formal assessment. For informal assessment, multiple-choice questions can be used in class without requiring students to turn in answers. Students' answers provide vehicles for discussing the rules. The focus provided by the possible answers can restrain more wide-ranging discussions and supply objective feedback for students so that they can better assess their work. In-class discussions also allow the instructor to detect problems with questions and fix them before using them on an examination with another class.

The advantages of using multiple-choice questions for formal assessment include broader coverage than essay or performance examinations and a reduction in grading burdens. The reduced grading burdens make possible quick, frequent, and low-stake examinations during the semester. These encourage students to keep up with work and provide them with frequent feedback on their progress.

Multiple-choice questions have limitations. They require students only to evaluate arguments, not to construct arguments on their own. Thus, although multiple-choice questions can evaluate knowledge of grammatical rules and the ability to organise an argument, they are poor at testing the ability to express oneself in writing. In addition, multiple-choice questions allow a student to guess an answer.

Even the limits of multiple-choice questions can sometimes be turned into advantages. Essay examinations require students simultaneously to demonstrate several skills. While more realistic than multiple-choice questions, essay examinations make it difficult to assess where an error is occurring. Multiple-choice questions can break that complex task down into the many elements of effective legal performance and isolate them.

Most people who draft multiple-choice questions agree that drafting them is very difficult. Ambiguity on essay questions can be removed by including an answer that identifies the student's perspective on an ambiguity that the questions create. Ambiguity on multiple-choice questions cannot be addressed through the forced choices available. Class discussion of multiple-choice questions can provide a basis for identifying ambiguities and improving questions for a subsequent administration to a different class.

Skills evaluation and multiple-choice questions are often thought to be inconsistent. Certainly, multiple-choice questions cannot easily test writing skills. Moreover, instructors consistently overestimate the extent to which their multiple-choice questions test skills. On the other hand, law professors do use multiple-choice questions to assess skills, and in some respect they offer more sophisticated tools for analysing skills than essay questions. Multiple-choice questions can ask only about the facts, pinpointing students' difficulties in reading facts, or include a rule of law, pinpointing students' difficulties in applying rules. Moreover, multiple-choice questions provide fast feedback and statistical verification of the reliability of questions.

Essay questions can test a student's ability to identify relevant facts, apply the law to them, and organise and write an answer. Unfortunately, the very complexity of essay questions limits their usefulness in identifying where students make mistakes. The thought process in writing an exam answer is a chain with many links and when the chain breaks, it is often impossible to tell which link failed.

The traditional multiple-choice exam tests knowledge of the law by asking questions about the legal rule and forcing the student to select among alternative statements of the law or by providing a fact pattern and alternative answers applying the law to fact. Multiple-choice questions requiring reading, recall, and application are quite similar to essay questions in their complexity, but also share the defects of essay questions. Because the student can go wrong in reading, recalling, and applying a rule, a wrong answer to such a question does not reveal where the student went wrong.

The limitations of essay exams and traditional multiple-choice questions have led to the development of skills-oriented multiple-choice questions. These questions examine separately the ability to read facts and cases and the ability to apply an unfamiliar rule of law. Questions testing for the ability to read facts provide reading material and ask factual questions about it. Questions testing for law application provide a rule of law and ask the student to apply it. Breaking down legal analysis into pieces also makes the test more effective as a teaching tool. The information about where students are going wrong is often a surprise to them.

ENROLMENT POLICIES

Does the LSAT mirror or magnify racial and ethnic differences in educational attainment?: a study of equally achieving 'elite' college students
W Kidder
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A growing number of American law schools, and flagship public law schools in particular, have recently terminated race-conscious affirmative action plans in order to comply with various court decisions, popular referenda, and actions by public officials. Moreover, it is quite possible that the United States Supreme Court will soon grant review to one of the several pending challenges to affirmative action at public universities. As affirmative action continues to come under fire, high-stakes standardised tests like the Law School Admission Test ('LSAT') have also become the focus of intensified criticism. Much of the debate centres on whether standardised tests like the LSAT are neutral barometers of racial and ethnic differences in educational achievement.

In this study, African American, Chicano/Latino, Native American, and Asian Pacific American applicants were matched with White applicants who possessed equivalent undergraduate grade-point averages ('UGPA') from the same colleges during the same time period. The database of 1996, 1997, and 1998 applicants from 15 highly selective colleges and universities to Boalt Hall, the law school at the University of California, Berkeley was relied on. This is the first attempt to repli-

cate the UGPA-matching procedure developed in Gannon's 1981 pioneering study.

