

“THE LONGER THEY ARE, THE MORE CITATIONS THEY RECEIVE:
HOW IMPACT FACTOR PUNISHES CONCISE, LEGAL SCHOLARSHIP”

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I. INTRODUCTION

One does not need to be a highly cited legal scholar to conclude that impact factor incentivizes the publication of longer articles because it is measured per article, and longer articles are more likely to garner citations. And for anyone unable to make the connection, the Washington & Lee Law Journal Rankings (W&LLJR) website explicitly spells this out. The second sentence of the impact factor methodology page explains, “[I]mpact Factor rankings should be considered with caution, as they are biased against journals that publish a larger number of concise articles, such as book reviews.”¹

Although the relationship between article length and impact factor is significant, it receives no coverage in the literature on citation-count criticism.² This article first explains the significance of the impact factor not only to law journal rankings but also to law school rankings. It chronicles existing criticism of citation-count metrics, provides a practical demonstration of the effects of article size on impact factor using two Stanford Law Journals, and considers likely objections to calls to reform the impact factor. Finally, the article concludes by calling for future research on the subject.

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¹ *Impact Factor*, W&L Law Journal Rankings, WASH. & LEE U. SCH. L., <https://managementtools4.wlu.edu/LawJournals/Default5.aspx> (last visited Sept. 15, 2020).

² See *infra* notes 43–50 and accompanying text.

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II. BACKGROUND

A. Impact Factor Explained

The impact factor is a measure of how many times the average article in a journal is cited on an annual basis.³ It is often purported to be a measure of a journal’s importance or quality of scholarship.⁴ Because this article focuses on legal scholarship, the impact factors reported by the W&LLJR are utilized.⁵ W&LLJR calculates the impact factor by taking the median impact factor from the preceding five years.⁶

B. Impact Factor Relevance

The impact factor accounts for one-third of the W&LLJR’s combined score.⁷ The W&LLJR’s combined score is highly relevant in legal academia because authors use it to determine where to publish their articles,⁸ and law schools use it to evaluate the quality of scholarship for faculty hiring and tenure and promotion decisions.⁹

There is also evidence to suggest that the W&LLJR score of a law school’s flagship journal can affect the school’s U.S. News & World Report (USN&WR) Law School Ranking. This is because the largest single component to the USN&WR Law School Rankings is the peer assessment score—largely determined by a survey of law school deans.¹⁰ Law school deans are likely to view a law school’s flagship law journal as a proxy for the quality of the law school.¹¹ And indeed, there is a high correlation between the USN&WR peer assessment scores and the impact factor of that law school’s flagship law journal.¹² Some researchers

³ Sandra De Groote, *Measuring Your Impact: Impact Factor, Citation Analysis, and Other Metrics: Journal Impact Factor (IF)*, U. ILL. CHI., <https://researchguides.uic.edu/if/impact> (last visited Sept. 15, 2020).

⁴ *Id.*

⁵ *W&L Law Journal Rankings*, WASH. & LEE U. SCH. L., <https://managementtools4.wlu.edu/LawJournals/Default.aspx> (last visited Sept. 15, 2020).

⁶ *Impact Factor*, *supra* note 1.

⁷ *Combined-Score Ranking, W&L Law Journal Rankings*, WASH. & LEE U. SCH. L., <https://managementtools4.wlu.edu/LawJournals/Default4.aspx> (last visited Sept. 15, 2020).

⁸ See Jessica Pasquale, *Submitting Papers to Law Journals: Journal Rankings*, U. MICH. L. LIBR., https://libguides.law.umich.edu/journal_submissions/rankings (last visited Sept. 15, 2020).

⁹ Cf. Adam Chilton, Jonathan Masur & Kyle Rozema, *Rethinking Law School Tenure Standards*, U. Chi. Coase-Sandor Inst. L. & Econ., https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3200005 (criticizing the reliance on research records in making decisions on tenure standards).

