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# IN DEFENSE OF AUTHOR PROMINENCE: A REPLY TO CRESPI AND KOROBKIN

TRACEY E. GEORGE\* AND CHRIS GUTHRIE\*\*

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We thank Greg Crespi<sup>1</sup> and Russell Korobkin<sup>2</sup> for their provocative responses to our author-prominence ranking of specialized law reviews.<sup>3</sup> Crespi provides a thoughtful critique of the methodology we employ and the results we obtained. Korobkin shares some of Crespi's concerns,<sup>4</sup> but he focuses his critique on the potential implications of our rankings (and rankings more generally). In this reply, we briefly address the more significant criticisms each of them raises.

## I. REPLY TO CRESPI

Crespi, himself a "ranker,"<sup>5</sup> is sympathetic to our attempt to provide a ranking of specialized law reviews, but he rejects the method-

\* Associate Professor of Law and Adjunct Assistant Professor of Political Science, University of Missouri. B.A., B.S., Southern Methodist University, 1989; J.D., Stanford Law School, 1992.

\*\* Associate Professor of Law and Senior Fellow, Center for the Study of Dispute Resolution, University of Missouri. B.A., Stanford University, 1989; Ed.M., Harvard University, 1991; J.D., Stanford Law School, 1994.

1. See Gregory Scott Crespi, *Ranking Specialized Law Reviews: A Methodological Critique*, 26 FLA. ST. U. L. REV. 837 (1999).

2. See Russell Korobkin, *Ranking Journals: Some Thoughts on Theory and Methodology*, 26 FLA. ST. U. L. REV. 851 (1999).

3. See Tracey E. George & Chris Guthrie, *An Empirical Evaluation of Specialized Law Reviews*, 26 FLA. ST. U. L. REV. 813 (1999).

4. See, e.g., Korobkin, *supra* note 2, at 861 (contending that "[n]umerous challenges could be raised to the design of the author-prominence scale").

5. See Gregory Scott Crespi, *Ranking the Environmental Law, Natural Resources Law, and Land Use Planning Journals: A Survey of Expert Opinion*, 23 WM. & MARY ENVTL. L. & POL'Y REV. 273 (1998) [hereinafter Crespi, *Ranking Environmental Law*];

ology we employ. Because he finds our methodology unpersuasive, he is also skeptical of our results. While we acknowledge his concerns, we believe they are exaggerated.

### A. Methodology

We decided to rank specialized law reviews based on the prestige of the authors publishing in those reviews.<sup>6</sup> Crespi argues that the "greatest shortcoming" of our ranking is our "failure to offer anything even remotely approaching an adequate explanation and justification for [our] methodology."<sup>7</sup> Specifically, Crespi argues that we fail to justify: (1) our decision to rank based on a single factor, rather than multiple factors; (2) our selection of journal prestige as that factor; and (3) our use of the Jarvis-Coleman author-prominence scale<sup>8</sup> to measure journal prestige.

#### 1. The Single-Factor Method

Crespi first argues that we "fail to offer a justification for [the] use of a single-factor method of ranking journals, rather than a more comprehensive approach that incorporates two or more indicia of journal quality."<sup>9</sup> Given that Crespi himself has employed a single-factor ranking methodology,<sup>10</sup> we find his concerns about our use of a similar approach somewhat surprising.

We acknowledge the potential value of a multiple-factor ranking methodology, which, at least in theory, might produce a more "accurate" ranking of journals than a single-factor methodology.<sup>11</sup> If, for example, we had ranked specialized law reviews based on a combination of factors, such as author prominence, citation counts,<sup>12</sup> usage,<sup>13</sup> expert opinion,<sup>14</sup> prestige of publishing school, and circulation, we might very well have produced a "better" ranking than we produced

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Gregory Scott Crespi, *Ranking International and Comparative Law Journals: A Survey of Expert Opinion*, 31 INT'L LAW. 869 (1997) [hereinafter Crespi, *Ranking International Law*].

6. See George & Guthrie, *supra* note 3, at 826.

7. Crespi, *supra* note 1, at 843.

8. See Robert M. Jarvis & Phyllis G. Coleman, *Ranking Law Reviews: An Empirical Analysis Based on Author Prominence*, 39 ARIZ. L. REV. 15 (1997).

9. Crespi, *supra* note 1, at 843.

10. See Crespi, *Ranking Environmental Law*, *supra* note 5 (ranking environmental law/natural resources law/land use planning law reviews based on expert assessments of their prestige); Crespi, *Ranking International Law*, *supra* note 5 (ranking international and comparative law reviews based on expert assessments of their prestige).

11. Although we utilized a single-factor methodology, we considered a substantial data set, coding an average of nearly 35 authors per journal. Thus, our single-factor study does not suffer from a weakness common to such approaches, i.e., reliance upon a small number of observations for each dependent variable.

12. See George & Guthrie, *supra* note 3, at 824-25 n.59.

13. See *id.* at 825.

14. See *id.* at 826.

using only one of those factors. In practice, however, it is not so clear that multiple-factor methodologies produce "better" rankings. Consider, for example, the controversial "Bowl Championship Series" or "BCS" ranking of college football teams this past season, which prompted more widespread and virulent criticism than the prior single-factor method of ranking (i.e., polls).<sup>15</sup> Closer to home, consider the multiple-factor methodology that *U.S. News & World Report* uses to rank law schools,<sup>16</sup> which Crespi cites in his response.<sup>17</sup> In 1998, using its multiple-factor methodology, *U.S. News* ranked the University of Texas Law School twenty-ninth.<sup>18</sup> If *U.S. News*, however, had ranked law schools using the "academic prestige" factor alone, Texas would have placed fourteenth,<sup>19</sup> rather than twenty-ninth, which seems more in keeping with Texas's standing in the legal academy.

