

2001

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## Citation Details

Margot E Young, "Making and Breaking Rank: Some Thoughts on Recent Canadian Law School Surveys" (2001) 20 Windsor YB Access Just 311.

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# MAKING AND BREAKING RANK: SOME THOUGHTS ON RECENT CANADIAN LAW SCHOOL SURVEYS

by  
Margot E. Young\*

*The recent emergence of various surveys evaluating Canadian law schools has introduced greater notions of rank among these law schools. Three different types of law school surveys can be identified. Collectively and individually, these surveys threaten a number of normative goals for legal education: humanistic professionalism, pluralistic legal education and diversity. While it is important to acknowledge the need for accountability, it is essential, as well, that legal educators think carefully about what values and perspectives ought to underpin such evaluation.*

## I. INTRODUCTION

In 1983, the *Report to the Social Sciences and Humanities Research Council of Canada by the Consultative Group on Research and Education in Law* noted that "there has not emerged in Canada, as there has in the United States, an exaggerate caste system of law schools ...".<sup>1</sup> Recently, however, this picture has started to change. Among the catalysts of this change are the Law School Report by Canada's national newsmagazine, *Maclean's*, and the now-annual survey of Canadian law schools by *Canadian Lawyer* magazine. Both, although to different extents, have generated a greater degree of popular notions of rank among Canadian law schools. A more explicit hierarchy, at least with respect to the top three to five law schools in Canada, is evolving. The emergence of these surveys as popular indicators of law school success and status has many law schools jockeying to claim equal rank with the general Canadian law school community while others maneuver to break rank with the rest of the pack.

The task this paper sets itself is a simple one. Its limited ambition is to provide some preliminary thoughts on law school rankings and surveys, to set out some distinctions and criteria which will prove to be useful in evaluating the impact and import of such rankings. What this paper does not do is discuss questions which could be raised around the different survey methodologies involved and the problems associated with the measurement of quality and reputation. So, for instance, ignored are the problems of self-selecting respondents, sample size and distribution, the nebulous

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\* Faculty of Law, University of Victoria, Victoria, British Columbia. This paper is a revised version of papers presented at Workshops on Legal Education held in Vancouver January 1999 and Winnipeg May 1999. The Winnipeg workshop was sponsored by the Legal Research Institute of the University of Manitoba. Research support for this paper was received from the Hampton Legal Education Research Group, University of British Columbia.

<sup>1</sup> Consultative Group on Research and Education in Law, *Law and Learning: Report to the Social Sciences and Humanities Research Council of Canada* (Ottawa: Minister of Supply and Services, 1983) at 21 [hereinafter *Law and Learning Report*].

content of reputation, and statistically unsound averaging and ranking of incommensurate data. Ultimately, these are not the most pressing issues the surveys raise. American journals, after all, are full of articles convincingly picking apart the management and character of data in such surveys,<sup>2</sup> yet the U.S. rankings continue to be extremely influential. Clearly, the more controversial and compelling issues lie in the politics of the resulting rankings and their effects on the substance of legal education.

## II. SURVEYS TYPES

Three types of law school surveys within the Canadian context are identifiable, distinguished along the dimensions of target audience and character of review. By the latter dimension, I mean how the survey results are presented: for example, are the schools ranked, what sorts of information are gathered, and how is that information organized in the final report. What follows is a brief description of each type and the one or two actual surveys which best illustrate the type.

### A. Consumer Reports

The first type of survey is set up as a market report. These surveys are targeted most obviously at the consumers of legal education—students—although there are other secondary audiences as well. Like consumer reports for other products, these surveys give relative rankings and the information presented results from polling a range of “experts” as well as from a collection of data from the schools themselves.

The *Maclean's* survey is the Canadian example of this sort of survey.<sup>3</sup> While it does not give one overall ranking of law schools, unlike, say, the *U.S. News and World Report* which is the best known American law school survey,<sup>4</sup> *Maclean's* provides two sets of reputation surveys which use a

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2 See, for example: A. Willard, “Law School Rankings: through the Education and Employment Looking Glass,” on-line: National Association for Law Placement <<http://www.nalp.org/Schools/rank1.htm>> (date accessed: 1 October 2000); S.P. Klein & L. Hamilton, “The Validity of the U.S. News and World Report Ranking of ABA law Schools,” (18 February, 1998) online: American Association of Law Schools <<http://www.aals.org/validity.html>> (date accessed: 1 October, 2000); D.C. Yamada, “Same Old, Same Old: law School Rankings and the Affirmation of Hierarchy,” (1997) 31:1 *Suffolk U.L. Rev.* 249. See also: “Association of American Law Schools Calls on *U.S. News & World Report* to Stop Ranking Law Schools; Study Challenges Validity of Magazine’s System,” *PR Newswire*, 18 February 1998. For Canadian commentary on ranking procedures, see, for example, S. Page, “Rankings of Canadian Universities, 1995: More Problems in Interpretation,” (1996) 26/2 *The Canadian Journal of Higher Education* 47.

3 “The Grad Report” *Maclean's* 110:40 (6 October, 1997) 30; “Jury of Their Peers,” *ibid.* 32.

4 *U.S. News and World Report* [hereinafter *U.S. News*] has published its survey of American law schools annually since 1990. Their ranking system relies upon the opinions of law school deans, faculty members, practicing lawyers and federal judges in addition to statistics provided by the law schools themselves on such things as admissions criteria, enrollment, placement and salary data, faculty numbers and salary, tuition and budget expenditures. Employing a formula derived by the Report’s researchers, law schools are grouped at four levels. “America’s Best Graduate Schools: Exclusive Rankings” 122:9 *U.S. News* (10 March, 1997) 67 at 71.

series of subcategories rankings to generate a best overall ranking for each reputational survey. The results under the subcategories rankings are based on voluntary returns of reputational surveys sent to two groups: recent law school graduates and select legal academics, lawyers and judges.

*Maclean's* has also constructed a general survey, bringing together data collected from questionnaires sent to the law schools. This third survey covers such things as median LSAT scores, median entering grades, applicant acceptance rates, scholarships and bursaries, tuition, student/faculty ratios, library holdings and so on.

Also in this category of survey type is *The Gourman Report*, originally self-published by its author and now, relatively recently, published by the Princeton Review, an American test-preparation company.<sup>5</sup> *The Gourman Report* rates 105 graduate and professional degree programs in American and international universities, including Canadian schools. Law schools are clustered into six categories: distinguished, strong, good, acceptable plus, adequate, and marginal. Unlike the *Maclean's* survey, the *Gourman Report* provides only ratings, with no other descriptive information attached. It also provides no information as to its methodology, with the result that serious questions are commonly raised as to its validity.<sup>6</sup>

## B. Professional Report Card

The second type of survey styles itself as a report card. The information on which the report is based comes from surveying former students of each of the law schools; the targeted audience is the legal profession. The presentation is less formal than the first type of survey.

