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Writing for a Student-Edited U.S. Law Review: A Guide for Non-U.S. and ESL Legal Scholars

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WRITING FOR A STUDENT-EDITED U.S. LAW REVIEW: A GUIDE FOR NON-U.S. AND ESL LEGAL SCHOLARS

David B. McGinty*

INTRODUCTION

Publishing an article in a student-edited U.S. law review¹ is a great opportunity for non-U.S. scholars and scholars who speak English as a second language (ESL scholars). There are more than 400 student-edited law reviews in the United States,² and most accredited law schools in the United States publish a student-edited law review.³ In addition to having private subscribers, these publications can be found in most law school libraries in the United States, electronic databases, such as Westlaw and LexisNexis, and some also post their published articles online. Accordingly, publishing an article in a U.S. law review allows an author's voice to be heard by legal communities throughout the world. It is for these, and many other reasons, that publishing in a U.S. law review provides an author with the opportunity to have her or his name,

* B.A., Samford University; J.D., Temple University; LLM (Candidate), Villanova University. Editor-in-Chief, 2003-04, *Temple International & Comparative Law Journal* (TICLJ). In 2002 and 2003, the TICLJ published twenty non-U.S. and ESL legal scholars' articles. David McGinty's other written works include *The Statutory and Executive Development of National Security Exemption to Disclosure Under the Freedom of Information Act: Past and Future*, 31 N. KY. L. REV. (forthcoming, winter 2004), *The Near-Regulation of Online Sports Wagering by United States v. Cohen*, 7 GAMING L. REV. 205 (2003); with Edward J. Kelly & Vipra Chuenjaipanich, *Trademark Law in Vietnam*, ASIANIP, Oct. 2002, at 22; with Edward J. Kelly, Comment & Letters: *Mixed Signals from Thailand on IP Enforcement*, MANAGING INTELL. PROP., July/Aug. 2002, at 4. The author owes a huge debt to Laura Kolb, Articles Editor (2003-04), Henry J. Richardson III, Faculty Advisor, and Jeffrey L. Dunoff, former Faculty Advisor, all of the *Temple International & Comparative Law Journal*. The author is more than willing to discuss submissions to U.S. law reviews, and may be contacted via email at dbmcginty@yahoo.com.

¹ This article uses the phrase "law review" to encompass all student-edited law reviews, journals, forum, and quarterlies. See *infra* Part I(D) (discussing what these various titles mean). The article does not concern faculty-run, peer-reviewed, or professional legal journals.

² See, e.g., MICHAEL H. HOFFHEIMER, Compilation, 1996 DIRECTORY OF LAW REVIEWS AND SCHOLARLY LEGAL PERIODICALS (Anderson Publishing Co.) (stating that there were 171 general law reviews and 234 topical/specialty law reviews in the United States).

³ Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739 (1985).

scholarship, and affiliates highlighted in the international legal community.

Law review articles are not just available around the world to read, they “influence and impact on the development of the law”⁴ and are frequently cited by members of the international legal community.⁵ There are many benefits to publishing in a U.S. law review, but such publications have a unique administration and process for article selection, which, clearly understood, can aid non-U.S. legal scholars in their publishing efforts.

This article dispels some of the mystery about how U.S. law reviews operate and how articles are selected, by providing a basic introduction to U.S. law reviews. This article also provides a few factors to consider before submitting an article for publication, as well as some helpful sources for submitting and learning more about U.S. law reviews. This article is not a comprehensive discussion of the day-to-day operations of a U.S. law review.⁶

Part I provides a brief history of student-edited law reviews, the types of scholarly works they publish, their typical administrative structure, and a discussion of the various types of law reviews. Part II provides information on finding the appropriate law review for submission of an article, the factors that law reviews consider when

⁴ Michael L. Closen & Robert J. Dzielak, *The History and Influence of the Law Review Institution*, 30 AKRON L. REV. 15, 22-25 (1996); see, e.g., William L. Prosser, *Privacy*, 48 CAL. L. REV. 383 (1960); Oliver Wendell Holmes Jr., *The Path of the Law*, 10 HARV. L. REV. 457 (1897); Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890); see also Michael L. Closen, *A Proposed Code of Professional Responsibility For Law Reviews*, 63 NOTRE DAME L. REV. 55 (1988) (citing Chief Justice Earl Warren in 1 CREIGHTON L. REV. 7, 8 (1968), who stated that law reviews “have long served an invaluable function in the development of our jurisprudence.”).

⁵ See, e.g., WORLD TRADE ORGANIZATION, PRACTICAL MODALITIES OF PEER REVIEW IN A MULTILATERAL FRAMEWORK ON COMPETITION (2003) WT/WGTCP/W/243 (citing R. Tronnes, *Ensuring Uniformity in the Implementation of the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, 33 GEO. WASH. INT’L L. REV. 97 (2000)), available at <http://www.wto.org>; Human Rights of Persons with Disabilities, United Nations, n.40 (citing Caroline Dommen, *Claiming Environmental Rights: Some Possibilities Offered By the United Nations’ Human Rights Mechanisms*, 11 GEO. INT’L ENVTL. L. REV. 1 (1998)); George Mugwanya, *Realizing Universal Human Rights Norms Through Regional Human Rights Mechanisms: Reinvigorating the African System*, 10 IND. INT’L & COMP. L. REV. 35 (1999); Thomas Buergenthal, *International Human Rights Law and Institutions: Accomplishments and Prospects*, 63 WASH. L. REV. 1 (1988); David Weissbrodt, *The Role of International Organizations in the Implementation of Human Rights and Humanitarian Law in Situations of Armed Conflict*, 21 VAND. J. TRANSNAT’L L. 313 (1988).

