

# ARTICLES

## DO LAW REVIEWS NEED REFORM? A SURVEY OF LAW PROFESSORS, STUDENT EDITORS, ATTORNEYS, AND JUDGES

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### ABSTRACT

*From their origins in the late nineteenth century, student edited law reviews have generated controversy. Yet, despite the hundreds of articles criticizing or defending law reviews,*

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*there is little research about what the legal community thinks about them. Consequently, we surveyed 1,325 law professors, 338 student editors, 215 attorneys, and 156 judges to determine their beliefs about the current system of law reviews and the need for reforms. Generally, law professors were the most critical and student editors the least critical of law reviews. Respondents identified several problems with law reviews. They believed that law review articles are too long. The law professors were dissatisfied with the effects of law reviews on their careers. The law professors, attorneys, and judges in the survey believed that law reviews are not meeting the needs of attorneys and judges. The vast majority of respondents indicated that reforms are needed. Surprisingly, all four groups of respondents agreed on the three most important reforms needed to improve law reviews. All four groups rated blind reviews, peer review, and better training of students as the most important reforms. In this article, we review the controversy about law reviews, present the results of our study, and discuss its implications.*

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## I. INTRODUCTION

Law reviews and law journals (hereafter referred to as law reviews) are vital to the law. They are the primary repositories of legal scholarship.<sup>1</sup> Accordingly, they influence how attorneys argue cases, how judges decide cases, what regulations administrative agencies adopt, and what laws legislatures enact.<sup>2</sup> They also have a significant impact on law professors’ careers.<sup>3</sup>

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1. Lawrence M. Friedman, *Law Reviews and Legal Scholarship: Some Comments*, 75 DENV. U. L. REV. 661, 661 (1998) (“Law reviews are the primary outlet for legal scholars . . . .”); Leo P. Martinez, *Babies, Bathwater, and Law Reviews*, 47 STAN. L. REV. 1139, 1141 (1995) (“The preceding would be of only mild interest if the system of student-edited law reviews were not so influential in the advance of legal scholarship . . . .”); Brent E. Newton, *Preaching What They Don’t Practice: Why Law Faculties’ Preoccupation with Impractical Scholarship and Devaluation of Practical Competencies Obstruct Reform in the Legal Academy*, 62 S.C. L. REV. 105, 114 (2010) (stating that law professors primarily publish law review articles, not books).

2. Michel Bastarache, *The Role of Academics and Legal Theory in Judicial Decisionmaking*, 37 ALTA. L. REV. 739, 746 (1999)

([T]he contribution of academics is invaluable to the development of legal principles and coherent judicial decisions. The nature of the law itself is being transformed. The work of academics serves to provide a contextual social background for legal disputes, helps to make judges aware of the underlying reasons for the decisions that they make and offers useful suggestions for reform. No principled approach to decision-making can ignore the contribution of academics.);

Erwin Chermersky, *Foreword: Why Write?*, 107 MICH. L. REV. 881, 888 (2009)

(Third, writing can be for government decision-makers. Many in government besides judges can benefit from writings by law professors. Legal scholarship can help to guide legislators and legislative staffs in devising and revising legislation. Similarly, writings by law professors can assist regulators in drafting and implementing regulation in many fields.);

Deborah L. Rhode, *Legal Scholarship*, 115 HARV. L. REV. 1327, 1328 (noting that law reviews affect a wide variety of legal decision-makers).

3. Jason P. Nance & Dylan J. Steinberg, *The Law Review Article Selection Process: Results From a National Study*, 71 ALB. L. REV. 565, 567 (2008) (stating that law reviews have an important effect on law professors’ careers).

They help determine who is hired as a law professor, which law school hires them, whether law professors receive tenure and promotions, what compensation they receive, and what influence their research has on legal scholarship and the law.<sup>4</sup> In addition, law reviews are an important component of legal education.<sup>5</sup> Law review editors select and edit articles; engage in legal analysis, research, and writing; interact with legal scholars; and manage an important legal enterprise.<sup>6</sup> Law reviews also improve their members' job prospects and provide law schools with publicity and prestige.<sup>7</sup>

Unlike other scholarly journals, the vast majority of law reviews are run by students rather than professors or professional editors.<sup>8</sup> This characteristic has generated a major

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4. John Doyle, *The Law Reviews: Do Their Paths of Glory Lead but to the Grave?*, 10 J. APP. PRAC. & PROCESS 179, 185 (stating that article placement affects "hiring and promotion decisions"); Bernard J. Hibbitts, *Last Writes? Re-Assessing The Law Review In The Age Of Cyberspace*, 71 N.Y.U. L. REV. 615, 640-41 (1996) [hereinafter Hibbitts, *Last Writes*] (stating that law review editors affect "law professors' careers and reputations"); Nance & Steinberg, *supra* note 3, at 568 ("Given the importance of article placement in tenure and promotion decisions and in reaching the intended audience, claims that law reviews use the wrong criteria or (worse) no criteria at all in selecting articles cause understandable angst among authors."); Rhode, *supra* note 2, at 1327-28 ("Assumptions about what is and what is not valuable in legal scholarship significantly affect how academics shape their careers, how law schools choose and reward their faculties, and how those faculties influence, or fail to influence legal institutions.").

5. Joshua D. Baker, *Relics or Relevant?: The Value of the Modern Law Review*, 111 W. VA. L. REV. 919, 923 (2009) (pointing out that law reviews were created to further the education of law students); Richard A. Posner, *The Future of the Student-Edited Law Review*, 47 STAN. L. REV. 1131, 1135 (1995) [hereinafter Posner, *The Future*] (commenting that law reviews play an important role in legal education).

6. James W. Harper, *Why Student Run Law Reviews*, 82 MINN. L. REV. 1261, 1267-1268 (1998) ("Most reviews have an editorial board that coordinates staff assignments, generates topics for student notes or comments, selects lead articles for publication, edits student and outside articles, and is responsible for publication." (internal quotations omitted)).

7. Hibbitts, *Last Writes*, *supra* note 4, at 616 ("Law schools depend upon law reviews for publicity and prestige. Law professors depend upon law reviews for publication and promotion. Law students depend upon law reviews for education and eventual employment.").

8. Leah M. Christensen & Julie A. Oseid, *Navigating the Law Review Article Selection Process: An Empirical Study of Those with All the Power – Student Editors*, 59 S.C. L. REV. 175, 177 (noting that law reviews are the only scholarly journal to use student editors); James W. Harper, *Why Student-Run Law Reviews?*, 82 MINN. L. REV. 1261, 1270 (1998) (commenting that not only are student editors unique to legal scholarly journals, but they are also responsible for all the other distinctive features of law reviews); Bernard J. Hibbitts, *Yesterday Once More: Skeptics, Scribes and the Demise of Law Reviews*, 30 AKRON L. REV. 175, 177 (1996) [hereinafter Hibbitts,

controversy about law reviews almost from their inception in the late nineteenth century.<sup>9</sup> Because of the controversy about law reviews, hundreds of articles have been written about them over the years.<sup>10</sup> Moreover, the debate has intensified in recent decades.<sup>11</sup>

For example, in 1992, the American Bar Association conducted a study about legal education and professional development that concluded practitioners increasingly viewed law review articles as irrelevant and believed most law professors pursued their own interests rather than researching topics that benefited the bar.<sup>12</sup> In 1994, the *University of Chicago Law Review* published a series of essays that debated the merit of student-edited law reviews.<sup>13</sup> The next year, the *Stanford Law Review* held a conference about law reviews that included editors from the top law reviews and prominent judges, attorneys, and law professors.<sup>14</sup> At the conference, they discussed areas of conflict between student editors and the legal community such as the selection and editing of articles and student management of law reviews.<sup>15</sup> They also discussed issues pertaining to the

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*Yesterday Once More*] (noting that the only scholar journals that use student editors are law reviews).

9. Hibbitts, *Last Writes*, *supra* note 4, at 630 (remarking that student editors were “another early cause of concern” about law reviews; Cameron Stracher, *Reading, Writing, and Citing: In Praise of Law Reviews*, 52 N.Y.L. SCH. L. REV. 349, 351 (2007-08) (stating that most of the criticisms of law reviews are because students run them).

10. Friedman, *supra* note 1, at 661 (“There is, in fact, quite a literature of invective—professors and others railing against the law reviews.”); Nathan H. Saunders, *Student-Edited Law Reviews: Reflection and Responses of an Inmate*, 49 DUKE L. J. 1663, 1664 (2000) (“I found no shortage of materials on the topic . . . .”); Michael Vitiello, *In Defense of Student-Run Law Reviews*, 17 CUMB. L. REV. 859, 859 (1987) (stating that there is an extensive literature criticizing law reviews).

11. See generally Friedman, *supra* note 1, at 661; Bradley J. Martineau, *The Future of Law Reviews and Legal Journals from a Student Editor’s Perspective*, 2 PITT. J. TECH. L. & POL’Y 1, 1 (2001).

12. See generally AMER. BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT – AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992).

13. See Wendy J. Gordon, *Counter-Manifesto: Student-Edited Reviews and the Intellectual Properties of Scholarship*, 61 U. CHI. L. REV. 541 (1994); James Lindgren, *An Author’s Manifesto*, 61 U. CHI. L. REV. 527 (1994) [hereinafter Lindgren, *An Author’s Manifesto*]; The Articles Editors, *A Response*, 61 U. CHI. L. REV. 553 (1994).

14. The papers from this conference were published in the Law Review’s Summer 1995 issue. John T. Noonan, Jr., *Law Reviews*, 47 STAN. L. REV. issue 6 (1995) (introductory remarks not available on electronic commercial databases).

15. *Id.* at xxi.

internal operations of law reviews. For example, how they are administered, produce articles, and select notes and members.<sup>16</sup>

In 2002, former Solicitor General Seth Waxman commented, “at the Supreme Court, academic citations are viewed as largely irrelevant—only a true naif would blunder to mention one at oral argument.”<sup>17</sup> In 2004, the *Harvard Law Review* surveyed approximately 780 law faculty and determined that more than 85% of them thought that law review articles were too long.<sup>18</sup> In 2009, Aaron Twerski, a former dean of Hofstra University School of Law, stated that law review articles are increasingly irrelevant to attorneys and judges because new professors are discouraged from publishing traditional doctrinal articles.<sup>19</sup> The following year, Chief Justice John Roberts said that he pays little attention to law reviews because they are not “particularly helpful for practitioners and judges.”<sup>20</sup> His remarks were the culmination of over two decades of judicial criticisms of law reviews from influential federal judges such as Richard Posner and Harry Edwards.<sup>21</sup>

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16. Noonan, *supra* note 14, at xxi.

17. See Seth P. Waxman, *Rebuilding Bridges: The Bar, the Bench, and the Academy*, 150 U. PA. L. REV. 1905, 1909 (2002).

18. *Submissions*, HARV. L. REV., <http://www.harvardlawreview.org/submissions.php> (last visited June 4, 2012). In 2005, eleven law reviews, including the *Harvard Law Review*, issued a statement conveying their preference for shorter articles. It stated “that the vast majority of law review articles can effectively convey their arguments within the range of forty to seventy law review pages, and any impressions that law reviews only publish or strongly prefer lengthier articles should be dispelled.” Doyle, *supra* note 4, at 190. This statement has led to a reduction in length of law review articles. *Id.* See also *infra* Part III.

19. Professor Aaron D. Twerski, *Remarks of Professor Aaron D. Twerski, L’65*, MARQ. LAWYER (Marquette Univ. Law Sch., Milwaukee, Wis.), Spring 2009, at 55, 56 (“But young scholars today shy away from doing traditional doctrinal scholarship. The prestigious law reviews appear less interested in publishing such works, and the young scholars are justifiably afraid that when tenure time comes around their articles will be viewed as pedestrian.”).

20. Jess Bravin, *Chief Justice Roberts on Obama, Justice Stevens, Law Reviews, More*, WALL ST. J. (Apr. 7, 2010, 7:20 PM), <http://blogs.wsj.com/law/2010/04/07/chief>. Justice Breyer has commented, “there is evidence that law review articles have left terra firma to soar into outer space.” Stephen G. Breyer, *Response of Justice Stephen G. Breyer*, 64 N.Y.U. ANN. SURV. AM. L. 33, 33 (2008).

21. Newton, *supra* note 1, at 120

(Judge Richard Posner, whose renown as a prolific legal scholar, federal appellate judge, and public intellectual is unrivaled, has spoken in even harsher terms: “In recent years legal scholarship has undergone changes so fundamental as to suggest the need for a reassessment of law as an academic discipline, as a subject of study, and as an intellectual institution.”);

Despite the long-standing controversy about law reviews, their importance to the law, and the plethora of articles that have been written about them; there has been little research<sup>22</sup> about what the legal community thinks about them.<sup>23</sup> This question is critical to evaluating how well law reviews meet the needs of the law and legal education, and whether they require reform, because the opinions expressed about them in law review articles and elsewhere may not be representative of the legal community. Consequently, we surveyed law professors, student editors, attorneys, and judges to determine what they think about the current system of law reviews, the need for reforms, and what reforms should be implemented. We received an excellent response to the survey. A total of 1,325 law professors, 338 student editors, 215 attorneys, and 156 judges participated.

The remainder of this article is divided into six parts. Part II discusses common criticisms of law reviews. Part III presents arguments supporting the current system of law reviews. Part IV summarizes prior research on what the legal community thinks about law reviews. Part V describes the questionnaire used in our study and the study's methodology. Part VI reports the results of the study. Part VII examines the results and their implications for law reviews.

## II. CRITICISMS OF LAW REVIEWS

Criticisms of law reviews can be divided into three categories: (1) their selection of articles; (2) their editing of

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Chermerinsky, *supra* note 2, at 883 (remarking that Judge Harry Edwards has been very critical of legal scholarship because of its emphasis on abstract theory rather than doctrinal analysis and that his critiques carry great weight because he was previously a prominent law professor). See also Adam Liptak, *When Rendering Decisions, Judges are Finding Law Reviews Irrelevant*, N.Y. TIMES, Mar. 19, 2007, at A8 ("In a cheerfully dismissive presentation, [Chief] Judge Jacobs and six of his colleagues on the United States Court of Appeals for the Second Circuit said in a lecture hall jammed with law professors at the Benjamin N. Cardozo School of Law . . . that their scholarship no longer had any impact on the courts.").

22. *Submissions*, *supra* note 18. The *Harvard Law Review's* survey of law professors in 2004 included some additional questions about law professors' usage of law reviews. See *infra* Part III.

23. Nance & Steinberg, *supra* note 3, at 566 ("But still there has been little serious study of this important but widely-criticized institution."); *id.* at 572 ("Very rarely, however, has the criticism been supported by anything more systematic than anecdotal evidence."). Peter H. Schuck, *Why Don't Law Professors Do More Empirical Research*, 39 J. LEGAL EDUC. 323, 323 (stating that law professors conduct few empirical studies).

articles; and (3) their effect on legal scholarship, the law, and the legal community.

### A. SELECTION OF ARTICLES

Critics have advanced several reasons why they believe law reviews do a poor job of selecting articles for publication. First, students lack sufficient knowledge, experience, training, expertise, and time to select the best articles.<sup>24</sup> These deficits are

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24. Alfred L. Brophy, 36 FLA. ST. U. L. REV. 229, 231 (2009) (“It really is extraordinary that students pick articles in areas in which they have little expertise.”); Roger C. Cramton, *The Most Remarkable Institution: The American Law Review*, 36 J. LEGAL EDUC. 1, 7-8 (1986) (“Law today is too complex and specialized; legal scholarship is too theoretical and interdisciplinary. The claim that student editors can recognize whether scholarly articles make an original contribution throughout the domain of the law is now viewed by legal scholars as indefensible.”); Friedman, *supra* note 1, at 661

(People in other fields are astonished when they learn about it [student-run law reviews]; they can hardly believe their ears. What, *students* decide which articles are worthy to be published? No peer review? And the students chop the work of their professors to bits? Amazing. And then they check every single footnote against the original source? Completely loco. Can this really be the way it is? Secretly, I share their astonishment; and I think the system is every bit as crazy, in some ways, as they think it is.);

Nance & Steinberg, *supra* note 3, at 599 (“It is probably difficult for student editors to recognize truly original arguments because their exposure to the existing literature is limited.”); Lindgren, *An Author’s Manifesto*, *supra* note 13, at 527 (“Our scholarly journals are in the hands of incompetents.”); J.C. Oleson, *You Make Me [Sic]: Confessions of a Sadistic Law Review Editor*, 37 U.C. DAVIS L. REV. 1135, 1136 (2004)

(The student-run law review is a puzzling phenomenon to the legal outsider, the practice of allowing second- and third-year law students to select and edit the research of established scholars seems preposterous. How could students possibly know what constitutes a significant advance in a line of legal argument? And how dare students tell law professors what is and what is not good scholarship? The very idea of it sounds like the proverbial asylum where the inmates are in charge.);

Posner, *The Future*, *supra* note 5, at 1132

(It should be obvious that in the performance of these tasks the reviews labor under grave handicaps. The gravest is that their staffs are composed primarily of young and inexperienced persons working part time: inexperienced not only as students of the law but also as editors, writers, supervisors, and managers.);

Fred Rodell, *Goodbye to Law Reviews*, 23 VA. L. REV. 38 (1936) (“There are two things wrong with almost all legal writing. One is its style. The other is its content.”); Stracher, *supra* note 9, at 351

(It is certainly difficult to imagine medical students selecting articles for publication in the prestigious *New England Journal of Medicine*, and then editing those articles, making or breaking careers along the way. Yet law students make these decisions every day at the *Harvard Law Review*, the *Yale Law Journal*, and nearly every other law review in the country.);

Robert Weisberg, *Some Ways to Think About Law Reviews*, 47 STAN. L. REV. 1147, 1148 (1995) (“How can second-year graduate students with no formal training in research scholarship choose and edit the work that represents the highest

exacerbated because a law review's entire staff turns over every two years, not only preventing the staff from gaining sufficient knowledge and experience to select the best articles,<sup>25</sup> but also causing a lack of institutional memory and long term plans,<sup>26</sup> which further hinders article selection. Because student editors generally do not use peer review,<sup>27</sup> and rarely consult law faculty<sup>28</sup> when selecting articles, they have no means of compensating for their deficiencies in article selection. Instead, critics maintain that they frequently rely on an author's reputation and law school affiliation when choosing articles because they cannot assess an article's quality.<sup>29</sup>

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accomplishments of their own professors?"); John P. Zimmer & Jason P. Luther, *Peer Review as an Aid Selection in Student-Edited Legal Journals*, 60 S.C. L. REV. 959, 961 (2009) ("It is not reasonable to expect students, no matter how smart, to discriminate accurately among submissions for their scholarly merit, timeliness, and contribution to their respective fields. At least it is not reasonable to expect students to do so based solely on their own legal training and experience."). Some commentators, nevertheless, view student editors as a blessing rather than a curse. See *infra* text accompanying notes 115 to 122.

25. Posner, *The Future*, *supra* note 5, at 1132.

26. Nance & Steinberg, *supra* note 3, at 574.

27. Doyle, *supra* note 4, at 185-86; Michael J. Madison, *The Idea of the Law Review: Scholarship, Prestige and Open Access*, 10 LEWIS & CLARK L. REV. 901, 909 (2006)

(I assume, by the way, that there is something that we can talk about coherently as "legal scholarship," even though outside the law schools, pretty much everyone in the academy knows that what law professors do can't really be called "scholarship" because *there are no quality standards*, and (aside from a few quirky journals) *there is no peer review*, and that means that *most everything that shows up in legal journals is badly-researched, badly-written, and badly-argued*.)

(emphasis added); Stracher, *supra* note 9, at 354-55.

28. Jordan H. Leibman & James P. White, *How the Student-Edited Law Journals Make Their Publication Decisions*, 39 J. LEGAL EDUC. 387, 408 (1989); Nance & Steinberg, *supra* note 3, at 590

(Given the influence of this factor, it is notable, however, that editors seek the advice of faculty relatively infrequently. When we asked how frequently the editors asked a faculty member to read the article prior to making an offer of publication, only 8.84% said they always did and 47.51% never did so. Editors appear to be more confident selecting articles that have been reviewed but are, for whatever reason, reluctant to seek out such reviews themselves.);

Hibbitts, *Last Writes*, *supra* note 4, at 644-45 (noting that by the early 1980s law review editors seldom consulted faculty about article selection). *But see* Saunders, *supra* note 10, at 1668 ("[A]t the *Duke Law Journal*, editors frequently seek the opinion of faculty members when we are uncertain about the merits of a particular article or its place in the context of prior scholarship.").

29. Christensen & Oseid, *supra* note 8, at 180

(Although the study found that most editors consider each of these factors to some degree, the data also suggest that the higher ranked journals rely more heavily on author credentials than lower ranked journals. Specifically, editors at higher tiered law schools were highly influenced by where an author has

According to critics, another negative consequence of students' lack of knowledge and experience is that authors have to write long introductions to place their articles in context.<sup>30</sup> The long introductions not only add significantly to the length of articles and the time required to evaluate and edit them, but also complicate article assessment.<sup>31</sup> Critics also contend that law

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previously published.);

Leibman & White, *supra* note 28, at 396 n.39 ("The editors at high-impact journals conceded that the authors' credentials played a significant role in article selection—works by such authors were, at the least, 'fast tracked.'"); Nance & Steinberg, *supra* note 3, at 571 ("It appears to be generally assumed that, to a significant degree, Articles Editors use an author's credentials as a proxy for the quality of her scholarship. As a result, many commentators have suggested that law reviews adopt a blind article selection policy."); Martinez, *supra* note 1, at 1142 ("Despite the existence of over 800 law reviews, there is a real perception that the selection of articles is not scientifically weighted toward the best a particular journal can publish. Instead, articles are chosen on the basis of the perceived prestige of the author . . . ."); Nancy McCormak, *Peer Review and Legal Publishing: What Law Librarians Need to Know about Open, Single-blind, and Double-Blind Reviewing*, 101 LAW LIBR. J. 59, 62 (2009) (noting the importance of author prestige to article selection); Newton, *supra* note 1, at 123

(Exacerbating this problem is that, because of the voluminous number of submissions to law reviews in the electronic era and, in particular, the amount of interdisciplinary articles being submitted, student editors tend to rely on the prestige of the law school at which an author is employed or the law school from which she graduated as proxies for an article's quality.);

Saunders, *supra* note 10, at 1666

(I was amazed at the sheer volume of articles stacked on our shelves, to be read and evaluated by the four articles editors. How, I asked, could they possibly review them all? An uncomfortable snicker accompanied the response: "We don't." Later, when I was elected article editor and began reviewing articles on my own, I quickly learned the shortcuts to article selection: Review articles from top schools and top professors quickly, not because they are necessarily better, but for practical reasons—that is, because another law review is much more likely to grab them up).

