AN IDENTITY PROBLEM: CAN LAW SCHOOL BE A TOOL FOR SOCIAL CHANGE?

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6:00-6:45 am: Alexa tells me the weather, plays the Word of the Day, gives me the NPR News brief, turns on the lights. I wake up. My desk is littered with handouts from the networking workshop last night, hosted by BigLawFirm. I hop on my bike, listen to The Daily podcast on the way to school.

6:45-7:00 am: I check the fridge in the Student Center. A corner of the school that belongs only to us, divided into office spaces in a fierce battle of social capital that took most of last semester. Journals, affinity groups, student organizations, and pro bono projects must all find a way to coexist while making themselves relevant, lest they lose their patch of land in the next space allocation cycle. I warm up some rice, courtesy of BigLawFirm’s talk yesterday on “Big Data and the Law.”

7:00-8:00 am: I set up camp at the National Lawyers Guild office. We share it with the Federalist Society—someone’s idea of a practical joke. I skim my assignment for the Clinical Seminar later in the day. I write two pages about structural discrimination against immigrants, about community participation, about environmental racism. I upload it to the website.

8:00-8:15 am: I pull up the Earthjustice website. I look at their campaigns in New York, skim through their major cases, read the bios of the people who will interview me for a summer position. This was the only nonprofit that came to interview at school earlier in the year. I had a fifteen-minute interview where they handed me some materials and encouraged me to apply online. I did. I went to a Happy Hour at their headquarters and met some of their attorneys. I heard back from them a few days later. The school’s counselor encouraged us to schedule as many interviews as possible, since the public interest route is uncertain and often more competitive than the BigLaw route. I have fifteen interviews throughout the month, some at school, some over the phone, some in San Francisco.

8:15–9:00 am: The call goes well. Every interview is different, and every interview is the same. I repackage old stories, make a few light jokes, highlight parts of my resume. I thank them for their time and go back to my job search spreadsheet. Public interest students don’t have a maximum number of offers they can hold at once, nor a time limit to let potential employers know that they have taken an offer elsewhere. I’ve become an offer hoarder and keep putting off the moment when I’ll have to decide about the summer. I wish I had more time to research my options, talk to alumni, meet with the Career Development Office. The last time I went, they encouraged me to at least apply to small firms because (1) they pay and (2) there is a post-graduation job offer attached to the summer stint. But I did not come to law

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school to do private law. I came to do environmental justice. I wrote about it in my admissions essay, talked about it with professors and students and admissions staff, selected a school based on its environmental law program. I know of other students who decided to forego the corporate law interview process, but they’re few and far in between. Even some of the most vocal social justice advocates have silently but surely committed to a few years working in BigLawFirms. How did this happen?

This paper proposes that the institution of legal education is not only failing to contribute to remedying injustice but also produces and perpetuates it. I submit that law school co-opts students invested in social justice and installs countless disincentives that lead those students to corporate law careers that entrench the very inequalities they once sought to challenge.¹ I call into question the purpose of law schools—as trade schools that seek the neutral transmission of skills and knowledge, as vehicles to pursue a project of social equality and justice, or as training grounds to maintain social hierarchies that serve the interest of institutions of power (corporations, the wealthy, the government, and academia itself). I posit that law school is, primarily, the latter. Law schools cannot serve these three purposes at the same time because their methods, goals, and underlying drivers are at odds. I propose that there is a contradiction between the idea we have of the purpose of law schools, the way law schools self-identify and present themselves, and their actual institutional commitments. Therefore, I call for an exercise of self-examination with the goal of requesting more transparency from law schools in the hope this can lead to some change.

In Part I, I will examine the idea of the *perceived identity of law schools*. What do law schools say they are for? What is the understanding of the general public and the prospective applicant? I will examine the recruitment process to assess the public perception of law school, while focusing on the messaging law schools highlight in their promotional materials.

In Part II, I attempt to outline the *actual identity of law schools*. Who are law schools actually serving? What are they prioritizing? What are their drivers? I will look at law school rankings as one of the markers that reveal the actual institutional commitments of law schools.

In Part III, I will examine some of the results of this identity crisis. I argue that there is a contradiction between the perceived and the actual identity and purpose of law schools. How can we engage in true social change when law school trains us to preserve the status quo? I will focus on the claim that law schools are co-opting a social project of using law as a vehicle for social justice by funneling students into corporate careers that reinforce existing social hierarchies. I will do this by focusing on the employment cycles of corporate law and public interest careers.

Answering what law schools are and what their purpose is can help us define more intentionally how they could be organized and which (if any) values could drive them. I conclude that although students will find it challenging to contribute to

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¹. For a discussion of how institutional cultures in elite schools “steer large portions of anxious and uncertain students into high-wealth, high-status” occupational sectors, See Binder, Amy et al. *Career Funneling: How Elite Students Learn to Define and Desire “Prestigious” Jobs.* Sociology of Education 89:20-39 (2016). Binder’s study identifies on-campus recruitment and career prestige systems built up among peers as central to generating post-graduation employment preferences and drawing boundaries between “high status” and “ordinary” jobs. The authors conclude that elite schools have an “independent role in the production and reproduction of social inequality.” [Emphasis added].
fundamental social change, there is space for reform. I call on law schools to re-examine their missions and assess with frankness what they can offer both students and society. Accordingly, my asks are more aspirational than normative. I believe there is opportunity for schools to either become more transparent about their institutional affiliations and commitments or to make space for students who are neither able nor willing to accept such a blatant discrepancy between their ideals and their legal training.

I. DR. JEKYLL: WHO WE THINK WE ARE

This section examines the idea of the perceived identity of law schools. To claim that law schools are failing in their mission to train professionals to work for a more equal society, we must first determine whether this is (or can be) one of the missions of law schools. The identity of law schools is shaped, in part, by their own self-perception and image management. From admissions brochures to career fairs to social media posts, the self-reported aspirations of law schools are internalized by society’s public imagination. At the core of my inquiry is whether society perceives law schools as institutions that serve the individual aspirations of those deemed talented enough to join the legal profession, the interests of institutions of social power, or the ideals of equality and justice that inform our legal system. I seek to establish whether law schools understand and portray themselves as neutral sites of knowledge transmission or as institutions driven by values. If so, what are our core values? What do we believe we stand for?

