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#### Humanities Research: Shakespeare and the Public

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## LITERATURE, LINGUISTICS & CRITICISM | RESEARCH ARTICLE

# Treating HPHD disorder—Shakespeare, law, and public life

Desmond Manderson<sup>1\*</sup> and Paul Yachnin<sup>2</sup>

**Abstract:** The serious play of the Shakespeare Moot Project—a graduate course at McGill University in Montreal that choreographed a cross-over genre involving students and faculty in both Law and Literary Studies—provides a space for creative thought about how to make the PhD more useful, more mobile, and more worldly, while at the same time strengthening the core values of humanities research and teaching (For more about the Shakespeare Moot Court ([n.d.](#)). Also see Manderson and Yachnin (2010). Readers who want to set up a similar project that “preposterously” crosses the boundaries of law and the humanities are invited to visit our web site, explore its jurisprudence, or contact the authors).

**Subjects:** Shakespeare; Higher Education; Law; Humanities; Education

**Keywords:** humanities PhD; law; literature; Shakespeare Moot Court; public life

### 1. HPHD disorder

The structure of the moot both dramatizes what is at stake in Shakespeare’s dramas, and brings them up to date in compelling ways. Neither should this polymorphous perversity, this wilful mixity of genres, surprise us. It is what has made the humanities brave, inventive, and urgent for 500 years.

Such a project seems a very long way from the sobriety and focus of the doctoral dissertation, which in so many ways has come to seem the distillation of the vision of the humanities. It is easy to understand how the most challenging and the crowning work undertaken by aspiring doctors of letters has aggregated to itself the values along with the misconceptions of the academic institution of the humanities. The discussion that follows addresses a particularly urgent concern in the

### ABOUT THE AUTHORS

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Manderson and Yachnin created and taught the Shakespeare Moot course at McGill University from 2002 to 2007. Together, they founded IPLAI. They continue to research and write collaboratively on law, literature, and the future of the humanities and the university.

### PUBLIC INTEREST STATEMENT

Recent years have seen the rapid growth of studies and programs dedicated to the reform of the humanities PhD, including the White Paper on the Future of the PhD in the Humanities from McGill’s Institute for the Public Life of Arts and Ideas. An urgent question across all this work has to do with how to change the PhD so that (1) it leads and is seen to lead to a multiplicity of career pathways (rather than to only one), (2) it engages dynamically and effectively with matters of public concern, and (3) it protects and strengthens with the core values of humanities research and teaching at top of their form. The Shakespeare Moot Court, an interdisciplinary project at McGill University (2002–2007), offers one valuable way—both theoretical and practical—toward achieving these complex goals.

academy—how to reform the PhD so that it supports students along multiple career pathways instead of only one.<sup>1</sup> What follows also addresses the situation of the humanities more generally in the twenty-first century.

If the only authentic life for someone with a doctoral degree in the humanities (“HPHD”) is within the academy, if everything outside the university is seen as bustling but essentially anti-intellectual, then we are in big trouble. Enrolments are healthy, but few get academic jobs, still less a tenure-track position at a university. Of all HPHD’s who graduated from Ontario universities in 2009, approximately 37% were in tenure-track appointments (inside and outside Canada) by 2014 (Jonker, 2016). Since about half of all doctoral students withdraw from their programs prior to completion, that means that only 18% of entering students in the Ontario cohort found what the academy counts as a home and a fulfilling life.

Some argue that we should cut student numbers and cut programs (see e.g. Rothman, 2014). We don’t agree, and for two good reasons. One, a reduction in excess of 80% in the number of HPHD’s would gut universities’ ability to do original research and teaching. If we really wanted to link the numbers of doctorates to the number of academic jobs, we would have to insist on a 1:1 ratio. The aspirant professor would live in the basement or the attic of their supervisor until she died. Only then could the aspirant move to the main floor of the house and take up the newly vacant tenure-track job at the university. It sounds a touch too claustrophobic to us.