*But see* Nance & Steinberg, *supra* note 3, at 589 (arguing that law reviews select articles based on author prestige not because they do not understand the articles, but because they wish to improve the prestige of their law review so that they can compete more effectively for articles in the future).

30. Friedman, *supra* note 1, at 663

(As it is, if somebody writes (say) an article on some small point of divorce or tax law or the constitution, the author is likely to begin with 30 pages or more of introductory material. . . . I say 30 pages; but I have seen articles with way, way more—huge, inflated articles whose "introductions" were as long as the rest of the article; and completely unnecessary.);

Nance & Steinberg, *supra* note 3, at 585 ("Our results also show that the inclusion of an expository introduction is a significant positive factor. This probably represents a need for authors to place their articles in context so that student editors can understand how their work breaks new ground."); Rhode, *supra* note 2, at 1356.

31. Richard A. Posner, *Law Reviews*, 46 WASHBURN L.J. 155, 158 (2006) [hereinafter Posner, *Law Reviews*]

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reviews frequently use an article's length as an indicator of quality, which further impairs article selection.<sup>32</sup>

Second, more interdisciplinary articles are being submitted to law reviews.<sup>33</sup> Critics maintain that the evaluation of interdisciplinary articles requires both legal expertise and expertise in another discipline, a capability that student editors generally lack.<sup>34</sup> Third, the huge volume of articles submitted, especially to the more elite law reviews, hurts article selection.<sup>35</sup>

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(A pernicious feature of the operation of student-edited law reviews is the editors' use of the length of a submitted article as a signal of its quality. The longer the article, and therefore (in all likelihood) the more time the author invested in writing it, the likelier it is to strike the novice editor as being solid work.)

32. James Lindgren, *Why I Comment*, 24 CONN. 195, 199 (1991-1992)

(Yet I suspect there is another reason for much of the difference: with law review editors so incompetent to judge the worth of manuscripts, quantity becomes a substitute for quality. Law professors learn that to place their work well they need a lot of pages and a high ratio of footnotes to text.);

Lindgren, *An Author's Manifesto*, *supra* note 13, at 531 ("For example, the extraordinary length of most legal articles is a reflection of the need to impress students."); Posner, *Law Reviews*, *supra* note 31, at 158.

33. Elizabeth Chambliss, *When Do Facts Persuade? Some Thoughts on the Market for "Empirical Legal Studies,"* 71 L. & CONTEMP. PROBS. 17, 27-28 (2008) (stating that the criticism of law reviews have increased since they have been publishing more interdisciplinary and empirical articles); Chermerinsky, *supra* note 2, at 885 ("Over the twenty-nine years that I have been a law professor there has been a shift. Faculty scholarship has become far more interdisciplinary and more abstract and interdisciplinary scholarship is more highly valued than traditional doctrinal scholarship, especially at elite institutions."); Brian Leiter, *Intellectual Voyeurism in Legal Scholarship*, 4 YALE J.L. & HUMAN. 79, 79 (1992) (noting that much of the interdisciplinary scholarship that law reviews publish is of poor quality).

34. Hibbits, *Last Writes*, *supra* note 4, at 646 ("Whatever its origins, the interdisciplinary turn in legal studies has prompted professorial objections to the judgments of law review editors who, for all their raw interest, have little or no graduate training in other disciplines."); Posner, *The Future*, *supra* note 5, at 1136 (1995) (stating there has been an increase in interdisciplinary articles and that student editors lack the competency to effectively select and edit interdisciplinary articles. ).

35. Christensen & Oseid, *supra* note 8, at 205 ("The overwhelming volume of submissions student editors receive imposes tremendous pressure on them to work hard and to make efficient decisions."); Natalie C. Cotton, *The Competence of Students as Editors of Law Reviews: A Response to Judge Posner*, 154 U. PA. L. REV. 951, 960 n.23 (2006) ("The University of Pennsylvania Law Review receives approximately 2000 submissions annually."); Erik M. Jensen, *The Law Review Manuscript Glut: The Need for Guidelines*, 39 J. LEGAL EDUC. 383, 383 (1989) ("The better journals are buried in manuscripts, most of which any particular journal has little or no chance to publish."); Newton, *supra* note 1, at 123 (noting the large number of articles submitted in the "electronic era"); Carl Tobias, *Manuscript Selection Anti-Manifesto*, 80 CORNELL L. REV. 529, 530 (commenting that the large number of articles submitted to law reviews makes article selection a "crapshoot").

For example, the elite law reviews receive thousands of articles every year even though they can publish only a small number of articles.<sup>36</sup> Multiple, simultaneous submissions of articles, a practice generally prohibited by other scholarly journals,<sup>37</sup> are primarily responsible for the large quantity of articles submitted to law reviews.<sup>38</sup> The creation of ExpressO, an electronic service that permits the simultaneous submission of an article to more than 750 law reviews,<sup>39</sup> has increased the problem in recent years.<sup>40</sup> Expedited reviews of articles<sup>41</sup> and “trading up”<sup>42</sup> to a

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36. Nance & Steinberg, *supra* note 3, at 586 (“Because the total number of publication slots at the top law reviews is quite limited, however, the fact that Articles Editors actively pursue articles from prestigious authors certainly has a significant negative effect on the ability of relatively unknown authors to get published in the top journals.”); Doyle, *supra* note 4, at 193 (stating that the elite law reviews can receive two thousand submissions per year).

37. Jensen, *supra* note 35, at 384 (“The practice of multiple submissions horrifies practitioners of other scholarly disciplines, whose journals are refereed.”); Lindgren, *An Author’s Manifesto*, *supra* note 13, at 535 (“Further, because student editors value their time less than faculty editors, student journals allow multiple submissions, which are unethical in most other fields.”); Nance & Steinberg, *supra* note 3, at 589 (“Because legal journals, unlike scholarly journals in other disciplines, allow authors to submit to multiple publications simultaneously, an inevitable competition for the most desirable articles develops.”).

38. Friedman, *supra* note 1, at 664 (“This tremendous load is exaggerated by the custom of multiple submissions.”); Hibbitts, *Last Writes*, *supra* note 4, at 643 (stating multiple submissions of articles have been “catastrophic” for law reviews, especially the elite reviews); Jensen, *supra* note 35, at 384-85 (discussing the deleterious effects that multiple submissions of articles have on law reviews); Tobias, *supra* note 35, at 533 (commenting that authors’ multiple submissions of articles is responsible for the “manuscript glut”).

39. See EXPRESSO, <http://law.bepress.com/expresso/> (last visited June 5, 2012). There is a new electronic service for delivering articles to law reviews: Scholastica. It differs from ExpressO in that it charges \$5 for the delivery of an article to a law review. The *California Law Review* and *University of Chicago Law Review* use Scholastica. One of the primary reasons for their change from ExpressO to Scholastica may be to decrease the number of submissions. See Dan Filler, *ExpressO Under Attack? Scholastica and the Five Dollar Submission*, THE FACULTY LOUNGE, (Aug. 6, 2012), <http://www.thefacultylounge.org/2012/08/law-review-submissions-rise-of-scholastica-demise-of-expresso.html>.

40. Christensen & Oseid, *supra* note 8, at 205

(I was most surprised by [t]he number of submissions we get due to tools like ExpressO allowing authors to “spam” every law review on the planet with their articles. In the short-term, this has definitely resulted in us spending much less time on each article[,] and we are more likely to reject an article for nit-picky reasons (lazy footnoting, cheesy title, lots of passive voice));

*id.* at 206

(One Top 25 law school with meticulous record keeping reported dramatic increases in annual submissions from 2001 (1,181 submissions) to 2006 (2,219 submissions). Although the issue is somewhat difficult to measure because the editorial boards at law schools turn over every year, the volume problem is likely

higher ranked law review also aggravate the problem of law reviews having too many articles to evaluate. As a result, a student editor often spends little time reading an article before rejecting it.<sup>43</sup>

Fourth, critics assert that law reviews tend to publish articles about a limited range of topics. Critics claim law review editors favor articles about “hot, trendy, or cute topics,” or topics that personally interest them.<sup>44</sup> Critics further allege that law reviews tend to be conservative—avoiding articles that are original and innovative.<sup>45</sup> Consequently, law reviews frequently do not select the best articles for publication because the best

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to remain and perhaps even increase in the future.).

41. Zimmer & Luther, *supra* note 24, at 963

(In addition to initial submissions, we receive many “expedite requests,” in which authors indicate that they have received publication offers from other journals and thus request that we quickly complete our own reviews before their outstanding offers expire. As a result, student editors have very little time to make informed decisions, unless they are willing to lose manuscripts already accepted elsewhere.);

Christensen & Oseid, *supra* note 8, at 206 (“I guess I was also surprised at how much the expediting system allows authors to trade up, and how much wasted time that makes for us.”).

42. *Id.* (“The final common theme was the editors’ frustration with authors ‘trading up’ to a higher ranked journal. Surprisingly, this was a complaint even among journals ranked in the Top 15 school segment. Not surprisingly, the problem was even more pronounced at lower-ranked schools.”).

43. *Id.* at 198 (“Most respondents [student editors] spent between five and thirty minutes reading an article before making a publication decision.”); Leibman & White, *supra* note 28, at 406 (finding that a single reader could cause an article to be rejected and editors acknowledged that this meant that they would reject some good articles).

44. Jensen, *supra* note 35, at 385 (stating that student editors choose articles for publication that have “sexy topics”); Lindgren, *An Author’s Manifesto*, *supra* note 13, at 533 (“Our scholarly journals are skewed away from faculty concerns toward student interests, interests that disproportionately serve elite segments of the corporate bar and the federal courts.”); Tobias, *supra* note 35, at 530 (commenting that student editors prefer articles with “hot, trendy or cute topics”). *But see* Nance & Steinberg, *supra* note 3, at 587 (“Thus, while it would appear that a small percentage of Articles Editors actively seek out trendy topics, most do not, and some assiduously avoid them. This is notable since an excessive focus on trendy or cute topics is one of the most common criticisms of the current selection process.”).

45. Cramton, *supra* note 24, at 8 (asserting that law review editors discourage innovation); Hibbitts, *Last Writes*, *supra* note 4, at 641 (“They have asserted that students are inherently conservative (or, alternatively, faddish) in their publication choices, preferring the familiar to the truly original.”); Posner, *Law Reviews*, *supra* note 31, at 158 (“Novelty and imagination, freshness and liveliness, and originality are all discouraged.”); Vitiello, *supra* note 10, at 860 (stating that the law has become too complex for student editors and therefore they cannot recognize innovative articles).

articles often do not concern hot, trendy topics, are not interesting to the student editors, or are original and innovative. Next, the poor quality of many submissions to law reviews makes article selection more difficult. Articles submitted to law reviews are frequently poorly written and researched. They often contain numerous grammatical and spelling errors, as well as incorrect citations and citation forms, because many law professors expect students to correct these deficits for them.<sup>46</sup> Because of these deficits, law review editors not only have to evaluate the quality of an article's arguments, but also the work required to prepare it for publication.<sup>47</sup> Lastly, law reviews do not always select the best articles because student editors often feel pressured to publish articles from their own law school faculty,<sup>48</sup> or to select an article for publication to help a junior professor at their law school.<sup>49</sup>

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46. The Articles Editors, *supra* note 13, at 556 ("Others submit their articles in a state of obvious incompleteness, expecting student editors to fill in the blanks."); Christensen & Oseid, *supra* note 8, at 202 ("Editors noted that many articles were poorly written or poorly researched, and expressed frustration at poor proofreading, improper citation form, incorrect grammar, and incorrect spellings in the submitted articles."); *id.* at 203 ("My suspicion is that many authors rely on student research assistants to 'fill in' the footnotes. They do a marginal to shoddy job, and then the author relies on the journal editors to do it right."); Jonathan Mermin, *Remaking Law Review*, 56 RUTGERS L. REV. 603, 610 (2004)

(For many of the articles are indeed full of errors: case names are wrong, publication dates are missing, page numbers are inaccurate or omitted, quotations are erroneously transcribed, and so on. In one article I worked on during my time on law review, the author of which was a professor at a top ten law school, I found sixty-five errors—research errors (wrong case name, wrong page number, or inaccurate quotation), not citation form errors—in approximately one third of the article.);

Rhode, *supra* note 2, at 1334 (discussing the poor quality of most law review articles).

47. Nance & Steinberg, *supra* note 3, at 586 ("It is clear that, while they are selecting articles for the quality of their scholarship, Articles Editors also have an eye on the difficulty of preparing an article for publication. Six of the ten most important negative factors are directly related to the expected difficulty of the editing process."); Christensen & Oseid, *supra* note 8, at 203 ("We are trying to do an ever better job at the articles stage of identifying authors who inten[d] to foist off their research and editing responsibilities and weed them out in the first place.").

48. Ira M. Ellman, *A Comparison of Law Faculty Production in Leading Law Reviews*, 33 J. LEGAL EDUC. 681, 681 (1983) (determining that more prestigious law reviews accepted a disproportionate number of articles from their own law school faculty); Leibman & White, *supra* note 28, at 405 ("When authors are resident faculty members . . . the pressures on students to say yes do exist, and most of the editors acknowledged them."); Dan Subotnik & Glen Lazar, *Deconstructing the Rejection Letter: A Look at Elitism in Article Selection*, 49 J. LEGAL EDUC. 601, 607 (1999) (finding that over 20% of the articles at the elite law reviews came from their own faculty).

49. Richard A. Posner, *Against the Law Reviews*, LEGAL AFFAIRS, Nov.-Dec. 2004,

## B. EDITING OF ARTICLES

Perhaps the most acerbic criticisms have been directed towards law reviews' editing of articles.<sup>50</sup> Critics assert the following about student editing of law review articles: Student editors lack the knowledge and experience to edit articles and often do not understand the articles they are editing.<sup>51</sup> Moreover, the constant turnover of student editors exacerbates the problem. It prevents students from accumulating the knowledge and experience they need to be good editors, and from developing a consistent approach to editing.<sup>52</sup> Students over-edit articles,

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at 57 [hereinafter Posner, *Against the Law Reviews*] (stating that student editors can "indulge their whims, and thus . . . publish the 'tenure article' of a junior professor—not because it was a good article but because he was a popular teacher or the editors felt sorry for him and did not want to see him fired").

50. Harper, *supra* note 8, at 1270 ("Students then edit and criticize these articles (and by implication, their authors), often without reservation and often without the benefit of any experience."); Nance & Steinberg, *supra* note 3, at 568 ("Although the most vitriolic of the criticism has been directed at the line-editing process and the perceived atrocities of the law review style . . ."); James Lindgren, *Fear of Writing*, 78 CALIF. L. REV. 1677 (1990) [hereinafter Lindgren, *Fear of Writing*] (castigating the *Texas Law Review Manual of Style*); Carol Sanger, 82 GEO. L.J. 513, 514 (1993) ("Within this literature, controversies over student editing have secured themselves something of a permanent spot with snarly complaints filed periodically by one or another frustrated professor followed by defensive rebuttals from student editors."); Posner, *Against the Law Reviews*, *supra* note 49, at 58 ("Apart from acute problems of quality control, neither author nor reader is likely to benefit from the editing process.").

51. Christian C. Day, *The Case for Professionally-Edited Law Reviews*, 33 OHIO N.U. L. REV. 563, 563 (2007) ("Law reviews are too important to be left to the editorial caprice of callow law students."); Hibbitts, *Last Writes*, *supra* note 4, at 642

(An increasing number of professors have also complained about student editing of articles after selection. They have expressed concern that their manuscripts are not just reviewed for oversights but are substantively rewritten, often by rule-obsessed editors having a less-than-perfect sense of either literary style or the legal subject at hand.);

James Lindgren, *Student Editing: Using Education to Move Beyond Struggle*, 70 CHI.-KENT L. REV. 95, 95 (1994) ("Student editors are grossly unsuited for the jobs they are faced with."); Posner, *The Future*, *supra* note 5, at 1132 (stating that student editors lack the time and experience to be good editors); Sanger, *supra* note 50, at 517 (commenting that student editors lack the knowledge, experience, and training to be good editors.); Stracher, *supra* note 9, at 351 ("Others complain about unprofessional attitudes, delays in publication process, and general editorial incompetency.").

52. Baker, *supra* note 5, at 925 ("More importantly though, 'because student editors spen[d], at most, two years as law review staffers, all part-time, they [do] not become experienced editors.' This inexperience results in the publication of poorly-written articles as students struggle 'to separate the wheat from the chaff.'"); Day, *supra* note 51, at 574 (noting that the "high turnover rate" at law reviews and the pressure to get an issue out prevent editors from getting the training and experience

sometimes even engaging in line by line editing that can fundamentally change the character of the article they are editing and reduce its quality.<sup>53</sup> They rigidly adhere to stylistic rules and manuals, even when it makes no sense to do so, because they lack the experience and training to recognize good writing.<sup>54</sup>

Student editors frequently “treat authors badly” and are not respectful of their time, often subjecting them to multiple, extensive edits of their articles<sup>55</sup> and imposing absurdly short

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they need to be good editors); Arthur Nussbaum, *Some Remarks About the Position of Student-Editors of the Law Review*, 7 J. LEGAL EDUC. 381, 381 (1954-55) (“There can be no accumulation of experience, so important in editorial work, when the [editorial] boards change annually. The transience of responsibility prevents steadiness of approach.”).

53. Gordon, *supra* note 13, at 544 (1994) (condemning line editing); Hibbitts, *Last Writes*, *supra* note 4, at 642; James Lindgren, *Reforming the American Law Review*, 47 STAN. L. REV. 1123, 1123-24 (1995) (condemning line editing); Posner, *The Future*, *supra* note 5, at 1135 (“The editors busy themselves in busy work, including intrusive editing that imposes significant cost on the authors and actually reduces, in many though certainly not all instances, the quality of the final product.”); Sanger, *supra* note 50, at 513 (“Too often, however, law review articles are not so much improved as simply changed, sometimes hundreds of times within a single manuscript.”); *id.* at 517 (“[A]rticles are too frequently transformed from something written by an author with a distinct voice, point of view, and line of argument to something closer to a composition by student committee.”).

54. Harper, *supra* note 8, at 1270 (“To hear academics tell it—and they are nearly the only ones telling—student editors unduly treat such guides as sacrosanct.”); Lindgren, *An Author’s Manifesto*, *supra* note 13, at 531; Lindgren, *Fear of Writing*, *supra* note 50, at 1678-79 (noting that student editors “are suddenly placed in positions of responsibility for which they are grossly unsuited. . . . They are insecure about their writing and editing skills and have little hope of acquiring these skills before they’ll need them. So they retreat to the safety of the elaborately anal world of stigmatic rules.”); Posner, *Against the Law Reviews*, *supra* note 49, at 58 (complaining that student editors “often torment the author with stylistic revisions”); Sanger, *supra* note 50, at 517

(In its worst form, the method combines unnecessary arrogance with a stubborn adherence to rules, sometimes “official” rules and sometimes independently idiosyncratic ones. Whatever their provenance, the force and good sense of these rules are wildly overestimated by law review editors who find it hard to understand that authors sometimes need to state complicated and subtle points in complicated and subtle prose.).

55. Hibbitts, *Last Writes*, *supra* note 4, at 642-43

(They have taken offense at how some law review editors have treated them: they have variously called the attitudes and practices of student editors “infuriating,” “officious,” and “arrogan[t],” and some have called for the creation of formal codes of ethics to govern editor-author relationships no longer defined by student deference and respect.);

Posner, *Law Reviews*, *supra* note 31, at 157

(Law review editors treat authors badly because law reviews do not pay a price if they drive away authors by tormenting them in the editing process. To the student editors, the cost of an author’s time is zero; and because the students are not trained or experienced editors, the average quality of their editorial revisions

deadlines for reviewing revisions of their articles.<sup>56</sup> Student editing increases the length and the number of footnotes of articles, which discourages attorneys and judges from reading them.<sup>57</sup> Law reviews slavishly adhere to *Bluebook* requirements,<sup>58</sup> demanding citations even for the most obvious fact,<sup>59</sup> which stifles creativity and originality<sup>60</sup> and encourages the piling on of footnotes that contain meaningless minutiae.<sup>61</sup>

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is low. . . . And usually the author is subject not to one, but to two or three, rounds of editing.);

Sanger, *supra* note 50, at 523 (decrying multiple editing and repeated changes); Vitiello, *supra* note 10, at 875 (commenting that editors may be able to stem the rising tide of criticism by exercising “more humility in dealing with their authors”).

56. Gordon, *supra* note 13, at 544 (“In our capacity as authors, student editors drive us crazy. I actually suspect that the stress caused by their overshort deadlines (‘respond to our edit in three days or we’ll print it OUR way’) has caused health problems.”).

57. Friedman, *supra* note 1, at 664 (stating that law reviews encourage “long, wordy articles crammed with footnotes.”); Hibbits, *Last Writes*, *supra* note 4, at 648-49 (“It has additionally been suggested that student editors have actively contributed to the problems of length and extended footnoting through an over enthusiastic adherence to *Bluebook* form and a concomitant desire to impress their editorial board colleagues by displays of footnote finesse.”); Mermin, *supra* note 46, at 613-14 (listing several authors who have criticized law reviews for their footnoting practices); Rhode, *supra* note 2, at 1336 (“Although many bloated offerings are aimed at urgent problems, their format discourages readings by busy judges, practitioners, and policy makers with influence over solutions.”).

58. Friedman, *supra* note 1, at 664 (“The law reviews also enforced a certain style of writing; and they forced footnotes and sources into a rigid ‘blue book’ straitjacket.”); Nance & Steinberg, *supra* note 3, at 568 (“Perhaps the most common claim is that student editors, much of whose time is spent enforcing the rules of the *Bluebook*, are overly influenced by the number and complexity of an author’s footnotes.”); Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343, 1343 (1986) (criticizing law reviews for strictly following the *Bluebook*).