One of the standing premises of this paper is that the legal system lies at the center of fundamental decisions we make about how we structure our societies. The law codifies the rights, privileges, and obligations that form the social contract. It also determines which groups and individuals have access to such rights. The legal system thus plays a central role in structuring social hierarchies and regulating whether (or to what extent) we live in an equal society. At the foundation of my argument is the belief that lawyers stand at the core of shaping the legal system and its impact through the application, interpretation, and practice of the law. I therefore assume that the legal profession carries inherently higher stakes than other kinds of professions. By addressing this paper to the institution of legal education and its constituents, I seek to surface the magnitude of these stakes. It is from this position that I argue there should be a mandate for law schools to acknowledge their enormous impact on society by—at the very least—examining critical institutional decisions about which career paths and training to prioritize.

My second underlying premise is, consequently, that many prospective law students seek more than a trade school that will equip them with tools to solve other people’s legal problems in exchange for an exorbitant monetary reward. Where would students get such an idea? After all, most practicing lawyers work solving private disputes. A 2012 National Bar Foundation report that follows the twelve-year career paths of legal professionals showed that 48.5% of lawyers were working in private practice, with 20% working in the business sector and 28% working in the public sector. The report further identified 17.9% working government jobs and 10.1%


3. Id.
working in legal services, public interest, nonprofit, and education settings. These numbers seem at odds with the proposition that prospective students enroll in law school to advance ideas of political and social justice. To identify where prospective law students or society at large would get this impression from, I’d like to analyze the narratives used by law schools to speak about their missions and purpose. If law schools have a role in advancing ideals of justice and fairness, it is essential to recognize those drivers explicitly and hold legal education accountable for its commitments.

A brief overview of the homepage of several law schools reveals snapshot of the features schools choose to highlight about themselves. Berkeley Law’s website, for example, greets newcomers with the caption “Our human rights clinic and center protect the vulnerable across the globe,” against an image of two hands holding a group of people of color and an illuminated globe. The three visible news items read: “Students Help Power New ‘Oakland Housed’ Initiative; Trio Receives Coveted Skadden Fellowships [to pursue public interest work]; CLEE Offers Advice on Wildfire, Water, and Climate Threats.” The “Academics” tab carries the caption “We believe that a Berkeley Law degree is a tool for change, both locally and globally.” The admissions website has an embedded video that starts with the sentence “students come here because they want to make the world a better place,” followed by a student saying, “within three weeks of starting class, I was able to start advocating for low-income community members... and help people in the ways that I came to law school to do.” The video shows images of the school’s clinics, a Black Lives Matter die-in, and a student arguing a motion at an eviction case in court. It closes with a view of the Bay and the words “the biggest thing is helping people.”

The school’s Prospectus further highlights its commitment to public interest and evinces how the law school wants to be perceived. Its public conscience is not one driven by corporate interests. Instead, it advertises its social virtue from the opening lines by the Dean: “We want students who... bring their passions—for justice, for social change, for the law.” The school emphasizes that students can begin to “make a difference” in their first year by joining one of the student-run pro bono projects. The brochure is littered with pictures of the clinics, centers, and students doing public interest work. Nowhere outside of its employment statistics does it show corporate law as a focus area or highlight this kind of career path.

The school’s self-image and mission seem to embrace the idea of legal training as a vehicle to advance ideals of justice and fairness in society. In fact, one of its learning outcomes is “using the law to solve real-world problems and to create a more

4. Id.
8. The school’s three-tiered mission reads as follows: “1. Through teaching, the law school provides students with first class training in legal theory, doctrine and practice, exposure to the political, social and economic forces that shape the law, and the opportunity for client service; 2. Through research, the law school supports faculty members who are leaders in their fields of scholarly inquiry, striving to expand and deepen legal and interdisciplinary thought while engaging students in rigorous academic and intellectual work; 3. Through service, the law school tackles some of the most important, challenging and timely problems facing the state, nation and world, harnessing our excellence in teaching and research to improve government, business and society.” [emphasis added] Accessed at: https://www.law.berkeley.edu/about-us/mission-learning-outcomes/ (last visited April 6, 2019).
just society.”

It’s clear then that the school purports to advance certain ideas of political and social justice through the work of students. More important than these individual aspirations, however, is the school’s self-identification with a broader social project to use the law as a tool to build a more just and equal society. Nevertheless, employment statistics for the class of 2017 paint a contradictory picture. Out of all reported graduates, 66% were working at a private law firm (76% of which had over 500 lawyers). Only 12% were pursuing public interest careers, while 5% worked in government and 1% had an academic position.

Given these numbers, it’s no surprise that first-year law students spend an inordinate amount of time engaged in self-doubt and existential dissonance. Professor Samuel Moyn relates his experience with students at Yale Law School. They wonder how to reconcile their politics with their self-interest and whether they are “devoting themselves to a career that will lead to systemic change, or to one that will reproduce hierarchy instead.” The public perception of lawyers further reinforces this concern. Studies by the American Bar Association (“ABA”) show that lawyers were often perceived to be more concerned about their interests than the public’s or the client’s, and to be less civic-minded than judges. This contradiction between the public image of law schools and their actual drivers is the focus of the next section.