This category of survey captures the annual report card on law schools issued by *Canadian Lawyer* magazine. Because *Canadian Lawyer* is not a mass circulation magazine like *Maclean's*, but circulates primarily within the legal profession, it presumably has a target audience different from the general public. Notably, it is unlikely that prospective law students form its primary readership, although many are increasingly aware of its overall gradings (thanks largely, I suspect, to publication of standings by the highest graded law schools). In any case, the accompanying text to the survey is directed to members of the profession—practitioners, of course, as the main readers of the magazine, but also legal educators. Thus, the introductory text to the 1998 survey states: “[M]any believe their law schools need to listen harder to what students and law firms have been telling them for

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5 J. Gourman, *The Gourman Report: A Rating of Graduate and Professional Programs in American and International Universities*, 8th ed. Rev. 1997 (Random House, Inc. 1997) [hereinafter *The Gourman Report*].

6 *The Gourman Report* is authored by a retired professor of political science, Dr. Gourman, who says that his rankings use the product of averaging scores—from zero to five—on ten factors affecting the quality of an academic unit. Factors include such things as administration policies, the relationship between professors and administrators, attitude about research and openness of administration. For discussions of *The Gourman Report*, see J. Selingo, “A Self-Published College Guide Goes Big Time, and Educators Cry Foul,” (7 November, 1997) 44:11 *Chronicle of Higher Education* A45; Willard, *supra* note 3.

several years—get back to the basics.” So too, the 2001 Report Card considers itself a “wake-up call” for law schools.<sup>7</sup> The report cards are, in this manner, framed as an aid to improved communication between the Bar and the legal Academy.

The report cards also focus on a different range of performance indicators than *Maclean's* and are more anecdotal and impressionistic than either of the surveys in the first category. These characteristics reflect the source and type of the information on which the survey relies, as well as the fact that the written commentary in which the resulting grades are imbedded, and which interprets those grades, is solely the product of the selective bias of any given report's author. Law schools are given alphabetic grades rather than ordinal listings.<sup>8</sup> But, of course, these alphabetic grades translate easily into ordinal rankings, which the magazine emphasizes by ordering its coverage of the results in a descending hierarchy of school standings.

### C. Law School Guides

The third type of survey is presented less as a way to establish “top” and “bottom” law schools and more as a source of descriptive information about the range of options presented by all of the schools. The description of each law school is culled almost solely from information collected from the school itself and recent graduates. Like the consumer report category of survey, this type of guide is explicitly directed to prospective students, but, unlike the other survey types, its audience probably does not extend much beyond this group. And, again unlike surveys in either of the first two categories, there is no ranking of schools; the emphasis is on fairly lengthy, non-comparative descriptions of each school.

In Canada, this kind of publication is represented by the *Guide to Law Schools in Canada 1996-98*, authored by Catherine Purcell.<sup>9</sup> Common law and civil law, francophone and anglophone schools are covered. The 10-12 pages of discussion on each law school are organized into a set of descriptive topics such as admission policy and data, demographic profile of students, and related degree programmes. Paired with this is commentary, both editorial and anecdotal based on student interviews, on the character, strengths and weaknesses of each school. The descriptions are not compar-

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7 K. McMahon, “The Canadian Lawyer 2001 Report Card on Canadian Law Schools: ‘Making the Grade’” (January 2001) 25 *Can. Law.* 23.

8 The magazine surveys recent law school graduates working in major law firms across the country along such categories as: quality of overall curriculum; relevance of education to actual practice; quality of the law faculty; quality of fellow students; standards of testing, and; adequacy of facility. The standards of assessment for each category range from “excellent” to “adequate” to “very poor.” These, in turn, were translated into points and letter grades, the resulting average of which is used to generate an overall mark for each school. For an explanation of the methodology, see, for example, the 1991 write-up by K. Monteith, “A Report Card on Canada’s Law Schools,” (February 1991) 15:1 *Can. Law.* 14 at 17.

9 C. Purcell, *Guide to Law Schools in Canada, 1996-98* (Toronto: ECW Press, 1996). In addition to the Purcell Guide there is as well another publication by T.V. Johnson entitled *Getting Into Law School: The Canadian Guide* (Toronto: Harcourt Brace & Company Canada Ltd., 1996).

ative between the different law schools, although some comparative statistical data such as admission figures, class profile, percentage of women faculty and application acceptance ratios are provided at the end of the book.

This paper will focus on the first two types of surveys and, in particular, on the *Maclean's* survey and the *Canadian Lawyer* report card. My contention is that these two surveys mark a changing understanding of legal education in Canada, signaling a community that is increasingly stratified and under pressure to modify progressive trends towards a more socially and politically responsive educational environment.

### 1. Preliminary Comments

Two initial points are worth making, both of which speak most directly to the *Maclean's* survey. The first is that educational surveys for the consumer market are big business. An American researcher found that the five American college guides she studied generated nearly \$16 million each year in sales alone. The researcher also estimated that about 400,000 American students a year used magazine rankings.<sup>10</sup> In 1997, the issue containing the college rankings—its “swimsuit issue” as commentators now refer to it<sup>11</sup>—was *U.S. News's* second-best seller, while the one including the graduate school rankings came in as its eighth-best seller. As well, *U.S. News* now sells its college and graduate school rankings in an annual paperback book, publishes the college rankings on CD-ROM, and displays all its rankings on an elaborate web site. “It became, essentially, our franchise,” says Mel Elfin, the special projects editor involved in expansion of the magazines reputational surveys of educational institutions.<sup>12</sup>

*Maclean's* appears to do similarly well in relation to its educational survey issues, relative to the size of the Canadian market. Its law school issue was reported to be one of its best selling issue, appearing to sell out in Toronto soon after release. The magazine also releases a special annual university guidebook which reprints the various education surveys contained in regular issues, along with additional descriptive information. So, when one thinks about surveys like the *Maclean's* survey, it is important to realize that the impetus for the survey is probably as much marketing the magazine as anything else.

However, the *Maclean's* survey also facilitates the marketing of law schools, which is my second preliminary point. The format of this type of survey relies upon the collapsing of difference into market fungibility, with the consequent reduction of law schools to purchasable, comparable products. Examples from the American context illustrate the trend into which *Maclean's* has tapped. Elfin, the architect of the *U.S. News* law school

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<sup>10</sup> The study was done by P.M. McDonough, an associate professor of education of the University of California at Los Angeles and was reported in “Study Measures Influence of College Rankings” (18 July, 1997) 43:45 *Chronicle of Higher Education* A34.

