

THE NUTS AND BOLTS OF SCHOLARSHIP

or

The “NEW” Rules for Legal Scholars

By:

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Get Started: A Scholar Needs Love, Realism, and Commitment to Succeed.

1. *Write because you want to write, you love to write, you need to write.*
DO NOT write to get tenure. The goal is not to have permanent job security. The goal is to be a happy, content, productive person who is using his/her talents for the betterment of the legal profession. Tenure will not make you a happy person – just look around your faculty – there are lots of unhappy people with tenure. DO NOT get swept away by status. There are just as many unhappy people who teach in the first tier as teach in the last tier. If you focus on writing the best pieces that you can, and making a contribution, you will find the true joy in being a scholar.
2. *Write about a topic you know and love.*
3. *Focus your topic.*
You should be able to state your thesis clearly and concisely. Think of your thesis as a T-shirt slogan. If you can't explain it in one breath, it isn't focused.
4. *Take a long-term view of your life as a legal scholar.*
Scholarship is like a fleet of ships. Some articles are battleships, some are aircraft carriers, some are cruisers, some are lifeboats, and some are just dinghies. You will be judged not by the strength of any one ship, but by the fleet that you have amassed throughout your career.

Your first piece (typically) should be a battleship, roughly defined as 50 – 80 law review pages with about 200 – 400 footnotes. The article should make a significant contribution to the field.
5. *Get Organized.*

One of the most frustrating parts of writing a law review article is doing the footnotes. I suggest that for every article you get a binder. Have your research assistant photocopy everything that you cite. You can then send this binder to the law review editors, saving yourself the problem of remembering where you read something and then the task of pulling sources.

Also, start scheduling regular meetings with your research assistants so that you can keep yourself on track. Even when the research is completed, have your assistant read your drafts for clarity, etc. You may also want to read your draft aloud as you work on it.

6. *Start to think of yourself as a writer, not just a scholar.*

Buy a good chair. Find a writing routine. Tell your friends and family to be supportive. Read some books on the craft of writing. (Some recommended books are on the attached reading list.) Then write.

Get Feedback: This is No Time in Your Life to be Proud

1. *Find a mentor*

Look for someone on your own faculty or at another school. If your law school does not have a formal mentoring system, ask someone you trust to guide you through the scholarship process.

2. *Workshop your piece every chance that you get (and get a thick skin).*

3. *Ask faculty colleagues to review your work.*

Ask both those that like you and those who don't. People are often flattered that you asked. Take all advice with a grain of salt, however. Do not feel compelled to incorporate all of the suggested changes. Use your judgment and trust your intellectual instincts.

4. *Send your draft to outside reviewers in your field.*

The Submission Process: To Be Read, Not Recycled

(or, as Mae West once said, "Better to be looked over than overlooked.")

Once your article is ready to be sent out for placement, your goal is to get it as well-placed as possible. Better placement generally means better readership, and the most productive and happiest of scholars want their articles to be read, not recycled. This does not mean that in order to be a successful scholar or to get tenure you have to place your piece in a "top ten" law review. Be realistic. The vast majority of legal scholars who have tenure have never published in those journals. It is harder to place in "high ranked" journals if you are not from a "high ranked" school. And

some subjects are easier to place than others. Little about law review placement has to do with merit and much to do with luck.

Beware: Too many young scholars feel defeated when they don't place in a "top ten" journal. Do not let your self-worth become tied to your CV. This will only make you unhappy and unproductive. Your pieces will ultimately be judged on quality, not placement, so don't obsess about placement. Just be smart about it.

Below are some tips to help you increase your chances of publishing in a well-respected journal.

When do I send my article?

Anne Lamott once said, "Perfectionism is the voice of the oppressor." At some point, you must let your article go.

The two most typical times to send unsolicited manuscripts are mid-March, when the editorial boards change, and mid-August, when the editors are returning from summer break. Most people think that it is easier to place a piece in March than August. But do not wait too long before you send out your manuscript. You can always revise your manuscript once it is accepted.

Should I agree to write a piece if I am asked by a journal to do so?