Like all prior journal "rankers,"<sup>20</sup> we used a single-factor methodology in part because of the impracticalities associated with using a multiple-factor methodology. Notwithstanding Crespi's accurate assertion that our use of a single-factor methodology allowed us to avoid "the substantial difficulties of developing an algorithm for combining the scores assigned to two or more indicia of quality,"<sup>21</sup> we did in fact conduct a substantial amount of work to produce our single-factor ranking. We (with the much-needed help of four diligent research assistants) collected and coded all article authors and their occupations from 1354 volumes of 285 specialized reviews.<sup>22</sup> In sum,

15. See, e.g., Hal Bock, *BCS: Bonanza or Bust? New Formula to Crown College Football's National Champion Might Not Work After All*, PITTSBURGH POST-GAZETTE, Dec. 6, 1998, at D1 (noting that some college football teams believe that "the [bowl championship series] system, with its complicated formula weighing polls, computer rankings, strength of schedule and won-lost records, did not serve them fairly"); William Gildea, *Ranking the Teams Is Not as Easy as Pi*, WASH. POST, Dec. 5, 1998, at D1 ("This year—here the rankings' stew begins to thicken—college football officials decided to establish a new method for deciding which teams would play in what would be billed as the Division I-A championship game. Several components were selected to determine the Bowl Championship Series rankings, among them, lo and behold, the *Seattle Times* rankings—the work of frat buddies [Jeff] Anderson and [Chris] Hester."); Mark Kiszla, *Final Four Would Settle Debate at Last*, DENVER POST, Nov. 30, 1998, at C1 (noting that the BCS, which employs "a complex mathematical formula understood only by NASA scientists," does not work).

16. See, e.g., *1998 Annual Guide: Best Graduate Schools*, U.S. NEWS & WORLD REP., Mar. 2, 1998, at 80 (describing the multiple-factor methodology used to rank law schools) [hereinafter *1998 U.S. News Rankings*].

17. See Crespi, *supra* note 1, at 843 n.16.

18. *1998 U.S. News Rankings*, *supra* note 16, at 78 (reporting, in part, that Texas tied for 29th with the law schools at Boston University, Brigham Young University, and the University of California-Davis).

19. In 1998 *U.S. News* provided an "academic reputation" score on a 5.0 scale for each law school it ranked. See *id.* at 80. Texas received an academic reputation score of 4.2, which placed it 14th, tied with Georgetown. See *id.* at 78.

20. As far as we know, those scholars who have ranked legal periodicals have used single-factor methodologies. See George & Guthrie *supra* note 3, at 824-26 (discussing various single-factor methodologies).

21. Crespi, *supra* note 1, at 843.

22. See George & Guthrie, *supra* note 3, at 830.

we coded approximately 10,000 pieces of information to produce our modest article.<sup>23</sup> It simply would have been too burdensome to develop and apply a multiple-factor ranking methodology to the universe of specialized law reviews when none of the single-factor data had previously been collected and coded.

We hope that other scholars will attempt to rank specialized journals using other single-factor methodologies, like citation counts, usage surveys, and expert opinion. Through the use of multiple single-factor rankings, we can collectively accomplish something akin to convergent validity (assuming sufficient overlap in the rankings) or determine that one or more of the single-factor methodologies (including, perhaps, the author-prominence methodology) are deficient. We welcome, for example, Crespi's comparison of the results of his "expert opinion"<sup>24</sup> rankings of international and environmental reviews to our more general ranking of specialized reviews.<sup>25</sup>

## 2. Journal Prestige

Not only does Crespi question our decision to rank using a single factor, he questions the single factor we chose—prestige. While Crespi concedes that a "strong case can be made for focusing the ranking methodology on prestige-related factors,"<sup>26</sup> he contends that we "fail to offer any arguments defending [our] choice of using prestige as the primary evaluative criterion,"<sup>27</sup> rather than other criteria we could have used, such as timeliness, "editorial staff qualifications, or the scope of distribution."<sup>28</sup> Crespi is particularly (and inexplicably) troubled by our decision to "ignore altogether the relative merits of the different law reviews as student instructional vehicles, even though this is arguably the most important function those journals serve."<sup>29</sup> We find Crespi's concerns surprising because he, too, chose to rank international and environmental reviews based on prestige<sup>30</sup> and be-

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23. The data are on file with the authors.

24. Incidentally, Crespi misunderstands one of our criticisms of the "expert opinion" methodology he employs to rank international and environmental law reviews. See Crespi, *supra* note 1, at 843 n.15. When we argued in our article that Crespi's methodology has limited applicability, see George & Guthrie, *supra* note 3, at 826, we simply meant that it would be impossible to find a panel of experts who could provide informed opinions on anything other than a discrete category of specialized reviews. Crespi could not have used his methodology to undertake the (nearly) all-encompassing ranking we undertook in our article because he could not possibly have identified a panel of experts qualified to evaluate the prestige of all specialized reviews.

25. See Crespi, *supra* note 1, at 845-48.

26. *Id.* at 840.

27. *Id.*

28. *Id.*

29. *Id.*

30. In his ranking of international and comparative law journals, for instance, Crespi sent a survey to senior scholars in the field in which he asked respondents to rank the "10

cause he, too, neglected to factor instructional value into his rankings.<sup>31</sup>

We do not believe that we need to provide a detailed justification of our decision to rank journals based on prestige. Right or wrong, good or bad, justified or unjustified, prestige speaks volumes in the legal—and legal academic—world. The perceived prestige of law schools, law professors, law firms, and law reviews has a profound impact on many of the educational and professional decisions that law students, lawyers, and law professors make.<sup>32</sup> Accordingly, we think our decision to attempt a prestige-based ranking of specialized reviews will strike most readers as intuitive.<sup>33</sup>

### 3. *The Jarvis-Coleman Author-Prominence Scale*

Crespi's most potent criticism of our methodology involves our decision to use the Jarvis-Coleman author-prominence scale to measure prestige. Crespi credits us with offering a "plausible" argument "for using some form of author-prominence index as the ideal single-factor criterion in measuring journal prestige,"<sup>34</sup> but he argues that we fail to provide an adequate justification for the use of the Jarvis-Coleman scale.<sup>35</sup>

We acknowledge here, as we did in our original article, the problems associated with the Jarvis-Coleman methodology.<sup>36</sup> We opted to use the Jarvis-Coleman scale—rather than developing an author-prominence scale of our own—for purposes of comparison.<sup>37</sup> Crespi also criticizes us for failing to include generalist or primary law reviews and professional association journals in our rankings, noting that the inclusion of these other journals "might have greatly enhanced the utility of [the] rankings" we provided.<sup>38</sup> By recommending

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top journals from the most *prestigious* (a '1' ranking) to the least *prestigious* (a '10' ranking)." Crespi, *Ranking International Law*, *supra* note 5, at 883 (emphasis added).

