Any student entering the LL.M. program, regardless of the topic of his or her thesis research, is eligible for this scholarship. It is awarded based on academic merit.

While these funding arrangements are secure, the teaching opportunities for LL.M. students at the University of British Columbia may be fading away. At the McGill conference on graduate legal education, a delegation of University of British Columbia graduate students advised that the law school administration is pushing to have specialist sessional lecturers or full-time faculty members teach the Legal Research and Writing course to the first year LL.B. students. The rationale behind this change is that since the LL.B. students are beginning to pay much higher tuition, they deserve someone better qualified than graduate students instructing them.

If the Faculty of Law does make this change it will be difficult for it to achieve one of the principal objectives of the LL.M. program. The LL.M. is described as providing graduates with the opportunity for advanced legal education in preparation for *law teaching*, legal research, public service

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127. *UBC Self-Study*, *supra* note 110 at 16.

128 Interview of Darline Beck, Graduate Secretary, Graduate Law Program, University of British Columbia (20 June 2002 and 21 August 2002).

129. *UBC Calendar*, *supra* note 113 at 111.

130. Interview of Darline Beck, Graduate Secretary, Graduate Law Program, University of British Columbia (21 August 2002).

131. *Ibid.*



and the practice of law.<sup>132</sup> Nevertheless there are no courses offered by the Faculty of Law that address the task of teaching by providing practical skills training or the theoretical foundations of adult education. Thus the elimination of the teaching assistant opportunities in the Faculty of Law will deprive graduate students of the only educational experience emanating from the LL.M. program that deals directly with teaching.

As with all degree programs that include a substantial thesis component, the submitted thesis proposals are weighed quite heavily in any admissions decision pertaining to the LL.M. program.

On average between 20 and 30 students are admitted to the LL.M. program each year.<sup>133</sup> While the large size of the LL.M. program could, in theory, provide for a greater sense of community among the graduate students than exists at other institutions with smaller graduate programs,<sup>134</sup> it does put a strain on faculty resources, particularly when one considers the current policy pertaining to teaching credit for graduate supervision. As observed in the 1998 internal review of the graduate program,

Faculty members currently receive no formal credit for their work as graduate supervisors and examiners. This is a matter of some concern as the character of thesis-driven graduate studies is such that supervision duties cannot be spread evenly throughout the faculty. Supervision is always time-consuming. It is also often very demanding work. It needs to be formally credited in some way.<sup>135</sup>

Indeed, this internal review of the graduate program notes that because the graduate programs in law at the University of British Columbia are thesis-oriented, sometimes students with superlative academic credentials must be refused admission in cases where appropriate supervisory arrangements cannot be made.<sup>136</sup> It would not be unreasonable to assume that, at times, some members of faculty are reluctant to take on graduate students, especially when they do not receive any formal credit for assuming supervisory responsibilities.

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132. *UBC Self-Study*, *supra* note 110 at 4.

133. *Ibid.* at 5.

134. This sense of community could be generated not only from the relatively large size of the graduate program, but also from some of the activities sponsored by the Faculty of Law. For instance, since 1995, the graduate law students at the University of British Columbia have received financial and logistical support in convening annual Spring conferences that address law in an interdisciplinary context. These graduate law student conferences have attracted graduate student presenters in law and related disciplines from all over the world (see *ibid.* at 11).

135. *Ibid.* at 13.

136. *Ibid.* at 10-11.

When adequate supervisory arrangements are made and a student is admitted to either the master's or doctoral program in law, progress on thesis work is formally monitored. Supervisors and graduate students have to submit written progress reports twice per year. The Associate Dean of Graduate Studies and Research contacts students who are not making significant progress on their theses.<sup>137</sup> In the case of students who have not made significant progress by the end of their second academic year in the LL.M. program, an assessment is made by the Graduate Studies Committee as to the appropriate action to be taken.<sup>138</sup> The type of action chosen depends on the situation and on the feedback given by the supervisor and the student. The steps taken can include establishing a more structured research plan, changing supervisors, or requiring withdrawal from the program. The Associate Dean of Graduate Studies and Research also formally interviews all graduate students at the beginning of each academic year and at the completion of their degree requirements.<sup>139</sup>

Such monitoring efforts seem to have led to positive developments in terms of completion times and rates for LL.M. students. In the 1970s and 1980s it was commonplace for master's students to complete program requirements in two, three, or more years. However the 1998 internal review states that "[o]ur records show a strong and improving rate of completion with larger portions of students completing degrees within one year (or just over one year) than in the past."<sup>140</sup>

The internal review suggests one curricular reform concerning the LL.M. program. The review comes to the conclusion that the graduate program in law is not adequately providing for one type of graduate student constituency: the civil law-trained student who wishes to study a range of common law courses rather than focusing on the completion of an extensive original research project.<sup>141</sup> It is observed that most American and British graduate programs in law provide opportunities of this kind and that the University of British Columbia could tap into this sizeable market through the creation of a course-based LL.M.<sup>142</sup> This recommendation has led to the creation of the M.Jur. degree.

The new M.Jur. degree will have much in common with the LL.M. but much that is also different. The same grade point average and TOEFL score is required and, as with the LL.M. students, a graduate seminar is manda-

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137. *Ibid.* at 17.

138. *Ibid.*

139. *Ibid.*

140. *Ibid.* at 19. Unfortunately the Tab containing the exact figures for time-in-program of students and on attrition or completion rates was not provided with the Self-Study document.

141. *Ibid.* at 18.

142. *Ibid.*

tory.<sup>143</sup> In addition, the time limits within which degree requirements must be fulfilled are the same and both programs can be undertaken on a part-time or full-time basis.<sup>144</sup> However the nature of the graduate seminar is different. M.Jur. students must take a six credit seminar in Common Law Theory and Practice designed exclusively for these students in which the history and characteristics of the common law and how it differs from other systems of law is explored.<sup>145</sup> Only those foreign students with law degrees from countries that have non-common law legal systems are eligible for admission into the M.Jur. program.<sup>146</sup> Including the mandatory seminar, M.Jur. students must complete 30 credits of upper year undergraduate and graduate level coursework, but they are not allowed to enroll in the mandatory LL.M. graduate seminar nor are they allowed to enroll in first year LL.B. courses.<sup>147</sup> Furthermore one of the components of this coursework must be an upper year LL.B. seminar of at least four credits in which the student writes a substantial research paper.<sup>148</sup> 14 credits of the coursework can consist of other LL.B. courses but, in addition to the tasks required of LL.B. students in the course, M.Jur. students must complete supplemental work involving advanced analysis.<sup>149</sup> The final six credits of coursework can consist of upper year LL.B. courses and requires no supplemental work.<sup>150</sup> At present, the Faculty of Law has not indicated a tuition fee schedule for M.Jur. students.

Because of the programmatic requirements of the degree, and the academic rigour that they ostensibly represent, Professor Pitman Potter describes his institution's doctoral program in law as the only true one in the country and the other Canadian doctoral programs in law as being simply larger LL.M. programs.<sup>151</sup> Whereas many doctoral programs in law have no doctoral-specific course or comprehensive examination requirements, the Ph.D. in law at the University of British Columbia requires a comprehensive examination and mandatory doctoral-specific coursework in addition to the preparation of a substantial dissertation.

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143. See University of British Columbia Faculty of Law, "Master of Jurisprudence in Common Law Program," online: University of British Columbia <<http://www.law.ubc.ca/prospective/juris/index.html>>

144. *Ibid.*

145. *Ibid.*

146. *Ibid.*

147. *Ibid.*

148. *Ibid.*

149. *Ibid.*

150. *Ibid.*

151. Interview of Professor Pitman Potter, Former Director of the Graduate Program at Law between 1991 and 1996, University of British Columbia (28 August 2002) [Potter interview].

However, many of these features of the Ph.D. program came about as a result of the application of rigid bureaucratic rules as opposed to the pursuit of pedagogical objectives. Professor Potter explains that he was given the task of creating a doctoral, originally S.J.D., program by his Dean. But when the University made clear that they would not accord the S.J.D. program the same stature as they do Ph.D. programs in other disciplines, for the purpose of granting University-wide scholarships to students, the Faculty of Law decided to designate its new doctoral program a Ph.D. in law.<sup>152</sup> But in order to grant a Ph.D., the University administration demanded that the Faculty of Law's Ph.D. conform to the Ph.D. requirements in other faculties.<sup>153</sup> Hence, the Faculty of Law had to create mandatory exclusive doctoral coursework and a regime of comprehensive exams for its doctoral degree.

Despite the origins of the Ph.D.'s comprehensive exam requirements, the Faculty of Law Calendar states that they serve important learning objectives. Comprehensive examinations are intended to test the student's chosen field of study as a whole as well as the student's preparation for the thesis research to follow.<sup>154</sup>

However, the true extent of the benefits that can be reaped from sitting such exams is a matter of considerable dispute. The first part of the comprehensive exam deals with theoretical perspectives on legal studies, and the reading list upon which the exam is based is identical to the reading list of the first doctoral seminar entitled Issues in Legal Theory.<sup>155</sup> Exactly what pedagogical purpose is served by having students study the same reading list twice within a relatively short period of time is not clear. The second part of the comprehensive exam focuses on a substantive area of legal study within which the doctoral student's research will lie.<sup>156</sup> In essence, the supervisor and the student choose one narrow topic that will be dealt with in the thesis. come up with a reading list of approximately twenty books and journal articles with which the student will have to be familiar to write this portion of the thesis, and this reading list is then used for the second part of the comprehensive examination.<sup>157</sup> Although the second part of the comprehensive exam ensures that the student reads and understands the material necessary to complete a portion of his or her thesis, requiring the student to write a draft of that portion of the thesis by

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152. *Ibid.*

153. *Ibid.*

154. *UBC Calendar*, *supra* note 113 at 106.

155. Potter interview, *supra* note 151; *UBC Calendar*, *supra* note 113 at 106 and 107.

156. *UBC Calendar*, *ibid.* at 107.

157. Potter interview, *supra* note 151.

a certain date accomplishes the same objective and furthers the dissertation project in a more direct and tangible manner.

The final part of the comprehensive examination is supposed to address a narrow topic to be selected by the student.<sup>158</sup> Presumably most students choose another topic that will be dealt with in the dissertation, but there is no requirement that the topic be so limited in terms of subject matter.

What is clear is that the comprehensive examination does not test a student's broad knowledge of a substantive area of law. It tests, at most, selected narrow parts of a broader substantive law canon.

The mandatory coursework of the doctoral student consists of two two-credit doctoral seminars. The first one, taken in the initial semester following admission and entitled Issues in Legal Theory, surveys the following topics: feminism and the law, Marxism and the law, postmodernism and the law, social theory and the law, law and the state, legal liberalism and its critics, and the new legal history.<sup>159</sup> In the second doctoral seminar, taken in the second semester, entitled Comparative and Interdisciplinary Perspectives on Legal Theory, students discuss the applicability of legal concepts in different cultures and societies and the consequences for the form and structure of law.<sup>160</sup> In addition, the applicability of concepts drawn from fields outside law to legal research and scholarship is explored.<sup>161</sup> These courses remain mandatory even if a doctoral student establishes that he or she has taken similar coursework during his or her LL.B. or LL.M. studies.

Because the two doctoral seminars are restricted to Ph.D. students in law only, they have the potential of creating a close-knit community among newly admitted doctoral students. Nonetheless the creation of such a community still depends on the admission of large numbers of doctoral students each year. For reasons that will become apparent, the doctoral program in law at the University of British Columbia has not enjoyed large enrollment, although there are promising signs that this situation may change. In fact, in the academic year 2001-2002, only a single doctoral student enrolled in the program despite the fact that there is no longer a maximum number of students that can be in any phase of the program at any one time.<sup>162</sup>

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158. UBC Calendar, *supra* note 113 at 107.

159. *Ibid.* at 106.

160. *Ibid.*

161. *Ibid.*

162. Interview of Darline Beck, Graduate Secretary, Graduate Law Program, University of British Columbia (21 August 2002). The Ph.D. program was previously capped at a maximum enrollment of ten students at all stages of degree completion (see *UBC Self-Study*, *supra* note 110 at 5).

Students in the Ph.D. program in law must, after the completion of their coursework and comprehensive examination, write a Final Thesis Proposal.<sup>163</sup> The purpose of the proposal is to establish that the planned course of dissertation research can reasonably be expected to lead to a thesis that is an original work of research and analysis that makes a scholarly contribution to a field of law.<sup>164</sup> The proposal includes a literature review that contextualizes the dissertation topic and discusses the research methodology to be employed in the thesis.<sup>165</sup>

The Final Thesis Proposal must be approved by the student's supervisory committee. This committee consists of the student's supervisor and at least two other members of the law school faculty.<sup>166</sup> Once the Final Thesis Proposal is approved, the doctoral student is admitted into candidacy for the doctoral degree.<sup>167</sup>

There is no prescribed minimum or maximum length for the doctoral dissertation. Yet a review of some of the dissertations that were accepted reveals that they tend to be at least two hundred pages in length,<sup>168</sup> with some exceeding seven hundred pages.<sup>169</sup>

There are explicit regulations pertaining to the examination of the doctoral dissertation. The doctoral candidate must pass an oral defence of his or her doctoral thesis. The examining committee consists of the student's supervisor, two other members from the law faculty (usually the other members of the supervisory committee), a member from another faculty within the University of British Columbia who also holds a doctoral degree, and an external examiner from an institution outside the University of British Columbia.<sup>170</sup>

The numerous time consuming, labour-intensive components of the doctoral program in law at the University of British Columbia may help explain the completion statistics generated by its students. The first student took five years to complete the degree requirements,<sup>171</sup> and from

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163. *UBC Calendar*, *supra* note 113 at 108.

164. *Ibid.*

165. *Ibid.*

166. *Ibid.* at 106.

167. *Ibid.*

168. See, for example, Vitalis Obijiofor Aginam, *Salvaging the Global Neighbourhood: Multilateralism and Public Health Challenges in a Divided World* (2000) [unpublished, archived at University of British Columbia].

169. See, for example, the work of the first graduate of the University of British Columbia's Ph.D. program in law, Craig Steven MacMillan, *A Modern Star Chamber: An Analysis of Ordered Statements in the Royal Canadian Mounted Police World* (1998) [unpublished, archived at University of British Columbia].

170. *UBC Calendar*, *supra* note 113 at 108.

171. *UBC Self-Study*, *supra* note 110 at 6.

1993-2002 only seven Ph.D.s in law were conferred by the University of British Columbia.<sup>172</sup>

The single largest impediment to the growth and health of the Ph.D. program in law is inadequate funding. There are currently no internal law school scholarships or other sources of stable funding that support Ph.D. students.<sup>173</sup> Thus to obtain financial assistance such students have to win external funding or successfully compete for the university-wide scholarships.

What is sure to boost interest in the Ph.D. program is a new, campus-wide initiative. Beginning in September 2003, the University of British Columbia will grant full tuition waivers to all students enrolled in the first four years of a Ph.D. program, regardless of the discipline being studied.<sup>174</sup>

#### 4. *The University of Alberta*

The Faculty of Law at the University of Alberta currently offers two graduate programs. One leads to an LL.M. and the other leads to a Postgraduate Diploma in Laws.

The focus of the LL.M. degree has changed since it was established in 1965.<sup>175</sup> Originally, admitted students had to pursue thesis work in the oil and gas area. However, by 1970 the program had evolved so that graduate research could be conducted in any field, provided appropriate supervisory arrangements could be made.<sup>176</sup>

Students are not admitted into the LL.M. program unless a qualified supervisor is available during the applicant's initial residency year. Upon admission to the program, students are assigned supervisors and advised of their identities.<sup>177</sup>

All LL.M. students must successfully complete eight credits of coursework and a thesis that is orally examined.<sup>178</sup> In 1995, LL.M. theses

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172. Interview of Susan Wong, Graduation Administration, Office of the Registrar, University of British Columbia (4 July 2002).

173. Interview of Robert Paterson, Associate Dean Graduate Studies and Research, Faculty of Law, University of British Columbia (20 June 2002).

174. Interview of Darline Beck, Graduate Secretary, Graduate Law Program, University of British Columbia (28 March 2003); Michelle Cook, "Free Tuition for PhD Students" (2003) 49:3 UBC Reports, online: UBC Public Affairs <<http://www.publicaffairs.ubc.ca/ubcreports/2003/03mar/06/freetuition.html>>.

175. The Graduate Studies Committee, University of Alberta, Faculty of Law, *Graduate Program and Research Review* (1998) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of Alberta] at 1 [1998 *Self-Study*].

176. *Ibid.*

177. *Ibid.* at 9

178. *Ibid.* at 1

were restricted to 40,000 words or approximately 180 pages, excluding the bibliography.<sup>179</sup> This restriction was implemented to guide LL.M. students concerning thesis expectations and to facilitate the selection of appropriately narrow research topics that can be explored within reasonable limitations.<sup>180</sup> The Associate Dean Graduate Studies and Research obtains a report from the student's thesis supervisor twice per year pertaining to student progress with the thesis, and further discussions are held if there appears to be a problem.<sup>181</sup> Theses are examined before three professors: the student's supervisor, another member of the Faculty of Law, and a member from outside the Faculty of Law (this member can be drawn from another department at the University of Alberta, another department at another institution, or another university law school).<sup>182</sup>

The last external review of the LL.M. program contains a number of observations concerning the LL.M. graduate seminar. The introduction of a compulsory two-credit graduate seminar in the early 1990s was found to be a genuine step forward in providing LL.M. students with theoretical and methodological contexts for legal research, and to create a beneficial sense of community for graduate students,<sup>183</sup> but the reviewers also noted some problems. The seminar consists of faculty "show and tell" presentations pertaining to their current research, without sufficient attention being paid as to why or how different research methodologies are utilized by different researchers, so that an overall theme does not emerge from the individual seminars.

The reviewers suggest that the graduate seminar be extended so that it runs the length of a full academic year. This would allow for a clearer articulation and exploration of the research methodologies employed in the showcased examples of scholarly research. Moreover, the sense of community among graduate students would be strengthened over two semesters. At present, students have to make a presentation on the subject of their research during the semester immediately following admission into the program. Some students would benefit from more time to develop a clear sense of their thesis topics.

In response to suggestions made by the external reviewers, the Faculty of Law has made some significant changes to its graduate seminar. The

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179. *Ibid.* at 2.

180. *Ibid.*

181. *Ibid.* at 10.

182. *Ibid.* at 2.