You may be asked by a law review to write a piece for a symposium or to write a book review. Sometimes your own law review will ask you to write a piece. Consider these requests very carefully at the beginning of your career. Talk to colleagues on your faculty to see how these pieces will be evaluated for tenure. The good thing about solicited articles is that you are certain they will be published, which gives you an incentive to finish them. The down-side is that your topic is limited. Also, placement does matter, so consider how well-ranked the journal is before you accept.

Where do I send my article?

First, make a list of journals where you would be happy to see your article land.

A list of all law journals, including addresses, emails, etc. is published by Anderson Publishing. Michael H. Hoffheimer, THE DIRECTORY OF LAW REVIEWS AND SCHOLARLY LEGAL PERIODICALS. You can order a copy from Anderson, or retrieve it online at <<http://www.andersonpublishing.com>>.

As well as US News and World Reports ranking of law schools in general, there are numerous law review articles that rank law reviews using different criteria. A list of articles about law reviews is attached to this outline (although do not use reading law reviews about law reviews as a

way to procrastinate writing your own). Remember: be both optimistic and realistic. Always send your piece to the top ranked journals, but also be willing to send to other journals as well. In the end, the only thing that matters is the quality of your piece, not where it is published.

Do I send my manuscript to a specialized journal?

There is some debate over publishing in specialized journals (environmental, international, tax, feminism) versus publishing in main journals. If you are writing in a field in which there are specialized journals, consult with colleagues in the field, as well as colleagues on your faculty, as to how well respected a particular specialized journal is and how such a placement will be received. The advantage of placing your article in a specialized journal is that placement is generally easier, as there is less competition. Furthermore, both academics and practitioners in your field are often more likely to read something published in a specialized journal. Also, many main journals shy away from publishing articles on topics such as clinical education and environmental law, so unless one publishes in a specialized journal, one may not be likely to publish at all.

The downside is that because there is less competition for placement, the article may be perceived as “not good enough” for a main journal. You also run the risk of the article not being read by those outside of your specialized field, although given electronic research, this is becoming less of a problem. You may also be pigeon-holed as a specialist too early in your career. These are all factors to consider when making your decision.

How do I send my article?

REMEMBER YOUR AUDIENCE: As absurd as it may be, law review editors are your main audience at this stage. Law review editors these days are from the MTV generation. (Enough said).

Before you send your article, put it in law review template form. Both Microsoft Word and WordPerfect have templates so your manuscript looks exactly like a law review article does when it is in print. Also, have your research assistant bluebook your footnotes. The more polished the piece looks, the more likely it is to be accepted. This is pure, shameless psychological manipulation, but remember: this is no time in your life to be proud.

Titles Matter. So work on one that is likely to make someone want to read the piece. You can always change your mind before the piece is in print.

Write a cover letter that confidently promotes your piece. If an editor reads the letter and gets interested, they are more likely to read the article. Many editors will not read an article unless they like the cover letter.

Tell the editor in one page:

- 1) What the article is about
- 2) Why this piece is timely and of vital importance
- 3) Why you (and no one else but you) is qualified to write this article

If there is something special about your piece that may be attractive to a particular journal, make sure that you note it in your cover letter. For example, if you are writing a piece on a recent New York case, highlight this to journals in New York.

Some people also send their CV's with the manuscript. It is debatable as to whether this makes a difference.

After you have your manuscript in semi-perfect form, a killer title, and an excellent cover letter, send it out. Many people send out their manuscript in rounds. Typically, one sends a manuscript to the first 15 – 25 journals on their wish list. After ten days or so, one sends out another round to the next 15 – 25 journals on one's list. This gives those journals ranked higher on your list more time to read your article and decide whether or not to publish it. Send out a third round a week or so later to the next grouping.

Other people use a different method. Some people send their manuscript to their second grouping first with the hope of getting an offer that can be used to leverage up the ladder sooner. It is hard to know what method works best – and in the end it may all be arbitrary, but better to impose upon yourself a method to the madness than do nothing at all.

Keep a list of all the law reviews to which you have sent your manuscript so that you can keep track of where they are in the selection process. This will be very useful later.

Other means of getting an offer:

- Some authors call friends at schools where they want to place and ask them to lobby the law review to read and accept the piece. The ethics of this practice are debatable.
- Some authors send “teaser” letters ahead of time to the law review editor which say, “I am writing an article on X. If you are interested, please let me know.” Then they send the piece anyway. It is an old advertising trick – the more times they see your name, the more likely they are to remember it. Again, no empirical evidence that this really works.