31. *See id.*

32. *See* George & Guthrie, *supra* note 3, Part II.B.

33. In a recent article, Philip Postlewaite set out to assess whether tenured full professors in the tax field publish articles in "elite academic journals." *See* Philip F. Postlewaite, *Life After Tenure: Where Have All the Articles Gone?*, 48 J. LEGAL EDUC. 558, 558-59 (1998). His measure of "elite academic journals" included the generalist law reviews published by the top 16 law schools as well as two specialized tax journals, "the *Tax Law Review* (published by NYU) and the *Tax Lawyer* (published by the Tax Section of the American Bar Association)." *Id.* at 561. Postlewaite justified his inclusion of the specialized journals based in part on the prestige of their contributing authors. *See id.* ("Given their long history and rich tradition and the status of the contributing authors, these two journals seemed to me roughly equivalent in prestige to the law reviews I had surveyed.")

34. Crespi, *supra* note 1, at 844.

35. *See id.* at 844-45.

36. *See* George & Guthrie, *supra* note 3, at 829, 836.

37. *See id.* at 826.

38. Crespi, *supra* note 1, at 842. ("[L]egal scholars interested in utilizing a ranking of specialized law reviews probably want to see at least the better specialty journals com-

that we compare our rankings of specialized reviews to rankings of primary reviews and professional association journals, Crespi impliedly endorses our decision to use the Jarvis-Coleman methodology, rather than one of our own making, because we could only undertake such a comparison by using the same methodology.<sup>39</sup>

### B. Results

Given his concerns about our methodology, we are not surprised to find that Crespi is skeptical about the validity of the rankings our methodology produced. Crespi compares our comprehensive ranking of specialized reviews to his rankings of international and environmental journals and finds two issues of concern: (1) our rankings differ from his; and (2) international journals and environmental journals fare relatively poorly in our rankings.<sup>40</sup>

#### 1. Differences Between the Rankings

Crespi notes first that our "author-prominence methodology generated ordinal rankings that, at least for the international/comparative law and environmental law/natural resources law/land use planning fields, differ dramatically from the rankings [Crespi] derived from

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pared with flagship law journals. Authors often face the choice of publishing their work either in a 'leading' specialized journal or in a middle-of-the-pack flagship law journal, and they might welcome some assistance in making this decision.").

39. We limited our study to publications affiliated in some way with American law schools, either supported by a law school *alone* or in conjunction with other academic departments, interest groups, or professional associations, because we were interested in the development of legal periodicals in law schools. We did include professional association journals with a formal relationship with a law school either on a permanent or rotating basis: *American Journal of Law and Medicine*, published by the American Society of Law & Medicine, Inc., and Boston University School of Law; *Bankruptcy Developments Journal*, published by Emory Law School in cooperation with the Southeastern Bankruptcy Law Institute; *Computer Law Review and Technology Journal*, published by Southern Methodist University with the Computer Section of the State Bar of Texas; *DePaul-LCA Journal of Art & Entertainment Law*, published by DePaul University College of Law and Lawyers for the Creative Arts; *Energy Law Journal*, published by University of Tulsa Law School and the Federal Energy Bar Association; *The Environmental Lawyer*, published by George Washington University School of Law with the Section of Natural Resources, Energy, and Environmental Law of the American Bar Association; *International Lawyer*, published by the ABA Section on International Law and Practice with Southern Methodist University Law School; *Texas Intellectual Property Law Journal*, published by the University of Texas with the State Bar of Texas Intellectual Property Section; and *Urban Lawyer*, published by the UMKC Law School with the American Bar Association Section of Local Government Law.

Our decision to limit our study to law journals published by or with an American law school was also pragmatic. American law schools publish 330 specialized journals. If we added specialized journals not associated with American law schools, our study would have encompassed more than 200 additional journals.

40. See Crespi, *supra* note 1, at 846-48.

the opinions of academics in those fields.”<sup>41</sup> With respect to international law journals, for instance, Crespi exclaims:

Surprisingly, of the many international law or comparative law journals that fared well in my study, none fared particularly well in the George & Guthrie study. *The Columbia Journal of Transnational Law*, for example, which ranked fourth of eighty-eight specialty journals in that field in my study, was only ranked fifty-sixth out of 285 journals by George & Guthrie, and the *Stanford Journal of International Law*, which ranked twelfth in my study, came in only ninety-ninth in their study. Most strikingly of all, the *Harvard International Law Journal*, which ranked third in my study, and the *Yale Journal of International Law*, which ranked fifth in my study, did not even make George & Guthrie’s top 100 list! Yes, Harvard and Yale, while you fiercely compete with one another for prominence, the word from George & Guthrie is that your international law journals are not even players in their fields!<sup>42</sup>

Similarly, with respect to his rankings of environmental law journals, Crespi notes that “[t]he top-ranked journal in my study, again by a substantial margin, was the *Ecology Law Quarterly*, which was ranked only sixty-second in the George & Guthrie study.”<sup>43</sup>

Crespi’s comparisons are misleading. Crespi ranked only international reviews (and environmental reviews), while we ranked specialized reviews of all types. It does not make any sense to compare the ranking of a particular international journal (or environmental journal) on his scale to the ranking of that journal on ours. Suppose that Crespi ranked all the law schools in Ohio and determined that Ohio State ranked first, while *U.S. News* ranked all American law schools and determined that Ohio State ranked forty-second.<sup>44</sup> Presumably, Crespi would attack the validity of the *U.S. News* ranking based on the forty-one places separating Ohio State on the two scales, even though he only ranked a subset of the law schools *U.S. News* ranked. Obviously, the relevant comparison would be between Ohio State’s ranking on his scale (#1) and its ranking among Ohio law schools on the *U.S. News* scale (also #1). Similarly, the relevant comparison here is how his ranking of international journals compared to our ranking of international journals and how his ranking of environmental journals compared to our ranking of environmental journals. We make these comparisons in Tables 1 and 2 below.