183. Michael Jones, Rod Macleod & John McLaren, *Review of Graduate Programs and Research in the Faculty of Law* (1998) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of Alberta] at 4 [1998 External Review].



graduate seminar no longer consists of faculty “show and tell” sessions. Instead each class of the seminar is taught by the professor who is given responsibility for the graduate seminar. The following excerpt from the syllabus for the new seminar shows that there is now a clear theme running throughout the course: “This seminar will explore, define, and defend a liberal view of law and legal scholarship. It will also, though as a secondary matter, identify and locate illiberal views of law and scholarship.”<sup>184</sup> Although the seminar does not explicitly examine various research methodologies, it addresses the different ways that legal theory can and should infuse scholarship. Moreover students are asked to write papers applying liberal theory to their thesis topics with a view to incorporating these papers into their final theses.<sup>185</sup> Beginning in 2004, this graduate seminar will be changed from a two- to a three-credit hour course and will be offered in the winter semester of the student’s first year.<sup>186</sup>

A second graduate seminar, which will be offered in the fall semester of the student’s first year, has recently been approved for the 2004 academic year. Thus, students will be in a graduate seminar setting for an entire academic year. The content of this second graduate seminar has largely been shaped by concerns expressed in the *1998 External Review*. The reviewers state that the lack of sustained teaching opportunities for students in the LL.M. program adversely impacts the educational experience of those who are contemplating academic careers.<sup>187</sup> In the second graduate seminar, graduate students will examine the topics of legal education and teaching.<sup>188</sup> Each student will be asked to lead a seminar of his or her choice or teach an undergraduate LL.B. class under the supervision of a faculty member, and these classes will be videotaped so as to facilitate feedback to the student.<sup>189</sup> The *1998 External Review* also notes that graduate students expressed a wish for guidance and training on how to write a thesis.<sup>190</sup> The reviewers suggest that this could be accommo-

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184. Ted DeCoste, *Syllabus for Genres of Legal Theory Graduate Seminar* (1999) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of Alberta] at 2.

185. Interview of Professor Ted DeCoste, Instructor for the Graduate Seminar in law at the University of Alberta between 1999-2003 (8 March 2003).

186. The Graduate Studies Committee, University of Alberta, Faculty of Law, *Graduate Program and Research Review Draft* (2003) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of Alberta] at 7 [2003 *Self-Study Draft*].

187. *1998 External Review*, *supra* note 183 at 3.

188. *2003 Self-Study Draft*, *supra* note 186 at 7.

189. *Ibid.*

190. *1998 External Review*, *supra* note 183 at 5.

dated by sessions in the graduate seminar examining specific research methodologies and presentation skills.<sup>191</sup> The seminar will deal with legal research methodology through in-depth examinations of various forms of scholarship, including thesis preparation.<sup>192</sup>

The external reviewers had reservations about making LL.M. students take undergraduate LL.B. courses to fulfill LL.M. degree requirements. The *1998 External Review* explicitly recommends that more opportunities be created for LL.M. students to take tailored independent directed research courses that are assessed by means of a paper and that will constitute a chapter in the LL.M. thesis.<sup>193</sup> Immediately following the review, the Faculty of Law introduced a graduate level directed research course.<sup>194</sup> Consequently, all candidates for the LL.M. will fulfill their eight hours of coursework by taking both of the three-credit graduate seminars as well as the two-credit graduate directed research course. Graduate students may fulfill their LL.M. course requirements by substituting LL.B. courses, or courses in other faculties, for these graduate law courses only if they obtain the approval of their supervisor and the Associate Dean Graduate Studies and Research.<sup>195</sup>

The Faculty of Law has made progress on a number of other recommendations contained within the *1998 External Review*. With regard to teaching credit for graduate student supervision,<sup>196</sup> the Faculty of Law recently instituted a system allowing individuals to bank teaching credits for supervision. The system awards one teaching credit for each LL.M. student supervised to completion.<sup>197</sup> Another key recommendation pertained to increased funding of graduate students.<sup>198</sup> In 1998, the internal funding of LL.M. students consisted of 3.5 scholarships/year, amounting to a total of \$24,000/year with no subject specific-limitations.<sup>199</sup> For 2002-2003, the Faculty of Law had \$96,947 of internal funding that was not tied to any particular subject matter, as well as one \$15,000 Alberta Law Foundation Scholarship in Health Law and Policy and one \$15,000 Alberta Law Foundation Scholarship in Constitutional Law.<sup>200</sup> Moreover, the University of

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191. *Ibid.*

192. *2003 Self-Study Draft, supra* note 186 at 7.

193. *1998 External Review, supra* note 183 at 9.

194. *2003 Self-Study Draft, supra* note 186 at 7.

195. *Ibid.*

196. *1998 External Review, supra* note 183 at 10.

197. *2003 Self-Study Draft, supra* note 186 at 6.

198. *1998 External Review, supra* note 183 at 9.

199. *1998 Self-Study, supra* note 175 at 6-7.

200. *2003 Self-Study Draft, supra* note 186 at Appendix B.

Alberta, the University of Toronto and Dalhousie University succeeded in obtaining funds from the Canadian Institutes of Health Research (CIHR) to support training in Health Law and Policy.<sup>201</sup> CIHR funding amounts to a total of ten scholarships of \$17,000/year shared among the three faculties, as well as funding for the students to attend two CIHR conferences a year.<sup>202</sup>

Nevertheless, little progress has been made on some important recommendations. The *1998 External Review* states that the Faculty of Law must promote its LL.M. program more effectively and seek to attract roughly ten new LL.M. students per year to create an intellectually vibrant community of graduate students.<sup>203</sup> Yet for the academic year 2003-2004 only five new LL.M. students are enrolled<sup>204</sup> and none of them is pursuing a thesis topic in health law despite designated funding and a critical mass of faculty members who conduct research in this area. This situation suggests that the only means of promotion the Faculty of Law currently uses for its LL.M. program, its web-site,<sup>205</sup> is not working.

The *1998 External Review* also documents a number of commendable practices associated with the LL.M. program. The external reviewers thought highly of the custom of pairing each graduate student with a research librarian as well as the practice of pairing junior members of faculty with more experienced professors as co-supervisors in order to train young faculty members to be conscientious and effective supervisors.<sup>206</sup>

Although it is clear that the library facilities at the University of Alberta could support a much larger and more ambitious graduate program in law, indeed the law library's annual monograph acquisitions budget is the largest of any law school in the country, the relatively small faculty complement makes it difficult to support anything more robust. Yet, there are indications that this situation may improve in the near future. The recent approval of differential fees for LL.B. students at the law school was predicated on the undertaking that a large proportion of the new fees would be used to hire additional faculty members. In fact, the plan is to hire between six and eight new faculty members over the next four years, which should

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201. *Ibid.* at 2.

202. *Ibid.*

203. *1998 External Review*, *supra* note 183 at 10.

204. This is so despite the fact that the Graduate Studies Committee makes every attempt to admit up to ten new graduate students per year. (Interview of Kim Wilson, Admissions Co-ordinator, Faculty of Law, University of Alberta (12 August 2003)).

205. *2003 Self-Study Draft*, *supra* note 186 at 4.

206. *1998 External Review*, *supra* note 183 at 1-2.

significantly improve the supervisory resources for the graduate program.<sup>207</sup>

The Postgraduate Diploma in Laws program, which began in 1985, is moribund. It was intended to provide members of the Bar with an opportunity to upgrade their legal knowledge or enrich their technical skills by taking six credits of upper year LL.B. courses and completing a research paper under faculty supervision. During many years there have been no applicants for the program.<sup>208</sup> Consequently, the *1998 External Review* recommends abolishing the program because it does not attract enough students to ensure a quality academic or skills-based experience for those who do enroll in it.<sup>209</sup> Nevertheless the Faculty of Law has not yet formally disposed of the Postgraduate Diploma in Laws program.

### 5. *The University of Calgary*

The University of Calgary's graduate program in law is relatively young, small, and specifically focused. It was created in 1989 and consists of an LL.M. program with a heavy thesis component, which must relate to the areas of natural resources, energy or environmental law.<sup>210</sup>

The degree requirements for the University of Calgary LL.M. program are not very dissimilar from those of many other Canadian graduate programs in law. Students must complete a four-credit, two-term graduate seminar and take two additional half courses drawn from the upper year courses offered at the Faculty of Law or the Faculties of Environmental Design and Management or the Departments of Philosophy and Economics.<sup>211</sup> Although there is no prescribed length for the thesis, they have tended to range between 160 and 350 pages in length.<sup>212</sup> Moreover, theses must be orally defended before an examination committee consisting of the student's supervisor and at least two other examiners, one of whom must be external to the student's home department or program.<sup>213</sup>

The Faculty of Law provides significant internal funding for its LL.M. students, especially considering the small size of the program. Students

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207. *2003 Self-Study Draft*, *supra* note 186 at 3.

208. *1998 Self-Study*, *supra* note 175 at 12.

209. *1998 External Review*, *supra* note 183 at 11.

210. Faculty of Law, University of Calgary, *Faculty of Law Self-Assessment, Benchmarking and Research Plan Exercise* (2002) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of Calgary] at 1 [*2002 Self-Study*].

211. University of Calgary Faculty of Law, *LL.M. in Natural Resources, Energy and Environmental Law* (Calgary: Printing Services University of Calgary, 2002) at 1 [*2001-2002 Calendar*]; *2002 Self-Study*, *supra* note 210 at 27.

212. *2002 Self-Study*, *ibid.* at 21-23.

213. University of Calgary, Graduate Studies, "Handbook of Supervision and Examination Thesis-Based Master's Degree" online: University of Calgary <<http://www.grad.ucalgary.ca/>>.

are eligible for 13 scholarships and awards amounting to a total of \$76,340/year.<sup>214</sup>

In 1995 an external review of the LL.M. program was conducted. Although the law school was responsive to some of the recommendations that were made, such as extending the graduate seminar beyond one semester,<sup>215</sup> there are still some suggested reforms that have not been implemented. For example, it was suggested that the length of theses be shortened so that they can be published, without major modifications, as law review articles. Moreover, the University of Calgary's LL.M. program is one of the few programs in Canada where supervisors are not assigned upon students' admission into the program. Rather, supervisors are chosen up to three months after the students arrive on campus. The external reviewers thought that students should have the assistance of their supervisors in selecting courses and in preparing for assignments related to the thesis in the graduate seminar. Consequently, interim supervisors are now appointed to assist the student in these areas, but because the interim supervisor may have very different ideas of how to best approach and prepare for the thesis project than the thesis supervisor, the current situation is far from desirable.

The mandatory graduate seminar has three components: legal theory, legal education, and research.<sup>216</sup> During the legal theory component of the seminar, students are introduced to a variety of legal theories and approaches to law, including natural law, legal positivism, legal realism, liberalism, critical legal studies, feminist legal theory, critical race theory, and law and economics.<sup>217</sup> One of the seminar assignments is an essay that notes the relevance of one or more schools of jurisprudential thought to the student's particular thesis topic.<sup>218</sup> The objective of the legal education component of the seminar is to identify and examine major issues confronting all those who engage in the teaching of law. As part of this component of the seminar, students must teach two first year LL.B. classes under the supervision of a faculty member and receive videotaped feedback on their performance. Classes taught as part of the research component of the seminar focus on methodological issues and research

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214. *2002 Self-Study*, *supra* note 210 at 24-25.

215. Cited in *2002 Self-Study*, *ibid.* at 27.

216. Nigel Bankes & Jonnette Watson Hamilton, *Syllabus for Legal Process, Education and Research* (2001) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, University of Calgary] at 2-4 [*Syllabus I*].

217. *Ibid.*

218. *Ibid.* at 2-3.

questions. Before the end of this component, students must complete a literature review situating proposed thesis research in the context of relevant scholarly literature.

Supervisory responsibilities are not spread evenly among all faculty members, and this imbalance is problematic given the administration's policy pertaining to teaching relief for graduate supervision. Only four faculty members conduct research in the areas of natural resources, energy and environmental law.<sup>219</sup> In addition, no teaching credit is given to professors for graduate supervision.<sup>220</sup>

The law library at the University of Calgary is one of the smallest in the country. Even in the areas of energy and natural resource law, the library is ill equipped. When a study was conducted in 2000 comparing the monographs listed in the bibliography published in each issue of a major journal of energy and natural resources law from 1990-1999, the law library was found to have only eight percent of these monographs in its collection.<sup>221</sup> The study's author concludes that this "level of acquisitions will not support an area identified as a research strength at this University."<sup>222</sup> The head law librarian at the University of Calgary also believes that the paucity of funds for monograph acquisitions is likely to hinder research.<sup>223</sup>

### 6. *The University of Saskatchewan*

Since the inception of the LL.M. program at the University of Saskatchewan in the late 1960s,<sup>224</sup> it has always been a program with a substantial thesis component. The LL.M. theses tend to range from 120 to 180 pages in length.<sup>225</sup> Graduate students must deliver one seminar outlining their proposed thesis before the end of their first year and another seminar explaining their thesis prior to its defence.<sup>226</sup> Students must undergo an oral defence of the thesis before an examination committee consisting of the thesis supervisor, one other member of the law faculty, and a faculty

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219. 2002 *Self-Study*, *supra* note 210 at 3.

220. Interview of Jonnette Watson Hamilton, Associate Dean Graduate Studies and Research, Faculty of Law, University of Calgary (12 December 2002).

221. 2002 *Self-Study*, *supra* note 210 at 30.

222. *Ibid.*

223. *Ibid.* at 36.

224. K. Cooper-Stephenson, *College of Law Systematic Program Review Memo Re Graduate Studies* (2000) [unpublished, archived at the Office of the Dean, College of Law, University of Saskatchewan] at 8 [2000 *Self-Study*].

225. *Ibid.* at 1.

226. *Ibid.* at 2.

member external to the College of Law.<sup>227</sup>

LL.M. students must take three courses. When the LL.M. program began, the mandatory graduate jurisprudence seminar was taught as a separate course exclusively for graduate students in law.<sup>228</sup> But in the 1990s, because of pressures on faculty resources, graduate students fulfilled this requirement by joining undergraduate LL.B. students in a designated legal theory seminar.<sup>229</sup> Nevertheless, the graduate students enrolled in this seminar were required to perform additional work compared to the undergraduate students, and an additional hour per week was set aside for the seminar instructor to teach exclusively graduate students.<sup>230</sup> For the academic year 2000-2001, graduate students were provided with a separate graduate course in legal theory and the Dean of the College of Law formalized the practice of always providing a separate seminar to graduate students in 2002.<sup>231</sup> The two other required courses are selected from the undergraduate LL.B. offerings or are satisfied by an independent directed research course where the College's course offerings do not sufficiently enhance the student's area of study.<sup>232</sup> When taking LL.B. courses, graduate students must be given additional work and contact time with the professors offering the courses.<sup>233</sup>

Despite the fact that the College of Law advertises that it provides supervision focusing principally on Aboriginal Law, Commercial Law, Criminal Law, and Human Rights,<sup>234</sup> students are admitted regardless of the areas of their thesis research as long as adequate supervisory arrangements can be established at the time of admission.<sup>235</sup>

It is evident that inadequate financial support constitutes a serious danger to the continuation of the LL.M. program. It is the policy of the College of Graduate Studies and Research to award devolved scholarships

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227. Graduate Studies Committee, College of Law, University of Saskatchewan, *Report of the Graduate Studies Committee* (2002) [unpublished, archived at the Office of the Dean, College of Law, University of Saskatchewan] at 6 [2002 Report I]; University of Saskatchewan, *2001-2002 University Calendar* (Saskatoon: Printing Services University of Saskatchewan, 2001) at 202 [2001-2002 Calendar].

228. *2000 Self-Study*, *supra* note 224 at 1.

229. *Ibid.*

230. *Ibid.*

231. *2002 Report I*, *supra* note 227 at 6.

232. *2000 Self-Study*, *supra* note 224 at 2.

233. *2002 Report I*, *supra* note 227 at 6.

234. University of Saskatchewan, College of Law, "Programmes & Admission Master of Laws Program" online: University of Saskatchewan <<http://www.usask.ca/law/llm.shtml>>.

235. Donna Greschner, Chair of the Graduate Studies Committee, *Annual Report of Faculty Council* (1995) [unpublished, archived at the Office of the Dean, College of Law, University of Saskatchewan] at 4.

only to academic units with twelve or more graduate students.<sup>236</sup> Since it is rare for the College to be able to admit twelve new students per year, a significant amount of funding is not available to the LL.M. program. For example, in the 2001-2002 academic year, four new students entered the program.<sup>237</sup> The prospects of expanding the graduate program in law are also not very good as it is unlikely that the College's current relatively small complement of full-time faculty will increase in the near future.<sup>238</sup> These prospects are further reduced when one considers that it may be difficult to motivate senior faculty to supervise students because no teaching credit is given for graduate supervision.<sup>239</sup> The largest amount of graduate student funding emanates from the Endowment Fund that makes available \$24,000/year.<sup>240</sup> The College of Law is usually able to award a Moxon scholarship in the amount of \$8,000/year, but only graduate students who hold an LL.B. from the University of Saskatchewan are eligible for this award.<sup>241</sup> There is also a single Graduate Teaching Fellowship (GTF) for an LL.M. student. If the student is awarded a GTF, the amount is approximately \$8,000 during the academic year and a further \$4,000 if the student remains enrolled during the summer.<sup>242</sup> Students who are awarded the GTF must provide approximately 15 hours of work related to the College of Law's teaching program.<sup>243</sup> During the past two years, this requirement has involved the graduate student assuming responsibility for the teaching of half of a one-semester LL.B. course. Unfortunately, students who receive the GTF are not allowed to receive other funding in excess of \$6,000. One Graduate Service Fellowship is available for an LL.M. student in the amount of \$4,000/year and a Graduate Teaching Assistantship in the amount of \$1,800/year is available as well. This latter assistantship is used to pay graduate students for participating in the LL.B. moot program. Consequently, internal funding for LL.M. students amounts to a total maximum of \$49,800/year. The lack of financial support for graduate students in law has led to a repeated series of crisis pleas from international students to the Graduate Studies Committee for basic necessities.

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236. 2002 Report, *supra* note 227 at 3.

237. *Ibid.* at 2.

238. *Ibid.* at 17.

239. *Ibid.* at 14. Junior faculty are still strongly motivated to agree to supervise graduate students. Participation in the graduate program in law was recently enshrined as a consideration to be taken into account in the College of Law's criteria and standards for tenure and promotion document (*ibid.* at 14).

240. *Ibid.* at 3.

241. *Ibid.* This restriction is not a huge impediment because the LL.M. program usually admits a few graduate students who hold University of Saskatchewan LL.B.s every year.

242. *Ibid.* at 4.