⁶ For a discussion of the day-to-day operations and inner-workings of law reviews see Josh E. Fidler, *Law Review Operations and Management: An Empirical Study of the New York University Law Review Alumni Association*, 33 J. LEGAL EDUC. 48 (1983); Richard H. Lee, *Administration of the Law Review*, 9 J. LEGAL EDUC. 223 (1956).

deciding whether or not to accept an article for publication, and the factors that an author should consider when her or his article is accepted for publication. Part III describes the editing process from the time of acceptance to publication and Part IV contains some general tips on submitting an article with an eye toward publication.

Hopefully, these insights from an “insider” will assist more non-U.S. and ESL legal scholars in the publication process, facilitate a move toward the publication of more articles by non-U.S. and ESL scholars, and improve the relationships between authors and law review editors.

I. A LOOK AT THE TYPICAL U.S. LAW REVIEW: A UNIQUE BEAST

Law reviews in the United States share a unique history. Over the past 100 years, student-edited law reviews have published similar types of works and have had a similar administrative structure. However, the 400-plus law reviews throughout the country vary based on the kinds of legal topics they publish and the way they obtain scholarship for publication.

A. *A Brief History of U.S. Law Reviews*⁷

Before the nineteenth century, legal journalism in the United States, as it had been in Europe, mainly consisted of treatises (which were long statements of particular bodies of law) and law reports (which “contained court decisions, summaries of court opinions, and reporter’s [sic] comments about the opinions.”)⁸

Beginning in 1808 with the *American Law Journal and Miscellaneous Repertory*,⁹ commercial (meaning for-profit) legal periodicals began springing up across the United States, which combined publishing current news in the legal communities with articles that “approached the treatise in stature, respect, and influence.”¹⁰

In 1875, a group of law students at the University of Albany, which later joined Union College to form Union University, and is now Albany Law School,¹¹ started and published the first issue of

⁷ For an in-depth discussion of the history and development of U.S. student-edited law reviews, see Swygert & Bruce, *supra* note 3.

⁸ *Id.* at 742.

⁹ Gilson G. Glasier, *Early American Periodicals*, 28 A.B.A. J. 615 (1942).

¹⁰ Swygert & Bruce, *supra* note 3, at 754.

¹¹ Irving Browne, *The Albany Law School*, 2 THE GREEN BAG 153 (1890).

the *Albany Law School Journal*.¹² This was the first student-edited law review of any type in the United States and only lasted one year.¹³ In 1885, the *Columbia Jurist* was first published by students at Columbia Law School, who stated in their first issue: "We think that the *Columbia Jurist* will supply a want long felt. The other departments of this College are each supplied with a paper or publication. Why are not we? Let each member of the Law School contribute heartily with pen and purse"¹⁴ While the *Columbia Jurist* was also short-lived—it was in print for approximately two years—it partially inspired the production of the student-edited *Harvard Law Review* in 1887,¹⁵ which is still published today.

By 1930, there were forty-three student-edited U.S. law reviews,¹⁶ which all generally followed the same format, publishing "leading articles, comments (sometimes called notes), shorter notes on recent cases, book reviews and a list of books received for review."¹⁷ At Harvard and a few other schools, students were writing the comments (notes), while lead articles and articles were written by scholars and practitioners.¹⁸ Furthermore, many of the schools' law reviews had no faculty on their editorial boards, whereas at other law schools faculty members were members of the editorial boards alongside the students.¹⁹

Today, most law reviews publish the same types of pieces as those early student-edited law reviews: articles, book reviews and speeches, and student-written comments and notes, which are all discussed in Part I(B). Faculty members now act as advisors to the student-editors, but generally the final publication decisions remain in the hands of students.

Even though law schools provide financial support, office space, and professors as advisors, the students on the law review have a great deal of autonomy and discretion. Student management of the law review not only exposes law review members to a wide range of academic activity, but also instills management skills in the students who are members of the editorial board. These

¹² Swygert & Bruce, *supra* note 3, at 764. The *Albany Law School Journal* should not be confused with *The Albany Law Journal*, which was a professionally edited journal that pre-existed the *Albany Law School Journal*. *Id.* at 759-64.

¹³ *Id.* at 764 (citations omitted).

¹⁴ Introduction, 1 COLUM. JURIST 2 (1885).

¹⁵ Swygert & Bruce, *supra* note 3, at 769.

¹⁶ Douglas B. Maggs, *Concerning the Extent to Which the Law Review Contributes to the Development of the Law*, 3 S. CAL. L. REV. 181, 181 n.2 (1930).

¹⁷ *Id.* at 183.

¹⁸ *Id.* at 183-184.

¹⁹ *Id.* at 183.

skills help develop future attorneys who are efficient and effective.²⁰

Although most law reviews associated with U.S. law schools are student-edited, there are a few that are faculty-edited. The similarities and differences between the two types of publications are too numerous to serve the present purposes, but suffice it to say that most law reviews in the United States are student-edited.²¹

One of the benefits of having students reviewing articles is that if a scholar cannot express her or his idea to a novice, or if even a novice can discover its logical flaws, then the article and arguments will most likely not be well received by other scholars. In the words of Professor Ira Lupu:

. . . a student edit is a challenge to a master by an apprentice. The surface reaction to this may be "How dare this professional beginner challenge my prose or my premise," but the underlying sentiment may be closer to "What will my peers think of this piece if this rookie can find all of these flaws in it?"²²

Other nations also have student-edited law reviews at law schools, including for example: *Trinity College Law Review* (Ireland); *Sydney Law Review* (Australia); *University of Queensland Law Journal* (Australia); *University of New Brunswick Law School Journal* (Canada); and *New Zealand Universities Law Review* (New Zealand). The structure and nature of these and other non-U.S. student-edited law reviews appear to be based on the U.S. model, but are not as uniform as the U.S. law reviews with which this article is concerned.