59. Mermin, *supra* note 46, at 617-18; Rhode, *supra* note 2, at 1335 (“In most law reviews, even the most obvious of statements is presumed to need adornment; editors have demanded support for claims that Plato was an ‘influential philosopher’ or that ‘[o]ne of the values of American life is equality.’”); Rodell, *supra* note 24, at 41 (disparaging law reviews for “assuming that [e]very legal writer is presumed to be a liar until he proves himself otherwise with a flock of footnotes.”); Sanger, *supra* note 50, at 521 (“[T]here are some things of which we can sensibly just take notice.”).

60. Mermin, *supra* note 46, at 664 (“This obsessive documentation discourages originality without necessarily ensuring factual accuracy. Genuinely novel insights can fall by the wayside during the law review editorial process because, by definition, no prior authority is available to support them.”); Vitiello, *supra* note 10, at 860 (“Their second, closely related point is that scholars write to conform to the law review editors’ expectations. That is, they write humorless, overdocumented tracts because insecure editors confuse documentation with substance.”).

61. Friedman, *supra* note 1, at 663 (“They display absolutely everything the author has read on the subject, or related subjects, or subjects related to related subjects. The footnotes often almost crowd out the text.”); Rhode, *supra* note 2, at

Finally, student editors are slow in publishing articles<sup>62</sup> and do not provide authors with feedback explaining why their articles were rejected and what they can do to improve them.<sup>63</sup>

### C. EFFECTS ON LEGAL SCHOLARSHIP, THE LAW, AND THE LEGAL COMMUNITY

Law reviews have been criticized for producing too much legal scholarship that is useless and of poor quality.<sup>64</sup> Critics allege not only that the diminishing quality of law reviews significantly decreases attorneys' and judges' use of them, but even law professors use them less frequently.<sup>65</sup> For example, a

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1335 ("Some authors seek to advertise their erudition by decorating their footnotes with gratuitous references to Grand Theory and 'fugitive sources' such as personal letters or obscure transcripts that only the most 'ferocious archaeologist' could ever unearth again."); Max Stier et al., *Law Review Usage and Suggestions for Improvement: A Survey of Attorneys, Professors, and Judges*, 44 STAN. L. REV. 1467, 1499 (1992) ("All three profession groups expressed a clear preference for articles that . . . have fewer footnotes . . .").

62. Hibbitts, *Last Writes*, *supra* note 4, at 643 ("Some legal scholars have even lamented how long it takes for a law review article to be first accepted and then published."); Hibbitts, *Yesterday Once More*, *supra* note 8, at 177 ("Legal scholars have also expressed concern about delays encountered in the editing and publishing process . . .").

63. Hibbitts, *Last Writes*, *supra* note 4, at 645

(Students were too pressed and too stressed to provide reasons or feedback. This deprived faculty of potentially useful input and unfortunately helped to create an atmosphere in which it was easy to impute improper selection motives to student editors who no longer made even a pretense of offering evidence to the contrary.);

Jean Leclair, *A Review of Law Reviews: Comments of a Contented Victim*, 31 QUEEN'S L. J. 385, 385-91 (2006) ("However, decency requires that at least a sentence or two, however harsh, be devoted to justifying refusals. Otherwise, authors are left in the dark as to what was wrong with their papers. Blunt and unexplained refusals will not encourage an author to try again."); Leibman & White, *supra* note 28, at 423 (stating that "the failure to provide feedback is the most serious weakness of the law review model").

64. Harry T. Edwards, *Reflections (on Law Review, Legal Education, Law Practice, and My Alma Mater)*, 100 MICH. L. REV. 1999, 2001 (2002) ("The most serious concern that I have with legal scholarship is that too much of it is useless."); Martinez, *supra* note 1, at 1141 ("We are told that the law reviews serve little purpose, that the articles selected for publication are not relevant to reality, and that the cure for all ills is increased faculty participation."); Newton, *supra* note 1, at 118

(Members of the legal profession are not the only group that finds law reviews increasingly useless. Members of the legal academy, who write the vast majority of the articles, decreasingly use (or even read) a large percentage of law review articles published each year, and many are critical of the poor quality of the interdisciplinary works that some of their fellow professors are producing.);

Rhode, *supra* note 2, at 1331 ("Baldly stated, the uncomfortable fact is that too much of the legal scholarship now produced is of too little use to anyone.").

65. Newton, *supra* note 1, at 118.

2007 study found that 43% of articles had never been cited even once by another law review article or by a court.<sup>66</sup> As one critic states: “There is powerful evidence . . . that most of the legal academy are not even talking to each other but to the mirror.”<sup>67</sup>

Critics also complain there are too many law reviews<sup>68</sup> and that their excessive numbers decrease article quality, are a “colossal” waste of law school resources,<sup>69</sup> and make it difficult for attorneys and judges to find relevant articles.<sup>70</sup> Law reviews have also been disparaged for their sameness<sup>71</sup> and for their imperviousness to market forces,<sup>72</sup> which allow them to flourish despite their poor quality and their failure to attract an audience.<sup>73</sup>

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66. Thomas A. Smith, *The Web of Law*, 44 SAN DIEGO L. REV. 309, 336 (2007). See also Rhode, *supra* note 2, at 1332 (“For legal scholars, the fact that so many publications vanish without a trace should be grounds for concern.”).

67. Andrew P. Morriss, *The Market for Legal Education & Freedom of Association: Why the “Solomon Amendment” is Constitutional and Law Schools are Not Expressive Associations*, 14 WM. & MARY BILL RTS. J. 415, 473 (2005). See also Rhode, *supra* note 2, at 1331 (“A survey undertaken for this Essay found that, of all law review articles published during the 1980s and early 1990s; more than half had never been cited.”).

68. Day, *supra* note 51, at 565 (noting that the number of law reviews has “mushroomed”); Doyle, *supra* note 4, at 180 (detailing the explosive growth in law reviews over the years); Stracher, *supra* note 9, at 359 (“Contrary to what some contend, law reviews do not have the luxury of rejecting imperfect pieces. Given the proliferation of law reviews, it is a seller’s market. Few law reviews, except at the elite schools, can pick and choose among manuscripts.”).

69. Newton, *supra* note 1, at 114.

70. Cramton, *supra* note 24, at 8 (stating that their “extraordinary proliferation” is “harmful for the nature, evaluation, and accessibility of legal scholarship”).

71. Kenneth Lasson, *Scholarship Amok: Excesses in the Pursuit of Truth and Tenure*, 103 HARV. L. REV. 926, 929 (1990).

72. Martinez, *supra* note 1, at 1143 (“In any event, little market pressure guides or shapes the direction of law reviews.”); Posner, *The Future*, *supra* note 5, at 1132

(A third handicap is the absence of market forces in law review publishing. Law reviews do not fold if their editors make foolish decisions with respect to what to publish; and the editors receive no financial rewards if they lower the costs or raise the quality and circulation of their reviews.);

Rhode, *supra* note 2, at 1356 (“And unlike other scholarly journals, which survive by satisfying their subscribers, most law reviews can count on hefty subsidies . . .”).

73. Baker, *supra* note 5, at 928 (“While law reviews are high in supply, their demand is depressingly low since no real audience exists.”); Judith S. Kaye, *One Judge’s View of Academic Law Review Writing*, 39 J. LEGAL EDUC. 313, 318 (1989)

([L]aw reviews are unique among publications in that they do not exist because of any large demand on the part of a reading public. Whereas most periodicals are published primarily in order that they may be read, the law reviews are published primarily in order that they may be written.);

John E. Nowak, *Woe Unto You, Law Reviews!*, 27 ARIZ. L. REV. 317, 321 (1985).

Most importantly, however, critics have attacked law reviews for their alleged failure to meet the needs of the legal community. For example, critics assert the following about the effects of law reviews on their student members: The costs of being on law review outweigh the benefits.<sup>74</sup> Too much time on law review is spent in “mindless scut work,” such as learning the details of the *Bluebook*, source checking, and line editing—tasks with limited utility to students.<sup>75</sup> The pedagogical value of law reviews has substantially diminished over the years because of the large increase in submissions, the increasing complexity of peripheral tasks such as choosing new members, and the decreasing involvement of faculty in law reviews.<sup>76</sup> In addition, law review consumes so much time that it significantly decreases members’ study time and causes them to cut classes.<sup>77</sup> There are

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74. Hibbitts, *Last Writes*, *supra* note 4, at 645 (“The plethora of manuscripts, the amount of work consequently demanded of today’s student editors, and the virtually complete independence of those editors from law faculty have together given rise to a fourth cause of contemporary law review criticism: doubts about the traditionally assumed pedagogical value of law review service.”); Mermin, *supra* note 46, at 604 (“It is bad for students because, contrary to the myth that law review is a great learning experience, the balance of their time is spent on work that is devoid of significant pedagogical value.”); E. Joshua Rosenkranz, *Law Review’s Empire*, 39 HASTINGS L.J. 859, 860 (1988) (“[T]he law review’s academic and creative value is overstated. Many students leave law review with little more to show for their two-year membership than bluebook proficiency.”).

75. Oleson, *supra* note 24, at 1139 (“Admittedly, some of the work is intrinsically interesting (e.g., learning about the cutting edge in an exciting area of law); but the bulk of it is mindless scut work . . .”); *id.* at 1139 n.20 (“Law review work can seem truly Herculean. Recall that Hercules’ fifth labor was to clean the dung-filled Augean stables. Similarly, many of the responsibilities that accompany law review membership involve cleaning up a lot of bullshit.”); David Hricik & Victoria S. Salzmann, *Why There Should Be Fewer Articles Like This One: Law Professors Should Write More for Legal Decision-Makers and Less for Themselves*, 38 SUFFOLK U. L. REV. 761, 774 (2005)

(If the law student cannot understand the practical application of an article because it has none, she cannot critically evaluate reasoning and judge whether it comports with pertinent legal scholarship and jurisprudence. Instead, she is forced to take the writer’s words as truth and essentially ignore the primary function of her editorial position. In effect, the law review ceases to provide a source of education for those students who actually run it, as it was designed to do. Instead, the schools’ best students become mere grammar, spelling, and punctuation checkers.)

76. Hibbitts, *Last Writes*, *supra* note 4, at 645; Cramton, *supra* note 24, at 8-9 (stating that large portions of student editors’ time is devoted to choosing new members).

77. Hibbitts, *Last Writes*, *supra* note 4, at 646 (commenting that a Senior Articles Editor from the *Georgetown Journal of Legal Ethics* complained that law review service was interfering with his legal education); Rhode, *supra* note 2, at 1356 (“The leading reviews sift through over a thousand submissions annually, and the selection

better uses of student time than serving on law reviews, such as participating in legal clinics, simulated law practice, internships, and faculty directed writing courses.<sup>78</sup> Lastly, critics contend that even if law reviews did benefit their members, their value would still be limited because only a small percentage of law students can serve on them.<sup>79</sup>

Law reviews have also been criticized for their effects on law professors. As stated previously, article placement has important consequences for law professors' careers.<sup>80</sup> Yet critics assert that articles selection is not primarily based on merit but rather on author prestige and other extraneous factors.<sup>81</sup> The lack of impartiality in article selection especially harms new law professors, particularly ones at non-elite law schools; female law professors; and foreign law professors.<sup>82</sup> Critics maintain that the current system of law reviews encourages law professors to be lazy and not produce their best work because they know student editors will correct deficiencies in their articles for them;<sup>83</sup> quality

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process competes with other pressing needs: course requirements, placement, interviews, and occasionally even sleep.”); Gordon, *supra* note 13, at 541 (“At many schools, students who do not make the review feel alienated, while students who achieve editorships often fail to attend classes.”).

78. Doyle, *supra* note 4, at 202-03 (“[A] dean whose law school offers clinical programs that substitute for the skills training of law review may well question if law review is the best use of funding and student time.”); Gordon, *supra* note 13, at 543 (“Further, some observers feel strongly that the students’ learning/time ratio could be drastically improved if students turned the time spent on editing the articles of others toward writing additional papers of their own.”); Newton, *supra* note 1, at 125.

79. Lasson, *supra* note 71, at 932; Scott M. Martin, *The Law Review Citadel: Rodell Revisited*, 71 IOWA L. REV. 1093, 1102 (1986); Stier et al., *supra* note 61, at 1473.

80. See *supra* notes 4 and 23.

81. See discussion *supra* Part II.A.1.

82. Christensen & Oseid, *supra* note 8, at 180 (“The increased competition for publication space, coupled with the potential bias of the current system towards author credentials, is a disturbing trend for a majority of new professors in the legal academy.”); Jonathan Gingerich, *A Call for Blind Review: Student Edited Law Reviews and Bias*, 59 J. LEGAL EDUC. 269, 269 (2009) (“Research suggests that non-blind review of journal submissions makes it harder for women and non-U.S. scholars to publish, leads to prestige bias that hurts younger scholars, and undermines the perceived fairness of the submission review process among authors.”).

83. Mermin, *supra* note 46, at 605-06 (“It is also bad for professors because—and this point is often missed—the prevailing norm under which many professors submit what are, in effect, unfinished drafts to law reviews and expect students to finish them is not a recipe for high quality scholarship.”); Zimmer & Luther, *supra* note 24, at 962-63

frequently does not determine article placement;<sup>84</sup> and law reviews are so numerous that any article can be published somewhere.<sup>85</sup> Critics further claim that because student editors have limited legal knowledge and editing experience, professors are forced to write long introductions for their articles and to waste their time correcting poor editing, which decreases the number of articles professors can publish.<sup>86</sup> Lastly, because law reviews favor certain topics and tend to be conservative, they limit the subjects law professors can research and write about.<sup>87</sup>

Critics have also attacked law reviews for their alleged failure to meet the needs of judges and attorneys. They state that most law review articles have become too theoretical, too abstract, and too devoid of doctrinal analysis to be useful to

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(Second, the traditional process may encourage authors to be lazy. Insofar as authors believe that students select articles largely on the basis of such metrics as topic, novelty, and the author's resume, authors may devote less attention to matters such as grammar, punctuation, accurate quotation and citation, and even basic proofreading for coherence and typos.)

84. See discussion *supra* Part II.A.1.

85. Doyle, *supra* note 4, at 180 ("There is also plenty of space for the less desirable vehicles that really needed an overhaul before getting onto the publication highway."); Friedman, *supra* note 1, at 663 ("The law reviews have such a voracious appetite for material, that anything can get published; and by that I mean anything."); Lasson, *supra* note 71, at 928 (arguing there are too many law reviews); Hibbitts, *Last Writes*, *supra* note 4, at 641 ("The concern here is not so much that dubious and/or arbitrary student decisionmaking prevents any given article from being published somewhere, but that it may compromise an article's chances of getting published in a 'leading' law review where it would more likely be noticed and appreciated.").

86. Gordon, *supra* note 13, at 547

(As for the inclusion of introductory background sections, many professors feel these sections do little more than cater to law review editors' ignorance, at fairly high cost. These costs include: increasing the time needed to write an article and thus decreasing the number of contributions to the literature one can make.);

Nance & Steinberg, *supra* note 3, at 570 ("The need to include expository sections and footnotes may slow authors down and reduce the number of manuscripts submitted . . .").

87. Lindgren, *An Author's Manifesto*, *supra* note 13, at 532 ("Contracts, for example, is the second most common teaching area, but elite law reviews publish only a few contracts articles and student notes a year. Some contracts teachers tell me that they are hesitant to write in the area because of a lack of interest from student editors."); William J. Turnier, *Tax (and Lots of Other) Scholars Need Not Apply. The Changing Venue for Scholarship*, 50 J. LEGAL EDUC. 189, 195, tbl. 2 (2000) (noting that forty percent of law review articles concern only five legal areas: constitutional, criminal procedure, race, administrative, and women and the law).

attorneys and judges.<sup>88</sup> Critics further assert that other traditional sources of doctrinal analysis such as treatises, casebooks, and student notes are inadequate to fill the void.<sup>89</sup> Furthermore, attorneys and judges frequently lack the time, resources, neutrality, and expertise to adequately analyze legal doctrine by themselves, and therefore cannot replace the analysis of legal doctrine that law reviews have traditionally provided.<sup>90</sup> Moreover, attorneys' and judges' deficiencies in legal analysis are exacerbated by the increasingly complex and difficult legal issues they face.<sup>91</sup>

Critics contend that the failure of law reviews to meet the

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88. Doyle, *supra* note 4, at 196 (“Many have deplored what they see as move by law reviews toward the theoretical pole.”); Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 36 (1992) (“Because too few law professors are producing articles or treatises that have direct utility for judges, administrators, legislators, and practitioners, too many important social issues are resolved without the needed input from academic lawyers.”); Hibbitts, *Last Writes*, *supra* note 4, at 647

(Sixth, law reviews have come in for more criticism as more law review writers have ceased writing about professional, doctrinal, and local issues. . . . In these circumstances, law reviews have been accused of having become increasingly irrelevant for the practicing bar and the judiciary, two of their traditional constituencies.);

Hricik & Salzmann, *supra* note 75, at 766 (“We only briefly note what seems unquestioned by many: that academic writings have become less engaged with issues facing the profession. There is considerable literature describing law faculty’s shift in focus from practical to theoretical.”).

89. Edwards, *supra* note 88, at 53-54

(The apologist for “impractical” scholarship might respond at this point that prominent law professors need not waste their efforts on “practical” scholarship, because the current crop of treatises, together with student Notes, do a perfectly adequate job. However, this response entails a naive view of interpretation. It assumes that the interpretation of a large body of complicated texts is a mechanistic task, no better accomplished by Laurence Tribe or Charles Wright than anyone else. It wholly overlooks the fact that interpretation, like theorizing, may involve considerable efforts and talent.).

90. Hricik & Salzmann, *supra* note 75, at 780-85.

91. Edwards, *supra* note 88, at 57 (“‘Practical’ scholarship constitutes a vital link from the law schools to our system of justice – to the legislators, administrators, judges, and practitioners who need thorough, thoughtful, concrete legal advice.”); Hricik & Salzmann, *supra* note 75, at 762-63

(These “practical issues”—issues that clients, lawyers, and even legislators need guidance on are amazingly complex, often require interdisciplinary legal analysis, and present rich and intricate issues of law, theory, and practice. Yet, articles seldom tackled these complex issues in a way that was meaningful to us as practicing lawyers.);

*id.* at 773 (“Both private citizens and commercial corporations exist in an increasingly complex legal environment that requires an understanding of both intradisciplinary and interdisciplinary issues. Thus, engaged scholarship is not just a hypothetical calling, it is born of necessity.”).

needs of attorneys and judges will not only have serious, long term, adverse consequences for the law, but also for law professors and law schools. They point out that law reviews' lack of useful scholarship diminishes the prestige of law professors and law schools.<sup>92</sup> Because law schools depend on attorneys and judges for financial support and to give their graduates jobs, their opinions are important.<sup>93</sup> In addition, *U.S. News and World Report* rankings are based in part on attorneys' and judges' assessment of a law school's reputation.<sup>94</sup> As David Hricik and Victoria Salzmann state: "In short, what the bench and bar think about a law school matters, and the usefulness of a school's scholarship is a factor that the bench and bar consider when forming their opinions."<sup>95</sup>

### III. ARGUMENTS FAVORING THE CURRENT SYSTEM OF LAW REVIEWS

Although fewer in number, law reviews have their defenders as well as their detractors.<sup>96</sup> The defenders maintain that student-run law reviews benefit students, law professors, and law reviews.

#### A. BENEFITS TO STUDENTS

Most defenders of law reviews believe that the most important benefit of student-run law reviews is the educational experience that they provide to students.<sup>97</sup> Service on law reviews improves students' legal reasoning, writing, editing, research, and citation skills.<sup>98</sup> It teaches students the importance

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92. Hricik & Salzmann, *supra* note 75, at 779.

93. *Id.*

94. *Id.*

95. *Id.*

96. Harper, *supra* note 8, at 1262 ("The literature on student-run law reviews is almost universally critical."); Vitiello, *supra* note 10, at 859 ("Much of the literature is critical of student-run law reviews.").

97. Saunders, *supra* note 10, at 1670 ("The first and most tangible benefit provided by student-edited law reviews is that they are an excellent supplement to legal education."); Stracher, *supra* note 9, at 352 ("I now believe the law review is an indispensable learning tool for law students—possibly the best they will receive in their legal toolbox.").

98. Harper, *supra* note 8, at 1272 ("By participating in law review, students get a unique, challenging experience in research, writing, editing, critical thinking, and even just working together on a project that carries professional expectations."); Saunders, *supra* note 10, at 1670 ("For student editors, participation in law review hones skills of legal argument and legal writing, [and] teaches familiarity with

of attention to detail and accuracy in the law and increases their legal knowledge.<sup>99</sup> Students on law review learn about the latest trends in legal scholarship and have an opportunity to personally contribute to legal scholarship and the law by writing a note or comment.<sup>100</sup> Students on law review interact with legal scholars. For instance, they may work closely with a faculty member when writing a note or comment.<sup>101</sup> They may consult with a faculty member when deciding whether to accept an article for publication.<sup>102</sup> They have extensive communications with legal scholars who publish articles in their law review.<sup>103</sup> In short, law reviews allow students to closely interact with legal scholars, and in a context in which legal scholars care not only about the process but also about the outcome.<sup>104</sup>

Students on law review interact and work with their peers on a daily basis. They learn from and teach their peers; argue, defend, and exchange ideas with their peers; give and receive criticisms from their peers; and manage an important legal

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Bluebook citation style . . .”).

99. Kathryn Feldman, *Remarks about the Value of Student-Run Law Journals: Opening Address at the First Annual Banquet of the Windsor Review of Legal and Social Issues*, 17 WINDSOR REV. & SOC. ISSUES 1, 6 (2004) (“Although this may be the more mundane part of the work, the ability to focus on accuracy and attention to detail, as well as to impose precise referencing through the use of style and citation manuals, is invaluable knowledge . . .”); Saunders, *supra* note 10, at 1670 (noting that it “indoctrinates the student with a general attention to detail that is extremely valuable in legal practice”); Stracher, *supra* note 9, at 361

(Besides telling law firms that students have had some writing and editing experience, it tells them that these are students who have been taught not to rest until they get it perfect, who are relentless in their quest for exactitude. The law review is perhaps the only institution in the entire law school that teaches this kind of attention to detail).

100. Feldman, *supra* note 99, at 4 (“But law review gives students the opportunity to produce something permanent and hopefully of ongoing value to the profession.”); *id.* at 5 (“Because they both evaluate the articles that are submitted and choose the ones that will be published, student editors have the unique opportunity to be on the cutting edge of the issues of current concern to legal scholars . . .”); *id.* at 6 (“Sometimes law students submit papers that are chosen for publication. This is a significant accomplishment in an environment where professional legal scholars are competing for acceptance of their work.”).

