

## **Strength in Numbers? The Advantages of Multiple Rankings**

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Over the last fifteen years, the *U.S. News & World Report* (“*U.S. News*”) rankings have become increasingly influential in the world of legal education. These widely disseminated public measures of law school quality are a popular topic among academics as well as in the media, and they have prompted critical responses from virtually every major law school organization—including the Law School Admissions Council (LSAC), the American Association of Legal Scholars (AALS), the National Association of Law Placement (NALP), and the Society of American Law Teachers (SALT). Many legal educators have also criticized the rankings and attempted to temper their influence. Most notably, since 1997 a letter detailing the deficiencies of the rankings and signed by a vast majority of law school deans has been sent to all students who register to take the Law School Admission Test (LSAT) and is posted on the LSAC web site.<sup>1</sup> The letter questions the quality of information provided by *U.S. News*, alleging that the rankings cannot take each student’s “special needs and circumstances into account,” and that they fail to measure many factors that students claim are most important in their choice of law school, such as the quality and accessibility of teachers; faculty scholarship; racial, gender, and economic diversity within the faculty and student body; the size of first-year classes; the strength of alumni networks; student satisfaction with their education; and cost.<sup>2</sup>

Despite this and many less-public attempts to challenge the validity, narrow the scope, or curb the influence of the *U.S. News* rankings, the significance of rankings has only grown, and many within the legal community now regard them as inevitable. In the words of one administrator, “We can’t make them go away. We don’t control them. I would say that the bottom line on rankings is that they are here and you’ve got to deal

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1. LAW SCHOOL DEANS SPEAK OUT ABOUT RANKINGS (Law School Admission Council 2005), available at <http://www.lzac.org/pdfs/2005-2006/RANKING2005-newer.pdf>. Presently, 177 of 187 of the deans of the American Bar Association (ABA) accredited law schools have signed this letter.

2. *Id.*

with them.”<sup>3</sup> This sense of inevitability is buttressed by the growth of the ranking industry and broader trends toward quantification and accountability. The production of rankings has been an extremely profitable enterprise for *U.S. News* and other rankers of educational institutions, and the influence of these types of media rankings is spreading.<sup>4</sup> Magazines and newspapers in Asia, Canada, Finland, Germany, and Great Britain—just to name a few—have issued their own rankings of local institutions. Moreover, as prominent programs like No Child Left Behind demonstrate, pressure for quantitative evaluation has increased enormously, creating what scholars describe as an “audit society”<sup>5</sup> and a global “audit culture.”<sup>6</sup> These trends all indicate that rankings are here to stay.

If rankings have become a permanent element of legal education, it is important to carefully evaluate their consequences and devise strategies for mitigating their most damaging effects. As prominent, widely disseminated measures, there are strong incentives for manipulating ranking factors, manipulations that do not always enhance legal education.<sup>7</sup> Administrators consistently report feeling pressured to choose between doing “what is good for the law school and what is good for rankings.”<sup>8</sup>

In light of these effects, this article considers to what extent some of the harmful consequences of rankings are a result of *U.S. News* holding a virtual monopoly over the ranking of law schools. By comparing the effects of law school rankings (a field where one ranker dominates) to those of business schools (a field where multiple influential rankers evaluate schools), we are able to suggest how the effects of law school rankings might be mitigated if more than one credible ranking system existed for legal education. We argue that multiple rankers create a degree of ambiguity about the relative standing of schools and that this ambiguity allows schools to regain

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3. Authors' in-depth interview with a law school administrator. The authors conducted 134 in-depth interviews with law school administrators, faculty, or administrators of national legal education associations. The authors also conducted 30 in-depth interviews with business school administrators, seventeen interviews with law school admissions personnel, and 93 short interviews with prospective law students. Because these interviews were conducted with an express understanding of confidentiality between the authors and the interviewees, none of the interviewees are identified in this Article; citations to “Authors' interview” refer to one of the in-depth interviews. For more details on this data, see *infra* Part I.

4. Law school rankings are reported in an issue that ranks other professional schools and graduate programs. *U.S. News* also publishes annual rankings of undergraduate institutions. These two ranking issues are best sellers. As Mel Elfin, the *U.S. News* editor who helped launch the rankings, put it, “It became, essentially, our franchise.” Roger Parloff, *Who's Number One? And Who's Number 52, 91, and 137?*, AM. LAW., Apr. 5, 1998, at 7. *U.S. News* also publishes rankings online, and began charging for access to its web site in 2003. While we do not know current usage rates on the day rankings were posted in 1998, the *U.S. News* site received 3.3 million hits. At peak times, the site was accessed 160 times per second. *College Rankings Spike Web Traffic for U.S. News & World Report; Wordweb Servers Withstand Peak Loads of 160 Requests Per Second*, PR NEWSWIRE, Aug. 27, 1998, available at LEXIS PR Newswire.

5. See MICHAEL POWER, *THE AUDIT SOCIETY: RITUALS OF VERIFICATION* (1997).

6. See *AUDIT CULTURES: ANTHROPOLOGICAL STUDIES IN ACCOUNTABILITY, ETHICS AND THE ACADEMY* (Marilyn Strathern ed., 2000).

7. Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229 (2006).

8. Authors' interview with school administrator; see also *supra* note 3.

reputational control, decreases the significance of small differences and small changes, and, most importantly, undermines the validity of the rankings in some measure.

We conclude by suggesting that the development of rankings to compete with *U.S. News* would be an effective tactic for combating the most pernicious effects of law school rankings. We also provide a warning that this strategy is not without risk: although multiple rankings might limit the influence of the *U.S. News* rankings and enhance the discretion and autonomy of legal educators, the proliferation of rankings would also tend to reinforce rankings as the legitimate mode of accountability in higher education. Such a change, we caution, has the potential to exacerbate the short-term orientation that rankings foster while marginalizing more deliberative, nonquantitative methods of evaluation.

### I. DATA

Our data were collected as part of a larger project investigating the effects of rankings on legal education. This study draws primarily on interviews with law and business school administrators, faculty, and staff. We conducted 134 open-ended interviews (averaging about forty-five minutes) with law school personnel, focusing on the positions within the law schools most affected by the rankings: the dean, and the deans or directors of admissions and career services.<sup>9</sup> Our sample includes interviews from people in fifty-two of the roughly 185 ABA-accredited U.S. law schools. We also visited seven focus schools where we interviewed key personnel in different positions to understand better how rankings penetrate organizations. Our interviews addressed whether and how rankings have affected legal education, and if these effects varied across school types, focusing on variations by rank, ranking trajectory, mission, location, and size.<sup>10</sup> Approximately half of our interviews were conducted in person and half by telephone. Except in a few cases where permission was denied, all interviews were tape recorded and transcribed.

We also conducted thirty in-depth interviews with business school administrators to determine how the effects of rankings vary across educational fields. Because, depending on the ranking consulted, only the top 25 or 50 business schools are ranked, this sample was concentrated on these elite schools. Twenty-five schools were represented in these thirty interviews. As in the case of law schools, variations in rank, trajectory, and size oriented the sample; in addition, and unlike the case of law schools, administrators from schools that ranked considerably differently across different rankings were also sought out to be interviewed. These interviews averaged

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9. Of the 134 in-depth law interviews, thirty-seven interviewees were deans or ex-deans, forty-five were other members of a school's administration—primarily deans or directors of admissions and career services, and also deans of academic affairs, external relations, etc.—thirty were faculty members, six were administrators of national legal education associations, and nine were with people in other administrative or staff positions (e.g., directors of external affairs, student affairs, librarians, and staff).