B. Types of Scholarly Works Law Reviews Publish

As previously mentioned, for about 100 years student-edited law reviews have published the same general types of works. There are articles (sometimes called lead articles), speeches, and book reviews from law professors, scholars, and practicing attorneys, and there are comments and notes written by student editors of law reviews. Articles are generally between thirty and 150 pages, with as many as 500 to 600 footnotes.

²⁰ Closen & Dzielak, *supra* note 4, at 43 (citing The Executive Board of the Chicago-Kent Law Review, *The Symposium Format as a Solution to Problems Inherent in Student-Edited Law Journals: A View from the Inside*, 70 CHI.-KENT L. REV. 141, 142 (1994) (stating that the *Chicago-Kent Law Review* is similar to other law reviews because "student editors handle all the day-to-day responsibilities of the Review without oversight")).

²¹ For a discussion of U.S. faculty-run law reviews and journals, see Richard A. Epstein, *Faculty-Edited Law Journals*, 70 CHI.-KENT L. REV. 87 (1994).

²² Ira C. Lupu, *Six Authors in Search of a Character*, 70 CHI.-KENT L. REV. 71, 72 (1994) (citations omitted).

A standard model format for a lead article would include: an introduction, a scope note [that states what the paper will and will not discuss], a background or overview discussion, an analysis section (identifying current problems and issues, and suggesting solutions or approaches to those problems and issues), and a conclusion.²³

One may also find other pieces from practitioners and scholars that are shorter and often contain substantially fewer citations, which are still referred to as articles, but may be called essays or commentaries. These shorter pieces “tend to be ‘thought’ piece[s] . . . in contrast to a ‘research’ piece, and [are] often written by someone widely recognized to be an authority in the subject area of the essay.”²⁴ The expertise of the individuals writing essays or comments makes up for her or his lack of citations—her or his qualifications justify the work.

Book reviews typically are not placed in the same section as articles and generally consist of a summary of what is stated in a certain book, followed by an analysis of various aspects of the book. A typical book review is much shorter than an article, ranging from a few pages to around thirty.²⁵

Student-written pieces are separated from those of professionals and scholars and vary in length and type. These are papers written by students who are editors of the particular law review, and sometimes other students. There are two types of student pieces, “comments” and “notes.” Student “comments” discuss an issue in a certain area of law, while student “notes” analyze and discuss a recent court decision or legislative act.

Some law reviews also publish symposium issues. A symposium issue publishes articles on one specific topic gathered one of two ways. A law review may choose the topic it wants to focus on and will then ask certain scholars to submit articles on the various aspects of the legal topic. The more common way a symposium issue comes together is when an editorial board brings scholars together to discuss and debate a certain legal issue. At the conclusion of the dialogue, the law review will publish a special issue that often includes parts of the discussions or debates, the speeches from the

²³ Closen & Dzielak, *supra* note 4, at 18.

²⁴ *Id.*

²⁵ See, e.g., Robert W. Martin Jr., *Verbose and Obtuse But Oozing with Integrity*, 42 S.D. L. REV. 575 (1991) (reviewing STEPHEN L. CARTER, *INTEGRITY* (1996)) (totaling a mere three pages).

meetings, and/or articles written by the scholars who participated.²⁶

C. Typical Structure: Titles and Responsibilities

There is no set administrative structure to all U.S. law reviews, nor is there a set number of editors that law reviews may have on staff.²⁷ However, all law reviews are generally organized in a similar fashion. There is an editorial board that consists of third-year law students, which in effect runs and manages the law review—from staff selection to choosing articles for publication. There are numerous positions on the editorial board with specific duties, whose titles often include editor in chief, executive editor, managing editor, articles editor, research editor, business editor, notes and comments editor, and associate editor. There are also staff members who are sometimes referred to as staff editors, and who are second-year law students who are typically chosen either based on their grades, the results of an annual writing competition, or a combination of both.²⁸ The editorial board for the next year is selected from these staff members/editors either by the staff or the prior editorial board.

As a general rule, articles may be submitted to the attention of the articles editor or editor in chief. Finding a law review and submitting an article is discussed in Part II(B). Generally, law reviews have a senior or lead articles editor who oversees the consideration and selection of articles for publication. There may be other articles editors who work with the senior or lead articles editor to read and critique the submitted articles. If an articles editor decides not to publish a submitted article, the author will be sent a letter stating that her or his article will not be published. Articles that the articles editors believe should be published are sent to the editor in chief for a final review of the article.²⁹ If the editor in chief decides the article should be published, the law review will send an acceptance letter to the author, or the editor will call the author to extend an offer for publication. If the editor in chief decides not to

²⁶ See, e.g., *Special Issue, Law Review Conference*, 47 STAN. L. REV. Table of Contents (1995) (including an essay, articles, a conference agenda, and notes from various attendees of the conference).

²⁷ For a more complete look at the “players” on U.S. law reviews staff, see Closen & Dzielak, *supra* note 4, at 43-49.

²⁸ Jordan H. Leibman & James P. White, *How the Student-Edited Law Journals Make Their Publication Decisions*, 39 J. LEGAL EDUC. 387, 400-01 (1989).

²⁹ A minority of law reviews may use a different title for their editor in chief. For example, *Stanford Law Review* uses the title “President” for this position. See, e.g., 56 STAN. L. REV. Masthead (2003).

publish the article, a letter stating that the article will not be published will be sent. This process typically takes between one day and one week from the time an article is received. Different law reviews have different internal policies on how long they take to respond to authors.

There are various editors with whom an author may come in contact, but typically each law review has only one individual who is responsible for author contact. For example, the articles editor of the *Temple International & Comparative Law Journal* is mainly responsible for author contact, including notifying authors of acceptance and sending/receiving edits, but the editor in chief may contact authors when necessary.

D. *Types of Law Reviews*

With more than 400 different student-edited law reviews in the United States,³⁰ it would be difficult and unnecessary to submit an article to each and every law review. Therefore, an author must decide to which law reviews she or he would like to submit her or his article, based on which types of law reviews are appropriate for the article.