101. Saunders, *supra* note 10, at 1672.

102. *Id.*

103. *Id.*

104. Gordon, *supra* note 13, at 543 (commenting that law reviews “put students into unusually close contact with expert professionals, and in a context where the latter really care not only about the process (in which, as teachers, they may try to show tolerance and flexibility) but also about the outcome”).

enterprise with their peers.<sup>105</sup> As Judge John Noonan stated, peer education may be the “best kind of education.”<sup>106</sup> Lastly, law review membership is a source of pride for most students and gives them an impressive credential that improves their job prospects, especially for elite positions such as a law professor, a federal judicial clerkship, or an associate in a large law firm.<sup>107</sup>

## B. BENEFITS TO LAW PROFESSORS

Student-run law reviews benefit law professors in several ways. They give law professors more time to publish, teach, do *pro bono* work, and spend time with their families.<sup>108</sup> Because student-run law reviews allow law professors to pursue more of their interests, they help attract highly qualified candidates to law schools who might otherwise prefer the more lucrative private practice of law.<sup>109</sup> They also vastly increase the number of law reviews and therefore ensure that any worthwhile article can be published somewhere.<sup>110</sup> Students make possible the multiple, simultaneous, submission of articles to law reviews and the “trading up” of articles to more prestigious law reviews.<sup>111</sup>

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105. Feldman, *supra* note 99, at 6 (“Students on law review learn to lead and manage an organization that consists of other law students, just as lawyers in practice perform much of the management of their professional practices, whether in large or small firms, in government law offices, in private corporations or non-profit settings.”); John T. Noonan, Jr., *Law Reviews*, 47 STAN. L. REV. 1117, 1118 (1995) (“[T]o enter the heart of a discipline such as law, one has to exchange ideas . . . argue for ideas, and point out to others the logical implications, the missing factual foundation, and the underlying assumptions of their ideas.”).

106. Noonan, *supra* note 105, at 1118.

107. Feldman, *supra* note 99, at 4 (“I can tell you that student law review editors do look back with pride (and wonder) at the product they produced.”); Harper, *supra* note 8, at 1274 (“Knowing who is on law review helps law firms and judges decide who to interview and hire as associates and clerks.”); Leclair, *supra* note 63, at 391 (“More seriously, the simple answer is that being a member of a law review in the United States amounts to a free pass into the major law firms after graduation.”).

108. Saunders, *supra* note 10, at 1672-73.

109. *Id.* at 1673.

110. Vitiello, *supra* note 10, at 872

(We ought to ask whether we would be better off if student-run law reviews ceased to exist. Almost certainly, we would have far fewer places to publish our articles. Currently, with a plethora of journals—a fact decried by Cramton—publication opportunities abound. It is hard to imagine an author with a meritorious piece being unable to place it at all.)

111. Lindgren, *An Author’s Manifesto*, *supra* note 13, at 535 (stating that “because student editors value their time less than faculty editors, student journals allow multiple submissions, which are unethical in most other fields”); Mermin, *supra* note 46, at 615 (“In sum, the advantage of the free labor of student editors goes beyond the obvious benefit of the research and cite-checking services students offer; it also

Accordingly, law professors, unlike other scholars, do not have to submit their article to one journal at a time, wait months to determine if their article is accepted, and then publish the article with a journal if it is accepted.<sup>112</sup> Furthermore, student-run law reviews free law professors from the drudgery of selecting and editing articles, serving as peer reviewers, and ensuring that their citations are correct and in proper form.<sup>113</sup>

### C. BENEFITS TO LAW REVIEWS

Defenders of law reviews maintain that law reviews benefit from having students run them. Students are more open to new ideas, theories, and perspectives than law professors and are less likely than law professors to require authors to conform to “methodological and intellectual orthodoxies.”<sup>114</sup> Because law students are much more numerous than law professors and are not compensated for their time, student-run law reviews permit law schools to publish a large number of journals, which ensures that a wide array of legal ideas, theories, and perspectives are published.<sup>115</sup> Students tend to select articles they understand

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underwrites the unique system of simultaneous multiple submission that legal academics enjoy.”).

112. Vitiello, *supra* note 10, at 874 (“Law professors benefit from the system. We have an enviable place within academia. We are not restricted in sending an article to one journal at a time.”).

113. Harper, *supra* note 8, at 1275 (“Though students rarely contribute a wholly new idea to an existing article, they do move authors’ ideas forward, test them against other ideas and concepts, and, more than anything else, do the cite-checking and technical editing that turns a manuscript into a law review article.”); Leclair, *supra* note 63, at 392 (commenting it would be too time-consuming for law professors to do the research for their articles by themselves and too expensive to pay research assistants to do it for them. Consequently, law professors rely on law reviews to do this work for them.); William G. Ross, *Scholarly Legal Monographs: Advantages of the Road Less Taken*, 30 AKRON L. REV. 259, 264 (1996) (“The performance of cite checks is by far the major service that law reviews provide for their authors.”).

114. Cotton, *supra* note 35, at 953 (“In conclusion, I maintain that, by their processes and procedures, law reviews contribute to a robust and innovative body of legal scholarship.”); Gordon, *supra* note 13, at 545-46 (“Further, it may be that the students are less dominated by ‘methodological and intellectual orthodoxies’ than peer review journals in some disciplines sometimes seem to be. This too may work to open the journals to new voices.”); Vitiello, *supra* note 10, at 874

(Unlike traditional academics, legal scholars can be innovative and confident that their piece will see the light of day in one of the myriad journals. I am less confident than Cramton that faculty editors will nourish innovation. They will bring doctrinal biases to their task. In Cramton’s best of all possible worlds, I envision scholars timidly conforming their perspective to that of reigning faculty editors.).

115. Leibman & White, *supra* note 28, at 390 (concluding that “data confirm that

and edit them to improve their clarity and readability.<sup>116</sup> Consequently, they force law professors to write articles that are less abstract and theoretical, which makes articles more useful to attorneys and judges than if professors edited law reviews.<sup>117</sup>

Defenders also contend that readers benefit from the long introductions and the large number of footnotes that student-run law reviews require. The long introductions place articles in context and therefore make law review articles comprehensible to a broad audience. They also help readers learn about unfamiliar areas of the law.<sup>118</sup> The large number of footnotes ensures that law review articles are well researched,<sup>119</sup> provide a measure of article quality,<sup>120</sup> and help readers research the law.<sup>121</sup>

Defenders of law reviews assert that students are capable of selecting articles for law reviews despite their lack of legal knowledge and experience.<sup>122</sup> They claim that it is often easy to differentiate good articles from mediocre or poor articles, and, therefore, article selection does not require an expert.<sup>123</sup>

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editorial practices do vary significantly among the journals, and, as a result, the large number of law reviews ensures that interesting and persuasive ideas affecting and involving the legal system generally find expression in periodicals operating at appropriate levels of influence”).

116. Harper, *supra* note 8, at 1279 (“A heretofore rarely expressed reason for the student-run law review is the natural rein that students exert on legal scholarship. Students tend to select articles they can grasp, then edit them to maximize their own understanding.”).

117. *Id.* at 1263 (“Along with their other widely recognized purposes, student-run law reviews beneficially restrain legal scholarship from its tendency toward abstraction, murkiness, and irrelevance. This ultimately translates into law that is understandable to the ordinary people whom it is intended to serve.”).

118. Gordon, *supra* note 13, at 548

(Second, placing the article in context—even though the students may not fully recognize when this is well or poorly done—means that our articles are accessible to a fairly wide audience. If I want to learn about a new area, I can do so by picking up virtually any article.)

119. Stracher, *supra* note 9, at 362 (“Finally, footnotes force authors to carefully consider each argument and the support for it.”).

120. Harper, *supra* note 8, at 1268.

121. Stracher, *supra* note 9, at 362 (“But law review articles are used for many purposes, not the least of which is as a research source for practitioners, judges, and their clerks, who may not be familiar with the literature on any given topic.”).

122. Cotton, *supra* note 35, at 958 (“This Comment asserts that students are fully competent to identify valid articles, whether doctrinal or interdisciplinary.”); Dan Hunter, *Open Access to Infinite Content (or “in Praise of Law Reviews”)*, 10 LEWIS & CLARK L. REV. 761, 766 n.9 (2006) (“I actually think that this is mostly wrong, and that taken as a group law students are quite good at selecting quality.”).

123. Cotton, *supra* note 35, at 961

Moreover, a law review article must be comprehensible to a diverse audience.<sup>124</sup> Consequently, if bright student editors cannot understand an article then it is not suitable for publication.

Defenders of law reviews also point out that some subjectivity is always present in article selection.<sup>125</sup> Because article selection is not a completely objective process, the goal of student editors is not to select the “best” articles for publication, but rather to select high quality articles that are timely, interesting, and appropriate for their law review.<sup>126</sup> These goals are much more manageable for students than selecting the “best” articles and are achievable through hard work, research, and preemption checks.<sup>127</sup> Law reviews also compensate for the subjective nature of article selection by striving to collect “a portfolio of strong varied articles” that appeals to a wide

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(And, they point out, the good exams and bad exams are easy to identify. It is only the ones in the middle that are difficult. Similarly, by identifying the attributes that are desirable for articles and evaluating them along those dimensions, student editors easily eliminate many from consideration and sort the remainder.);

Stracher, *supra* note 9, at 355

(For one thing, it assumes that an editor must be an expert in an article’s subject in order to determine whether a piece is publishable. This might be the case in the hard sciences in which a publication verifies the accuracy of scientific research through peer review, but it is certainly not the case in law.).

124. Cotton, *supra* note 35, at 962 (“Another important element of the appropriateness of an article is its understandability. Since law reviews have a wider readership than other fields’ journals, an esoteric article that would be understandable only to experts might not be appropriate, even if it were groundbreaking and timely.”); Phil Nichols, *Note, A Student Defense of Student Edited Journals: In Response to Professor Roger Cramton*, 1987 DUKE L.J. 1122, 1130 (1987) (“[I]t is important that law review material be accessible to its larger audience.”); Stracher, *supra* note 9, at 359 (“Legal scholarship, which is meant to influence a broader audience of judges, legislators, practitioners, and other academics, has no such excuse.”).

125. Cotton, *supra* note 35, at 958 (“Given the subjective nature of quality, is there any reason why there should be a rigid hierarchy of publications according to quality?”).

126. *Id.* at 959 (“The issue is not whether students are competent to select only the ‘best’ articles, but whether student editors are able to determine whether a given article meets a basic threshold of validity, thereby creating a portfolio of valid articles for dissemination to the legal community.”); *id.* at 961 (“Generally, editors selecting articles look for those that are appropriate for their particular law review, have a high quality of scholarship, and are timely and interesting.”).

127. *Id.* at 963 (“While these qualities are subjective, students are not at a disadvantage in discerning writing quality, and the well-developed ‘preemption check’ process reveals whether a thesis is unique. In fact, here is where process is designed to overcome the limits of student knowledge.”).

audience.<sup>128</sup> Thus, even if students err in selecting some articles for publication, the errors are unlikely to significantly affect the overall quality of the law review's "portfolio."<sup>129</sup>

In addition, defenders of law reviews maintain that the importance of students' selection of articles has diminished over the years because of the large increase in the number of law reviews, which makes it possible for any "meritorious" article to be published somewhere.<sup>130</sup> Moreover, once an article is published, it is likely to be available on a large number of sites such as Social Science Research Network (SSRN), the author's blog, the author's webpage, the law review's webpage, as well as on *Westlaw*, *LexisNexis*, *Findlaw*, and *Google*.<sup>131</sup> Because of the wide accessibility of articles today, the impact an article has on legal scholarship and the law is more likely to be determined by its merit rather than by which law review published it.<sup>132</sup> In

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128. Cotton, *supra* note 35, at 958 ("Law reviews respond to this difficulty by striving to collect a portfolio of strong, varied articles, all the while recognizing the necessary difference of opinion about overall quality that is inherent in the process.").

129. *Id.* at 973

(In sum, students are competent to evaluate articles because they can competently evaluate each of the criteria listed above. If "misjudgments" are made, they do not harm the reviews or legal scholarship. Reviews have different processes for their final decisions, yet the criteria reasonably limit the pool of articles that get consideration. As a result, the goals of article selection do not require prior specialized knowledge. In implementing the described processes, specialized knowledge sufficient to evaluate the uniqueness and validity of submissions is acquired.)

130. Hunter, *supra* note 122, at 768

(What is really interesting here is that we are moving into an era where, even if this argument is true at the moment, the significance of placement will decline because of the way that the internet is reshaping the way that users can access content. So, as the profound changes of the "new internet" take hold, the entire argument—that students can't select for quality and this matters somehow—collapses into irrelevancy.)

Stracher, *supra* note 9, at 356 ("While it may be true that some student editors will miss the subtlety of any particular author's argument and reject it, given the large number of law reviews now being published, it is hard to imagine an article that is not entirely incompetent not finding a home."); *id.* at 356-57 ("Put another way, it matters less which law review publishes any particular article because most articles will make their way into the (digital) marketplace where they will compete for supremacy on a more egalitarian basis.").

131. Stracher, *supra* note 9, at 356 ("This is truer now than it ever has been as a result of online research tools and the information revolution. *Westlaw*, *Lexis*, *Findlaw*, and *Google* make content king. A few clicks, and researchers can retrieve multiple articles on a desired subject without regard to pedigree.").

132. Hunter, *supra* note 122, at 768; Stracher, *supra* note 9, at 356 ("Once published (and available, as well, on Social Science Research Network (SSRN) and often on the author's own blog or webpage), the article is more likely to rise or fall, sink or swim, based on its own merit.").

short, the information age has greatly diminished the importance of article selection.<sup>133</sup> Finally, article selection should not affect tenure decisions, because law schools should evaluate professors on the quality of their articles and not on their placement of articles.<sup>134</sup>

Defenders of law reviews also contend students are capable of editing articles for the following reasons: editing is expensive; when editors of peer review journals accept an article, they do little to improve its writing quality, do little proofreading of the article, and do no cite checking.<sup>135</sup> Consequently, the use of professional editors would not improve the editing of law review articles. Furthermore, most law review articles undergo an elaborate vetting process by an author's colleagues and friends before it is submitted for publication.<sup>136</sup> Accordingly, most law review articles do not require extensive editing.

Student editors are adults with college degrees who generally have good verbal skills and therefore are capable of editing articles.<sup>137</sup> “[M]any of the greatest editors were not as talented as the writers they edited.”<sup>138</sup> Consequently, student editors are capable of editing law professors' articles even if we make the dubious assumption that they are not as talented as law professors.<sup>139</sup>

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133. Hunter, *supra* note 122, at 762-63; Stracher, *supra* note 9, at 356-58.

134. Cotton, *supra* note 35, at 974-75 (“Instead, appointments and tenure committees should evaluate scholarship without regard to where it is published, for the best scholarship is not published only in the top reviews, and the top reviews don't publish only the best scholarship.”); Stracher, *supra* note 9, at 358 (“But even if some faculty shirk their responsibility to independently evaluate their colleagues' scholarship and instead rely on the evaluations of their own student-run law reviews (another irony, to be sure), this is a criticism of the tenure and promotion process, not law reviews.”).

135. Hunter, *supra* note 122, at 764 (“But once it gets through this stage, there is little editing to improve the quality of the writing, there is almost no proofreading of articles, and absolutely no citation checking at all. The reason for this is simple: editing costs money . . . .”); Posner, *The Future*, *supra* note 5, at 1134 (stating cite-checking is “a useful service rarely offered by faculty-edited journals and never by publishers of books.”).

136. Hunter, *supra* note 122, at 765.

137. Cotton, *supra* note 35, at 978; Nichols, *supra* note 124, at 1129.

138. Stracher, *supra* note 9, at 358.

139. John Paul Jones, *In Praise of Student-Edited Law Reviews: A Reply to Professor Dekanal*, 57 UMKC L. REV. 241, 241 (1989)

(Having professors edit law reviews sounds best the first time you hear it. It resonates with the presumption that an enormous gap exists between teacher and taught, that teachers are better at legal thinking and writing than their

Law reviews have created safeguards to compensate for students' lack of legal knowledge and editing experience.<sup>140</sup> For example, law reviews frequently use multiple editors.<sup>141</sup> Moreover, in each round of editing, several students are involved in the editing process and a student editor evaluates the suggested edits before sending them to the author.<sup>142</sup> Another safeguard is that many law reviews permit authors to decide which edits to accept or reject.<sup>143</sup> Multiple editing may be inefficient and frustrating, but it gives authors different perspectives on how to improve their articles and generally produces a well-edited article.<sup>144</sup> Student editing also has strengths that compensate for its weaknesses.<sup>145</sup> Because law reviews use students rather than law professors, they have large staffs that can carefully review and edit accepted articles and can ensure that articles' citations are correct and in the proper form before publishing them.<sup>146</sup>

Having examined the arguments of critics and defenders of law reviews, we discuss in the next section prior studies of law reviews.

#### IV. PRIOR EMPIRICAL STUDIES OF LAW REVIEWS

There are two earlier empirical studies about law reviews. In 1992, Max Stier, Kelly Klaus, Dam Bagatell, and Jeffrey Rachlinski surveyed 90 law professors, 166 attorneys, and 124 judges.<sup>147</sup> They determined how often respondents used law

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students. On the contrary, any year, any law school produces graduates better at thinking and communicating about the law than some or all of its faculty. This is not meant as an admission of our collective shortcomings, but as a declaration of our achievement.).

140. Cotton, *supra* note 35, at 982 ("Over time, student-edited law reviews have developed processes, including preemption checks and multiple-round editing, that compensate for the lack of specialized knowledge and variance in editorial capability of students.").

141. *Id.* at 979.

142. *Id.* at 980

(More specifically, in each round, several students suggest changes, with varying quality. The sum of these changes are reviewed by a board member within the review who eliminates erroneous or ill advised suggestions, and sends the results to the author to accept or reject individually. The process is then repeated.).

143. *Id.*

144. *Id.*

145. *Id.* at 979.

146. Cotton, *supra* note 35, at 979.

147. Stier et al., *supra* note 61, at 1478.

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reviews, whether respondents believed law reviews successfully accomplished their goals, and what changes they believed law reviews should make.<sup>148</sup> They found that law professors frequently used law reviews, primarily for academic purposes; while attorneys and judges used them much less frequently and primarily for practical purposes.<sup>149</sup> Stier et al. also determined whether law review membership helped students obtain employment. Respondents to the survey believed that law review membership was a particularly useful credential for obtaining elite jobs such as federal judicial clerkships and law professor positions.<sup>150</sup> Next, Stier et al. inquired whether law reviews benefit students. Most respondents believed that law reviews improved students' research, writing, and editing skills but were of limited value in improving their legal knowledge. The majority of respondents reported that they were satisfied with their own law review experience.<sup>151</sup>

Stier et al. asked respondents if law reviews were successful in achieving the following goals:

stimulating academic interest; suggesting theoretical frameworks for analysis; evaluating the effectiveness of existing law or alternatives; providing a general overview of existing law; tracking current developments in general practice areas; identifying new approaches toward legal topics; finding cases or support for specific positions in legal documents; and training students as writers, editors, and researchers.<sup>152</sup>

Respondents generally believed that law reviews were somewhat successful in achieving all these goals.<sup>153</sup> Stier et al. then inquired what respondents thought of the different types of material that law reviews publish. Respondents uniformly believed that full-length articles were the most useful type of law review publication.<sup>154</sup>

Stier et al. also asked whether law reviews should

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148. Stier et al., *supra* note 61, at 1475-76.

149. *Id.* at 1483-86.

150. *Id.* at 1487-90.

151. *Id.* at 1491-92.

152. *Id.* at 1492-93.

153. *Id.* at 1492-95.

154. Stier et al., *supra* note 61, at 1495-98.

implement the following reforms: shorten articles, make them less theoretical, and decrease the number of footnotes. All three groups of respondents favored these reforms.<sup>155</sup> Next, they requested respondents to rate how much attention law reviews should devote to twelve legal topics. The responses of the three groups of participants varied widely, though all three groups wanted more articles about legal ethics, corporate and commercial law, and tort law.<sup>156</sup> Lastly, Stier et al. ascertained whether respondents thought students should select and edit articles for law reviews. All three groups of respondents strongly favored students selecting and editing articles for law reviews, though their support was stronger for student editing than for student selection of articles.<sup>157</sup> In addition, many respondents who favored student editing and selection of articles wanted greater faculty supervision and participation in law reviews.<sup>158</sup>

Stier et al. concluded about their survey:

Henceforth, the critical literature ought to be informed by empirical data instead of personal anecdotes. While this survey constitutes but a first step toward a more meaningful debate, it does support several conclusions. Our results suggest that radical change is neither necessary nor desired: Student selection and editing of law review articles are quite popular among all segments of the legal community, and the members of that community find the selected articles themselves to be useful.<sup>159</sup>

In 2004, the *Harvard Law Review* conducted an online “Usage Study” of approximately 780 law professors.<sup>160</sup> Besides determining that more than 85% of the respondents thought law review articles are too long or somewhat too long, the survey also found the following:<sup>161</sup> The two most common reasons law professors in the survey used law reviews were for “keeping

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155. Stier et al., *supra* note 61, at 1498-99.

156. *Id.* at 1499-1502.

157. *Id.* at 1502-04.

158. *Id.* at 1503.

159. *Id.* at 1504.

160. *Submissions*, *supra* note 18; Powerpoint: Law Review Usage Survey Results, July 2005 (June 4, 2012), *available at* <http://www.harvardlawreview.org/submissions/php>.

161. Powerpoint: Law Review Usage Survey Results, July 2005 (June 4, 2012), at slide 2, *available at* <http://www.harvardlawreview.org/submissions/php>.

abreast of developments” in their fields and for “specific research questions.”<sup>162</sup> The two most frequent methods law professors employed to identify relevant law review articles were “online database research” and “from a citation in another article.”<sup>163</sup>

A total of 69.4% of the law professors in the survey were at least somewhat satisfied with student editing of articles.<sup>164</sup> Of the law professors in the survey, 40.9% believed they received the right amount of feedback during the editing process.<sup>165</sup> In addition, 64.9% of the law professors found the quality of the editing feedback very useful, useful, or somewhat useful.<sup>166</sup> The survey also addressed the quality of law review publications. A total of 40.2% of the law professors thought that the “current scholarship” in law reviews was excellent or good with a plurality of 43.2% of professors believing that it was fair.<sup>167</sup> As for the quality of student writing in law reviews, 35.3% of the law professors thought it was excellent or good, and another 48.5% of professors thought it was fair.<sup>168</sup>

While these prior studies offer some useful information about whether the legal community is satisfied with law reviews, whether law reviews require reforms, and what reforms should be implemented; the information they provide is limited, incomplete, and outdated. Moreover, they do not include the beliefs of one of the primary stakeholders in law reviews: student editors. Accordingly, we conducted our own survey to more comprehensively answer these critical questions.