10. In terms of variation by rank, for example, we interviewed people from twenty-one different schools that have been ranked in the fourth tier, twenty-six schools in the third tier, twenty-two schools in the second tier, and eighteen schools in the first tier. Of the first tier schools, we interviewed twelve people from schools that had been ranked in the top 25, including five schools in the top 10.

approximately thirty minutes in length and were conducted over the telephone, tape recorded, and transcribed.

In addition to these interviews, we draw on several other sources of data. We conducted an additional seventeen short interviews (averaging about ten minutes) with law school admissions personnel as well as ninety-three short interviews (averaging five minutes) with prospective law students at an admissions fair organized by the LSAC. Finally, for this study we also analyzed a wide variety of organizational material produced by and public information concerning law schools. These sources include a content analysis of promotional material and internet information published by law schools, a quantitative analysis of organizational statistics focusing on the effects of rankings on admissions practices, and analyses of both chat room activity and news stories that pertained to the rankings.

## 11. LAW SCHOOLS

The field of legal education is dominated by *U.S. News's* annual ranking. No other ranking comes close in popularity or influence, especially among prospective students.<sup>11</sup> *U.S. News* first ranked law schools in 1987 and began ranking them annually beginning in 1990. While *U.S. News* also ranks undergraduate institutions, other professional schools, and graduate programs, law schools are treated uniquely. Whereas only the top 50 schools in the other professional fields are ranked, the magazine ranks each law school accredited by the ABA. During most of the period since 1990, law schools were divided into four tiers: the top tier listed the fifty highest-rated programs in order of rank, while the remaining schools were separated into the second, third, and fourth tiers and listed alphabetically within these tiers. Beginning with the 2004 rankings, *U.S. News* reported the top 100 law schools by rank, and divided the remainder of the schools into the third and fourth tier, again listing these schools alphabetically. One reason why rankings have had a powerful effect on law schools is that *U.S. News* publicly evaluates *every* school, not just the top schools.

*U.S. News* rankings are comprised of four general categories: reputation, selectivity, placement success, and faculty resources. While some adjustments have been made in the methods used to construct the rankings, their basic structure has remained the same. Reputation decides 40% of a school's overall score and is determined according to responses to surveys that are sent to academics and practitioners. Respondents are asked to rank each of the approximately 180 accredited law schools in the U.S. according to a five-point scale. The ratings of academics are weighted more heavily in the overall score (25%) than are the ratings of practitioners (15%). The survey of academics is sent to the dean, associate dean, chair of recruitment, and the last tenured faculty member of each ranked law school.

The selectivity of the law school accounts for 25% of the overall score and is determined by three factors. Student LSAT scores count for 50% of the selectivity

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11. The Educational Quality Rankings of U.S. Law Schools (now Leiter's Law School Rankings) produced by Brian Leiter was the only other ranking mentioned with any frequency in our interviews with administrators. Leiter's Law School Rankings, <http://www.leiterrankings.com> (last visited Nov. 18, 2005). While some deans prefer these rankings since they emphasize faculty productivity, they were not viewed as a serious competitor to *U.S. News*, especially for prospective students.

ranking (12.5% of the overall score), while GPA represents 40% (10% overall). Finally, the acceptance rate of a school, the ratio of students accepted to the number of students who applied, accounts for 10% of the selectivity score (2.5% overall).

Placement success accounts for 20% of the overall ranking. It is determined by three measures: percent of students employed at graduation, percent employed nine months after graduation, and the bar passage rate. These factors account for 30%, 60%, and 10% of the placement score, respectively, and 6%, 12%, and 3% of the overall ranking.

Finally, faculty resources represents 15% of the overall ranking and is composed of four separate measures: expenditure rate per student (for instruction, library, and supporting services), student-faculty ratio, "other" per-student spending (primarily financial aid), and volumes in library. These factors account for 65%, 20%, 10%, and 5% of the faculty resources indicator, respectively.

**Table 1.** *U.S. News* rank weighting by category of evaluation

General categories	Weight in overall score	Subcategories	Weight in general category	Weight in overall score
Reputation	40%	Academics (dean, associate dean, chair of recruitment, last tenured faculty member)	62.5%	25%
		Practitioners	37.5%	15%
Selectivity	25%	Student LSAT scores	50%	12.5%
		Student GPA	40%	10%
		Acceptance rate	10%	2.5%
Placement success	20%	Percent employed at graduation	30%	6%
		Percent employed nine months after graduation	60%	12%
		Bar passage rate	10%	3%
Faculty resources	15%	Library expenditure rate per student	65%	9.75%
		Student faculty ratio	20%	3%
		Other per-student spending (e.g. financial aid)	10%	1.5%
		Volumes in library	5%	.75%

Source: U.S. NEWS & WORLD REPORT, AMERICA'S BEST GRADUATE SCHOOLS 2005 50 (2005).

To compile the ranking, each school's score is standardized. These scores are then weighted, totaled, and rescaled so that the top school receives a score of 100 and other schools receive a percentage of the top score.<sup>12</sup> In addition to these composite rankings, eight specialty programs are also evaluated. Less information is available about how these rankings are created, but they are based on surveys sent to legal educators who pick the top 15 schools for the designated specialties. In the most recent rankings issue, for example, *U.S. News* evaluated specialties in clinical training, dispute resolution, environmental law, healthcare law, intellectual property law, international law, tax law, and trial advocacy.

### A. The Effects of Rankings

To date, there has been spirited debate about the positive and negative consequences of the law school rankings but surprisingly little empirical research addresses their effects.<sup>13</sup> Consequently, the main goal of our larger project is to specify

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12. U.S. NEWS & WORLD REPORT, AMERICA'S BEST GRADUATE SCHOOLS 2005, 50 (2005).

13. See generally, Mitchell Berger, *Why the U.S. News and World Report Law School Rankings Are Both Useful and Important*, 51 J. LEGAL EDUC. 487 (2001); Paul L. Caron and Rafael Gely, *What Law Schools Can Learn from Billy Beane and the Oakland Athletics*, 82 TEX. L. REV. 1483 (2004); Russell B. Korobkin, *In Praise of Law School Rankings: Solutions to Coordination and Collective Action Problem*, 77 TEX. L. REV. 403 (1998); Nancy B. Rapoport, *Ratings, Not Rankings: Why U.S. News & World Report Shouldn't Want to Be Compared to Time and Newsweek—or the New Yorker*, 60 OHIO ST. L.J. 1097 (1999); Jane Easter Bahls, *The Ranking Game*, STUDENT LAW, Mar. 2003, available at <http://www.abanet.org/lstd/stulawyer/mar03/rankinggame.html>; Dale Whitman, *Doing the Right Thing*, THE NEWSLETTER, Apr. 2002, at 1.