243. *Ibid.*



### 7. *The University of Manitoba*

The Manitoba Law School was one of the first Canadian law schools to create a graduate program in law. It began in 1949 and was aimed primarily at the needs of local practitioners.<sup>244</sup> The program consisted of two years of evening courses and a brief thesis of approximately twenty pages in length.<sup>245</sup> This version of the graduate program in law was terminated in 1964 to facilitate the conversion of the apprentice-based four-year undergraduate program to a three-year course-based program.<sup>246</sup> It was not until the late 1960s, after the Manitoba Law School became the Faculty of Law at the University of Manitoba, that it established the more thesis-intensive LL.M. program currently in place.<sup>247</sup>

To obtain this degree, students must fulfill a number of requirements. They must complete three courses.<sup>248</sup> One of the courses must be the graduate seminar, the other two courses must be relevant to the student's thesis area, and at least one of those courses must be drawn from the upper year LL.B. curriculum.<sup>249</sup> Students must also complete a thesis of between 90 and 120 pages in length under the supervision of a faculty member who is assigned to the student upon his or her admission to the program. The thesis must be approved by the supervisor, an internal reader drawn from the Faculty of Law, and an external reader, in law or another discipline related to law.<sup>250</sup> LL.M. students at the University of Manitoba rarely have to orally defend their theses.<sup>251</sup>

It is unlikely that this relatively small graduate program will be able to expand for a number of reasons. First, the current faculty complement is unlikely to increase.<sup>252</sup> In addition, the existing complement of professors may not be motivated to take on increasing numbers of graduate students since no teaching credit is given for graduate supervision.<sup>253</sup> The financial funding situation also makes it difficult to expand the LL.M. program. At

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244 Graduate Studies Committee, Faculty of Law, University of Manitoba. *Report to the Faculty of Graduate Studies University of Manitoba* (2002) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Manitoba] at 1 [2002 Report II].

245 *Ibid.* at 1-2.

246 *Ibid.* at 2.

247 *Ibid.*

248 University of Manitoba, Faculty of Law "LL.M." online: University of Manitoba <<http://www.umanitoba.ca/Law/Introduction/LLM.htm>>.

249 *Ibid.*

250. 2002 Report II, *supra* note 244 at 13.

251. *Supra* note 248.

252. 2002 Report II, *supra* note 244 at 25.

253. Interview of Michelle Gallant, Assistant Professor and Member of the Graduate Studies Committee, University of Manitoba (10 December 2002).

present, there is a total of \$40,000/year of internal funds for LL.M. students<sup>254</sup> and no teaching or research assistant opportunities for them.<sup>255</sup>

The current graduate seminar addresses a plethora of diverse topics. Subjects include strategies for writing and publishing, archival research, legal theory, comparative legal studies, and interdisciplinary perspectives on law.<sup>256</sup> In the seminar, students are asked to complete four written assignments. The first one is a review of any book or article directly relating to the student's proposed LL.M. thesis topic. The second assignment consists of creating a two to four page bibliographical list of the printed primary and secondary sources pertinent to the student's thesis subject. For the third assignment, the student must write a topical outline of the entire thesis. The outline must describe the topic for each chapter, the issues to be addressed in each chapter, the sorts of evidence upon which each chapter will be based, and the argument that each chapter will present. The final writing assignment is an eight page essay in which students describe how three of the following five jurisprudential perspectives will produce an interpretation of the thesis topic that is different from the others: natural law, Marxism, legal realism, and utilitarianism. The graduate seminar's weekly meetings terminate after the first semester, but the group continues to meet on a bi-weekly basis in the second semester, when the only topics discussed pertain to individual student theses.

Many of the LL.M.'s programmatic elements have been changed in recent years or are currently under review. For example, until September 2002 there were no course requirements beyond the graduate seminar.<sup>257</sup> In addition, the format and content of the graduate seminar is presently under review. The aim of the review is to refine the course so that it serves as a useful and integrated introduction to legal theory, socio-legal research, and the Canadian legal system. It has been the Graduate Studies Committee's experience that a number of LL.M. students from overseas lack sufficient background for retrieving and analyzing Canadian legal materials. As a result, the first-year LL.B. legal research and writing program is under review to see if it could be restructured to enable international LL.M. students to join certain segments of the course to upgrade specific research and analysis skills. Moreover, the Graduate Studies Committee has recently decided to admit only rarely students whose

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254. 2002 Report II, *supra* note 244 at 5.

255. *Ibid.* at 4.

256. DeLloyd J. Guth, *Syllabus for Legal Research and Theory* (2001) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Manitoba] at 1-3 [*Syllabus II*].

257. 2002 Report II, *supra* note 244 at 4.

thesis topic does not fit within one of three areas of faculty expertise: aboriginal peoples and the law, human rights, and ethics. Finally, supervisors have been informed that thesis research should encourage a “law and society” approach. Consequently, all new LL.M. theses must, in addition to analyzing a legal issue, address the broader historical context and social impact surrounding the issue. Because of this new law and society approach to thesis research, greater reliance will be placed on obtaining external readers from non-law areas.

#### 8. *The University of Toronto*

The University of Toronto boasts the oldest continuous graduate program in law in Canada. It began in 1942 with a doctoral degree whose original designation was Doctor Juris (D.Jur.), but this designation was changed in 1982 to Doctor of Juridical Science (S.J.D.).<sup>258</sup>

But the change of designation of the University of Toronto doctoral degree in law did not signal a transformation in program requirements. It was changed for marketing purposes. The person who spearheaded the alteration of the doctoral degree designation, Professor Waddams, believed it was necessary given the change in American undergraduate legal degree designation from LL.B. to J.D.<sup>259</sup> He believed that if the doctoral degree’s designation was not reformed, it would be confused with an undergraduate degree in law and thereby hinder the marketability of University of Toronto graduate students, especially when they applied for academic positions in the United States.<sup>260</sup> Although it is obvious that the prospect of confusing the D.Jur. with the J.D. is a real one, changing the degree’s name to S.J.D. makes little sense when one considers the low regard that many American academics have had and continue to have for the degree of S.J.D. Furthermore, the change of designation to S.J.D. was inadvisable because this degree, when offered by Australian law schools, which are favourite employers of Canadians seeking academic positions in law, is considered less academically rigorous and prestigious than the Ph.D. in law.

The designation of the University of Toronto’s doctoral degree in law is one of the few minor deficiencies in what is indisputably the strongest

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258. See University of Toronto, *Faculty of Law Calendar 1981-1982* (Toronto: University of Toronto Press, 1981) at 48; University of Toronto, *Faculty of Law Calendar 1982-1983* (Toronto: University of Toronto Press, 1982) at 49. For more information about the early years of the University of Toronto’s graduate program in law and the pivotal role played in it by Bora Laskin, see the forthcoming biography of the former Chief Justice by Philip Girard (expected date of publication 2005).

259. Interview of Professor Steven Waddams, Faculty of Law, University of Toronto (4 June 2002).  
260. *Ibid.*

graduate program in law in Canada. This strength derives not so much from the various degrees' formal programmatic elements but from the resources that the Faculty of Law has directed towards the graduate program. For instance, for the 2001-2002 academic year, the total amount of financial aid conferred to graduate students in law from internal sources was \$851,853.<sup>261</sup> This sum is particularly impressive when one notes that in 1995 internal funding for graduate students amounted to a much smaller total of \$106,231.<sup>262</sup> The law school has significantly augmented its financial support of doctoral students by offering full tuition waivers and \$15,000/year during the first three years of doctoral study<sup>263</sup> to all doctoral students, who have not obtained external fellowships and who require assistance. While all graduate students are eligible for financial support, the Faculty's resources will be directed first toward the S.J.D. students,

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261. Task Force on the Future of the Faculty, *Strengthening Our Community* (2002) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Toronto] at 29 [*Strengthening Our Community*]. Most of the scholarship money is, at least in theory, open to both doctoral and master's students and a large portion of funds are not restricted to students with certain backgrounds or to students researching specific subject areas. Nonetheless there are some significant internal scholarships that are restricted. The five Graduate Fellowships in Innovation Law and Policy are valued at \$25,000 each and are awarded to LL.M. and S.J.D. candidates writing theses in this broad field of study (University of Toronto, *Faculty of Law Graduate Programme Calendar 2002-2003* (Toronto: University Printing Services, 2002) at 30 [*Graduate Calendar*]). A number of Graduate Scholarships in Reproductive Health are offered each year, valued at approximately \$22,000 each, to law graduates from Africa, the Middle East, Latin America, the Caribbean, Asia, or Central and Eastern Europe who plan on researching topics in human rights and women's health (*Graduate Calendar, ibid.* at 31). A total of \$25,000 in Graduate Scholarships in Women's Rights are available for graduate law students from Africa, Central or South America, the Middle East, and Asia who intend to explore the legal protection and promotion of the human rights of women at the national, regional, or international levels (*Graduate Calendar, ibid.* at 32). The same total amount per year is available in the form of the Scholarship in Women's Rights from Developing Southern Countries and Countries in Transition (*Graduate Calendar, ibid.* at 33). A total of \$125,000 per year of funding is available to students researching in the area of genetics and the law (Interview of M. Kaye Joachim, Assistant Dean, Graduate Studies, Faculty of Law, University of Toronto (10 October 2002)). One John M. Olin Graduate Fellowship in Law and Economics valued at \$25,000 is available to be awarded to a graduate student undertaking work in the field of law and economics (*Graduate Calendar, ibid.* at 33). There are also two \$18,000 fellowships, one for students researching the regulation of capital markets and the other for students studying tax law (*Graduate Calendar, supra* note 296 at 33). Other topics that have been selectively targeted with scholarship money include legal ethics (one scholarship valued at \$11,000), Aboriginal law (one scholarship valued at \$22,500), the legal profession (one scholarship valued at \$10,000), law and fairness (one scholarship valued at \$6,000), medical legal studies (one scholarship valued at \$2,500), and human rights (one scholarship valued at between \$500-\$1000) (*Graduate Calendar, ibid.* at 33-35). Although not considered internal funding per se, it must also be remembered that the University of Toronto Faculty of Law is one of three Canadian law schools that is eligible for CIHR Training Program in Health Law and Policy funds.

262. Ronald J. Daniels, *Review of the Faculty of Law University of Toronto: Decanal Report to Provost* (2000) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Toronto] at 11 [*Decanal Report*].

263. *Graduate Calendar, supra* note 261 at 23.

then towards those in the thesis-intensive LL.M. program, and finally towards those enrolled in the new coursework-intensive LL.M. program.<sup>264</sup> Moreover, since 1993 the faculty complement has increased by nineteen professors.<sup>265</sup> In addition, graduate students in law at the University of Toronto have borrowing privileges not only at the University of Toronto's Law Library but also at the York University Law Library, the largest academic law library in the Commonwealth.<sup>266</sup>

To complete the S.J.D. degree, students must complete the graduate seminar, which is the only course restricted to graduate students. They must also take any other upper year J.D. courses recommended by their supervisor and the Associate Dean Graduate Studies, and they must write a thesis of between 300 and 400 pages.<sup>267</sup> Students who are admitted to the doctoral program without having first completed an LL.M. must complete eight credits of coursework in addition to the graduate seminar.<sup>268</sup> As well, S.J.D. students must, at least once during their program, present a seminar based on their thesis work at weekly thesis symposia held throughout the academic year at the law school.<sup>269</sup>

There are also other rules governing the supervision of students and the writing and defence of doctoral theses. The thesis must constitute a distinct contribution to legal research or scholarship<sup>270</sup> and will be orally examined by a committee of four to six voting members.<sup>271</sup> The first one to three members are drawn from the student's Supervisory Committee, and the remaining members consist of an external examiner who is outside the University of Toronto and two other professors from the University either from or outside the Faculty of Law.<sup>272</sup> Preliminary decisions regarding supervisory arrangements for doctoral students are made prior to their arrival on campus, but the final decision concerning a doctoral student's supervisor is taken only after the student and potential supervisor have

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264. *Ibid* at 29.

265. Memorandum of the Canadian Council of Law Deans (26 May 2002) regarding Canadian Common Law Faculty/Student Ratios For the Academic Year 2002-2003 and University of Toronto, *Brief for the Periodic Appraisal of the LL.M., M.S.L. and S.J.D. in Law Submitted to the Ontario Council on Graduate Studies OCGS Volume 1: The Program* (2000) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Toronto] at 5 [*OCGS Brief I*].

266. *OCGS Brief I, ibid.* at 31.

267. *Graduate Calendar, supra* note 261 at 23.

268. *Ibid.*

269. *OCGS Brief I, supra* note 265 at 36.

270. *Ibid* at 3.

271. *Ibid* at Appendix II.

272. *Ibid*

met.<sup>273</sup> Within six months of entering the program, an S.J.D. student and his or her supervisor must discuss and decide upon two or three faculty members who are interested in the student's area of research and are willing to serve as members of the Supervisory Committee.<sup>274</sup> The Supervisory Committee meets at least once per year to assess the student's progress in the program by, among other things, reviewing the supervisor's annual progress report pertaining to the student, and to provide advice on future work.<sup>275</sup>

The Faculty of Law offers a number of optional non-credit doctoral seminars throughout the academic year. Although not a part of the degree requirements of the doctorate, the seminars undoubtedly enhance the educational experience of those doctoral students who attend them. In the Fall, the doctoral seminars address such topics as planning the first year of doctoral work, the external awards application process, designing the dissertation, and publishing and conferences.<sup>276</sup> In the Winter term, the doctoral seminars cover legal research and writing topics such as Internet research, international and comparative research, feminist research, and law and economics research.<sup>277</sup> Finally, in the Spring, the doctoral seminars explore the academic career aspirations of doctoral students by dealing with subjects such as the job talk, the academic hiring committee, the life of an academic, and the academic appointments cycle.<sup>278</sup>

Nevertheless, more has to be done if the objective of the S.J.D. program is to be fulfilled. The stated objective of this program is to prepare students for a career in teaching and research.<sup>279</sup> At this point, none of the formal or informal aspects of the program address teaching. There are no graduate courses on pedagogy or legal education, nor are there any teaching opportunities for graduate students through teaching assistantships.<sup>280</sup>

Although there is no prescribed limit to the number of new doctoral students that are admitted, there are factors that implicitly act as limita-

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273. University of Toronto, Faculty of Law, *Graduate Student Academic Handbook 2001-02* (2001) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Toronto] at 26 [*Handbook*].

274. *Ibid.* at 27.

275. *Ibid.*

276. Interview of M. Kaye Joachim, Assistant Dean, Graduate Studies, Faculty of Law, University of Toronto (10 October 2002).

277. *Ibid.*

278. *Ibid.*

279. *OCGS Brief I*, *supra* note 265 at 3.

280. *Ibid.* at 35.

tions. The first and most significant of these factors is fiscal constraint, which has arisen as a result of the funding commitment made by the law school to doctoral students who do not attract external funding. Thus funding issues limit the number of new doctoral students who do not have external funding. But this does not mean that applicants who meet the minimum academic requirements, and who obtain external funding, will necessarily be admitted into the S.J.D. program. Because no teaching credit is given to faculty members who supervise thesis students,<sup>281</sup> including doctoral students, finding prospective supervisors may become increasingly difficult. For the academic year 2001-2002, ten new S.J.D. students were admitted.<sup>282</sup>

The graduate seminar, entitled *Alternative Approaches to Legal Scholarship*, is a three-credit course offered in the Fall semester. In the seminar, alternative frameworks are explored within which a wide range of legal problems can be analyzed. Some of the frameworks that are examined include those provided by law and economics, law and philosophy, legal history, critical legal studies, feminism, critical race theory, and sociological theories of law.<sup>283</sup>

The main component of the thesis-intensive LL.M. is, as one would expect, the master's thesis. The thesis is evaluated by the supervisor and a second reader and is not orally examined.<sup>284</sup> Supervisors are assigned to students in September. Normally the thesis is between 100 and 150 double-spaced pages.<sup>285</sup>

The other components of the LL.M. program consist of the completion of the graduate seminar, at least five additional credits of coursework drawn from the upper year J.D. curriculum, and a presentation based on the student's thesis work-in-progress at thesis symposia at the law school.<sup>286</sup>

Initially, there was to be a large differential between the fees charged to international students in the thesis-intensive LL.M. program and to those international students in the new coursework-intensive LL.M. program. The plan was to increase the amount that students in the course-work intensive LL.M. program pay, so that their tuition would be commensurate with the fees paid by J.D. students.<sup>287</sup> Therefore, by 2007 students in the

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281. Interview of M. Kaye Joachim, Assistant Dean, Graduate Studies, Faculty of Law, University of Toronto (13 December 2002).

282. *Strengthening Our Community*, *supra* note 261 at 28.

283. *OCSG Brief 1*, *supra* note 265 at Appendix III.

284. *Graduate Calendar*, *supra* note 261 at 7.

285. *Ibid.*

286. *OCSG Brief 1*, *supra* note 265 at Appendix II.

287. *Strengthening Our Community*, *supra* note 261 at 56.

coursework-intensive LL.M. program would have been paying tuition of \$22,000.<sup>288</sup> The tuition fees from this program were to be diverted, in part, to provide financial assistance to thesis graduate students. However, domestic fees for the J.D. program were frozen when the Provincial Liberals ousted the Progressive Conservative government in 2003 and the University decided that all international graduate students in law, whether they be enrolled in the thesis-intensive LL.M., the coursework-intensive LL.M., the S.J.D., or the M.S.L., should have their tuition determined using the same fee schedule.

The coursework-intensive LL.M. is already proving more popular than the thesis-intensive stream. In 2002-2003, 21 new coursework-intensive LL.M. students were admitted while only 16 new thesis-intensive LL.M. students were admitted.<sup>289</sup>

There are six types of coursework-intensive LL.M. programs, although each of them is similar in terms of structure. The coursework-intensive LL.M. programs are generally reserved for students without North American law degrees and whose law degree is a first and often non-common law degree.<sup>290</sup> The requirements of the program consist of the completion of 21 course credits drawn from the upper year J.D. curriculum (only in exceptional cases will students be allowed to take first year J.D. courses for credit), completion of the graduate seminar, and a short thesis of 50-60 pages.<sup>291</sup> The thesis must be written as the means of evaluation in one of the three credit J.D. courses, and the thesis will alter that course's course credit weighting from three credits to four.<sup>292</sup> The instructor of the course in which the paper is written will generally serve as the supervisor and sole evaluator of the mini-thesis. The supervision that these instructors provide will consist, at least, of the following: discussing the student's research proposal with them, reviewing the student's outline for the thesis, and reviewing a single draft of the thesis.<sup>293</sup> For the custom-designed coursework-intensive LL.M. program, students may choose any upper year J.D. courses they wish to fulfill the 21 course credit requirement.<sup>294</sup> For the constitutional law coursework-intensive LL.M. program, students must

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288. *Ibid.* at 2.

289. Interview of M. Kaye Joachim, Assistant Dean, Graduate Studies, Faculty of Law, University of Toronto (13 August 2003).