¹⁰ Robert Morse, Ari Castonguay & Juan Vega-Rodriguez, *Methodology: 2021 Best Law Schools Rankings*, U.S. NEWS & WORLD REP. (Mar. 16, 2020), <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology>.

¹¹ Alfred L. Brophy, *The Relationship Between Law Review Citations and Law School Rankings*, 39 CONN. L. REV. 43, 55 (2006) (“The findings suggest that law reviews are schools’ ambassadors to the rest of the legal academy Thus, those schools seeking to advance in reputation may want to pay attention to their law reviews.”).

¹² *Id.* at 48.

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even recommend looking at the current ranking of a law school’s flagship journal to help predict where the law school is heading in the rankings.¹³

The USN&WR Law School Rankings have extraordinary significance to law schools.¹⁴ But attempting to increase a law school’s ranking by attracting students with higher credentials, hiring more well-known professors, and investing in new infrastructure is expensive, time consuming, and risky. Focusing instead on improving the impact factor of the law school’s flagship journal by printing longer, more heavily footnoted articles and avoiding or reducing the publication of more concise pieces, such as book reviews, notes, comments, responses, and forewords,¹⁵ is likely a cost-effective alternative for improving a law school’s USN&WR rankings.¹⁶

C. Criticism of Citation-Based Metrics Generally

The notion that an article’s citation count is indicative of its quality or relevance has been widely criticized in legal academia.¹⁷ The following is a brief summary of the criticisms of using citation-based metrics to evaluate law journals:

- They are highly volatile. At several points in the law review rankings, a bunching occurs as to citation counts.¹⁸ Therefore, small changes in citation counts can have a dramatic effect on law review rank.¹⁹
- They disproportionately favor the publishing of symposia issues, as they often include a high number of cross-citations.²⁰
- They disincentivize the publication of articles in developing or esoteric areas due to an expected lower number of future citations to such articles.²¹
- They lack consistency because they can be drastically affected by a single anomalous article.²²

¹³ Alfred L. Brophy, *The Emerging Importance of Law Review Rankings for Law School Rankings, 2003-2007*, 78 U. COLO. L. REV. 35, 35 (2007).

¹⁴ Brophy, *supra* note 11, at 45; Alex Wellen, *The \$8.78 Million Maneuver*, THE N.Y. TIMES (July 31, 2005), <https://www.nytimes.com/2005/07/31/us/education/the-878-million-maneuver.html>.

¹⁵ *Impact Factor*, *supra* note 1 (“‘Articles’ includes entries such as notes, comments, book reviews, letters, and attributed introductions and forewords, as well as formal articles.”).

¹⁶ Brophy, *supra* note 13, at 41.

¹⁷ See *infra* notes 18–34 and accompanying text.

¹⁸ Brophy, *supra* note 11, at 51.

¹⁹ *Id.*

²⁰ Ronen Perry, *Correlation Versus Causality: Further Thoughts on the Law Review/Law School Liaison*, 39 CONN. L. REV. 77, 96 (2006) (“Journals that annually dedicate one issue or more to symposia will definitely have an advantage . . . because symposia issues may include a substantial number of cross-citations.”).

²¹ Brophy, *supra* note 11, at 54.

²² *Id.*

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- They incentivize journals to focus on relevance in academic, which is often not related to practical judicial relevance.²³
- They ignore an article’s long-term significance.²⁴
- They incentivize articles with excessive footnoting because this practice increases the probability that future researchers will find the article and cite it.²⁵
- They perpetuate letterhead bias²⁶ because prominent authors are more likely to be cited to.²⁷
- They incentivize gender bias against female authors because male authors are more likely to be cited to.²⁸
- They incentivize gender bias against female authors because male authors are more likely to cite to their own previous work.²⁹
- They are a poor proxy for quality because some articles receive citations not for their quality but rather for their lack of quality.³⁰
- They disproportionately punish online law journals because of their shorter article length. This is particularly troublesome since online law journals provide numerous benefits, including cost savings to law

²³ *Id.*

²⁴ Brophy, *supra* note 11, at 52 (“Even if an article does not immediately garner many citations, an excellent article (or book review) may garner attention for decades . . .”).