A notable exception is Richard Schmalbeck's analysis of the relationship between law school rank and reputation scores. See Richard Schmalbeck, *The Durability of Law School Reputation*, 48 J. LEGAL EDUC. 568 (1998). Focusing on schools in the top 50, he finds that the reputations of law schools are relatively durable and that rankings have done little to change perceptions of school quality among those who fill out the *U.S. News* survey; a drop in rank during one year, for instance, does not have a negative effect on a school's reputation score in the following year's survey. Thus, Schmalbeck is cautiously optimistic that the rankings have only limited effects on law school reputations. Research concerning the effects of rankings in other fields, though similarly sparse, has produced compelling results. James Monks and Ronald G. Ehrenberg's study of elite colleges shows that movement in rank affects the number of applicants these colleges received, their selectivity in admissions, their yield rate, and how they deployed scholarship money. James Monks & Ronald G. Ehrenberg, *The Impact of U.S. News & World Report College Rankings on Admissions Outcomes and Pricing Policies at Selective Private Institutions* (Nat'l Bureau of Econ. Research, Working Paper No. 7227, 1999). Elsbach and Kramer find that even small changes in business school rankings evoke an "organizational identity crisis." Kimberly D. Elsbach and Roderick M. Kramer, *Members' Responses to Organizational Identity Threats: Encountering and Countering the Business Week Rankings*, 41 ADMIN. SCI. Q. 442 (1996). McDonough et al., in their analysis of how prospective undergraduates use rankings, argue that rankings intensify the "reputation game" played by colleges as they focus the attention of prospective students on the purported prestige of schools rather than on the fit between the school and the particular student's interests and needs. Patricia McDonough, Anthony Lising Antonio, MaryBeth Walpole & Leonor Perez, *College Rankings: Democratized College Knowledge for Whom?*, 39 RES. HIGHER EDUC. 513, 531 (1995).

the effects of *U.S. News* ranking on legal education. Although our central concern here is not to document ranking effects, our broader findings do suggest that rankings have prompted important changes in legal education.<sup>14</sup> Most generally, we argue that rankings influence many aspects of legal education: they have profoundly altered the terms under which law schools are accountable to their constituents; they influence a broad range of decisions; and they have changed how many in the legal community make sense of the identity of their own and others' schools. Two brief examples give a sense of the tangible consequences of these changes.

First, the *U.S. News* ranking has clearly altered the distribution of resources—resources of time, money, and attention—within law schools. As one dean described it:

Almost everything we do now is prefaced by, “How will this affect our ranking?” That never was the case before. We did things according to what we thought was best for the law school; we did not do things because we thought they were good for our law school rankings. And I think there is a difference between the two. Tons of money—not just here, but at other law schools around the country—is being spent on public relations now that was never spent before. I cannot tell you how many wastebaskets of crap that I throw away—glossy, expensive crap that I get from law schools all over the country in an effort to advertise themselves.<sup>15</sup>

In addition to a steep increase in the amount of money spent on promotional material and other forms of marketing, many administrators note that rankings have prompted schools to spend much more money on merit scholarships than in the past, as schools attempt to attract students who score well on a key component of rankings.

Second, rankings have also changed the nature of many administrative positions by constraining the discretion of administrators and controlling the terms of their accountability. One clear example of this is in the field of career services. Rankings have forced schools to be more attentive to their placement outcomes, and while this attention is welcome, it does not always take constructive forms. Pressure to boost placement statistics has encouraged schools to broaden their definition of employment to include non-legal jobs and to invest heavily in tracking students who do not respond to their employment surveys. As one director of career services explained, schools must invest heavily in tracking down students:

It just takes an enormous amount of time that would otherwise be spent on advising. We spend at least a day a week [on it] . . . . And I am the only career counselor at this point, I'm the only career counselor for [over 500] students. That's time where students can't come to me.<sup>16</sup>

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14. Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of U.S. News & World Report Rankings on the Admissions Process of Law Schools*, 40 *LAW & SOC'Y REV.* (forthcoming Mar. 2006); Wendy Espeland & Michael Sauder, *Quantitative Authority and the Reflexivity of Rankings* (paper presented at the Annual Meeting of the Law and Society Association, Chicago, Ill., June 3–7, 2004) (on file with author); Wendy Espeland & Michael Sauder, *The Allure of Numbers: Law School Rankings and the Rationalization of Reputation* (paper presented at the Annual Meeting of the Law and Society Association, Pittsburgh, Pa., June 5–8, 2003) (on file with author).

15. Authors' interview with a law school dean; *see also supra* note 3.

16. Authors' interview with a director of career services; *see also supra* note 3.

Many in career services complain that instead of helping students define and prepare for their career goals, they are forced to spend time harassing them for employment statistics, a practice which undermines much of what they find satisfying about their jobs.

While these examples highlight a few of the negative effects of the *U.S. News* ranking, it is also important to recognize the positive effects that some attribute to rankings. Some legal educators believe rankings provide a valuable service. Although a distinct minority of deans refused to sign the letter critical of law school rankings, at least some deans view the *U.S. News* ranking as a helpful if imperfect measure of performance.<sup>17</sup> For this group, rankings formalize well-known, if ambiguous, reputations; provide students and administrators with useful information; and provide valid benchmarks for schools to use to improve themselves. As one dean put it:

In the past a dean could pontificate about how great his program was, but now it's harder to pull the wool over people's eyes. With these numbers, you can't just talk. The basic things that law schools do are still all there: we want to get the best students, the best faculty, and we want our students to be successful. Our job and our career goals haven't changed, but now we have metrics. I think it's just like *Consumer Reports* for cars. You can quarrel with individual things, you can quibble with the formula, but we have a wonderful product and it's good for people to know.<sup>18</sup>

According to this view, rankings not only provide useful information to external constituents, they also require law schools to be more accountable for the education that they provide while supplying law schools with useful performance measures.

Given the effects of the *U.S. News* ranking, our goal here is to examine why this ranking has become so influential for law schools. We propose that one significant factor that contributes to this influence is that the field of legal education is dominated by a single ranker. The dominance of a single ranker creates three key problems for law schools—small changes and small differences gain disproportionate importance, control over reputation is severely restricted, and the validity of rankings goes unquestioned—and show how these problems exacerbate the consequences of being ranked. We use the case of business schools and their rankings to suggest how multiple rankings mitigate some of the negative effects caused by these problems.

### *B. The Importance of Small Differences*

One common criticism of the *U.S. News* ranking is that it misrepresents the actual distribution of law school quality. Leaving aside the serious methodological and measurement questions that have been raised about rankings,<sup>19</sup> many administrators

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17. Only 10 of the 187 deans refused to sign the letter. Law School Admissions Council, *supra* note 1.

18. Authors' interview with a law school dean; *see also supra* note 3.

19. This is not meant to downplay the importance of the methodological problems with the *U.S. News* ranking, but these problems are not the focus of this study. For critiques, see Richard Lempert, *Pseudo Science as News: Ranking the Nation's Law Schools* (paper presented at

believe that the act of ranking in itself skews perceptions of the quality of law schools. The precise nature of rankings both creates the perception of differences in school quality where none exists (e.g., with the very precise ordinal rankings of the top 100 schools) and exaggerates small differences in quality (especially at the cusps between tiers). By magnifying the importance of trivial differences, rankings change the phenomena that they purport only to measure.