There are two main types of law reviews: general and topical/specific. General law reviews publish articles on any substantive area of the law, whether domestic, foreign, international, or transnational. Most accredited law schools (that is, law schools that are approved by the American Bar Association) have a general law review.

Topical law reviews publish works that are focused on a specific area of the law. Topical law reviews have existed in the United States since the nineteenth century.³¹ Not all accredited law schools have topical publications, whereas others have several. For example, the University of Hawaii only has a general law review,³² but Temple University has a general law review, *Temple Law Review*, and three topical publications: *Temple International & Comparative Law Journal*; *Temple Political & Civil Rights Law Review*; and *Temple Environmental & Technology Law Journal*. Some legal scholars who

³⁰ See HOFFHEIMER, *supra* note 2.

³¹ "Several specialized periodicals also appeared by 1875. They included the Insurance Law Journal, the Medico-Legal Journal, The Bankrupt Register, the Internal Revenue Record and Custom Journal, and the American Civil Law Journal." Swygert & Bruce, *supra* note 3, at 762 (citations omitted).

³² See University of Hawai'i Student Organizations, at http://www.hawaii.edu/law/student_organizations/ (last visited Feb. 2, 2004) (on file with the New York City Law Review).

dislike student-edited law reviews have argued that a specialized law review tends to consist of a more competent editorial staff, stating, for example:

Because a lack of substantive knowledge is one of the chief problems of student editors, specialty journals make sense. Students who are interested in a particular field generally know more about that field than other students. Specialization breeds competence. Thus, specialized journals can help ameliorate two of the three problems of student editing—[inadequacy concerning] article selection and a lack of training and supervision.³³

Law Review? Law Journal? Forum? Law Quarterly? Both general and topical student-edited law reviews use various descriptions of their publication in their titles, including “review,” “journal,” “forum,” and “quarterly.” This may confuse those who are not familiar with U.S. law reviews. There is no current significance between whether a publication calls itself a “journal,” “review,” “forum,” or “quarterly,” other than the fact that quarterlies publish four times a year. They are all law reviews and are referred to collectively as law reviews.³⁴ Therefore, generally, there is no difference, for example, between the work of the *Cornell Law Review*, the *Duke Law Journal*, and the *University of Baltimore Law Forum*.

Finally, some law reviews only publish symposium issues, whereas most law reviews that publish symposium issues also publish regular issues. For example, the *University of Chicago Legal Forum* and the *Chicago-Kent Law Review* only publish articles that originate from their symposia; they do not accept regular article submissions.³⁵ This also shows that the title used, here one is a “review” and the other a “forum,” does not signify what type of law review it is.

II. SUBMITTING ARTICLES AND THE ARTICLE SELECTION PROCESS

Unlike with other types of publications, an article may be submitted to a law review in various stages of completion, so an author must consider when her or his article is ready to be submitted.

³³ James Lindgren, *Reforming the American Law Review*, 47 STAN. L. REV. 1123, 1128 (1995). But see James Lindgren, *An Author's Manifesto*, 61 U. CHI. L. REV. 527 (1994) (stating, “[o]ur scholarly journals are in the hands of incompetents,” and discussing various problems that the author sees with student-edited law reviews).

³⁴ See, e.g., *Contents*, 47 STANFORD L. REV. i (1995).

³⁵ See University of Chicago, The University of Chicago Legal Forum, at <http://legal-forum.uchicago.edu> (last visited Mar. 16, 2004) (on file with the New York City Law Review); Randy E. Barnett, *Beyond the Moot Law Review: A Short Story With A Happy Ending*, 70 CHI.-KENT L. REV. 123 (1994) (discussing the Chicago-Kent Law Review's structure as a purely symposia law review).

Once an article is ready for submission, there are several ways an author may find the appropriate law review(s) to submit her or his article to and several ways that an author may submit the article. There are a few standard factors that law reviews will consider when deciding whether or not to accept a submitted article. And, finally, if a law review makes an offer to publish an article, there are a few factors that an author may want to consider in deciding whether or not to accept the offer and publish with that particular law review.

A. *Initial Remarks*

Submitted articles are not expected to be perfect, or sometimes even in their absolute and final draft. Different authors submit their articles in different states of repair: most authors submit the absolute final version of their paper while others know that there are difficulties in the article and want the law review editors to point out the problems.

This was a major shock when I began the article selection process with the articles editor for the *Temple International & Comparative Law Journal*. For example, consider what Professor Ira Lupu³⁶ said about the articles he submits:

I have never sent out a piece [to a law review] without an awareness that it has sentences that are awkward, paragraphs that do not connect very well with the ones immediately before and after, and large themes that are imperfectly identified (among other flaws). I find myself hoping that editors highlight these problems and thereby prod me to edit myself. When editors ignore the parts of a piece that I sense need work, I have to overcome the temptation to leave those parts unimproved.³⁷

But, although there may be authors who submit articles in some state of disrepair or at least in a non-final state, there are law reviews that will not accept articles with ideas that are not connected or a poorly expressed theme.³⁸ For example, in considering whether to accept an article, editors factor in the amount of editing that an article needs; if the presentation style is easy to read, clear, and organized; whether sentences are complete; and whether there is a consistent structure in the article.³⁹ Other law

³⁶ Professor Ira C. Lupu is the Louis Harkey Mayo Research Professor of Law at the National Law Center, George Washington University.

³⁷ Lupu, *supra* note 22, at 73.

³⁸ This, of course, means that those law reviews will only reject the article if the novice editors are able to recognize the insufficiencies of the article.

