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# Legal Editology and Publication of Scholarly Law Paper: How to Translate Academic Stimulus into Creative Legal Writing?

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*Lawyers express their opinions mainly by writing. In particular, legal scholars are obliged to write scholarly papers and publish them. A good lawyer also includes being a good writer. However, it is not easy for young lawyers or law students to write a good, scholarly paper. To be a good writer, they should possess discipline. Nonetheless, there are a few practical guidelines for young lawyers or law students to refer to when they begin writing scholarly articles. The primary purpose of this research is to present the core guidelines of scholarly legal writing-what to consider and what to avoid-for beginners; following the author's experience of editing globally recognized journals in international law as well as writing and publishing scholarly papers at leading academic law magazines in the world. This research paper contains the meaning of good scholarly legal paper, topic and title, research methodology, writing, referencing, research ethics and publication.*

## Keywords

Legal Editology, Academic Stimulus, Creative Legal Writing, Topic and Title, Writing, Methodology, Referencing, Research Ethics, Publication

*"I think we need editorial more than ever."*

Steve Jobs

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## I. Introduction

Lawyers generally have three main directions: research, teaching and practice. They express their opinions by writing about it. In particular, legal scholars are obliged to write scholarly papers and publish them in reputed academic journals; it was once said “Publish or Perish!” A good lawyer, thus, means a good writer. However, it is not easy to write a good scholarly paper even for professional scholars, let alone young lawyers or law students. Writing and publication need theory, ideas, experience, and technique. To be a good writer, it takes a certain level of discipline. Nevertheless, there are few practical guidelines for young lawyers or law students when they begin writing scholarly legal articles. The author aims to show the core direction of scholarly legal writing-what to consider and what to avoid-for a beginner. The comments in this paper are based on the author’s experience of editing globally recognized academic law magazines (Journal of East Asia and International Law: “JEAIL” and, China and WTO Review: “CWR”), both are indexed to the Web of Science and/or SCOPUS; together with writing and publishing scholarly papers in leading academic law journals in the world. This paper can be regarded as an essence of the author’s professional work and his will to help young lawyers find the ways to translate their ideas into writing and eventually publication from a perspective of legal editology.<sup>1</sup>

This paper is composed of nine parts including this short Introduction and Conclusion. Part two will define what a good scholarly legal paper is. This part distinguishes a legal research paper from notes or essays. Part three will touch on topics and title selection. Part four will discuss and compare the various research methodologies in legal studies. Part five will describe writing and style; with this, the basics and technical considerations of writing are tackled. Part six will examine referencing, while Part seven will analyze research ethics in its broad meaning. Part eight will investigate the methods to publish scholarly legal articles.

## II. What is A Good Scholarly Legal Paper?

A good piece of legal writing will have a strong influence on judges, lawyers, and lawmakers, who ultimately shape our future. It is a fundamental locomotive of social

<sup>1</sup> See generally JEONG-UN KIM, EDITOLOGY: CREATION IS EDITING [에디톨로지: 창조는 편집이다] (2018).

progress. Legal research may be distinguished from legal practice. It is jurisprudence composed of scholarly interpretations of all legal activities and phenomena such as legislation, adjudication, enforcement, etc. It is not just merely a commentary of some legal regulation, but is a course of finding out historical significance and philosophical bases embedded into those works by lawyers. A good scholarly legal article is intended to provide readers with ‘critical’ thinking. It should communicate the author’s conception of justice in the course of social-political developments. When a writing has something to do with being ‘normative,’ it is referred to as ‘legal.’

A research paper is an expression of the personal ideas of the author. These should be “novel, nonobvious, useful, and sound.”<sup>2</sup> To be academically valuable, first, the paper should be novel, i.e., fresh and creative. It means the core ideas of the author are new and have not been thought of by others.<sup>3</sup> It should be a new and original work to experts in this field as a whole. However, this does not mean that you must be the very first to discuss on that topic. If the author is tackling an existing topic from a ‘different’ perspective, it would be a scholarly contribution. Although nearly 7,000 writings on I. Kant have been reportedly published, e.g., Kant is still a highly topical issue. The contents do not have to be entirely novel, either; it is virtually impossible in legal research to have fully original content. If a legal paper contains about thirty percent fresh content, that would be excellent. The more they are creative and provocative, the more respect they will earn. Second, the author should avoid ‘obviousness’ in order for most observers not to think of it simply.<sup>4</sup> Your statement or arguments should have room for “different interpretation.” Third, the academic paper should be ‘useful.’ It should contain pragmatic solutions to social questions that the author attempts to settle through research. When I launched an international law journal in 2008, I asked senior lawyers to recommend it to their law firms for subscription. Most subscription suggestions were, however, dismissed in the board meetings of their firms mainly because they believed that academic articles had effected little contribution to their legal business. Of course, not all scholarly research can be instantly useful for commercial legal businesses; it should not be as such, either. However, I recognized that any research should contain at least long-term pragmatic implications, giving practitioners useful aspects that might not have occurred to them. The core sense of ‘usefulness’ in legal academia may be said to be based on ‘skepticism’-“creative suspect” to the already established thesis. Fourth,

<sup>2</sup> E. VOLOKH & A. KOZINSKI, ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW 9 (3d ed. 2007), <http://www2.law.ucla.edu/volokh/writing/aextract.pdf>.