While some argue that these small differences in rank are insignificant—and statistically speaking, they would be correct—the differences matter to law schools because they are meaningful to influential external constituents. It is important whether a school is 9th or 12th, 23rd or 28th, second-tier or third-tier, because these small differences have a significant influence on how constituents perceive and behave toward law schools: many administrators believe that they influence prospective students' decisions about which schools to attend, employers' decisions about whom to hire, and the decisions of alumni about how much to give to their alma maters. Michael Sauder and Ryon Lancaster's forthcoming statistical analysis of school-by-school admissions data and ranking over time supports this claim for prospective students; they find that rank has significant effects on the total number of applications schools receive, the applications schools receive from top students, and the schools' matriculation rates.<sup>20</sup>

Because they believe these small differences to be decisive, law schools are pressured to optimize their ranking by adopting such strategies as basing admissions decisions more heavily on LSAT scores, spending more money on merit-based scholarships in order to "buy" top students, or producing expensive glossy brochures to be sent to those who fill out the *U.S. News* survey. The importance of small differences suggests why law schools devote so much attention and so many resources to the rankings while simultaneously claiming that the rankings are unsound. As one dean explained,

You have people who focus on whether or not the rankings are in fact valid, whether they really show anything, whether the methodology is good, and so on. And those debates can seem endless at times as everybody kind of decries the rankings. On the flip side, you have the pragmatic reality of the rankings. . . . Whatever the validity of the methodology, it's difficult to pretend that the rankings don't matter. I mean, prospective students use them; employers use them; university administrators use them. So whether we in legal academics think they're valid or not, whether they're reflective or not, the truth is that I don't think you can just ignore them.<sup>21</sup>

In other words, one reason law schools attempt to maximize their rankings is because small differences can have considerable effects on the actual quality of the school by altering how outside audiences perceive a school and behave toward it.

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American Association of Law Schools, New Orleans: Jan. 2002) (on file with author); STEPHEN P. KLEIN & LAURA HAMILTON, *THE VALIDITY OF THE U.S. NEWS AND WORLD REPORT RANKING OF ABA LAW SCHOOLS* (1998), <http://www.aals.org/validity.html>. For a discussion of important school characteristics that are neglected in *U.S. News* rankings, see *supra* text accompanying note 2. Given these criticisms, the precise distinctions made by *U.S. News* for something as complex and hard to quantify as law school quality are difficult to justify.

20. See Sauder & Lancaster, *supra* note 14.

21. Authors' interview with a law school dean; see also *supra* note 3.

The effects of this emphasis on small differences become clear when schools drop in the rankings. These drops cause ripples of activity throughout the institution: administrators call town meetings or issue public statements to explain even small drops in the rankings; they report receiving phone calls and e-mails from alumni, students, and local media over such falls; concerns about the school's standing and trajectory are raised in faculty meetings; and, because student self-images are tied closely to the rank of their schools, these drops cause some students—even those at “elite” schools—to experience feelings of inadequacy or, more often, betrayal. As one dean reported:

There was one year that [our school] dropped out of the top twenty-five. . . . The students were devastated—they thought they had come to a top twenty-five school and, my goodness, they were only at a top [thirty] school.<sup>22</sup>

While these small changes affect schools no matter where they rank, they are most consequential for schools located on the cusps between the tiers created by the rankings. These are the points where statistically insignificant differences in rank can make schools appear qualitatively different. Schools of the same quality look vastly different in *U.S. News's* annual publication if one is ranked 50th and the other is ranked 51st. Again, changes in rank demonstrate this well:

When we dropped [out of the first tier], we weren't called fifty-first, we were suddenly in this undifferentiated alphabetized thing called the second tier. So the [local newspaper's] headline is '[School X] Law School Drops to Second Tier.' My students have a huge upset: 'Why are we a second tier school? What's happened to make us a second tier school?'<sup>23</sup>

Small differences and small changes in rank matter to schools because they matter to influential outside audiences; reasonably, administrators react to this hyper-precision by attempting to maximize their rank as best they can. In this way we can see how this aspect of rankings contributes to some of their most negative effects.

### *C. Loss of Reputational Control*

A second effect of the *U.S. News* ranking is that it limits schools' control over their reputations. The *U.S. News* ranking has created a prominent definition of law school quality to which students and other constituents pay close attention. This definition, according to many administrators, overshadows other distinctive characteristics around which schools have traditionally developed and fostered their identities. According to the administrators' view, schools are qualitatively different institutions, each with their own distinctive missions, strengths, and specialties.<sup>24</sup> As such, they should be able to

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22. *Id.*

23. *Id.*

24. See BURTON R. CLARK, *THE DISTINCTIVE COLLEGE: ANTIOCH, REED, AND SWARTHMORE* (1970) (showing how universities conduct themselves as distinctive institutions with unique identities); Burton R. Clark, *The Organizational Saga in Higher Education*, 17 *ADMIN. SCI. Q.*

craft their reputations to their strengths, developing strategies for marketing themselves to students who would benefit most from or be most interested in these qualities. Because of the ranking, however, administrators believe it is much more difficult now for schools to craft their reputations because the definition of the school embedded in the rankings eclipses the unique characteristics and strengths of a particular school. As one dean explained,

There is this kind of fraud that the rankings perpetrate about “you’re a fourth-tier school so you must not be any good,” or “you’re a first-tier school so really great things are happening there.” The truth is that most American law schools are . . . unique places. When people are looking at law schools we always encourage them to go look at the place because not every place is for everybody, and . . . there are radically different approaches to teaching, there are radically different approaches on all kinds of things.<sup>25</sup>

While the limitation of reputational control may seem a rather abstract effect of the *U.S. News* ranking, the consequences of this change are very tangible for admissions personnel as they try to convince prospective students that their school is right for them. When asked how they counter students’ obsession with rankings, admissions officers often try to invoke the idea of “fit” between the school’s strength and the student’s interests. The notion of “fit” implies that the quality of specific programs as well as a student’s comfort level at the school is as important as the general standing of the institution. These same admissions officers, however, noted that this idea of “fit” has been pushed to the background as students increasingly base their decisions on *U.S. News* rankings.

The effects of this loss of reputational control stretch beyond student recruitment, limiting the claims that schools can make in more subtle and damaging ways. The universal and standardized criteria used to construct rankings imply that all law schools are essentially the same thing: they all have the same goals and motives and can be fairly compared with each other along the same set of dimensions. Such commensuration squarely contradicts the schools’ notions of themselves as unique institutions; nevertheless, by introducing a powerful definition of what a quality law school is, *U.S. News* privileges one definition of what a law schools should be over all others. This punishes schools whose missions deviate from this definition and encourages schools to make changes to maximize their standing according to the definition put forth by *U.S. News*:

It’s wrong that a school that has a mission that’s not Harvard or Chicago to be slapped and say, “Why, you’re a crummy school, because you’re not doing what Harvard is doing.” So that’s the devastation. It makes all of us spend hundreds of thousands of dollars on marketing stuff that we have to do.<sup>26</sup>

The ability of law schools to create a reputation based on values other than those used by *U.S. News* to construct the rankings is now restricted. This is why one fear commonly expressed by members of the legal education community is that the rankings

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178 (1972) (highlighting the non-structural and non-rational dimensions of organizations of higher education).

