

Those countries with small judicial systems tend to conduct little judicial education and generally produce no written resources to help judges. Nations with larger judicial systems generally have established organised judicial education systems. These training programs appear to range from well-established, such as those of Australia, Korea, and Thailand, to still-developing, such as those of Lao PDR, to those programs in a state of transition, such as that of Nepal.

Globalisation would attempt neither to amalgamate all judicial education nor even to define a 'right way' to train judges. A globalised system based on the generic principles of judicial education would improve and enhance court systems, irrespective of the country's legal system, size, wealth or age. Finally, globalisation of judicial education offers the three distinct benefits of improving the method, results and resources of existing education systems.

The educational approaches of today's courts differ profoundly. The civil law systems place faith in the traditional law school educational model, while the common law systems prefer the peer group educational model of continuing legal education. The distinctions between civil law and common law jurisdictions are decreasing or disappearing altogether as countries adopt effective principles of judicial education, regardless of their underlying legal system. The general principles of effective judicial education are the same everywhere.

The more one sets aside teaching local substantive law to judges and focusing more on processes, procedures and administrative matters, the more generic judicial education becomes. Analogous to procedural training are issues dealing with judicial independence, judicial correction, budget development and control, and methods of presiding as a Chief Judge. Curriculum development in these areas can be shared if there is a means to do so.

The globalising legal community heightens the realisation of its infectious effect on legal education. With its increased international interaction and cross-fertilisation of ideas, globalised judicial education would allow judges to have greater understanding of international contexts in an increasingly globalising world. The globalisation of judicial education offers three distinct benefits: the enabling of shared methodology for judicial education, judicial skills and improvement to judicial education programs that are in early phases of development. A worldwide organisation could be a catalyst for developing regional and local organisations devoted to judicial education. Cross-fertilisation of ideas and resources from outside can enhance the educators' ability to be effective and secure the expertise for proper evaluation.

Not only can globalisation improve the methodology of existing judicial education systems, but it can also improve the substantive output that judicial education is intended to improve. For example, there are certain issues that continue to arise throughout the world and for which there seem to be fairly unified approaches for resolution. Case management and mediation come to mind as examples. Expanding this principle of dialogue into a worldwide context allows the exciting possibility of learning from other judiciaries around the globe.

Aside from the obvious benefit of forming a worldwide database of ideas, models, and methods used or proposed in courts around the world, globalised judicial education can help provide the financial resources necessary to develop or improve existing judicial education systems. Once the generic nature of judicial education is accepted, awareness of the need for some method of cross-fertilisation of ideas and mutual assistance will emerge. Primarily the need would focus in two areas: what is taught and the best ways to teach. The rule of law and the concept of justice are worldwide and fundamental principles.

Globalising judicial education will be no simple task. If it is to be implemented, there must be some structure or organisation to make it possible. Consideration needs to be given to how and where this structure is to be developed, how it can be financed, how it will function, how it will be directed, who will direct it, how language barriers may be overcome, how it will be evaluated, and how it can facilitate the exchange of models, ideas and methods.

### **The law school rankings are harmful deceptions: a response to those who praise the rankings and suggestions for a better approach to evaluating law schools**

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40 *Hous L R*, 2003, pp 419–459

### **LAW SCHOOLS**

Nothing has had a more profound impact on legal education in the past generation than the phenomenal prominence of law school rankings. Few consider this a positive development, except that it responds to the public's acute need to find more and better information about these important institutions of higher education. Despite criticisms of the rankings being published, they continue unabated, and on occasion a voice is raised in their praise. A renewed effort to depict what is really

wrong with law school rankings is made and the problem of meeting the continuing need for information about law schools is addressed.

We often seek specific rankings for a commodity or service we wish to acquire. Law school rankings are not new, but probably enjoy more prominence now than ever in the past. As between prominence and credibility in law school rankings, there would seem to be a symbiotic relationship between greater credibility and greater prominence. Of those two qualities, however, prominence is clearly of greater importance because if a rankings scheme achieves sufficient prominence, credibility becomes subsumed in the prominence and may no longer be as explicitly important to rankings users, who might readily assume that credibility accompanies prominence.

Law school rankings are so deeply and inherently flawed in concept that their publication does a profound disservice to persons trying to evaluate law schools. This is not because the rankings lack validity, but because the rankings claim to do what cannot be done, and these claims are deceptive and harmful. Defences of the rankings attempt to show that the three major arguments against them are flawed. Users do not place too much reliance on them, because there is a lack of empirical evidence that prospective law students or others rely exclusively or even heavily on the rankings. They may be imprecise and unscientific in such areas as law school reputation but they roughly correspond to the way practising attorneys and law schools perceive certain schools. Finally, the response to the argument that the rankings address the wrong things is that such neglected categories of information are highly subjective and extremely difficult for an applicant to get information about. Proponents praise the rankings as being useful and convenient for applicants and for helping make law schools accountable by openly comparing them using important criteria and motivating them to undertake needed reforms.

Central to this critique of praise for rankings is the assertion that the very concept of a single ranking for law schools is a serious deception. If the intent of the ranking is to list data that may not be objective, and then to tell the reader what the interpretation of such a listing should be, no intelligent reader should be expected to accept such a ranking. The specific flaws in this approach, with respect to law school rankings, may be listed as follows: (1) No consensus has ever been attempted or achieved as to what qualities or features in a law school make a good law school; (2) What is meant by 'academic excellence' is not defined and most of the data categories used to determine these rankings are neither relevant to nor probative of that concept; (3) The rankings combine both objective data and non-objective data. To combine these two incompatible and mutually exclusive data sets into a coherent unitary statistical evaluation of academic excellence in a law school is impossible and irrational; (4) The rankings combine objective and non-objective data in arbitrary ways. The relative weights assigned to the individual data categories in the rankings are arbitrary and subjective; (5) Not only do the rankings not establish a connection of relevance between data categories and academic excellence, they also do not establish how their peculiar combination and weighting of disparate data categories have anything to do with academic excellence or with identifying the best or top law schools.