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41. *Id.* at 847.

42. *Id.* at 846.

43. *Id.* at 847.

44. See 1998 *U.S. News Rankings*, *supra* note 16, at 78.

TABLE 1. COMPARISON OF GEORGE & GUTHRIE RANKING OF INTERNATIONAL LAW JOURNALS WITH CRESPI RANKING OF INTERNATIONAL LAW JOURNALS

JOURNAL NAME	ADJUSTED G&G RANK AMONG INT'L JOURNALS <sup>45</sup>	ADJUSTED CRESPI RANK <sup>46</sup>
<i>Virginia Journal of Int'l Law</i>	1	4
<i>George Washington Journal of Int'l Law and Economics</i>	2	19
<i>Indiana Journal of Global Legal Studies</i>	3	N.R. <sup>47</sup>
<i>Cornell Int'l Law Journal</i>	4	11
<i>Texas Int'l Law Journal</i>	5	16
<i>Law and Policy in Int'l Business</i>	6	9
<i>NYU Journal of Int'l Law and Politics</i>	7	6
<i>Columbia Journal of European Law</i>	8	13
<i>Syracuse Journal of Int'l Law and Commerce</i>	9	N.R.
<i>Columbia Journal of Transnational Law</i>	10	2
<i>Michigan Journal of Int'l Law</i>	11	5
<i>Tulane Journal of Int'l and Comparative Law</i>	12	18
<i>Boston College Int'l Law Journal</i>	13	N.R.
<i>Brooklyn Journal of Int'l Law</i>	14	N.R.
<i>Fordham Int'l Law Journal</i>	15	15
<i>Hastings Int'l and Comparative Law Review</i>	16	N.R.

45. We exclude from our international law journal ranking one review—*Criminal Law Forum: An International Journal*—because Crespi did not include it in his survey.

46. We exclude from Crespi's ranking three international law reviews not included in our study to create an adjusted ranking that is appropriate for comparison with ours. The excluded journals are the *American Journal of International Law*, *The American Journal of Comparative Law*, and the *ICSID Review—Foreign Investment Law Journal*. See Crespi, *Ranking International Law*, *supra* note 5, at 874 tbl.1.

47. Crespi reported the international law journals that ranked in the top 25 according to his expert survey results. See *id.* Hence, we can note whether the international journals in the top 23 of our study were in the adjusted Crespi top 22. Journals with an "N.R." fell somewhere below 22 in the adjusted Crespi ranking.

<i>American University Journal of Int'l Law and Policy</i>	17	21
<i>Journal of Transnational Law and Policy</i>	18	N.R.
<i>Vanderbilt Journal of Transnational Law and Policy</i>	19	8
<i>Journal of Asian Law</i>	20	N.R.
<i>University of Miami Inter-American Law Review</i>	21	N.R.
<i>Tulane European and Civil Law Forum</i>	22	18
<i>Stanford Journal of Int'l Law</i>	23	10

As reflected in Table 1, fifteen of the international law journals ranked in the top twenty-three in our study also ranked in the top twenty-two of Crespi's study. This level of agreement is noteworthy in light of the large number of international law journals—eighty-eight—considered in both studies. Our study and Crespi's study are in accord as to two-thirds of the journals that rank in the top quarter of international law journals.

The two studies also agree as to three journals that rank in the top five of environmental law journals, as set forth below in Table 2. Again, the high agreement rate is notable in light of the considerable number of environmental law journals—thirty—considered by both studies.

TABLE 2. COMPARISON OF GEORGE & GUTHRIE RANKING OF ENVIRONMENTAL LAW JOURNALS WITH CRESPI RANKING OF ENVIRONMENTAL LAW JOURNALS

JOURNAL NAME	G&G RANK AMONG ENVTL. JOURNALS	ADJUSTED CRESPI RANK <sup>48</sup>
<i>Columbia Journal of Environmental Law</i>	1	4
<i>Energy Law Journal</i>	2	N.R. <sup>49</sup>
<i>Ecology Law Quarterly</i>	3	1
<i>Stanford Environmental Law Journal</i>	4	5
<i>Villanova Environmental Law Journal</i>	5	N.R. <sup>50</sup>

The expert survey methodology employed by Crespi, then, does not produce results that differ drastically from the author-prominence methodology employed by our study.

48. We excluded from Crespi's ranking the one environmental law review—*Environmental Law Reporter*—not included in our study to create an adjusted ranking that is appropriate for comparison with ours. See Crespi, *Ranking Environmental Law*, *supra* note 5, at 12 tbl.II.

49. Crespi reported all environmental journals placing in the top 20. See *id.* Nineteen of those journals were included in our study. Journals not reflected in Crespi's ranking are marked "Not Ranked" (N.R.) and fell somewhere below 19 in the adjusted Crespi ranking. Crespi does note, however, that the *Energy Law Journal* was "ranked among the top 10 journals by one or more respondents, but that [it] did not obtain a high enough average ranking score to be listed in the top-20 ranking list." *Id.* at 42 n.15.

50. Crespi reported that *The Villanova Environmental Law Journal* also was ranked in the top 10 by one or more respondents. See *id.* at 42 n.15.

## 2. *The Performance of International and Environmental Reviews*

Crespi also questions the relatively poor showing of international and environmental journals in our ranking. Crespi notes:

[T]he international/comparative law journals and the environmental law/natural resources law/land use planning journals, as a group, fared quite poorly in the George & Guthrie rankings. Not a single one of the international/comparative law journals ranked higher than twenty-fourth, and no environmental law/natural resources law/land use planning journal ranking higher than fifty-second.<sup>51</sup>

Crespi expresses interest in comparing our rankings with others, but he notes that “the only other efforts to rank the specialized reviews law reviews” that he is aware of are his own efforts to rank international and environmental reviews.<sup>52</sup> While it is true that scholars have not focused their ranking efforts on specialized law reviews,<sup>53</sup> scholars have ranked law reviews generally. We are aware of two efforts in the 1990s to rank law reviews based on their citations in other reviews—James Lindgren and Daniel Seltzer’s 1996 *Chicago-Kent* symposium piece<sup>54</sup> and James Leonard’s 1990 *St. Louis University* article<sup>55</sup>—and in both, a few specialized law reviews appear. Examining the specialized reviews that appear in these recent rankings may shed some light on Crespi’s concern that international and environmental reviews do not fare well in our rankings.