²⁵ Deborah L. Rhode, *Legal Scholarship*, 115 HARV. L. REV. 1327, 1335 (2002) (“[Obsessive documentation] discourages originality without necessarily ensuring factual accuracy.”); Mary Whisner, *My Year of Citation Studies, Part 1*, 110 LAW LIBR. J. 167, 168 (2018) (“[F]requent citation is an imperfect proxy for usefulness, brilliance, or importance.”).

²⁶ Kevin M. Yamamoto, *What’s in a Name? The Letterhead Impact Project*, 22 J. LEGAL STUD. EDUC. 65, 65 (2004) (letterhead bias is when editors use information about the author—reputation, prestige of affiliated institution, prior publications, etc.—as a proxy for article quality).

²⁷ Perry, *supra* note 20, at 97.

²⁸ Deborah Jones Merritt, *Scholarly Influence in a Diverse Legal Academy: Race, Sex, and Citation Counts*, 29 J. Legal Stud. 345, 353 (2000) (finding that white males averaged 107.9 citations, white women 78.8, minority women 90.7, and minority men 73.1); Marianne A. Ferber, *Citations: Are They an Objective Measure of Scholarly Merit?*, 11 SIGNS: JOURNAL OF WOMEN AND CULTURE IN SOC’Y 381, 384 (1986) (finding that males are more likely to cite to male-authored papers, which puts females at a disadvantage in citation counts because there are more male authors).

²⁹ Molly M. King, et. al., *Men Set Their Own Cites High: Gender and Self-Citation Across Fields and Over Time*, 3 SOCIUS (Dec. 8, 2017), <https://journals.sagepub.com/doi/full/10.1177/2378023117738903> (finding that male authors cite to their own work 70% more often than female authors).

³⁰ Whisner, *supra* note 25, at 168 (explaining how a poorly reasoned article that touches on hot-button topics could receive more citations than a well-reasoned article).

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schools,³¹ faster dissemination of legal scholarship,³² and less environmental waste.³³

- They disproportionately favor articles written on topics law students find interesting, not necessarily what is most relevant to practicing attorneys.³⁴

D. Criticism of the Impact Factor Methodology Specifically

In addition to the preceding critiques regarding citation-count metrics, generally, the impact factor acquires the additional downside of unjustifiably punishing concise scholarship. The impact factor is highly relevant due to the need for more concise scholarship in legal academia.³⁵

The ability of online law journals to ascend so high in the W&LLJR despite the significant disadvantage of their shorter articles is indicative of the growing preference for such concise scholarship. Since the first online law journal in 2005,³⁶ they have experienced rapid growth in both number and prestige. There are currently seven online law journals in the top 100 W&LLJR.³⁷ *The Forum*, Harvard’s online law journal, is ranked ahead of such respected flagship law journals as the *North Carolina Law Review*.³⁸

The following are arguments in favor of concise legal scholarship and, therefore, are arguments against the utilization of the impact factor, which—in its present iteration—strongly disincentivizes the publications of such scholarship:

³¹ See Katharine T. Schaffzin, *The Future of Law Reviews: Online-Only Journals*, 32 *TOURO L. REV.* 243, 250 (2016).

<https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=2719&context=lawreview>.

³² Sarah Reis, *Deconstructing the Durham Statement: The Persistence of Print Prestige During the Age of Open Access* 5 (June 30, 2016) (unpublished manuscript) (on file with the author), <https://ssrn.com/abstract=2785307>.

³³ Michael Conklin, *Online Law Journals as Legal Scholarship: A Survey of faculty Perceptions*, 61 *JURIMETRICS J.* 171, 178 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613220.