25. Authors’ interview with a law school dean; *see also supra* note 3.

26. Authors’ interview with school administrator; *see also supra* note 3.

will have a homogenizing effect on the field.<sup>27</sup> Schools with missions that diverge from the “ideal” law school—as implicitly defined by the criteria and the weights assigned to the criteria of the *U.S. News* rankings—face the dilemma of either modifying their missions so as to fare better in the rankings or stay true to their missions and risk the stigma of being perceived as a “bad law school” by those who use the rankings uncritically.<sup>28</sup> In other words, if one accepts the *U.S. News* rankings’ very specific definition of the values by which law school reputation is evaluated, and if one believes that all law schools are attempting to do as well as possible based on these criteria, then different law schools look like inferior law schools. The *U.S. News* rankings limit the claims that law schools can make about their standing in the law school community, and in doing so create a pressure for schools to become more homogenous.<sup>29</sup>

#### *D. Rankings Appear Valid*

A third and related problem created by a single ranker is that administrators believe that external constituents, especially prospective students, are uncritical consumers of the rankings. Many administrators see their constituents treating the rankings “like the bible” or as if they are “written in stone.” As one current law school student explained,

Students who use *U.S. News* aren't necessarily concerned about measurement error in the rankings. The ranking is important in itself. I know I wasn't concerned with methods. I just figured they knew what they are talking about and I didn't know any way to compare their schools and so I wasn't concerned about measuring errors or how accurate the rankings were. I knew that this is what everybody was looking at and what everybody else is using, so I was willing to take [*U.S. News's*] word for it.<sup>30</sup>

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27. See Stake, *supra* note 7.

28. Examples would be schools that emphasize access to legal education, accept under-represented students as well as those with high LSAT scores and GPA's, or are committed to public interest as opposed to, for instance, corporate law.

29. Research on organizations, cognitive psychology, and behavior economics demonstrate biases in how people assess risk, interpret change, and process information. See JAMES G. MARCH & HERBERT A. SIMON, *ORGANIZATIONS* (1958) (explaining various postulates in organization theory about responses to differing motivational constraints); HERBERT A. SIMON, *ADMINISTRATIVE BEHAVIOR* (3d ed. 1958) (studying the understanding of decision-making processes in administrative organizations in response to inputs); Daniel Kahnemann and Amos Tversky, *On the Psychology of Prediction*, 80 *PSYCHOL. REV.* 237 (1994); Richard Thaler, *Mental Accounting and Consumer Choice*, 4 *MARKETING SCI.* 199 (1985); Amos Tversky, *Elimination by Aspects: A Theory of Personal Choice*, 84 *PSYCHOL. REV.* 327 (1972); Amos Tversky, *Intransitivity of Preferences*, 79 *PSYCH. REV.* 281 (1977). See also Carol Heimer, *Cases and Biographies: An Essay on Routinization and the Nature of Comparison*, 27 *ANN. REV. SOC.* 47 (2001) (discussing how different ways of organizing information can have important effects on what is being evaluated). Schools, like people, can be assessed as either “individuals” or as “composites of numbers,” and the choice of evaluative mode will have a significant effect on how the school is evaluated.

30. Authors' interview with a law school student; see also *supra* note 3.

Some attribute this uncritical stance to the “aura of objectivity” and scientific implications that accompany such precise statistical presentations. As one dean said, “[It is] the reification of this stuff to the decimal point that makes it look like a science and is what makes [the ranking] so destructive.”<sup>31</sup> Some administrators also point out that the rankings are so readily accepted because it saves prospective students from doing a lot of research about which school is best for them; they simply check a school's current rank.

One problem with the uncritical acceptance of the ranking's validity is that the ranking presents just one of many possible—and equally justifiable—ways to conceptualize law school quality. The arbitrary aspects are easy to overlook if one is uncritical. Not only are the methodological problems of the rankings pushed to the background, but so too are the very influential and often taken-for-granted background decisions and assumptions about which factors are included in the rankings and how weights are assigned to these factors. These decisions are consequential and difficult to justify, since there are multiple appropriate criteria and since alternative weights would be equally defensible.<sup>32</sup> One dean said, “I think probably the biggest danger [is] people thinking that the rankings are anything more than one set of opinions.”<sup>33</sup> Adding insult to injury for the administrators, this dominant definition of law school quality is produced by non-experts in legal education. These very influential decisions about the construction of the rankings have been made by journalists and statisticians: “The scam is that what they have done on their own is determine what the standards are that they are going to use for ranking institutions. And they have managed to get people to buy into those standards.”<sup>34</sup>

A second problem created by an uncritical approach to the ranking is more practical. The literalness with which outside audiences use rankings is consequential because, as was discussed above, each small distinction made by the rankings—again, a distinction that is likely to be statistically meaningless—is reified as a real difference among schools in the eyes of constituents. As one administrator explained:

The difference between a school that is 15th and a school that is 16th and a school that's 19th and a school that's 25th and the difference between a school that is 60th and one that is 50th—none of them in any sense could be quantifiably justified in anything other than a set of arbitrary stop points that people have made. But any time you put anything in an ordinal ranking, people tend to treat each stop point as if it matters. From my perspective, that's just not rational behavior but it's perfectly consistent with the way all of us treat everything.<sup>35</sup>

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31. Authors' interview with a law school dean; *see also supra* note 3.

32. The influence of these weights is demonstrated in a web site developed by Jeffrey Stake that allows students to determine the weight of each factor according to their own preferences. Jeffrey E. Stake, *The Law School Ranking Game* (2005), <http://monoborg.law.indiana.edu/LawRank/index.html> (last visited Aug. 23, 2005). As Stake's “Ranking Game” shows, even small changes in the relative weights of these variables can make substantial differences in the rank ordering of schools.

33. Authors' interview with a law school dean; *see also supra* note 3.

34. *Id.*

35. Authors' interview with a law school administrator; *see also supra* note 3.

And, when these differences are taken to be real, they become real in their consequences for these schools.

### III. BUSINESS SCHOOLS: THE EFFECTS OF MULTIPLE RANKERS

In sharp contrast to law schools rankings, there are five or six influential business school rankings and a host of others that receive some attention. On average, business school administrators estimate that they provide information for twenty to forty different rankers. While there are many rankings to which business schools and their constituents pay attention and a few are consistently cited as having more influence than others, no single ranking dominates the definition of business school reputation. *Business Week*, according to our interviews, stands out as the most important ranking to administrators, followed closely by *U.S. News*. The rankings published by *The Wall Street Journal*, *Financial Times*, and *The Economist* also receive significant attention, while the ranking produced by *Forbes* was also noted by many as gaining increasing influence.<sup>36</sup> Further complicating this reputational terrain, *Business Week* was most often mentioned as the ranking that was the most flawed methodologically, followed by *The Wall Street Journal* and *Forbes*.<sup>37</sup>

Because there is no dominant ranker of business schools—no ranker plays the role that *U.S. News* does for law schools—all of the rankings described above play some role in defining a school's reputation. Furthermore, because all of the rankers use different formulas to determine the relative standing of business schools, the rankings that they produce differ markedly from each other. *Business Week*, for example, bases its rankings primarily on surveys of student and recruiter satisfaction; *U.S. News*, as with law schools, constructs its rankings around reputation surveys, and admissions and placement criteria; *The Financial Times* combines over twenty criteria, but emphasizes salary of graduates over everything else; and *The Wall Street Journal* builds its ranking solely around an elaborate survey of employers.<sup>38</sup>

These competing rankings have not made business schools immune to the effects of rankings. Like law schools, business schools redistribute resources, change inter-organizational activity, and devise gaming strategies as a result of these external evaluations. What these multiple rankings have done, however, is minimize the impact of some of the key problems the rankings create by producing ambiguity about the precise standing of these schools. This ambiguity diminishes the impact of small

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36. As one might suspect, the ranking that is perceived as most important is often related to how well the school of the administrator is ranked by a particular publication. Not surprisingly, schools tend to like the rankings that paint them in the best light, and—as we will see below—this is one of the primary advantages of multiple rankers.