Two, HPHDs who don’t get academic jobs don’t just disappear into the ether. There are other places in the world where they live and flourish. They contribute to businesses, institutions, and society more broadly—like the PhD in History working as an ethics advisor for the Canadian military, the Australian of the Year whose commitment to transform the culture of the Army was surely influenced by the Arts degree he undertook, or the English PhD turned producer whose latest big film is *Hitchcock*.<sup>2</sup>

Some universities, for example at Georgetown, are beginning to develop broader programs designed to combine interdisciplinary training and work experience, the better to prepare their graduates for diverse career pathways [see Monyak and Shrinath (2014), *Journal of British Columbia Studies* (accessed May 16 2016)]. The University of British Columbia in Vancouver has created a cross-disciplinary Public Scholars Initiative that provides funding, professional development, and networking opportunities for doctoral students pursuing “impactful, collaborative scholarship relevant to a diversity of careers” (UBC, 2016).

## 2. Some core values and some which aren’t

The Georgetown proposal, which began taking shape in 2012, has been accused of undermining core academic values (see Neem, 2014; Patel, 2014). The attacks, from both inside and outside, have been so heartfelt and vehement that the program—reconceived as the “Interdisciplinary PhD in Humanities and Public Humanities”—is only now making its way toward approval and implementation. The “values” argument has considerable force, but has not been adequately examined. In the interests of that examination, we need to think more carefully about those values are.

Humanities research should be curiosity-driven, self-critical, and conscious of the historical dimensions of what it studies, often extending over great tracts of time. At the heart of the humanities, there is a concern with the relationship between representation and actuality, between the ways arts and scholarship depict the world and the world itself (bearing in mind also that there is a dialectical, mutually constituting relationship between the forms of representation and the world).

The humanities tend not to focus on probabilities or general truths, as is the case in the social sciences and sciences respectively. Herpetologists study kinds of frogs in certain locales; the attention paid to an individual Panamanian golden frog is useful only for what it can tell scientists about what

is happening to all the species as a whole.<sup>3</sup> Social scientists seek to understand people in groups or in movement as well as the ideas, structures, and practices that organize and make those groupings and movements meaningful. They are far less interested, in their research, in particular individuals. Part of the controversy that has grown up around sociologist Alice Goffman's *On the Run* has precisely to do with the attention she pays to particular individuals at the expense of sustained, evidence-based general analyses of race, crime, and poverty in urban America (see Lewis-Krause, 2016). The humanities, in contrast, finds its essential orientation in the study of specific texts and artifacts—*this* novel, *that* painting, *these* documents and/or material objects that constellate an historical event or a philosophical or theological concept.

The special relationship humanities scholars form with their objects of study is more like a dialog with a conversation partner than an analysis of a datum or a thing; even when humanities research aims to describe something larger than a single intellectual or artistic work, the works under study retain their special qualities and even what we could call their own ways of seeing the world or their own voices. The work under study, says Mieke Bal, must be allowed to “speak back” to us—more a subject than an object (Bal, 2002, p. 45).

And this is where we find the claim for the content of academic values in the humanities liable to run aground. One purported core value, the “for-itselfness” of the humanities, its disavowal of practical application, seems to us entirely misleading. Stefan Collini, amongst many others, characterizes the humanities in terms that set it apart from practical concerns:

[W]hatever level of professional or vocational “training” is also undertaken, the governing purpose [of university education] involves extending human understanding through open-ended enquiry. From wholly laudable motives, we constantly fall into the trap of justifying an activity—one initially (and perhaps for long thereafter) undertaken because of its intrinsic worth—as something which we do because it yields incidental benefits which are popular with those not in a position to appreciate the activity’s intrinsic interest and worth. (Collini, 2012)<sup>4</sup>

Collini’s argument is of a piece with the powerful and false dichotomy between intrinsic and instrumental value that has tended to shape the academic institution of the humanities. There are many activities that have great intrinsic value—dance, love-making, or writing cultural history—that also have active and worthwhile lives in the complex spaces of our social and political lives—providing therapy to the infirm, peopling the world, or enabling the USA Supreme Court to grasp the justice of same-sex marriage.<sup>5</sup>

Though not without its own challenges, research in the sciences and social sciences has had a much easier time moving into non-academic sectors, than has the humanities. But there are no good reasons, except for reasons of institutional habit, to prevent humanities research from being entirely itself—self-critical, historical, individual, dialogical—and yet at the same time able to move from the precincts of the university into the discourse of public policy, law, commerce, and the public sphere.