II. MR. HYDE: WHO WE REALLY ARE

9:00–10:00 am: I meet with a prospective student at the café. She got in touch through the Women of Color Collective and is interested in sociology. We have guidelines for these interviews: highlight the good, skim over the not-so-good. I go rogue. I tell her the truth. If you’re interested in pro bono work or social justice, you’ll have to do the work yourself. If you’re interested in public interest after graduation, you’ll have to do the work yourself. If you’re interested in institutional change, there are committees, but you’ll have to do the work yourself. Student organizations will keep you afloat. Your peers will polish your resume and walk you through interviews and share outlines and spreadsheets about their job experiences. You will pay this

9. Id.
10. This is not unique to Berkeley Law. An overview of the Top 14 law schools’ admissions websites reveals similar aspirational language about using a law degree to better society and change the world: “Yale is committed to improving the world today and for future generations through outstanding research and scholarship, education, preservation, and practice.”; “Public Service at the Heart of the Experience: Our pro bono program ensures that students graduate with a minimum of 50 hours of uncompensated public service work under their belts.” [Harvard]; “Columbia Law maintains a commitment to fostering public service. . . we draw on that legacy to inspire a forward-looking culture that will equip our students to become leaders in solving the world’s most difficult problems.”; “Make the common good more common: A public interest leader, NYU Law has dozens of public interest-focused clinics and guarantees summer funding for 1Ls and 2Ls working in government and nonprofit organizations.”; “UCHicago Law aims to train well-rounded, critical, and socially conscious thinkers and doers. . . you will join a student body that is deeply committed to studying the law. . . and changing the world.”
13. Id. at 12. See also Public Perceptions of Lawyers, Consumer Research Findings. Section of Litigation, American Bar Association, April 2002, at 4. (Respondents expressed that they perceived lawyers as “greedy, manipulative, and corrupt,” and were concerned with the connections that lawyers have with big business, stating that these connections enable them “not only to play the system, but also to shape the very system.”)
Women of color serve on most of the leadership positions on journals and pro bono projects and student orgs. You will be tired and spread thin. This is the work the school will tout on its brochures and admissions talks—your uncompensated labor. We hold Restorative Justice circles at the high security prison, they will say. We provide legal services to underrepresented immigrant communities, they will say. We support DACA recipients (but won’t remunerate undocumented event speakers), they will say. Students get no credit, but they get bragging rights. Welcome to law school.

10:00–11:00 am: I meet with my Clinical supervisor. Students must do sixteen hours of Clinic work per week, but most of it can be conducted remotely, so I do it at odd hours—weekends, early mornings before the school opens, late nights after it closes. We have a public hearing in Fresno this week, so we rehearse our one-minute contributions. I had an overlapping job interview scheduled on the same day but had to cancel it.

11:00–11:45 am: I meet with a new student group that provides mental health and wellness support to students. After years of student activism highlighting the high rates of substance abuse, depression, and suicide in the legal profession (including a student suicide since I enrolled), the school’s administration had failed to provide students with support. My second month as a law student, I worked with a 3L on a grant request and we received a budget of $56,000 from UC Berkeley’s central campus for mental health programming organized by other students. Today, we talk about hosting an event to honor the life of a BigLawFirm partner who took his life earlier this semester. Last summer, he supervised some of my peers. The school gave us fidget spinners and coloring books branded by BigLawFirms. If BigLawFirm jobs show disproportionate rates of dissatisfaction and student interests reveal a higher affinity with careers that advance ideals to better society, then why does the school continue to show uneven support for this field of work?

This section attempts to outline the actual identity of law schools. While the previous section described in detail the purported value-driven mission of law school, I argue that this holds little water in practice. I seek to determine whether law schools are primarily serving the aspirations of individual students, a mandate to be a neutral site of knowledge transmission, or the interests of social hierarchies. The importance of this question lies not only in the impact on students’ careers, but in the way school affiliations help to rationalize allocation of resources within the school. I argue that law schools are primarily serving corporate interests by prioritizing corporate law career paths. I will focus on rankings as one indicator of the internal drivers of law schools. I conclude that an overemphasis on rankings curtails the potential for law schools to train students for public interest careers, because the metrics used by rankings are often at odds with school activities that advance social justice.

**Rigging the Game: What Rankings Reveal About Law School’s Identity**

Law school rankings have become a top priority for all stakeholders involved

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in legal education, from administrators to professors and students themselves. Rankings codify and reinforce a public hierarchy among schools while serving as a status marker for the value of a degree. Although the legitimacy and effectiveness of rankings are consistently challenged by deans, staff, and faculty, schools continue to place great emphasis on these metrics. I posit that rankings perpetuate social inequality by causing law schools to invest significant resources and support into corporate career tracks and away from public interest opportunities. This starkly contradicts the image of legal education as a tool for social change.

I focus on rankings as one of the indicators that shape the way we think about the missions of law schools, their relative worth, and the purpose of a law degree. I pose that corporate interests exert pressure upon law schools through rankings by reinforcing a market ideology that frames law schools as a commodity and law students as consumers. This erases the societal stakes inherent to a law degree, which make it fundamentally different from other professions. Top law firms hire disproportionately from schools that get high rankings, thus validating them and producing anxieties that inform the schools’ emphasis on these metrics. Law school administrators respond by making crucial decisions regarding the distribution of attention and resources within law schools to cater to rankings. The relationship of mutual dependence between law schools and corporate firms is strengthened. This cycle militates against emphasizing legal training as a tool to address social justice.

While rankings are essential to the self-conception of law schools, the purpose of legal education is not set in stone. Rather, it is shaped by an aggregate of decisions that create and reproduce social meanings. I thus acknowledge that while it is impossible to ascribe intent to the impact of rankings on social hierarchies, there are identifiable patterns that reveal the internal drivers of law school operations. An emphasis on rankings is therefore one of the factors that have distanced law schools from their self-identified commitment to advancing ideals of justice. Whether we understand law schools as sites for the transmission of skills, engines to preserve corporate capitalism, or tools for social change, examining the limitations set by rankings is essential to an exercise of institutional self-awareness and eventual reform.