- Some authors even go so far as to call up law review editors and try to encourage them to read the article and accept the piece. I think this is a high risk/high return move because you might offend an editor if you are too pushy, or seem too desperate. Only call if you have a specific reason to do so.

What do I do after I have sent out my article?

First, relax. Call your friends and family and tell them that you are back among the living. Second, don't worry if you do not get a card or letter acknowledging receipt of your manuscript. Some law reviews are notoriously bad about acknowledgements, some excellent. As letters or acknowledgement cards arrive, make a note on your law review list. Also, some law reviews require that you reference the piece by a number, so keep track.

What do I do when I get an offer? ~~Play~~ Be hard to get

At this point, you do not need to "play" hard to get. You are hard to get. You have written an excellent piece because you have a focused topic, you have gotten good feedback, incorporated criticism, worked hard, and most of all, you have found writing a law review article to be a labor of love.

What happens when I get my first offer?

Once you have an offer from a law review to publish your piece, do not jump up and down, yell yippee into the phone, and say yes. Be calm and collected and ask the editor:

1) *What volume will this be in?* This is important if your faculty requires a piece to be in print before considering it for promotion. And keep in mind that no matter what the editors says, usually the journal will be behind schedule. Also, if your piece is very timely, you will want it out as soon as possible.

2) *What is your deadline for acceptance?* You should be given at least two weeks to decide to place the piece, although some law reviews are now putting on the squeeze and giving authors only a few days. Be clear that you have just sent out the piece and need some time before you decide where to place it.

3) *What did you like about my piece and why do you want to publish it?* This question is not intended to stroke your ego. Enthusiastic editors are much better to work with than luke-warm ones. Try to gauge how much the journal wants to publish your piece. Then tell the editor that you will be in touch by the acceptance deadline. Hang up. Then jump up and down in excitement that a journal will actually publish something you

wrote, and the chances of you being unemployed, homeless, and a disgrace to your friends and family have just greatly diminished.

How do I request an expedited review from other journals?

You are now going to leverage up the law review ladder. This is perfectly ethical.

So get busy and get brave. Take out the list of journals where you sent your manuscript and start calling them to request an expedited review. Some journals will require that you do this via email or a recorded message. Yet, it is helpful if you can get an editor on the phone and talk to them about your article, so don't be bashful. Try to call between 4-7 pm, after classes end, when students are most likely to be working at the journal office.

The editor will ask you who has accepted the article and what your deadline is. Be truthful. Don't say, "a great law school in New York but I don't feel comfortable giving you its name for personal reasons" if your first offer came from an unaccredited law school. NEVER be embarrassed by your own work. All you want the editor to do is read your piece and decide whether or not to publish it. Be sure to ask where your manuscript is in the acceptance process.

DO NOT promise that if this journal makes you an offer you will accept it. Call with the attitude that you are you doing them a favor by letting them know that others are interested in your article and that they really should take a look at it.

Keep calling as your deadline approaches if you have not heard back from a journal. Also, it is perfectly appropriate to call back and tell the journal about other offers that you have received. If you get another offer with a later deadline, be sure to notify the journals that your deadline has been extended. **Remember - you are hard to get, not desperate.**

How do I make my final decision?

Most people place their piece with the highest ranking journal on their wish list, taking into account when the piece is scheduled for publication and how enthusiastic the editors seem to be. On occasion, it is not clear what the best placement is. Ask for advice from colleagues and friends when faced with a not-so-clear choice. Then decide.

And make the best of the decision you have made. You might decide NOT to place your article if you don't get an offer you want. Instead, work on the piece to make it better and send it out again six months later. Be sure to change the title. There is no shame in this at all. Never accept an offer that you can't live with for the rest of your professional career.

Accepting Placement: You said yes – now what?

