

ed on a voluntary basis. Students were organised into groups of eight and a guide was produced which attempted to outline an agenda for the year's program by concentrating on particular issues which were likely to be of concern to students at particular stages of their first year program. Despite a high drop out rate the scheme was rated a success by staff and students.

No decision has been made to integrate self assessment into the curriculum at Bristol and, as yet, there are no plans as to how to proceed when the project ends at the end of this academic year. However, there is considerable evidence that staff involved in the project have been active in incorporating exercises originally designed under the program into their teaching, and these developments, as a result of centrally produced tutorial programs, are influencing the teaching of staff who are not directly involved in the program. Although it is difficult to quantify improvement of students' abilities to reflect on their learning experiences, there is considerable evidence that the scheme has made first year students more confident when facing up to the difficulties of undergraduate law study.

In attempting to implement innovation in assessment, staff at the three institutions had to address some problematic practical and design issues, such as student numbers, existing assessment systems and scepticism from staff and students. The funding and conditions of the project however, meant that staff were formally committed to developing and piloting tools and providing the wider academic community with models of better practice. Much of the success of the project is owed to this commitment and to the provision of staff training.

Based on the experiences detailed in the paper, of SAPHE implementation at the three institutions, the authors make some tentative recommendations for the implementation of self and peer assessment: First, for self and peer as-

essment activities to improve learning they have to be clearly related to the aims and objectives of the course. Second, the power differential between staff and students' dependency for feedback needs to be acknowledged. Students need to have opportunities to develop and practise skills of evaluation. Staff are crucial in providing a sensitive environment in which students can begin to identify what they need to know. Third, time should be prioritised for staff development to discuss what constitutes quality work. Self and peer assessment is as much about staff developing reflective skills as students. Fourth, expectations about the extent to which students can and will become independent learners should be realistic. Self and peer assessment is a skill and requires practice and time and many students entering a law degree have highly dependent learning styles as a result of previous exposure to traditional teaching and assessment methods. The SAPHE experience has shown that, when given appropriate time, resources, management and commitment, self and peer assessment can help to improve learner confidence and motivation.

Beyond the multiple-choice v essay questions controversy: combining the best of both worlds

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33 *Law Teacher* 2, 1999, pp 159-171

Achievement tests play an important role in legal education. Through tests teachers check whether students have mastered the objectives of the educational program. In addition, qualifying tests have a very strong influence on the study behaviour of students. In legal education there seems to be substantial support for essay questions and a distrust of objective question forms such as the multiple-choice question format. But is it possible to develop a test with both open and closed questions which can assess knowledge of

the law, insight and skills at a higher ability level? Is such a test more efficient than an all-essay test? How does it affect the study behaviour of students? And will students and faculty accept an assessment form containing both open-ended and closed questions?

At the University of Maastricht in the Netherlands a number of criticisms of the law faculty's all-essay assessment system led to experimentation in 1995 with 'combination' testing. The positive results of the initial experiment and its further implementation in the following year has prompted the faculty board to implement the 'combination test' for all first-year courses throughout the law curriculum.

The main points of criticism of an all-essay test format had been that it allows only a limited number of questions and the content coverage is therefore limited, with students consequently studying only part of the subject matter. For faculty members, high student numbers made the marking of the essay tests a heavy burden and, in addition, the large number of teachers involved in marking, and their very different backgrounds, resulted in substantial marking variation.

In 1995 an achievement test consisting of 44-option multiple-choice questions and one extensive essay question was used to evaluate a first year course. In 1996 two first year courses were evaluated by a similar method. The test questions were drafted by 12 faculty members, following a course in question drafting. Before a question was included in the test, it was screened by a test review committee made up of experienced teachers from the different legal domains, and an educationalist. The most important screening criteria were relevance, specificity and objectivity, and degree of difficulty.

Using cross-marking statistics, the authors were able to establish a strong relation between the scores on essay questions and the scores on the multiple-choice questions, with the implica-

tion that it is possible to use multiple-choice questions to assess knowledge of the law, insight and skills at a higher cognitive level. Through a series of questionnaires administered to both students and staff the experiment was assessed on other grounds. In terms of efficiency, combination tests yielded considerable savings in faculty output when compared to all-essay tests. The time needed for drafting the questions for a combination test and marking the answers amounted to two-thirds or less of the time required for drafting and marking an all-essay test.

The faculty members involved with the 'combination' testing feel that the test has improved the quality of the student assessment system and has contributed considerably to the lessening of faculty workload. Time spent studying by students has increased and students have expressed a distinct preference for a test combining different question formats over a test in which just one format is used.

The conclusion of this study is unambiguously in favour of using combination tests. To do so is to combine 'the best of both worlds', that is, broad content coverage, efficiency and fairness in marking the multiple-choice questions, while measuring creativity, writing skills or evaluative skills through essay questions. Combining the two question formats in a single test, the authors claim, results in higher study input on the part of the students and a high acceptance by both students and faculty. Multiple-choice questions, if well-drafted, can test the same areas as essay questions, with positive results for both staff and students.

CLINICAL LEGAL EDUCATION

Pedagogy: designing an extern clinical program; or as you sow, so you shall reap

L F Smith

5 *Clinical L Rev* 2 1999, p 527

The idea of offering an Extern (or Field Placement) Clinical Program can arise in one of three ways: first, students may want certain 'work' experiences for their educational or career advancement; second, law offices or agencies in the community may seek students to do 'volunteer work' with them; or third, the faculty may conceive of experiences in the legal community as offering educational benefits that will complement or augment the existing curriculum.

Whatever way the idea of an extern program arises, all three of the above contingencies must be fully considered and coordinated. Designing a field placement clinical program should be a dynamic and fluid task in which the students' desires, the placement agencies' needs and work and the law school's evolving curriculum must be coordinated and adjusted with one another.

A well designed field placement clinic is a viable approach to meeting many educational goals. It is the best approach for attaining some significant educational benefits, including institutional critique. Moreover, an extern program offers an opportunity for legal academic service to the community and material for cross-disciplinary research and applied legal scholarship.

A law school may begin to design a clinical offering by considering deficiencies in the current curriculum. Imagine the classic curriculum of Socratic-method courses with contracts, torts, property, criminal procedure and constitutional law courses consuming the first year, and various more 'advanced' substantive courses populat-

ing the second and third years of law school. Imagine the classical moot court and law review opportunities, as well as a few small writing-intensive seminars. With this as a starting point, what is missing? One answer is that skills training is missing. This classical curriculum fails to teach most skills (e.g. trial advocacy, client interviewing, problem-solving, witness interviewing, client counselling, negotiating, mediating, lobbying, drafting), which are today recognised as fundamental. Accordingly, many early clinical programs adopted skills training as their mission. 'Clinical' for many became synonymous with 'skills-focused' education.

If the law school curriculum has a well-developed simulation course to teach a particular skill, that fact will influence whether or how the law school turns to a field placement program to teach that skill. However, there are a variety of ways in which the skills curriculum and a field placement program can interact. One possibility is to turn exclusively to simulation courses for skills instruction when that is more efficient, and to use the field placement to achieve other educational goals. Another possibility is to link the simulation course(s) to live clinical work so that the simulations provide an introduction and a framework of analysis, while the live work provides the richness of reality, additional practice, opportunities to learn from experience and experiences for contemplation.

Law schools have traditionally offered courses concerned with the policy behind our laws and in our legal institutions. Such studies can be enhanced by students who have intimate knowledge of the policies being critiqued through their fieldwork in our courts, agencies and law offices. There are some educational goals — professionalism, exploring lawyering roles, learning from experience, institutional critique — for which live clinical pro-