While academics have used rankings of U.S. colleges for over a century, it was not until the 1980s that popular media started producing them for consumers with the first edition of the U.S. News & World Report’s Rankings (“USN”). The first law school rankings in 1990 used economic language to evaluate legal education as a specialized market product. The marketization of legal education has thus resulted in a divide between the values that law schools and prospective students espouse, the internal emphasis of law schools, and the kind of graduates they produce. Today’s iteration of the USN rankings ranks every accredited law school by four measures: reputation (40%), selectivity (25%), placement success (20%), and faculty resources (15%). Despite the strong criticism rankings have received from law school administrators, faculty, and pedagogy experts, rankings remain pervasive.18

18. For some of these critiques, see Richard Lempert, “Pseudo-Science as News: Ranking the Nation’s Law Schools.” Paper presented at the Annual Meeting of the American Association of Law Schools, New Orleans (January 3-5, 2002); Theodore Seto, Understanding the U.S. News Law School
Modern sociologists describe categories as a form of symbolic boundary that allow us to make distinctions between who should be included and who should not.\textsuperscript{19} In this sense, social measures are reactive: they not only measure outside phenomena, but they change what they initially set out to measure.\textsuperscript{20} Thus, rankings do not necessarily reflect the actual worth of a given law school, but are a reflection of \textit{how we see worth}. Rankings don’t merely measure existing categories of school quality or status hierarchies between law schools. Instead, they play an essential role in \textit{producing} these hierarchies by changing how people think about law school and how law schools portray their own purpose. In other words, rankings are not merely a reflection of neutral indicators of quality, but are in fact constitutive of what they attempt to measure. Rankings thus \textit{create} the categories used to classify and evaluate schools.

The goal of rankings is, ostensibly, to provide guidance for prospective law students. The impact of rankings, however, is far more extensive because they reorient how staff, students, and lawyers conceptualize where law schools stand in relation to one another. This feedback cycle, in turn, helps to structure the field of legal education.\textsuperscript{21} This is cause for concern in part because the validity of measures is compromised when the world changes in response to measuring.\textsuperscript{22} Instead of analyzing loosely structured and nuanced criteria, we look at a numerical rank or tier as a signifier of a school’s worth. By providing a school hierarchy, rankings drive administrative decisions about a school’s direction, its goals, and its allocation of resources. In other words, rankings help produce the \textit{actual identity of law schools}.

The goal of law schools is to produce practicing attorneys, most of whom pursue corporate law careers.\textsuperscript{23} Thus, economic interests are thus not isolated from law school rankings. They have a direct impact on the amount of attention that law school administrators choose to deploy internally to support the programs most likely to increase rankings. Consequently, schools do not necessarily prioritize the offerings that will improve the student experience, equip students with better skills, or train students to make meaningful contributions to society. When the metrics emphasized by rankings are at odds with prioritizing school activities that might advance social justice ideals, the identity and purpose of the law school itself shifts. The market

\begin{itemize}
  \item After the JD, Wave 3: Third Results of a National Study of Legal Careers. The American Bar Foundation. 
\end{itemize}
thinking exemplified by rankings thus weighs against both school distinctiveness and against an emphasis on addressing inequality.

Rankings therefore change not only how we interact with but also *how we think* about legal education by producing differences between law schools and perpetuating their status as if those differences were (a) real and (b) a reflection of the school’s worth. This seriously curtails the potential for law schools to make commitments to train student for careers advancing social justice. In the following section, I will demonstrate that rankings permeate the decision-making process of all constituent groups within law schools. I will describe some of these specific pressures in order to draw a connection with hiring practices in the legal profession.\(^{24}\) I hope to show that an overemphasis on rankings is often at odds with a project to understand law school as a tool for social change.

*Law Students, Admissions Offices, and Administrators*

Before USN law school rankings, there were guides that described all accredited law schools according to general categories such as academic atmosphere and faculty, without assessing which law school was the best choice, such as *Barron’s Guide to Law Schools*. USN rankings, on the other hand, divide schools into distinct ranks and assign them lines of ordinal “statistics” that obscure any other differences. An emphasis on USN rankings thus enables law students to see law school as a commodity in which they invest expecting to receive certain dividends in return. The value of this “commodity” has been increasingly associated with the assigned ranked value of each law school, instead of focusing on the qualitative strengths and differences between law schools.\(^{25}\)

This market logic shapes the legal profession, law schools, and the type of law students that schools produce. Reducing the value of a legal degree to its monetary potential equates it to any other consumer good, failing to account for the fundamental role that lawyers play in shaping the legal system. The mandate (or potential) for attorneys to acknowledge their profession’s impact on both entrenching and alleviating social inequalities is lost in this financial equation. These practices evince that the identity and purpose of law school contradicts the “world changing” image portrayed in Part I. In this market logic, potential law students become customers choosing systematically among products based in part on a perceived need to maximize returns.\(^{26}\)

The organizing power of this market logic changes the way law schools are shaped, and produces a kind of ideology around their purpose and identity. The metrics that rankings emphasize do not assess the contribution of each law school to addressing social issues or advancing the public interest. Instead, the rankings focus

\(^{24}\) For an in-depth discussion of the mechanisms that produce these changes, see generally Wendy Nelson Espeland and Michael Sauder, *Engines of Anxiety: Academic Rankings, Reputation, and Accountability* (2016). (identifying commensuration, or the process of turning qualities into quantities on a shared metric; self-fulfilling prophecies, or the process when an expectation confirms the prophecy’s effect; reverse engineering, or the deconstruction of ranking formulas into discrete, measurable units; and narrative, or the organization of people, events, and places into stories to make sense of the world).


\(^{26}\) For a discussion of the effects of neoliberal reforms in education that challenged the status of universities as repositories of non-market values, see Marilyn Strathern, *Audit Cultures: Anthropological Studies in Accountability, Ethics, and the Academy* (New York: Routledge, 2000).
on metrics of worth that are aligned with the interests of prevailing social hierarchies. The potential of law school to become a vehicle for progressive social change is lost in this economic analysis. Equating a law degree to any other fungible consumer good negates what makes a law degree non-fungible: the disproportionate influence of the law—and lawyers—on shaping society’s distributions of rights and privileges. The more closely rankings track a market rationale, the more they depart from understanding the legal profession as a site to tackle social inequities.