³⁹ *Published Guidelines for Evaluators*, TEX. REV. LITIG., reprinted in Terri LeClercq, *The Nuts and Bolts of Article Criteria and Selection*, 30 STETSON L. REV. 436, app. A, at 447

reviews are more willing to accept a rougher version and work with the author more to reach a final product. Based on my own experience and discussions with numerous other editors of other law reviews, editors typically will only accept an article that they view as complete and ready for cite checking and editing, not ones that need extensive editing. Finally, an author must consider the fact that these novice editors may not catch or correct the article's inadequacies, leaving the author with a sub-par publication.

B. Finding a Law Review and Submitting an Article

There are several ways an author may find the right type of law review to which she or he wants to submit. Most law reviews have a webpage that will come up on a basic Internet search. A list of law reviews also can be found on FindLaw's website,⁴⁰ but note that the links to some of these law reviews are old. This at least provides a starting point for the search. If an author decides to submit via email, I recommend visiting and making use of Professor Richard Bales's *Law Review Electronic Submissions* webpage.⁴¹ Professor Bales's webpage lists every U.S. law review that accepts electronic submissions. Once on the webpage, an author simply clicks the boxes of the law reviews that she or he wishes to submit to, then follows a simple process to submit the article to multiple law reviews at once.⁴²

When an article is submitted, several items are typically submitted with it to help the editors consider the piece and be introduced to the author. Generally, a mailed submission should include the following:

- A cover letter that has a very brief description of the paper and its thesis;
- A hard copy of the article;

(2000); *Published Guidelines for Evaluators*, TEX. J. WOMEN & L., reprinted in 30 *STETSON L. REV.* 436, app. B, at 448 (2000).

⁴⁰ See <http://stu.findlaw.com/journals/> (last visited Feb. 9, 2004).

⁴¹ Richard A. Bales, Salmon P. Chase College of Law, *Law Review Electronic Submissions*, at <http://www.nku.edu/~chase/libesubmission.html> (last visited Feb. 9, 2004) (on file with the New York City Law Review).

⁴² *Id.*

To choose the law reviews to which you wish to submit your article, simply check the box located next to the email address for any given law review. Then simply click on the link below, "Email Checked Law Reviews." Your email software will open up with all the checked addresses in the Bcc field. This will allow you to send one email to all checked law reviews without each law review knowing what other reviews you submitted to.

Id.

- A soft copy on a 3.5" IBM disk or CD; and
- A copy of the author's résumé (or at least a footnote in the paper that briefly introduces the author).

Understanding that such a packet may be expensive, especially when an article is submitted to numerous law reviews, submitting via email when a law review accepts electronic submissions may be the fastest and most efficient method.⁴³ But, an author needs to keep in mind the fact that law reviews, like all other computer users, at times have problems with their computer systems and may not receive an electronic submission, or receive it corrupted.⁴⁴ Furthermore, there is a concern that electronically submitted materials receive a more cursory review, as opposed to hard-copy submissions.⁴⁵ And, finally, some editors may perceive electronic submissions as inferior,⁴⁶ but this seems to be less and less of an issue, given that a new generation of student editors exists that has grown up in the technology age.

One final thought on submitting an article is to consider the time of year the article is submitted. The two major waves of article submissions are in May/June and in August/September. Legal scholars know that between April and May, the new articles editors will begin selecting articles for their issues. Furthermore, in August/September there is a heavy wave of submissions that are the product of professors finishing articles from their summer research. Submitting at these times may mean that it takes the editors longer to review an article and means stiffer competition to win a spot in the next issue of the law review. Additionally, if an author submits an article in May or December, it may take editors an extended amount of time to respond, due to the fact that they are taking exams. In general, it is recommended that authors call the law reviews to see if they are still considering articles and for which issues articles are still being selected, which affects when the article will be in print.

C. *Standards for Accepting an Article for Publication*⁴⁷

"An article worthy of publication must have a timely, original, and

⁴³ Richard A. Bales, *Electronically Submitting Manuscripts to Law Reviews*, 30 STETSON L. REV. 577, 584 (2000) (discussing the advantages and disadvantages of electronic submissions to law reviews).

⁴⁴ *Id.* at 584-86.

⁴⁵ *Id.* at 585.

⁴⁶ *Id.* at 585-86.

⁴⁷ For another perspective on the article selection process, see LeClercq, *supra* note 39.

important thesis that is clearly articulated."⁴⁸

It has been estimated that law reviews spend up to 3,000 hours a year simply reviewing articles for publication, not including editing and actually publishing the articles selected.⁴⁹ There are several factors that editors of law reviews typically look at to determine whether or not to select an article for publication. Of course, the weight given to each of these criteria varies from editor to editor, and there may be other factors considered, such as publishing a diverse group of issues and scholars in each issue. If asked, an editor of a law review should be able to articulate the law review's article selection criteria. If she or he cannot, this may be a sign that the editors choose articles on a whim, without ensuring that they publish high quality work. The general factors considered include: a preemption check, timeliness, applicability, quality of research, form, clear and concise thesis, accessibility of sources, and an author's credentials.

The first thing law review editors do is a preemption check on the article. A preemption check consists of an extensive search to see if the thesis has been published before, how much has been written on the subject matter, and to see if the issue is a "hot" topic. A look at one international law review's preemption checklist shows that the editors check Westlaw and LexisNexis databases and their own submission databases.⁵⁰ Law reviews also commonly do general Internet searches and library database searches. If the article does not discuss a virgin topic or come to an entirely new conclusion, editors may like the article if it is written from a different perspective or voice. An article does not have to be "earth-shattering,"⁵¹ but it should not be just a statement of the status of the law. An article should at least include: a thorough analysis of the history of the law in the area, comparisons and contrasts, predications about where the law seems to be headed, and statements of opinion concerning the current status of the law and the direction in which the law should move. Editors also often look to see if the article has a practical application, meaning that the article serves some useful purpose. Of course, this does not mean that the arti-

⁴⁸ Anne Enquist, *Substantive Editing Versus Technical Editing: How Law Review Editors Do Their Job*, 30 STETSON L. REV. 451, 453 (2000) (emphasis added).