<sup>11</sup> R. Parloff, “Who’s Number One? And who’s Number 52, 91 and 137?” (1998) 5 *Am. Law.* at 9.

<sup>12</sup> *Ibid.* at 7.

rankings, wrote in the 1990 *U.S. News* survey: "The sad truth is that those who face the daunting prospect of raising upwards of \$75,000 to finance a legal education often can find more information on the relative merits of two \$200 compact disc players than on the relative merits of law schools."<sup>13</sup> Speaking in relation to the magazine's ranking of undergraduate institutions, Elfin said: "I envision this as a Consumer Reports approach to higher education."<sup>14</sup> "We're serving consumers, the law school applicant," the *U.S. News* national news editor, Ted Gest, has said. Gest continued: "Though reputation is a murky concept, the poll obviously contained useful information, since reputation has real-world consequences that consumers are entitled to consider."<sup>15</sup> As Elfin said in an interview: "People want to know, when they walk into the hiring partner's office, what does it mean when it says X school on your resume, and what does it mean when it says Y school? This is part of the thing you're buying."<sup>16</sup> It is also, one is compelled to add, something the magazine surveys are creating and reinforcing.

There are consequences to this consumer-and-market model of legal education. Should rankings become an important part of how the public understands legal education, the incentive is for law schools to behave like market competitors, not joint providers of an important public service. A high ranking in popular surveys, after all, promises to translate into such things as more applications (which mean more application fees), a higher entry-offer acceptance rate, better chances at alumni and private sector donations, more clout within one's own university community, personal status as a member of a highly ranked school and superior job prospects for graduates. Lost, however, is an understanding of Canadian legal education as a shared, national project when schools scramble to distinguish and competitively distance themselves from each other.<sup>17</sup>

Fears about fragmenting and individualizing consequences are borne out by the American experience where law school rankings—most notably the one done by *U.S. News*—are firmly established and impact tremendously on the financial opportunities of law schools and of their graduates.<sup>18</sup> "The

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13 *Ibid.* at 6.

14 R. Frammolino, "Rankings Rattle Academia" *The Los Angeles Times* (6 September 1996) A1.

15 T. Carter, "Rankled by the Rankings" (March 1998) 84 *A.B.A.J.* 46 at 50.

16 *Supra* note 11 at 6.

17 In terms of Canadian legal education, an additional point about the absence of Quebec law school in these surveys is important to make. *Maclean's* covers only common law schools, and thus surveys only those law schools outside of Quebec with the addition of McGill law school. It was not until 1999 that the *Canadian Lawyer* included "report cards" on some (but not all) of the Quebec schools. The result of this incomplete coverage of all of Canada's law schools is the isolation of French law schools, the establishment of another implicit hierarchy of law schools that count, and the communication of an inadequate notion of what is meant by a national law school community.

18 While there are a number of different rankings of American law schools, the most prominent one is done by *U.S. News*. To generate its rankings, the magazine employs a complex formula mixing such factors as Law School Admission Test (LSAT) scores, incoming grade point average (GPA), job placement, student-teacher ratio, instructional expenditures and two reputation surveys, one administered to legal academics and the other to

existence of rankings creates an arms race among law schools, each seeking to climb its way to the top of the heap—or at least pass its rivals.”<sup>19</sup> American schools now run the educational equivalents of product commercials. The wealthier conduct aggressive campaigns to market themselves to the voters in the two *U.S. News* reputational surveys: judges, legal academics and law school graduates. Legal academics find themselves on the recipient end of glossy brochures from other law schools, raving about those schools’ facilities and programmes.<sup>20</sup> The cost of these promotional campaigns means at least an immediate direction of resources away from other aspects of a law school’s budget. Less wealthy schools, typically smaller public institutions, are not able to compete on the same terms, with negative results for their reputation as surveyed in the next poll. Dean Kristen Booth Glen of City University of New York Law School (a progressive public interest oriented law school always at the bottom of the *U.S. News* rankings) responds: “I had to make a choice if I wanted to play this game. I could pay for entrance fees for public interest law summer fellowships or for this campaign.”<sup>21</sup>

If the American example tells true, these surveys threaten to change (or to have already changed) how we think about the overall enterprise of Canadian legal education and how law schools each understand their place within such an enterprise. This is not an insignificant change. In what follows, I map out in more detail some of the potential effects of both the *Maclean’s* and *Canadian Lawyer* surveys on law school culture. If one accepts that these surveys matter—that is, that they get read and discussed, figure in applicants’ law school choices and that law school administrators and faculty care about the results<sup>22</sup>—then it is important to think about their effect on how law schools—their students, faculty and administration—respond to the competition for high rankings.

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lawyers and judges. The formula weighs the factors as follows: 40 percent for “reputation” (measured by two types of opinion surveys: 25 percent from a survey of academics and 15 percent from a survey of judges and practising lawyers); 25 percent by “selectivity” (e.g. students’ median LSAT scores, undergraduate grade point averages); 20 percent by placement success (e.g., what percentage of students are employed nine months after graduation); and 15 percent by “faculty resources” (e.g., faculty-to-student ratio, instructional expenditures per student). About 1,100 lawyers and judges are surveyed. Of these, 347 responded. (Parloff, *supra* note 11, at 9) The survey of academics is sent to four faculty members at each of the 179 ABA-accredited law schools: the dean, the academic dean, the head of the faculty hiring committee and the faculty member tenured most recently. A total of 716 surveys are thus sent out. In 1998, the magazine had 475 responses. (*Ibid.*)

19 R. Korobkin, “In Praise of Law School Rankings: Solutions to Coordination and Collective Action Problems” (December 1998) 77:2 *Tex. L. Rev.* 403 at 415.

20 For a Canadian illustration of the glossy, self-promotional publication, see *Nexus*, the magazine of the Faculty of Law, University of Toronto.

21 J. Hoffman, “Judge Not, Law Schools Demand of a Magazine That Ranks Them” *The New York Times* (19 February, 1998) A1.

22 For a general discussion of the attention paid to American surveys, see, W. Sharp, “Building Reputations: How the Game is Played,” online: 21<sup>st</sup> Century <http://www.columbia.edu/cu/21stC/issue1.1/vying.htm>. Korobkin makes the interesting argument that, unlike the claim critics ascribe to such surveys, their purpose is not to represent fairly the quality of the ranked institutions. Rather, the purpose of the rankings is a coordination function, “matching “high quality” students first with each other and then with the most sought-after employers.” (*Supra* note 19 at 408). The quality of data, its manipulation, are irrelevant. “Rankings exist to create a prestige hierarchy.” (*Ibid.* at 410.)