290. *Graduate Calendar*, *supra* note 261 at 7.

291. *Ibid.*

292. *Ibid.*

293. *Handbook*, *supra* note 273 at 24.

294. *Graduate Calendar*, *supra* note 261 at 9.



take a minimum of 12 credit hours from the constitutional courses of the J.D. curriculum and must write the mini-thesis in the context of one of these courses.<sup>295</sup> The same pattern holds for the coursework-intensive LL.M. in international law, health law and policy, innovation law and policy, business law and institutions, and legal theory except that the 12 credit hours are drawn from the J.D. courses in the relevant subject area.

The allure of the coursework-intensive LL.M. for international students is understandable. Those students whose command of the English language and Canadian legal research and writing skills is sufficient to write undergraduate law school exams and perhaps, with assistance, smaller research papers may still not easily be able to complete a more ambitious writing project. Even those international students who are capable of writing a major thesis may choose the coursework-intensive LL.M. because it has a more definite time frame for completion than does the thesis-intensive LL.M.. Students who write major theses take varying amounts of time to complete these projects. Much of the indeterminacy for the time of completion arises due to the number of revisions supervisors ask their students to make to their theses. But the guidelines for supervisors in the coursework-intensive program suggest that, in most circumstances, only one set of revisions will be requested for the mini-thesis. In addition, international students may wish to get maximum exposure to a North American approach to legal pedagogy. These students will be more likely to achieve their objective by taking a number of law courses with undergraduate law students than by working alone, albeit with the assistance of a supervisor, on a major research project. Finally, international students may choose the coursework-intensive LL.M. because they wish to take advantage of the opportunity of taking courses in an academic program that offers one of the widest selections of courses in the country. In addition to the courses regularly offered at the University of Toronto's law school, students may take special intensive one-credit courses taught at the law school by distinguished visitors over a two to three week period<sup>296</sup> as well as courses at Osgoode Hall Law School of York University.

The objective of establishing the coursework-intensive LL.M. is clear. The University of Toronto wants to provide an alternative for international students who desire a North American legal education experience in one

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295. *Ibid.* at 10.

296. These courses are offered through the auspices of the Distinguished Visiting Faculty Program at the University of Toronto Faculty of Law. For more information about this program, see *OCGS Brief 1*, *supra* note 265 at Appendix III.

calendar year but who do not want to pay the exorbitant fees charged by many American law schools. For example, an LL.M. student, whether domestic or international, studying at Harvard University during the 2002-2003 academic year paid \$29,500 U.S..<sup>297</sup> Even state schools, such as the University of Michigan, charge international students extremely high fees. For the academic year 2002-2003, international students enrolled in this University's LL.M. program were required to pay \$31,027 U.S..<sup>298</sup> Couple these facts with the relatively lower cost of living in Toronto, compared to many large American cities, and it becomes evident that the University of Toronto is a very attractive destination for international students seeking a graduate degree in law.

Other than the establishment of a number of new scholarships for international research-stream graduate students in law, and the creation of the coursework-intensive LL.M., there are two other significant developments that have occurred pertaining to international students. The Faculty of Law has begun to host the Comparative Legal Systems Series.<sup>299</sup> This seminar series is offered by the University's foreign-trained graduate students in law. Those international students that are interested in presenting a seminar to the law school community discuss the legal systems, legal education regimes, and significant legal developments of their home countries.<sup>300</sup> The goal of the seminar series is twofold. First, it is hoped that it will serve to help educate both graduate and undergraduate students in comparative systems of law. Second, it is hoped that the seminar series will help make international students feel that they constitute an important and integral part of the law school. In addition, a new three-credit course has begun to be offered in the first semester entitled, Legal Research and Writing for International Law Students.<sup>301</sup> Its enrollment has been fixed at 5 J.D. students and 27 LL.M. students.<sup>302</sup> The course is aimed at students who have studied law abroad. It provides a brief introduction to the Cana-

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297. Harvard University, Harvard Law School, "Application Information for Master of Laws (LL.M.) Program" online: Harvard Law School <<http://www.law.harvard.edu/academics/graduate/admissions/index.php?page=llm>>.

298. University of Michigan, University of Michigan Law School, "Financial Aid Graduate Students" online: The University of Michigan Law School <<http://www.law.umich.edu/prospectivestudents/graduate/financialaid.htm>>.

299. Interview of M. Kaye Joachim, Assistant Dean, Graduate Studies, Faculty of Law, University of Toronto (10 October 2002).

300. *Ibid.*

301. University of Toronto, Faculty of Law, "Courses" online: University of Toronto <[http://www.law.utoronto.ca/prosp\\_stdn\\_content.asp?docNo=254&itemPath=3/7/4/0/0&cType=coursespg](http://www.law.utoronto.ca/prosp_stdn_content.asp?docNo=254&itemPath=3/7/4/0/0&cType=coursespg)>.

302. *Ibid.*

dian legal system including the legislative and judicial process, examines the use of print and online primary and secondary sources of law for Canada, the United States, and the United Kingdom, discusses the design and preparation of a law-related thesis, and requires students to write three research memos utilizing the skills that they have learned.<sup>303</sup>

The final graduate degree in law offered by the University of Toronto is the Master of Studies in Law (M.S.L.). This program is designed for established academics working in disciplines related to law who wish to acquire a knowledge of law in order to add a legal dimension to scholarship in their own discipline.<sup>304</sup> The M.S.L. program is not heavily subscribed. In fact, in the last seven years only one student has enrolled in it.<sup>305</sup> Most of the individuals who have pursued it have done so while on leave from their academic positions.<sup>306</sup>

The program has a number of components. Students must complete not less than 28 and not more than 32 credit hours of J.D. work, including at least three of the following first-year J.D. courses: Contracts, Torts, Property, Criminal Law, Constitutional Law, and Civil Procedure.<sup>307</sup> Consequently, M.S.L. students will obtain many of the basic building blocks upon which the undergraduate degree in law is based. But in no circumstances will courses taken in the M.S.L. program be accredited towards the J.D. degree.<sup>308</sup> In addition to the course requirements, M.S.L. students must complete a research project of an interdisciplinary nature.<sup>309</sup>

### 9. York University

Osgoode Hall Law School of York University offers two different streams of graduate study and three separate graduate programs in law. A doctoral program in law as well as a master's program is offered within the research stream, while only a master's program is offered as part of the professional stream.

Degree requirements vary for the doctoral degree in law depending on the background of the student. Those students who already possess an LL.M. from York University or another institution, or those students who, having enrolled in the LL.M. program at York, have completed that degree's course

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303. *Ibid*

304. *Graduate Calendar, supra* note 261 at 25.

305. Interview of M. Kaye Joachim, Assistant Dean, Graduate Studies, Faculty of Law, University of Toronto (21 August 2003).

306. *Graduate Calendar, supra* note 261 at 25.

307. *Ibid*.

308. *OCGS Brief 1, supra* note 265 at Appendix II.

309. *Graduate Calendar, supra* note 261 at 25.

requirements, can be admitted as doctoral students and must complete two courses and a dissertation of 200-400 pages.<sup>310</sup> Those students who do not possess an LL.B. or an LL.M. can also be admitted to the doctoral program, but to obtain the doctorate they must complete three additional courses.<sup>311</sup>

The doctoral degree's designation has been a matter of controversy over the last few years. Since its inception, the degree has been designated a Doctor of Jurisprudence (D.Jur.). However, when the University of Toronto changed the designation of its undergraduate degree from LL.B. to J.D., the graduate students at Osgoode became concerned that their doctoral degree would be confused with an undergraduate degree. For this reason, and because the Ph.D. is the recognized doctoral degree in the humanities and social sciences, traditions that heavily influence much of contemporary legal academic work, the decision has been made to change the designation of Osgoode's doctoral degree to a Ph.D. in law as of the 2003-2004 academic year.<sup>312</sup> Interestingly, unlike the central administration at the University of British Columbia, York University's administrators did not demand that a system of comprehensive examinations accompany the change in designation. Thus the programmatic requirements for the doctoral degree will remain the same. In fact, the Ontario Council of Graduate Studies stated that, as with a number of other doctoral programs in Ontario, there is no need for comprehensive examinations as part of the Osgoode doctorate.<sup>313</sup>

Unfortunately Osgoode has decided not to review the coursework requirements for the doctoral degree. There are currently no dedicated doctoral seminars and hence no programmatic means of building a doctoral student community. Participation in the graduate seminar, which is presumptively mandatory for research stream master's students, is an option for doctoral students, but one that is not heavily favoured.<sup>314</sup> Instead, it is recommended that a doctoral student take individual supervised research courses with the goal of producing papers, supervised by

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310. Osgoode Hall Law School of York University, *Faculty of Law Graduate Program in Law Calendar 2002-2003* (Toronto: University Printing Services, 2002) at 4 [Calendar I].

311. *Ibid.* at 5.

312. See York University, Osgoode Hall Law School, "Proposed Change in Degree Designation: DJur to PhD" online: Osgoode Hall Law School <<http://www.osgoode.yorku.ca/gxchphd.htm>>; Memorandum from Craig Scott, Associate Dean Research and Graduate Studies to Faculty Council, Osgoode Hall Law School (10 September 2002) [Memorandum].

313. Cited in Memorandum, *ibid.*

314. York University, Osgoode Hall Law School, *Brief for the Periodic Appraisal of the LL.M. and D.Jur. Degrees in Law Submitted to the Ontario Council on Graduate Studies OCGS Volume I: The Program* (2000) [unpublished, archived at the Office of the Dean, Osgoode Hall Law School of York University] at 4 [OCGS Brief II].

members of the student's Supervisory Committee, that can be incorporated into the dissertation.<sup>315</sup> Alternatively, doctoral students are advised to fulfill their course requirements by taking graduate courses either within or outside the law school that advance their dissertation research. Research stream graduate students in law, including doctoral students, may be permitted to take LL.B. courses for credit. However, in such cases the graduate students must be assessed by means of a graduate-level paper.<sup>316</sup>

Osgoode has significantly augmented its graduate course offerings. Until quite recently, the only graduate-level courses offered by the law school in its research stream were directed reading courses, individual supervised research courses, and the graduate seminar. Now, graduate students in the research stream can, space permitting, take the specialized courses offered in the professional stream.<sup>317</sup> Moreover, beginning with the 2002-2003 academic year, new research stream graduate courses are offered in each of four thematic clusters. In the legal theory cluster are two courses entitled Feminist Legal Theory and Theoretical Perspectives in Legal Research.<sup>318</sup> In the method and legal knowledge cluster are two courses entitled Applied Research Method: Policy and Regulatory Studies and Law and Knowledge. In the law in contexts cluster are two courses entitled Western Legal Histories and Law and Society. Finally, in the regulation and governance cluster are two courses entitled Democratic Administration and Transnational Governance. All of these three-credit courses are theoretically oriented and intended to mark a distinct departure from the usually more doctrinally-oriented LL.B. courses. Nevertheless, upper year LL.B. students are allowed to take the graduate courses for credit.

The six-credit graduate seminar, which is restricted to graduate students, can be taken by doctoral students in law but is presumptively required for master's students in law.<sup>319</sup> It is directed to teaching key techniques and intellectual approaches to thesis research and writing. Three

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315. *Ibid.*

316. Osgoode Hall Law School of York University, *Graduate Program in Law: Research Stream Mini-Calendar Fall/Winter 2001-2002* (Toronto: University Printing Services, 2001) at 18 [*Mini-Calendar*].

317. Students in other York graduate programs may enroll in the courses offered by the professional stream of the graduate program in law, but LL.B. students may not enroll in these courses (*OCGS Brief II, supra* note 314 at 5).

318. Memorandum, *supra* note 312.

319. The presumption that LL.M. students take the graduate seminar is only displaced if there is a good reason to do so, such as if the LL.M. student has a doctorate in another discipline and is already a trained researcher. Even if there is good reason for the LL.M. student not to take the graduate seminar for credit, they are still strongly encouraged to audit the seminar for the purpose of integrating themselves in the graduate student community (see Memorandum, *supra* note 312).

short monographs are assigned and studied to provide insight into contrasting approaches to legal scholarship.<sup>320</sup> Later in the year, each seminar student must identify the work of one faculty member who works in their fields, other than his or her own supervisor, and read and critically analyze it to see how the scholar's approach has evolved. Using the research methodology lessons that they have learned, students are then asked to produce a bibliography of their own thesis and complete a thesis proposal.

A number of guidelines and rules exist pertaining to the supervision, preparation, and defence of research stream theses. No graduate student is accepted into the research stream until a faculty member agrees to be that student's supervisor.<sup>321</sup> A Supervisory Committee consisting of the supervisor, another Osgoode faculty member, and a York or Osgoode faculty member must be established by the end of the first semester of the student's residence.<sup>322</sup> Normally, members of the Supervisory Committee become members of the Thesis Examining Committee.<sup>323</sup> The Supervisory Committee approves the choice of a thesis topic, a thesis outline, and a thesis research methodology plan, all of which are usually prepared within the first year of residence.<sup>324</sup> Graduate students and their supervisors are required to submit annual progress reports at the end of the Winter semester. These progress reports are reviewed by the Associate Dean Research and Graduate Studies and, in the event of unsatisfactory progress, meetings are arranged with the student and supervisor to discuss the situation and formulate appropriate action plans. Doctoral dissertations must constitute publishable quality legal studies of substance exhibiting originality and high levels of scholarly proficiency.<sup>325</sup> Doctoral dissertations must normally be orally examined before a thesis committee consisting of the three members of the Supervisory Committee, a faculty member from another graduate program at York, a representative appointed by the Dean of the Faculty of Graduate Studies, and an external examiner who is usually a professor from another law school.<sup>326</sup> LL.M. theses must constitute substantial studies of publishable quality.<sup>327</sup> They are normally orally

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320. *Ibid*

321. *OCGS Brief II, supra note 314 at 3.*

322. *Mini-Calendar, supra note 316 at 11 and 13.*

323. *Ibid.*

324. *Ibid.*

325. *Mini-Calendar, supra note 316 at 12.*

326. *Ibid.*

327. *Ibid.* at 10.

examined before a thesis committee consisting of the supervisor, one other member of the supervisory committee, a designate of the Dean of Graduate Studies, and an external examiner.<sup>328</sup> The LL.M. thesis is expected to be between 100 and 200 pages in length.<sup>329</sup>

Normally, the research stream LL.M. degree has rather meagre coursework requirements. A student must simply complete three courses successfully, and one of the courses is usually the graduate seminar.<sup>330</sup> However, students admitted into the research stream LL.M. program without an LL.B. degree may be required to complete additional coursework in law.<sup>331</sup>

A problem that apparently does not afflict the research stream graduate programs at Osgoode Hall but does afflict many other thesis-driven graduate programs in law in Canada, is supervisors' reluctance to take on graduate students. In fact, the issue of greatest concern to faculty is that some professors are not given the opportunity to supervise as many students as they would like because the programs are not attracting students interested in their research areas.<sup>332</sup> Undoubtedly one of the reasons for the enthusiastic support of the Osgoode faculty for the research stream graduate programs is that Osgoode provides generous teaching credit for graduate supervision. Professors receive one teaching credit for every master's student supervised to completion and two teaching credits for every doctoral student supervised to completion.<sup>333</sup> Consequently, the more graduate students Osgoode faculty supervise, the fewer undergraduate courses they are required to teach.

The Osgoode perspective is that professors of law should hold doctoral degrees, and this view may be one of the reasons why the faculty take their supervisory duties, particularly in relation to doctoral students, so seriously. This perspective is revealed, in part, by the articulation of the objective of the research stream master's program, which is to prepare students for the conduct of advanced legal research that facilitates their later pursuit of a doctoral degree in law or enhances their ability to practice law.<sup>334</sup> Thus, it seems that the research master's degree in law is not seen as providing a sufficient background to enable one to enter the acad-

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328. *Ibid*

329. *Calendar I, supra* note 310 at 4.

330. *Ibid.*

331. *Ibid.* at 21.

332. *OCGS Brief II, supra* note 314 at 32.

333. *Ibid.* at 39.

334. *Ibid.* at 2-3.

emy. It is the objective of the doctoral degree to prepare students for careers in teaching and advanced research.<sup>335</sup> Osgoode's stance concerning the necessity of pursuing doctoral work before one enters the professoriate is also evident in its hiring and tenure-granting practices. With a few exceptions, new faculty have doctoral degrees or are enrolled in doctoral programs and expected to complete their degrees as a condition of tenure.<sup>336</sup>

The law school's commitment to training doctoral students for careers in teaching is clearly demonstrated. Beginning with the academic year 2002-2003, the two Associate Deans at Osgoode began cooperating to identify possible candidates for LL.B. teaching amongst applicants to the graduate program and in-stream applicants, with a particular focus on attempting to find sessional positions within the law school for doctoral students.<sup>337</sup> Moreover, there are eight Legal Research and Writing instructor positions that are structured as teaching assistantships. These positions are filled every year by research stream graduate students in law, and doctoral students tend to be favoured for them.<sup>338</sup> Finally, a number of research stream graduate students in law teach in York University's Law and Society Arts undergraduate program as teaching assistants.<sup>339</sup>

Unfortunately, there are signs that this commitment to teacher training for graduate students in law may be weakening. At the McGill conference on graduate legal education, one of the graduate students from Osgoode indicated that the new Dean was considering terminating the teaching assistant positions in the Legal Research and Writing Program because he felt that the LL.B. students deserved to be taught by full-time members of faculty, especially considering the recent increases in tuition in the LL.B. program.<sup>340</sup> Undoubtedly the provision of teaching experiences for graduate students assists Osgoode in recruiting quality graduate students. Eliminating the teaching opportunities in the Legal Research and Writing program for them would detract from one of the few areas in which Osgoode enjoys a competitive advantage over its downtown rival, the University of Toronto.

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335. *Ibid.* at 4.

336. *Ibid.* at 24.

337. Memorandum, *supra* note 312.

338. *Ibid.*

339. *Ibid.*

340. Dayna Scott, "What is Graduate Legal Education For?" (Roundtable presentation to Professing to Educate . . . And Educating to Profess: A Symposium on Graduate Legal Education for Academics (Present and Future), July 2003) [unpublished].