## V. STUDY'S METHODOLOGY

We surveyed law professors, student editors, attorneys, and judges to assess what they think about law reviews, whether reforms are needed, and what reforms should be implemented.

### A. RESPONDENTS

The questionnaire for the survey was posted on

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162. Powerpoint: Law Review Usage Survey Results, July 2005 (June 4, 2012), at slide 3, *available at* <http://www.harvardlawreview.org/submissions/php>.

163. *Id.* at slide 4.

164. *Id.* at slide 5.

165. *Id.* at slide 6.

166. *Id.* at slide 7.

167. *Id.* at slide 9.

168. Law Review Usage Survey Results, *supra* note 162, at slide 10.

*SurveyMonkey*. An email with a link to the survey was sent to most student law reviews listed on the website of *Washington and Lee's Law Journals: Submissions and Ranking*. Individual emails with a link to the survey were sent to law professors listed on the websites of approximately 90% of the 200 ABA approved law schools. A few law school websites did not list professors' email addresses, and some law school websites made it difficult to contact their law professors by email. Attorneys were recruited from firms' webpages and from members of a state bar association and a state attorneys' association. Individual emails with a link to the survey were sent to attorneys who were members of firms. Group emails with a link to the survey were sent to the attorneys who were the members of the legal organizations.

We used the *American Bench* to determine judges' email addresses. We sent individual emails with a link to the survey to federal and state judges from Alabama, California, Colorado, Indiana, Montana, New York, South Carolina, Tennessee, and Washington. Many judges who are listed in the *American Bench* do not publish their email addresses. The above states were selected because they had the most judges who listed their email addresses. Nonetheless, even in the selected states, many judges did not list an email address, and in some cases the email addresses were incorrect or out of date. Therefore, not all federal and state judges in the aforementioned states could be contacted about the survey. All emails were sent in 2010. One email with a link to the survey was sent to the respondents except for the student editors, who received two emails.

A total of 1,325 law professors, 338 student editors, 215 attorneys, and 156 judges took the survey. Of the 1,325 law professors who participated in the survey, 866 (65%) were tenured, 383 (29%) were not tenured, and 76 (6%) did not indicate whether they were tenured. Of the 215 attorneys who participated in the survey, 96 (45%) were members of law firms, 29 (13%) were solo practitioners, 15 (7%) were corporate counsels, 10 (5%) were state prosecutors, 6 (3%) worked for a corporation, 4 (2%) were federal prosecutors, 3 (1%) were private defense attorneys, 3 (1%) were federal defense attorneys, 2 (1%) were state defense attorneys, 44 (20%) listed "other" for their current position, and 3 (1%) did not list their current employment. The law firms of the attorneys who participated in the survey ranged in size from 1 attorney to a 1,000 attorneys.

Of the 156 judges in the survey, 146 (94%) were state judges, 6 (4%) were federal judges, and 4 (3%) judges did not indicate whether they were a state or federal judge. A total of 133 (85%) judges were trial court judges, 19 (12%) were appellate judges, and 4 (3%) did not indicate what type of judge they were. The percentages for each of the four groups of participants were rounded off and therefore do not total 100%.

### **B. QUESTIONNAIRE**

The questionnaire took about 20-30 minutes to complete and consisted of seven sections. There was some missing data, but data from all respondents was included even if they did not complete the questionnaire. The first author, who is both an attorney and a psychologist, and has published several law review articles, drafted the questionnaire. Several law professors, student editors, and psychologists reviewed and suggested revisions for the questionnaire prior to its distribution. In Section I of the questionnaire, respondents answered 8 statements pertaining to the quality of law reviews' selection of articles for publication. In Section II, respondents answered 4 statements about law reviews' editing of articles. Section III contained 8 statements about factors that may affect the ability of law reviews to publish the best articles.

Section IV contained 7 statements that related to respondents' satisfaction with the current system of law reviews. Section V contained statements about 11 proposed reforms of law reviews. If a respondent favored a reform, in some instances there were follow-up questions to better ascertain the nature of the reform that the respondent favored. Respondents could recommend reforms that were not listed in the questionnaire. In Section VI, respondents also indicated 3 of the 11 proposed reforms they thought were the most important to implement to improve law reviews. Respondents could also answer that no reforms were needed, or write in a reform that was not listed. If they answered that no reforms were needed, they were instructed not to choose any of the proposed reforms or write in a reform.

Section VII requested demographic information and differed depending on whether the respondent was a law professor, student editor, attorney, or judge. Except for the follow-up questions, the question about the three most important law review reforms, and the demographic questions, the respondents used 7-point Likert-type scales to rate the statements in the

questionnaire. The 7-point Likert-type scales had labels of 1 = strongly disagree, 4 = neutral, and 7 = strongly agree.

### C. DATA ANALYSIS

We primarily used one-way independent ANOVAs to analyze the data because there were four groups of respondents. ANOVAs determine if there are significant differences between three or more groups.<sup>169</sup> Because ANOVAs only determine that there is a difference in group means, but do not specify which groups differ, we also conducted *post hoc* tests (i.e., follow-up tests) to determine which groups differed.<sup>170</sup> We used two types of follow up tests: the Games-Howell test when the population variances were not equal, and the Hochberg's GT2 when the population variances were equal.<sup>171</sup>

## VI. RESULTS

### A. SELECTING ARTICLES FOR PUBLICATION

The 8 statements in Section I of the questionnaire evaluated whether respondents believed that law reviews do a good job in

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169. ANDY FIELD, *DISCOVERING STATISTICS USING SPSS 348* (3rd ed. 2009). An analysis of variance (ANOVA) is "a statistical procedures that uses the *F*-ratio to test the overall fit of a linear model. In experimental research this linear model tends to be defined in terms of group means and the resulting ANOVA is therefore an overall test of whether groups means differ." *Id.* at 781. Because we were concerned that in some instances some of the data may not have been normally distributed, we also used non-parametric statistics to analyze the data. Because there were no significant differences in the results between the parametric and non-parametric statistics and because most readers are more familiar with parametric statistics, we only report the results from the parametric statistics. The results from the use of non-parametric statistics are available upon request.

170. *Id.* at 349. A post-hoc test is "a set of comparisons between group means that were not thought of before data were collected. Typically these tests involve comparing the means of all combinations of pairs of groups. To compensate for the number of tests conducted, each test uses a strict criterion for significance. As such they tend to have less power than planned contrasts. They are usually used for exploratory work for which no firm hypotheses were available on which to base planned contrasts." *Id.* at 791-792.

171. *Id.* at 374-75. "If there is any doubt that the population variances are equal then use the Games-Howell procedure because this generally seems to offer the best performance." *Id.* at 375. Hochberg's GT2 and Gabriel's pairwise test procedure were designed to cope with situations in which sample sizes are different. Gabriel's procedure is generally more powerful but can become too liberal when the sample sizes are very different." *Id.* at 374. Variance is "an estimate of average variability (spread) of a set of data. It is the sum of squares divided by the number of values on which the sum of squares is based minus 1." *Id.* at 796.

selecting articles for publication.<sup>172</sup> The respondents used 7-point Likert-type scales with labels of 1 = strongly disagree, 4 = neutral, 7 = strongly agree to evaluate the 8 statements in Section I. Table 1 and Figure 1 below summarize the results.<sup>173</sup>

To obtain a global assessment of respondents' beliefs about the quality of article selection by law reviews, we combined the 8 statements in Section I into a "selection scale."<sup>174</sup> There was a significant difference in the groups' scores on the selection scale.<sup>175</sup> A follow-up test showed that the law professors' ( $M = 3.11$ ,  $SD = 1.07$ )<sup>176</sup> scores on the selection scale were significantly lower than the attorneys' ( $M = 4.08$ ,  $SD = 1.02$ ), judges' ( $M = 4.36$ ,  $SD = .92$ ), and student editors' scores ( $M = 4.57$ ,  $SD = 1.07$ ) (all  $ps < .001$ ). The attorneys' scores on the selection scale were significantly lower than the student editors' ( $p < .001$ ) and the judges' scores ( $p < .05$ ). The judges' and the student editors' ratings on the selection scale did not significantly differ ( $p > .05$ ).

Not only did the law professors have the lowest score on the selection scale, but they also gave significantly lower ratings than

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172. The 8 statements in section I of the questionnaire were: (1) Law reviews do a good job evaluating an article's contribution to legal scholarship. (2) Law reviews do a poor job evaluating the usefulness and importance of an article to judges and attorneys. (3) Law reviews do a good job evaluating the quality of an article's reasoning and arguments. (4) Law reviews do a good job evaluating how well an article is written. (5) Law reviews do a good job evaluating how original, creative, and innovative an article is. (6) Law reviews place too much emphasis on an author's reputation and institutional affiliation in selecting an article. (7) Law reviews do a poor job in giving all articles adequate and full consideration before making a publication decision. (8) Overall law reviews do a good job in selecting articles.

173. See *supra* Section VI.D.

174. The scale had a Cronbach's  $\alpha = .88$ . Cronbach's alpha is a measure of the reliability of a scale. Generally a value of .7 to .8 is considered satisfactory, though it can depend on the number of items in the scale and the nature of the scale. FIELD, *supra* note 169, at 674-76.

175.  $F(3, 427.67) = 226.80$ ,  $p < .001$ ,  $w = .50$ .  $P$  stands for probability and indicates the likelihood that an outcome occurred by chance. An outcome is considered significant if there is less than a 5% probability that it occurred by chance. FIELD, *supra* note 169, at 53.  $W$  is a measure of effect size for a one-way ANOVA. *Id.* at 389. Effect size is "an objective and (usually) standardized measure of the magnitude of an observed effect." *Id.* at 785.

176.  $M$  stands for the mean and  $SD$  stands for standard deviation. The mean "is a simple statistical model of the centre of distribution of scores. A hypothetical estimate of the 'typical' score." FIELD, *supra* note 169, at 789. The standard deviation "is an estimate of the average variability (spread) of a set of data measured in the same units of measurement as the original data. It is the square root of the variance." *Id.* at 794.

the other three groups for all 8 statements<sup>177</sup> in Section I (all  $ps < .01$ ). The law review editors gave significantly higher ratings than the other three groups on four of the 8 statements in Section I: statements 1 (an article's contribution to legal scholarship), 3 (quality of an article's reasoning), 4 (an article's writing quality), and 8 (overall article selection quality) (all  $ps < .05$ ). Attorneys and judges did not have significantly lower or higher ratings than the other groups on any of the 8 statements in Section I.

As indicated in the introduction, two of the major criticisms of law reviews' selection practices are that law reviews frequently select articles on the basis of the author's credentials and law school affiliation rather than on article quality (statement 6) and that they do not give all articles adequate consideration before making a publication decision (statement 7).<sup>178</sup> The law professors agreed ( $M = 6.01$ ,  $SD = 1.26$ ) that law reviews place too much emphasis on an author's reputation and law school affiliation in selecting articles.

We determined whether the ranking of a professor's law school affected his or her answer to this statement. We divided law schools into the Top 15, Top 15-25, Top 26-50, Top 51-100, Top 101-145, and unranked law schools.<sup>179</sup> There was a significant difference in professors' responses to this statement depending on their law school's ranking.<sup>180</sup> Professors at the Top 15 law schools gave a significantly lower rating to this statement ( $M = 5.07$ ,  $SD = 1.42$ ) than professors at all the lower ranked law schools. Professors at the Top 16-25 rated law schools ( $M = 5.70$ ,

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177. The results of the one-way ANOVA for statement 1 was  $F(3, 444.33) = 160.59$ ,  $p < .001$ ,  $w = .43$ ; for statement 2, it was  $F(3, 2015) = 39.21$ ,  $p < .001$ ,  $w = .23$ ; for statement 3, it was  $F(3, 448.42) = 118.72$ ,  $p < .001$ ,  $w = .38$ ; for statement 4, it was  $F(3, 445.86) = 106.44$ ,  $p < .001$ ,  $w = .35$ ; for statement 5, it was  $F(3, 447.31) = 157.53$ ,  $p < .001$ ,  $w = .43$ ; for statement 6, it was  $F(3, 409.87) = 136.51$ ,  $p < .001$ ,  $w = .42$ ; for statement 7, it was  $F(3, 451.87) = 123.59$ ,  $p < .001$ ,  $w = .39$ ; and for statement 8, it was  $F(3, 440.77) = 135.02$ ,  $p < .001$ ,  $w = .40$ . To control for familywise error, we used a significance level of  $p < .00625$  rather than  $p < .05$  for the one-way ANOVAs for the 8 statements.

178. See *supra* notes 29 and 46 and accompanying text; see also *supra* Part II.

179. There were a total of 93 law professors in the Top 15 ranked law schools, 74 in the Top 15-25, 160 in the Top 26-50, 214 in the Top 51-100, 187 in the Top 101-145, and 163 in the unranked law schools. In addition, 434 law professors did not indicate where they were a law professor. We used *U.S. News and World Report's* rankings of law schools for 2012.

180.  $F(5, 326.79) = 11.62$ ,  $p < .001$ ,  $w = .27$ .

$SD = 1.38$ ) also gave a significantly lower rating to this statement than professors at the unranked law schools ( $M = 6.28$ ,  $SD = 1.24$ ) ( $p < .05$ ), but their ratings did not significantly differ from ratings of the professors at the other lower ranked schools. Professors' ratings of this statement at the Top 26-50 ( $M = 5.99$ ,  $SD = 1.25$ ), Top 51-100 ( $M = 6.14$ ,  $SD = 1.07$ ), Top 101-145 ( $M = 6.18$ ,  $SD = 1.20$ ), and unranked law schools did not significantly differ. In short, though professors at the top ranked law schools believed that law reviews place too great an emphasis on a law professors' reputation and law school affiliation in article selection, they believed it was significantly less of a problem than did the professors at lower ranked schools.

The student editors ( $M = 4.92$ ,  $SD = 1.75$ ) also agreed to a lesser extent that law reviews place too much emphasis in article selection on an author's reputation and law school affiliation. The student editors' responses to this statement were significantly higher than the responses of the attorneys ( $M = 4.61$ ,  $SD = 1.53$ ) and the judges ( $M = 4.24$ ,  $SD = 1.43$ ), whose responses did not significantly differ ( $p > .05$ ).

The law professors further agreed ( $M = 5.30$ ,  $SD 1.51$ ) that law reviews do a poor job of giving all articles adequate consideration before making a publication decision (statement 7). The law professors' responses to statement 7, however, varied somewhat depending on their law school's ranking.<sup>181</sup> Law professors at the Top 15 ( $M = 4.83$ ,  $SD = 1.64$ ) ranked law schools gave significantly lower ratings to this statement than professors at the Top 26-50 ranked law schools ( $M = 5.42$ ,  $SD = 1.60$ ) ( $p < .05$ ) and at the unranked law schools ( $M = 5.41$ ,  $SD = 1.48$ ), but not than professors at the Top 16-25 ( $M = 4.97$ ,  $SD = 1.60$ ), Top 51-100 ( $M = 5.35$ ,  $SD = 1.63$ ), or Top 101-145 ( $M = 5.37$ ,  $SD = 1.44$ ) ranked law schools (all  $ps > .05$ ). Law professors' ratings of this statement at the Top 16-25, Top 26-50, Top 51-100, Top 101-145, and unranked law schools did not significantly differ (all  $ps > .05$ ).<sup>182</sup> The student editors, attorneys, and judges were neutral in their responses to whether law reviews give adequate consideration to all articles before making a publication decision (all  $M$ s between 3.83 and 4.16). Their responses to this statement did not significantly differ (all  $ps > .05$ ).

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181.  $F(5, 877) = 2.74$ ,  $p < .001$ ,  $w = .10$ .

182. A professor's law school ranking did not have a significant effect on professors' scores on the selection scale  $F(5, 848) = 1.65$ ,  $p > .05$ ,  $w = .10$ .

The law professors expressed two other major concerns about article selection.<sup>183</sup> They generally agreed that law reviews do a poor job evaluating an article's contribution to legal scholarship ( $M = 3.07$ ,  $SD = 1.56$ ) (statement 1) and assessing how original, creative, and innovative an article is ( $M = 2.97$ ,  $SD = 1.54$ ) (statement 5). Law professors' ratings of these two statements did not vary by their law school's ranking ( $p >.05$ ), and as previously stated, their ratings were significantly lower than the ratings of the other three groups for both statements (all  $ps <.001$ ). In contrast, the student editors ( $M = 4.83$ ,  $SD = 1.48$ ) gave significantly higher ratings than the other three groups on law reviews' ability to evaluate an article's contribution to legal scholarship ( $p <.05$ ). They also gave significantly higher ratings ( $M = 4.59$ ,  $SD = 1.55$ ) than the law professors and attorneys ( $M = 4.17$ ,  $SD = 1.37$ ) ( $p <.01$ ) to law reviews' ability to determine how original, creative, and innovative an article is. Their ratings on this statement, however, did not differ significantly from the judges' ratings ( $M = 4.56$ ,  $SD = 1.29$ ) ( $p >.05$ ).

In summary, the law professors believed that law reviews need to do a better job of selecting articles for publication. The attorneys were generally neutral about this important issue. The student editors and, to a lesser extent, the judges, generally had a more favorable view of the quality of law reviews' article selection than the other two groups.

**TABLE 1: SELECTION OF ARTICLES**

(Note:  $n$  = the number of respondents,  $M$  = mean,  $SD$  = Standard Deviation)

Statement	Law professors		Student editors		Attorneys		Judges	
	$n$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )	$N$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )
Law reviews do a good job evaluating an article's contribution to legal scholarship.	1322	3.07 (1.56)	337	4.83 (1.48)	214	4.24 (1.47)	153	4.45 (1.38)

183. The Games-Howell follow up test showed that law professors' ratings of these two statements were significantly lower than the other three groups (all  $ps <.001$ ).

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Law reviews do a poor job evaluating the usefulness and importance of an article to judges and attorneys.	1316	4.79 (1.66)	336	3.79 (1.58)	21 4	4.35 (1.73)	15 3	4.01 (1.72)
Law reviews do a good job evaluating the quality of an article's reasoning and arguments.	1315	3.64 (1.56)	334	5.18 (1.43)	21 2	4.49 (1.43)	15 2	4.76 (1.27)
Law reviews do a good job evaluating how well an article is written.	1307	4.16 (1.61)	336	5.68 (1.37)	21 0	4.80 (1.38)	14 9	4.84 (1.33)
Law reviews do a good job evaluating how original, creative, and innovative an article is.	1317	2.97 (1.54)	336	4.59 (1.55)	21 2	4.17 (1.37)	15 3	4.56 (1.3)
Law reviews place too much emphasis on an author's reputation and institutional affiliation in selecting an article.	1310	6.01 (1.26)	333	4.92 (1.75)	21 4	4.61 (1.53)	15 2	4.24 (1.43)
Law reviews do a poor job of giving all articles adequate consideration before making a publication decision.	1310	5.30 (1.51)	334	3.83 (1.75)	21 3	4.16 (1.4)	15 3	3.95 (1.14)

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Overall, law	1321	3.16	336	4.78	21	4.01	15	4.37
reviews do a		(1.53)		(1.41)	4	(1.5)	3	(1.4)
good job in								
selecting articles.								

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## B. EDITING ARTICLES

Respondents in Section II of the questionnaire evaluated the quality of law review editing by answering 4 statements that used 7-point-Likert-type scales (1= strongly disagree, 4 = neutral, 7 = strongly agree).<sup>184</sup> Table 2 and Figure 1 below present the results for the 4 statements.<sup>185</sup> To obtain a comprehensive measure of respondents' beliefs about the quality of law review editing, we combined the 4 statements in Section II into an "editing scale."<sup>186</sup>

The four groups of respondents differed in their scores on the editing scale.<sup>187</sup> Follow-up tests showed that law professors ( $M = 3.57$ ,  $SD = 1.08$ ) rated the quality of law review editing significantly lower than attorneys ( $M = 4.33$ ,  $SD = .91$ ), judges ( $M = 4.53$ ,  $SD = .72$ ), and student editors ( $M = 4.86$ ,  $SD = 1.02$ ) (all  $ps < .001$ ); while student editors rated it significantly higher than the other three groups did (all  $ps < .001$ ). The attorneys and judges did not significantly differ in their ratings of editing quality ( $p > .05$ ). The law professors' ratings on all four statements<sup>188</sup> indicate significantly greater dissatisfaction with law reviews' editing than the other three groups (all  $ps < .001$ ). In contrast, the student editors' ratings of editing quality were significantly higher than the other three groups for statements 1

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184. The four statements in Section II were: (1) Law reviews do a poor job improving the writing quality of articles. (2) Law reviews do a good job improving the quality of an article's arguments, analytical reasoning, and ideas. (3) Law reviews do a good job of limiting the amount of time authors spend in making revisions to articles. (4) Overall, law reviews do a good job of editing articles.

185. See *supra* Section VI.D, for Figure 1.

186. The scale had a Cronbach's  $\alpha = .75$ .

187.  $F(3, 468.93) = 182.35, p < .001, w = .45$ .

188. The results of the one-way ANOVA for statement 1 was  $F(3, 448.90) = 108.96, p < .001, w = .37$ ; for statement 2 it was  $F(3, 462.76) = 108.96, p < .001, w = .32$ ; for statement 3 it was  $F(3, 502.57) = 44.06, p < .001, w = .25$ ; and for statement 4 it was  $F(3, 453.65) = 164.18, p < .001, w = .43$ . To control for familywise error, we used a significance level of  $p < .0125$ , rather than  $p < .05$  for the one-way ANOVAs for the 4 statements.

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(improve writing quality), 3 (limit revisions), and 4 (overall editing quality) ( $p < .01$ ), but did not significantly differ from the attorneys and judges' ratings for statement 2 (improving arguments) ( $p > .05$ ).

Like Stier et al., we determined whether the respondents believed that law reviews do a better job in selecting or editing articles.<sup>189</sup> Our results were similar to the Stier et al study.<sup>190</sup> The attorneys,<sup>191</sup> judges,<sup>192</sup> law professors,<sup>193</sup> and even the student editors<sup>194</sup> all believed that law reviews do a better job editing than selecting articles.