³⁴ See *W&L Law Journal Rankings*, *supra* note 5 (showing that eighty-one specialty journals focus on the issue of race, but only twenty-three that focus on banking finance and insurance law, fourteen that focus on administrative law, and four that focus on agricultural law. This results in an article about race being more likely to be cited than an article on administrative law due to the larger number of future articles on the topic of race).

³⁵ See Andrew Jensen Kerr, *Writing the Short Paper*, 66 *J. LEGAL EDUC.* 111, 114 (2016) (“[A] paper should be only as long as it needs to be to realize its own singular ambition and identity . . . forcing a short-form essay into a too-long article hampered by logorrhea, circumlocution and verbosity should not impress any reader.”); Lawrence A. Cunningham, *Scholarly Profit Margins: Reflections on the Web*, 81 *IND. L.J.* 271, 272 (2006) (“Article length does not necessarily relate to the quality or utility of the article.”). <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1424&context=ilj>

³⁶ Schaffzin, *supra* note 31, at 246 (discussing the first online-only journal was the *Yale Law Journal Pocket Part*, now called the *Yale Law Journal Forum* or *YLJ Forum*).

³⁷ *W&L Law Journal Rankings*, *supra* note 5.

³⁸ *W&L Law Journal Rankings*, *supra* note 5; *About The Forum*, *HARV. L. REV.*, (highlighting Harvard’s *The Forum* has an abnormally high word limit for on online journal at 10,000 words) <https://harvardlawreview.org/submissions/the-forum/> (last visited Sept. 15, 2020).

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- The infatuation among some that article is an appropriate proxy for quality and significant is harmful to the legal field. It serves to indoctrinate future attorneys to value length over conciseness.
- Some legal scholars have more good ideas than they have time to write in 25,000-word articles. Removing artificial disincentives against more concise scholarship would result in more of these ideas being published.
- There is little downside to removing the artificial disincentive against more concise scholarship. For topics that require 25,000 words, that avenue would still be available. This would increase the number of alternative avenues for topics that do not require such length.
- The incentivizing of excessive footnoting—which can drastically increase length—is a poor proxy for the quality of scholarship and should be avoided.³⁹
- A more concise scholarship allows for the faster dissemination of ideas. This is exceedingly important in legal scholarship due to the time-sensitive nature of certain topics.⁴⁰

1. *Stanford Law Review Illustration*

To illustrate the interaction between impact factor and article length, this Article engages in an analysis of the *Stanford Law Review* and *Stanford Law Review Online*. For the most recent W&LLJR year of 2019, *Stanford Law Review* had an impact factor of 2.73, while *Stanford Law Review Online* received an impact factor of 0.59.⁴¹ Therefore, the *Stanford Law Review* received almost five times as many annual citations as the *Stanford Law Review Online* on a per article basis. However, adjusting for article length tells a very different story.

For the five-year period used to calculate the impact factor,⁴² *Stanford Law Review* had an average article length of 26,365 words. For this same period *Stanford Law Review Online* had an average article length of only 4,497 words. This means that on a per-word basis, the *Stanford Law Review Online* receives 27% more citations than the *Stanford Law Review*. And what accolades does the *Stanford Law Review Online* receive for this significant achievement in scholastic efficiency? It

³⁹ Joan Ames Magrat, *Bottomheavy: Legal Footnotes*, 60 J. LEGAL EDUC. 65, 66 (2010) (discussing how authors sometimes attempt to surpass the 500-footnote mark in a “dramatic expression of footnote machismo”).

⁴⁰ Recent examples of time-sensitive legal topics include abortion restrictions, presidential impeachment, emoluments, the Muslim immigration ban, faithless electors, and numerous coronavirus-related issues, including mail-in voting.

⁴¹ *W&L Law Journal Rankings*, *supra* note 5 (noting that an impact factor of 2.73 places *Stanford Law Review* as the #1 student-edited law review for that factor, while *Stanford Law Review Online*’s 0.59 impact factor places it alongside *Seattle University Law Review* and the *San Diego Law Review*).

