

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

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

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

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

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

Law school branding and the future of legal education

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LAW SCHOOLS

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

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

Branding is an attempt to create a desire in targeted prospective students to join the branded law school. Although a law school may brand itself by claiming delivery of an excellent legal education, branding is about distinctiveness, not quality.

The law school model successfully championed by Harvard Law School beginning in 1870 triumphed over other competitors and remains with us today. The case method replaced the lecture method of teaching and had led to an astonishing uniformity in legal education which were branded by reference to performance rankings. After the time of plenty of the baby boom generation, when law schools increased substantially the number of faculty and administrators, the number of applicants began plummeting despite an increase in the total ABA-accredited law schools. Two developments in the 1990s made a contribution to the branding trend: the settlement by the ABA of the antitrust suit filed against it by the Justice Department; and the emergence of the influential annual report published by the US News and World Report ranking America's best professional and graduate schools, including law schools.

Law school deans say that the rankings 'ignore' important factors like faculty quality and curricula. The rankings are a commercial hit and law schools continue to attempt to improve their position in those rankings, including making efforts that might be regarded as deceitful. Law schools have used a number of approaches to attract students, including aggressive marketing of a school's brand.

A law school's reduction in the size of the student body may allow it to avoid any steep decline in the perceived quality of its matriculating students. One way to limit the cost of this option is to attract students interested in something other than the first degree in law. In addition, the law school may offer some other law-related certificate or degree. By reducing its size in order to protect its reputation for quality, a school risks a financial crisis.

The decline in applicants, joined by the recent increase in the number of ABA-accredited law schools, has affected law school admissions. Although there may have been little or no impact on the qualifications of students at elite law schools, it appears that the decline in number and quality of applicants has had its greatest effect on the admissions profiles at non-elite schools. Law schools have used a number of approaches to attract students, including aggressive marketing of a school's brand.

Another option is to maintain the current size of the student body and hope that size does not affect the actual quality of the student body. An attractive option is to maintain both the size and quality of its student body by 'buying' some applicants with attractive financial packages and by expanding the search for qualified applicants through intensified recruiting efforts.

Although a school may both upgrade its admissions office and disburse more in scholarship moneys, these efforts seem unlikely to protect fully a school from a decline in either quality or number of students. A student may apply to a law school for a number of reasons, including its general reputation, cost, geographic location or its particular claim of training expertise. What attracts many students to law school is access to professional markets. It is no longer enough to be an accredited law school. Survival is founded on the basis of brand. Branding is necessary because law schools will continue to face economic pressures.

Law schools use niche marketing to create a distinctive identity or reputation. Branding is, of course, nothing new in legal education. What is new is the explicit manner in and extent to which law schools seek to distinguish themselves from other law schools. Distinction may be obtained by offering a post-JD and one or more joint law-master's degree programs. A number of law schools now offer a 'certificate of concentration' or other indicator that a student has received some value in addition to the diploma conferred. The need for distinction, and acceptance of the idea that scholarship is the path to distinction, has led to the emergence of the professorial 'star'. Law school administrators rationally have concluded that enhanced reputation will result if they hire academic stars.

There are at least two paths that a school may take in branding itself. The school may continue to strive to improve its ranking via the traditionally accepted method of accomplishment and prominent faculty scholarship. Alternately, a law school may attempt to make its institutional reputation outside the control and direction of its faculty. Most law school faculty will prefer traditional methods of accomplishment. A law school can focus its resources on a few fields of law. It may become more 'consumer-friendly' by offering classes throughout the day and week and in different locations, including cyberspace.

Faculty members will be required to learn new fields of law. They will have to become more flexible in the subjects they teach. Instead of separate courses in contracts, torts, criminal law and procedure, courses may be repackaged as structural rather than doctrinal subjects and taught in teams of faculty rather than by individual instructors.

An entrepreneur may also market a law school that has both a location in cyberspace and a physical location. Students may be attracted by marketing an attractive package of distinguished

faculty as lecturers in cyberspace, joined by teaching assistants found at the geographic location at which the law school is located. The cost of such a program would be substantially less than the cost of current bricks and mortar schools. The entrepreneurial law school would enjoy the distinction of its faculty and the instructional and student counselling productivity of its teaching assistants.

For a long time law schools have been able to avoid the prospect of change. The day of reckoning can be postponed for some time, perhaps for as long as a decade. The ability of law school graduates to repay the debt incurred in obtaining a law degree remains difficult but manageable, and so long as interest rates remain low and the market for lawyers remains sound, law schools can avoid change. However, the longer the wait, however, the greater the danger that change will be imposed from without.

REVIEW ARTICLE

PURPOSE

Conversations, choices and chances: the liberal law school in the twenty-first century

A Bradney

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208pp

The author, Anthony Bradney, is Professor of Law at Leicester University in the United Kingdom. In this substantial book on the role and proper function of the law school, he sets out both a theory of liberal education and the way in which the notion of a liberal education can be applied in a law school setting. In doing so, he is able to draw upon a rich vein of research and scholarship about university legal education which has emerged in recent decades, leading to the development of conceptual frameworks that have been tested by appropriate empirical evidence.

In his introductory chapter Bradney engages in a detailed assessment of the state of law schools today compared with the past, when they were ‘small isolated outposts that existed on the outskirts of the academic empire’ (p.2). He concludes that ‘whatever the eventual balance between excitement and servitude that is to be drawn, no one could truthfully deny the evidence of elements of the excitement that clearly pervades British university law schools in the present day’, as reflected in a great increase in activity across a range of the areas of academic teaching and research. Nonetheless he recognises that law schools have both suffered from the ills of their parent universities and have their own particular reasons for feeling a sense of crisis and seeing themselves as being under stress. They find themselves in conflict with both government and market pressures which push them towards a narrower compass of activity than that which they wish to engage in. Bradney sees a new definition of the traditional notion of a liberal education suitable for the twenty-first century offering a new direction for law schools. He argues that the historical concept of a liberal education, when properly interpreted in the context of the modern era, provides a backdrop which can protect and enhance the pluralism of a modern university law school.

Chapter 2 contains a highly analytical account of the research and literature on the nature of a liberal education and how the author conceives it as applying to law schools. At one level liberal education could be envisaged as resistance to the pressures from law societies and bar associations to give legal education an exclusively vocational bias. Bradney then traces the theory of a liberal education, specifically the legacy from the nineteenth century, and draws out the elements that might be applicable today. He looks at its holistic nature, designed not to transmit particular skills or information, but to convey knowledge. He also examines its traditional association with elite social groups and how it can now be applied in an era of mass university education.

In the balance of the book Bradney endeavours to provide useful input into the role which this updated and reconceptualised notion of a liberal education can play in the modern law school. Chapter 3 deals with the missions for law schools in this liberal education climate. In particular, he discusses how it can support pluralistic goals for law schools in an environment where universities are becoming more entrepreneurial.

Chapter 4 deals with the liberal curriculum. Bradney points out that ‘the goal of the liberal curriculum is not to see that students have acquired particular factual information but, rather, to allow them to understand the structures and values that permeate and underpin the law’ (p.87). This means that there is no core content in terms of subject coverage and no list of legal material that must be studied if the student is to be considered educated. Bradney suggests that the task for those writing a curriculum for a liberal law school is to produce a framework under which technical information is not acquired for its own ends. Instead its importance lies in the way it can be used to understand structures and values, rather than as having a value in itself. He also examines the relationship between the liberal curriculum and doctrinal law, as well as the way in which it intersects