## 2. Normative Goals: Humanistic Professionalism, Pluralistic Legal Education, and Diversity

As benchmarks for discussion about the effect law school surveys and rankings might have on the future of Canadian legal education, I put forward three normative goals for legal education: humanistic professionalism, pluralistic legal education (both notions loosely borrowed from the *Law and Learning Report*) and diversity. These are not offered as the only goals one might have for legal education, or even as necessarily sound goals. They are suggested simply for the purpose of anchoring a discussion about the impact law school rankings might have on the course of legal education.

I begin with humanistic professionalism, a term used by the *Law and Learning Report*, to capture what it felt, in 1983, were the aspirations of many Canadian legal academics. Based on its understanding of the results of current legal education literature and its own survey results, the *Report* stated that Canadian law schools imagined themselves to be providers of a legal education that was humane and professional, not simply vocational.<sup>23</sup> Three educational elements are associated with this form of legal education:

1. learning legal rules and developing the ability to use these rules;
2. learning legal practice skills such as interviewing, negotiation, advocacy;
3. developing a deeper understanding of law as a social phenomenon and an intellectual discipline.<sup>24</sup>

Humanistic professionalism thus focuses not merely on mastery of doctrine and analytical technique, not merely on the craft and practical skills of lawyering, but also on the exploration of the legal system from the perspectives of other disciplines and on the challenging of assumptions underlying legal rules, reasoning or institutions.<sup>25</sup> Leon Trakman has called this a “distinct ideological position,” signaling that an understanding of the law school as not merely the site of professional training but also an intellectual centre is a particular and controversial stance.<sup>26</sup>

The *Law and Learning Report* did not conclude that law schools had been successful in their quest to transform legal education from the “classical” to the “humanistic professional” model. In particular, the structure through

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23 *Law and Learning Report*, *supra* note 1 at 47.

24 *Ibid.*

25 *Ibid.*

26 L. Trakman, “Law and Learning Report of the Consultative Group on Research and Education in Law, Social Sciences and Humanities Research Council of Canada” (1983) 21 *Osgoode Hall L.J.* 554 at 555. The *Law and Learning Report* noted a range of different and occasionally inconsistent reasons associated with justification of human professionalism from its appearance in the 1960s onward. For example, the achievement of intellectual growth and development of students, the injection into the legal system of a greater sensitivity towards previously ignored claims and the training of better lawyers were all reasons the *Law & Learning Report* named as catalyzing this “new” understanding of legal education. The latter reason, of course, as the report pointed out, conflicts with the more “humanistic” ambitions of the new programme (*supra* note 1 at 48).

which such a programme of legal education was to be delivered—eclectic, optional curriculum—was, the *Report* stated, adequate to neither the “humanistic” ambitions nor the “professional” goals of the model.<sup>27</sup>

Regardless, however, of law schools’ success (or not) in meeting the ideal of humanistic professionalism, the *Law and Learning Report* defended the importance of conjoining professional training with “humane-intellectual” goals. The “tension” apparent between these two sets of goals is, the *Report* implied, advantageous from both an academic and a practical standpoint. More specifically, the *Report* noted that the ability to examine critically conventional wisdom has three practical advantages: adaptability to change, law reform leadership abilities and innovative client servicing.<sup>28</sup> The *Report’s* conclusion was that “humane-intellectual” activities, apart from their academic value, make important contributions to students’ preparation for practice.

This vision of legal education, particularly its validation of critical, theoretical and interdisciplinary legal education, is under attack, most pointedly from the *Canadian Lawyer* survey. A number of recurring themes in the various yearly report cards issued by the magazine illustrate this. One dominant theme of the report cards is the attack on curricular content that covers anything not considered part of the basics of practice. The January, 1999 article illustrates well this central obsession when it begins with the question: “[t]rade school or house of higher learning?”<sup>29</sup> Commentary in the same article focuses on the imagery of out-of-touch law schools, disconnected from the profession’s governing bodies and, the article emphasises, the real world.<sup>30</sup> Despite this situation, however, the article concludes that “advocates for teaching basic legal skills and readying graduates for real-world practice appear to be winning out.”<sup>31</sup> The text goes on to contrast those few respondents who believe “theory is just as important to practitioners as basic skills”<sup>32</sup> to the majority of respondents who look for practical skills, not “political or ideological agendas” at law school.<sup>33</sup> The intellectual and the professional are considered mutually exclusive, with the former cast clearly as political, ideological and irrelevant.<sup>34</sup> Earlier reporting of its surveys by *Canadian Lawyer* also contains similar con-

27 *Law and Learning Report, ibid.*

28 *Ibid.* at 50-51.

29 R. Black, “The 1999 Canadian Law School Report Card ‘Readin’, Writin’ & Researchin’” (1999) 23:1 *Can. Law.* 27.

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 As an interesting addition to the debate, it is worth remembering that the *Law and Learning Report* recommended that law schools facilitate the intellectual development of legal practitioners through the development of graduate programmes with a strong intellectual and theoretical component designed specifically for legal practitioners. It also urged the profession to encourage scholarly activity by practitioners and judges and to “reaffirm its commitment to being a ‘learned profession’ by more extensive financial support of legal education and research”: *Supra* note 1 at 160-61. This is interesting commentary in light of the anti-intellectualism inherent in the criticism of the *Canadian Lawyer* editorial board and the respondents to its surveys more than 15 years later.

cerns. Thus, a University of Toronto student wrote in the 1998 survey: "In many cases, law schools provide a good grounding in political theory, sociology or research theory, but a wholly substandard grounding in the law."<sup>35</sup> And, in the introduction to the 1991 survey, the magazine states that some students had "eloquently described the frustration and anger they felt when they started their first day on the job and discovered that three years of law school gave them few practical skills."<sup>36</sup>

Connected to this line of argument is the constant theme of the "real world" versus legal academics' "world." Repeatedly, *Canadian Lawyer* reproduces respondents' comments that characterize law professors as out of touch. For example, comments about the faculty of the University of Moncton in the 1998 survey are summarized as indicating that "[e]xperience in the real world of law ... was seen as a faculty weakness."<sup>37</sup> Similarly, the 2001 Report Card sees improvement in the supplementation of "inadequate professors" with "practicing lawyers."<sup>38</sup> The 1999 article ends by highlighting a respondent's wistfulness for the days of Socratic badgering in the classrooms, then quotes Socrates to the law deans:

"It is only too likely that neither of us has any knowledge to boast of, but he thinks he knows something which he does not know, whereas I am quite conscious of my ignorance. I am wiser than he is to this small extent I do not think that I know what I do not know."<sup>39</sup>

It is not clear exactly what this quote is supposed to signify, but in this context it certainly speaks of a general dismissal of law school administrators.