### (a) *Lindgren and Seltzer*

Lindgren and Seltzer ranked law reviews based on citation counts, using Shepard’s and the Social Science Citation Index (SSCI).<sup>56</sup> They provided three rankings, a top forty ranking based on

51. Crespi, *supra* note 1, at 847.

52. *Id.* at 846. In fact, William Landes and Richard Posner provided a modest citation-count ranking of law and economics journals and selected other interdisciplinary journals. See William M. Landes & Richard A. Posner, *The Influence of Economics on Law: A Quantitative Study*, 36 J.L. & ECON. 385, 416-24 (1993).

53. *But see id.* at 416-24.

54. James Lindgren & Daniel Seltzer, *The Most Prolific Law Professors and Faculties*, 71 CHI.-KENT L. REV. 781 (1996). Colleen Cullen and Randall Kalberg publish Lindgren & Seltzer’s rankings in their article as well. See Colleen M. Cullen & S. Randall Kalberg, *Chicago-Kent Law Review Faculty Scholarship Survey*, 70 CHI.-KENT L. REV. 1445, 1446, 1452-54 (1995).

55. James Leonard, *Seein’ the Cites: A Guided Tour of Citation Patterns in Recent American Law Review Articles*, 34 ST. LOUIS U. L.J. 181 (1990). Janet Gumm also produced a law review ranking in 1990, but she excluded non-primary reviews from her ranking. See Janet M. Gumm, *Chicago-Kent Law Review Faculty Scholarship Survey*, 66 CHI.-KENT L. REV. 509, 515 (1990) (“We limited the scope of the survey to *student-edited general interest law journals* published by American law schools.” (emphasis added)).

56. See Lindgren & Seltzer, *supra* note 54, at 781.

Shepard's only,<sup>57</sup> a top forty ranking based on SSCI only, and a top twenty ranking based on a combined Shepard's/SSCI ranking.<sup>58</sup>

In the SSCI ranking, thirteen of the top forty journals were non-primary journals, seven of which were also included in our ranking.<sup>59</sup> We compare our results to Lindgren and Seltzer's SSCI ranking in Table 3.

TABLE 3. NON-PRIMARY JOURNALS IN LINDGREN & SELTZER SSCI TOP 40 <sup>60</sup> APPEARING IN GEORGE & GUTHRIE STUDY	
JOURNAL NAME	G&G RANKING
<i>Journal of Legal Studies</i>	4
<i>Journal of Law and Economics</i>	below 100
<i>Harvard Civil Rights-Civil Liberties Law Review</i>	14
<i>American Criminal Law Review</i>	12
<i>Journal of Legal Education</i>	15
<i>Harvard Int'l Law Journal</i>	below 100
<i>Journal of Criminal Law and Criminology</i>	50

Five of the seven SSCI top forty specialized journals are in our top 100, four in our top fifteen.<sup>61</sup> International law and environmental law journals fared relatively poorly in Lindgren and Seltzer's study. Only two international law reviews appeared in the SSCI top forty, the *American Journal of International Law*, which ranks twenty-third, and the *Harvard International Law Journal*, which ties for thirty-ninth. No environmental law journals appeared in Lindgren and Seltzer's ranking.

57. In the Shepard's ranking, only one non-primary law review appears, *Business Lawyer*, which neither we nor Crespi ranked. See *id.* at 787 tbl.1. We excluded *Business Lawyer* from our ranking because it is not affiliated with an American law school. See *supra* note 39.

58. In the combined ranking, the only non-primary reviews to make the top 20 list are the *Journal of Legal Studies* and the *Harvard Civil Rights-Civil Liberties Law Review*, both of which ranked in the top 15 of our study. See Lindgren & Seltzer, *supra* note 54, at 791 tbl.3.

59. The remaining six SSCI top 40 journals—*Law and Society Review*, *American Journal of International Law*, *Business Lawyer*, *Law and Human Behavior*, *Law and Contemporary Problems*, and *Law and Social Inquiry*—were not included in our ranking for various reasons. See *supra* note 39; George & Guthrie, *supra* note 3, at 829-30 n.91 & 836.

60. See *id.* at 789 tbl.2. The journals are listed in the rank order in which they appeared in the SSCI ranking.

61. In our original article, we noted our surprise at the poor showing of the *Journal of Law and Economics*, but we explain its source. George & Guthrie, *supra* note 3, at 836.

(b) *Leonard*

Leonard also ranks law reviews based on citation frequency. In his ranking of the top 100 reviews (actually top ninety-one and ties), more than fifteen of the reviews that appeared are non-primary reviews.<sup>62</sup> In Table 4, we consider how the non-primary journals in Leonard's top 100 placed in our top 100.<sup>63</sup>

TABLE 4. NON-PRIMARY JOURNALS IN LEONARD TOP 100 RANKING<sup>64</sup> APPEARING IN GEORGE & GUTHRIE RANKING

JOURNAL NAME	G&G RANKING
<i>Journal of Legal Studies</i>	4
<i>Journal of Law and Economics</i>	below 100
<i>Harvard Civil Rights-Civil Liberties Law Review</i>	14
<i>Journal of Legal Education</i>	15
<i>Hastings Constitutional Law Quarterly</i>	64
<i>Journal of Criminal Law and Criminology</i>	50
<i>Delaware Journal of Corporation Law</i>	18
<i>Harvard Women's Law Journal</i>	89
<i>Supreme Court Review</i>	1
<i>Virginia Journal of Int'l Law</i>	below 100
<i>University of Michigan Journal of Law Reform</i>	31
<i>Yale Law and Policy Review</i>	44
<i>California Western Int'l Law Journal</i>	below 100
<i>Case Western Reserve Journal of Int'l Law</i>	below 100
<i>Journal of Family Law</i>	below 100
<i>Texas Int'l Law Journal</i>	40

62. See Leonard, *supra* note 55, at 217-19 tbl.A.

63. *Law and Contemporary Problems* appeared in Leonard's top 100, but it is not listed in Table 4 because it was not ranked in our study.