Osgoode does provide an impressive amount of funding for its graduate students, albeit not as much as the University of Toronto. The total amount of internal scholarship funding that is not restricted in terms of student background or research topic is \$116,000.<sup>341</sup> In addition to these funds, eight \$10,000 Estey Fellowships are available each year to support graduate students in law who teach in the Legal Research and Writing program or who teach an LL.B. course or seminar.<sup>342</sup> Five of these awards must be made to Ontario residents, and the other three can be given to non-Ontario residents.<sup>343</sup> There are also five Harley D. Hallett Scholarships that are each valued at \$15,000, but 85% of these funds must support Ontario residents.<sup>344</sup> Furthermore, the eight Legal Research and Writing positions each have a salary of \$11,221.<sup>345</sup> Finally there are a number of subject-specific scholarships and fellowships, which together amount to approximately \$53,000/year.<sup>346</sup> Offers of financial support are made annually and usually without any formal commitment to identical future funding, although it is the practice to fund doctoral students at the same level in their second year of studies as they were in their first year of studies.<sup>347</sup> Indeed many of the internal scholarships are renewable for doctoral students.

Another attractive feature of Osgoode's research stream programs relates to the law school's library facilities. As has previously been noted, the York University Law Library is the largest academic library in the Commonwealth.

Although the number of newly admitted graduate students in the research stream was 26 for the academic year 2002-2003, consisting of 11 LL.M. students and 15 doctoral students,<sup>348</sup> the actual annual enrolment target is slightly smaller. The enrolment target is 24 new students per year, 50% of whom are doctoral students.<sup>349</sup> While the target regarding the total

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341. Memorandum, *supra* note 312 and *Calendar I*, *supra* note 310 at 23-25.

342. Memorandum, *supra* note 312.

343. *Ibid.*

344. *Calendar I*, *supra* note 310 at 23.

345. *Ibid.* at 25.

346. Memorandum, *supra* note 312 and *Calendar I*, *supra* note 310 at 23-25. The specific breakdown of the \$58,000 is as follows: Three alternative dispute resolution scholarships in the amount of \$5,000 each, a public law scholarship in the amount of \$5,000, an international business law, trade and tax law scholarship in the amount of \$1,000, a feminist legal theory scholarship in the amount of \$15,000, a labor law scholarship in the amount of \$500, an administrative law scholarship in the amount of \$500, a feminist legal research fellowship in the amount of \$8,000, and a public law and policy fellowship in the amount of \$8,000.

347. *Calendar I*, *supra* note 310 at 31.

348. Memorandum, *supra* note 312.

349. *OCGS Brief II*, *supra* note 314 at 82.

number of research stream graduate students is not anticipated to change, by 2007 Osgoode plans to admit 14 new doctoral students per year.<sup>350</sup>

Even though there are no exclusively doctoral seminars around which a doctoral student community can be built, the research stream as a whole has engaged in some community-building activities. For instance, the Graduate Law Students Association (GLSA) organizes an annual graduate law student's conference that attracts presenters from all over the world, and the GLSA publishes an e-journal that allows interactions between its readers and authors while challenging the disciplinary boundaries of law.<sup>351</sup>

An LL.M. can be obtained through the professional stream, but this degree can be pursued only on a part-time basis. The constituency being served by the professional stream LL.M. is practitioners who wish to obtain specialized and advanced legal knowledge for the purposes of practice. There are currently fourteen subject areas in which specialized and exclusive graduate courses can be taken: administrative law, alternative dispute resolution, banking and financial services, civil litigation and dispute resolution, constitutional law, criminal law and procedure, e-business law, insolvency law, intellectual property law, international trade and competition law, labour relations and employment law, real property law, securities law, and tax law.<sup>352</sup> Admission to the professional stream can be obtained with a slightly lower grade point average than is required for admission into the research stream if the admitted student has five years of experience in the sub-specialization that the student is interested in pursuing.<sup>353</sup> This lowering of the normal minimum grade point average for admission recognizes that there has recently been a significant inflation in law school grades. The professional stream LL.M. requires the successful completion of at least 180 hours of graduate-level coursework taken over approximately two years and the completion of a major supervised research paper of approximately 70 pages in length.

Although the professional stream has its base in downtown Toronto on a full floor of the Eaton Centre, complete with substantial teaching space, meeting rooms and administrative facilities, the professional stream LL.M. has become a leader in distance education. The downtown campus is equipped with state-of-the-art videoconferencing equipment, and through this technology a number of sub-specializations have been offered to

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350. *Ibid.* at 83.

351. *Ibid.* at 19-20.

352. *Ibid.* at 8.

353. *Ibid.* at 73.

students who enroll while staying in cities as far away as Calgary and Vancouver.

The individuals who teach courses in the professional stream come from a variety of backgrounds. Some are full-time Osgoode and York faculty members who teach courses in the program on an overload basis for additional financial remuneration. Other instructors are prominent practitioners with an expertise in the sub-specialization in which they teach. Still other instructors are full-time academics from other Ontario, American, British and Australian law schools. These individuals are able to teach in this program because, although most of the courses taught in the professional stream are taught in three hour blocks one evening a week over a number of weeks, some courses are taught intensively over a number of days. This flexibility allows for students in the professional stream to be taught by top experts in the field who would not normally be available to teach on a more protracted basis, rather than only the experts who normally reside in the greater Toronto area.

The academic work in the professional stream is clearly graduate in nature. The courses are specially designed for the program and, when they are doctrinal, they tend to be more advanced and comprehensive doctrinal courses than those offered in the LL.B. curriculum. Course instructors are directed to provide graduate-level content by providing theoretical, interdisciplinary, comparative and international perspectives in each course. Courses are typically evaluated by means of a research paper or a take-home exam, usually at the student's discretion. Most of the research supervision is done by course instructors, although external supervisors may be appointed in the case of highly specialized research. Students in the professional stream write their 70-page research paper after completing 180 hours of coursework. They are expected to finish the paper within four years of starting the LL.M. program. The paper must be analytical and of publishable quality, but no oral defence of it is required.

There are special rules governing financial support for the professional stream. Professional stream students are not eligible for financial assistance in the form of scholarships or teaching assistantships. However, students are permitted to pay their fees on a monthly installment plan rather than in full at the beginning of each course, and limited tuition fee bursaries are offered in exceptional circumstances to assist with the payment of a portion of tuition fees or to cover the cost of interest on external loans obtained in order to pay the fees associated with the program.

The immense popularity of the research stream LL.M. demonstrates that practitioners see the program as advancing their professional needs while accommodating their professional time constraints. Approximately 300 new students are admitted into the program each year.

### 10. *Queen's University*

The course requirements of the LL.M. program at Queen's University consist of a full-year exclusive graduate seminar and a single one-term upper year LL.B. course.<sup>354</sup> The aim of the seminar is to offer graduate students a way of collectively engaging some central issues in legal research by examining the analytic and methodological choices exhibited by a number of authors in their own work.<sup>355</sup> The seminar culminates in presentations by individual students of one or more chapters of their thesis to their peers, followed by comments from an assigned discussant and others in the seminar. External reviews of the graduate seminar have indicated that it achieves a number of laudable goals and should be retained in its current form:

We endorse the duration of the course as it provides continuity and a place to raise issues and intellectual challenges which emerge throughout the year. Requiring students to present a chapter of their thesis topic not only promotes writing and gives experience to the presenter, it fosters the skill of peer review. The seminar also provides the students with an opportunity to forge social ties.<sup>356</sup>

When LL.M. students take LL.B. courses they are allowed the option of writing papers that intersect with their thesis topic as a means of assessment instead of writing exams. Allowing students this option helps ensure that their coursework informs their thesis and does not unduly detract time and attention away from the completion of the thesis.

Nevertheless, many international students enrolled in the LL.M. program have indicated that they would benefit from more instruction in common law legal analysis and principles. For this reason, external reviewers of the graduate program suggest that the Faculty of Law deliver a short introduction to the common law to international students in the graduate program.

External reviewers also express concern that one of the key stated objectives of the Queen's LL.M. is not being achieved. The LL.M. is supposedly fashioned to suit candidates hoping to pursue law teaching

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354. Ontario Council of Graduate Studies, *OCGS Appraisal of the Graduate Program in Law of Queen's University Volume I: The Program* (2000) [unpublished, archived at the Office of the Dean, Faculty of Law, Queen's University] at 2–3 [*OCGS Brief III*].

355. *Ibid.* at 3.

356. Sheilah Martin & Linda Reif, *Appraisal of LL.M. Program, Faculty of Law, Queen's University* (2001) [unpublished, archived at the Office of the Dean, Faculty of Law, Queen's University] at 6 [*OCGS Appraisal*].

careers. Yet in no facet of the LL.M. program are law teaching or law teaching skills ever directly addressed. Indeed there are no teaching assistantship opportunities in the Faculty of Law. To achieve the stated objective of the LL.M. program, external reviewers recommend that graduate students receive instruction in pedagogy and be required to do some teaching in the Faculty.

There are a number of prescriptions concerning the LL.M. thesis. The Faculty has communicated to its graduate students that LL.M. theses should be in the range of 100-150 pages and that 200 pages should be seen as an outer limit.<sup>357</sup> All LL.M. theses must be orally defended by the student before a five-person examination board composed of an external examiner from a law school other than Queen's, a Queen's scholar from outside the law faculty, and three members of the law faculty including the student's supervisor.<sup>358</sup> LL.M. students are also expected to give their supervisors a written thesis outline within six weeks after enrolling in the program.<sup>359</sup>

The objective underlying this practice is to ensure the prompt commencement of research on behalf of the student and to enable the supervisor to evaluate the feasibility of the student's thesis plans in terms of substance, anticipated length, and the likelihood of timely completion.<sup>360</sup> Strangely, students are not assigned supervisors upon admission to the program or upon the term's commencement. Instead, after they arrive in September, each graduate student is assigned a faculty advisor.<sup>361</sup> The principal role of the faculty advisor is to discuss the student's program with him or her and facilitate contact between the student and those faculty members that work in the student's area of research interest.<sup>362</sup> It is clear that if the goal is expeditious commencement of student research, the assignment of supervisors should be determined well in advance of the student's arrival on campus.

In an effort to ensure conscientious supervision of graduate students, the School of Graduate Studies and Research has promulgated guidelines on the roles and responsibilities of supervisors. Of particular note are two guidelines. The first one states that supervisors and students should meet at least once each academic term.<sup>363</sup> While having an explicit guideline is

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357. *OCGS Brief III*, *supra* note 354 at 38.

358. *OCGS Appraisal*, *supra* note 356 at 4.

359. *OCGS Brief III*, *supra* note 354 at 38.

360. *Ibid.*

361. Graduate Studies Committee, Faculty of Law, Queen's University, *Manual for LL.M. Students* (2002) [unpublished, archived at the Office of the Dean, Faculty of Law, Queen's University] at 5 [*LL.M. Manual*].

362. *Ibid.*

363. *Ibid.* at 26.

commendable, the minimum standard that is set by this one is so low that its value is questionable. Fortunately this deficiency does not afflict the other guideline. It states that supervisors should provide comments on their students' written work normally within two weeks of receipt of material.

When the LL.M. program began, the intention was to offer graduate work only in certain specialties where faculty and library resources were particularly strong, but in response to applicants' requests, it was soon agreed that candidates who wished to pursue thesis research in other fields would be accepted if adequate supervisory and library resources were available.<sup>364</sup> The current list of areas in which faculty and library resources are particularly substantial reads as follows: Administrative Law, Constitutional Law, Criminal Law, International Law, Labour Law, Taxation, Feminist Legal Studies, Family Law, Children's Law, and Health Law.<sup>365</sup>

The need to augment financial support, particularly for international graduate students, was emphasized in the external review of the LL.M. program. Internal financial support for graduate students has been declining during the period 1988-1994 while tuition fees, especially for international students, have been increasing.<sup>366</sup> For the academic year 1999-2000, \$120,647 of internal funds, without any subject-specific or other restrictions, was devoted to the support of graduate students.<sup>367</sup> The external reviewers suggest that fund-raising for the graduate program could be effectively achieved by adding a regular section devoted to the LL.M. program to the alumni magazine.<sup>368</sup> This section would provide the names of LL.M. graduates from the previous year, list their publications, and recount the achievements of former and current graduate students.<sup>369</sup> While this action would assist in forging stronger ties between LL.M. alumnae and the law school and make current graduate students feel more closely integrated into the life of the law school, it is doubtful that substantial donations will result from such an initiative. The LL.M. alumni constitute too small a group to significantly augment the financial situation of the graduate program. What the Faculty can and should do is specifically point out to LL.B. alumni, a much larger group, the prestige that a graduate program in law brings to the law school offering it. The law school should communicate that, because virtually all of the Canadian common law law

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364. *LL.M. Manual*, *ibid.* at 1.

365. *Ibid.*

366. *OCGS Brief III*, *supra* note 354 at 10.

367. *Ibid.* at 50.

368. *OCGS Appraisal*, *supra* note 356 at 6.

369. *Ibid.*

schools have LL.M. programs, the loss of the program at Queen's could be seen as a signal that it is not in the upper tier of Canadian law schools. The law school could then make an express plea to the LL.B. alumni to help prevent the decline of the prestige of their alma mater by donating funds to keep the LL.M. program viable.

Yet there are also non-financial hurdles that the LL.M. program must overcome in order to survive. The external reviewers note that the absence of teaching credit for graduate supervision may constitute a disincentive to full participation in the program by faculty members.<sup>370</sup> Without the support of professors in the law school, the graduate program is sure to have a short life.

What is clear is that, if properly motivated, professors in the Faculty of Law are capable of continuing to mount a sizable thesis-based LL.M. program of high quality. But without an increase in the number of faculty members, a larger LL.M. or doctoral program would be difficult to sustain.

### 11. *The University of Ottawa*

The University of Ottawa's Faculty of Law offers quite a number of differently structured LL.M. programs in which the language of instruction is English. One of the programs is the LL.M. without concentration. It consists of two compulsory courses, of which one is a legal research methodology course exclusively for graduate students and the other is a legal theory course drawn from the upper year LL.B. curriculum, three elective courses drawn from the upper year LL.B. curriculum, and a research paper of approximately 50-60 pages that is prepared under the supervision of a faculty member.<sup>371</sup> The student's supervisor and one other person appointed by the Co-Director of Graduate Studies in Law evaluate the research paper.<sup>372</sup>

Another program is known as the LL.M. with concentration in law and technology. There are two exclusively graduate three credit courses that must be taken by students enrolled in this program: Technoprudence, which is a course dealing with legal theory in the information age, and Technopolicy, which focuses on the interplay between technologies and existing legal rules. In addition, students must take two elective, three-credit courses from a list of courses dealing with new media, electronic commerce and/or intellectual property. The courses from this list are also

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370. *Ibid.* at 4

371. University of Ottawa Faculty of Graduate and Postdoctoral Studies, *Law 2002-2004 Calendar* (Ottawa: University Printing Services, 2002) at DCL-6 [*Calendar II*].

372. *Ibid.*

open to upper year LL.B. students. Graduate students also enroll in a three-credit Technology Law Internship where they spend one day a week during one semester at a technology-focused government department or a technology corporation's in-house legal department and keep a log of their experiences. Finally, students must write a research paper of no less than 30 pages under faculty supervision on a topic in law and technology, which is evaluated in the same manner as the research paper for the LL.M. without concentration. Those students who do not wish to write the research paper can opt to produce a technology-based project, completed under the supervision of a faculty member. These projects must integrate legal content, usually within a piece of software, machine code, or a web-based application. The project is evaluated in the same manner as the research paper.

The third type of master's program is the LL.M. with concentration in civil law theory. This degree is designed for students with a common law degree who want to acquire knowledge of the civil law. The course requirements consist of the graduate legal research methodology course and the following four additional mandatory courses, all of which are open to LL.B. students: Civil Law Sources and Reasoning (a legal theory course), The Civilian Concept of Obligations I, The Civilian Concept of Obligations II, and The Civilian Concept of Property. In addition, students must write a research paper, under faculty supervision, of 50 to 60 pages that deals with civil law theory. The paper is evaluated in the same manner as the research paper in the LL.M. without concentration.

The fourth type of master's program is the LL.M. with thesis. Students enrolled in this program must take the graduate legal research methodology course, one legal theory course, and a directed research course in which the student completes a 40 page paper under faculty supervision. As with all thesis programs at the law school, the supervisor is assigned to each student upon the student's admission to the program. Students who decide to pursue this type of LL.M. also need to complete a 100 to 130 page thesis that is orally examined by at least two members of faculty, including the supervisor.

The final two master's programs are two variants of the LL.M. with specialization in Women's Studies. Students in this program who wish to write a research paper as opposed to a thesis must take the graduate legal research methodology course and one other legal theory course drawn from the upper year LL.B. curriculum. In addition, they must take two courses in Women's Studies: Feminist Theories and Feminist Methodologies. Moreover they must take one other elective upper year LL.B. course and write a 50 to 60 page research paper under the supervision of a member of the Faculty of Law or other suitable person appointed by the Co-Director



of Graduate Studies in Law. The paper is evaluated by the supervisor and one other person selected by the Director of the Women's Studies Graduate Committee. Those students who pursue the thesis option must complete the graduate legal research methodology course, an LL.B. legal theory course, the two compulsory courses in Women's Studies, and a 100 to 130 page thesis that is orally examined by a three-member jury, at least one of whom is selected by the Women's Studies Graduate Committee.

The LL.M. programs at the University of Ottawa have a large enrollment. In 1999, 47 new students were admitted into them.<sup>373</sup>

The University of Ottawa's choice of designation for its doctoral degree in law, the Doctor of Laws (LL.D.), is unfortunate. Although the LL.D. designation seems to be the natural choice for a doctorate in law, given the designations of the two lower degrees in law, LL.B. and LL.M., the LL.D. has been thoroughly established for decades as one of the principal honorary degrees bestowed by universities to those individuals who have contributed greatly, but not usually through legal practice or education, to the university or larger world. Consequently the granting of honorary LL.D.s can serve to detract from the academic achievement that should be symbolized by the earned doctorate in law when it is also designated as an LL.D..

There is only one principal requirement for the LL.D. degree. Although students must take one law course which, as a general rule, will be a legal theory course,<sup>374</sup> the main focus of the program is the completion of a doctoral thesis. The thesis must make an original contribution to the advancement of legal scholarship and will be orally examined by a jury of four members.<sup>375</sup> The normal length of an LL.D. thesis is 250-400 pages.<sup>376</sup> The LL.D. program is a modest one from the perspective of student enrollment. From 1993-1999, the lowest number of new doctoral students admitted in a year was one and the highest number was nine.<sup>377</sup>

At the University of Ottawa, a number of the internal scholarships for graduate students in law can only be awarded to individuals with certain

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373. Ontario Council of Graduate Studies, *OCGS Appraisal of the Graduate Program in Law of the University of Ottawa* (2000) [unpublished, archived at the Office of the Dean, Faculty of Law, University of Ottawa] at 60 [2000 Report]. But this figure also includes students who have enrolled in the LL.M. programs that are only offered in the French language as well as those students who are enrolled in programs that are offered in both English and French.

374. *Calendar II*, *supra* note 371 at DCL-13.