The intrinsic-instrumental divide is by and large an effect of the successful institutionalization of the humanities in the modern university. Since the incorporation of loosely knit groups of teachers and students in the European Middle Ages, institutionalization has enabled a measure of employment security and a degree of scholarly freedom in the face of ecclesiastical and state power. It has also had the effect of isolating humanities scholarship within the university, securing its autonomy by coming to privilege its other-worldliness (for more about institutionalization, see Yachnin, n.d.). Ironically then, the intrinsic-instrumental distinction is essentially instrumental rather than intrinsic itself.

In fact, for most of its history, humanities education, though not necessarily bound within the university, was the *centrepiece* of training for public life. Great humanists such as da Vinci, Thomas More, Bacon, or Erasmus would have found the whole distinction between their work as scholars and

artists and their participation in public life bewildering, insulting, and incomprehensible. A commitment to knowledge and to art, on one side, and to their community on the other, was to them but the two faces of a single coin.

The distinction between “pure” and “applied” humanities is false, a product of now-exhausted institutional turf wars. So, a big part of the challenge for the twenty-first century—for humanities institutions and for scholars and students alike—is to revitalize its great tradition of social engagement. We need to re-orient our work and our purpose toward public life. A re-orientation toward non-academic sectors of society and an enlarging of the humanities—an undertaking to teach it how to move—will not sacrifice but deepen the core values of the humanities.

### 3. A course of treatment

For 10 years now we have been closely involved with one possible treatment of HPHD. It seizes on an aspect of much humanities research which seems to us particularly crucial if we are to re-animate its dialog with the public sphere: its interdisciplinarity.

The Shakespeare Moot Project was a graduate course with a public face and with important intellectual outcomes for students, teachers, the wider scholarly community, and for members of the public. Graduate students in Law and English together prepared legal briefs about hypothetical contemporary cases, which were then argued at a Moot Court under the scrutiny of invited judges whose expertise extended to Law, Philosophy, and Literature (sometimes all at once). After a public trial not devoid of dramatic incident, the judges not only handed down their decision, but also penned judicial decisions that in turn became part of the evolving jurisprudence of the Court.

The law of the Court was the Shakespearean canon. We did not aim to discover and apply the law as it stood in Shakespeare’s time. Quite the contrary. Shakespeare was rather the Constitution or in Roman terms the *Codex Iuris Civilis* of our jurisdiction. It was to be “a living tree” (as the Canadian Supreme Court famously put it), capable of adapting to new times and circumstances while steadfastly adhering to “the skeleton of principle” (the phrase comes from the Australian High Court) that gives any legal system its structure, normative authority, and integrity.<sup>6</sup> Our goal was to engage Shakespeare as an authoritative conversation partner on matters of urgent public concern in the twenty-first century—matters ranging from the limits of sovereignty, the obligation of obedience in political hierarchies, the nature of love and marriage, our duty of care to others, and the relationship between law, justice, and the divine.

Students and faculty members thus embarked on the process of building a whole jurisdiction out of whole cloth—working out its principles, its foundational texts, its hermeneutics, and its attitudes to other sources, both legal and literary, and to its own growing case law. The lessons the participants learned from the competitive and collaborative work in the Court had to do with how Shakespeare could speak in searching ways to matters of common concern. But the movement of complex, critical thinking, say about same-sex marriage in modern Canada, was not simply from Shakespeare’s text to a space of public discourse by way of the interpretive and argumentative work undertaken by make-believe lawyers and justices. The work of the Court also looped back to Shakespeare, revealing new dimensions in his thinking, not to mention new threads in his poetry, characters, and stories. And the work had also a third, important outcome, which was to knit together an interdisciplinary community of legal-literary practice capable of speaking in the fields of Shakespeare studies and legal theory, and in public fora, as the members of the court did when the trials drew mixed audiences of over 100 or when the authors of this article, in their role as judges of the Court, debated same-sex marriage before a gathering of 300 people and in front of the microphones of Canadian national radio (For more on the case, see Manderson & Yachnin, 2004).

The choice of jurisprudence as literature’s partner in this enterprise was not arbitrary. Law is where humanities’ rubber hits the public road. It is applied history, applied philosophy, applied politics, applied ethics. Neither would Shakespeare or the humanists more generally have found the

juxtaposition strange, given what we know of their engagement in public life, and the vivid presence of law not only in theatrical contexts but in social discourse more generally. Law was a critical lens through which to view the world in Shakespeare's time; and the theater, conversely, was a critical lens through which to understand the law, not least in the Inns of Court and in the practices of moot-ing, which was itself a generic admixture of law and theater then developing (e.g. Archer, Goldring, & Knight, 2011; Cormack et al., 2013; Green, 1931).