1. *Copyright Agreement*
Make sure to review the copyright agreement. AALS has a model agreement that is very good. Insist that you own the copyright to your article.
2. *Use the publication schedule to your advantage*
You should use the time between acceptance and the first round of edits to keep improving your piece. Take a fresh read and make necessary changes.
3. *Use the editing process to improve the piece, not to preserve your ego.*
Some people have a wonderful experience working with student editors and some do not. There is no way to predict this at the start of the process. Many problems in the editing process can be avoided if the author's and the editor's egos don't get in the way of improving the piece.

On a practical level, there are some ways to make the editing process go more smoothly. First, send the editors your binder of citations. They will instantly love you and work harder on your behalf. Second, if the editor sends you corrections and asks that you respond in less than a week, tell them that you need more time (if you do). It is helpful to tell the editor that you always need two weeks to turn around an edit, and then stick to that deadline. Third, many editors make changes that seem unnecessary, petty, or stupid. Be flexible. Don't be too wed to your words but also don't be too willing to let the editors over-edit. Fourth, do not rely on law review editors to check for substance. Increasingly, the editors only bluebook, and do not check footnotes against the stated proposition. Make sure to have your research assistant do this. Have at least one other person check for substance other than yourself. Fifth, an editor will sometimes want you to footnote ideas that you believe are original. Think through the editor's suggestion and then make a reasoned decision as whether it would be better to add a footnote or not. Do not let your ego get in the way of good scholarship.

4. *Continue to use your research assistant in the editing process*
Have your RA double-check the work of the editors, proofread, find cites, etc. You, as the author, are often too close to the piece to see errors at this point. Let it go. Some people find it helpful to hire a professional proofreader to make sure the piece is in excellent shape.
5. *Prepare to panic when the page proofs arrive*

Many authors see their article in final page proof form and panic. After all that work, they think that their piece is terrible and that their career will be ruined when the article is in print, leading to unemployment, homelessness, and a disgrace to friends and family. They consider pulling the article and working at McDonalds, or, worse, returning to practice. This is a normal reaction to letting your piece evolve from an idea to a finished product. It is hard to finally let it go out into the world and take on a life of its own.

What to do when it is finally in print: It isn't over yet!

1. *Order reprints and never leave home without them.*
Most schools will pay for reprints, so order a bunch – at least 200. This way you will always feel generous in distributing them. Again, don't be shy! Give them to people to read because you are a writer and your greatest joy is when people read what you have written.
2. *Send reprints to people in your field and ask for feedback.*
You can order section labels from AALS. Also, create your own database of people whom you think would appreciate your work. The feedback is often useful in helping you figure out what to write about next.
3. *Personalize your letters.*
Tell your audience why your piece is of interest so they will read it rather than recycle it.
4. *Expand your audience.*
Send reprints to professional and government organizations as well as law professors.

Take Advantage of Other Opportunities to Discuss your Scholarship: Selling your ideas means selling yourself

1. *Get yourself to conferences*
2. *Don't be afraid to do media*
3. *Volunteer to speak*
4. *Use the Internet – Create your own Website*
5. *Network/Network/Network*

Scholarship and Tenure: The Golden Handcuff

1. *File Everything.*

Keep a file of every letter, email, note, etc. that you receive about your scholarship and submit it with your tenure materials.

2. *Pay Attention to Outside Reviewers*

Sad to say, not everyone is a fair evaluator of scholarship. Ask colleagues who would be a good outside reviewer and who would not. Don't be intimidated to voice objections about outside reviewers, but have a good reason for doing so.

3. *Check your "hit list."*

Regularly check legal databases to see who is citing you. This is a good way to both find good reviewers and discover who does not like your scholarship before it is too late.

4. *After you get tenure, keep writing to build that fleet, and be sure to help a new law teacher find their way!*

READING LIST

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

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)

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

Robert M. Jarvis & Phyllis G. Coleman, Ranking Law Reviews: An Empirical Analysis Based On Author-Prominence, 39 ARIZ. L. REV. 15, 16 & 17(1997).

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William Knowlton Zinsser, *ON WRITING WELL: THE CLASSIC GUIDE TO WRITING NONFICTION* (6th ed. 1998)

Anne Dillard, *THE WRITING LIFE* (1998)

Anne Lamott, *BIRD BY BIRD: SOME INSTRUCTIONS ON WRITING AND LIFE* (1995) (This book is my personal favorite)

Dorothea Brande, *BECOMING A WRITER* (1934)