37. Several administrators indicated that there is also cross-national variation in regard to the influence of particular rankings. As one dean said, “If they are international students, they tend to look at *The Financial Times* and *The Wall Street Journal* and a little bit at *U.S. News*, and if they are American students they look heavily at *Business Week* and *U.S. News*.” Authors’ interview with a law school dean; see also *supra* note 3.

38. Jerold L. Zimmerman, *Can American Business Schools Survive?* (Simon School of Business Working Paper, Paper No. FR 01-16, 2001), available at <http://ssrn.com/abstract=283112> (warning of the demise of American management education because of increasing pressures to spend funds on media rankings).

changes, allows business schools to maintain a significant degree of reputational control, and undermines to some extent the validity of the rankings. In addition, business school administrators are considerably less concerned about the effects of rankings than their law school counterparts, most often characterizing these effects as having both positive and negative consequences for business education. While this more positive attitude might partially be explained by the fact that business school deans are more comfortable with the idea of market measures and market logics, the ambiguity created by multiple rankings softens the overall influence of rankings and, we argue, helps explain their more conciliatory attitudes.

### *A. The Ambiguity of Multiple Rankings*

An important consequence of the multiple rankings of business schools is that they create an ambiguous signal about where schools stand in relation to one another. While a few of the deans we interviewed reported that their schools are ranked similarly across the most influential ranking publications, most rankings of most schools vary, often considerably, depending on the publication.<sup>39</sup> One dean reported that his school's rankings ranged from the low twenties to the eighties in the most influential publications.<sup>40</sup> Several other deans reported that their schools were not ranked at all in some of these same influential publications while they were highly ranked in others.

This ambiguity is complicated by the sheer number of publications that produce business school rankings. And while some have more influence than others, all of them have at least some influence with specific constituents:

I would say [the order of influence] is something like *Business Week*, *The Wall Street Journal*, and *U.S. News*. Then there is *The Financial Times* and the *Economist* and *Forbes*. Those are the six that we follow closely and there are a whole bunch of others that come and go, but those have power because they're institutions that are widely read among business people. . . . A school like [ours] will have maybe thirty or forty rankings a year where people are asking for information.<sup>41</sup>

Business schools face a situation where there are different appraisals of their relative standing, and it is unclear how to evaluate these different appraisals against one another. These ambiguities are especially true for external constituents—such as the prospective students that drive many of the effects of rankings—who rely heavily on these rankings and often have little first-hand knowledge about the hierarchy of

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39. In one sense, even the schools that look the same across rankings cannot escape the ambiguity created by multiple rankings. Given that most of the schools rank considerably differently according to different rankers, even the few schools that do not experience this variation might appear very different to, for instance, a student making a decision between two or three specific schools. This is because even schools with relatively static rankings are being compared to schools that look different depending on what sources are consulted, and the perceived relative position of schools with static rankings will change accordingly.

40. Authors' interview with a business school dean; see also *supra* note 3. The "top publications" referred to here are *Business Week*, *U.S. News*, *The Wall Street Journal*, *The Financial Times*, and *Forbes*.

41. Authors' interview with a business school administrator; see also *supra* note 3.

business schools; and again, these ambiguities are pushed to the background for the similarly situated external constituents of law schools.

Many administrators express frustration about the variation in rankings of their school but they also recognize that these differences are a result of the different criteria rankers use to evaluate the schools. For a few schools, large differences in rank across publications can be attributed to the fact that their school's strengths are reflected particularly well in one or two of the rankings. One dean, for example, noted:

We do really well in *The Wall Street Journal*, but it's biased really well in our favor. It's a survey of only corporate recruiters and it does a whole lot of them; and because we're a big school, we have a lot of companies that have a relationship with us. So we do well with that.<sup>42</sup>

Most schools, however, view these variations as evidence of the methodological limitations of the rankings, arguing that good measures of quality could not produce such a high degree of variation.

Putting aside the origins of these differences among rankers, it is clear that they produce considerable ambiguity about the relative standing of business schools. But how does this ambiguity created by multiple rankers affect the field of business education, especially as compared to the effects that the *U.S. News* ranking has had on law schools? There is almost complete agreement among the business school deans interviewed for this project that the ambiguity produced by the existence of multiple rankings is much more beneficial than harmful to business schools. The existence of multiple rankings weakens the effects of small differences and small changes in rank, it provides schools with greater reputational control and flexibility, and it encourages the perception that there are many different ways to judge the quality of schools, thus undermining the power of any one ranking as well as of rankings in general.

#### *B. Weakens the Impact of Small Changes in Rank*

One advantage of multiple rankings for business schools is that the effects of small differences or fluctuations in rank are diluted by the various sources of rankings that external audiences have available to them. Unlike at law schools, where administrators are justifiably concerned about minor oscillations in their *U.S. News* ranking,<sup>43</sup> business school deans have consistently reported that small changes in rank had little effect on their actions or, as far as they could tell, the actions of their constituents.<sup>44</sup> As one dean said, "The good thing about business schools is that there are so damn many of these rankings that no one is especially dominant. Every time somebody else does one, it mutes the impact of all the others."<sup>45</sup> Because of this, business school deans

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42. Authors' interview with a business school dean; *see also supra* note 3.

43. *See* Sauder & Lancaster, *supra* note 14.

44. Authors' interview with business school deans; *see also supra* note 3. These claims were often accompanied by a few caveats. For example, deans reported that they would be concerned if their school experienced small drops in several rankings simultaneously. In addition, many deans noted that a big drop in one of the rankings would be of concern, although it was not always clear how far of a drop those interviewed would consider "big." *Id.*

45. Authors' interview with a business school dean; *see also supra* note 3.

tend to look at how well their schools rank across the most popular rankings and are less concerned about the changes in any specific ranking:

What I've taken to focus on is really an average of the six rankings. For stable numbers you do it that way—if you just look at one you bounce around a lot. Whenever it comes out, I send out an attachment that has the average of all six. It shows that there are different ways to assess quality, and if you look at an average of rankings, it is very stable—you don't get these weird anomalies because most of the top ten schools are there all of the time. Even if they change in any one year, they're not going to go up ten spaces or down ten spaces, but on any one of those things you could do that just because of some statistical anomaly or sampling. And so the problem with law schools is that if you only have one—it's very simple—but the problem is that one school could go from twenty-five to fifteen, and then the next year they are thirty-five—how's that possible? Most schools don't change that much. So I do think that we have a more stable system now that we have a whole bunch of them. It is amazing that it does get very stable when you get six people trying to measure fundamentally the same thing in six different ways and you take an average of all that, you get a pretty stable number. You don't get anybody bouncing very much.<sup>46</sup>

As this statement indicates, multiple rankings moderate one of the primary concerns of law schools: random statistical variations will cause their schools tangible harm.

