journals in the UK, the questionable depth of review that submissions received, given the quantity overall and the size of the panel, and the problem posed for interdisciplinary scholars, whose work may not meet the perceptions for excellence developed in more mainstream areas.

There are some elements of the RAE process that might usefully be adapted for the self-evaluation every law school conducts from time to time. They may give cause to rethink some of the conventional wisdom about tenure and promotion practices, the appropriate reward structure for legal academics, and the criteria by which law schools are accredited. These elements may be characterised as follows: the recognition that there may be a useful distinction to be made between unfundable scholarship and fundable research; the recognition that there is a value in assessing the scholarly output of a law faculty as a whole, and not focusing exclusively on the output of individuals; the notion that one might create a meaningful grading scale by which scholarly products can be evaluated systematically; the recognition, when dealing with a law school as a whole, of the singular importance of a strong research culture; the notion that law faculties might be required to set a collective research agenda and then be held accountable by future evaluators and funders for its completion; and the observable fact that, with planning and co-ordination, a law faculty can appreciably raise its scholarship profile in a cycle as short as four years.

Many law teachers are living in a time of significantly reduced resources. In this environment, the need for 'objective' measures of faculty excellence — especially in black box areas such as research and scholarship — is likely to receive increased attention. So are related questions more broadly encompassing the idea of merit. What should be funded? Who should be rewarded? Is ongoing faculty scholarship — even conventional scholarship — an essential prerequisite to providing a useful legal education? The British experience with research assessment leaves much to be desired as a model for considering these questions. But if law teachers do not begin asking themselves some of these questions, and soon, they may find it being done for them by others.

INDIVIDUAL SUBJECTS/ AREAS OF LAW

Parental responsibility agreements — successfully combining teaching with research
M Hayes & C Williams
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A major debate amongst family lawyers is whether all fathers should have automatic parental responsibility for their children irrespective of their relationship with the child's mother. Mothers fear that fathers will interfere in an oppressive manner with the day-to-day care of their children. By contrast, some fathers feel excluded and devalued as parents. They wish to take an active interest in their children's upbringing and to behave towards them in a responsible manner.

The law effects a compromise solution. Where unmarried parents accept that the father should have parental responsibility, they can formalise the arrangement by making an agreement on a prescribed form. Where such agreement is not forthcoming, the father is entitled to apply to a court for a parental responsibility order. Many parents, particularly those living together in a stable union, are unaware of the relative lack of status of the unmarried father in the eyes of the law. Even fewer unmarried parents know about parental responsibility agreements or about the importance of making such agreements.

As teachers of family law, the authors are aware of the narrowness inherent in analysing and presenting human experiences and feelings merely as statutory rules interpreted by judicial discretion and illustrated by case law to be learnt and regurgitated under examination conditions. Sometimes there is no substitute for personal experience to bring about a better understanding of the law and how it operates in practice, and such experience and understanding can awaken a student's interest in, and appreciation of, how it feels to be a client.

For this project students were set the task of finding out how the ordinary woman or man would obtain the parental responsibility form. Students were asked if they were willing to try to find out which organisations and agencies have heard of the agreements, which have not, and how easy it is to obtain such a form. The debate about the relative positions of married and unmarried fathers has always captured the interest and imagination of family law students and they responded enthusiastically. It was hoped that a number of benefits would flow to the students from undertaking the project, including a build up in confidence in dealing with unknown personnel, in particular where it was necessary to question or challenge any advice given, and the ability not only to undertake some basic research but also to organise the results in a coherent and meaningful fashion.

Perhaps the most startling and disturbing finding was that, of the 137 registries of births, marriages and deaths approached, only four could supply the form. Furthermore, 62 not only had not heard of the form but also could not direct the student to where one might be obtained. Another worrying discovery was that only 95 out of 164 Magistrates' Courts stocked the form and eight did not know of their existence and were unable to tell the inquirer where to obtain one. It is of some concern too that 130 social service departments had not heard of the form. Al-

though more than half of Citizens' Advice Bureaux either stocked the forms or knew where they could be obtained, this still means that 41.5% had no knowledge of the form's existence.