Given the hyper-importance of status in the legal field, credentials from “top-tier” law schools matter more than ever to prospective students. In fact, a longitudinal study of the importance of rankings in enrollment decisions revealed that rankings have a significant effect on the number of highly qualified applicants and on the future rank of a particular school. Consequently, if a school’s ranking changes, the pool of top applicants will also change, which will in turn affect the school’s future ranking. More importantly, rankings influence the status hierarchy not only of legal education but also of the legal profession, which sets an enormous pressure on the next group of constituents: law school administrators.

Law school admissions officers produce some of the basic numbers that account for USN’s metrics: LSAT scores, GPAs, and selectivity. Part of cultivating the reputation of law schools involves navigating fluctuations in rankings both internally (with current students, staff, and faculty) and externally (with donors, employers, and prospective students). An emphasis on raising “hard” numbers has led to an increase in merit scholarships to applicants with higher scores, who often use these offers as a bargaining tool between schools. The more money a school spends on scholarships, the higher the credentials of its entering class, since it is able to buy applicants with higher numbers. As a result, law school administrators are pushed to make difficult decisions about budget allocations, where need-based financial aid must compete against curating the rankings. Law schools have thus been turned into a marketplace of status and credentials.

An emphasis on “hard” numbers also obscures their uneven impact on minorities. Strategies to improve the statistical profile of law schools often result in barriers to underrepresented groups. Relying on rankings has thus led to a decrease

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27. Similarly, “top candidates” is itself a categorization that tracks the same market logic. How are student rankings generated, and how are they related to an equation of investment and returns? In fact, across all law schools, with few exceptions, higher GPAs are related to higher earnings. See After the JD, Wave 3: Third Results of a National Study of Legal Careers. The American Bar Foundation.


30. For a study of the increasing importance of LSAT scores in response to rankings, see William D. Henderson and Andrew P. Morris. Student Quality as Measured by LSAT Scores: Migration Patterns in the US News Rankings Era. 81 Indiana Law Journal 81 163, 163-204 (2006).


of Blacks and Latinx students “within entering classes but also in the shut-out rates.”33 The differences in test scores between social groups has been extensively documented.34 While the ABA adopted Standard 121 to make minority admissions an accreditation standard,35 the number of law students of color is still inconsistent with national demographics, especially at higher ranked schools.36

Attacks on affirmative action policies have further affected these numbers.37 Studies show that upper- and middle-class students perform better on the LSAT than those from working-class backgrounds.38 This latter group, however, often spends more time pursuing civic-minded work.39 Thus, emphasizing rankings further widens the gap between corporate and public interest careers. Rankings place enormous pressure on law schools to choose between a higher median LSAT score and a more diverse entering class. The halo of mystery around admissions processes complicates the ethical dilemmas involved in these tradeoffs, with some admissions staff voicing concerns about having to compromise their professional values in the process.40 These trends also affect the highest law school office: the Dean’s.

As the public face of law schools, deans make strategic decisions about a school’s long-term goals and vision. They help to shape the internal identity of the law school and the image it portrays to the world. Just as importantly, they raise funds for school operations. Rankings often track resources, alumni giving, and larger

33. A number below which a student is automatically rejected. See Ronald Roach, 2009. Shut Out. April 16 (Available at: https://diverseeducation.com/article/12481/)
37. According to former ABA president Michael Greco, “The legal profession faces no greater challenge... than the critical need to diversify its ranks. People of color continue to be woefully underrepresented in the bar and on the bench, while American society is becoming increasingly diverse.” Quoted in Mary Ann Hynes and Cie B. Armstrong, Where Are They? The Legal Profession Reaches Out for Future Minority Lawyers, ABA Business Law Section Newsletter, September-October (2006).
39. See After the JD, Wave 3: Third Results of a National Study of Legal Careers. The American Bar Foundation. Its results show that Black lawyers were more likely than any other racial/ethnic group to be working in the public interest sector, while just over one third worked in private law firms. At the very start of their careers, Black lawyers were over-represented in government and public sector positions (at 42%). Hispanic lawyers were also well represented, with just over one third working in this sector (in contrast to 26.6% for whites).
endowments. Longitudinal studies show that students from the most highly ranked law schools work disproportionally in large firms with higher earnings. Financial constraints are thus particularly felt by lower-ranked schools, which often have to make sacrifices in faculty hiring, programming, experiential and pro bono opportunities, and career services. Although deans are wary of allowing rankings to define the worth of law schools, attempts to resist rankings have consistently failed. Many have even questioned the idea that law school quality itself can be quantified. An over-emphasis on rankings thus affects critical decisions about their long-term mission and, consequently, about their identity.

**School Identity**

While money is a resource that is easy to track and quantify, less tangible resources like attention and time from career services staff are also essential to law students' success. The simplified hierarchy and market orientation of rankings militate against focusing on training students for the public interest, since there is no economic incentive or status reward attached to these efforts. Schools, therefore, have limited space to promote activities that are not rewarded by the USN criteria of what constitutes school quality. Rankings have the power to transform core components of the law school experience, including the school's mission, the career tracks it prioritizes, and the specializations it cultivates. Plans to rethink curricular and skills-based offerings must therefore analyze the role of law schools' shared assumptions about what makes legal education worthy or good.

The tensions between USN metrics and law schools' internal operations highlight the ways rankings reward the school practices that are most aligned with corporate interests. Rankings have a profound effect on how constituents see themselves and their peers, and this process of status internalization is hard to resist. By imposing a standardized definition of what law schools should accomplish, rankings presume that all law schools have the same goals. This seriously curtails the potential for law schools to train lawyers for careers advancing social justice. Schools with missions that emphasize factors like access to legal education, experiential learning, pro bono work, a diverse student body, and a smaller student-to-faculty ratio

41. Studies show that twelve years after graduating, there are still visible patterns related to law school selectivity. Lawyers from the most highly ranked law schools continue to work disproportionately in the most lucrative legal settings and, consequently, continue to earn higher incomes. After the JD, Wave 3: Third Results of a National Study of Legal Careers. The American Bar Foundation at 46.