375. *Ibid.*

376. Interview of Sylvie LeBlanc, Academic Assistant Graduate Program in Law, University of Ottawa (19 July 2002).

377. 2000 Report, *supra* note 373 at 63.

backgrounds or who are pursuing particular types of programs. For example, the McDougall Scholarship for Graduate Studies in Law is worth \$30,000 but is limited to master's students who are Polish citizens.<sup>378</sup> There are also five fellowships in technology law that are valued at \$20,000 each, and the only students eligible for them are those pursuing the LL.M. with concentration in law and technology.<sup>379</sup> The Human Rights Research and Education Centre also offers a graduate scholarship consisting of a full tuition waiver and \$12,000. Only graduate students working in the human rights area are eligible, with doctoral students being preferred over master's students.<sup>380</sup>

There are also two general admission scholarships for graduate students in law.<sup>381</sup> The normal practice is to award one to an international student and one to a domestic student.<sup>382</sup> In the competition for these scholarships, doctoral students are preferred over master's students and each scholarship consists of a full tuition waiver and a research assistantship of \$12,000.

It is difficult to assess a number of aspects of the University of Ottawa's graduate program in law. Because the University of Ottawa offers a number of non-thesis master's programs, the fact that no formal teaching credit is given for graduate supervision<sup>383</sup> may not be as harmful to this graduate program as it would be for one that is solely thesis-driven. Although the University of Ottawa's law library has one of the smallest annual budgets for monograph acquisition in the country, the total number of monographs is still respectable. Furthermore, the argument that graduate students in law at the University of Ottawa cannot readily obtain access to important legal materials becomes doubtful when one considers that while students are in residence in Ottawa, they can easily make arrangements to use the libraries of the Supreme Court of Canada, the Department of Justice, the National Library of Canada, and the libraries of other federal institutions.

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378. Interview of Sylvie LeBlanc, Academic Assistant Graduate Program in Law, University of Ottawa (19 July 2002).

379. *Ibid.*

380. *Ibid.* Doctoral students who win this scholarship can apply to have it renewed for a total of four years of funding (*ibid.*).

381. *Ibid.*

382. *Ibid.*

383. Interview of Lise Fraser, Administrative Assistant to the University of Ottawa's Dean of Law (16 December 2002).

## 12. McGill University

The graduate programs in law at McGill University are on the verge of undergoing significant changes. Some of these changes will occur in the academic year 2003-2004, while others will take effect for the academic year 2004-2005.

Prior to 2003, McGill offered a thesis-based LL.M. degree, a doctoral degree in law designated a Doctor of Civil Law (D.C.L.) and two graduate certificates, one in comparative law and the other in air and space law. All graduate admissions were organized around two institutes: the Institute of Comparative Law (ICL) and the Institute of Air and Space Law (IASL).

All LL.M. students were required to successfully complete 18 credits of coursework and a thesis of approximately 100 pages in length.<sup>384</sup> All ICL LL.M. students had to take a three-credit course entitled Theoretical Approaches or a similarly credited course called Legal Traditions, but otherwise these students were free to complete their course requirements by taking courses that were open to upper year LL.B. students.<sup>385</sup> LL.M. students in the IASL had to take the following three-credit courses: Private International Air Law, Public International Air Law, and Space Law and Institutions, and they normally completed their course requirements by taking the following additional three-credit courses: Air and Space Law Applications, Comparative Air Law, and Government Regulation of Air Transport. Students could pursue an LL.M. through the ICL that had a Bioethics specialization. These students had to complete the normal ICL LL.M. course requirements as well as six credits of courses in the bioethics academic unit and a three-credit upper year LL.B. course entitled Law and Health care. All LL.M. students were required to have their final theses approved by their supervisors and one internal reader, but these students were not expected to orally defend their theses.

Supervisors for both LL.M. and D.C.L. students were not assigned upon students' admission to these programs. Instead students were admitted and, within three months of initial registration into the program, they were expected to find members of faculty who would agree to supervise their theses.

There were a number of rules and regulations pertaining to the graduate certificates. Both certificate programs required the completion of 15 course credits. The only mandatory course was either Theoretical

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384 McGill University, Faculty of Law, "Graduate Programme Requirements for the Institute of Comparative Law (ICL) and the Institute of Air and Space Law (IASL)" online: McGill University <<http://www.law.mcgill.ca/institutes/icl/academic/index.htm>>.

385. *Ibid.*

Approaches or Legal Traditions. The Graduate Certificate in Air and Space Law required that students complete the same mandatory courses that IASL LL.M. students had to successfully complete.

The only firm requirements for the doctoral program were that students complete a doctoral thesis of about 400 pages, constituting a significant and original contribution to legal knowledge, and that the thesis be orally defended before a jury consisting of no fewer than five adjudicators, at least two of whom were not members of the Faculty of Law.

In terms of new students admitted each year, McGill's graduate program was a robust one. The certificate program was quite small, with between two and four new admissions every year.<sup>386</sup> The remainder of the approximately 70 new graduate students each year were enrolled in the LL.M. or D.C.L. programs,<sup>387</sup> with approximately 60 new students being admitted into the LL.M. program.<sup>388</sup>

The changes that are planned to take effect soon do not entail any alteration of the certificate programs. However, the LL.M. and D.C.L. programs will undergo significant reforms.

In large part, concerns regarding thesis quality and program length prompted the changes to the LL.M. program. The Ad hoc Review Committee assessing the state of McGill's graduate programs in law felt that every LL.M. graduate student should be producing a thesis in the very good to outstanding range but that this standard was not currently being met at McGill on a regular basis. The Ad hoc Review Committee report states that

Some of our current LL.M. candidates experience difficulty in producing a very good thesis. This may be for reasons of prior preparation — including prior experience with writing major research papers — or it may be for linguistic reasons, among others. The Committee was informed that in some instances, students have required substantial assistance with the drafting of their thesis or other submitted work. One colleague mentioned a case where this assistance actually went beyond editorial work and involved matters of substance. This concern raises a choice for the Faculty. On the one hand, if we insist on a thesis and expect that it will be at least very good, perhaps we should raise our standards and admit

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386. Ad hoc Review Committee, *First Report – Ad hoc Review of the Graduate Programmes in Law* (2002) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, McGill University] at 6 [*First Report*].

387. McGill University, Faculty of Law, Graduate Studies "Academic Programs" online: McGill University <[http://www.law.mcgill.ca/graduate\\_programmes-en.htm](http://www.law.mcgill.ca/graduate_programmes-en.htm)>.

388. *First Report*, *supra* note 386 at 15.

fewer students. On the other hand, many current students have indicated that they would prefer a non-thesis programme, particularly if it still involved a substantial writing project. The length of the programme is also a matter of concern. Most of our students — even those who come well-prepared and who already have a relatively settled thesis topic — are not capable of completing the programme in three consecutive terms (that is, in one calendar year from September to September). This creates financial concerns, puts enormous pressure on supervisors to rush through less than very good theses at the end of the summer, and stresses students. It is not clear that a thesis Master's degree ought to require as much coursework as we currently do.<sup>389</sup>

Consequently, McGill has decided to introduce a non-thesis LL.M. and revamp their thesis LL.M.

It is anticipated that the new non-thesis LL.M. will have a number of programmatic requirements. Students will be required to complete 30 credits of coursework and a major essay worth 15 credits. Of these 30 credits of coursework, two obligatory courses must be taken in classes composed of graduate students only. These courses are Theoretical Approaches, which is currently not offered exclusively to graduate students, and a new legal research methodology course. LL.M. students registered in the ICL must also take another course in a graduates-only setting that is currently offered to joint classes of graduate and undergraduate students: the Legal Traditions course. The remainder of the course credits will be obtained by students taking courses that upper year LL.B. students can take for credit. The research essay will consist of between 15,000 and 20,000 words and be supervised by a faculty member.

Faculty members are likely to enthusiastically supervise these research essays because they will receive a form of teaching credit for so doing. The supervision and teaching credit would be structured as follows:

The idea would be that a number of graduate (600-level) Guided Research Seminars be offered in the summer. For students they would have a credit weight of 15, but for professors they would be calculated as having the same weight (for purposes of teaching loads) as a taught 3-credit course. The course would be run, say, as a two-three hours seminar once per week during May and June. Students would present their research proposals for discussion and comment, and at some point in June, the formal sessions would stop and the supervisory role would be accomplished through

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389. *Ibid* at 8.

scheduled meetings or office hours for students in the Guided Research seminar. The point, obviously, is that such a system would bring the supervisory burden out into the open, and would allow colleagues who carry heavy loads to receive academic credit for doing so.<sup>390</sup>

Unfortunately, no teaching credit will be extended to those faculty members who perform supervisory duties in the thesis LL.M. or doctoral programs. As a result, professors may be more willing to participate in the non-thesis LL.M. than in the other programs.

The thesis LL.M. will have a thesis requirement of approximately 25,000 to 30,000 words and the coursework requirement will be slightly reduced to 15 credits, including the mandatory courses that the non-thesis LL.M. students must complete. Furthermore, the thesis will be evaluated by the supervisor, an internal reader, and a reader that is external to McGill University.

A number of changes are similarly contemplated for the doctoral program. Students in the new D.C.L. program will have to complete a mandatory course, *Theoretical Approaches*, and thus will have to be in actual residence for at least one semester. Physical residency on the McGill campus will undoubtedly facilitate the mentoring process between supervisor and student. Moreover, students will no longer be admitted directly into full candidacy for the degree. Candidates who already hold a thesis LL.M. from McGill or another university, and those who have completed the course requirements for the McGill thesis LL.M. but not the thesis itself, may be admitted into a qualifying year of doctoral work during which they complete the obligatory course and write a qualifying examination. Two McGill law professors, neither of whom can be the student's LL.M. supervisor, conduct the examination, which will usually occur after the end of the second semester of studies. The exam will consist of the submission of a 15,000-word essay that is meant to form part of the doctoral dissertation, a detailed dissertation outline, and a draft bibliography for the dissertation. Oral examinations are then conducted pertaining to the essay and the material listed in the bibliography. The qualifying examination ensures that students can work at the required level and that they have a solid plan for the thesis. Those students who do not pass the qualifying examination will have the option of a re-examination at the end of the following semester and/or re-entering or entering McGill's thesis LL.M. program and modifying their 15,000 word essays to complete the latter

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390. *Ibid.* at 21.

degree's thesis requirements. Thus, there is an exit strategy that helps to ensure that those students whose work does not display doctoral-level quality but who have put significant time, energy, and resources into their graduate work do not come away completely empty-handed.

The second report of the Ad hoc Committee assessing McGill's graduate programs in law makes a number of important recommendations and observations. One of these recommendations is that, for the thesis-driven programs, students should be assigned supervisors upon admission.<sup>391</sup> Clearly the Ad hoc Committee is not at ease with the image of large numbers of graduate students roaming the halls of the Faculty of Law begging and cajoling professors to supervise their theses. The Committee states that an optimal enrollment for the thesis-based LL.M. is 12 new students per year and for the D.C.L. it is six to eight new students per year, but the Committee is silent as to optimal enrollment for the non-thesis LL.M. program. Because of the limited financial resources of the Faculty, about which more will be revealed, it is recommended that students in the non-thesis LL.M. program be given the lowest priority for internal funding purposes. Finally, it is suggested that professors who supervise thesis LL.M. and doctoral students attempt to give them some teaching experience by involving them in courses as tutorial leaders and guest lecturers.

McGill is taking significant steps towards improving its graduate programs in law. The creation of courses exclusively for graduate students will help to create a sense of community among them, the development of a non-thesis LL.M. will be particularly attractive for international students, and the establishment of a qualifying examination for the doctoral program ensures that some doctoral students will not waste years in a program that they have little chance of successfully completing.

Nonetheless, there are significant challenges to the vitality of McGill's programs. Many of the law school's professors may not be motivated to supervise theses in the LL.M. and doctoral programs because no teaching credit is given for these activities. Moreover, given the age of the law school, the law library contains relatively few monographs. A clear deficiency in McGill's program is its lack of internal funding for graduate students. The amount of scholarship money that is unrestricted in terms of student background or research topic is only \$24,600.<sup>392</sup> However, there are additional

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391. Ad hoc Review Committee, *Second Report – Ad hoc Review of the Graduate Programmes in Law* (2002) [unpublished, archived at the Office of the Associate Dean Graduate Studies and Research, Faculty of Law, McGill University] at 25.

392. Interview of Lionel Smith, Associate Dean Graduate Studies and Research, Faculty of Law, McGill University (22 July 2003).

funds in the guise of the following restricted internal scholarships: \$20,000 for studying the civil law tradition, \$15,000 for studying international business law, \$2,500 for studying business law with a preference for students from Montreal's South Shore, and \$5,000 for studying air and space law.<sup>393</sup> In addition, the Faculty of Law has nine differential fee waivers that can reduce an international student's tuition to the Quebec student rate of tuition.<sup>394</sup>

Although the non-thesis LL.M. has been approved by the University, it still has not set tuition fees for this program. Consequently, it is not readily apparent whether McGill will follow the University of Toronto's initial impulse and charge an elevated tuition fee for this program with the intention of using these funds to subsidize the rest of the graduate programs in law.

### 13. *Dalhousie University*

Dalhousie law school offers three different graduate programs in law. The thesis LL.M. requires students to successfully complete the graduate seminar, two additional courses that are usually drawn from the upper year LL.B. course offerings, and a thesis of approximately 150 pages.<sup>395</sup> The non-thesis LL.M. requires students to complete the graduate seminar and five additional courses.<sup>396</sup> These courses are usually drawn from the upper year LL.B. course offerings and all are evaluated by the writing of research papers; three must be approximately 50 pages in length and the other two may be shorter. The doctoral degree, which is designated the Doctor in the Science of Law (J.S.D.), has no specific course requirements, but the Graduate Studies Committee may, on the recommendation of a thesis committee, require a candidate to complete certain coursework that may be relevant to the development of his or her doctoral thesis. Doctoral candidates are invited, although not required, to participate in the graduate seminar. All doctoral students must pass a preliminary doctoral examination, write a thesis between 350 and 500 pages in length that constitutes original scholarship of a high standard, and orally defend the thesis.

The graduate seminar, which used to begin in September and end in mid-March, had two main aspects. The first part of the year was spent introducing students to different research methodologies through a series

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393. *Ibid.*

394. *Ibid.*

395. *Dalhousie Self-Study*, *supra* note 106 at 13, 45.

396. *Ibid.* at 45.



of invited speakers whose works best exemplify the methodologies in question.<sup>397</sup> Whether these seminars resulted in simple faculty “show and tell” sessions or whether the faculty presentations led to deeper discussions, analysis, and instruction in research methodology is not clear. In the second part of the seminar, students presented methodological think-pieces in which they elaborated and defended the methodologies that they planned on employing in their own thesis work.<sup>398</sup>

Significant changes have occurred in the structure and content of the graduate seminar. It now begins in September and is completed by the end of February. Its purpose is to explore various issues in legal education and legal research from a comparative perspective.<sup>399</sup> The first part of the course is devoted to an examination of the purposes of legal education and the various ways that legal education is structured in different jurisdictions.<sup>400</sup> The remainder of the course is spent examining different methodological and ideological approaches to legal research. Students are required to complete a number of assignments in the seminar, including a book review and a methodological prospectus for their thesis research.

Although the graduate seminar is the only graduate level course, other than an independent directed research course, offered by the law school, accommodations are made when graduate students take LL.B. courses. Graduate students who take LL.B. courses where the method of evaluating LL.B. students is through an exam, normally produce a research paper instead.

The law school insists that the two modes of pursuing the LL.M. are equivalent in terms of academic rigour. It is true that the admission requirements for both types of LL.M. are the same and that both degrees are research degrees requiring roughly the same amount of writing. It could be argued that since the research papers for the non-thesis LL.M. are written in the context of LL.B. courses in which all students are assessed by means of a major research paper, the research papers written by LL.M. students could be completed with little or no formal supervision. However, the major paper guidelines foreclose this possibility. The guidelines explicitly state that instructors should supervise students when the assessment in their courses is by means of a major paper.<sup>401</sup> Furthermore,

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397. *Ibid.* at 46.

398. *Ibid.*

399. Dalhousie University, “Law/Medicine/Dentistry Calendar” online: Dalhousie University <<http://www.registrar.dal.ca/calendar/calendar.php?cal=grad&list=dbf>>.

400. *Ibid.*

401. Dalhousie Self-Study, *supra* note 106 at Appendix B.

the guidelines state that “[s]upervision should be sufficient to make the writing requirement a real learning experience. This necessarily involves feedback to the student during the preparation of the paper and after its completion.”<sup>402</sup>

Students in the thesis LL.M. program do not have to orally defend their theses. The voting members of the Thesis Examination Committee are the student’s supervisor, who is assigned to the student upon the student’s admission to the program, another faculty member that becomes involved with the student’s research after the student has arrived on campus, and one other member of faculty who acts as an arms-length examiner who has not been involved in the direction of the thesis. These individuals provide written evaluations of the student’s thesis and an opportunity is also provided for the student to respond to criticisms or make corrections requested by the Committee.

Normally, at the end of their first year of residency, J.S.D. students must pass a preliminary doctoral examination dealing with subjects relevant to their area of dissertation research. At least one month prior to the examination date, the J.S.D. student must provide his or her supervisor, who was assigned to the student upon the student’s admission into the program, with the formal title of the thesis, a detailed outline of the thesis, a think-piece on the approach or methodology to be adopted in the thesis, a statement of anticipated conclusions or results, and a bibliography of materials consulted to date and/or to be consulted in the preparation of the thesis.<sup>403</sup> The examination committee, which consists of the Associate Dean Graduate Studies and Research, the student’s supervisor, and other members of faculty that have been chosen to assist the student with the thesis and who sit on the student’s supervisory committee, meet privately with the student and orally examine him or her for 1-1.5 hours on matters relevant to his or her research and thesis preparation. Failure to pass the examination may result in dismissal from the program, but the student is allowed to repeat the examination within 12 months of its initial sitting.

The other examination that J.S.D. students must pass is a public one. It is the oral defence of the thesis. The voting members of the Thesis Examination Committee are the two members of the Supervisory Committee (the supervisor and another faculty member that has assisted with the writing of the thesis), an additional professor from the Faculty of Law, and an external examiner (usually a professor from another law school). At some

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402. *Ibid.*

403. *Ibid.* at Appendix M.

point during this public defence, members of the audience are invited to pose questions to the candidate.