An examination of the principal types of data used in ranking law schools serves to gain an understanding about a law school's quality. The criteria used to rank law schools are either irrelevant or unknowable. Academic credentials of entering students, selectivity of a law school's admissions process, student to faculty ratio, placement rates, bar passage rates, expenditures, library collection and reputation are the data and methodology used which have been met with substantial criticism of the rankings. The most important criticism of these data is that they are purely subjective, as indicated by the following self-evident propositions: no one really knows the intrinsic quality of any law school, including one's own; no one really knows how the quality of one law school compares with the quality of any other law school; no one agrees with anyone else about the bases or criteria or priorities in making such comparisons; the temptations to rate one's own institution high and one's competitor institutions low are irresistible; and the tendency to translate one's ignorance about any particular law school into a low reputation rating is universal.

Of all the law school ranking criteria, only the academic credentials of incoming law students has any probative value in making comparative quality assessments of law schools. Selectivity is a superfluous and less specific attempt to provide the same information as is found in academic credentials. The student/faculty ratio begs the more important questions of class size, teaching loads, and a culture of caring. Placement rates are virtually the same for many law schools and give little basis for differentiating. Bar passage rates cannot be measured in any way that gives insight into the program of a particular law school. Expenditures are not adjusted for geographical differences or idiosyncratic institutional factors, and in any event are not demonstrably correlated with a law school's quality. Library size beyond the core collection required of all law schools is not rationally related to the quality of instruction. Reputation data are mostly based on respondents' uninformed, imaginary

perceptions. Finally, to pretend to rank law schools in a single order striving toward the championship title of 'best' borders on fraud.

As an alternative to rankings in making rational judgments about the best law school to attend, law school websites are an especially good source for finding out information unique to the law school, particularly with respect to information about the character of students and faculty, special amenities provided in the law school physical plant and law library, and other useful information peculiar to the institution. A law school's informative but ultimately self-serving representations on a website can be supplemented by the prospective applicant visiting the law school itself.

With respect to criteria used as determinative of the most 'academically excellent' law schools, the probity of the rankings data categories has been discredited in the following terms: (1) Strong reputation. This is a perception with no discernible relation to reality; it offers vague insight into career opportunities for graduates of the law school without giving any information about school itself. (2) Entering students with strong academic credentials. This is an important element in determining if a law school attracts high quality students, although it is not the complete measure. (3) Low selection rate for applicants. This attempt to measure selectivity is compromised by the large range of possible subjective reasons persons have for applying to law schools or accepting offers of admission. (4) High expenditures per student. It is impossible to establish a reliable connection between this figure and any known characteristic of a good law school. (5) High rate of job placement. This number may indirectly reflect the range of opportunities enjoyed by graduates of a law school, perhaps related in part to the law school's reputation, but cannot give a definitive picture of the placement assistance or training provided to the students, or how their own individual prospects are enhanced by law school efforts on their behalf. (6) High rate of success on the bar exam. This cannot be consistently measured, because the cross-section of a law school's students taking any particular bar exam may not be representative.

There are too many different factors of varying subjective importance to individual applicants that must be considered, so that a single ranking scheme is not feasible or useful. A basic list of what knowledgeable observers could agree are the basic attributes of a good law school require excellence not only in providing legal instruction but also include: an atmosphere and routine in the classroom that is rigorous and conducive to learning; a faculty that is exceptionally knowledgeable, skilled in classroom instruction, and committed to mentoring and nurturing students to the best of their ability; a rich curriculum, including substantial instruction in so-called skills courses and opportunities for supervised practical experience; a comprehensive and effective academic assistance program; highly qualified students who contribute to an academic and social atmosphere that promotes learning and preparation for professional life; physical facilities and technical resources that promote comfort and efficiency in study; administrative organisation and regulations that facilitate the processes of study and learning; career services that enhance both student skills and career opportunities appropriate for each student's qualifications; full access to all law school resources and benefits for all students; reasonable tuition and other expenses and an environment and location that are conducive to learning and preparing for a professional career.

By making use of available information from reliable publications, law school websites, and thoughtful visits to selected law schools, prospective law students would be able to make far more intelligent, thoughtful, and soul-satisfying decisions than by placing risky reliance on the rankings. Choosing a law school can be one of life's most important decisions, leading to lifelong friendships, edifying collegial and professional relationships and career satisfaction, and should be free of the irrationality of rankings.

### **Law school branding and the future of legal education**

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34 *St Mary's L J*, 2003, pp. 301–361

The conscious use of 'branding' in legal education will utterly transform it. Although product (or service) differentiation among law schools has existed for years, those differences have long been downplayed by law schools, as well as the accrediting body for American law schools. The reason that these homogenising efforts have succeeded until recently is due to the rise and development of the modern law school, the effect of American Bar Association accreditation as a barrier to entry and the massive increases in those interested in obtaining a legal education in the past 30 years. These factors tilted the relationship between the law school and the law school applicant in favour of the former.

However, a recent shift in favour of the consumers of education has led law schools consciously to brand themselves, claiming an educational distinctiveness in selling their services to those consumers.

## **LAW SCHOOLS**