The study had an educative value not only for the students who conducted the surveys but also for the personnel in the organisations and agencies and for the individuals approached. Many students commented that people were very interested to know more about parental responsibility agreements. At the intellectual level, students not only became conversant with the law relating to parental responsibility, but their awareness and interest was raised generally about the impact of law on family relationships and how 'ordinary' men and women perceive this.

It is trite to acknowledge that the majority of students will remember little of the detail of what staff specifically lectured and tutored them about during their undergraduate years. However, the authors believe that their students will remember how they were treated in the course of carrying out this project, particularly whether it was with understanding and respect. They also believe that students will remember and value a course which made them think for themselves and stimulated intellectual inquiry.

INSTITUTIONS & ORGANISATIONS

The academic and the practitioner
P Birks
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Times have changed very rapidly. We take for granted the flourishing literature of the law, all those ever-multiplying journals, monographs and textbooks. It is difficult to remember that for centuries there were almost no books. The situation which we take for granted is a situation which is no older than the Second World War. Its final recognition is happening only now. Even a decade ago many practitioners would have said that their reading could safely stop with the cases and statutes. The law library already evidences the transformation. The common law which, apart from reports and statutes, for centuries had no books at all, suddenly has a vast library and one which grows from day to day with new textbooks, monographs and periodicals.

The self-image of the common law as judge-made is incomplete. It is judge-and-jurist made. The common law is to be found in its library, and the law library is nowadays not written only by its judges but also by its jurists. The juristic function is to analyse, criticise, sift, and synthesise, and thus to play back to the judges the meaning and direction of their own daily work, now conducted under ever increasing pressure. Everyone who writes even so much as a case-note in a journal joins in that law-making function. It happens that the juristic function is now concentrated in the university law schools.

The common law grew up as a system which combined the functions of juristic interpretation and adjudication. In their judgments judges both reflected upon the law and resolved particular cases. Our judges still do both these things, but the juristic function is increasingly shared. There is a partnership, apparent in the law library and hence in the reading which every practitioner does in preparation for a case, between the judgments of the higher courts and the books and journals which emanate, preponderantly, from the universities. We might say that the interpretation of the law is now done both in court, in judgments, and out of court, in all other kinds of legal literature. And it is in the interpretative writing which goes on out of court that the universities have in practice something approaching a monopoly.

If you are running a university and you take your eyes off the importance of law schools and forget that their graduates are the law's missionaries in a society which is inclined to underestimate its dependence on law, you can persuade yourself that you are selling a product as prosaic as Mars bars. Law and legal education sell well. There is a temptation to milk this potential. The down-market strategy is attractive. It is possible to deliver something resembling legal education with very little investment. The money law earns can then prop up other subjects. There are overheads which can be cut. One is the library. Another is research. A third is diversity. And a fourth is personal contact with teachers. Students can be made to manage with a skeleton library. Critical review of written work can be phased out. Every concession to this temptation is a step towards impoverishing the law library and producing pitiful and powerless lawyers. A weak, down-market law school can make no contribution to the long-term needs of this society. At the moment those universities and other law-teaching institutions which are more interested in taking money out than putting money in have nothing to fear from the professions. That is why law comes out as being amongst the cheapest subjects in the book.

A second danger is the 'rite of passage' attitude: that the would-be lawyer just has to grin and bear a spell of legal education. It will not actually do any good, but it must be endured. It is an attitude found chiefly among practitioners. It holds that legal education has no real importance, it is just something that lawyers have to go through. It explains why there is no professional insistence on adequate investment in law libraries, no requirement that law schools meet high standards for the provision of information technology, no concern among practitioners about the quality of university lawyers or their quantity in relation to the number of their pupils. Those in the universities who want to market cheap law long to hear that the professions do not much care what they do.