Dalhousie's graduate programs have relatively modest enrollment. Enrollment consists of between 12 and 15 new LL.M. students each year and only one or two new J.S.D. students each year.<sup>404</sup> Dalhousie recently liberalized subject area restrictions for the doctoral program.<sup>405</sup>

At one point, a lack of funding seriously threatened the future of graduate studies at the law school. The self-study described the situation as "reaching crisis proportions"<sup>406</sup> in the academic year 1997-1998, when only \$54,000 of internal scholarship money was available to fund graduate students.<sup>407</sup> Moreover, there are no teaching assistant positions for graduate students in the law school. Thus it comes as no surprise that Dalhousie often lost top graduate students to those institutions providing more scholarship money and teaching opportunities.<sup>408</sup> Fortunately substantial new funding arrived in 2002. Dalhousie Law School was chosen as one of the three law schools eligible to receive CIHR training program in health law and policy funds and three fully funded scholarships per year were made available from CIDA to support scholars from developing countries who wish to work in the field of marine law.

A significant step has been taken to recognize and encourage faculty supervision of graduate students. The 1998 self-study reports that the Graduate Studies Committee sometimes had difficulty persuading certain faculty members to take on more than the normal minimum of one graduate student per faculty member per year because no teaching credit was given for doing so.<sup>409</sup> Subsequently, the administration decided to grant one credit of teaching relief for every extra graduate student in excess of one that a professor supervises each year.<sup>410</sup>

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404. *Ibid.* at 5.

405. Until quite recently, only those applicants seeking to conduct research in the following areas could be admitted into the J.S.D. program: marine law, environmental law, international law, and comparative law (*ibid.* at 14). At present there are no rigid subject matter restrictions concerning entry to the doctoral program, although applications to the program are encouraged in the above four areas as well as in health law and law and technology.

406. *Ibid.* at 76.

407. *Ibid.* at 32.

408. *Ibid.* at 40.

409. *Ibid.* at 37.

410. Interview of Dawn Russell, Dean, Faculty of Law, Dalhousie University (16 December 2002).

### III. *Reforming Graduate Legal Education: Suggestions for Altering Programs, Policies and Practices*

The literature on graduate legal education and a review of the Canadian graduate programs in law reveals that there are three different constituencies for graduate legal education: the lawyer who aspires to become a specialist, the foreign student without a common law background who seeks a North American legal education experience, and the student who plans on entering the academy. It is also clear that Canadian graduate programs in law should differ in their content and approach so as to best meet the needs of these three different groups of graduate students.

Graduate students from non-common law nations often do not have the English language proficiency to complete a master's program consisting of a lengthy thesis of high quality, but many of them do want to engage in a short-term comparative study of Canadian legal institutions and approaches with those in their countries of origin. They can best study Canadian legal institutions and approaches by taking non-watered down LL.B. courses with LL.B. students.

However, the foreign non-common law trained graduate students will need to first develop a conceptual framework and certain legal research and writing skills that will facilitate their understanding of, and performance in, the LL.B. courses. Consequently, these students should begin their master's studies in the month of June with a graduate seminar that ends by the beginning of September. This time frame also ensures that students have the opportunity to enjoy the brief Canadian summer. The six-credit graduate seminar should be taught by a member of faculty with a comparative law background because one of the topics that will need to be addressed is an introduction to the common law method that stresses the difference between civil law pedagogy and concepts and common law pedagogy and concepts. Other subjects addressed by the graduate seminar should include legal research and writing, with an emphasis on Canadian primary and secondary sources, Western jurisprudential thought, with a survey of some of the major schools of legal philosophy, and first year law school in a nutshell, with cursory introductions to contracts, property law, tort law, criminal law, constitutional law, and civil procedure.

The coursework requirements for this master's degree during the regular academic year, September to May, would be different than those in the M.Jur. program at the University of British Columbia or the coursework intensive LL.M. program at the University of Toronto. In these programs, students are either strictly prohibited from taking first year LL.B. courses or are allowed to take such courses only in exceptional circumstances. The master's program that is envisioned would require graduate students to

take two first year LL.B. courses. Which of the two first year courses students choose will depend on which upper year courses they aim to take. By requiring them to enroll in some first year courses they will be exposed to some of the foundational substantive knowledge that they will need for many of the upper year courses. For example, a graduate student who wishes to take an upper year criminal procedure course would be required to take first year criminal law and constitutional law, whereas a graduate student who wishes to take an upper year intellectual property course would be required to take first year property and contracts. Because the first year LL.B. courses tend to span both academic semesters in many law schools, graduate students would have to enroll in them at the same time that they are taking more advanced upper year LL.B. courses. Nevertheless, it is anticipated that the cursory introduction to first year LL.B. courses that the graduate students are given in the preceding summer will enable them to cope with this situation. The graduate students should also be required to take some first year LL.B. courses because it is in these courses, and not the upper year offerings, that instructors take the time to explain and demonstrate many important common law techniques and principles, such as how to distinguish cases and the doctrine of precedent.

It must be acknowledged that some faculties of graduate studies at some universities may be reluctant to allow graduate students in law to take first year LL.B. courses because they fear that such undergraduate courses would not sufficiently challenge graduate students. Concerted efforts must be made to convince faculties of graduate studies that taking these courses best serves students' educational needs. To this end, law school administrators should stress the post-graduate nature of the LL.B. program.

The number of upper year course credits that should be required by Canadian law schools who wish to construct such a master's program will be determined more by practical than pedagogical considerations. Pedagogically, foreign graduate students should be given the opportunity to take some advanced and/or more specialized upper year courses to facilitate their comparative legal knowledge. However, many American law schools, such as the University of Michigan, offer master's degrees in law that target international students and that only require 20 course credits of study over the September-May time period.<sup>411</sup> Because many international students also want the opportunity of exploring and enjoying their new environments, it is likely that some students will choose American law schools over Canadian ones if the latter have programs that require more

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411. University of Michigan Law School, "Graduate Degree Programs" online: University of Michigan <<http://www.law.umich.edu/prospectivestudents/graduate/graduate.htm>>.

than 20 course credits over this eight-month period. Assuming that the two first year courses are six credits each, a Canadian master's program that caters to foreign law graduates from non-common law countries, should only require six additional credits of upper year LL.B. courses that must be completed within the September-May academic time period. Consequently, during the September-May time period international students in the envisioned master's program will have less coursework than their counterparts in American programs, although the former students will have completed more course credits in total due to the summer session.

Many American programs require that master's students write a research paper in addition to the course credits that are stipulated. It can be argued that at least a small, 20-30 page writing component is necessary for a degree to be truly graduate in nature. Therefore, the envisioned Canadian program should require the student to complete a supervised research paper in which he or she compares how a legal issue is dealt with in his or her native country and how that same legal issue is dealt with in Canada. But to make the Canadian program more competitive in terms of overall workload with American ones, the research paper should be the means of assessment in one of the upper year courses that is taken for credit and not an additional requirement over and above the courses.

The supervisor of the paper would be the instructor in the course for which the paper is written, and although he or she would not be given special teaching credit in relation to the supervision, the supervisory obligations would not be onerous. The supervisor would be expected to give the same level of supervision to the graduate student as he or she would give to an LL.B. student writing an independent directed research paper. In other words, the supervisor may review and give feedback on a statement of hypothesis, an outline, a draft bibliography, a partial draft, and perhaps a full draft of the paper written by the student.

Because of the nature of the research paper and the objective of the overall program, the degree that should be conferred upon a student who completes all of the envisioned master's program requirements should be a Master of Comparative Law (M.C.L.). It is this designation that many American law schools give to their master's programs that cater solely to students whose primary language of undergraduate legal instruction is other than English.<sup>412</sup> The American experience has been that such degree

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412. For a description of the M.C.L. program at the University of Michigan, see University of Michigan Law School Prospective Students, "The Master of Comparative Law (M.C.L.);" online: University of Michigan <<http://www.law.umich.edu/prospectivestudents/graduate/graduate.htm>>.

programs are well subscribed and provide foreign students the credentials to enhance their professional practice and/or obtain academic positions in their home countries.

There are some law schools in Canada that may be particularly well suited to offering an M.C.L. degree. The University of Saskatchewan and the University of Manitoba are the only two English Canadian law schools that do not charge differential tuition to international students. Consequently, international students may be attracted to these schools due to the relatively low cost of tuition and the relatively low cost of living as compared to many other larger centres in Canada. However, the graduate programs in law at both of these institutions are currently quite modest in size. If enrollment targets are not enlarged, it may be impossible for Saskatchewan's and Manitoba's law schools to justify the expense entailed in producing a summer course for non-common law graduate students. These law schools also do not currently have many faculty members with substantial comparative law research records. Two law schools that do possess significant faculty strength in comparative law, and have much larger graduate programs, are the ones at the University of Ottawa and McGill University. The University of Ottawa's Faculty of Law offers students the option of pursuing an undergraduate degree in common law followed by an undergraduate degree in civil law (and vice versa). In addition, the University of Ottawa already offers graduate programs in law intended to introduce civil law students to the common law, although this program is, at present, only offered in the French language.<sup>413</sup> McGill's recently reformed undergraduate program in law emphasizes transsystemic teaching — the simultaneous teaching of the common law and civil law in a particular subject area.<sup>414</sup>

Some of the students that complete the M.C.L. will wish to eventually obtain a doctoral degree in law. These students should first have to obtain admission to an academically-oriented and reformed LL.M. program. The degree that would be given to students that complete this program would be designated LL.M. (academic). For students that hold an M.C.L., acceptance into this new LL.M. program will depend on the grades they obtained in their M.C.L. coursework and, most importantly, the quality of their M.C.L. research paper.

The structure of the LL.M. (academic) would be driven largely by the

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413. *Calendar II*, *supra* note 371 at DCL-10.

414. For more information on this topic, see Julie Bédard, "Transsystemic Teaching of Law at McGill: Radical Changing, Old and New Hats" (2001) 27 *Queen's L.J.* 237.

needs of its students. Many of the students who would be attracted to this program would be Canadians and others who are considering academic careers. Most Canadian students are not offered research methodology courses during their LL.B. studies, and although most law schools now have upper year undergraduate writing requirements, the faculty supervision involved with these projects is often minimal.<sup>415</sup> Consequently many Canadian students, and presumably also many international students, will need to be instructed on research methodology and academic writing. These students would also benefit from working on a substantial supervised writing project to determine if they are well suited and truly interested in a life that involves scholarly research. In order to gain some substantive background in specific areas that will be dealt with in the writing project, students may wish to audit LL.B. courses.

There should be two main aspects pertaining to the research methodology course. Instead of faculty “show and tell” seminars, in which professors at the law school present their papers and then describe the research methodology employed in them to graduate students, students should be assigned archetypal examples of different types of legal research, and these archetypes should be thoroughly discussed in class and analyzed through written assignments. Because learning to write for publication can be shaped in the classroom as well as within the supervisory context, this skill should also be developed as part of the research methodology course. Studies have shown that graduate students can learn to produce quality writing when exposed to a structured learning process that includes intermittent feedback from peers and the professor.<sup>416</sup> This feedback, coupled with the fact that the course would be full year and restricted to graduate students, would also help to create a sense of community among the graduate students.

The first supervised writing project should not be a mammoth one of

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415. A recent report documents that of the law schools at York, Queen's, Ottawa, Toronto, Western Ontario, Windsor, Dalhousie, Alberta, British Columbia, Calgary, and Victoria, only Calgary's law school does not have upper-year writing requirements in its LL.B. program. Moreover, with the exception of Dalhousie, the upper year writing requirements are satisfied by a single 20-40 page research paper. See Osgoode Hall Law School of York University, *Questionnaire Compilation* (2002) [unpublished, archived at the Office of the Associate Dean, Osgoode Hall Law School, York University] at 30 [Questionnaire]. No mandatory legal research methodology courses are offered except for legal research and writing courses that concentrate on professional as opposed to scholarly research and writing (see *Questionnaire, ibid.* at 25-30). The only school that attempts to cultivate legal research and writing in the form of scholarly articles, as opposed to law firm memorandums in first year law school, is Osgoode Hall through its optional academic skills workshops (*Questionnaire, ibid.* at 25).

416. Carol A. Mullen, “The Need for a Curricular Writing Model for Graduate Students” (2001) 25 *Journal of Further and Higher Education* 117 at 120.



over 100 pages. Because professors are expected to produce peer-reviewed articles quite regularly during their careers, and because LL.M. (academic) students need to assess whether they are capable and/or interested in this type of work, the objective will be for LL.M. (academic) students to complete a publishable quality thesis of approximately 40-60 pages, the length of a typically-sized law review article, within two calendar years of entry into the program. The supervisor will not be the final arbiter of whether the thesis meets this standard. Instead, when the supervisor believes that the thesis is the best version that the student is capable of producing, or when the student decides that he or she will not revise the paper further, or when the time limit for the degree is reached, the supervisor will suggest a list of five external experts who can assess the thesis. The Associate Dean Graduate Studies and Research will choose two individuals from this list to produce written evaluations. The external examiners would assess the thesis in the same fashion as they would produce peer review appraisals of a submitted law review article. If both reviewers conclude that the thesis is of publishable quality with or without minor revisions, the LL.M. is granted, subject to any revisions being made, and the student can be admitted to the law school's doctoral program. If one of the reviewers concludes that the thesis is not of publishable quality, and his or her reasons are deemed valid by the supervisor, then the LL.M. is not granted. If such an expert review is received and the supervisor does not concur with the reasons given, another expert from the list is asked to appraise the thesis until the supervisor is satisfied or until all the proposed expert reviewers on the list have produced reports.

Because the standard for the LL.M. (academic) degree is a high one, it is true that many individuals who enter the program will not obtain the degree. Nevertheless this must be the result if the standard often expressed in university calendars for LL.M. theses — publishable quality — is to be the attained standard as opposed to the current aspirational one.

Using the LL.M. (academic) thesis as a measure of the student's ability to undergo doctoral work is not an entirely novel idea. It is simply a variant on the qualifying examination process that will soon be used for McGill's law doctorate.

But the qualifying exams that will be used at McGill also will test students on their knowledge of material listed in a draft dissertation bibliography. There is a danger that these exams will simply test the rote memorization skills of students, skills that are of limited utility in scholarly work, while deflecting student energy from more important tasks such as working on the dissertation. International advisory committees on graduate education have expressed the view that initial graduate work

should be used to judge the suitability of students for the full rigors of doctoral study.<sup>417</sup> Since the student's ability to write, research, and analyze at a high level is at the core of doctoral work, and could be assessed by an examination of the student's LL.M. (academic) thesis, there is no need to add superfluous elements to the doctoral admissions criteria.

Nevertheless, there is the prospect that students would avoid enrolling in the LL.M. (academic) program for fear that they would expend many of their resources and may receive nothing tangible at the end of the process. This fear can be alleviated through the creation of a non-stigmatic exit strategy for students whose LL.M. (academic) thesis fails to meet the standard of publishable quality. It is anticipated that most students enrolled in the LL.M. (academic) program would at least successfully complete the research methodology course. All students who complete this course, whether or not they receive their LL.M.s, should receive Graduate Certificates in Legal Research Methodology. After completing this course, some students may feel that they are not well suited to the academic life and may choose not to submit a thesis for examination. Thus, receiving a Graduate Certificate in Legal Research Methodology provides students with a non-stigmatic exit strategy from the LL.M. (academic) program.

While students are in the LL.M. (academic) program or in the doctoral program they must receive supervision of the highest quality. A review of the higher education literature reveals that when program structure is provided for graduate students, through regular supervisory meetings, the articulation of short-term goals to be achieved by students, and timely feedback by supervisors on written work submitted by students, graduate students completed degree requirements sooner and their work was of higher quality.<sup>418</sup> Moreover, as Manderson points out, quality supervision should extend beyond helping the student prepare his or her thesis. Supervisors should attend to broader aspects of the student's professional development by providing the student with teaching opportunities and encouraging the student to publish and present research at academic conferences. But how does one ensure that supervisors engage in such activities? One report on

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417. Stuart Blume, "Problems and Prospects of Research Training in the 1990s" in Organization for Economic Co-Operation and Development (OECD), ed., *Research Training: Present and Future* (Paris: OECD, 1995) 9 at 17.

418. See, for example, Peg Boyle & Bob Boice, "Best Practices for Enculturation: Collegiality, Mentoring and Structure" in Melissa S. Anderson, ed., *The Experience of Being in Graduate School: An Exploration* (San Francisco: Jossey-Bass Publishers, 1998) 87 at 91-92; Sharon Parry & Martin Hayden, *Supervising Higher Degree Research Students: An Investigation of Practices Across a Range of Academic Departments* (Canberra: Australian Government Publishing Service, 1994) at 9-10, 104.

university education in Canada suggests that more solicitous supervision would result from universities treating time that supervisors spend with their graduate students, discussing student research projects, as teaching time.<sup>419</sup> This strategy will motivate the supervisor to meet regularly with the graduate student, but more must be done to ensure high quality supervision. Specific guidelines for supervision should be passed that include biweekly meetings between students and supervisors at which written reports of student progress are reviewed and specific expectations for future meetings are noted. In addition, a presumptive deadline of two weeks should be established for supervisors to give written feedback on submitted work. Moreover, supervisors should be directed to provide some professional development assistance for their students by, for example, allowing them to team-teach some classes with them. University administrators can enforce these guidelines by requiring professors to submit records of meetings and what occurred during them, copies of all the written feedback that supervisors gave students on their work, and a log of any professional development assistance that supervisors provided to their students before they would receive teaching credit for graduate supervision. Only when supervisors follow all the guidelines for supervision should they be granted the teaching credit.

The last type of master's program should serve the practicing Bar. Programmatically, it is difficult to conceive of a course and structure of study that better meets the needs of lawyers wishing to develop specialized knowledge of particular areas of practice more effectively than Osgoode's professional stream LL.M.. However, the degree's designation should be altered so that it provides a means for lawyers to advertise their newly acquired specialized knowledge. While some law societies such as the Law Society of Upper Canada certify specialists,<sup>420</sup> others such as the

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419. Commission of Inquiry on Canadian University Education, *Report* (Ottawa: Association of Universities and Colleges of Canada, 1991) at 33.

420. Lawyers who have practiced in Ontario for a minimum of seven years can apply to the Law Society to be certified in one or two recognized areas of specialization. Applicants must demonstrate that they devote a significant portion of their practice to the area, usually 50 % or more, meet certain competence and ethical requirements, and participate as instructors or registrants in continuing legal education programs. Certificates of specialization are valid for five years and can be renewed on further application. For more on the application process, see the Law Society of Upper Canada, "Specialist Certification" online: The Law Society & Upper Canada <[http://www.lsuc.on.ca/services/services\\_specialist\\_intro.en.jsp](http://www.lsuc.on.ca/services/services_specialist_intro.en.jsp)>.