<sup>3</sup> *Id.* at 15.

<sup>4</sup> *Id.* at 17.

academic legal paper should be reasonable. In legal research, arguments should be well-balanced with solid references of statutes or cases. The cause and effect of an argument should be matching and consistent. Your methodological proposal should be as general as possible; if applicable only to a special circumstance or condition, it is not convincing. The claims may either be “descriptive or prescriptive.”<sup>5</sup>

### III. Topic and Title

Finding a good topic is the starting point of your research. It is one of the most important parts of writing. In order to select a good topic, first, the author should know their primary areas of interest. Academic research is a generally long and painstaking process, therefore maintaining inspiration or enthusiasm without interest at the outset is difficult. It is necessary to be sure if the topic is truly an interest to you. When an author senses a strong inclination toward a concrete issue within a subject, it could be a good topic for the author. Second, the author should understand the significance of their topic to social progress. One should be able to listen to the voice of contemporary society (*Zeitgeist*) and confirm that their research will make substantial contributions to the development of society. In a sense, to do research is to prove implications embedded in the research. The topic should match the contents.

When you find a good topic, you should adopt a suitable title. A strong title showcases the main ideas of your article. Readership often depends on the title. A good title will attract more readers and engage their interest in the paper. The title should be terse, clear and tactical. A good title should have the following elements:

- Identify the article’s main issue;
- Reflect the article’s subject matter;
- concise, unambiguous, specific and (when possible) complete;
- as short as possible; and
- enticing and interesting.<sup>6</sup>

Selecting a good topic and title is a difficult task. It requires time, energy, and a sincere effort. A good topic is a hybrid of inspiration, intuition, and insight of the

<sup>5</sup> *Id.* at 9.

<sup>6</sup> UNDERSTANDING THE PUBLISHING PROCESS: HOW TO PUBLISH IN SCHOLARLY JOURNALS (Elsevier), at 3, [https://www.elsevier.com/\\_data/assets/pdf\\_file/0003/91173/Brochure\\_UPP\\_April2015.pdf](https://www.elsevier.com/_data/assets/pdf_file/0003/91173/Brochure_UPP_April2015.pdf).

author. Scholars often find some area requiring academic research. However, they seldom find a provoking research topic therein. When I first met my supervisor in my doctoral program, *e.g.*, he asked: “What kind of lawyer are you and why do you want to do scholarly research?” This profound question has remained in my mind as a lifelong topic of research. In practice, however, academic research topics are encountered from academic reading and thought. Books or academic papers present a lot of potential questions to readers. Without deep critical thinking, however, reading may not be easily transformed into an analytical pattern in the brain. This is primarily because they might not be fully disciplined for independent publicists but are assigned to describe set topics for a long time. Law students or young academic lawyers are likely to have such difficulties. This is much more serious in Asia than in Europe and America, because traditionally, law students and academic lawyers have been required to memorize patterns of legal dogmas like statutes, cases, and legal doctrines. In this case, they would not have had a chance to independently draft their own research paper. Today’s non-academic or commercial project-oriented works are likely to exacerbate this tendency and solidify their repetition. My experiences affirm this, as well. When I began teaching international law at a graduate program in Seoul, I was asked to guide students in legal writing. In the beginning, I required them to present a potential topic that they wanted to research. But the students exclaimed with embarrassment that they had never selected topics but have instead always been assigned something to write on. They needed more time for self-study. In my view, autonomy in academic research is most important for young students.

The research topic should be a critical, cutting-edge, and present an exclusive question. The first way to find a topic is to narrow the area that is of interest to the writer.<sup>7</sup> In this narrowed field, one is asked to set a list of potential questions and choose one of these questions.<sup>8</sup> The selected question will be solved by the author of the research paper in its main body. Robin White has proposed some factors to consider in this course:

1. What is the general area of content demanded by the question?;
2. What are the specific concepts on which the topic is focused?;
3. What conclusion are to be drawn?; and
4. What aspects of the discipline are being covered?<sup>9</sup>

Also, the title should be impressionable on readers. Many readers are actually

<sup>7</sup> NYU Law: Student Writing, Topic Selection, <http://www.law.nyu.edu/students/studentwriting/topicselection>.

<sup>8</sup> R. WHITE, WRITING GUIDE 2: WRITING A RESEARCH PAPER 3 (University of Leicester, 7th ed., 2009).