64. See *id.*

Eleven of the sixteen non-primary journals in Leonard's top 100 ranking of all law journals also appear in our top 100 ranking of specialized journals (nine in the top half of our ranking). As in the Lindgren and Seltzer study, international law reviews and environmental law journals fared poorly in Leonard's index. Only four international reviews appeared (all near the bottom of the ranking),<sup>65</sup> and no environmental journals appeared.

Additionally, Leonard identified thirteen "high-impact" reviews that "have a significant influence on legal scholarship," three of which are secondary journals: *Journal of Legal Studies*, *Law and Contemporary Problems*, and *Journal of Law and Economics*.<sup>66</sup> *Journal of Legal Studies* ranks fourth in our study. We did not rank *Law and Contemporary Problems* because it publishes only in symposium format, though we acknowledge that it would likely appear at the top of our ranking if included.<sup>67</sup> Finally, as noted previously,<sup>68</sup> the *Journal of Law and Economics* is among the most prestigious legal periodicals, but it does not fare well in our ranking because the Jarvis-Coleman scale gives more weight to authors with legal academic appointments than to authors with non-legal appointments (who account for most of the authors in *JLE*).<sup>69</sup> None of the high-impact journals in Leonard's study are in the international or environmental area.

In sum, a review of the only other studies ranking specialized law journals (both as part of a ranking of law journals generally) discloses that international and environmental journals do not perform well when compared to journals in other subject areas. Our author-prominence results are relatively consistent with the rankings produced in these citation-count studies.<sup>70</sup>

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65. *Virginia Journal of International Law* ranks 63rd and *California Western International Law Journal*, *Case Western Reserve Journal of International Law*, and *Texas International Law Journal* tie for 91st. See *id.* at 218-19 tbl.A.

66. *Id.* at 194.

67. See George & Guthrie, *supra* note 3, at 836.

68. See *supra* note 61.

69. See *id.* Consider Ronald Coase's reflections on his famous *JLE*-published article, *The Problem of Social Cost*:

That my article, *The Problem of Social Cost*, should appear at the head of the list of the most-cited articles that have been published in legal periodicals is at first sight quite extraordinary. It was an article written by an economist for economists. It was no part of my intention to contribute to legal scholarship. It was quite appropriate for my article to have appeared in the *Journal of Law and Economics* (classified as a legal periodical by Mr. Fred Shapiro) since it was my contention in that article that the legal system plays a major role determining the way in which the economic system functions.

R.H. Coase, *The Problem of Social Cost: The Citations*, 71 CHI.-KENT L. REV. 809, 809 (1996).

70. Anecdotal evidence in support of our author-prominence approach is readily available. Consider, for example, Brian Leiter's recent ranking of law schools. Brian Leiter, *New Educational Quality Ranking of U.S. Law Schools for 1998-99* (visited Apr. 5, 1999).

## II. REPLY TO KOROBKIN

Korobkin, who recently commented thoughtfully on law school rankings in the *Texas Law Review*,<sup>71</sup> provides an equally thoughtful commentary on law journal rankings in this issue of the *Florida State University Law Review*.<sup>72</sup> Taking a law and economics perspective on the subject, Korobkin focuses on the *ex ante* effects of journal rankings:<sup>73</sup> "The important question to ask about the endeavor of ranking law journals," Korobkin contends, is "how rankings can be devised to encourage the future production of valuable scholarship."<sup>74</sup> Because rankings based on author prominence, like ours, do not promote the production of valuable scholarship, Korobkin concludes that they are indefensible.<sup>75</sup> Below, we take issue with Korobkin's premise (journal rankings can promote the production of valuable scholarship) and conclusion (our rankings are indefensible because they do not promote scholarship).

### A. Korobkin's "Valuable Scholarship" Premise

Rankings make for interesting conversation, Korobkin concedes,<sup>76</sup> but to warrant publication in a law review, they should "serve an important scholarly objective."<sup>77</sup> That objective, according to Korobkin, is "to create incentives for journal editors to select (and, therefore, for authors to create) more valuable scholarship than the academy would otherwise enjoy."<sup>78</sup> While we wholeheartedly support Korobkin's endorsement of valuable scholarship,<sup>79</sup> we question his claim

<<http://www.dla.utexas.edu/depts/philosophy/faculty/leiter/LGOURMET.HTM>>. Leiter ranks law schools based on several criteria, including faculty publications in "the six leading student-edited [generalist] law reviews . . . and the leading faculty-edited journals in six major fields of legal scholarship." *Id.* We rank three of the six specialized reviews Leiter chose to include in his ranking (*Constitutional Commentary*, *Journal of Legal Studies*, and *Tax Law Review*), and each of the three placed in our top five. See George & Guthrie, *supra* note 3, at 831 tbl.4 & 835.

71. Russell Korobkin, *In Praise of Law School Rankings: Solutions to Coordination and Collective Action Problems*, 77 TEX. L. REV. 403 (1999).

72. Korobkin, *supra* note 2.

73. See Thomas S. Ulen, *Firmly Grounded: Economics in the Future of the Law*, 1997 WIS. L. REV. 433, 436-7 (identifying "the *ex ante* perspective" as one of two key contributions that law and economics has made to the law).

74. Korobkin, *supra* note 2, at 852.

75. See *id.* at 863-64.

76. See, e.g., *id.* at 852 (noting that rankings "attract great interest" and "are fun").

77. *Id.*

78. *Id.* at 874.