⁴² The period is from 2015–2019.

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is ranked #140 overall in the W&LLJR, while the less-efficient *Stanford Law Review* is ranked as the #1 student-edited law review.⁴³

III. SALIENCE REGARDING EFFECT ON ARTICLE LENGTH

It is a highly intuitive consequence of the impact-factor metric that longer articles will be favored over more concise articles for their increased ability to attract future citations. The W&LLJR even explicitly states that the impact factor is biased against shorter articles.⁴⁴ It is puzzling how legal scholars who publish articles criticizing the impact factor appear to be either oblivious to or indifferent to this effect.

When discussing techniques that law reviews could utilize to increase their impact factor, Alfred L. Brophy mentions publishing symposia issues, “recruit[ing] good articles,” publishing lectures by distinguished scholars, “select[ing] articles that are of high quality,” increasing faculty involvement in the review and recruitment process, and “publish[ing] more.”⁴⁵ Brophy not only omits the highly relevant factor of publishing longer articles, but the advice to “publish more” strongly implies a misunderstanding of how the impact factor is calculated.⁴⁶

A 2014 article that critiques the use of citation counts in law journal rankings omits any discussion of how article length is affected.⁴⁷ A 2009 article bemoans the “national disease” that is the “vanishing book review.”⁴⁸ The author considers many potential explanations for this trend but neglects to mention that the likely culprit is the lack of citations concise book reviews receive.⁴⁹ One final example is found in a 2016 online article and subsequent forum discussion regarding various aspects of citation count metrics.⁵⁰ The contributors engage in nuanced debate regarding various shortfalls of citation-count metrics, but the effect on article length is never mentioned.⁵¹

IV. POTENTIAL CRITICISM

⁴³ *W&L Law Journal Rankings*, *supra* note 5.

⁴⁴ *See supra* note 1.

⁴⁵ Brophy, *supra* note 11, at 57–58.

⁴⁶ Law reviews cannot improve their impact factor by just increasing their total articles published because impact factor is calculated on a per-article basis. This strategy is likely to decrease a journal’s impact factor because journals already seek to publish the best articles possible. Therefore, these additional articles brought in under the “publish more” advice are likely to be of lesser quality and therefore less frequently cited to—thus reducing the journal’s impact factor.

⁴⁷ Theodore Eisenberg & Martin T. Wells, *Ranking Law Journals and the Limits of Journal Citation Reports*, 52 *ECON. INQUIRY* 1301 (2014), <https://onlinelibrary.wiley.com/doi/10.1111/ecin.12133>.

⁴⁸ Sanford Levinson, *The Vanishing Book Review in Student-Edited Law Reviews and Potential Responses*, 87 *TEX. L. REV.* 1205, 1205 (2009).

⁴⁹ *See id.*

⁵⁰ Bryce C. Newell, *Google Scholar Law Review Rankings - 2016*, PRAWFSBLAWG (July 25, 2016), <https://prawfsblawg.blogs.com/prawfsblawg/2016/07/2016-google-scholar-law-review-rankings.html>.

⁵¹ *Id.*

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Defenders of citation-count metrics generally—and the impact factor specifically—will no doubt have strong counterarguments to the advocacy presented in this article regarding the dangers of the impact factor. This section presents such arguments in their own words to provide the reader with both sides of the argument.

The fact that the USN&WR peer assessment scores are highly correlative with the impact factor of the law school’s flagship journal does not prove that the latter is being manipulated to affect the former. If anything, this correlation demonstrates that the existing system is functioning well because one would expect that higher-ranked USN&WR law schools would naturally have flagship journals that are cited to more frequently than lesser-ranked law schools.

Perhaps the biggest strength of using the impact factor to rank journals is that it is an objective standard. Attempts to criticize the use of the impact factor often employ high levels of subjectivity and therefore unwittingly demonstrate the benefit of objectivity that the impact factor provides.