⁴⁹ Stephen R. Heifetz, *Efficient Matching: Reforming the Market for Law Review Articles*, 5 GEO. MASON L. REV. 629, 635 (1997).

⁵⁰ *Published Guidelines for Evaluators*, TEX. INT'L L.J., reprinted in LeClercq, *supra* note 39, App. C, at 449.

⁵¹ Enquist, *supra* note 48, at 453.

cle cannot be theoretical.⁵²

Next, law reviews look at the quality of research in the article, which includes looking both at the discussion of all appropriate issues and looking for well-supported propositions in citations.⁵³ The lack of well-supported statements in citations and footnotes has been the biggest issue I have come across when reviewing non-U.S. scholarship, and is a general frustration for all law review editors.⁵⁴ Although it is understood that various cultures may view the necessity of footnoting factual statements, quotations, paraphrasing a discussion, or general discussions of the law differently, U.S. legal tradition encourages (in some circumstances requires) that each of these statements be supported by specific citations. For example, if a case is discussed, each reference to that case must be cited, and cited to the page or paragraph where the fact comes from. This is a major issue for article selection, because part of the law review's editing process includes inserting and correcting footnotes. If an author has not thoroughly cited or footnoted her or his article, it jams the publication process, making editors less likely to accept the article in the first place. Of course, a lack of citations also makes the article less credible, because citing other persons who discuss the issue (whether in agreement or disagreement) adds authority to the author's own discussion.

Editors also look at the form of the paper. If possible, footnotes and citations should also be similar to the form the law review uses, but editorial boards might give more leeway on this factor when working with non-U.S. and ESL authors. This is discussed further in Part V(F).

It is very important that the article has a clear and concise thesis. The article needs to have a point that is repeated and supported throughout the discussion and analysis. Furthermore, of course, editors look to see if the article is generally written clearly and is well organized. There should be further leeway when working with ESL legal scholars, but that is not necessarily the case. To encourage editors to be more forgiving of grammatical errors, an ESL author may want to offer her or his extra help during the editorial process.

Law reviews that publish non-U.S. authors also look to see how

⁵² See, e.g., Sharon Harzenski, *Post-Colonial Studies: Terrorism, A History, Stage Two*, 17 TEMP. INT'L & COMP. L.J. 351 (2003).

⁵³ See MARY BARNARD RAY & JILL J. RAMSFIELD, LEGAL WRITING: GETTING IT RIGHT AND GETTING IT WRITTEN 67-71 (3d 2000).

⁵⁴ See, e.g., Darby Dickerson, *Citation Frustrations—And Solutions*, 30 STETSON L. REV. 477 (2000).

accessible the sources cited are.⁵⁵ For example, if an author cites a regional statute from China, there may be concern that the editors will not be able to check the source when they do their editing. This is why I emphasize in Part V(D) that a non-U.S. or ESL legal scholar should put in her or his cover letter that she or he is willing and able to supply the law review with sources that cannot be found, preferably in English, if the article is selected.

Finally, law reviews look to an author's credentials by reviewing her or his résumé or curriculum vitae (CV), especially looking at her or his past publications and area(s) of expertise. The more credible or experienced an author is in the area that her or his article discusses, the more likely the editors will be interested in the paper and the more lenient they may be in letting the author use fewer citations—her or his experience may give enough credibility to the statements made that they do not all have to be cited.

If an article is selected for publication, most law reviews accept articles conditionally. This means that if problems arise during the editing process, such as discovering plagiarism or a lack of proper citing in the article, the editors may revoke the offer and not publish the article.

D. Deciding Whether to Accept or Reject an Offer to Publish

If a law review does make an offer to publish an article, the author is not bound to accept that offer. She or he may wait to see what other offers she or he may receive before accepting the offer. Although this may be a headache for editors, when an author receives an offer from one law review it is common practice for that author to call or email the other law reviews that she or he may prefer to be published in and use the offer as leverage to encourage them to make a decision sooner concerning whether or not to publish the article.⁵⁶ Although other professions may not permit or encourage simultaneous submissions, it is very common for authors to submit to more than one law review and weigh their offers. Multiple submissions are even expected.⁵⁷

When considering whether or not to have an article published with a particular law review, an author may want to consider several factors, including each law review's approach to editing, prior articles and authors published, various publication options, an offer of

⁵⁵ *Published Guidelines for Evaluators*, TEX. INT'L L.J., reprinted in LeClercq, *supra* note 39.

⁵⁶ LeClercq, *supra* note 39, at 445.

⁵⁷ *Id.*

lead article, issues of copyrights and reproduction, responsiveness of the editors, and the law review's readership.

Although most law reviews will tell authors that they give "deference to the author" when editing, meaning that they will try not to over-edit the article and let the author have the final say on changes to the article, different law reviews edit articles to different degrees once they are accepted. In any case, law reviews are open about their editing process, and if an author asks the editors about the editing criteria and process the editors will talk with the author about them. Whether the law review is more hands off or the kind that edits more intensely, all law reviews should allow the author to review the article at least once during the editing process when major changes are made or suggested. An author should be sure to know up front when and at what stage in the editing process the article will be sent back to the author; an author may not want to review the article at an early stage of editing when more editing will occur after the author reviews it, without an opportunity to review the subsequent changes.

Also, an author may want to consider what types of articles have been published by the law review in the past, what articles will be in the issue that her or his article is accepted for, and who the other authors are who are to be published along with her or him. On these points law reviews vary greatly in both quality and quantity. By addressing these concerns, an author can ensure that her or his article appears in a law review that regularly publishes articles on the substantive area of her or his article, that this law review's readers know what type of articles may be found in this law review, that the law review publishes other interesting and timely articles, and that the law review publishes qualified legal scholars.