**TABLE 2: EDITING OF ARTICLES**

(Note:  $n$  = the number of respondents,  $M$  = mean,  $SD$  = Standard Deviation)

Statement	Law professors		Student editors		Attorneys		Judges	
	$n$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )	$N$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )
Law reviews do a poor job improving the writing quality of articles.	1318	4.39 (1.62)	337	2.77 (1.64)	214	3.50 (1.44)	152	3.31 (1.34)
Law reviews do a good job improving the quality of an	1321	3.27 (1.48)	336	4.27 (1.47)	214	4.15 (1.28)	152	4.53 (1.04)

189. Stier et al., *supra* note 61, at 1502.

190. *Id.*

191. Editing ( $M = 4.31$ ,  $SD = .90$ ); selecting articles ( $M = 4.08$ ,  $SD = 1.02$ );  $t(203) = -3.98$ ,  $p < .001$ ,  $r = .27$ .  $T$  stands for independent t-tests, which is "a test using the t-statistic that establishes whether two means collected from independent samples differ significantly." FIELD, *supra* note 169, at 787. The  $r$  at the end of the statistics stands for Pearson's correlation coefficient and is a measure of effect size. Effect size is "simply an objective and (usually) standardized measure of the magnitude of observed effect." Typically  $r = .10$  is a small effect,  $r = .30$  is a medium effect and  $r = .50$  is a large effect. *Id.* at 56-57.

192. Editing ( $M = 4.53$ ,  $SD = .71$ ); selecting articles ( $M = 4.34$ ,  $SD = .90$ );  $t(145) = -3.26$ ,  $p > .01$ ,  $r = .26$ .

193. Editing ( $M = 3.57$ ,  $SD = 1.08$ ); selecting articles ( $M = 3.11$ ,  $SD = 1.07$ );  $t(1256) = -15.59$ ,  $p < .001$ ,  $r = .40$ .

194. Editing ( $M = 4.86$ ,  $SD = 1.02$ ); selecting articles ( $M = 4.57$ ,  $SD = 1.07$ );  $t(324) = -5.81$ ,  $p < .001$ ,  $r = .31$ .

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article's arguments, analytical reasoning, and ideas.								
Law reviews do a good job of limiting the amount of time authors spend in making revisions to articles.	1320	3.65 (1.38)	336	4.54 (1.38)	213	4.01 (1.02)	152	4.13 (.72)
Overall, law reviews do a good job of editing articles.	1317	3.72 (1.42)	337	5.39 (1.3)	213	4.66 (1.24)	152	4.76 (1.13)

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### C. FACTORS THAT MAY HARM LAW REVIEWS

In Section III of the questionnaire, we asked respondents to use 7-point Likert type scales (1 = strongly disagree, 4 = neutral, 7 = strongly agree) to evaluate 8 factors that may impair law reviews' ability to select and edit articles.<sup>195</sup> Table 3 and Figure 1 below summarize the results.<sup>196</sup> To formulate an overall measure of respondents' beliefs about the harmfulness of the 8 factors to law reviews, we aggregated the factors into a "harmfulness scale."<sup>197</sup> The groups' scores on the harmfulness scale differed.<sup>198</sup> A follow-up test showed that law professors scored significantly

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195. The 8 statements were: (1) Time pressures to select an article for publication before another law review selects it hurt law reviews' ability to select the best articles. (2) The number of articles submitted to law reviews does not hurt their ability to select the best articles. (3) Multiple submissions of an article to different law reviews hurts their ability to select the best articles. (4) Student editors' level of legal knowledge hurts the ability of law reviews to select the best articles. (5) The level of faculty oversight hurts the ability of law reviews to publish the best articles. (6) Permitting expedited reviews does not hurt the ability of law reviews to publish the best articles (i.e., speeding up the review process when an article has been accepted in another law review). (7) The right of an author not to publish an article with a law review that has accepted the article hurts the ability of law reviews to publish the best articles. (8) The amount of time students have to devote to the selection and editing of articles does not hurt the ability of law reviews to publish the best articles.

196. See *supra* Section VI.D, for Figure 1.

197. The scale had a Cronbach's  $\alpha = .72$ .

198.  $F(3, 442.10) = 53.25, p < .001, w = .26$ .

higher on the harmfulness scale ( $M = 4.57$ ,  $SD = .85$ ) than the other groups (all  $ps < .001$ ). The scores on the harmfulness scale for the attorneys ( $M = 4.09$ ,  $SD = .70$ ), judges ( $M = 4.04$ ,  $SD = .64$ ), and student editors ( $M = 4.14$ ,  $SD = .95$ ) did not significantly differ (all  $ps > .05$ ).

To further assess how the different groups believed these 8 factors affect law reviews, we examined their responses to each factor (See Table 3). All four groups were close to neutral about the effects of factors 3 (multiple submissions) (all  $M$ s between 3.79-4.12), 6 (expedited reviews) (All  $M$ s between 4.08-4.20), and 7 (right not to publish an article if accepted) (All  $M$ s between 3.68-4.31) on law reviews. Law professors were significantly more likely than the other groups to believe that the following factors hurt law reviews: 2 (number of articles submitted to law reviews) ( $M = 5.16$ ,  $SD = 1.48$ ),<sup>199</sup> 4 (student editors' legal knowledge) ( $M = 5.72$ ,  $SD = 1.37$ ), 5 (level of faculty oversight of law reviews) ( $M = 4.67$ ,  $SD = 1.60$ ), and 8 (time student editors have to work on law review) ( $M = 4.55$ ,  $SD = 1.46$ )<sup>200</sup> (all  $ps < .001$ ).<sup>201</sup>

The attorneys ( $M = 4.85$ ,  $SD = 1.45$ ) were significantly more likely than the student editors ( $M = 4.21$ ,  $SD = 1.76$ ) to believe that student editors' level of legal knowledge harms law reviews. The judges ( $M = 4.56$ ,  $SD = 1.51$ ) and student editors' responses to this statement, however, did not significantly differ. The student editors ( $M = 3.26$ ,  $SD = 1.76$ ) were significantly less likely than the other groups to think that factor 5 (level of faculty involvement) hurts law reviews (all  $ps < .001$ ). The student

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199. The actual mean was 2.84 not 5.16, but we reverse scored it in the text, but not in Table 3, to make it comparable to the means for the other statements because statement 2 was phrased in the negative in the questionnaire (i.e., the number of articles submitted to law reviews does NOT hurt their ability to select the best articles). FIELD, *supra* note 169, at 676.

200. The mean was actually 3.45, but we reverse scored it to make it comparable to the other scores.

201. The results of the one-way ANOVA for statement 1 was  $F(3, 464.89) = 29.56$ ,  $p < .001$ ,  $w = .17$ ; for statement 2 it was  $F(3, 458.23) = 103.99$ ,  $p < .001$ ,  $w = .32$ ; for statement 3 it was  $F(3, 478.20) = 6.49$ ,  $p < .001$ ,  $w = .07$ ; and for statement 4 it was  $F(3, 413.06) = 101.03$ ,  $p < .001$ ,  $w = .39$ ; for statement 5 it was  $F(3, 444.11) = 72.05$ ,  $p < .001$ ,  $w = .32$ ; for statement 6 it was  $F(3, 468.07) = .45$ ,  $p > .00625$ ,  $w = 0$ ; for statement 7 it was  $F(3, 458.00) = 16.80$ ,  $p < .001$ ,  $w = .16$ ; for statement 8 it was  $F(3, 445.03) = 15.50$ ,  $p < .001$ ,  $w = .15$ . To control for familywise error, we used a significance level of  $p < .00625$  rather than  $p < .05$  for the one-way ANOVAs for the 8 statements.

editors' ( $M = 4.98$ ,  $SD = 1.50$ ) and law professors' ratings ( $M = 4.78$ ,  $SD = 1.34$ ) for factor 1 (pressure to quickly accept an article) did not significantly differ ( $p > .05$ ). Both groups, however, were significantly more likely than the attorneys ( $M = 4.25$ ,  $SD = 1.16$ ) and judges ( $M = 4.21$ ,  $SD = .91$ ) (all  $ps < .001$ ) to believe that the pressure to quickly accept articles harms law reviews.

The 3 factors that the respondents as a whole thought had the most harmful effects on law reviews were factor 5 (student editor's legal knowledge) ( $M = 5.29$ ,  $SD = 1.58$ ), factor 2 (number of articles submitted to law reviews) ( $M = 4.82$ ,  $SD = 1.56$ ), and factor 1 (pressure to quickly accept an article) ( $M = 4.71$ ,  $SD = 1.34$ ). The three factors that respondents as a whole thought had the least negative effect on law reviews were: factor 7 (the right not to publish an accepted article) ( $M = 3.85$ ,  $SD = 1.53$ ), factor 6 (expedited reviews) ( $M = 3.89$ ,  $SD = 1.38$ ), and factor 3 (multiple submissions of an article to law reviews) ( $M = 4.04$ ,  $SD = 1.57$ ).<sup>202</sup>

**TABLE 3: FACTORS THAT MAY HARM LAW REVIEWS**

(Note:  $n$  = the number of respondents,  $M$  = mean,  $SD$  = Standard Deviation)

Statement	Law professors		Student editors		Attorneys		Judges	
	$n$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )	$N$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )
Time pressures to select an article for publication before another law review	1310	4.78 (1.34)	336	4.98 (1.50)	212	4.25 (1.16)	153	4.21 (.91)

202. If we calculated the three factors that respondents thought were the most and least harmful to law reviews by giving each of the four groups equal weight rather than by letting group size affect the outcome, then we would obtain the following results: The three factors that the respondents thought were the *most* harmful to law reviews were 4 (students' level of legal knowledge) ( $M = 4.84$ ,  $SD = 1.52$ ), 1 (pressure to quickly accept an article) ( $M = 4.56$ ,  $SD = 1.22$ ), and 2 (number of articles submitted to law reviews) ( $M = 4.36$ ,  $SD = 1.38$ ). The factors that were considered the *least* harmful were 6 (expedited reviews) ( $M = 3.88$ ,  $SD = 1.30$ ), 3 (multiple submissions of an article to law reviews) ( $M = 3.92$ ,  $SD = 1.38$ ), and 5 (level of faculty oversight) ( $M = 3.93$ ,  $SD = 1.55$ ). In short, the factors were the same for both analyses except for one factor in the least harmful factors. In the present analysis, factor 5 (the level of faculty oversight) replaced factor 7 (the right not to publish an accepted article) in the original analysis.

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selects it hurt law reviews' ability to select the best articles.								
The number of articles submitted to law reviews does NOT hurt their ability to select the best articles.	1312	2.84 (1.48)	336	3.53 (1.68)	210	3.98 (1.39)	153	4.22 (1.01)
Multiple submissions of an article to different law reviews hurt their ability to select the best articles.	1314	4.12 (1.65)	335	3.99 (1.57)	212	3.79 (1.29)	151	3.79 (1.02)
Student editors' level of legal knowledge hurts the ability of law reviews to select the best articles.	1312	5.72 (1.37)	335	4.21 (1.76)	209	4.85 (1.45)	151	4.56 (1.51)
The level of faculty oversight hurts the ability of law reviews to publish the best articles.	1301	4.67 (1.60)	335	3.26 (1.76)	212	3.92 (1.46)	153	3.88 (1.37)
Permitting expedited reviews does NOT hurt the ability of law reviews to publish the best articles.	1303	4.10 (1.41)	335	4.12 (1.53)	210	4.20 (1.20)	152	4.08 (.90)

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The right of an author not to publish an article with a law review that has accepted the article hurts the ability of law reviews to publish the best articles.	1306	3.68 (1.53)	337	4.31 (1.68)	212	3.98 (1.35)	153	4.08 (1.11)
The amount of time students have to devote to the selection and editing of articles does NOT hurt the ability of law reviews to publish the best articles.	1302	3.45 (1.46)	337	3.95 (1.68)	213	3.88 (1.30)	153	3.91 (1.23)

#### D. SATISFACTION WITH LAW REVIEWS

In Section IV of the questionnaire, respondents used a 7-point Likert-type scale (1 = strongly disagree, 4 = neutral, & 7 = strongly agree) to answer 7 statements about whether respondents were satisfied with law reviews.<sup>203</sup> Table 4 and Figure 1 below summarize the results. To obtain a comprehensive measure of respondents' satisfaction with law reviews, the 7 statements were combined into a "satisfaction scale."<sup>204</sup> The four groups differed in their satisfaction with law reviews.<sup>205</sup> A follow-up test indicated that the law professors

203. The 7 statements were: (1) I am satisfied with the overall quality of articles published in law reviews. (2) I believe law review articles are typically too long. (3) I believe law reviews do a good job of enhancing the legal knowledge and skills of their student members. (4) I am satisfied with the impact that law reviews have on law professors' careers including their ability to obtain tenure. (5) I believe law reviews do a good job meeting the needs of attorneys and judges. (6) Overall, I am satisfied with the current system of student-run law reviews. (7) I think the present system of student-run law reviews requires major changes.

204. The scale had a Cronbach's  $\alpha = .87$ .

205.  $F(3, 1962) = 99.88$ ,  $p < .001$ ,  $w = .36$ . Hochberg's GT 2 follow-up test was

( $M = 3.16$ ,  $SD = 1.16$ ) were significantly less satisfied with law reviews than the attorneys ( $M = 3.81$ ,  $SD = 1.20$ ), the judges ( $M = 4.06$ ,  $SD = 1.16$ ), and the student editors ( $M = 4.28$ ,  $SD = 1.23$ ) (all  $ps < .001$ ). The judges did not differ significantly in their satisfaction with law reviews from either the student editors or attorneys ( $ps > .05$ ), but the attorneys were significantly less satisfied with law reviews than the student editors ( $p < .001$ ).

There were significant differences in the groups' responses to all seven statements.<sup>206</sup> Law professors were significantly less satisfied with the overall quality of law review articles (statement 1) ( $M = 3.36$ ,  $SD = 1.59$ ) than the attorneys ( $M = 4.00$ ,  $SD = 1.57$ ), the judges ( $M = 4.39$ ,  $SD = 1.55$ ), and the student editors ( $M = 4.84$ ,  $SD = 1.46$ ) (all  $ps < .001$ ). In contrast, the student editors' were significantly more satisfied with article quality than the other three groups (all  $ps < .05$ ). The attorneys' and judges' satisfaction with article quality did not significantly differ ( $p > .05$ ). All four groups were concerned about article length (statement 2) though the law professors ( $M = 5.31$ ,  $SD = 1.59$ ) believed that article length was more of a problem than the other groups (all  $ps < .001$ ), while the attorneys' ( $M = 4.90$ ,  $SD = 1.53$ ), judges' ( $M = 4.78$ ,  $SD = 1.48$ ), and student editors' ( $M = 4.82$ ,  $SD = 1.67$ ) responses to this statement did not significantly differ (all  $ps > .05$ ).

All four groups agreed that law reviews enhance students' legal knowledge and skills (statement 3), though student editors ( $M = 5.48$ ,  $SD = 1.61$ ) and judges ( $M = 5.32$ ,  $SD = 1.28$ ) were significantly more likely to agree with this statement than the law professors ( $M = 4.82$ ,  $SD = 1.54$ ) and attorneys ( $M = 4.97$ ,  $SD = 1.55$ ) but not the judges ( $M = 5.32$ ,  $SD = 1.28$ ). Law professors ( $M = 3.15$ ,  $SD = 1.69$ ) were significantly less likely to be satisfied with the effect of law reviews on their careers (statement 4) than

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used because there was homogeneity of variance for the four groups, but their sizes varied. FIELD, *supra* note 169, at 372-75.

206. The results of the one-way ANOVA for statement 1 was  $F(3, 436.97) = 98.55$ ,  $p < .001$ ,  $w = .35$ ; for statement 2, it was  $F(3, 431.92) = 14.06$ ,  $p < .001$ ,  $w = .14$ ; for statement 3, it was  $F(3, 441.14) = 18.82$ ,  $p < .001$ ,  $w = .16$ ; for statement 4 it was  $F(3, 461.71) = 48.65$ ,  $p < .001$ ,  $w = .25$ ; for statement 5, it was  $F(3, 408.01) = 73.39$ ,  $p < .001$ ,  $w = .32$ ; for statement 6 it was  $F(3, 2010) = 105.26$ ,  $p < .001$ ,  $w = .37$ ; and for statement 7, it was  $F(3, 2016) = 68.80$ ,  $p < .001$ ,  $w = .30$ . To control for familywise error, we used a significance level of  $p < .00714$  rather than  $p < .05$  for the one-way ANOVAs for the 7 statements.

the other three groups (all  $ps < .001$ ), whose ratings (all  $M$ s between 3.79 and 4.21) did not significantly differ for this statement (all  $ps > .05$ ).

The law professors ( $M = 2.53$ ,  $SD = 1.37$ ), attorneys ( $M = 3.09$ ,  $SD = 1.72$ ), and judges ( $M = 3.45$ ,  $SD = 1.79$ ) all disagreed to some extent that law reviews do a good job meeting the needs of attorneys and judges (statement 5). Surprisingly, law professors gave significantly lower ratings to this statement, not only than the student editors ( $M = 3.82$ ,  $SD = 1.55$ ), but also than the attorneys and judges (all  $ps < .001$ ).<sup>207</sup> Judges' and attorneys' ratings of this statement did not significantly differ ( $p > .05$ ), but the attorneys' ratings of this statement were significantly lower than the student editors' ratings ( $p < .001$ ). The judges' and student editors' ratings of this statement did not significantly differ ( $p > .05$ ). Finally, law professors expressed considerable dissatisfaction with the current system of law reviews (statement 6) ( $M = 2.78$ ,  $SD = 1.66$ ) and also agreed that law reviews requires major changes (statement 7 ( $M = 5.15$ ,  $SD = 1.80$ ), while the other three groups were neutral about statement 6 (all  $M$ s between 3.88 and 4.29) and 7 (all  $M$ s between 3.83 and 4.18).

In sum, there was a general consensus among the respondents that law review articles are too long and that law reviews benefit students. Legal professionals, especially law professors and attorneys, disagreed that law reviews do a good job meeting the needs of attorneys and judges. Law professors were also concerned about the effects of law reviews on their careers. Law professors were dissatisfied with the current system of law reviews and tended to believe it requires major changes, while the other three groups were neutral about these vital issues.

**TABLE 4: SATISFACTION WITH LAW REVIEWS**

Statement	Law professors		Student editors		Attorneys		Judges	
	<i>n</i>	<i>M</i> ( <i>SD</i> )	<i>n</i>	<i>M</i> ( <i>SD</i> )	<i>N</i>	<i>M</i> ( <i>SD</i> )	<i>n</i>	<i>M</i> ( <i>SD</i> )

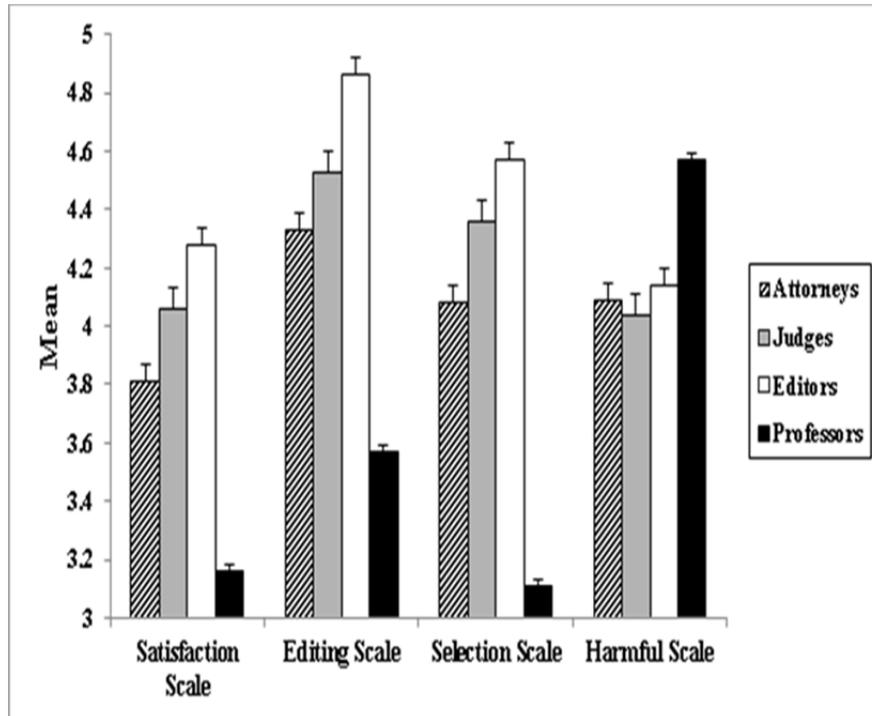
207. Because several attorneys and judges have criticized law reviews for publishing too many articles that are irrelevant to their needs and because law professors write most law review articles and student editors select and edit articles, we expected attorneys and judges to disagree most strongly with this statement.

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I am satisfied with the overall quality of articles published in law reviews.	1313	3.36 (1.59)	337	4.84 (1.46)	213	4.0 (1.57)	153	4.39 (1.55)
I believe law review articles are typically too long.	1316	5.31 (1.52)	337	4.82 (1.67)	213	4.90 (1.53)	153	4.78 (1.48)
I believe law reviews do a good job of enhancing the legal knowledge and skills of their student members.	1316	4.82 (1.54)	337	5.48 (1.61)	211	4.97 (1.55)	153	5.32 (1.28)
I am satisfied with the impact that law reviews have on law professors' careers including their ability to obtain tenure.	1317	3.15 (1.69)	336	4.21 (1.63)	212	3.79 (1.40)	152	3.91 (1.23)
I believe law reviews do a good job meeting the needs of attorneys and judges.	1311	2.53 (1.37)	336	3.82 (1.55)	211	3.09 (1.72)	153	3.45 (1.79)
Overall, I am satisfied with the current system of student run law reviews.	1316	2.78 (1.66)	334	4.29 (1.73)	211	3.88 (1.61)	153	4.2 (1.6)
I think the present system of student run	1319	5.14 (1.8)	336	3.83 (1.80)	213	4.18 (1.74)	152	3.89 (1.70)

law reviews  
requires major  
changes.

**FIGURE 1:**



### E. WHAT REFORMS SHOULD BE IMPLEMENTED

In Section V of the questionnaire, respondents evaluated, using 7-point Likert-type scales (1 = strongly disagree, 4 = neutral, & 7 = strongly agree), whether law reviews should implement 11 reforms.<sup>208</sup> Table 5 below presents the results.