42. Id.

43. These attempts include lobbying USN to eliminate law school rankings, organizing panels at professional meetings to reduce the influence of rankings, and a letter condemning rankings and signed by 90% of law school deans every year since it was first published in 1998. See Laura Rothstein, The LSAT, US News & World Report, and Minority Admissions: Special Challenges and Special Opportunities for Law School Deans at 264. Reportedly, one law school dean went as far as to refuse to provide information to USN in order to call attention to the effects of rankings. Following backlash from alumni, he lost his job within a few months.

44. Stephen Klein and Laura Hamilton, The Validity of the U.S. News and World Report Rankings of the ABA Law Schools, Study commissioned by the American Association of Law Schools, (1998). See also Espeland, Engines of Anxiety: Academic Rankings, Reputation, and Accountability at 106 (arguing that “missing from rankings are the quality of teachers, faculty scholarship, racial and gender diversity, the size of classes, the strength of alumni networks, student satisfaction, and cost”).

must choose between committing to those goals and risking a drop in their rankings, or committing to improving their rankings.

An emphasis on rankings therefore undermines the role of legal education in preparing lawyers to effectively deal with social problems upon graduation, while making little space for students to examine the influence that law practitioners have on shaping the law.46 The more homogenized ranking comparisons become, the more law schools become passive instruments for external institutions of social hierarchies. Since corporate interests are aligned with ranking metrics, training professionals to challenge the very same power interests that maintain law school’s operations and social standing would be a contradiction. This stands at odds with law schools’ self-narrative regarding their commitment to social justice and denies students meaningful opportunities to recognize their stake as architects of the law, which schools highlight so proudly in their brochures.

As this section shows, an overemphasis on rankings conflicts with the idea of law schools as vehicles of social justice and performs a disservice to students who are supposedly at the core of law school decisions. In fact, although most law school graduates pursue private careers, the job sectors with the lowest attrition rates twelve years after graduation were the federal government, public interest organizations, legal services, and public defense.47 Rankings alter the perceptions of external constituents who play a powerful role in directing the course of law schools, which influences law students’ sense of their own status and the allocation of legal jobs among schools and students.48 Rankings thus have a direct bearing on law schools’ institutional priorities and the kind of lawyers they produce.49 I hope to draw attention to the ethical implications of the systems of meaning and worth that rankings create.

III. AN IDENTITY CRISIS: FROM CALLINGS FOR CHANGE TO CAREERS OF CORPORATE COMPLIANCE

12:00–2 pm: Student government meets every two weeks. The Dean’s office has increased our budget to $60,000 and we must allocate funds to student organizations. Whose work is worth more? The pro bono project for homeless people or the Native American Students Association? The Journal of African American Law or the group supporting survivors of domestic violence? While our funds once came from bookstore proceeds, they now come directly from the school’s budget—how much of this can be traced back to corporate sponsorships and our school ranking? This is complicated by the fact that some of the groups are independently funded by BigLawFirms. Who are we accountable to?

2:00–3:30 pm: Independent reading group. There is a small group of peers


47. See After the JD III: Third Results of a National Study of Legal Careers. The American Bar Foundation at 59.

48. See above for a discussion of the correlation between high law school rankings, higher employment rates at large corporate law offices, and higher donations from law firms to those schools.

49. For a discussion of the impact that academic evaluations have on defining individual worth and producing social inequality, see Michele Lamont, Prisms of Inequality: Moral Boundaries, Exclusion, and Academic Evaluation. Amsterdam: Erasmus Prize Essay (2017).
who came to law school to pursue legal careers advancing social justice goals. We soon realized that most professors (and students) wanted to keep the class “ideology-free.” There was little space to discuss the pressing social problems that first led us to enroll. We started a one-credit reading group that attempts to bridge the distance between legal theory and practice. In the group, we explore how to remain true to our social justice goals in a profession that tells us the world is only likely to change through marginal reform by insiders to the system. We conduct exercises of self-analysis to identify how law school has transformed us. Finally, we articulate parameters to delimit the ethical tradeoffs we’re willing to accept in our practice.

This section looks at some of the results of the contradiction between law schools’ perceived identity as a tool for social change and the actual commitments that their internal drivers reveal. This conflicting image management “mystifies the real function of law schools in reorienting the hopes and even reshaping the personalities of the young people who enter them.”50 I argue that law schools are co-opting a project of using the law to address injustices by pressuring students to pursue careers that reinforce social hierarchies. My emphasis is not on personal decisions made by students but on the institutional expectations and pressures that lead students to defect. I argue that rankings have an impact on how law schools define their goals and deploy internal resources, which bears directly on the legal employment process. I will therefore analyze the employment cycle of corporate law and public interest careers and look at the way professional opportunities are distributed and prioritized by law schools.

The concerns generated by rankings lead law schools to prioritize corporate career tracks over public interest opportunities. Given the self-portrayal of law schools, it is foreseeable that a large number of prospective students enroll with the goal to pursue public interest careers. Yet, the numbers I’ve shown prove that most graduates choose to pursue private careers instead.51 This “public interest drift” is at odds with the “self-advertised rationales about how legal training in its current form serves social justice.”52 Law schools promote public interest as a marketing strategy to get students through the door with promises of socially relevant training (and careers), but law schools ultimately do not fulfill that promise. Instead, the true affiliations of law schools are revealed in their commitments to rankings and to the investments of corporate law firms.

Hiring Practices at Corporate Firms: On-Campus Interviewing (“OCI”)

Private law firms hire the bulk of entry-level attorneys through annual, on-campus recruitment programs hosted in collaboration with career services offices. This

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51. While debt is often used to explain this pattern, I argue that it is a rhetorical device to justify an institutional emphasis on corporate careers. In fact, there is “much less variation in the percentage with zero debt by practice settings than would be indicated by popular assumptions. Consistent with impressionistic accounts, those most likely to have completely paid down their debt were working in law firms with over 100 and over 250 lawyers. However, other groups of lawyers most likely to have paid down their debts included those working in public interest, nonprofit and education, business, and federal government agencies.” See ABA, After the JD at 82.

interviewing process takes place a few weeks before the start of the second year of law school. Its goal is to hire a new group of entry-level attorneys to enter the law firm two years after the interview process. These law students enter law firms as a “summer class” and undergo intensive training and socialization together. After the end of the summer, students can expect to receive a permanent job offer at the law firm upon graduation.53

Employers delimit the competition by identifying a select list of law schools, generally determined by rankings and prestige.54 While some schools allow firms to select students for interviews based on grades, others forbid requesting transcripts before interviews. Although some schools have a maximum number of interviews each student can pre-schedule, there is often no limit on the number of additional interviews students can “sign up” for during OCI.55 Firms hold networking and recruitment events to solicit applications, to allow students to meet with recruiters, and to advertise the benefits and perks of each firm.