More than this, the Moot Court exercise threw into sharp relief the very values we outlined previously. The chasm between Shakespearean texts and modern legal issues highlighted tensions at the very heart of the practice of law, and of the humanities. The gap between the real world and our representations of it is a puzzle that we grapple with in our stories, images, histories, and norms. We live through the tension between universal laws and particular lives, in the fictional individuals we come to care about, but also in the deliberations of any court case on any day. The passing of time between when something is written and when it is read forms a central problem for how we read texts—ancient or modern—and for how we apply the law—ancient or modern. These are live questions in literature, in law, and in the world.

The particular forms that law and humanities interdisciplinary practice, as exemplified by the Shakespeare Moot Project, may take in HPD programs of the future will depend on the power of imagination, the scholarly strengths, and the institutional daring at any given university. At a minimum, it is worthwhile creating events like the Shakespeare Moots in order to give students in law and humanities new insights into how the disciplines mix, engage, and interact. The high-pressure traversal of familiar boundaries required of the students (not to mention the judges) in order to produce their legal briefs and prepare for their day in court taught the law students new skills of close reading and the literature students new skills in translation and communication—how to adapt literary interpretation so that it played with urgency and persuasion when subject to the severe interrogation of a legal bench. The experience taught all of us a great deal that had been hitherto invisible in our own disciplinary practices.

An adventurous reform could match a doctoral student in law and one in literature and invite them to write a collaborative dissertation based on a question of their choosing. The collaborating students would each develop strong expertise in their respective fields, deep knowledge of the other's discipline, and valuable new reading and writing skills. Following our own example, the two students would surely be well-positioned to publish collaborative work and also to publish on their own in ways influenced by their work together. The collaboration would be designed to produce historically and theoretically informed work that put Shakespeare studies and legal studies into sustained, critical dialog in order to speak to a matter of shared modern concern such as the relationship between the health of the planet and the advancement of trade and commerce; or the rights of religious expression set against the legal framework and rules governing the public sphere. That was the subject of the fifth Shakespeare Moot, and, as did the other cases we heard, it brought together an intensely productive reading of the canon, in this case focusing on *Measure for Measure*, with topics of real contemporary moment.

Of course, one might develop a similar model in relation to other bodies of texts characterized by a similarly expansive exploration of the human condition, coupled with an overarching integrity and complex aesthetic resources. Greek tragedy, or the works of Dante or Rembrandt, comes to mind. The specific corpus does not matter as much as the interdisciplinary dialog it engenders, and the public discourse which it stimulates, invites, and unsettles. The Shakespeare Moot Project demonstrates what some legal theorists and many literary scholars have long recognized. Textual indeterminacy and excess are not *problems* for interpretation but are, on the contrary, its condition of possibility—"a stroke of luck for politics," as Derrida remarked, and indeed, as he went on to add, "for all historical progress." (Derrida, 1989–1990, pp. 943–945) In light of our experience of the Shakespeare Moot Project, what can be said of law and the possibilities of progress can equally be said of the humanities; and what is true of either one is especially true of their treatment together.



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## Notes

1. The TRaCE project is gathering quantitative data and narrative knowledge about the careers (inside and outside the academy) of over 2,000 humanities PhD grads from Canadian universities. See <http://www.universityaffairs.ca/opinion/in-my-opinion/where-are-our-phd-grads-a-report-on-the-trace-project/> (accessed May 21 2016).
2. For recent work on the range of career pathways taken by humanities PhDs, see Wood and Townsend (2013) and the TRaCE project (n.d.).
3. See the discussion of the science of the golden frogs in Kolbert (2014).
4. Collini is here speaking about university education in general, but his principal focus in the book is the humanities.
5. For cultural history and the legalization of same-sex marriage, see Mapes (2015).
6. *Henrietta Muir Edwards and others v The Attorney General of Canada* [1930] A.C. 124, per Lord Sankey (Privy Council on appeal from Supreme Court of Canada); *Mabo v Queensland (No. 2)* (1992) 175 C.L.R. 1 at 28–30, per Justice Brennan (High Court of Australia).

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