This benefit of multiple rankings also helps explain why business school administrators react more favorably to rankings than their law school counterparts. One of the primary ways in which deans of business schools differ from law school deans is in how they interpret this relatively new external influence on their activities. They are much more likely to accept the rankings as legitimate measures of quality, view the rankings as useful signals of performance, and react to them accordingly. Legal educators on the other hand, are more likely to view rankings as poor signals that, even if they do motivate action, will motivate it in the wrong directions. While business school administrators often attributed this acceptance of the rankings to a corresponding acceptance of market measures or business methods, the fact that the negative effects of the rankings are mitigated by their number contributes to their more sanguine reaction.

### *C. Increased Reputational Flexibility*

A second advantage of multiple rankings emphasized by business school administrators is that they allow schools more control over their reputations. There are several ways in which multiple rankings lead to this control. First, because there are so many rankings that use very different methodologies, business schools have many opportunities to rank well according to the criteria of at least one publication. The existence of multiple rankings, one dean argued, "is an advantage to the extent that it allows all of us to point out that we're number one somewhere. It's the old adage that, if you ask who the top twenty-five schools are, there are at least a hundred that claim they are."<sup>47</sup> The ambiguity of the business school rankings, then, allows business

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46. *Id.*

47. *Id.*

schools—unlike law schools with their single dominant ranking—to make claims about being among the elite, claims that are perceived as legitimate because they are based on the evaluation of a disinterested third party.

This claims-making ability is seen by business school administrators as a tangible benefit of the ambiguity created by multiple rankings. An obvious marketing strategy for schools is to choose the rankings that present them in the best light and then promote or advertise their schools accordingly. As one dean explained:

We look where we do well, and we make sure that people know that we did well there. We do some ads in [a few magazines], and we pick our best ranking to compare with schools that we compete with and show people how we stand compared to them. We use them that way, as a source of information. *The Economist* is doing [a ranking] now and so is *The Financial Times*, so you look at the sub-components as well as the overall ranking to see if you are really at the top of some sub-components. And everybody is doing that game.<sup>48</sup>

As this statement implies, this use of the rankings is widespread, and most deans consider it common sense; as one administrator put it, “You’re not stupid. If you do well in one ranking and not well in another, guess which one you’re going to talk about.”<sup>49</sup>

This ambiguity is also valuable for administrators as they discuss the strengths and overall quality of their school with constituents. When asked how he used the multiple rankings, one dean replied:

I can always placate people by saying that maybe we’re in the second tier in *Business Week*, but look at all these other rankings. I tell people, “Why do you care about this one? I have all these other ones that say we’re good. Don’t you know how to measure?” There are all these stupid games you can play.<sup>50</sup>

In this way, rankings provide business schools and their administrators with some flexibility and room for maneuvering when representing the quality of their school to external constituents.

Just as importantly, many administrators believe that the ambiguity created by multiple rankings provides business schools with many options for changing or building their future reputation. Most directly, a school can choose one ranking which they believe best suits their school in terms of its strengths and its goals, and then this school can redistribute resources in order to maximize their standing according to that ranking. For some schools this may entail focusing on student satisfaction ratings for *Business Week*, for others the recruiter appraisals for *The Wall Street Journal*, and for still others the objective criteria, such as Graduate Management Admission Test (GMAT) scores and grade point averages (GPAs), emphasized heavily by *U.S. News*.

This reputational flexibility created by multiple rankings has some important indirect benefits as well. Many deans argued that, by creating different paths for reputational improvement, during the last fifteen years the rankings have fostered an

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48. *Id.*

49. *Id.*

50. *Id.*

environment of innovation and experimentation in business school education that is not seen in any other professional school fields:

The variety and the openness to rankings that business schools have allowed have created a variety of programs that is healthy for students. Maybe law schools, because of the nature of law, maybe it's better for them to be more stable and have one curriculum for everybody. It's hard to measure, but I do think after looking at this for a long time that the rankings of business schools have created a lot of experimentation and I've been involved in it myself, so I know personally it is true. It's kind of because what the rankings were pushing toward and what we felt was better education was consistent and went the same way. But I think the rankings did prod.<sup>51</sup>

Finally, many deans believe that the multitude of rankings has created new opportunities for certain types of schools to build reputations. Many deans claim that rankings have "opened up the market" of business education by making people more aware of the quality of state schools, private schools not associated with prestigious universities or well known for their business school, as well as small schools that have strong specialty areas in business education. Because the rankings are a powerful source of publicity for schools and because there is a variety of rankings that can be used to gain this publicity, under-recognized schools can use the rankings as a springboard in their attempts to establish their reputations.

#### *D. Undermines the Idea of Rankings in General*

A final advantage of multiple rankings is that, according to business school administrators, they make consumers of the rankings—especially prospective students and employers—more critical of the ranking process itself. This critical stance is, in a sense, the product of the success of rankings in this field. Business schools are evaluated by a multitude of rankers, all claiming to measure the same basic concept—the quality of business schools—but producing much different results in their measurements. As several administrators explained, this situation gives them the opportunity to convincingly question the validity of the rankings when dealing with external constituents:

It [the existence of multiple rankings] does help because you can look at it and say we are here in one place, here in another, and here at this place. Essentially what happens is that you can undermine the validity of rankings in general and say that this is how they use certain criteria and maybe it's not as strong or whatever. And this is telling you that you want to make some independent decisions about some things. I think that people see that, and so it helps open people's eyes.<sup>52</sup>

In addition, deans believe that the broad disparities in the results produced by multiple rankers help their constituents understand the problems inherent to quantifying complex relationships. As one dean said,

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51. *Id.*

52. Authors' interview with a business school administrator; *see also supra* note 3.

[The emergence of multiple rankings] is the best thing that has happened to us. In the days gone by when *Business Week* was the only one that people looked at—and even in the 1990s it was kind of like the leader, and it still is to a large extent, but the fact that *The Wall Street Journal* and others have come on, and smaller niche sort of magazines like the *Grey Pinstripes* which looks at schools to see if they are ethical and if they are socially responsible and that kind of thing. All of these have made students more critical in their judgments. . . . Now it has become more complicated because it's not just one number but there are like ten of them and they all might be different.<sup>53</sup>

In short, these competing evaluations of business schools have created a more sophisticated “rankings consciousness” among their constituents, and this stands in stark contrast with legal education, where many administrators believe that external audiences take rankings at face value.

Another general benefit of the ambiguity created by multiple rankings is that it provides administrators with more discretion to improve the educational quality of their schools. Many business school administrators noted that the greater number of different rankings published and the greater ambiguity created by these rankings makes it easier to administer their schools in the ways that they think best; the tension between deciding what is best in terms of educational quality as opposed to what will lead to ranking success is lessened. Along these lines, several deans admitted that they have actively lobbied publications to create rankings of their own. One long-term dean recalled,

One of the things I did . . . was that I made all of our data available to everybody. I wanted everybody to do rankings. I met with *Forbes* and told them to do a ranking—anyone who called me, *The Financial Times* or *The Wall Street Journal*, I would tell them that we needed more rankings and that they should do them. I wanted *Better Homes and Gardens* to do rankings. I want everyone to have a ranking that they do good in, and secondly I want the next ranking that comes out to have very little publicity. . . . The more rankings we have, the better off we are.<sup>54</sup>

In this way, the multiple rankings of business schools undermine the taken-for-granted validity of the rankings that exists in the field of legal education. In doing so, the multiple rankings also promote the idea that there are many ways to create a quality business school. While the dominance of *U.S. News* rankings in the field of law schools tends to oversimplify what it means to be a good law school, the multiple rankings of business schools complicate what it means to be a good business school—a complication that all of the business school administrators interviewed for this project viewed as beneficial because it reinforces the idea that there are many different ways to evaluate schools.