How much do these comments, and *Canadian Lawyer's* endorsement of them, matter? As an American commentator notes in relation to prestigious law schools, stories of complaints by practitioners about the lack of practical knowledge imparted to students by their law schools "abound in the folklore of the legal profession."<sup>40</sup> Yet, it is not clear, this author continues, that employer hiring practices have changed to reflect this reported discontent. But, there are a number of ways in which these complaints, when prominently figured in conjunction with rankings, may affect the environment within law schools. Most notably, these comments lend weight to the discrediting of the programme of humanistic professionalism. They threaten the political capital and creditability of law and society curricula, of feminist legal scholars and others incorporating critical perspectives into their classroom teachings and of the teaching of interdisciplinary perspec-

35 M. Crawford, "The 1998 Canadian Lawyer Law School Report Card 'Making the Grade'" (January 1998) 22:1 *Can. Law.* 23 at 24

36 Monteith, *supra* note 8 at 15.

37 Crawford, *supra* note 35 at 25.

38 McMahon, *supra* note 7.

39 Black, *supra* note 29 at 27.

40 *Supra* note 19 at 411. Korobkin notes that such complaints have yet to stop American law firms from hiring new associates from the top law schools so quickly condemned by practitioners as impractical. The same can be said in the Canadian context.

tives. They confirm, through the mouths of select law graduates—who the magazine implies are the best judges of legal education—that law schools, in their emphasis on critical legal studies and interdisciplinary intellectual work, are failing to meet the needs of the profession they are supposed to serve.

Such commentary in the *Canadian Lawyer* surveys dovetails nicely with one of the reputational subcategories contained in the *Maclean's* survey. In a survey sent to law school graduates called to the bar in the three previous years, respondents are asked to assess their law school in terms of relevance of its curriculum. The results of this question are both individually tabulated as well as integrated into an overall rank in relation to what the magazine calls “The Grad Report.”<sup>41</sup> Schools which did poorly in the *Maclean's* ranking on this topic have additional incentive to take the messages of the *Canadian Lawyer* discussion to heart.

Should a law school receive a low grade, those members of the law school community whose presence or contribution to the school is either misrepresented or actively blamed in the survey for the school's poor showing are set up as targets for student or faculty dismay. Complaints about critical scholarship and overintellectualisation can mean that feminist faculty, faculty concerned about inclusive pedagogy and curriculum, or faculty who teach interdisciplinary or theory courses become more vulnerable within the institution. Anxiety induced in students in lesser ranked schools about their chances in the job market may result in their rejection of those aspects of legal education which do not conform to traditional ideas about legal professionalism, as confirmed in the reporting of the survey results. Thornton has spoken of this as the “centripetal pull” of technical legal knowledge for those anxious about their own (potentially) marginal position in the profession.<sup>42</sup> A tough job market, or student perception that the market is tight, can, particularly in times of high tuition and student debt, increase such anxiety. Thus, the forces of such surveys work at both ends of the ranking hierarchy to traditionalise legal education. Top ranked schools are rewarded because of the degree to which they conform; low ranked schools are provided with disincentives to celebrate and continue the extent to which they do not fit this traditional mode. All and all, the programme of humanistic professionalism faces considerable challenge.

The second normative vision of legal education put into issue by recent rankings of Canadian law schools is that of a pluralistic education. The concept of pluralistic education is again borrowed from the *Law and Learning Report*, although I give it a slightly different significance than the full sense it has in the *Report*. The *Report* uses the notion to advance the idea that legal education could be organized into academic and professional curricular streams, with different schools offering a range of alternatives.<sup>43</sup> I want to use the notion to reflect the *Report's* more general idea that law

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41 “The Grad Report,” *supra* note 3.

42 M. Thornton, “Technocentrism in the Law School: Why the Gender and Colour of Law Remain the Same” (1999) 36 *Osgoode Hall L. J.* 368 at 375.

43 For the *Law and Learning Report* discussion of this notion, see *supra* note 1 at 56–57.

schools should be encouraged to develop their own unique programmes and characters. A complete range of curricular options need not be offered at any given law school. Instead, different faculties offer different and distinctive programmes, reflecting local and/or national needs, the faculties' own strengths and self-defined objectives.<sup>44</sup> Thus the notion encourages diversity across law faculties and the fostering of uniqueness and variety among the different Canadian law schools. Different law schools could have different strengths, offer different concentration of courses, provide different links to other disciplines or areas of concentration in the legal profession. In such a way, the range of regional, national and social needs that law graduates can fill is recognized. Moreover, legal education emerges as a shared national concern, facilitating co-operation and specialization, not competition, among law schools.

The goal of pluralistic legal education is most endangered by the survey type represented by the *Maclean's* survey. This is primarily due to the fact that *Maclean's* ranking methodology necessitates a limited set of generic criteria of comparison, with the result that law schools' differences are either erased or serve as the basis for advantage or disadvantage in the rankings. That is, what differences are marked by the survey are used to order the law schools competitively; they are used less to describe than to rank. To accomplish this task, the individuality of law schools is lost; characteristics must be rendered fungible in order to be compared and marketed.

Threatened, then, is the idea of different, but equal law schools. Rankings clearly make some schools look bad, as they require the identification of top schools and bottom schools. Difference becomes coda for advantage or disadvantage when the national community of legal educators is broken down into individual competitors. But educational programmes are not like basketball teams: they should not need to defeat others to look good.<sup>45</sup>

The absence of representation of variation has implications for how well the *Maclean's* survey works, even on its own terms, as a rich or detailed source of consumer information.<sup>46</sup> If it is true that, as one college counselor has written, "there is no best university, but there is a best university for [an individual],"<sup>47</sup> then surveys like *Maclean's* law school rankings may not really be very useful, particularly when they insist that the choice of law school permits little individual variation, as *Maclean's* did in the press release heralding its survey issue: "If you're considering a career in law, the University of Toronto, the University of Victoria, the University of

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44 *Ibid.* at 56.

45 I owe the basketball analogy to J.E. Stake, "Rankings Are Dangerous" (January, 1998) online: Indiana University School of Law - Bloomington <[http://monoborg.law.indiana.edu/lawrank/rankgame\\_danger.html](http://monoborg.law.indiana.edu/lawrank/rankgame_danger.html)> (date accessed: 30 June 2000).

46 The *Canada News Wire* story announcing the publication of the *Maclean's* survey describes the special report on law schools as "an invaluable resource that helps undergraduates make informed career decisions." "Legal Aid for Undergraduates—*Maclean's* Publishes Its Inaugural Guide to Canadian Law Schools" (26 September 1997).

47 J. Pesaro, "The Best University" INFO 17, Toronto: Ontario University Registrar's Association, as cited in Stewart Page, "Rankings of Canadian Universities, 1995: More Problems in Interpretation" (1996) XXVI-2 *Can. J. Higher Edu.* 47 at 57.