Next, an author may want to ask what publication options are available. Some law reviews may be able to publish the article in its print edition, and also offer to publish it on the law review's Internet site in final edited form before the print edition comes out.⁵⁸ This can provide an author with the ability to share her or his article with her or his colleagues, benefit from an early publication, and also have the article accessible by everyone with Internet access (instead of the article only being available to the law review's subscribers and those with access to Westlaw or LexisNexis). Furthermore, some law reviews publish an Internet-only edition,

⁵⁸ See, e.g., Stetson Law Review, at <http://www.law.stetson.edu/lawrev/articles.htm> (last visited Feb. 2, 2004); Temple International & Comparative Law Journal, at <http://www.temple.edu/ticlj/newarticles.html> (last visited Feb. 2, 2004).

meaning that the article will not be in an actual book.⁵⁹ There are several possible concerns with Internet-only publications, partially due to the fact that they are young (possibly failing if they are unable to attract enough articles for publication or the law school deems them unsuccessful) and the fact that Internet sites may not be permanent. Some questions to ask about these Internet-only editions include: how long has the Internet-only edition existed; is it published annually; and how long do the articles remain online?

An author also should consider whether she or he has been offered "lead article." This means that the article will be the first article found in the issue, and is generally considered to be an honor because the work is viewed as the best or most important in the issue.

An author should also consider what rights the law review may want to retain. Each law review should have a form for the author to sign concerning the assignment or relinquishment of copyrights, right to reproduction, etc., which are often labeled "Memorandum of Understanding." Some law reviews insist on the assignment or relinquishment of all publishing and reproduction rights, while others are more willing to work with authors and may only want original publication rights. Authors are sometimes allowed to amend these agreements.

An author also should consider how responsive the editors have been, which may signal how responsive they will be in the future. When dealing with a publication, an author may want an editorial board that responds within a day or two to emails or phone calls. Student-editors are busy—they are in law school, have their editorial responsibilities, some of them work during the school year, and have other personal and professional responsibilities. Understanding that student-editors may be busy, an author should make sure that the editors have prioritized their editorial responsibilities and respond quickly and professionally to authors.

Finally, an author may want to ask how large the law review's subscriber list is, and possibly how broad its readership is. This used to be a bigger consideration before law reviews became generally available on electronic databases and on the Internet.⁶⁰ Now that all articles are equally available in electronic databases, a law

⁵⁹ See, e.g., Duke Law & Technology Review, at http://www.law.duke.edu/journals/dltr/dltr/About_the_DLTR.html.

⁶⁰ See, e.g., Richard G. Kopf, *Do Judges Read the Review? A Citation-Counting Study of the Nebraska Law Review and the Nebraska Supreme Court, 1972-1996*, 76 NEB. L. REV. 708 (1997); Fred R. Shapiro, *The Most-Cited Law Review Articles Revisited*, 71 CHI.-KENT L. REV. 751 (1996).

review's print distribution to every library in the United States or a large individual subscriber list is not as critical to making the article available to other legal scholars.

These issues, and others, should be taken into consideration when deciding whether or not to accept a student-edited law review's offer to publish.

III. THE EDITING PROCESS: FROM ACCEPTANCE TO PUBLICATION

Some law reviews do more editing than others, and some law reviews simply do not have the capacity to do a great deal of editing because they have small editorial staffs. But it is standard, no matter the number of editors who look at each article or how in-depth their work is, that each article will go through substantive and technical edits.⁶¹ These are not necessarily done in this order and often individual editors perform more than one type of edit of the article.

Substantive edits focus on the following: the thesis; the line of reasoning and arguments; organization; what is not stated in the article and what should be; the text; the footnotes; and the author's voice (meaning the way that she or he makes her or his statements and her or his writing style).⁶²

Technical edits consist of looking at the following: organization within each part of the article; readability (clarity); precision; conciseness; grammar, punctuation, spelling, and mechanics; and putting the article in proper publishing form.⁶³

Another type of edits is cite checking, often referred to as the "grunt-work" of law reviews.⁶⁴ Cite checking consists of ensuring that every statement or proposition made in the paper is accurate, that citations are in the proper form, that the cited sources are still good law and/or say what the author states that they say, and correcting textual errors (such as grammar and typographical errors).⁶⁵ This stage of editing is the most intense, as the editors go sentence-by-sentence through the article to make sure that the author's statements are correct; properly attribute arguments, statements of fact, and statements of law; and provide enough information in her or his citations that a reader can easily locate the source of the information.

⁶¹ Enquist, *supra* note 48, at 452.

⁶² *Id.* at 453.

⁶³ *Id.* at 461-62.

⁶⁴ Dickerson, *supra* note 54, at 478.

⁶⁵ *Id.*

During this editing process, the author should be sent her or his paper with suggestions of changes on major issues, such as if there is a complete lack of proper citations or if the editors believe that the article needs an extra section to add credence to the article's thesis. An author should ensure that she or he knows when an editorial board will return the article to the author before publication.

IV. GENERAL TIPS FOR SUBMITTING AN ARTICLE

Below are extra tips for increasing a non-U.S. or ESL legal scholar's chances of publishing in a U.S. law review.

A. *Footnote and Explain Cultural References*

First, be sure to provide footnotes that explain any cultural references made in the article. For example, Professor An Chen of Xiamen University, in an article published in the *Temple International & Comparative Law Journal*,⁶⁶ compared the United States to the Monkey King, which necessitated a footnote to explain to those who are unfamiliar with Chinese mythology who the Monkey King was and how it applied to the argument.⁶⁷ Professor Chen had originally provided this footnote and such inclusions made his paper very easy to work with and more alluring to accept for publication.