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53. Authors' interview with a business school dean; see also *supra* note 3.

54. *Id.*

## CONCLUSION

In this article we have suggested that the existence of a single dominant ranker of law schools exacerbates some of the problems created by the rankings and that the development of competing rankings could alleviate these problems. To support these claims, we have shown how the multiple rankings of business schools help decrease the importance of small differences and small changes in rank, permit schools to maintain greater control over their reputations, and encourage users to be more cautious in their interpretation of rankings. Although business school administrators still feel pressure to do well in the rankings, our interviews indicate that they express less concern about the negative consequences of rankings and attribute more benefits to them than do law school administrators and faculty.

While the data presented in this paper emphasize the short-term advantages of multiple rankings, there are also risks associated with the proliferation of rankings that deserve consideration, and we would like to conclude by outlining those that we feel are potentially most harmful.<sup>55</sup> One important risk concerns the long-term consequences of the type of quantitative evaluation represented by rankings and the new forms of accountability that it implies. Although multiple rankings are an appealing strategy for mediating some of the most objectionable effects of *U.S. News* rankings, the creation of new rankings will reinforce the dominance and legitimacy of rankings more broadly. As some critics argue, more of a bad thing cannot lead to a good thing; doing to themselves what others have imposed on law schools is a concession, not a challenge, to the coercive power of rankings. In the end, the spread of rankings may further marginalize alternative forms of evaluation and accountability.

It is also important to keep in mind that rankings are useful to some audiences because they simplify complex information and relationships and because they are easy to circulate. Yet we should be mindful of the hazards of this simplification, of being seduced by the apparent objectivity and rigor of the rankings. As March and Simon argued long ago, information that moves within and among organizations is edited in ways that eliminate the tenuousness of its assumptions and the weakness of its sources.<sup>56</sup> As a result, the further information travels from its source, the more rigorous and certain it appears. Ranks represent a radical editing process which absorbs both the discretion and uncertainty that support their production. And, while multiple rankings with variable outcomes reinsert some of this uncertainty back into the evaluation process by casting doubt as to which is the best or most accurate measure, they still represent a heroic simplification of a complex system. Rankings are the final product of an elaborate, often messy, and sometimes arbitrary series of practices, decisions, and coordination, the traces of which are hard to recover. For consumers of rankings, even multiple rankings, rankings appear more transparent and definitive the further removed they are from their production. The context of their production and the rich, local

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55. We leave aside here the practical obstacles to the development of competing rankings, obstacles that have played an important role in preventing the development of multiple law school rankings to this point. These obstacles include the resistance to rankings in any form by many members of the law school community, the difficulty of determining what factors should be included and how factors should be weighed in any new ranking, and the market dominance of *U.S. News* in this particular field.

56. MARCH & SIMON, *supra* note 29.

knowledge that permits a less simplified and more nuanced interpretation becomes increasingly difficult to recover for those who use rankings, and feedback about the effects of rankings on the schools they measure becomes harder to obtain.<sup>57</sup>

A related hazard of rankings is that their proliferation threatens more nuanced and more local analyses of quality. Even with multiple rankings, rankings incorporate only a limited range of the possible indicators of quality, typically including factors that are easy to measure, widely available, and standardized. The more attention that is focused on rankings, the more likely it is that other distinctive characteristics of quality are neglected. So, for example, schools that prepare lawyers to work with under-served communities, schools with a strong commitment to diversity, and schools that foster an especially supportive educational community will all have a harder time earning recognition for these forms of excellence. Pluralistic modes of valuing represent a form of diversity, a richness of expression, and an invitation to deliberation that we should be wary of relinquishing too easily. Just as high test scores represent an extremely limited understanding of intelligence or ability, excellence in legal education can take many forms, not all of which can be easily reduced to numbers.

To the extent that quantification becomes the dominant trope of evaluation and the most legitimate means of expressing important values, it reflexively reconstructs the objects it measures—in this case, law schools—and in doing so threatens other systems of meaning and other modes of expressing values. Alternative forms of constructing evaluation and accountability, whether through deliberation, public debate, or in the form of reasoned responses to particular public challenges, become less salient and appropriate responses; local, particularized knowledge of institutions becomes increasingly marginal as “accountability” and “evaluation” are reduced to techniques of measurement.<sup>58</sup>

Related to these risks, a final characteristic of the proliferation of rankings is worth noting. We have argued that the creation of multiple rankings is a promising strategy for mediating the harmful effects of *U.S. News*'s virtual monopoly of rankings in legal education. The suggestion that multiple rankings might alleviate the problems created by a single ranking is an illuminating example of the logic of the rationalism Max Weber famously depicted as a primary feature of western modernism.<sup>59</sup> In his analysis, bureaucratization is one of the great accomplishments and most threatening aspects of modernity, and quantification—with its impersonality and apparent objectivity, as well as its expediency in reducing uncertainty, enhancing predictability, and assessing value—serves as a key support to its broad authority. The technical advantages of bureaucratic authority, especially once it is entrenched, make it virtually impossible for

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57. See JAMES SCOTT, *SEEING LIKE A STATE* (1998) (offering an illuminating and complementary analysis of the effects of simplification on state development policies).

58. See Cris Shore & Susan Wright, *Audit Culture and Anthropology: Neo-Liberalism in British Higher Education*, 5 J. ROYAL ANTHROPOLOGICAL INST. 557 (1999) (emphasizing how audit techniques refract power relations, impose new forms of discipline, and mediate inequality); Cris Shore & Susan Wright, *Coercive Accountability: The Rise of Audit Culture in Higher Education*, in *AUDIT CULTURES* 57 (Marilyn Strathern ed., 2000) (critiquing the proliferation of “audit” techniques in connection with the global expansion of neo-liberal policies).

59. MAX WEBER, *ECONOMY AND SOCIETY* 987–89 (G. Roth and C. Wittich eds., University of California Press 1978) (1913).

alternative forms to compete effectively, and Weber is extremely pessimistic about our capacity to limit the expansion of bureaucratic authority into more domains of our lives. As he put it, the only way of stopping one bureaucracy is with another.

As the use of performance measures or audits to evaluate institutions and individuals spreads across many domains—examples include business, government, healthcare, philanthropy, and civic culture—the only means for countering the influence of one measure is to create a competing measure. We can see in the diffusion of rankings how techniques for rationalizing both narrow the range of alternative forms of expression and simultaneously reproduce themselves through new techniques premised on the same logic or novel adaptations and refinements. This is a small, contemporary, and relatively trivial instance of Weber's larger claim that the only means for effectively countering the authority and technical proficiency of one bureaucracy is by creating another.<sup>60</sup>

If we understand the creation of multiple rankings as a potential form of professional resistance, as a means for reinserting professional discretion where it has been removed by other forms of quantification and standardization, we can better understand the proliferation and adaptation of the technologies of bureaucracy. One measurement regime creates political incentives for developing alternative measurements or techniques—techniques, for instance, that offer some small measure of autonomy or privilege a particular position. Here, although the loss of discretion that results from an imposed system of accountability creates the impetus to create new evaluative strategies, these strategies must fit into the dominant measurement frameworks. In this way, resistance breeds hegemony.

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60. *Id.*