New Brunswick, and McGill are the places to pursue your education.”<sup>48</sup> What about students interested in the resource law concentration at the University of Calgary law school or the pursuit of a French language common law degree at University of Moncton? Contrast the consumer utility of this type of survey with its direct, universal message to prospective students to another American survey currently available on the internet that enables students to construct their own ranking system and criteria-weighting for a more individualized print out of law school preferences.<sup>49</sup>

Surveys like those done by *Maclean's* eliminate consideration of unique, nonquantifiable characteristics of schools. Law schools are all subject to the same measuring guides, regardless of fit. At the same time, small differences are made to loom large, since ranking strips away information about differences in degree. Thus the surveys treat law schools as the same generic product while presenting them as achieving vastly different levels in the delivery of this product. Similarities are insisted upon to enable comparison, then differences exaggerated to ensure a hierarchical result to the comparison. In real life, however, little difference in quality may exist between top and bottom ranked schools. The result is a false sense of precision in comparing academic programmes, a concern well noted by American commentators,<sup>50</sup> and a disincentive for Canadian law schools to invest resources in aspects of their programmes not captured by *Maclean's* questionnaire.<sup>51</sup>

The third value under threat is diversity: a norm both the *Canadian Lawyer* and *Maclean's* surveys target, although each in different ways. What I mean by diversity as a value in legal education encompasses two concerns. The first concern highlights the demographic profile of those who populate the law schools, both at the student and the faculty level. The second con-

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48 “The Verdict is in! *Maclean's* Inaugural Survey of Canada's law Schools” (Press Release) *Maclean's* (28 September 1997).

49 This online ranking service is at <<http://monoborg.law.indiana.edu/law/rankgame>>. Called “The Ranking Game,” it allows users to chose from a range of criteria and the weights which will be applied to those criteria. For example, a student could give faculty/student ratio a weight of zero, campus beauty a weight of one, and Tibetan restaurants within 400 metres (a criterion included by the authors of the Game to demonstrate the subjective and idiosyncratic nature of ranking criteria) a weight of .25 to generate a more personalized ranked listing of American law schools.

50 As one American law dean writes, “Students will choose even on micro-differences that they *know* are insanely created.” (emphasis in original). J. Sexton, “Legal Education, Today & Tomorrow,” (Summer 2000) 2nd series, vol. 3, no. 4, online: *The Green Bag: An Entertaining Journal of Law* <<http://www.greenbag.org/Sexton.pdf>> (date accessed 5 June 2001).

51 However, rankings do serve prospective students well in at least one regard. If it is a plausible inference that top ranked schools offer their students better employment opportunities, that is, that prospective employers use law school rankings as what Korobkin calls an “employment sorting mechanism,” then for a potential law student who wishes to pick an institution that will maximize her or his chances of obtaining prestigious employment, attention to law school rankings makes sense. So, rankings do offer a kind of precision of information; they provide students with an indication of the relative prestige of law schools, something many law students care about (*supra* note 19 at 414). And, reputation being what it is, the actual qualities of the schools, the similarities or differences between them, how well a school may or may not suit an applicant, are all features essentially irrelevant to this function.

cern looks to the content of law school curricula, addressing the question of the inclusion of a wider range of experiences and perspectives on law.

The threat to diversity from the *Maclean's* survey lies first in relation to the survey's failure to include diversity as one of its evaluative criteria. This omission is a specific example of larger issues around *Maclean's* choice of evaluative criteria. It matters not only that mostly quantitative and generic criteria are used (the point of the preceding discussion), but also that important information or criteria—like the diversity of the law school population or presence of academic/cultural support programmes—are left out.

This communicates the implicit message that the quality of a legal education does not depend upon these excluded factors. A commitment to a more inclusive law school, reflected in a more diverse student body and faculty, is not important enough to figure as one of the reasons to choose a law school. At least, that is one of messages from the *Maclean's* survey.<sup>52</sup>

The neglect of diversity data is compounded by the survey's use of Law School Admissions Test (LSAT) scores and Grade Point Averages (GPA) to generate rankings. Such reliance threatens to undermine law schools' efforts to engineer more inclusive admissions programmes, as these programmes usually depend upon a more equitable and nuanced understanding of law school admission which grants LSATs and GPAs lesser weight. Failure to incorporate an alternative articulation of admission criteria into law school rankings potentially disadvantages the schools most committed to a progressive and equitable admissions policy. The survey thus presents a significant disincentive to such programmes, particularly when positive diversity achievements (such as a diverse student body) go unmentioned in any survey. The potentially cumulative effect on minority enrollment and diversification of the law student population has to be a negative one.

News from south of the border is ominous here. "The rankings are influencing admissions decisions, and maybe some curricular decisions,"<sup>53</sup> says Philip D. Selton, president and executive director of the Law School Admission Council in Newton, Pa. Further, he states that "it's not all that clear whether those are positive influences and improving education programs, or rather that they're just designed to impact rankings."<sup>54</sup> Lincoln Caplan, the new *U.S. News and World* special projects editor, has responded that because the magazine uses median LSAT scores rather than the mean, the admission of a handful of students with relatively low LSAT scores might affect an average, but it won't affect a median. However,

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52 Criticism of inadequate survey information has arisen in relation to other educational surveys. In a written response to *Maclean's* more general survey of all Canadian universities, the Executive of the Canadian Association of University Teachers (CAUT) noted the failure of the magazine's universities survey to include a section on women on campus, including information about written policy on sexual harassment, pay equity, day care and the presence of a women's studies programme. Similar concerns were raised about programmes for other minority groups on campus. "CAUT response to *Maclean's*" (1992) 30:6 C.A.U.T. Bulletin 8.

53 Parloff, *supra* note 11 at 8.

54 *Ibid.*

Rudolph C. Hasl, Dean of St. John's University School of Law in New York City and immediate-past chair of the ABA Section of Legal Education and Admissions to the Bar, states that Caplan is mistaken: "Towards the end of the admissions process, the school will keep a running tally of its median. The school admission team will feel enormous pressure not to accept applicants if they will pull the median down a point." "I can tell you," says Hasl, "decisions are made to accept somebody because it will have a positive impact on the school's LSAT median, even though the student's GPA will be at a level that would give you some concern."<sup>55</sup>

As well, minority students and the admission process formulated to increase their presence in law schools become identified as problematic from the perspective of a law school's ranking.<sup>56</sup> "The *U.S. News* rankings have a clear impact on minority candidates because of the emphasis on LSATs," says Hasl; "It has a pernicious effect on morale in the schools."<sup>57</sup> Hasl has described the disturbing repercussions of a second tier ranking at his school: "What follows is scapegoating," he says, "as some students assume that the school's low ranking results from its admission of minority students whose LSAT scores, other students assume, bring down the school's LSAT median."<sup>58</sup>