<sup>9</sup> *Id.*

attracted by the topic from the title itself and will likely be keen on reading the entire paper. Good topics can be straightforward, clearly identifying the legal question using terms familiar to readers. Sometimes a more lyrical approach is appropriate to create interest or appeal to general readers.<sup>10</sup> The title should be terse, concise and indicative. Editors also prefer a question style title. The following is an example: “Military Rescue Operation for the Hostages Taken by Somali Pirates: Was the Korean Navy’s “Daybreak in the Gulf of Aden” Legitimate?”<sup>11</sup>

For a post-graduate thesis, particularly, different types of topics can be considered. For a masters’ degree thesis, the candidate is usually asked to analyze a case or apply a theoretical framework to practice. Thus, the topic itself is rather simple and practical. Doctoral dissertation touches broad philosophical perspectives and adopts a more doctrinal approach. In this case, topics are rather complex and fundamental. The topic of a doctoral dissertation represents the whole Ph.D. program of the author, while masters’ thesis topics are often assigned by the supervisor. When joining the doctoral program, however, a candidate is usually asked to show a concrete proposal for his/her Ph.D. research project. If this topic is accepted by the supervisor with additional guidance, it would likely culminate into the final title of the dissertation. I encountered a similar path. Thus, one should be very careful and sensitive in selecting the research topic. In the composition of an academic article, each piece lies in your own hands. In this case, you should take the following into consideration: “analysis of conflict; argument of legal rules; criticism or comments of legislation; explanation of legal or institutional history.”<sup>12</sup>

## IV. Research Methodology

### A. What is Academic Research?

Scholarly writing is not just an essay. It is a research article to probe into existing knowledge in a scientific and systematic manner. Research may be defined as a “creative work undertaken on a systematic basis in order to increase the stock of

<sup>10</sup> How do I Write a Legal Essay? Structure and Organisation, Sydney Law School Learning and Teaching (Title and Sub-headings), [http://sydney.edu.au/law/learning\\_teaching/legal\\_writing/legal\\_essay\\_structure\\_organisation.shtml](http://sydney.edu.au/law/learning_teaching/legal_writing/legal_essay_structure_organisation.shtml).

<sup>11</sup> Eric Y. J. Lee, *Military Rescue Operation for the Hostages Taken by Somali Pirates: Was the Korean Navy’s “Daybreak in the Gulf of Aden” Legitimate?*, 5 J. EAST ASIA & INT’L L. 37-60 (2012).

<sup>12</sup> See Writing Publishable Articles, American University Washington College of Law Pence Law Library, <https://www.wcl.american.edu/hracademy/documents/WritingPublishableArticlesWinter2013.doc>.

knowledge.”<sup>13</sup> It is an academic activity which comprises of “defining and redefining problems; formulating hypothesis or suggested solution; collecting, organizing and evaluating data; making deductions and reaching conclusions; and at last carefully testing the conclusions to determine whether they fit the formulating hypothesis.”<sup>14</sup> Scientific research is “the manipulation of things, concepts or symbols for the purpose of generalizing to extend, correct or verify knowledge, whether that knowledge aids in construction of theory or in the practice of an art.”<sup>15</sup> In toto, research is the product of human activity to find an ultimate truth.

## B. Why Research Methodology?

Human cognition is easily prejudiced and even manipulated by physical limitation, natural or social circumstance, psychological distortion, and social class. As Plato asserts, what they see is not what it really is. To understand a comprehensive feature correctly is never an easy job for humanity. Research methodology has been developed to overcome such restriction of human individuals.

Research methodology is a way to discover many features of a phenomenon. It originates from the natural sciences. Since ancient times, people’s primary interest has been to avoid serious disaster from the environment. The first step was thus to find predictable rules of a natural phenomenon and to generalize them into a theory. Such generalization can be realized by systematic and objective research methodology that adopts and applies scientific concepts such as problem-identification, hypothesis, variables, data-processing, fact-finding, etc. Entering the modern times, social sciences began to adopt the research methodology developed in the natural sciences. They thought that scientific rules could be also found in social phenomena through research methodology. Law as metaphysics, has been finally categorized as “normative science” to which such methodology could be applied in research.<sup>16</sup>

## C. Research is Everywhere!

Research methodology can be understood as a technique to handle data scientifically. When they say ‘method,’ it usually refers to a rather technical meaning, closely

<sup>13</sup> OECD, FRASCATI MANUAL 2015: GUIDELINES FOR COLLECTING AND REPORTING DATA ON RESEARCH AND EXPERIMENTAL DEVELOPMENT 44 (2015), [http://www.keepeek.com/Digital-Asset-Management/oecd/science-and-technology/frascati-manual-2015\\_9789264239012-en#.WYA4I02QyHs#page45](http://www.keepeek.com/Digital-Asset-Management/oecd/science-and-technology/frascati-manual-2015_9789264239012-en#.WYA4I02QyHs#page45).

<sup>14</sup> C. Woody, *The Values of Educational Research to the Classroom Teacher*, 16 J. EDUCATIONAL RES. 172 (1927).

<sup>15</sup> See THE ENCYCLOPEDIA OF SOCIAL SCIENCES, Vol. IX (1930).

