

Measuring Law School Excellence: Diversity Among Law Students

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A few years ago, I published an Essay in an *Iowa Law Review* symposium on “The Future of Legal Education.”¹ My contribution analyzed the concrete educational benefits of diversity among a law school’s faculty and student body.² The basic argument was that, because of those benefits, any true effort to measure the excellence of law schools requires the evaluation of diversity.³ Consequently, I contended that the *U.S. News & World Report* should expressly incorporate student and faculty diversity into its much-watched annual rankings of law schools.⁴

Besides better gauging the true quality of law schools, the consideration of diversity in the *U.S. News* rankings would likely attract the attention of law school leaders across the country and help to focus attention on efforts to further diversify law student bodies and faculties.⁵ Such efforts are much needed as attempts to diversify faculties and student bodies appear to have stalled in the wake of the Great Recession and its negative impacts on the legal job market and law school applications.⁶

Currently, the rankings methodology dampens incentives to promote student diversity by failing to consider diversity and, at the same time, heavily weighing Law School Admissions Test scores in measuring student selectivity, with racial

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1. Kevin R. Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean’s Perspective*, 96 IOWA L. REV. 1549 (2011). The symposium Essay built on two columns that I coauthored with Vikram David Amar, now Dean of The University of Illinois College of Law, on integrating the consideration of faculty and student diversity into the *U.S. News* rankings. Vikram David Amar & Kevin R. Johnson, *Why U.S. News and World Report Should Include a Diversity Index in Its Ranking of Law Schools*, FINDLAW.COM (Mar. 12, 2010), <http://writ.news.findlaw.com/amar/20100312.html>; Vikram David Amar & Kevin R. Johnson, *Why U.S. News and World Report Should Include a Faculty Diversity Index in Its Ranking of Law Schools*, FINDLAW.COM (Apr. 9, 2010), <http://writ.news.findlaw.com/amar/20100409.html>.

2. Johnson, *supra* note 1, at 1550–51.

3. *See id.* at 1551.

4. *Id.* at 1574–75.

5. *Id.* at 1575.

6. *See, e.g.*, Renwei Chung, *What Could Disrupt Diversity in Law? The Economy, Stupid.*, ABOVE THE LAW (Dec. 26, 2014), <http://abovethelaw.com/2014/12/what-could-disrupt-diversity-in-law-the-economy-stupid>.

minorities as a group more likely to be concentrated in the lower end of the testing spectrum.⁷ Moreover, the *U.S. News* ranking system does nothing to measure diversity among law school faculties. At the same time, few would contend that a truly excellent law school could have a relatively homogenous faculty and student body. For that reason, law school accrediting agencies consider the relative diversity of law faculties as well as student bodies and counsel law schools that lack diversity on possible remedial actions.⁸

Characterizing as “compelling” my basic thesis that a more diverse law school is a better law school, Professor J.T. Manhire constructively offers measures of a variety of kinds of diversity among law students that might be worthy of *U.S. News* consideration.⁹ He appears to accept as a starting premise the continued use of the “diversity index” that *U.S. News* publishes as a supplement to the annual rankings of law schools. As Professor Manhire summarizes his position, “[t]he *U.S. News* index assumes race/ethnicity to be the sole indicator of diversity. This Essay disagrees and proposes an expansion of a law school diversity index by incorporating, at a minimum, indicators organized across three categories that cause cognitive diversity: identity, experience, and training.”¹⁰ He proposes to improve the index by measuring diversity beyond simply the race and ethnicity of the student body. Professor Manhire ultimately hopes to address the question, “[h]ow do law schools know how diverse their student bodies are?”¹¹

Professor Manhire specifically suggests the incorporation of new criteria into the *U.S. News* diversity index. The “identity” measure would consider gender as well as ethnicity/race.¹² In addition, Professor Manhire posits that the diversity of experience among students can roughly be measured by geographic diversity and age.¹³ “Training diversity” looks at diversity in previous employment and can be measured by the years of employment experience beyond an undergraduate degree.¹⁴

In short, Professor Manhire offers useful ways to improve the measure of student diversity in the *U.S. News* diversity index. His proposed proxies for gauging diversity make sense and represent a move in the right direction of possible reforms to the *U.S. News* index. Other commentators also might have helpful suggestions about other factors that could be easily and efficiently incorporated into the methodology.

7. See Johnson, *supra* note 1, at 1576.

8. See, e.g., Andy Guess, *Diversity Meets Data at George Mason Law*, INSIDE HIGHER ED (June 26, 2008), <https://www.insidehighered.com/news/2008/06/26/gmu>.

9. J.T. Manhire, *Beyond the U.S. News Index: A Better Measure of Law School Diversity*, 101 IOWA L. REV. ONLINE 1 (2015).

10. *Id.* at 5.

11. *Id.* at 2.

12. *Id.* at 5. In light of the growing awareness of the increasing number of transgender people, one wonders whether transgendered student enrollment might appropriately be incorporated into the identity measure.

13. *Id.* at 6–7.

14. *Id.* at 7.

The more fundamental question is this: If *U.S. News* is going to continue to rank law schools, shouldn't they try to measure what we believe is an important component of excellence? Professor Manhire does not touch on incorporating the diversity index, or any measure of student diversity, into the overall rankings methodology. I believe that such incorporation is essential if one is truly seeking to rank law school excellence. Excellence and diversity go hand in hand and, in my estimation, a ranking system that does not measure diversity in its core rankings cannot truly gauge law school excellence. Consequently, any diversity measurement should be incorporated into the overall rankings, not simply offered as a separate index or some sort of supplement or afterthought to the rankings. Put differently, diversity should not be viewed as a factor to consider separate and apart from overall excellence. That unfortunately is the current approach of the *U.S. News* diversity index.

Professor Manhire does not consider a methodology of measuring faculty diversity, apparently leaving that task for another day. Faculty diversity is something that, like student diversity, I have contended is critically important in evaluating law school excellence.¹⁵ As with student diversity, Professor Manhire might be willing to consider measures of identity, experience, and training in evaluating faculty diversity. However it is measured, faculty diversity, like student diversity, is critically important to evaluating law school excellence. Consequently, if the intent is to measure law school excellence, efforts should be made to incorporate faculty diversity into the *U.S. News* rankings. Consistent with my position on consideration of the diversity of the student body, I would not support creation of a faculty diversity index separate from the overall law school rankings. Rather, the diversity of the faculty should be factored into the overall rankings of law schools.

Professor Manhire makes it clear that, if *U.S. News* in fact wanted to better measure diversity, it could do so objectively. However, the influential magazine has made the judgment to not attempt to evaluate diversity of faculty and students in the overall ranking of law schools at all. Such arbitrary judgments will hinder any attempt to offer a more accurate gauge of the excellence of law schools.

15. See Johnson, *supra* note 1, at 1556–66.