



March 2011

**Submission to ANU College of Law Education Committee:  
Feedback and Assessment Practices**

The past twelve months have seen a renewed interest in improving the quality of higher educationally nationally, within the Australian National University, and most importantly within the ANU College of Law. The LLB renewal, changes to the JD Program and most importantly the rise of the 'Law School Reform!' group reflect this focus within the College. With this in mind, the ANU Law Students' Society ('The LSS') provides a submission on student feedback and assessment practices within the ANU College of Law.

**Feedback**

1. It is well established that clarity in marking and feedback is important not only for the assessment and certification of competence, but as part of the educational process itself. The literature has explored at length the links between feedback to students and improved educational outcomes.<sup>1</sup>
2. The importance of clear, timely and quality feedback is particularly great within the College of Law because of the stringent manner in which essays and assignments are marked. Students value the high standards the College maintains, and the premium this places on an ANU legal education, but are unsatisfied with the clarity of feedback they expect to accompany such high standards.

**The Current Feedback System**

3. The LSS would like to express concerns over the quality and quantity of feedback provided to students in some courses within the College of Law. The LSS has been made aware of an alarmingly high number of instances where essays/assignments have been

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<sup>1</sup> See, for example, Kift, Sally (2002) "Harnessing Assessment and Feedback to Assure Quality Outcomes for Graduate Capability Development: A Legal Education Case Study". In: Jeffery, Peter L., Eds. *Proceedings Australian Association for research in Education (AARE) 2002*, pages pp. 1-21, Brisbane, Queensland, Australia; Rogers, Nicolette, 'Improving the Quality of Learning in Law Schools by Improving Student Assessment' 4 *Legal Educ. Rev.* 113 (1993); P Ramsden, "Chapter 10 Assessing for understanding", in *Learning to Teach in Higher Education*, Routledge, London, 1992.

returned to students either with illegible comments or no comments. A number of students have approached the LSS with concerns over inadequate feedback in subjects such as LAWS1204 (Contracts) and LAWS2250 (International Law).

4. Results of the LSS Education Survey 2010 have reflected this. Almost half of all students surveyed found that assessment feedback at the ANU College of Law was unhelpful or unsatisfactory. Furthermore, similar numbers of students found the marking system at the College of Law to be arbitrary or otherwise unsatisfactory. Only 6% of students found the marking system excellent, the majority of which were first years who had only experienced two courses at the College of Law.
5. There is also very strong support for the establishment of marking grids within the student body. 68% of students surveyed supported the introduction of a marking grid/rubric (such as those used in the College of Arts and Social Sciences). Of the remaining students, 7% were against it and 25% chose the option 'I don't know'.
6. The results of the Education Survey were spread over many year levels, with the highest level of dissatisfaction with marking and feedback shown in middle-later year students. As one 5<sup>th</sup> year student stated, "68 - the mark of despair. No-one has been able to tell me the difference between a 68 and a 71."
7. Student feeling on the College's assessment ranged from bewilderment ("I'm not really sure how they mark; we don't have any sort of guidelines") to bitterness ("the system is disgracefully inadequate"). A consistent theme, however, was that the lack of feedback had a negative effect on student learning. Survey respondents reported that feedback often did "not detail how [they] can get a better mark", and that it was difficult to compare marking standards across subjects: "[i]t's hard to identify from one course to the next why answering similar questions in a similar way results in wildly varying marks." An exhaustive list of comments from students on the issue can be found in Appendix A.

#### The history of marking and feedback issues within the ANU College of Law

8. The LSS has provided submissions to the College on this issue on many occasions. There has been a campus-wide movement away from assessment practices similar to those employed at the College of Law, as evidenced by ANUSA education submissions since 2008. The LSS has provided submissions on this issue on a regular basis for many years and is yet to see an adequate change in policy from the College of Law. This continuing frustration with feedback has been further echoed by the 'Law School Reform!' report (see pages 35-37). Both the findings from the LSR survey and recommendations from their report reflect and reinforce longstanding LSS policy on the issue.
9. The LSS recognises the substantial financial and resource constraints on the College of Law, and appreciates the incredible sacrifices many staff within the College endure in order to ensure that students receive the best learning experience possible with the limited resources available.

10. We are concerned that problems with feedback within the College lead to bitterness and cynicism amongst law students. A current of sad resignation ran through survey responses. One student said “there is no correlation between effort-result”; another felt that variation in marks “seems to be without rhyme or reason”. Given the general confidence and pride students have in the College of Law, we think this is anomalous, and greater transparency in marking criteria and feedback would improve students’ perception. The LSS has great faith in the integrity of the College’s marking, and we are concerned that a lack of communication is a major cause of student dissatisfaction with an otherwise trusted system.