The results indicate that among law school applicants with essentially the same performance in college, students of colour encounter a substantial performance difference on the LSAT compared to their White classmates. These gaps are most severe for African American and Chicano/Latino applicants. A second round of matching, controlling for choice of major within each college or university, does nothing to reduce these performance differences on the LSAT. The results of this study therefore counter the claims of several standardised testing enthusiasts and affirmative action critics that the LSAT provides a neutral method of assessing academic achievement.

The LSAT systematically disadvantages minority law school applicants. Therefore affirmative action can be justified as a corrective for those racial and ethnic biases that use of the LSAT introduces into the admissions process. It is essential to revamp admission criteria to reduce the influence of the LSAT, particularly at law schools that are prohibited from using race in admissions decisions.

One strategy universities have recently adopted to promote racial and ethnic diversity in lieu of affirmative action is to de-emphasise standardised tests as criteria for entry. Others have recognised the racial gate-keeping effect of the LSAT. An American Bar Association Committee on Diversity in Legal Education recommended using other selection criteria once a qualifying threshold has been met.

In summary, the available data from undergraduate institutions and law schools suggest that standardised tests typically produce larger differences between Whites and students of colour than other academic criteria. This fact negatively affects minorities' admission opportunities, particularly when test scores are heavily relied upon or when race-conscious affirmative action is prohibited.

This study is an effort to provide empirical answers to the ongoing scholarly debate over whether the LSAT stratifies opportunity by race and ethnicity among students who have demonstrated similar accomplishment levels in college. While the results of this study indicate that the LSAT favours Whites among equally achieving college students, many leading scholars of affirmative action do not vigorously investigate whether standardised tests like the LSAT are biased against students of colour. Underlying this lack of interest in the test bias issue is a consensus among otherwise sharply divided scholars that racial/ethnic differences in LSAT scores reflect real underlying differences in academic or cognitive skills. The LSAT is culturally biased because it artificially exaggerates educational differences between Whites and students of colour.

Gannon's 1981 study concluded there was ample support for the hypothesis that the LSAT or the testing milieu was biased against students of colour. In other words, minority law school applicants faced a LSAT bias in addition to disadvantages in prior educational opportunities. Until now, Gannon's study, which is twenty years old, has never been confirmed or challenged by replication.

The scholarly discourse on test bias acknowledges that historically marginalised groups may face added pressure and anxiety that disproportionately depresses their performance. Studies on the psychological atmosphere of standardised test taking indicate that merely making the content of the test the same for everyone does not guarantee that taking the test will be the same regardless of race or ethnicity. Stereotype threat can affect any group where there exists a widely recognised negative stereotype about that group's performance in a certain domain.

When success in the practice of law becomes the benchmark, rather than law school grades, students of colour at highly selective institutions, many of whom were recipients of affirmative action, appear to do as well as, and in some cases better than, Whites. In fact, there is more empirical support for the proposition that institutional racism influences performance in college and disproportionately harms students of colour.

Many people, especially affirmative action critics and testing advocates, assume that standardised tests like the LSAT are a neutral reflection of racial and ethnic differences in educational achievement. This study of elite law school applicants, matched on UGPA within the same institutions and majors, establishes that such an assumption lacks empirical support.

Organisations active in the effort to dismantle affirmative action have developed their litigation strategies around the assumption that the LSAT equals merit. Given the centrality of the testing issue to the affirmative action debate, it is essential that the fairness of the LSAT and other standardised tests be vigorously contested when 'reverse discrimination' challenges to law school admission policies are still in the pre-trial stage. Concerns over ethnic bias in standardised tests need to be linked to a more far-reaching and transformative critique of the conventional higher education testocracy.

GENDER ISSUES

Surveying gender bias at one midwestern law school

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From 1997 to 2000 there was a decline from 51% to 33% in the women represented in the class entering Northern Illinois University College of Law ('NIUCOL'). This was especially alarming because one of the administration's missions has been to provide access to the legal profession for persons belonging to groups traditionally under-represented in the profession. The decline was viewed as a possible step backward in what had previously been viewed as a very successful effort to recruit higher levels of women students.

Some members of the faculty began looking for new ways to encourage more women to apply to, and attend, NIUCOL.