<sup>16</sup> See RESEARCH METHODOLOGY: An Introduction, at 2-3, <http://www.newagepublishers.com/samplechapter/000896.pdf>.

related to an empirical approach. Methodology, however, comprises of more fundamental factors on scientific research such as paradigm, macro-perspective, and ideology. Hence, legal methodology may be distinguished into different types such as: conceptual or empirical, macro or micro, positive or normative, quantitative or qualitative, historical or comparative, descriptive or analytical, theoretical or pragmatic, and fundamental or applied.<sup>17</sup> Table 1 shows various legal research methodologies.<sup>18</sup>

Table 1: Various Legal Research Methodologies<sup>19</sup>

<b>Conceptual</b>	<b>Empirical</b>
to formulate a fundamental concept or definition of legal phenomenon.	To handle actual cases to verify if the theory is actually applied by experiment
<b>Positive</b>	<b>Normative</b>
To interpret a legal code or phenomenon only through real laws working in the contemporary society; Legal positivism denies natural law. ( <i>Sein</i> )	To stress the legal principles or rules that should be done in a social institution. ( <i>Sollen</i> )
<b>Macro</b>	<b>Micro</b>
To view social institutions and human beings as a whole in order to find a legal principle which is believed to comprehensively control human society.	To analyze the behavior of individual actors and interactions between those actors in a society in order to understand legal principle to control human activities.
<b>Quantitative</b>	<b>Qualitative</b>
To approach a legal phenomenon in an 'objective' manner through the quantitative measurement.	To approach to a legal phenomenon in a 'subjective' manner beyond numerical factor; it used to understand the motivation of the human inside.
<b>Historical</b>	<b>Comparative</b>
To investigate a legal phenomenon chronologically; a traditional but still popular way to understand the present and the future.	To compare two or more legal phenomena operating at the same time. The main objective is not to just compare, but to understand "who I am."
<b>Descriptive</b>	<b>Analytical</b>
to describe a legal phenomenon as it really is based on theoretical or empirical research; the description should be fair, balanced and unprejudiced	to analyze various mutual relationships and positions lying between actors in a society. Its purpose is to clarify the principles inherent in a legal phenomenon beyond simple description.

<sup>17</sup> *Id.*<sup>18</sup> *Id.*<sup>19</sup> *Id.*



Theoretical	Pragmatic
To find or develop theory which could be applied to a legal phenomenon or to analyze it.	To find a fruitful way to solve a contemporary legal problem and to propose it to the society.
Fundamental	Applied
To search for an ultimate question or to touch on philosophical thesis (metaphysics) of legal question.	To apply the theory and provide human society with practical solution.

Source: Compiled by the author.

## D. “All Things Work Together for Good!”

All these methodologies are working as a whole to render a balanced approach. Methodology is not special to scientists; it is ubiquitous for everyone. Legal methodology is a scientific discipline dealing with methods of discerning law and legal phenomena.<sup>20</sup> Law has dual characteristics, just like art, being both fine and applied. A good piece of legal writing should combine theory with practice, flowing into a single stream in the end. Most legal writing are commentaries to some statutes or court cases. They are basically positive and descriptive. Without conceptual ground, however, these commentaries cannot further be developed scientifically. Theoretical and practical perspectives should intermingle and be balanced in legal writing. Both are supportive of each other to shape claims made in the paper. The outcome of the practical analysis is to confirm if the theory can work and presents the direction in which the theoretical research should go, while becoming the basis for success in practice.

## V. Writing

### A. Basics

#### 1. Introduction

Writing is an art. To write an academic legal paper requires professionalism. Lawyers should be disciplined in writing. This is different from their oral arguments in offices or before judges in the courtroom.

<sup>20</sup> M. Jovanović, Legal Methodology & Legal Research and Writing, <http://pogestei.ius.bg.ac.rs/docs/Legal%20methodology%20and%20legal%20research%20and%20writing.pdf>.

A scholarly paper in law is basically composed of two parts: main text and citations/references.<sup>21</sup> The main text is divided into three parts, i.e., introduction, main body, and conclusion.<sup>22</sup> In the very initial stage of drafting, you may design the structure of the paper with this outline in mind.

Every academic paper starts with a short introduction. It is one of the most important works of writing. Although the introduction is placed in the forefront of the paper, it is often completed in the end of writing. Introduction will include the following important factors. First, the introduction will discuss the background of the study. Second, it presents the main goal of the study. The following is an example of the study goal presentation.

The primary purpose of this research is to comprehensively analyze the harmonization of competition laws in the ASEAN by taking into account the factual and latent obstacles in the light of the economic integration pursuant to the AEC.<sup>23</sup>

In the introduction, the author will try to raise relevant questions and share a consensus of their research with readers. An effective introduction provides a strong first impression to the readers. It should give them an answer to the question: “Why should I read it?”<sup>24</sup> Authors can engage readers in various ways; by: “[a] captivating narrative, giving a shocking statistics, providing a framing quotation, asking a question or explaining the problem that the paper sets out to solve.”<sup>25</sup> Third, the introduction will raise basic questions which will be answered in the main body that follows. Fourth, it will include a roadmap for the paper in the last paragraph. It previews the general structure and analysis process of the paper. Roadmaps show the readers how logically the paper is organized.<sup>26</sup> The following is an example of roadmap in introduction.

This paper is composed of four parts including a short Introduction and Conclusion. Part two will address the current uncertainties surrounding the implementation and efficacy of the EUSFTA. Part three will examine the impetus

<sup>21</sup> Part VI of this paper.