### **Recommendations**

11. The LSS requests the College of Law institute policy to establish mandatory criteria grids to aid in the marking of essays and assignments in every JD and LLB LAWS course. This grid should be accompanied by brief written comments. The grid would ideally resemble those outlined by the ALTC.<sup>2</sup>
12. While discussing feedback with us, one member of faculty noted that he made a habit of placing at least one mark on every page—whether it be a tick, cross or even simply a dot—to assure the student that at the very least the script had been thoroughly read. While acknowledging that marking practices will differ according to the idiosyncrasies of individual staff members, we consider this a worthwhile aspiration, and feel that even small efforts such as this might go a long way towards assuaging student concerns and feelings of unfairness.
13. We hope that faculty can engage with the issue of feedback with a view to some change in policy for the second semester of 2011. As noted above, feedback has been a perennial theme in LSS submissions; we hope that with the presently heavy focus on renewal of legal education at the ANU, constructive progress in feedback procedures can be achieved in 2011. Change in this area is overdue, it would be disappointing if present problems were allowed to persist into the future.

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<sup>2</sup> ‘Some innovations in assessment in legal education’, Report by the Australian Learning and Teaching Council and the Council of Australian Law Deans, July 2009. P 11.

## **Appendix A: List of comments on assessment, feedback and marking from the ANU LSS Education Survey 2010.**

- 68 - the mark of despair. No-one has been able to tell me the difference between a 68 and a 71.
- Again, at times I find that the individual comments given on assessment are not clear enough on where marks were lost and how performance could be improved.
- Arbitrary and inconsistent. I can compare assignments of comparable quality and depth of expression and they marking is wildly different.
- As I am new to law school, it is sometimes a guessing game as to what markers are looking for. Some confident students I know have done poorly, and some students worried about results have excelled.
- As I've previously mentioned, the system is disgracefully inadequate, as it does not allow students to learn from their mistakes. There is no explanation of the distribution of marks, and even when extra feedback is sought the responses of markers are inadequate and condescending. All assessments should be double-marked, so as to reduce the inherent subjectivity and bias which pervades the law school. If the staff have too many papers to mark, there should be more staff. Even if double-marking does not improve the calibre of marking, it should at least prevent students from suffering at the hands of impatient markers.
- Being a first year, I was surprised to have failed my first assessment due to the lack of guidance from the lecturer/tutor.
- Comparing assignments post-marking shows certain markers disagreeing with some things whilst others agree with them, and vice versa.
- Could be improved (though somewhat satisfactory).
- Rather than applying a bell curve policy to marking, each assignment should receive the grade it deserves. Usually, this will cause a natural bell curve to develop anyway, without giving students higher/lower marks than deserved to adhere to an enforced bell curve policy.
- For take-home tasks, I usually get distinctions and better marks than I would get in exams. The comments are always "this essay was written well and sufficiently addressed the question well etc". However, they often do not detail how I can get a better mark. I always feel like the marker is looking for an "X factor" but they cannot really adequately describe how students can improve on future assessment tasks.
- For exams, I find the marking criteria excessive given the limited amount of time students have to complete an exam.
- From the feedback I get from students at other universities, it seems that the ANU law faculty is the hardest marking faculty out of any university in the country. As I understand it, this is mainly because of the bell curve. I think this is unfair given that I am a student that has received HDs in Arts courses, and often I spend a lot less time doing assessment courses in Arts.
- From course to course the marking system seems arbitrary. It's hard to identify from one course to the next why answering similar questions in a similar way results in wildly varying marks.
- Get the impression we don't get marked to a criteria- they assign a grade and then mark the criteria, e.g. spelling and grammar is an area most students would do well in, yet nearly everyone get 'satisfactory'.
- Hard to tell - can be subjective and without comparison with other marks