208. The 11 reforms were: (1) The number of multiple, simultaneous submissions of articles to law reviews should be limited so law reviews have more time to evaluate articles. (2) Blind reviews should be used in article selection to prevent an author's reputation or institutional affiliation from influencing the selection process (i.e., the reviewers should not know the identity of the author when they are evaluating the article). (3) If an article is accepted by a law review, the author should be required to publish the article with the law review. (4) There should be peer review of articles including a written evaluation of the strengths and

## 1. LIMITING MULTIPLE, SIMULTANEOUS SUBMISSIONS OF ARTICLES

All four groups of respondents were neutral about limiting the number of multiple submissions of articles to law reviews (All *M*s between 3.95 and 4.21).

## 2. BLIND REVIEWS

There was a significant difference in whether the groups believed that law reviews should use blind reviews.<sup>209</sup> The law professors ( $M = 5.77$ ,  $SD = 1.57$ ) were significantly more in favor of blind reviews than the other groups (all  $ps < .05$ ). Attorneys' ratings ( $M = 4.86$ ,  $SD = 1.76$ ) of law reviews using blind reviews were significantly higher than those of the student editors ( $M = 4.28$ ,  $SD = 2.16$ ) but not the judges' ratings ( $M = 4.58$ ,  $SD = 1.67$ ). The judges' and students' ratings of law reviews' use of blind reviews did not significantly differ ( $p > .05$ ).

Respondents who favored blind reviews were asked to indicate what type of blind reviews they preferred.<sup>210</sup> The choices were that the entire selection process should be blind; only the initial screening of articles should be blind; blind reviews should occur only after the initial screening of articles; or respondents could suggest a different method of blind reviews.<sup>211</sup> Of the 1,089

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weaknesses of each article by experts in the field. (5) Student control over law reviews should be lessened. (6) Law review members should receive more training on how to select and edit articles. (7) The *Bluebook* system of citation should be replaced with a simpler set of citation rules. (8) Authors should receive more feedback why an article is rejected and what they can do to improve the article. (9) More expert-oriented specialty law reviews should be created that eliminate the need for detailed background information to introduce articles. (10) Expedited reviews of articles should be eliminated. (11) For some types of articles, a citation should not be required for every assertion in the article.

209.  $F(3, 229.74) = 10.16$ ,  $p < .001$ ,  $w = .34$ .

210. Five respondents answered this question even though they did not favor blind reviews (i.e., their written comments indicated they did not favor blind reviews). For three respondents who answered this question, it was unclear if they favored peer reviews, and one respondent indicated that he or she was uncertain if they favored blind reviews.

211. Of the respondents who indicated that they wanted a different method of peer review, some of them wrote that experts, not students, should conduct the blind reviews. Others commented that they should not be used for symposium articles or when faculty refers an article to a law review. One respondent wrote that reviews should be blind except for the status of the author (i.e., student, attorney, professor, etc.). Another respondent stated that for blind reviews to be feasible, the number of articles submitted to law reviews would have to be significantly reduced. Several

law professors who answered this question, a large majority (72.6%) wanted the entire selection process to be blind.<sup>212</sup> Of the 200 student editors,<sup>213</sup> 145 attorneys,<sup>214</sup> and 82 judges who answered this question,<sup>215</sup> the vast majority of respondents from each group were closely divided between either wanting the entire selection process to be blind or wanting only the initial screening of articles to be blind. Nonetheless, slightly more of the respondents from each of the three groups favored having the entire selection process be blind.

### 3. AN ARTICLE MUST BE PUBLISHED WITH A LAW REVIEW IF IT IS ACCEPTED

There was a significant difference in the groups' responses to whether an author should be required to publish an article with a law review if it is accepted.<sup>216</sup> A follow-up test indicated that the law professors ( $M = 3.01$ ,  $SD = 1.85$ ) were significantly less in favor of this reform than the other groups ( $p < .001$ ). The student editors ( $M = 3.53$ ,  $SD = 1.93$ ) were significantly less in favor of this reform than the attorneys and judges ( $p < .05$ ). The attorneys' ( $M = 4.03$ ,  $SD = 1.77$ ) and judges' ( $M = 4.43$ ,  $SD = 1.58$ ) responses to this reform did not significantly differ.

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other respondents were also concerned about whether law reviews could successfully implement blind reviews.

212. A total of 791 (72.6%) law professors believed the entire process should be blind; 231 (21.2%) thought only the initial screening should be blind; 36 (3.3%) thought blind reviews should occur only after the initial screening of articles; and 31 (2.8%) suggested a different method of blind reviews. Because the percentages were rounded off, they do not total 100%.

213. A total of 91 (45.5%) student editors wanted the entire process to be blind, while 80 (40%) wanted only the initial screening to be blind; 22 (11%) wanted blind reviews only after the initial screening of articles, and 7 (3.5%) suggested a different method of blind reviews.

214. A total of 65 (44.8%) attorneys believed the entire process should be blind; 64 (44.1%) thought only the initial screening should be blind; 15 (10.3%) thought blind reviews should occur only after the initial screening of articles; and 1 (.7%) suggested a different method of blind reviews. Because the percentages were rounded off, they do not total 100%.

215. A total of 40 (49.4%) judges believed the entire process should be blind; 32 (39.5%) judges thought only the initial screening should be blind; 7 (8.6%) judges thought blind reviews should occur only after the initial screening of articles; and 2 (2.5%) judges suggested a different method of blind reviews.

216.  $F(3, 440.18) = 49.60$ ,  $p < .001$ ,  $w = .24$ .

#### 4. PEER REVIEW

The groups' responses did not differ significantly about whether law reviews should implement peer review.<sup>217</sup> The law professors ( $M = 4.94$ ,  $SD = 1.70$ ), student editors ( $M = 4.85$ ,  $SD = 1.56$ ), attorneys ( $M = 4.78$ ,  $SD = 1.55$ ), and judges ( $M = 4.75$ ,  $SD = 1.48$ ) all favored this reform to some extent. Respondents who favored peer review were asked to answer two additional questions. First, which method of peer review is best? The choices were peer review with students deciding if the article is published, the experts making the publication decision, or some other method of making the publication decision that the respondents specified.<sup>218</sup> Of the 900 law professors,<sup>219</sup> 226 student editors,<sup>220</sup> 144 attorneys,<sup>221</sup> and 90 judges<sup>222</sup> who answered this question, the majority of respondents from each group favored students making the publication decision after peer review.

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217.  $F(3, 443.42) = 1.167$ ,  $p > .0045$ ,  $w = 0$ . To control for familywise error, we used a significance level of  $p < .00454$ , rather than  $p < .05$  for the one-way ANOVAs for the 11 statements.

218. Respondents recommended numerous other forms of peer review. They included the following: Students and experts should jointly make the decision. Law schools should experiment with different methods of peer review, or the market should determine which method of peer review is best. Students should make the publication decision, but be required to pay attention to the peer reviews by, for example, requiring a supermajority of student editors to overrule the peer reviewers, by having the peer reviewers' decision to reject an article be the final decision on an article, by having students decide, but only if the peer reviewers disagree, or by permitting publication only if the peer reviews are favorable. Attorneys and judges should be included in the peer review process. Articles should be peer reviewed only if the students requested it, or peer review should be used by a limited number of law reviews. Peer review should depend on the nature and subject of the article and nature of the law review. Peer-review should occur only after an article is accepted or all articles should be published but with the peer reviews included.

219. A total of 460 (51.1%) law professors thought students should make the publication decision, 370 (41.1%) thought the experts should make the publication decision, and 70 (7.8%) proposed an alternative method of making the publication decision.

220. A total of 178 (78.8%) student editors thought students should make the publication decision, 39 (17.3%) thought the experts should make the publication decision, and 9 (3.9%) proposed an alternative method of making the publication decision.

221. A total of 94 (65.3%) attorneys thought students should make the publication decision, 47 (32.6%) thought the experts should make the publication decision, and 3 (2.1 %) proposed an alternative method of making the publication decision.

222. A total of 57 (63.3%) judges thought students should make the publication decision, 28 (31.1%) thought the experts should make the publication decision, and 5 (5.6 %) proposed an alternative method of making the publication decision.

The second additional question concerned the extent of peer review. The choices were that all articles should be peer reviewed; only interdisciplinary articles should be peer reviewed; or respondents could write in some other basis for determining which articles should be peer reviewed.<sup>223</sup> Of the 881 law professors,<sup>224</sup> 221 student editors,<sup>225</sup> 141 attorneys,<sup>226</sup> and 91 judges<sup>227</sup> who answered this question, a large majority from each group wanted all articles to be peer reviewed.

## 5. STUDENT CONTROL SHOULD BE LESSENERED

The groups differed on whether they thought that students'

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223. Respondents' suggestions for when articles should be peer reviewed included the following: Student editors should initially select articles and then selected articles should be peer reviewed. Symposium articles and solicited articles should not be peer reviewed. Peer review should be used only when student editors think an article requires it, because they lack the expertise to evaluate the article. Lead articles, but not student notes and comments, book reviews, and other shorter articles should be peer reviewed. As many articles as the law school's faculty is willing to peer review should be peer reviewed. There should be both peer and non-peer reviewed law reviews, but tenure and promotion committees should give different weight to peer reviewed articles. There should be more peer reviewed law reviews, but they should not completely supplant student-run law reviews. Peer review should be highly recommended, but not required. Authors should determine if their article will be peer reviewed. All non-student articles should be peer reviewed. Peer review should be used only when an editorial board cannot make a decision without peer review. Peer review should be used only when the student editors and faculty advisors choose it and then only for certain types of articles. Faculty who research the same topic as the article should conduct peer reviews. There should be an advisory board that helps identify articles and topics instead of peer review. Student editors should have a regular opportunity to consult with faculty. Peer review should occur during the editing process. Only the top 30 law reviews should use peer review.

224. A total of 750 (85.1%) law professors believed that all articles should be peer reviewed; 63 (7.2%) believed that only interdisciplinary articles should be peer reviewed, and 68 (7.7%) specified a different criterion for determining which articles should be peer reviewed.

225. A total of 147 (66.5%) student editors believed that all articles should be peer reviewed; 47 (21.3%) believed that only interdisciplinary articles should be peer reviewed, and 27 (12.2%) specified a different criterion for determining which articles should be peer reviewed.

226. A total of 117 (83.0%) attorneys believed that all articles should be peer reviewed; 21 (14.9%) believed that only interdisciplinary articles should be peer reviewed, and 3 (2.1%) specified a different criterion for determining which articles should be peer reviewed.

227. A total of 78 (85.7%) judges believed that all articles should be peer reviewed; 10 (11.0%) believed that only interdisciplinary articles should be peer reviewed, and 3 (3.3%) specified a different criterion for determining which articles should be peer reviewed.

control over law reviews should be lessened.<sup>228</sup> A follow-up test showed that student editors ( $M = 2.64$ ,  $SD = 1.76$ ) were significantly less likely than the other three groups to favor this reform ( $p < .001$ ). Law professors' ratings ( $M = 4.75$ ,  $SD = 1.75$ ) of this reform were significantly higher than the ratings of the other three groups ( $p < .001$ ). The attorneys' ( $M = 3.81$ ,  $SD = 1.65$ ) and the judges' ratings ( $M = 3.57$ ,  $SD = 1.49$ ) of this reform did not significantly differ.

Respondents who believed that student control over law reviews should be reduced were asked to answer an additional question. There were six alternatives proposed to respondents on how to limit student control: faculty edited law reviews; student selected and edited articles, but the students must consult with law faculty when making these decisions; student selected and edited notes and comments, but faculty selected and edited lead articles; the editorial seminar model;<sup>229</sup> the faculty symposium model,<sup>230</sup> or respondents could suggest another method for limiting student control.<sup>231</sup> There were 910 law professors,<sup>232</sup> 119

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228.  $F(3, 427.60) = 138.757, p < .001, w = .43$ .

229. The editorial seminar model was defined as follows for the respondents:

Article selection should be tied to a faculty-directed weekly or biweekly seminar on legal scholarship which law review members and two professors would attend. The two professors would consist of the law review's advisor and a professor who was an expert in the field of the articles being considered for publication. The professors as well as the students would read the articles. Everyone would discuss the articles, and then determine which articles to accept for publication.

230. The faculty symposium model was defined as follows for the respondents:

A law review oversight committee consisting of faculty and student editors would meet monthly to choose symposium topics and editors. The editors are chosen from the law school faculty and elsewhere. The editors would solicit articles and write the foreword for the issue. The students would edit the articles. The law reviews would also pay honoraria to the authors.

231. The respondents' recommendations included the following: Law reviews should use some combination of the recommended alternatives such as faculty edited law reviews and the faculty symposium model or both the editorial seminar model and the faculty symposium model. Law reviews should experiment with the different alternatives. Professors choose articles, but students assist with editing. Professors select articles with student input and students edit with professor input. Professors choose articles and students edit articles. After initial screening, student editors draft referee reports, and decision makers should provide reasons and analysis for their publication decision, which faculty should review. Peer review and students make the publication decision without knowledge of the author's identity. Law reviews should use blind peer review, should all be specialized, and students should do the editing. Law reviews should have an independent editor with a law degree who is neither a student nor a professor. Law schools should employ a professional publisher who makes the ultimate decision. There should be faculty-edited law reviews, but with student editors performing cite checking and non-substantive

student editors,<sup>233</sup> 104 attorneys,<sup>234</sup> and 56 judges<sup>235</sup> who answered this question. For each group, the most frequent response was that students should select and edit articles, but should be required to consult with faculty when making these decisions.<sup>236</sup>

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editing. Students select and edit student notes and faculty select and edit lead articles except that students do the initial screening for the lead articles. Consensus student-faculty publication decisions followed by faculty supervised student editing. Do away with the current system and publish all articles on SSRN and other electronic sources. Eliminate law reviews. Faculty-edited law reviews and oversight by local bar and practitioners (i.e., local bar committee). Faculty evaluates each issue and gives feedback to students. Faculty should select article and perform substantive edits, editorial professionals should do technical edits. Get rid of 75% of law reviews whether faculty or student-run or limit student-run law reviews to notes and comments. Have attorneys and judges participate in the peer review process because they know what is helpful. Law reviews should have a limited number of quick identifiers: student review, peer review, and mixed review. Law reviews should use the faculty symposium model but without honoraria.

232. A total of 284 (31.2%) law professors wanted students to select and edit articles, but students would be required to consult with law faculty when making these decisions. There were 167 (18.4%) law professors who favored faculty-edited law reviews, 123 (13.5%) who favored student selection and editing of notes and comments but faculty selection and editing of lead articles, 151 (16.6%) who favored the editorial seminar model, 53 (5.8%) who favored the faculty symposium model, and 132 (14.5%) who favored another method.

233. A total of 40 (33.6%) student editors wanted students to select and edit articles, but students would be required to consult with law faculty when making these decisions. There were 12 (10.1%) student editors who favored faculty-edited law reviews, 7 (5.9%) who favored student selection and editing of notes and comments, but faculty selection and editing of lead articles, 32 (26.9%) who favored the editorial seminar model, 7 (5.9%) who favored the faculty symposium model, and 21 (7.7%) who favored another method.

234. A total of 33 (31.7%) attorneys wanted students to select and edit articles, but students would be required to consult with law faculty when making these decisions. There were 9 (8.7%) attorneys who favored faculty-edited law reviews, 9 (8.7%) who favored student selection and editing of notes and comments but faculty selection and editing of lead articles, 27 (26.0%) who favored the editorial seminar model, 18 (17.3%) who favored the faculty symposium model, and 8 (7.7%) who favored another method. Because the percentages were rounded, they do not total 100%.

235. A total of 16 (28.6%) judges wanted students to select and edit articles, but students would be required to consult with law faculty when making these decisions. There were 3 (5.4%) judges who favored faculty edited law reviews, 15 (26.8%) who favored student selection and editing of notes and comments but faculty selection and editing of lead articles, 12 (21.4%) who favored the editorial seminar model, 6 (10.7%) who favored the faculty symposium model, and 4 (7.1%) who favored another method.

236. The order of popularity of the remaining alternatives with the total number of respondents from all groups favoring each alternative in parentheses was as follows: Editorial seminar model (222), faculty edited law reviews (191), other method (165), students select and edit notes and comments but faculty selects and edits lead

## 6. LAW REVIEW MEMBERS SHOULD RECEIVE MORE TRAINING

Although all four groups of respondents favored law review members receiving more training in selecting and editing articles, there was a significant difference in the groups' ratings of this reform.<sup>237</sup> Law professors ( $M = 5.43$ ,  $SD = 1.34$ ) were significantly more in favor of this reform than the judges ( $M = 5.03$ ,  $SD = 1.12$ ) and the student editors ( $M = 5.06$ ,  $SD = 1.61$ ) ( $p < .01$ ), but not than the attorneys ( $M = 5.18$ ,  $SD = 1.39$ ) ( $p > .05$ ). Student editors', attorneys', and judges' ratings of this reform did not significantly differ ( $p > .05$ ).

## 7. THE *BLUEBOOK* SHOULD BE REPLACED

There was also a significant difference in the groups' ratings of whether the *Bluebook* should be replaced with a simpler citation system.<sup>238</sup> Law professors ( $M = 4.71$ ,  $SD = 1.93$ ) were significantly more in favor of this reform than the other three groups ( $p < .01$ ). The student editors' ( $M = 4.16$ ,  $SD = 2.23$ ), attorneys' ( $M = 4.18$ ,  $SD = 2.10$ ), and judges' ratings ( $M = 4.18$ ,  $SD = 1.82$ ) of this reform did not significantly differ ( $p > .05$ ).

## 8. AUTHORS SHOULD RECEIVE FEEDBACK

The groups also differed on whether authors should receive feedback why an article is rejected and what they can do to improve the article.<sup>239</sup> Surprisingly, the judges ( $M = 5.57$ ,  $SD = 1.20$ ) gave this reform a significantly higher rating than the other three groups (all  $ps < .05$ ).<sup>240</sup> The attorneys ( $M = 5.18$ ,  $SD = 1.51$ ) gave it a significantly higher rating than the law professors ( $M = 4.58$ ,  $SD = 1.79$ ) and the student editors ( $M = 3.70$ ,  $SD = 1.92$ ) (all  $ps < .001$ ). The law professors gave it a significantly higher rating than the student editors ( $p < .001$ ).

## 9. MORE SPECIALTY LAW REVIEWS

The groups' ratings also differed about the need for more

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articles (154), and faculty symposium model (84).

237.  $F(3, 433.03) = 10.06$ ,  $p < .001$ ,  $w = .11$ .

238.  $F(3, 425.36) = 10.71$ ,  $p < .001$ ,  $w = .12$ .

239.  $F(3, 461.40) = 65.33$ ,  $p < .001$ ,  $w = .27$ .

240. Because professors write most law review articles and need to publish articles to earn tenure, we thought they would be the group that would be most interested in receiving feedback why their articles were rejected.

specialty-oriented law reviews.<sup>241</sup> Law professors' ( $M = 4.52$ ,  $SD = 1.64$ ) favored this reform significantly more than judges ( $M = 4.20$ ,  $SD = 1.40$ ) and student editors ( $M = 3.83$ ,  $SD = 1.70$ ) ( $p < .05$ ), but not more than the attorneys ( $M = 4.25$ ,  $SD = 1.55$ ) ( $p > .05$ ). The attorneys favored this reform more than the student editors ( $p < .05$ ), but not more than the judges ( $p > .05$ ). Judges' and student editors' ratings of this reform did not significantly differ ( $p > .05$ ).

#### 10. ELIMINATE EXPEDITED REVIEWS

The elimination of expedited reviews by law reviews garnered little support from any group though there was a significant difference in the groups' ratings of this reform.<sup>242</sup> Law professors' ratings ( $M = 3.33$ ,  $SD = 1.57$ ) of this reform were significantly lower than the other groups ( $p < .01$ ). Student editors' ratings ( $M = 3.62$ ,  $SD = 1.41$ ) of this reform were significantly lower than the judges' ratings ( $M = 3.95$ ,  $SD = .97$ ) ( $p < .05$ ) but not than the attorneys' ratings ( $M = 3.75$ ,  $SD = 1.26$ ). The attorneys' and judges' rating of this reform did not significantly differ ( $p > .05$ ).

#### 11. A CITATION SHOULD NOT BE REQUIRED FOR EVERY ASSERTION

Lastly, there was a significant difference among the groups' in their beliefs about whether a citation should not be required for every assertion for some types of articles.<sup>243</sup> The law professors ( $M = 5.63$ ,  $SD = 1.69$ ) rated this reform significantly higher than the attorneys ( $M = 4.45$ ,  $SD = 1.85$ ), student editors ( $M = 4.41$ ,  $SD = 2.05$ ), and judges ( $M = 4.03$ ,  $SD = 1.78$ ) ( $p < .001$ ), while the latter three groups' ratings did not significantly differ ( $p > .05$ ).

In sum, law professors clearly favored blind reviews and, to a lesser extent, attorneys and judges also favored them. The most preferred method of blind reviews was for the entire process to be blind. All four groups supported peer review to some extent. Of the respondents who supported peer review, the majority from all four groups wanted students to make the publication decision after peer review and believed that all articles should be peer

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241.  $F(3, 439.02) = 16.13$ ,  $p < .001$ ,  $w = .15$ .

242.  $F(3, 472.22) = 18.66$ ,  $p < .001$ ,  $w = .13$ .

243.  $F(3, 418.30) = 77.53$ ,  $p < .001$ ,  $w = .33$ .

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reviewed. There was modest support from the law professors for lessening student control over law reviews, while the student editors definitely opposed this reform. The most common method chosen for reducing student control, among those favoring the reform, was to let students continue to select and edit articles, but to require them to consult with faculty about these decisions.

All the groups wanted greater training for student editors in selecting and editing articles. Law professors were also somewhat in favor of replacing the *Bluebook* with a simpler citation system and having more specialty law reviews. The judges and attorneys firmly supported law reviews providing reasons for rejecting an article and what an author can do to improve it, and the law professors also supported this reform to a lesser extent. The law professors were solidly in favor of not requiring a citation for every assertion for some type of articles. None of the groups favored requiring authors to publish an article with a law review if it is accepted or eliminating expedited reviews.