The process consists of a screener interview on campus and a “callback” interview at the law firm’s office. In each round, candidates are interviewed independently by multiple revenue-generating employees.56 The content of the interviews and the degree to which they test actual skills varies across firms, but most focus on testing the candidate’s interpersonal skills through informal conversations.57 Students who receive favorable evaluations are invited to a callback interview at the law firms’ offices, generally scheduled during the weeks preceding the second year of law school.58 Airfare, accommodations, and eating expenses are covered by the firm. Offers of employment are followed by “sell” events to persuade selected students to accept job offers59—luxurious parties, dinners, weekend retreats, scholarship offers,60 and logo-laden gifts are generally part of the activities. This process shapes the

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53. The vast majority of full-time hires take place during summer intern recruiting, which provides law firms with the opportunity to observe performance directly, even though firms give full-time offers to the majority of interns due to fears of creating a negative reputation among potential recruits. According to a study conducted by NALP every year, only 16-18 percent of law firms interviewed graduating third-year law students for jobs. For more details, see https://www.nalp.org/uploads/Perspectiveson2018LawStudentRecruiting.pdf (“NALP Perspectives on Fall 2018 Student Recruiting”).

54. LAUREN RIVERA, PEDIGREE: HOW ELITE STUDENTS GET ELITE JOBS, 17 (Princeton Univ. Press, eds., 2015)


56. Instead of human resources or administrative staff.


58. This period varies, from two to six weeks. (For example, 6 weeks at the University of Chicago, 3 at Harvard, and 3 at Michigan.) See August On-Campus Interviews, UNIVERSITY OF CHICAGO LAW SCHOOL, https://www.law.uchicago.edu/employers/falOCI; On-Campus Interview Comparison, HARVARD LAW SCHOOL, https://hls.harvard.edu/dept/ocs/employers/on-campus-interview-program-comparison/; Law Firms and OCI, MICHIGAN LAW, https://www.law.umich.edu/careers/Pages/OCI.aspx.

59. Rivera, Pedigree: How Elite Students Get Elite Jobs, 54, 66. (Similar “courting” events hosted by law firms take place throughout the summer preceding the interview cycle).

60. The scholarships are generally split between the second and third year of law school and are contingent upon a student’s commitment to full-time employment at the sponsoring law firm.
perception and self-conception of students as both consumers and investors in their own professional capital.

Hiring Practices for Public Interest and Public Service Careers

Career development offices compile a list of Public Interest and Public Service (PI/PS) employers that becomes available after bids for corporate firms have been submitted and accepted by students. Interested students must apply for an interview slot by sending a resume, cover letter, and writing sample, none of which are required for screener interviews in corporate OCI. Once PI/PS employers receive these “bids,” they screen participants’ materials before providing an interview, an “alternate” slot, or no interview at all. While all students applying to OCI are guaranteed interviews with law firms via a lottery system, PI/PS students must manually enter a date for on-campus or off-campus interviews with employers, and have no guarantee of landing an interview.

Chronologically, PI/PS interviews happen after OCI interviews. Accordingly, many students have already committed to a private firm summer position, which almost always results in a post-graduation offer for permanent employment. This eliminates the need to conduct a PI/PS interview at all. If a student chooses to pursue the PI/PS process, interviews are scheduled after the beginning of the academic year and continue throughout the fall semester. Students must thus juggle class attendance with numerous interviews. This represents a tradeoff between attending class or choosing less convenient interview times, which might lead to lower success rates. Since many students forego the process altogether, employers must often cancel campus interviews due to the low turnout of potential employees. If a student is invited for a second round of interviews at the offices of the PI/PS employer, it often requires traveling outside of the city or state. Unlike private law interviews, travel expenses are not covered. This leads to the same tradeoffs between schoolwork and the job search. For students who secure summer employment, there is no guarantee of a post-graduation offer, and the summer internship itself is often unpaid.

Career Services Office

Rankings influence not only the career tracks supported by the career service office, but also the daily tasks on which their staff focus. Traditionally, career services offices allocated most of their time to career counseling, educating the student body about job prospects, and providing individualized help to ensure that students found jobs that matched their goals and interests. The second portion of their time was usually spent nurturing relationships with employers. Yet, the increased importance of rankings has led to a significant shift for staff, who must now spend time tracking the 18% of rankings that are directly attributable to the career services office instead of...
providing counseling services to existing students.\textsuperscript{63} The most significant factor influencing this metric is employment nine months after graduation.

Given that raw numbers do not always accurately represent the qualities they intend to measure, career services offices have adopted different tactics to circumvent the pressure to climb rankings. This has led to a redefinition of what counts as employment, since technically speaking, it could mean anything from part- to full-time and from babysitting to jobs that require a law degree.\textsuperscript{64} Instead of focusing on ensuring meaningful qualitative employment that fulfills student needs, ranking numbers focus merely on the quantity of students employed. These loose standards to track employment and “game” the rankings have become almost universal across law schools. Since peer schools exploit this ambiguity, there is little incentive to adequately report employment data and risk a decrease in rankings.

An overemphasis on empty quantitative measures fails to analyze the qualitative experiences of student employment post-graduation. Further, administrators are pressured to encourage students to pursue career tracks that might not be aligned with students' interests or life goals, if only to ensure that they count as “employed” on the USN survey. Since corporate law summer jobs come with a post-graduation employment offer attached to the position while public interest jobs do not, career offices are compelled to persuade students to pursue the former. The gaming tactics that law schools reported using to trick the rankings ranged from misleading to overt lying.\textsuperscript{65} This perverse incentive rewards schools for increasing the raw metrics without improving the results the metrics purport to convey.