- Hard- Marking- however this does push you to work harder-plus it upholds the prestige of the College
- I do feel that the variability in marking is a huge problem however- I worked on an assignment with another student and we had very similar assessments yet she received a grade 15% higher than mine, coincidentally hers was marked by a different tutor- if assessments cannot be marked by the one person, obviously due to huge numbers, I feel a more rigid framework of marking is needed.
- I always find that the marks are justified and that I usually agree with them.
- I can never predict what mark I'm going to get; there is no correlation between effort-result; I sometimes get very strong marks on assessment that I really don't have a strong grasp of.
- I don't even know how the law school mark my assessment. They say there is no "one approach", but when the paper is back, it is clear that the "one approach" gets the best score.
- I don't ever feel like I am marked unfairly against my peers, but I wish more constructive feedback was given. Tell me what I could do to fix something, rather than just putting an X next to it.
- Marking is also incredibly hard at ANU, which I dislike. While I get that this is a competitive university, I've heard some lecturers joke that they just don't give out HDs. I'd like there to be more of a spectrum, so my marks don't look worse compared to those of someone from another uni.
- I don't really know what the marking system is. Is the bell curve used? I have no idea.
- I feel that the marking system is unfortunately extremely dependant upon the marker-- while I understand that passes and HD's are double marked, the lack of consistency across markers has serious long-term ramifications for students.
- I have constantly heard from ANU law lecturers that we shouldn't be concerned with the marking system because the Law College is renowned for marking hard.
- Unfortunately, the only people I have heard this, is FROM the ANU College of Law. What is the point of marking hard if the broader employment industry aren't aware as to the harder marking standard?! This is especially true when applying for employment inter-state. All it achieves is what law lecturers consider respectable marks, being viewed in industry as mediocre.
- I looked at my exam result for property, I received 68 in one question and 49 in another. The papers were marked by different markers, but there was no indication of why there was such a huge difference.
- I spoke to a tutor once who told me it is difficult to approach all essays equally - if you've had a run of poor essays a satisfactory essay is likely to get a good mark, and vice versa when there has been a run of bad essays.
- I take issue with the bell curve method of grades at the college of law as I do not think it is necessary, and serves only to make students have an even more competitive and cut-throat attitude to their studies than they already are.
- I would like to see a spread of the marks released so I know where I sit in relation to the rest of the cohort.
- I'm not really sure how they mark; we don't have any sort of guidelines
- Inconsistent.
- It feels like a bit of a lottery when receiving assignments. I never know what the outcome will be.

- Law's marking system is not generous but is generally fair. Having 85 as the virtual top mark is not good for moral or ease of comparison with other faculties, it would be better if a more standardized approach was taken so that a distinction in arts or science is of equal worth to a distinction in law [at the moment it seems a D in arts is a Credit in law].
- It is good that law marking does not use the system where everyone is ranked, ie there is a limited number of 78s, for instance 6, so that if you are the 7th person who deserves a 78 then your mark will be lower regardless of merit.
- Many rumours about harsh bell curves, the intention to mark harshly in order to make the JD program more attractive, and the need to inform law firms that they should "add ten marks" when looking at ANU undergrad marks abound and it's not unjustified. Many people claim that ANU marking is much more difficult when compared to what their friends face at Melbourne, USyd or UNSW and have seen it with their own eyes. This creates a disrespect for the law school and their undergrad teachers and well as compounding cynicism about marks and the ability to do well which prevents students from wanting to try.
- Marks should be out of 100, not 30 - a lot of markers will only mark within a certain range (e.g. not lower than 50 or higher than the low eighties), which means that the person who's put a lot of effort in is unlikely to do any better than the person who started the night before. A lot of the time, this is quite artificial, possibly an attempt to lift the prestige of the grades, but markers should be able to account for any missing marks.
- There's also clear inconsistency in the marking. A lot of markers nitpick without themselves being aware of the rules.
- More details on what constitutes each grade would be good.
- Most of the time... i.e. when I don't do well despite confidence that I have actually worked incredibly hard in the course.
- Not geared towards helping students improve for the next semester of courses - it encourages regurgitation of information rather than developing skills.
- Often the comments don't correspond with the score. I've receiving really positive comments, which are useful and constructive, but which do not reflect the poor numerical score.
- One of the most disappointing aspects of the ANU law school is the marking system. Marks rarely reflect ability or effort. Marking is arbitrary depending on which particular lecturer/tutor marks your work. I have experienced this first hand and ALL my friends have experienced it at some point in their law degree.
- I experience this far less in my post grad courses where class sizes are smaller, there is no bell curve, and the assessment is a research essay.
- I should mention that I have a bare Distinction average (although I have marks ranging from 60 - 80. Often times the subjects I have the best knowledge of, I have the worst marks in).
- Raw marking has always seemed quite fair; the impact of the bell curve is ridiculous and pernicious.
- Satisfactory generally with tendencies toward arbitrariness.
- Similar effort and work may receive very different marks.
- Some times it seems that the required level is unattainable, sometimes it depends on which teacher you get.
- Sometimes too vague or does not allow for useful detail. Marking sheets would be more useful if they allowed the marker to clearly indicate which areas need more work and how to improve on them and also areas that are strengths.