Law Society of Alberta, do not.<sup>421</sup> Nevertheless, even these latter law societies allow lawyers to advertise the degrees they hold. Consequently, an effective way around cumbersome and onerous law society rules about certification of specialists or bans on advertising specializations is by designating graduate degrees by naming the specific area of law studied. For example, instead of a student receiving a generically designated LL.M. through a program like the professional stream when they pursued an e-business sub-specialization, the student would receive a degree designated as an LL.M. (e-business) that he or she could then place on business cards or other advertisements.

All students who wish to enter a doctoral program in law in Canada should first have to successfully complete an LL.M. (academic) program or hold equivalent qualifications. Those students who already possess an LL.M., such as the Osgoode professional stream LL.M., or an LL.M. from a British or American university, would still have to sit the full-year research methodology course unless they could establish that they had taken a similar course during their previous master's studies. Those who cannot establish this and are forced to sit the course and successfully pass it would receive a Graduate Certificate in Legal Research Methodology. Students who already hold LL.M. degrees of some type other than the LL.M. (academic) could submit writing done in their previous program for evaluation by the two external examiners. If the writing that the student submits is largely unchanged from that for which he or she was given credit during his or her previous LL.M., and the paper is judged to be of publishable quality, the student would be admitted into the doctoral program without receiving another LL.M. degree, for to give an LL.M. (academic) to such a student would mean that the same piece of writing would be used for credit in two different degree programs. If the writing that the student submits is a largely modified version of the paper that he or she submitted during his or her previous LL.M. work, and the modified paper is judged to be of publishable quality by the external examiners, the student would be granted the LL.M. (academic) and would be granted admission to the doctoral program.

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421. Although Rule 3 of the Law Society of Alberta *Code of Professional Conduct* states that a "lawyer must not state that the lawyer is a specialist or expert unless certified as such by the Law Society or by a body recognized by the Law Society for the purposes of certification[.]" (The Law Society of Alberta, "The Code of Professional Conduct" online: The Law Society of Alberta <[www.lawsocietyalberta.com](http://www.lawsocietyalberta.com)>) there is no process at the Law Society of Alberta that provides for the certification of specialties (Interview of Barry Vogel, Practice Advisor, Law Society of Alberta (17 October 2002)).

Doctoral programs in law should not consist solely of the production of a lengthy and original dissertation. Individuals who enroll in doctoral programs do so because they are committed to seeking academic appointments. McDowell and Mewett make a convincing argument that professors of law need to be able to convey to their students perspectives of domestic law that are informed by other disciplines, including philosophy, as well as other systems of law. For this reason, exclusively doctoral courses dealing with legal theory, interdisciplinary perspectives on law, and comparative law should be mandatory for all doctoral students unless they can establish that they have already taken similar courses in their earlier studies. These courses should be taken in the first year of doctoral residency because the knowledge gleaned from them may inform the student's dissertation research.

In the second year of doctoral residency, students should be required to take courses on teaching and legal education. Although teaching assistantships for doctoral students constitute valuable hands-on experience for them, and should be offered by every law school that has a doctoral program, there is considerable evidence that the training provided to teaching assistants across many disciplines tends to be of poor quality and short duration.<sup>422</sup> Consequently, it is proposed that students take two courses. The first should be a "how-to" course taught by experts from the University Teaching Centre and instructional design specialists. Pocklington and Tupper describe the content of such a course in their book on university education:

[T]his course should deal with both mechanical matters (how to write on a blackboard legibly, how to construct a useful course outline, [technology in the classroom]) and more intangible ones (how to encourage students who talk too little and how to discourage those who talk too much). Each student in the course should be required to do some student teaching ... Feedback and evaluation would be continuous.<sup>423</sup>

The second course should deal with legal education. This course should be taught by a member of the law faculty and should address the following topics: the current state of domestic and foreign legal education, the history of legal education in Canada, the relationship between law schools and other faculties in the university, learning theory and lessons for law

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422. See Serge J. Piccinin, Andy Farquharson & Elena Mihi, "Teaching Assistants in Canadian Universities: An Unknown Resource" (1993) 23 *Canadian Journal of Higher Education* 104.

423. Tom Pocklington & Allan Tupper, *No Place to Learn: Why Universities Aren't Working* (Vancouver: UBC Press, 2002) at 189.

school pedagogy and techniques, ethics in legal education, the professional life cycle of law professors, the pressures and demands of institutional life, and the proper role of law professors in community service. In terms of evaluating students in the courses on teaching and education, and whether these courses should be optional offerings or mandatory requirements, Pocklington and Tupper offer some specific recommendations:

It is important that students complete assignments and receive grades in these courses, just as in the disciplinary subject matter courses. Teaching is important, and this message should not be diluted by giving graduate students the impression that the courses on teaching are secondary. In addition, graduate students unwilling or unable to perform satisfactorily in the teaching courses would never receive doctoral degrees, and hence would never be unleashed on university students, to the benefit of everyone concerned.<sup>424</sup>

While mandating that courses on teaching and legal education be successfully completed before a student obtains a doctoral degree is salutary, those students who can establish that they have already taken such courses in their earlier studies should be exempt from these requirements.

In addition, doctoral students should not be forced to write comprehensive exams. These exams originated as an assurance of student quality in an era when retained content was not really questioned as the sole measure of student competence.<sup>425</sup> Moreover, comprehensives were instituted at a time when graduate students took few courses during their undergraduate and graduate studies. Consequently, the comprehensive exams served the legitimate goal of ensuring that the student had sufficient breadth of knowledge, beyond that involved in his or her specific research area, to carry on a fruitful future career.<sup>426</sup> Now that graduate students must complete broad coursework requirements in their undergraduate and graduate years, the comprehensive exams no longer serve any purpose except as a traditional hurdle that tends to prolong graduate study beyond the funded years.<sup>427</sup> In modern times, comprehensive exams are not really comprehensive anyway, as they tend to test the student's knowledge of material that he or she plans on using in his or her narrowly construed doctoral

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424. *Ibid.* at 190.

425. Wayne P. Anderson *et al.*, "Reasons for Comprehensive Examinations: A Re-Evaluation" (1984) 11 *Teaching of Psychology* 78 at 79.

426. W.L. Marshall, "Anachronistic Obstacles to Effective Training in Research" (1993) 34 *Canadian Psychology* 176 at 178.

427. *Ibid.* at 178, 180.

dissertation. The fact that comprehensive examinations do not serve any useful pedagogical purpose has been recognized for quite some time by British and Australian universities, which do not require doctoral students in any discipline to sit them.

Another anachronism that should no longer be inflicted on doctoral students is the oral defence of the dissertation. Noble recounts how oral defences of theses can be traced back to the Middle Ages but now serve no valid purpose:

[T]he disputation was an integral part of doctoral student life, partly resulting from the fact that each manuscript had to be laboriously copied on expensive parchment, but primarily due to religious imperatives. Over time however, the handwritten thesis, the typed thesis, the word-processed thesis and now the laser-printed thesis have evolved. Today, examiners/readers assess hardcopy doctoral theses. Where once no complete written document existed, at least until after the defence, and a verbal explanation and justification of the thesis was necessary, now multiple printed copies of the thesis are circulated and examined ... At best, the oral defence can only repeat what the doctoral candidate has already written in the thesis ... At worst, it provides an opportunity for thesis examiners to demonstrate their brilliance and ability to find fault in the thesis. For those candidates who do not possess a strong confident voice and personality, plus the ability to parry verbal slings in a most sensitive way the experience can be disastrous.<sup>428</sup>

A recent multi-university study of the purposes of the oral defence in Ph.D. programs in Britain found that there was no consensus as to the role of the oral defence in the Ph.D. acquisition process and that a sizeable minority of students came away from the process with a reduced perception of their own academic competence that discouraged them from seeking work in academia.<sup>429</sup> When all of these facts are coupled with the considerable expense that orals entail for universities, that have to pay for external reviewers to attend the defence, and for students, who complete the dissertation while not in residence at the university and then have to pay for their own transportation back to campus to defend their theses, it is clear that orals should be discontinued.

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428. Keith Allan Noble, *Changing Doctoral Degrees: An International Perspective* (Buckingham: SRHE and Open University Press, 1994) at 67.

429. Carolyn Jackson & Penny Tinkler, "Back to Basics: A Consideration of the Purposes of the PhD Viva" (2001) 4 *Assessment & Evaluation in Higher Education* 355 at 364.

It has been suggested that the requirement of the doctoral dissertation is itself too onerous to maintain. Indeed some authors have recommended that instead of a single large dissertation, doctorates should be awarded when students submit a number of publishable articles on a subject or related subjects.<sup>430</sup> While at least one Ivy League law school, Columbia, allows doctoral students to write a series of publishable quality articles instead of a single large dissertation, there are a number of reasons for not adopting this approach. The point of the doctorate is to teach students to write a single unified extended piece of work, a book, that is different in character than a series of thematically linked articles. Moreover, the vast majority of institutions of higher education, including law schools, do not grant doctorates on the basis of the production of a series of publishable papers. Schools that do allow doctoral students the option of writing articles in lieu of a dissertation run the risk that their doctoral degrees will not be accorded the respect and stature of other institutions' doctoral degrees, to the detriment of the school and its students. The principle of academic reciprocity must constrain the process of reform. As Noble explains,

One issue that is most significant, and which is rarely raised during discussions about amendments to doctoral degree programmes, is the practice of granting equivalency. This practice is extremely valuable, because reciprocity is the *passé-partout* that opens doors to international appointments and international research opportunities. Those who hold a doctoral degree from a reputable university can be offered an appointment in another country, based in part on academic reciprocity. A doctorate provides a measure, albeit small, of an individual's intellectual weight and academic experience. This measurement, and the resultant reciprocity it allows is possible because almost all doctoral degrees have had a similar acquisition process ... Amendments to the acquisition process ought to be made only after giving wide consideration to the degree's existing international standing ... Failure to do so could result in universal reciprocity being lost, as programmes evolving in isolation or without respect to international traditions may subsequently not be considered equivalent. A doctoral programme that does not require a thesis, for example, will most likely not receive the international approval as a doctoral degree may from traditional universities ... even though the programme may have exceptional characteristics.<sup>431</sup>

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430. See, for example, Wilfred Cude, *The Ph.D. Trap Revisited* (Toronto: Dundurn Group, 2001) at 300; B. Halstead, "The PhD System" (1987) 40 *Bulletin of the British Psychological Society* 99 at 100.

431. Noble, *supra* note 428 at 2-3, 69.



The doctoral dissertation should have a number of features. It should be approximately 200-400 pages in length, the length of most monographs, it should be judged to be of publishable quality in the same way that the LL.M. (academic) thesis is assessed, namely through the written reports of two external reviewers. However, where a master's thesis may, but need not, constitute an original contribution to the literature on a subject, the doctoral dissertation must constitute an original contribution to legal literature. Consequently, external reviewers for doctoral dissertations should be directed to assess whether or not the work is publishable and whether or not it constitutes an original contribution to legal literature.

It is envisioned that doctoral students would take courses in both their first and second years of doctoral study. Because students would be forced to be in residence for at least two years as opposed to the current norm of one year, they would almost certainly have a greater number of face-to-face meetings with their supervisors and a much larger number of peer interactions than many doctoral students currently enjoy. This increase could result in an enriched doctoral experience. A time limit of five years from the date of initial registration in the program should enable most students to complete degree requirements. Nevertheless, the absence of comprehensive exams should mean that students finish degree requirements more swiftly than would otherwise be the case. Expedient completion of doctoral programs can be encouraged by limiting internal funding of doctoral students to three years of enrollment and by only allowing supervisors teaching credit in relation to such students for three years.

While it is true that the proposed admission requirements to doctoral programs may result in lower enrollment, this fact need not result in a diminished intellectual community or atmosphere for doctoral students. Canadian universities that offer graduate programs in law should adopt initiatives such as those that have been implemented by the University of California, Berkeley. Nerad and Miller explain these developments as follows:

Building on an earlier model from the Social Science Research Council to counter the isolation commonly experienced among humanities, social sciences, and professional school students and to foster interdisciplinary research, the Graduate Division and International and Area Studies at U.C. Berkeley have developed interdisciplinary dissertation workshops. These three-day, off-campus workshops bring together students who are working on similar themes but who are in different departments and do not know each other. They help break the sense of isolation that so often attends the dissertation writing experience, precipitate the formation of a cross-disciplinary intellectual community that endures beyond the workshop,

and provide fresh impetus for completing work that students may have begun to think irrelevant or doomed to failure ... Because only a few students can participate in the interdisciplinary research retreats, the Graduate Division, International and Area Studies, and the U.C. Berkeley Library have established a restricted-access World Wide Web database of Abstracts of Dissertations-in-Progress at U.C. Berkeley. The database is intended to enable doctoral students to locate students in other disciplines and schools across the campus working on related topics and to form writing groups.<sup>432</sup>

Those students who pursue doctoral work in law will be investing considerable time and resources into the endeavor, often foregoing other interesting, enjoyable and profitable ventures for the hope of eventually obtaining a faculty position. Deans of Canadian law schools should recognize these facts and take steps to promote their graduate students to each other and to colleagues from abroad who are looking to fill faculty vacancies. Law schools with large doctoral programs may even choose to hire academic career services officers to assist doctoral students in finding and landing faculty positions.

Every effort should be made to provide tuition relief and reasonable financial assistance to doctoral students for at least three years of study. Because the legal academy is training its successors through these programs, a strong argument can be made for diverting money raised through the undergraduate program and other graduate programs of the law school, which cannot continue without future law professors, to fund doctoral students. Of course, some funds should also be set aside to encourage the best LL.B. students to embark upon the LL.M. (academic) program.

The doctoral degree in law should be designated a Ph.D.. As recounted earlier in this paper, many of the other doctoral degree designations currently used by Canadian law schools are problematic for one reason or another. Moreover most disciplines, and all law-related ones, designate their doctoral degree the Ph.D.. Finally, many doctoral degrees that have a designation other than Ph.D., such as the Doctor of Arts (D.A.) and the Doctor of Education (D.Ed.), are viewed as requiring less ambitious re-

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432. Maresi Nerad & Debra Sands Miller, "Increasing Student Retention in Graduate and Professional Programs" in Jennifer Grant Haworth, ed., *Assessing Graduate and Professional Education: Current Realities, Future Prospects* (San Francisco: Jossey-Bass Inc., 1996) 61 at 74.

search and being less prestigious than the Ph.D.<sup>433</sup> There is a danger that any doctoral degree that is not designated a Ph.D., regardless of its programmatic requirements, may be perceived as belonging to this group of less prestigious doctoral degrees.

Few Canadian law schools will have the resources to mount three different types of master's programs as well as a doctoral program. Each law school must assess both its market and strengths and then develop its graduate programs accordingly. What may result is a level of specialization and, perhaps, co-ordination among Canadian graduate programs in law.

Even if none of the reforms advocated thus far in this paper are implemented, there are simple ways to ensure the vitality of Canadian graduate legal education. When LL.B. students ask Canadian law professors where they should consider going to graduate school, Canadian law schools should normally be at the top of the list as opposed to the Ivy League American law schools. Most Canadian graduate students are interested in researching an area of Canadian law, and it is no longer the case that American law schools have better collections of primary and secondary sources of Canadian law than do Canadian law schools. In addition, it is clear that Canadian law professors, and not their American counterparts, are the experts on Canadian law.

The influence that professors have on where undergraduate students eventually go to graduate school should not be discounted. While graduate students go to universities with acknowledged expertise in their chosen fields, they learn which schools have this expertise through conversations with their professors and not generally through university publicity or vague notions of institutional prestige.<sup>434</sup>

It may be difficult for many Canadian law professors to recommend Canadian law schools to their students over American ones because many Canadian law professors received their own graduate legal education in the United States. After all, the American tier one law schools were originally recommended by their law professors. This pattern has repeated itself for generations and the time has long since passed for it to stop.

The best Canadian LL.B. students, who are interested in pursuing graduate work in law, should not be persuaded to go to the United States, or anywhere else for that matter, unless there is a cogent pedagogical or facility-driven reason for doing so. Such reasons include the fact that the stu-

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433. Robert L. Peters, *Getting What You Came For: The Smart Student's Guide to Earning a Master's or a Ph.D.* (New York: Noonday Press Farrar, Straus and Giroux, 1992) at 117.

434. Pocklington & Tupper, *supra* note 423 at 143.

dent wishes to research American law, wants to conduct a comparative study using American law, or would benefit from working with a particular American scholar. But suggesting that students go to graduate school at a law school in the United States for the sole purpose of obtaining credentials from a "brand name" institution is unacceptable.

Enrolling the brightest Canadian law students in Canadian graduate programs in law is advantageous for the research agendas of Canadian law professors. These students are of the quality required to enhance professorial research and scholarly inquiry. Indeed it is probable that many of these students would work closely with their professors on research projects and co-author articles with them. Furthermore if teaching credit is given to law professors for conducting graduate supervision, professors will be motivated to supervise more graduate students because this would lead to less undergraduate teaching duties, which in turn frees up more time to conduct research.

The other vital action that must be taken concerns law school hiring practices. When selecting new colleagues, law professors on hiring committees should prefer candidates with doctoral degrees in law from Canadian law schools. It is still commonplace for new law school faculty members to possess only course-based LL.M. degrees from prestigious American law schools. While these new faculty members are often intelligent (they often represent the best undergraduates who had at some point been advised by their professors to do graduate work in America), these individuals are often ill-equipped for a scholarly life because of their dearth of academic legal research and writing experience. However, academic legal research and writing experience is something that doctoral students in Canadian law schools possess in abundance.<sup>435</sup> Unless Canadian LL.B. students see that their law professors have doctoral degrees from Canada, they will not see the value of entering such graduate programs.

### *Conclusion*

The prospects for Canadian graduate legal education look brighter today than they did when the Arthurs Report was released. There are more students enrolled in Canadian graduate programs in law, and a higher proportion of law school professors that enter the Canadian legal academy with substantial experience in conducting scholarly research, than ever before.

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435. Doctoral students in law from the United States and the United Kingdom also possess substantial legal research and writing experience because most of the programs in these countries require the completion of a large, original, high quality doctoral dissertation.

Virtually every law school has at least some courses that are exclusively restricted to graduate students, and these courses are developed with the needs of graduate students in mind. Increasingly, law schools are granting teaching relief for faculty members who supervise graduate students. Moreover, some schools now offer teaching assistantship opportunities to their graduate students. As well, new technology has greatly enhanced law library holdings at a fraction of the cost that these gains would have entailed a decade ago.

Yet the description and analysis of the various Canadian graduate legal programs demonstrates that they are far from achieving their full potentials. The reform proposals and suggestions contained within this paper are aimed at reducing this shortfall.

Change is often difficult, and to effect it at universities one must overcome considerable institutional inertia. It is hoped that those who have the power to transform Canadian graduate legal programs and policies will realize that the price of doing nothing is sometimes greater than the price of change.