CONCLUSION: COMPROMISING OUR CREDENTIALS

\textbf{3:35-5:25 pm:} Clinical seminar. We discuss FOIA requests and rulemaking comments. I am left to wonder how much our clinical offerings are advancing our purported mission to change society. If our social justice work aligns so smoothly with elite credentials of power and wealth, is it truly transformative? Is it training me to be a better advocate or merely laundering injustice, freeing up the rest of our faculty to focus on “black letter doctrine,” “teaching me to be a system-maintaining cog instead of learning real critique?”\textsuperscript{66}

\textbf{5:30-7:00 pm:} Law Students for Justice in Palestine meeting. Dinner provided. We talk about bringing Steven Salaita to speak. In his latest article, he stated that while we mainly think of job loss in economic terms, we’re also conditioned by jobs. “They organize social relations. They are essential far beyond utilitarian qualities,” he says.\textsuperscript{67} I think this as I work on my clerkship spreadsheet. I had no interest in a clerkship before law school, but given the uncertain nature of a public interest career, it seems like one of the few alternatives to corporate law. Most of our doctrinal classes focus on the mystique of common law and the capacity of individual

\textsuperscript{63} For an examination of this shift, see generally Espeland, Engines of Anxiety: Academic Rankings, Reputation, and Accountability.


\textsuperscript{66} See Moyn, Law Schools Are Bad for Democracy (“law schools allow you to do well. But it is harder to establish that they allow for doing good”).

judges to shape the legal system. There is little critique of this exultation of the judicial branch, and while I’m aware of the status quo-maintaining nature of common law practices, I am seemingly left without much choice.  

7:00–9:00 pm: Reading cases for my 8:00 am class tomorrow.

9:00–10:00 pm: Reading my training notes to do Legal Observing work at a protest. Feeling guilty for not reading more cases instead. And yet, I am surrounded by incredibly diligent, analytical, and thoughtful peers whose ways to engage in the political crises we face are mainly symbolic. Staging survivor solidarity pictures, carrying “I Believe Dr. Ford” pins, even attending protests are all actions from the non-legal part of our lives. We suspend our ideological commitments at the school’s door and participate as concerned civilians—legal education itself does not serve as a site to connect theory with social issues, our stake in them, and the role of the law in solving them.

This paper has highlighted ways in which law school fails to equip future lawyers to challenge social inequalities, and instead trains students in the art of preserving the status quo. Law schools, however, can provide students with tools to shape the limits of what the law can do for our communities. While rankings express the same market mentality that pervades the rest of society, internalizing their importance helps to make schools complicit in social injustices by aligning their interests with those of corporate firms. This allows law schools to fulfill Duncan Kennedy’s warning that legal education merely reinforces hierarchies.

Corporate law firms are essential to preserving the concentration of power in dominant groups. They maintain social hierarchies by protecting, defending, and legitimizing the interests of corporations. Given law school’s commitment to training students to excel at that work, it should come as no surprise to find that equipping students to also challenge these power structures is at odds with law school’s self-interest. It is academically disingenuous to purport to simultaneously train professionals to both uphold environmental restrictions and circumvent them for resource extraction, to both protect people from evictions and represent leaseholders, to both fight against incarceration and guard the bottom line of private prisons. These practices are at odds—they seek converse results and are guided by opposing drivers.

Law schools can, however, be more than a training ground to preserve social hierarchies. Treating law schools as neutral sites obscures the overwhelming amount of work they do to train students to preserve corporate interests. It conceals the fact that the skills to be a first-year associate at BigLawFirm do not translate to a practice in direct services, in public defense, in union representation, in consumer protection. Law schools and law firms play a crucial role in defining what constitutes a “worthy” job relative to less desirable positions. Notions of success embedded in the legal profession therefore reflect but also produce metrics like “reputation.” While corporate law firms seek their members among the highest echelons of elite law schools, these schools also play a crucial role in signaling merit and worth.

An analysis of these tensions can help to reshape the self-conception of legal education. If social change is not one of the purposes of law school, I hope the above

68. See id. for a critique of this emphasis on common law. “From the first day of law school, students are taught to think about the law from the perspective of the judiciary (rather than the legislature or the people), by reading cases and pondering whether judges decided them correctly…. taught that systemic reform comes, if at all, through seeking friendly judges who will not merely reproduce injustice in an otherwise hostile environment.”
critique moves law schools closer to this aspiration. While developing an alternative way of understanding ourselves as legal practitioners can happen on an individual basis, in order for it to become an institutional force, it requires an external outlet. Law schools that recognize a responsibility to advancing civil rights, social justice, and economic equality must thus provide meaningful support for career alternatives to corporate law. Since law schools are not and cannot be a neutral trade school without institutional allegiances, they must at the very least aim for consistency and transparency in their messaging about their internal drivers. Spelling out our moral assumptions about what constitutes a good school, a worthy student, and what is valuable about law school is also a crucial step in this process.

If law schools choose to espouse a self-image that exults social justice ideals, they must deliver on that promise by committing significant resources to public interest careers. If they are no more than an engine for the mass cooptation and assimilation of talented youth into corporate lawyers, they must be honest about these commitments. If law school is not the place where we can learn how to break from orthodoxy, but a mode of training and thinking that students with social justice ideals must overcome, then law schools must be more open “about their elitist compromises, so there [can] be more discussion of how all of their members manage their consciences.”69 I am left with Professor Moyn’s troubling inquiry:

“What if the truth of law schools is that their main social function, aside from producing the next round of elites, is that they buy off those who initially doubt that perpetuating elites is what law schools ought to be doing? If law schools faced this haunting question more routinely, they might resolve to demystify the law as a first step to reinvigorating democratic life. This would matter not just for the ethical conundrums of a handful of elites, but also to the country and the world.”70

69. Moyn, Law Schools Are Bad for Democracy.
70. Id.