79. For some of our own recent efforts, see Tracey E. George, *Developing a Positive Theory of Decisionmaking on U.S. Courts of Appeals*, 58 OHIO ST. L.J. 1635 (1998); Tracey E. George, *The Dynamics and Determinants of the Decision to Grant En Banc Review*, 74 WASH. L. REV. 213 (1999); Chris Guthrie, *Better Settle Than Sorry: The Regret Aversion Theory of Litigation Behavior*, 1999 U. ILL. L. REV. 43; Russell Korobkin & Chris Guthrie, *Psychology, Economics, and Settlement: A New Look at the Role of the Lawyer*, 76 TEX. L. REV. 77 (1997).

that journal rankings—whether ours,<sup>80</sup> Greg Crespi's,<sup>81</sup> or any others—can actually lead to the production of more valuable scholarship.<sup>82</sup>

Korobkin's "valuable scholarship" argument goes something like this: Law journal rankings can and should reflect the value of the scholarship that each journal publishes.<sup>83</sup> Once such rankings have become established, law journal editors will rely on them "to solicit and publish the types of articles that will help their journal achieve a high ranking."<sup>84</sup> Law journal authors, in turn, will attempt to adjust their scholarly endeavors to increase the likelihood that law journal editors at leading publications will publish their articles.<sup>85</sup>

There are two significant problems with Korobkin's argument. The first problem is that, even if we assume for purposes of analysis that his "broad and uncontroversial"<sup>86</sup> definition of "valuable scholarship" is accurate, it is nearly (if not clearly) impossible to devise a meaningful measure of it—to operationalize it—for purposes of ranking specialized law reviews.

Korobkin contends that "valuable scholarship" can be operationalized in either of two ways. First, he argues that law journal users or expert panels could assess the content of scholarship directly and rank articles based on their scholarly value.<sup>87</sup> If law journal users and/or expert panels could, in fact, measure scholarly value directly (and it is not clear that either group, particularly the former, can), they could do so only for subsets of specialized reviews, as Korobkin recognizes.<sup>88</sup> International law experts might be able to assess the scholarly value of articles appearing in international law journals,<sup>89</sup> but neither international law experts nor a panel of varied experts could possibly read and assess the scholarly value of articles appearing in all specialized reviews.

Second, Korobkin argues that an article's "citability" is "associated rather closely with scholarly value," and thus, citation-based rank-

80. See George & Guthrie, *supra* note 3, at 831 tbl.4.

81. See Crespi, *Ranking Environmental Law*, *supra* note 5, at 10 tbl.I; Crespi, *Ranking International Law*, *supra* note 5, at 873 tbl.I.

82. Korobkin defines "valuable legal scholarship" as that which "contributes to a more nuanced understanding of legal rules and institutions" and/or "adds new perspectives or insights to arguments about the normatively optimal set of legal rules and institutions." Korobkin, *supra* note 2, at 860.

83. See *id.* at 852 (noting that rankings should be devised "to encourage the future production of valuable scholarship").

84. *Id.* at 856.

85. See *id.* at 859.

86. *Id.* at 860.

87. See generally *id.* Part III.C.2.

88. See *id.* at 873 (noting that "few, if any, potential evaluators are actually experts in the broad range of subject areas" covered in all reviews).

89. See generally Crespi, *Ranking International Law*, *supra* note 5.

ings are likely to capture scholarly value in a meaningful way.<sup>90</sup> The problem with this contention, as Korobkin recognizes, is that while authors may cite to articles because of their scholarly value, they may also cite to them for a number of other legitimate or illegitimate<sup>91</sup> reasons that have nothing to do with the articles' scholarly value.<sup>92</sup>

Moreover, there is also a high correlation between citability and author prominence. There is a strong relationship, for instance, between the Jarvis-Coleman author-prominence ranking of generalist reviews and the most recent citation-based ranking of law reviews conducted by Lindgren and Seltzer.<sup>93</sup> Additionally, the authors of the vast majority of articles appearing on Fred Shapiro's lists of the *Most-Cited Law Review Articles of All Time*<sup>94</sup> and the *Most-Cited Law Review Articles of Recent Years*<sup>95</sup> were affiliated with "first-tier" institutions at the time they published their articles, indicating that these articles and the journals in which they appeared would have ranked highly in either an author-prominence ranking or a citation-based ranking.<sup>96</sup> This correlation between citability and author prominence suggests that if citability is, in fact, a good proxy for scholarly value, author prominence probably is as well.

The second problem with Korobkin's "valuable scholarship" argument is that it rests on questionable assumptions about the behavior of law journal editors and authors. For Korobkin's argument to work, we must assume not only that it is possible to rank journals in a way that accurately reflects scholarly value, but also that editors and authors will behave as follows: (1) editors of the several hundred generalist and specialized law reviews will stay abreast of these rankings; (2) editors will discern from these rankings of already-published *journals* how to select as-yet-unpublished *articles* that will maximize rankings of *journals* in the future; (3) authors will discern either from these rankings or from journal editors how to write articles that editors are likely to accept for publication; and (4) authors

90. Korobkin, *supra* note 2, at 865.

91. For an egregious example of illegitimate citing, see *supra* note 79.

92. To his credit, Korobkin identifies 10 such reasons in his response. See Korobkin, *supra* note 2, at 865-66.

93. See George & Guthrie, *supra* note 3, at 829 n.88 (noting that "the Pearson correlation coefficient between Lindgren and Seltzer's 1996 citation-based ranking of the top 40 law reviews and the Jarvis-Coleman author-prominence ranking is 0.745").

94. Fred R. Shapiro, *The Most-Cited Law Review Articles Revisited*, 71 CHI.-KENT L. REV. 751, 767-71 tbl.I (1996).

95. *Id.* at 773-77 tbl.II.

96. See *id.* at 764 (reporting the academic affiliations of the authors at the time they published articles appearing on Shapiro's most-recent "all-time" and "recent-articles" lists).

will adjust their scholarly efforts to meet the demands of journal editors.<sup>97</sup>

The problems with these assumptions about editor/author behavior are manifest. First, it is not clear that all, or even a majority, of editors would actually stay abreast of even established rankings. How many student editors are currently aware, for instance, of Lindgren and Seltzer's recently published citation-based rankings,<sup>98</sup> which Korobkin believes are a good proxy for scholarly value?

Second, even if many or all journal editors did stay abreast of the rankings, it seems highly unlikely that the editors (particularly student editors) could discern from those *journal* rankings how to select *articles* that would result in high *journal* rankings in the future. Are editors currently looking, for instance, at the Lindgren-Seltzer citation-based rankings of journals and attempting to discern from those rankings how to select articles that will help their journals ascend in the rankings? And if so, how?