- Sometimes, I felt the way lecturer gave mark very strict and rigid and cruel.
- The bell curve is the worst.
- The bell curve system does concern me. If marks fall naturally in a bell curve, that is fine, but manipulating marks so that they fall within a bell curve seems unfair.
- The fact that the ANU College of Law marks out of line with other universities is a huge failing of the College. While it is fine to suggest that employers will only look at the designation (credit, distinction etc.) rather than the raw mark, this is clearly untrue. When employers have a bunch of applications and ANU students have a lower average mark even though the quality of their work was of a higher standard than other law students with higher average marks, we are at a significant disadvantage. Uniform marking standards is one way that we are able to set ourselves apart (especially in the initial stages of recruitment) when competing with other students for jobs. By gearing the marks so that they are lower than they could be, we suffer.
- The infamous bell-curve puts us as a disadvantage in the job market, when compared to students from other law schools....
- The marking system at ANU College of Law seems particularly and unreasonably harsh. More often than not, the feedback and comments given seemingly do not match the marks given.
- The marking system is highly arbitrary and the academic appeal system is a total failure. How impartial could the markers be when they have to re-assess their own marking? The high level of office politics at the College could also prevent staff higher up in the appeal system from giving objective and impartial re-assessments.
- My experience suggests that the academic staff at the College were very defensive towards students' criticism and were ignorant of students' perception of them. In the end, they will still keep their jobs no matter how disgruntled and unsatisfied their students were! I seriously doubt how sincere the College is in improving the curriculum. Without a real change in attitude, nothing is going to change for the better at the College.
- The marking system is strict.
- There is a greater need for general feedback at the end of an assessment piece, as well as worked answers being provided and answers as to what the markers were looking for, what a correct or highly marked answer would look like.
- There is a high degree of variation in the marks awarded at ANU law school - the variation seems to be without rhyme or reason (see comments about inadequate feedback above).
- I suspect that the Bell Curve allows markers to justify such a variation without doing a detailed analysis of the work being marked. They simply have to say that there were other better students - rebutting this proposition is almost impossible for the student who is dissatisfied with their grade (they can't check the work of every other student in the class to see if this is true).
- It would be more transparent if criterion-based marking were used. Markers would have to justify their assessment in respect of specific criteria. It forces markers to think about and explain why a particular piece of assessment is good or bad. It would produce better feedback and allow students to make a better assessment of whether they received a fair mark (in which case they can learn from the feedback) or not (in which case they can ask for a re-mark).
- Totally unpredictable. I have received HDs, Ds, Cs and Ps; with the quality of each assessment not reflecting the mark, as far as I am concerned. Moderating seems to not work particularly well and standards vary wildly from task to task and from course to course.

- Turnaround is generally timely. Some courses feel more harshly marked than others, sometimes creating a lack of consistency.
- Unclear and unrealistic. How is it you can get complete Very goods for everything and still only get a credit?
- Unfair, subjective and depressing.
- UNFAIR. Why does the ANU persist with having a marking scale that is lower than the majority of other universities? (eg. distinction 70 - 80 instead of 75 - 85). Despite the cover letter that we can attach to our resumes, it makes our applications look worse and we are disadvantaged. Although some employers will be aware of our marking scale, the majority will not be aware.
- Every student I have talked to thinks this is the case, is there an explanation as to why the system is the way it is, and why can't it be changed?
- Very subjective - different examiners look for different things and they're most of the time different from what we've been told in lecture and tutes. Frustrating.
- When comparing my knowledge with friends who are doing law at UC I feel that my marks don't reflect my knowledge as well. I look at there assessed tasks and they don't seem nearly as difficult. It would be useful to see how we are marked compared to other law schools, so for example a D at UC is a CR at another uni...
- While I don't have any major problems with the marking system, I feel it may sometimes unfairly reflect the quality of a student. While ANU Law students know HD's are pretty special and hard to get, external people, such as potential employers may not have ay idea how strict the marking system is.
- While it is frustrating when a course is moderated down, I do appreciate the standardisation of marks that the bell curve provides. My concern with moving away from the bell curve is that students could be 'penalised' for choosing to do more rigorous courses than others.