Unlike *Maclean's* survey, the texts of the *Canadian Lawyer* surveys, starting with the 1998 issue, do show an awareness of the issue of diversity, although the focus tends to be on diversity as an indicator of what is wrong with legal education. The 1998 survey contains the first direct attack on special admittance programmes, singling out Dalhousie's IBM programme as equivalent to "having 'I'm stupid' stamped on your head," in the words of one respondent.<sup>59</sup> This is echoed by a respondent the survey cites in relation to the University of Alberta who stated that aboriginal students were allowed "to enroll at a lower standard" as evinced by their inferior skills.<sup>60</sup> The same discussion repeats criticism about the school's exam accommodation policy producing, it is claimed, false, inflated grades.<sup>61</sup> The 1999 survey, in its summary of comments on the University of Windsor law school, lumps together "'special' students from various minority groups with 'other schools' cast-offs," contrasting both groups disfavouredly to "interesting super achievers and 'mature' students."<sup>62</sup>

Emerging as a new theme in the 2001 Report Card are criticisms against critical race theory. One grad extols his alma mater, the University of West-

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55 *Ibid.*

56 Carter, *supra* note 15 at 48.

57 *Ibid.*

58 Parloff, *supra* note 11 at 7. As the examples cited in the next paragraph illustrate, a tendency towards scapegoating is not unknown at Canadian law schools.

59 Crawford, *supra* note 35 at 25.

60 *Ibid.*

61 *Ibid.* at 27.

62 Black, *supra* note 29 at 29. This attack on Windsor's admissions policy is turned around in the 2001 Report Card, where the commentary on the school records that many of the respondents cited student body diversity as the school's "best asset." Similar sentiments were expressed in the same survey about the student body at Dalhousie University Law School. (McMahon, *supra* note 7 at 25).



ern Ontario, for avoiding the “critical-race-theory crap that stalls education at other schools.”<sup>63</sup> Former students of Osgoode Hall Law School are recorded as “begging for more black-letter courses and less ... critical race theory” while one recent graduate of the University of Ottawa law school is quoted as stating: “Lose the racial ... overtones.”<sup>64</sup>

A common hit in all of the report cards is the feminist agenda “creeping into places,” one Calgary graduate is quoted as saying in the 1999 survey, “where it has no place.”<sup>65</sup> In 1999, for example, Queen’s is cited as a school on the mend because it is moving away from feminist legal jurisprudence.<sup>66</sup> The introductory comments to the 2001 Report Card state that law school graduates are moving away from the last decades “sensitive” approach to teaching, registering protest against having to sit in “politically-charged classrooms listening to diatribes on feminism.”<sup>67</sup> Notably, the few times the Report Cards mention the gender of the respondent are mostly in relation to criticisms of feminist content in the curriculum, allowing the commentary to signal that it is often women themselves who condemn the feminist content of the curriculum.<sup>68</sup> So, the 1999 write-up on Dalhousie notes that it is a female graduate who states that “I have never found use for subjects such as ‘Women and the Law.’ Even my criminal procedure course was politically skewed.”<sup>69</sup>

Accompanying complaints against inclusion of gender analysis are criticisms of political correctness. On the 1997 magazine cover illustration, three law students are shown reacting disparagingly to what the 1998 issue’s editorial, in recalling the “eye-catching” quality of the previous year’s cover, calls “politically-correct bafflegab in the classroom.”<sup>70</sup> The students’ response portrayed in the 1997 illustration is to what appears to be a rather androgynous woman professor pointing to the words “patriarchy,” “power,” and “oppression” written on the blackboard as part of a definition of contracts. This denigration of “political correctness” and its practitioners is continued full bore in the commentary on the 1998 survey results. Almost all of the schools, including the top three ranked schools, are accused of ideological indoctrination. A graduate of the University of New Brunswick, a law school highly ranked, reports: “Oh yes, I have been exposed, sensitized and acclimatized to ‘alternative viewpoints.’ I will not soon forget, nor ever forgive, the zealots responsible for those outrages [I] and my classmates were forced to endure in the name of equality.”<sup>71</sup> The author summarizing the survey responses concludes: “Once again, this year’s survey revealed tremendous anger and disappointment with the

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63 *Ibid.*, at 26.

64 *Ibid.*, at 28.

65 Black, *supra* note 29 at 28.

66 *Ibid.*, at 33.

67 McMahon, *supra* note 7, at 23.

68 See, for example, the 1999, 1998, 1997 *Canadian Lawyer* articles, *supra* at notes 29, 35, 37, 57, 59 and 60.

69 Black, *supra* note 29 at 29.

70 Editor’s note (January, 1998) 22:1 *Can. Law.* at 4.

71 Crawford, *supra* note 35 at 22.

politically-correct agendas of some of the nation's schools."<sup>72</sup> The write up preceding the results of the 2001 Report Card begins with the emphasized sentence:<sup>73</sup> "Let the PC backlash continue!"

Both the *Maclean's* and *Canadian Lawyer* surveys, then, work as disincentives to increased diversification of our law schools. One wields potential influence to undermine diversity as an administrative objective and as an accepted feature of the law school community; the other provides a forum for racist stigmatization of law students admitted under diversity motivated admissions programmes and for wholesale rejection of diversity objectives as attempted in curriculum reforms.

### III. CONCLUSION

Several questions remain. If we accept the validity of some accountability for what we, as legal educators do, what forms should it take? There is a limited history of various surveys or studies of legal education—such as reports done by Maxwell Cohen,<sup>74</sup> the *Symons Report*,<sup>75</sup> the *Law and Learning Report*. Recently, the *Report of The Working Group on Racial Equality in the Legal Profession for the Canadian Bar Association*,<sup>76</sup> the *Wilson Report* for the Canadian Bar Association,<sup>77</sup> the *Hughes Report* for the B.C. Law Society,<sup>78</sup> have all included some evaluation of legal education in their overall examinations. Are these enough or do we need more specific comparisons and evaluations of all Canadian law schools? And, if we do, do we rely on market forces to catalyze review or should the initiative come from the public sector with a focus on the public goods we expect law schools to generate?

Central to these musings is the notion of accountability. It is not unreasonable that law schools be held accountable for the legal education they provide. In fact, it is desirable. Some argue that rankings are one way of doing this. As one American academic in favour of the *U.S. News* rankings of social work schools put it:

it is important to identify, develop, and debate yardsticks and to try to learn from their application ... . It directs attention to models of success. It invites us to ask questions about institutional conditions, leadership, resources, and cultures that promote excellence in scholarship, so that it can be replicated

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72 *Ibid.*

73 McMahon, *supra* note 7 at 23.

74 M. Cohen, "The Condition of Legal Education Canada" (1950) 28 *Can. Bar Rev.* 267.

75 T.H.B. Symons, *To Know Ourselves: The Report of the Commission on Canadian Studies* (Ottawa: Publication Office of the Association for Universities and Colleges of Canada, 1975).