<sup>22</sup> Abstract is an additional section for readers.

<sup>23</sup> Udin Silalahi, *The Harmonization of Competition Laws towards the ASEAN Economic Integration*, 10 J. EAST ASIA & INT'L L. 119 (2017).

<sup>24</sup> Georgetown Law Center, *Introductions and Conclusions for Scholarly Papers* (2015), <https://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/writing-center/upload/Bolles-Introductions-and-Conclusions-for-Scholarly-Papers.pdf>. See also VOLOKH & KOZINSKI, *supra* note 2, at 15.

<sup>25</sup> Georgetown Law Center, *id.*

<sup>26</sup> *Id.*

for a new generation of the UK IIAs and flesh out specific features of the EUSFTA that ought to be emulated in the new UK treaty template upon which these future IIAs would be negotiated.<sup>27</sup>

Finally, the introduction will include some key concepts that are likely to be redefined by the author.

## 2. Main Body

The main body comprises of all the thematic ideas of the author. Theory, narration, analyses, statements, descriptions and arguments, all these melt into the main body. The main body is usually divided into a few sub-sections, following what the author would like to say in the most efficient and systematic way. Each sub-section should be logically inter-related and parallel each other in its level. When the draft is roughly outlined, each sub-section should be organized.

Scholars write to explain scientific principles of natural or social phenomenon. The ultimate goal is to provide the right solution. Some writings are theoretical, while others, practical. However, most writings are a mix of both together. Legal writing is much more pragmatic (problem-solving) because “law should be tangible.”

All narrations in the human society are divided into two sorts: one is ‘discourse,’ the other is ‘story.’ Discourse may be defined as a “civilized discussion platform.”<sup>28</sup> It is a kind of communication with the hegemonic paradigm that dominates contemporary society. Today’s ‘neo-liberalism’ is a good example. Academic writing should not just be a story but must be a discourse. It means that the arguments are not just descriptive, they are also highly critical. To be critical means to be creative. Critical writing has the following characteristics:

- a clear and confident refusal to accept the conclusions of other writers without evaluating the arguments and evidence that they provide;
- a balanced presentation of reasons why the conclusions of other writers may be accepted or may need to be treated with caution;
- a clear presentation of your own evidence and argument, leading to your conclusion
- a recognition of the limitations in your own evidence, argument, and conclusion.<sup>29</sup>

<sup>27</sup> Siraj Shaik Aziz, *The Investment Protection Chapter of the EU-Singapore Free Trade Agreement: A Model for the Post-Brexit UK IIAs*, 10 J. EAST ASIA & INT’L L. 9 (2017).

<sup>28</sup> See Discourse-Civilized Discussion, <https://www.pinterest.co.uk/pin/357614026648145822>.

<sup>29</sup> R. WHITE, WRITING GUIDE 1: WRITING AN ASSESSED ESSAY: CRITICAL WRITING (Appendix) 1 (University of Leicester, 2009), [https://www2.le.ac.uk/departments/law/current/writing-guide/Writing\\_Guide\\_Assessed\\_Essay\\_2009.pdf](https://www2.le.ac.uk/departments/law/current/writing-guide/Writing_Guide_Assessed_Essay_2009.pdf).

“Descriptive writing is relatively simple.”<sup>30</sup> The author may provide a general description within a certain word limit. Critical writing is challenging, however. The author should “consider the quality of the evidence and arguments; identify key positive and negative aspects of comments; assess the relevance and usefulness; and identify how best they can be woven into the argument.”<sup>31</sup> Critical writing should have certain factors: healthy skepticism, open confidence, considerate judgment, fair assessment and careful evaluation.<sup>32</sup>

There are three types of legal arguments: interpretive, normative and institutional.<sup>33</sup> All these arguments should be proved by clear evidence. Under international law, particularly, your arguments can be backed up by treaty, international custom, cases of international and domestic courts, and state practices.

### 3. Conclusion

The conclusion is the final part of the paper. It is a crucial pillar of academic research because, in a conclusion, the author’s core ideas are delivered. In the conclusion, one must answer questions that were posed in the introduction.<sup>34</sup> Conclusion wraps up the paper which “reminds [...] readers of the problem the paper sets out to solve.”<sup>35</sup> It is not just a reiteration of what the author mentions in the main body, but a summary of what the author would like to stress upon following the paper’s organization. The author must address his/her final arguments in the conclusion. The conclusion also suggests the future direction and the limitations of the research.

### 4. Abstract & Keywords

As an additional part, abstract and keywords appears before the Introduction. An abstract summarizes the whole research in around 200 words. It shows the research goal, method, and structure (each section) of the paper to persuade readers to read the entire paper.<sup>36</sup> A terse and well-structured abstract is a good advertisement for your article. Today, many journals upload only the abstract of each article in their own website or blog for selling the electronic version of the paper. Keywords contains

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 2.

<sup>32</sup> J. WELLINGTON, A. BATHMAKER, C. HUNT, G. McCULLOCH & P. SIKES, *SUCCESSING WITH YOUR DOCTORATE* 84 (2005).