For example, consider the following criticism of the impact factor: “[F]ewer citations may have no relationship to the scholarship’s quality. In legal history . . . there are many excellent articles that receive few citations, largely because relatively few people work in the area of legal history, and thus there are few opportunities for citations.”⁵² This criticism involves the subjective opinion of one author as to what an “excellent article” is.⁵³ Another author is free to assert that legal history articles receive disproportionately *high* citations relative to their quality. Furthermore, this criticism is problematic because a diminished impact factor is not the natural consequence of articles on an infrequently published topic. This is because the ratio of existing articles on a given topic to cite to and new articles on that given topic that could cite to the existing articles remains constant regardless of whether it is an infrequently published topic.⁵⁴ Another subjective criticism of citation count metrics is that “those who write in the latest fad may be overcited”⁵⁵ Again, inherent in this criticism is the author’s subjective determination of what constitutes being “overcited.”⁵⁶ The objective nature of citation-count metrics avoids this issue of subjective determinations.

One author criticizes citation-count metrics by lamenting how articles with narrow appeal—such as one only applying to family law practitioners in the nine community property states—receive lower citation counts despite how well-written they may be.⁵⁷ Not only is this criticism logically flawed, but it also misses the point

⁵² Brophy, *supra* note 12, at 54.

⁵³ *Id.*

⁵⁴ For example, if the number of criminal law articles—past, present, and future—are reduced by 50%, then a corresponding 50% reduction in citations for articles in this category would not occur. This is because the ratio of existing criminal law articles available to be cited to and new criminal law articles that could cite to these existing articles would remain constant.

⁵⁵ Robert Steinbuch, *On the Leiter Side: Developing A Universal Assessment Tool for Measuring Scholarly Output by Law Professors and Ranking Law Schools*, 45 LOY. L.A. L. REV. 87, 92 (2011).

⁵⁶ *Id.*

⁵⁷ Whisner, *supra* note 26, at 168.

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of the impact factor measure. Yes, an article that only pertains to nine states is unlikely to be the most cited article of the year, but that does not mean it is at a disadvantage for being cited. This is because the potential audience size is only one side of the equation. One must also factor in the number of similar articles competing for the future citations. In other words, being the only article written on a subject that applies to nine states might result in more citations than being one of ten articles written about a subject that applies to all fifty states. Additionally, impact factor, as the name implies, is meant to measure the *impact* of an article, not how well written it may be, as the criticism analyzed here implies.

The concern over incentivizing journals to be longer than necessary is a legitimate one. However, one must also consider the other side of the equation. Namely, implementing some type of per-word impact factor would incentivize articles that are shorter than necessary. Thus, it would serve only to exchange a minor problem for a major one, as it is more harmful to legal scholarship to publish articles that omit valuable information than it is to publish articles that contain superfluous information.

V. CONCLUSION

Factoring in word length as a part of the impact factor calculation is more than just a scholastic novelty. It would contribute to the valuable acceptance of more concise legal scholarship and provide a more accurate representation of the scholarship published in law journals. As demonstrated in the two Stanford law journals, article length has a substantial effect on the impact factor score. This Article brings to light this issue that has, up until this point, remained unaddressed. Hopefully, this Article will be a catalyst for future research and discussion regarding how the impact factor affects legal scholarship. Future research on the topic could analyze long-term trends, interview law journal editorial boards to determine the extent to which word length and future citation probability factors into their decisions, and determine author motivations for selecting the sources that they cite to.

Proposals to reform the use of the impact factor will naturally bring about new problems that must be weighed against the benefits of such reform. This Article presents strong arguments both for and against the status quo. Every effort was made to accurately represent both sides in order to allow the reader to determine what—if anything—should be done. The purpose of this Article is not to argue for any specific reform regarding how law journal rankings should be calculated. Rather, the purpose is to bring awareness to an issue that has, thus far, gone unaddressed and start a conversation regarding the inherent tradeoffs involved.