**TABLE 5: ELEVEN REFORMS OF LAW REVIEWS**

(Note:  $n$  = the number of respondents,  $M$  = mean,  $SD$  = Standard Deviation)

Reforms	Law professors		Student editors		Attorneys		Judges	
	$n$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )	$n$	$M$ ( $SD$ )
Limiting the number of simultaneous submissions of articles to law reviews.	1297	3.95 (1.89)	336	4.10 (1.62)	209	4.17 (1.41)	154	4.21 (1.17)

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Blind reviews of articles.	1304	5.77 (1.57)	333	4.28 (2.16)	210	4.86 (1.76)	152	4.58 (1.67)
If an article is accepted it must be published with the law review that accepted it.	1307	3.01 (1.85)	335	3.53 (1.93)	208	4.03 (1.77)	154	4.43 (1.58)
Peer (i.e. expert) review of articles.	1308	4.94 (1.70)	337	4.85 (1.56)	208	4.78 (1.55)	153	4.75 (1.48)
Limiting student control of law reviews.	1232	4.75 (1.75)	330	2.64 (1.76)	201	3.81 (1.65)	147	3.57 (1.49)
More training of law review members on how to select and edit articles.	1306	5.43 (1.34)	337	5.06 (1.61)	208	5.18 (1.39)	152	5.03 (1.12)
The Bluebook system of citations should be replaced with a simpler system of citations.	1305	4.71 (1.93)	335	4.16 (2.23)	210	4.18 (2.10)	152	4.18 (1.82)
Authors should receive feedback why their articles were rejected and how to improve them.	1306	4.58 (1.79)	335	3.70 (1.92)	209	5.18 (1.51)	151	5.57 (1.20)
More expert-oriented specialty law reviews should be created.	1303	4.52 (1.64)	336	3.83 (1.70)	209	4.25 (1.55)	152	4.20 (1.40)
Expedited reviews of	1301	3.33 (1.57)	335	3.62 (1.41)	205	3.75 (1.26)	151	3.95 (.97)

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 articles should be eliminated.
 

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For some articles, a citation for every assertion should not be required.	1309	5.63 (1.69)	337	4.41 (2.05)	210	4.45 (1.85)	152	4.03 (1.78)
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**F. MOST IMPORTANT REFORMS**

The respondents also indicated which 3 of the 11 proposed reforms just discussed were the most important for improving law reviews. Table 6 below summarizes the results.<sup>244</sup> Respondents could also answer that no reforms were needed or write in a reform that was not listed.<sup>245</sup> The numbers in parentheses

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244. See *supra* note 208 (detailing the 11 proposed reforms).

245. The respondents recommended the following additional reforms: Law reviews should publish more practical articles that are useful to attorneys and judges. Law reviews should publish more case studies. Attorneys and judges should be included as advisors to law reviews and encouraged to write more articles for law reviews. Too many articles are too long and irrelevant. There should be strict page limits for articles that substantially shorten articles. There should be significantly fewer law reviews. Streamline submissions and reduce the number of law reviews, but only if it does not harm authors with lesser reputations. Faculty should receive more training on how to supervise a law review. There needs to be greater faculty teaching and supervision of law reviews, which probably should occur in a seminar format. Limit student articles or confine them to a separate publication. Eliminate student comments so students can focus on lead articles. Law schools should emphasize more professionally published journals. There should be a separate category of "juried" law reviews. There should be a greater variety of law-review governance. Authors should be charged a submission fee. We need more peer review and faculty input for the more elite law reviews. If law reviews use peer review, there should be another opportunity for student learning. Law reviews should use peer review, but law reviews should not be taken away from the students. Some peer reviewed law reviews, but not all or even most law reviews should use peer reviews. There should be faculty edited law reviews. Student editors should do less editing. Authors should be responsible for their own editing. Editing should be limited to accuracy and clarity and not involve style and should not require a citation for every assertion. Editors should not be permitted to make stylistic changes without the authors' permission. Once an article is accepted, the author should have the final say on any changes. Law reviews need technology-based reforms. More law reviews should publish only in open access electronic format to speed up distribution and increase the timeliness of articles. Articles should be made more accessible to attorneys by putting them on the internet. The quality of student writing should be improved. Keep the *Bluebook* but make it internally consistent. The *Bluebook* is ridiculous and unbelievably time consuming. Authors should not be permitted to publish multiple articles with the same journal. Reforms for law reviews should not be mandated; rather, law reviews should determine their own reforms and those that

indicate the number of votes each reform received from the respondents. When all four groups of respondents were combined into a single sample, the three most important reforms were: blind reviews (1169), peer reviews (1025), and more training for student editors (724). For all the respondents, the three least important reforms were: authors must publish an article with a law review if it is accepted (147), no reforms needed (85), and no expedited review (67).

Moreover, there was unanimity among the four different groups of respondents about which three reforms were the most important, and they also had similar views on which three

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are effective will be adapted by other law reviews. Law reviews should increase the size of their staffs rather than limiting the number of submissions. Student-run law reviews should be eliminated. Law professors need to stop acting as if the quality of their work can be judged by the ranking of the law school that publishes it. Law is a joke as a discipline. Professors should submit completed articles to law reviews and not expect students to complete citations for them. The ranking of law reviews should not be tied to how many times their articles are cited. Authors should be limited to submitting their articles to three law reviews, with a decision within four weeks, and the author must publish the article with the first law review that accepts it. Authors should be required to include citations to the five articles that are most similar to their article. Law schools should change tenure requirements so the expedited review process would dissipate and then article selection would run smoother. Law reviews should eliminate exploding offers of less than ten days. The problem of law review rankings and the difficulties they create should be addressed. Authors should be penalized for submitting articles to law reviews that are clearly inappropriate for the law review. Professors should not criticize law reviews but rather pressure law school administrations for changes. Law reviews do a good job screening out articles that are unsuitable for publication. One of the biggest problems is that law professors do such a poor job with citations, and faculty-edited journals would be incapable of dealing with this problem. More collaboration is needed when making publication decisions to ensure there is adequate expertise for the article being evaluated. Law review publications should not be the most important criterion for tenure and promotion. Faculty should be more involved in article selection. Faculty should not be involved in the selection process. Each law review should determine its purpose either to publish practical articles or academic articles. If a symposium topic is controversial, then it should present opposing views. When filling law review positions, law reviews should use more objective criterion that will select students who will put in the necessary time and effort to produce an excellent product. Law reviews publish too many ideologically motivated articles. There should be more post-publication reviews and literature reviews. Eliminate faculty incentives for publishing, in high ranked law reviews. Law review publication is too slow. Law review scheduling should prioritize authors not student proofreading and cite checking. Authors should not be permitted to submit an article to a law review only for the purpose of receiving an offer so they can trade up to a more prestigious journal. Authors should be required to publish an article with a law review only if the author accepts the law reviews' offer, and law reviews generally should have more moderate deadlines for accepting an offer (a few weeks).

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reforms were the least important. All four groups of respondents listed blind reviews, peer review, and more training of student editors as the three most important reforms for law reviews. All four groups of respondents also listed no expedited reviews and no reforms needed for law reviews among the three least desirable reforms. The third least desirable reform for judges and law professors was requiring that an article be published with a law review if it is accepted, and for the attorneys and student editors it was restricting student control over law reviews.

**TABLE 6: FREQUENCY OF LAW REVIEW REFORMS FAVORED BY EACH GROUP**

<b>Reforms</b>	Law professors	Student editors	Attorneys	Judges	Total
Limiting the number of simultaneous, submissions of articles to law reviews.	300	101	44	31	476
Blind reviews of articles.	878	129	100	62	1169
If an article is accepted it must be published with the law review that accepted it.	55	44	31	17	147
Peer (i.e. expert) review of articles.	706	152	99	68	1025
Limiting student control of law reviews.	319	24	26	18	387
More training of law review members on how to select and edit articles.	437	146	81	60	724
The Bluebook system of citations should be replaced with a simpler system of citations.	195	83	43	24	345
Authors should receive feedback why their articles were rejected and how to improve them.	197	36	49	49	331

More expert-oriented specialty law reviews should be created.	185	37	32	23	277
Expedited reviews of articles should be eliminated.	34	19	8	6	67
For some articles, a citation for every assertion should not be required.	362	79	46	18	505
NO reforms needed (if you agree with this, please make sure this is the only option selected).	37	25	7	16	85

### G. OTHER RESULTS

We determined how often the legal professionals read law reviews. We used a 5-point Likert-type scale with labels of 1 = very frequently, 2 = frequently, 3 = moderately, 4 = seldom, 5 = almost never. There was a significant difference in how frequently the different legal professionals read law reviews.<sup>246</sup> A follow-up test showed that the judges ( $M = 3.51$ ,  $SD = .96$ ) read law articles significantly less often than the attorneys ( $M = 3.22$ ,  $SD = 1.3$ ) ( $p < .05$ ) and the law professors ( $M = 2.20$ ,  $SD = 1.07$ ) ( $p < .001$ ). The attorneys read law review articles significantly less than the law professors ( $p < .001$ ). In sum, it appears that attorneys and especially judges only occasionally read law review articles.

Lastly, it was determined if the legal professionals differed on whether they were a student editor or currently an editor of a law review. There was a significant association between an individual's legal profession and being an editor.<sup>247</sup> This result appears to be a product of differences in how frequently the legal professionals had been a student editor. Odd ratios indicated that law professors were 1.42 times more likely to have been a student

246.  $F(2, 1574) = 160.28$ ,  $p < .001$ ,  $w = .41$ .

247.  $\chi^2(4) = 123.48$ , ( $p < .001$ ),  $V = .20$ ;  $\chi^2$  stands for Pearson's chi-square test, which determines if there is "a relationship between two categorical variables." FIELD, *supra* note 169, at 688. The V stands for Cramer's V and is a measure of effect size. *Id.* at 699.

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editor than attorneys and 3.83 times more likely to have been a student editor than judges.<sup>248</sup> The attorneys were 2.69 times more likely to have been a student editor than the judges.

**VII. DISCUSSION****A. LEGAL PROFESSIONALS AND STUDENT EDITORS' RESPONSES**

Law professors were generally the most critical of law reviews of the four different groups of respondents. For example, they rated the quality of law reviews' selection and editing of articles significantly lower than the other three groups. Law professors had the lowest scores on the satisfaction scale. They also indicated that they are dissatisfied with the overall quality of law review articles and that law reviews require major changes. Ironically, law professors are responsible for the current system of law reviews, and they have the power to change it.

Unsurprisingly, student editors usually had the most favorable view of law reviews. Attorneys and judges tended to fall in the middle of the four groups of respondents in their ratings of law reviews. They were generally neutral about law reviews though the judges tended to be somewhat more positive than the attorneys. Attorneys and judges may have frequently given neutral responses about law reviews because of the four groups of respondents they have the least knowledge about them and have the least direct contact with them. Student editors run most law reviews, and law professors primarily publish law review articles. Accordingly, many judges and attorneys have substantially less knowledge about how law reviews select and edit articles, and the problems that law reviews face than law professors and student editors. In addition, our survey showed that judges and attorneys only occasionally read law reviews, and they were less likely to have been a student editor of a law review than the law professors.

**B. PROBLEMS WITH LAW REVIEWS**

All four groups of respondents believed that law reviews do a better job editing than selecting articles, which is not a surprising result. Student editors face many obstacles in selecting articles for publication. Not only do they have limited legal knowledge, time, and experience in selecting articles, but the current system

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248. FIELD, *supra* note 169, at 699-700 (discussing odd ratios).

makes it very difficult, if not impossible, for them to do a good job of selecting articles. Factors such as multiple, simultaneous submissions of articles, the number of articles submitted to prominent law reviews, the increase in interdisciplinary articles submitted to law reviews, time pressures to quickly accept an article, expedited reviews, and authors' right not to publish an article with a law review even if it is accepted for publication all hinder article selection. Accordingly, an author's reputation and law school affiliation often play an important role in selecting articles for publication.<sup>249</sup> Respondents agreed that many of these factors adversely affect law reviews. Thus, they listed student editors' legal knowledge, the number of law review articles submitted, and pressure to quickly accept articles as the three factors that are most harmful to law reviews.

All four groups of respondents identified other problems with law reviews. They generally agreed that law review articles are too long. Law professors were also critical of law reviews' effect on their careers. One of the primary reasons for law professors' dissatisfaction with the effects of law reviews on their careers likely results from how law reviews select articles for publication. Many law professors believe that student editors place too much emphasis on an author's reputation and law school affiliation in selecting articles and do not give all articles adequate consideration before making a publication decision.

All three groups of legal professionals to some extent agreed that law reviews are not meeting the needs of attorneys and judges. This result is particularly troublingly. The legal system needs law reviews. With the ever increasing complexity of society, the rapid pace of technological change, and the globalization of the world's economies, attorneys and judges face increasingly intricate and complicated legal issues. They often lack the time, knowledge, and resources to effectively address many difficult legal issues. Accordingly, attorney and judges need legal scholars' help in resolving the many complex legal issues they face.<sup>250</sup>

In addition, law reviews' impact on the legal system has substantially diminished over the years.<sup>251</sup> For example, court

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249. *See supra* Part II.

250. *See supra* Part II.

251. Newton, *supra* note 1, at 115-16

(The growing practical irrelevance of law reviews became noticeable toward the

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citations to law reviews have decreased.<sup>252</sup> Furthermore, attorneys and judges who participated in the survey indicated that they only occasionally read law reviews. The judges were especially likely to infrequently read law reviews. Law professors and student editors should be concerned about the diminishing influence of law reviews on the legal system. Publishing articles that generally have little effect on the legal system and that are primarily read by student editors and law professors is a wasteful and ineffective use of a vital legal resource. It is also not in the best interest of law professors or student editors. The respondents, however, did identify a major strength of law reviews. All four groups of respondents agreed that they do a good job of improving the legal knowledge and skills of their members.

**C. REFORMING LAW REVIEWS**

The most unexpected and significant finding of our study was that the vast majority of legal professionals and student editors believe that law reviews need reform and usually agreed on what reforms should be implemented. Only 85 out of about 2,000 respondents thought that law reviews do not require reforms. Furthermore, all four groups of respondents listed blind review, peer review, and increasing students' knowledge as the three most important reforms for law reviews. They also generally agreed on which reforms should not be implemented. All the groups listed eliminating expedited review, and no reforms of law reviews as two of the three least desirable reforms. For the third least desirable reform, the law professors and attorneys chose requiring an author to publish an article with a law review if it is accepted, and the judges and student editors chose reducing student control over law reviews.

The strong agreement among the different groups about what reforms should and should not be implemented provides a good starting point for discussions about how to reform law reviews. The results indicate that legal professionals, and even law review editors, recognize the need for law reviews to implement some type of blind, peer review. As indicated by other

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end of the last century. Many of the intellectual giants in the legal profession who have shown mastery both as judges or practitioners and legal scholars, and who span the ideological spectrum have commented critically on law reviews' decreasing utility to the bench and bar.).

252. Newton, *supra* note 1, at 115 n.57.

results, however, they will likely not accept the traditional blind, peer review process used in other disciplines.<sup>253</sup> Legal professionals and student editors would likely oppose traditional blind, peer reviews because they do not permit authors to submit an article to more than one law review at a time and would require authors to publish the article with a law review if it was accepted. Traditional blind, peer reviews would also substantially limit student control over law reviews. Consequently, any blind, peer review process implemented by law reviews will probably have to permit multiple, simultaneous submissions of articles, retain authors' rights not to publish an article with a law review if it is accepted, offer expedited reviews, and maintain student control over law reviews.

Although incorporating all these elements into blind, peer reviews will not be easy, law reviews use of blind, peer review could address many of the concerns that have been raised about them in this survey. For instance, blind, peer reviews would help insure that law reviews primarily select articles on their quality rather than on an author's reputation and law school affiliation. They would enhance law reviews' ability to assess an article's contribution to legal scholarship and how original and creative an article is. Blind, peer review would increase the probability that law reviews will give all articles adequate consideration before making a publication decision and would decrease the pressure on law reviews to quickly accept articles before adequately evaluating them. Blind, peer reviews would require legal scholars to submit complete and polished drafts of their articles to law reviews and would likely reduce the length of articles. Moreover, including judges and attorneys in the peer review process would increase law reviews' relevancy and usefulness to the law. Blind, peer reviews would help educate student editors about how to select and edit articles and would increase law

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253. All four groups of respondents listed no expedited reviews as one of their three least desirable reforms. The judges and attorneys also listed requiring an article to be published with a law review if it is accepted as one of the three least desirable reforms. The attorneys and student listed restricting student control over law reviews as one of their three least desirable reforms. See Part VI.F. and Table VI *supra*. These results suggest that legal professionals and student editors would not accept traditional peer review which requires that an article be submitted to one journal at a time, an article must be published in a journal if it is accepted, and a professional editor rather than a student makes the publication decision. Furthermore, legal professionals and student editors would likely reject traditional peer-review because it does not permit expedited reviews.

faculty's involvement with law reviews. They would likely increase professors' satisfaction with law reviews and the effect they have on their careers. Blind, peer reviews would also provide authors with reasons why their articles were rejected and with feedback on how to improve them.

Lastly, some law reviews already use blind, peer review while still maintaining student control over the law review, and permitting multiple submissions of articles, expedited reviews, and authors' right not to publish their article with a law review if it is accepted.<sup>254</sup> For example, the *South Carolina Law Review* created the Peer Reviewed Scholarship Marketplace (PRSM), which allows any student-edited law review that becomes a member of PRSM to receive blind, peer reviews of articles.<sup>255</sup> Authors submit their articles exclusively to PRSM for six weeks, which arranges for double blind, peer reviews of each article.<sup>256</sup> After six weeks, the peer reviews of the article are sent to the author and to each member of PRSM, who also receive a copy of the article.<sup>257</sup> Each PRSM member then individually decides if it wants to make a publication offer, and the author determines whether to accept an offer.<sup>258</sup>

The editors of the *South Carolina Law Review* report that blind, peer review has enhanced article quality;<sup>259</sup> authors generally find that it helps them improve their articles;<sup>260</sup> and students benefit from it because they "learn more about legal scholarship and the legal profession."<sup>261</sup> They also report no

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254. See Zimmer & Luther, *supra* note 24, at 960 n.1 (listing law reviews that use peer review).

255. Currently, the following law reviews are members of PRSM: *Akron Law Review*, *Alabama Law Review*, *Arizona State Law Journal*, *Drexel Law Review*, *Florida Law Review*, *Fordham Law Review*, *Georgia Law Review*, *Hastings Law Journal*, *Louisiana Law Review*, *Loyola of Los Angeles Law Review*, *Mississippi Law Journal*, *Nevada Law Journal*, *North Carolina Central Law Review*, *Rutgers Law Journal*, *South Carolina Law Review*, *Valparaiso University Law Review*, *Wake Forest Law Review*, and *Washington & Lee Law Review*. PRSM, <http://www.legalpeerreview.org/> (last visited May 17, 2013).

256. *About*, PRSM, <http://legalpeerreview.org/about> (last visited May 17, 2013).

257. *Id.*

258. *Id.*

259. Zimmer & Luther, *supra* note 24, at 964-65.

260. *Id.* at 971 ("Many authors told us that the evaluations, even highly negative ones, helped them substantially improve their manuscripts.")

261. *Id.* at 966.

difficulty in finding competent reviewers.<sup>262</sup> They conclude that “article selection through peer review should probably be the norm for all student-edited legal journals. Indeed, we genuinely hope that our experiment will move legal scholarship publishing in that direction . . . .”<sup>263</sup>

#### D. LIMITATIONS

There are some limitations to our study. First, though we obtained a large sample of respondents, our four groups of respondents were samples of convenience and therefore may differ in several respects from their respective populations. For example, most of the judges in the survey were state trial judges. Accordingly, some of the groups’ responses to statements might differ from the responses of the populations from which they were taken. Although obtaining representative samples is desirable, doing so would be difficult and expensive. Judges and law professors are reluctant to participate in surveys,<sup>264</sup> and it is difficult to gain access to judges. Self-selection also compounds the problem of obtaining representative samples.<sup>265</sup> Second, though the questionnaire was lengthy and detailed, and several law professors and student editors reviewed it prior to its distribution, the questionnaire may have failed to address some significant strengths or weaknesses of law reviews or some needed reforms. For example, many respondents indicated that there are too many law reviews, an issue we did not directly address in the survey. Third, some respondents may have misunderstood some of the statements in the survey. For

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262. Zimmer & Luther, *supra* note 24, at 972 (“Second, the legal profession is willing to commit time and energy reviewing legal scholarship for publication. We were very happy overall with reviewers’ willingness to serve at all and to fulfill their commitments.”).

263. *Id.* at 966.

264. For example, the first author conducted a study of judges’ knowledge of eyewitness testimony. Even though the *American Bar Association* and the *American Judges’ Association* distributed the survey to their members, it was difficult to get judges to participate in the survey. See Richard A. Wise & Martin A. Safer, *A Survey of Judges’ Knowledge and Beliefs About Eyewitness Testimony*, 40 CT. REV. 6 (2003).

265. Respondents who are more interested in the subject matters of a survey are always more likely to participate in the survey. See e.g. Richard A. Wise et al., *What U.S. Law Enforcement Officers Know and Believe about Eyewitness Factors, Eyewitness Interviews, and Identification Procedures*, 25 APPLIED COGNITIVE PSYCHOL. 488, 498 (2011); Michael S. Wogalter et al., *A National Survey of US Police on Preparation and Conduct of Identification Lineups*, 10 PSYCHOL., CRIME, & LAW, 69 (2004).

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instance, to prevent response sets, some statements were phrased in the negative. The negative phrasing of some statements may have confused some respondents.

**E. CONCLUSIONS**

Although the present study was exploratory, it has limitations, and does not definitively resolve the debate about law reviews. It nonetheless offers support for several important conclusions about them. Law reviews are likely not meeting the needs of attorneys and judges; and law professors believe that they have a capricious, negative effect on their careers. The vast majority of legal professionals and student editors believe that law reviews should be reformed and that the reforms should include blind, peer reviews and more student training. There needs to be more empirical studies about law reviews because authors' opinions about them may not reflect the views of the legal community and many of their assumptions about law reviews may lack empirical support.

Despite the intense debates about law reviews and the hundreds of articles that have been written about them, the vast majority of law reviews have not substantially changed since they were first created in the late nineteenth century.<sup>266</sup> We sincerely hope that the present study will not just help to stimulate more discussion about law reviews, but more importantly help motivate student editors and law professors to take action to improve them.

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266. Hibbitts, *Last Writes*, *supra* note 4, at 628-66.