<sup>33</sup> Georgetown Law Center, *Developing A Thesis Statement*, at 1, <https://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/writing-center/upload/thesis.pdf>.

<sup>34</sup> Sydney Law School Learning and Teaching, *How do I Write a Legal Essay? Structure and Organisation*, [http://sydney.edu.au/law/learning\\_teaching/legal\\_writing/legal\\_essay\\_structure\\_organisation.shtml](http://sydney.edu.au/law/learning_teaching/legal_writing/legal_essay_structure_organisation.shtml).

<sup>35</sup> Georgetown Law Center, *supra* note 24, at 5.

<sup>36</sup> *Supra* note 6, at 7-8.

a few core words of the paper.

## B. Practice for Legal Writing

### 1. “You need exercise!”<sup>37</sup>

Young law students are likely perplexed when they are assigned an academic essay to write in law school. However, it is just a matter of score-the higher the better. After graduating, professionals including both academic educators and practitioners are often obliged to publish papers with internationally renowned journals. In this case, they are much more anxious because their professionalism is at stake. Some are born with an innate talent for writing. They already know how to translate their ideas in a highly sophisticated and linguistic sense. I have met such classmates in law school, but those are very few and far in between. Most people, including myself, work toward acquiring good writing skills thoroughly from a very basic level.

### 2. Practice is not waste!

The first and most important step for practice is to read well-written research papers as much as possible. One has to invest time and energy in this process. In international law, scholarly works of many highly renowned publicists are valuable sources of reading for young lawyers. They often choose very sensible and appropriate legal language or lexicon to explain their perspective; well-structured statements with statutes and cases; adopt highly advanced research methodology; organize and balance the paper structure, etc. Reading and emulating such refined writing style and pattern, can enable attempts for quality writing.

For a non-native English speaker, especially, it is indispensable to pay attention to academic writing patterns in law. While studying for my graduate law degree in Holland, *e.g.*, I often had difficulties in finding relevant words or sentences to express my own ideas. But through consistent reading, I was able to pick up on articulated expressions that I had previously missed while reading books or articles. Other non-native speakers may have similar experiences. That is the time for improving your own professional writing technique. To practice, a “model of good writing”<sup>38</sup> is necessary. They are a useful compass guiding you to the ultimate goal. Diligent practice of those guidelines will lead you toward becoming a successful publicist.

<sup>37</sup> P. Garlinger, *The Writing Process: Tips on Legal Writing*, the official website of NYU Law School, <http://www.law.nyu.edu/students/studentwriting/writingprocess>.

<sup>38</sup> *Id.*

### 3. Your style is yourself!

'Style' in an academic paper would mean a kind of "writing mode" or 'rhythm.'<sup>39</sup> Each author has a different style of writing in just the same way that people do not look alike. Some are descriptive, while others, prescriptive. Your style is one which you hone yourself. Please do make and develop your own style of writing. In general, most international law articles are dry and straightforward. While carefully comparing the writings of renowned international lawyers such like Peter Malanczuk, Edward McWhinney, Diederiks-Verschoor, Ko Swan Sik, or Alain Pellet, however, one can sense the delicate balance of taste, rhythm, length, and flavor in these publications. All of their writings are very clear. One should aspire to catch up to their level of writing style. For this purpose, I would personally advise you to avoid excessively long phrases to enable readers to understand easily. Just make your sentence terse, when necessary, and concise. If ideas are well divided and arranged in the mind, the sentence or phrase will automatically be shorter. Useless redundancy should be strictly prohibited as well. Else, it will only make the whole writing pointless, like "a fifth wheel."

### 4. Editing/Proofreading

Drafting a legal paper is hard work. Editing it, however, is much harder. There is such a saying that "writing is done by man, but editing is done by god." Editing is a time-consuming task that requires both energy and endurance. However, it is the key to perfect publication. Authors are ego-centric; they are fully absorbed in their own stance. No author can easily find logical leaps or grammatical fallacy for themselves. They sometimes need a different set of eyes looking at their work. Peer-review is thus indispensable. The perfect article is the product of persistent editing. *E.g.*, a great novelist, Ernest Hemingway edited his masterpiece, "The Old and the Sea" more than 200 times before publication. You are strongly recommended to edit your paper under the auspices of professional editor, peer, and reviewer. Editing is a process of opening yourself up to criticism from others. It requires humility. Through this path, however, your academic produce will be much more respected and commended by contemporary and future readers.

<sup>39</sup> *Id.*

## VI. Referencing

### A. An Essential Part of Writing

Referencing is an academic as well as a legal obligation for writers. In scholarly legal writing, it is more important because most descriptions are obtained from statutes, cases, or other legal documents of the past. Referencing other people's work in your assignment is a way to demonstrate the breadth and depth of your research around a topic. You can show your understanding of the topic by incorporating other people's arguments and evidence, alongside your own analysis.<sup>40</sup> There are two kinds of referencing methods: one is footnotes and the other, endnotes. In legal writing, footnote style is generally prevalent. But this is not the only rule.

Referencing could be described as the evidence for an author's arguments. Once published, a part of the ideas in the paper can be quoted again by others "with the citation." Without an appropriate citation referencing the evidence, it would amount to a violation of research ethics-commonly known as plagiarism. Plagiarism can seriously affect the author's reputation and even legal status.