Third, it is not clear that all, or even a majority, of authors (particularly non-professor authors) will be able to discern from rankings or from journal editors what kind of articles will place well. Are practicing lawyers, judges, or even professors currently looking, for instance, to the Lindgren-Seltzer citation-based ranking to discern what sorts of articles are likely to place well? If so, how are they able to discern from those rankings what kinds of articles will place well?

Fourth, it seems highly unlikely that many authors will adjust their scholarly agendas to try to produce scholarship that they think journal editors want. Are professors and others, for instance, currently modifying their scholarship for purposes of placing their articles in journals that rank highly in the Lindgren-Seltzer ranking?

Finally, apart from these obvious problems with Korobkin's explicit assumptions about editor and author behavior, we are troubled by the implicit assumption underlying his "valuable scholarship" argument. Ultimately, Korobkin's argument rests on the assumption that law journal authors are not producing scholarship that is as valuable as it might be because there is not an agreed-upon ranking reflecting scholarly value to guide their behavior. While we certainly agree with Korobkin that authors are likely to respond to external as well as internal rewards when deciding what and how to research and write, we reject—perhaps naively—the notion that agreed-upon

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97. Korobkin's argument also rests on the explicit assumption that editors and authors seek to maximize their respective places in journal rankings. See Korobkin, *supra* note 2, at 854-55 (arguing that "a journal's ranking is likely to be very important to many (if not most) journal editors"); *id.* at 856 (arguing that "[m]ost authors will prefer to have their articles published in highly-ranked journals").

98. See Lindgren & Seltzer, *supra* note 54.

rankings would prompt authors to produce better scholarship than they are currently producing.

### B. Korobkin's "Valuable Scholarship" Conclusion

Even assuming Korobkin's premise that journal rankings can promote the production of valuable scholarship is correct, Korobkin's conclusion that our rankings are indefensible because our rankings will not promote such scholarship is mistaken for at least two reasons.

#### 1. Author-Prominence Incentive Effect

The first problem with Korobkin's conclusion that our rankings are indefensible is that our rankings do, in fact, provide journal authors with an incentive to publish valuable scholarship. Assume, as Korobkin does, that journal editors will use established journal rankings to inform their article selection decisions.<sup>99</sup> Journal editors consulting our rankings can maximize their journal ranking by publishing articles written by authors with relatively higher prestige scores. Because most articles are written by law professors and lawyers<sup>100</sup> and because law professors have higher prestige scores than almost all lawyers,<sup>101</sup> journal editors have an incentive to favor publication of articles written by law professors over those written by lawyers.

The fact that our rankings create an incentive for journal editors to publish scholarship produced by law professors may very well result in the publication of more valuable scholarship. Law professors, after all, engage in scholarship as part of their occupation. Moreover, law professors arguably are imbued with objectivity unavailable to the lawyer advocating on behalf of clients and are likely to have more time, resources, and skill to produce scholarship. While it would be difficult, if not impossible, for us to "prove" that law professor-produced scholarship is more valuable, it is interesting to note that only two of the 100 *Most-Cited Law Review Articles of All*

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99. See Korobkin, *supra* note 2, at 854-55.

100. See *id.* at 861.

101. According to the Jarvis-Coleman author-prominence scale, law professors employed by first-tier schools have a prestige score of 525, second-tier law professors 475, third-tier law professors 400, fourth-tier law professors 275, and fifth-tier law professors 225. See Jarvis & Coleman, *supra* note 8, at 16. With the exception of partners of the *National Law Journal's* top 250 firms, "lawyers" have a prestige score of 175. See *id.* Thus, a specialized journal publishing articles written entirely by practicing lawyers would obtain an average score of 175, which would not place the journal in our top 100 ranking. A specialized journal publishing articles written entirely by third-tier law professors, by contrast, would obtain a score of 400, placing that journal in our top five!

*Time*<sup>102</sup> and not one of the *Most-Cited Law Review Articles of Recent Years*<sup>103</sup> were written by "lawyers," virtually all were written by law professors.

## 2. Other Reasons to Rank

The second problem with Korobkin's conclusion that our ranking is indefensible is that we did not, as Korobkin recognizes, set out to rank specialized reviews for purposes of promoting the future publication of valuable scholarship.<sup>104</sup> That he identifies it as *the* purpose of ranking journals does not make it so. Legitimate rationales for ranking journals abound.<sup>105</sup>

We set out to provide our ranking of specialized reviews for three reasons. First, given the dearth of published information about the specialized law review phenomenon, we sought to provide some basic information about the emergence and explosion of specialized reviews. Second, given limited time and a large number of specialized reviews, we hoped to help readers to make reading decisions and writers to make placement decisions. We did not—and do not—mean to suggest that readers and writers should base their decisions solely on our, or on any other, ranking. But we do suspect that, all other things being equal, readers would prefer to keep abreast of articles written by prestigious authors (or authors affiliated with prestigious institutions), and writers would prefer to place their articles in journals publishing prestigious authors (or authors affiliated with prestigious institutions). Third, and finally, we hoped to spark dialogue and debate about the phenomenon and ranking of specialized journals.

## III. CONCLUSION

It appears that our ranking of specialized law reviews—like rankings of law schools, generalist law reviews, and other aspects of the legal academic world—does, in fact, rankle.<sup>106</sup> We end, as we began, by thanking Crespi and Korobkin for rankling at our ranking.

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102. Shapiro, *supra* note 94, at 767-71 tbl.I. Law partners Samuel Warren and Louis Brandeis published the ninth-ranked *The Right of Privacy* in 1890. *See id.* at 767. ACLU staff attorney Bruce Ennis co-authored the 35th-ranked article with a psychology professor in 1974. *See id.* at 768.

103. *Id.* at 773-77 tbl.II.

104. *See infra* Part II.B.

105. *See, e.g.*, Crespi, *supra* note 1, at 839 (identifying a variety of reasons to rank specialized law journals).

106. *See* Terry Carter, *Rankled by the Rankings*, ABA J., Mar. 1998, at 46.