76 The Report of the Working Group on Racial Equality in the Legal Profession, *The Challenge of Racial Equality: Putting Principles into Practice* (Ottawa: The Canadian Bar Association, 1999).

77 *Touchstones for Change: Equality, Diversity and Accountability* (Ottawa, Ont.: Canadian Bar Association, 1993).

78 *Gender Equality in the Justice System: A Report of the Law Society of British Columbia Gender Bias Committee* (Law Society of British Columbia: 1992).

elsewhere ... . We would be very interested in those schools that ranked high and would want to applaud them and learn from their efforts as well.<sup>79</sup>

Such a perspective, however, begs the question of how well law school rankings can measure “quality” and, whether in any case, too much is lost in the imposition of the elitism, standardisation and traditionalism such rankings advance. In sum, surveys like the one done by *Maclean’s* are unsuitable vehicles for institutional and professional accountability. Their format and substance are geared more to a quick, adumbrated consumer comparison—with the primary consumer good communicated that of reputation, than to provision of useful feedback to the schools and the profession.

Perhaps, however, the *Canadian Lawyer’s* Report Card style survey should be viewed in a slightly different light. The *Canadian Lawyer* itself seems to understand its task to be feedback to the law schools on how they meet their “clients” needs. While the provider/client model which informs the *Canadian Lawyer* survey generates its own concerns, the magazine may be positioned to provide a useful perspective on important issues. Whether or not it is successful in this is another question. But the contrast between the two Canadian surveys—*Maclean’s* and *Canadian Lawyer*—is a useful one. We can disagree with the normative values and educational goals which underlie the *Canadian Lawyers’* editorial presentation of its survey results but that is a separate question from whether this sort of review is, in general, a good thing.

One clear problem with the *Canadian Lawyer’s* survey, from the perspective of claiming it has some value as an assessment mechanism for institutional performance, is its *sole* reliance on law school graduates for assessment. Practising lawyers’ lack of enthusiasm for their law school education is of long standing. Indeed, it was remarked upon in length by the 1983 *Law and Learning Report*.<sup>80</sup> Faced with the possibility that negative student views were a serious indictment of law schools by their largest “client group,” the *Report* postulated several reasons for an observable gap between professional beliefs about legal education and “objective” reality. First, claims about the disutility of law school education founder on the impossibility both of identifying the skills and knowledge that define a successful lawyer and of measuring the correlation between a given course of legal education and development of particular skills.<sup>81</sup> Moreover, no systematic attempt by those who judge law schools has been made to identify the different skills and knowledges demanded by different aspects of legal practice. Second, lawyers’ assessments of utility are shaped by the recent and immediate relevancy of the learning experiences which mark the beginning of their present activities. Given a conservative profession, the correlation between what the lawyer has just been taught and what she or he must now do will persist longer than a profession experiencing more

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79 S.A. Kirk & K. Corcoran, “School Rankings: Mindless Narcissism Or Do They Tell Us Something?” (1995) 31:3 *J. Social Work Edu.* 408 at 413-14.

80 *Law and Learning Report*, supra note 1.

81 *Ibid.* at 53.

rapid rates of innovation. Third, the importance of what the *Report* calls the humane intellectual activities of law schools is easily overlooked, as the critical ability such activities cultivate ultimately reduces to the practical benefit of the practitioner, and thus are denied specific recognition and distinctive intrinsic value. Fourth, to a practicing lawyer, the most obvious contributions a law school education can make is the teaching of legal rules, of the “law.” Law schools appear to fail in this task, according to lawyers, because very little of this knowledge of the “law” gained through law school courses will be specifically useful to a lawyer once in practice. This is, however, because legal rules change, most lawyers are involved in only a few fields of law, and in any given field of law, much of what has to be done on a daily basis involves adhering to forms or routines with little reference to the derivative legal rules. Thus, the supposition that legal practice is consumed by the “law” of the textbook or the classroom is inevitably doomed.<sup>82</sup> Overall, these considerations considerably qualify the utility of the current methodology employed by the *Canadian Lawyer’s* surveys.

However, even apart from the importance of accountability, some acknowledgment of and response to the informational needs of prospective law students is surely desirable. If we value diversity among law schools because of the range of choices they offer students, then some means for informing prospective students about these various options for legal education is desirable. Communication of this sort of information does not necessarily involve ranking of law schools. The *Purcell Guide* may, in the end, be more useful to prospective students than the *Maclean’s* survey (unless, of course, the information students seek is primarily indication of a school’s reputation, in which case the *Maclean’s* survey may be just what they need!).

Lastly, how should legal educators, respond, if indeed we do at all, to whatever these surveys represent. American law schools have not been inactive in the face of the *U.S. News* rankings, although it is not clear that they have also been effective. In 1998, for example, every prospective American law school applicant—a total of 93,000—was mailed a pamphlet entitled “Law School Rankings May be Hazardous to Your Health!”<sup>83</sup> A letter signed by 150 law deans was sent to *U.S. News* protesting the survey. The same group of law deans, along with the American Association of Law Schools, released a commissioned study critical of the *U.S. News* methodology for its law school rankings. Meanwhile, American dentistry schools blocked a *U.S. News* rankings by collectively refusing to respond to requests for information.<sup>84</sup> The American experience, then, illustrates a

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82 *Ibid.* at 51.

83 “Law School Rankings May Be Hazardous To Your Health!”: A Message to Applicants from Law School Deans, <<http://www.lsac.org/dnbroch.htm>>. Date accessed: 1 October 2000. The letter stated, among other things, that “[W]e [the Law Deans] strongly urge you to minimize the influence of rankings on your [law school applicant’s] own judgment.”

84 In 1997, American dental schools were able to thwart the *U.S. News* plan to include dental schools in its graduate-school rankings. Urged by the American Association of Dental Schools to not participate in the magazine’s request for ranking information, the dental schools response was so low (only 35% of the magazine’s surveys were returned) that the magazine changed its plans. M. Geraghty, “*U.S. News and World*’ Alters Its Rankings of Law Schools After Finding Numerous Errors” (1997) 43: 27 *Chronicle of Higher Education* A38.

range of collective responses to the surveys (or attempts to survey)—some more successful than others.

If the concerns this paper has articulated are valid, then the call is for some form of collective response from the Canadian law schools as well. Co-ordinating such collective action will not be simple. Different law schools have stakes in challenging (or in living with) the ranking results. What is important, however, is that we be clear about the goals which animate our roles as legal educators and that we choose well the values we use to underpin our evaluations of how we succeed in reaching those goals.