B. *Submission Packet Checklist*

When submitting an article, the package should at least include the following items:

- A cover letter that gives a brief introduction to the article and states that the author can supply non-U.S. sources that the editors are unable to locate;
- A résumé or CV;
- A hard-copy of the article; and
- A soft-copy of the article in Word™ or Word Perfect.™

C. *Make Yours Look Like Theirs*

To say that an author should make her or his paper physically uniform or look like what the editors typically see may at first

⁶⁶ An Chen, *The Three Big Rounds of U.S. Unilateralism Versus WTO Multilateralism During The Last Decade: A Combined Analysis of The Great 1994 Sovereignty Debate, Section 301 Disputes (1998-2000), and Section 201 Disputes (2002-Present)*, 17 TEMP. INT'L & COMP. L.J. 409 (2003).

⁶⁷ *Id.*

glance offend those of us who prefer originality or who write in a style that encourages unique approaches. But, often readers, including articles editors, tend to view the familiar in a more favorable light. Considering that law reviews receive hundreds of submissions a year,⁶⁸ an author may want to do everything possible not to have her or his article thrown out because it looks “unprofessional” or physically appears to need a lot of editing. Thus, the more an author can make her or his paper physically look like something that an editor typically sees, the more likely the editor will make it past the appearance of the article to focus on its substance.

Generally, most formal papers in the United States are typed in 12-Point Courier or (New) Times Roman font. Pages are set with one-inch margins on the top, bottom, left, and right. The lines are double-spaced. Citations should be in footnotes, not endnotes. Fully justify the text, meaning that the text on the right and left sides of the paper is in a straight line. Put two spaces between sentences. This is a standard editing rule, and, again, helps make the paper look more like an end product and will make it more desirable to the editors. And, finally, have the page number listed on each page. This is how the paper will look when published and it cleans up the article’s physical appearance.

D. Non-English Materials and Sources Not Generally Available in the United States

As previously mentioned, if an author cites non-U.S. legal materials she or he should be prepared to supply the law review with the sources if editors ask for them. It is understood that the editors will do an inter-library search, which searches libraries throughout the United States, before asking an author for a source. The author’s cover letter should state that she or he is willing and able to provide these sources. If the sources are not available in English, the author should still offer to send them because the law review staff should be able to access someone to translate or check the sources in the original language. For example, in my two years on the *Temple International & Comparative Law Journal*, I know of staff members and editors who were capable of reading Arabic, French, Greek, Hebrew, Italian, Japanese, Mandarin Chi-

⁶⁸ *About the Review*, COLUM. L. REV., at <http://www.columbialawreview.org/information/about.cfm> (last visited Feb. 2, 2004) (on file with the New York City Law Review). The *Columbia Law Review* states that it receives approximately 1,500 submissions a year. *Id.*

nese, Russian, and Spanish—plus we had access to linguistic scholars in the greater university.

E. Vetting

Several U.S. legal scholars encourage “vetting” as a way to impress law review articles editors, thus increasing the probability of being accepted for publication.⁶⁹ Vetting means that an author lets a famous or well-known legal scholar review the paper before it is completed so that the author can cite the famous author in the first footnote of the paper.⁷⁰ Thus, the first thing a reviewing editor sees is the famous scholar’s name, enhancing the article’s appearance. “The theory is that good vetting signals law review editors that the article is of high quality, thus reducing the time the editors need to spend in screening and making publication decisions.”⁷¹

F. Using the Bluebook

The common form that citations in articles are put into in U.S. law reviews is “Bluebook format,” which follows *The Bluebook: A Uniform System of Citation*.⁷² The more an author places her or his article into proper *Bluebook* form, the less work the editors have to do, thus making the article more attractive. It is commonly accepted in the U.S. legal community that this format is confusing even to those who have been using it for a lifetime, so it is not a necessity, but an added incentive for publication. Regardless, each citation should at least contain, where possible, the following: the author’s name; the title of the source; the original source if it is found in a compilation; date of publication; publishers; editors; and Internet sites.

CONCLUSION

Publishing an article in a U.S. law review offers non-U.S. and ESL authors many benefits. With a little extra effort, articles may be made more appealing to U.S. law reviews, increasing the chances of publication. Hopefully, this introduction and these sug-

⁶⁹ See, e.g., Arthur D. Austin, *The “Custom of Vetting” as a Substitute for Peer Review*, 32 ARIZ. L. REV. 1 (1990). “Within the corridors of academe vetting is a serious industry that can elevate a person’s career, reputation, and salary.” *Id.* at 2.

⁷⁰ *Id.*

⁷¹ Eric A. Chiappinelli, Essay, *Definite Articles: Using the Law Review Article Type Indicator to Make Law Review Publishing Decisions*, 42 WM. & MARY L. REV. 559, 560 (2000).

⁷² THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass’n et al. eds., 17th ed. 2000).

gestions will benefit non-U.S. scholars and scholars who speak English as a second language as they work on articles for publication in English and/or in the United States. In the end, I hope to see a continued growth in geographical, philosophical, and political diversity in authors and articles published in U.S. law reviews.

Although the free and open expression of diverse ideas may not lead us to any ultimate truth,⁷³ an expansion of the voices heard will hopefully allow “conflicting ideas [to] struggle, uninhibited, for public acceptance.”⁷⁴

⁷³ Harry H. Wellington, *On Freedom of Expression*, 88 YALE L. J. 1105 (1979). “It is naive to think that truth will always prevail over falsehood in a free and open encounter, for too many false ideas have captured the imagination of men.” *Id.* at 1130; see generally Herbert Marcuse, *Repressive Tolerance*, in R. WOLFF, B. MOORE & H. MARCUSE, *A CRITIQUE OF PURE TOLERANCE* 81, 109-11 (Beacon Press, 1965).

⁷⁴ Diane Leenheer Zimmerman, *False Light Invasion of Privacy: The Light That Failed*, 64 N.Y.U. L. REV. 403 (1989); *Abrams v. U.S.*, 250 U.S. 616 (1919) (Holmes, J., dissenting) (expressing his interpretation of the U.S. Constitution as protecting a free market of ideas).