### B. Source

Simply stated, referencing is a method of showing the sources of your research. Whenever you quote an idea from someone else's work, such as a journal article, textbook, commentary, opinion, or a website, you must refer to the bibliographical data in the work to show where that idea came from.<sup>41</sup> There are two kinds of sources: one is 'primary,' the other, 'secondary' source. Primary sources are "original materials" that include statutes, court decisions, historical records, governmental or parliamentary reports, *travaux préparatoires*, newspaper reports, interviews, photographs, videos, etc. Primary sources are the basic blocks for building your ideas. In the meantime, secondary sources are materials that have previously analyzed primary sources such as books, articles, commentary, notes, etc.<sup>42</sup>

<sup>40</sup> See Referencing: Why and When should I Reference?, official website of the University of Leeds Library, [https://library.leeds.ac.uk/skills-referencing#activate-why\\_and\\_when\\_should\\_i\\_reference](https://library.leeds.ac.uk/skills-referencing#activate-why_and_when_should_i_reference).

<sup>41</sup> *Id.*

<sup>42</sup> WHITE, *supra* note 29, at 18.

### C. Citation

Sources should be cited to when: (1) you refer to, paraphrase, summarize or quote from another's works; (2) you address counter-arguments; and (3) some additional comments are needed, but such comment could break the logical stream of argument if it is directly inserted in the main text. When you cite to a statute or a court decision, the primary sources should be provided. When you want to cite to a string of items in a sentence, you must cite each source individually at the end of the sentence.<sup>43</sup> The following is an example:<sup>44</sup>

... with Chapter 1 reading that 'human rights' means the rights contained in international instruments "applicable to the State" FN23; Chapter 2 declaring that the MNHRC will promote international and regional human rights instruments "accepted by the State" FN24; and Chapter 5 stating that the MNHRC can review laws for consistency with international human rights instruments "to which the State is a party." FN25

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FN 23 MNHRC 2014, at ¶ 2.

FN 24 Id. ¶ 3.

FN 24 Id. ¶ 5.

### D. How Many Citations?

Whenever you borrow any idea from any other work, you must cite its origin. However, too many citations or unnecessary sources could confuse your delicate authorship. I have sometimes come across legal writing that provides too many sources with long explanations; or a list of all relevant books or articles in citation part which sometimes occupies more than half of page. Some hope to show all the sources that they referred to for drafting the works, while others intend to prevent any potential plagiarism. However, both are unreasonable. Robin White maintains:

Footnotes should be kept brief and to a minimum. Their main purpose is to point the reader to the authority for propositions contained in the text. Sometimes footnotes are used to contain a comment which is not central to the main discussion in the text, but which is nevertheless helpful in developing the argument to the full. On occasion, it is useful to relegate some points of details to

<sup>43</sup> C. Word, *Writing a Law School Paper*, at 21, <http://www.lclark.edu/live/files/5595>.

<sup>44</sup> J. Liljeblad, *The 2014 Enabling Law of the Myanmar National Human Rights Commission and the UN Paris Principles: A Critical Evaluation*, 9 J. EAST ASIA & INT'L L. 432 (2016).



footnotes, but this should not be overdone.<sup>45</sup>

I think, a well-balanced combination between the main text and citation would be 7 to 3; if additional explanation is necessary to comment in citation over this ratio, you had better move it into the main text. Also, all the list of books or articles could be moved to at the end of the paper following the style guidelines of the journal. Legal writing is not a study guide, but it is a well-researched claim that one would like to present. It should be kept in mind that sources are not the main body of the paper; they are supportive materials for arguments. Furthermore, unnecessary sources are a kind of “fifth wheel.” It does not protect against plagiarism otherwise in the main text. If ten percent of all sources prove more than just what is needed, it would be optimal. The extra ten percent sources are enough to protect you from ‘unintentional’ plagiarism.

## E. Core Principle of Referencing

Referencing requires much time and effort. However, it will be a great contribution to development of your field. For this purpose, the following three principles should be maintained for referencing legal sources. First, you should be ‘candid’ about the truth of your sources. When you borrow any idea from other works, cite it. Do not regard others’ works as your own creation. Plagiarism is as good as theft. Also, everyone is fully entitled to quote another’s work with the citation. Second, you should be ‘precise.’ When you tackle legal sources you must look into the bibliographical information on that source as precisely as possible and provide the correct and exact data in the citation such as the author’s name, article/book title, year of publication, number of the edition, URL, etc. Just one simple typographical error can confuse the readers. This preciseness is an important factor in assessing research quality. Third, even though a source is precise and correct, it should be provided in a ‘standard’ manner. A complex source seems neither efficient nor professional. The citation style is also required to adhere to rules as much as possible. In the English-speaking world, there are some style guidelines which provide standard rules or modes of citation. THE OXFORD STANDARD FOR THE CITATION OF LEGAL AUTHORITIES (generally referred to as OSCOLA)<sup>46</sup> and A UNIFORM SYSTEM OF CITATION (The Bluebook)<sup>47</sup> are the most popular citation style guidelines in the UK and the US, respectively.

<sup>45</sup> WHITE, *supra* note 8, at 19.

<sup>46</sup> See OSCOLA (4th ed.), [https://www.law.ox.ac.uk/sites/files/oxlaw/oscola\\_4th\\_edn\\_hart\\_2012.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012.pdf).

<sup>47</sup> See THE BLUEBOOK, <http://www.legalbluebook.com>.

## VII. Research Ethics

### A. Ethical Principles

Research ethics are critical to every lawyer who wishes to conduct research and write scholarly articles. As a publicist and editor, I have been fully occupied by this question consistently for over 20 years. Research ethics are the moral guidelines that should be followed by persons in the research process. There are three objectives in research ethics. The first objective is to protect human participants. The second is to ensure the public interest of research for the society as a whole. The third is to examine specific research activities and projects for their ethical soundness, such as risk management, confidentiality and informed consent.<sup>48</sup>

Modern research ethics was established to protect human subjects in research projects. It was first attempted at the Doctors Trial of 1946-47 in the course of the Nuremberg Trials for Nazi war criminals and for crimes against humanity.<sup>49</sup> In the Doctors Trial, 23 German Nazi physicians were “charged with murders, tortures, and other atrocities committed in the name of medical science.”<sup>50</sup> To prosecute the accused Nazi doctors for the atrocities they committed, a list of ethical guidelines for the conduct of research—the Nuremberg Code<sup>51</sup>—was drafted which was later developed with the Helsinki Declaration and the Belmont Report.<sup>52</sup>

Research ethics forms a core of academic integrity as well as social responsibility of professionals. It is important for all those who conduct research or those who use and apply research findings. All researchers should know the basic principles, policies and procedures of research ethics. Research is based on “public trust that must be ethically conducted, trustworthy, and [be] socially responsible if the results are to be valuable.”<sup>53</sup> Even a single instance of research ethics violation could hurt the integrity of the entire project.<sup>54</sup>

<sup>48</sup> N. Walton, What Is Research Ethics?, Researchethics.ca, <https://researchethics.ca/what-is-research-ethics>.

<sup>49</sup> See The Doctors Trial: The Medical Case of the Subsequent Nuremberg Proceedings, Holocaust Encyclopedia, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007035>.

<sup>50</sup> *Id.*

<sup>51</sup> See The Nuremberg Code, <https://history.nih.gov/research/downloads/nuremberg.pdf>.

<sup>52</sup> See A Guide to Research Ethics (Univ. of Minnesota, 2003), at 3-5, [http://www.ahc.umn.edu/img/assets/26104/Research\\_Ethics.pdf](http://www.ahc.umn.edu/img/assets/26104/Research_Ethics.pdf). See also Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10, Vol. 1 (1949), [http://www.loc.gov/rr/frd/Military\\_Law/pdf/NT\\_war-criminals\\_Vol-I.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/NT_war-criminals_Vol-I.pdf).

<sup>53</sup> *Id.* at 6. (A Guide to Research Ethics).

<sup>54</sup> *Id.* at 7.

## B. Research Misconduct

Research ethics is composed of the guidelines on “what to avoid.” A violation of these guidelines leads to research misconduct. There are several types of research ethics violations. For instance, Ethical Rules of JEAIL lists 8 forms of violations such as: cheating, fabrication, plagiarism, unfair advantage, academic dishonesty, falsification, unauthorized access to computerized record, and citation error.<sup>55</sup> The Final Rule of the American Public Health Service Policies on Research Misconduct lists three misconducts:

- (a) Fabrication: making up data or results and recording or reporting them;
- (b) Falsification: manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record; and
- (c) Plagiarism: appropriating another person’s ideas, processes, results, or words without giving appropriate credit.<sup>56</sup>

## C. ‘Plagiarism’

The most frequently committed research misconduct in legal writing is ‘plagiarism.’<sup>57</sup> Plagiarism is “the practice of taking someone else’s work or ideas and passing them off as one’s own.”<sup>58</sup> Even a tiny portion of plagiarized material will call into question the integrity and ethics of the writer’s research as a whole.<sup>59</sup> Plagiarism is both illegal and punishable; it is considered as stealing from the original author’s creative ideas. It triggers the protection of intellectual property in a society. Plagiarism covers a wide spectrum, from intentional transcription of another’s passage to unintentional paraphrasing without citation.<sup>60</sup> Indiana University provides the following advice to avoid plagiarism. A researcher preparing a written manuscript should cite the original source if the writer:

<sup>55</sup> Detailed Regulations to the Ethical Rule of Journal of East Asia and international Law, [http://journal.yiil.org/home/pdf/Detailed\\_RegulationsFINAL130822.pdf](http://journal.yiil.org/home/pdf/Detailed_RegulationsFINAL130822.pdf).

<sup>56</sup> Department of Health and Human Services, Public Health Service Policies on Research Misconduct: Subpart D, 42 CFR §93.103, at 28385, [https://ori.hhs.gov/sites/default/files/42\\_cfr\\_parts\\_50\\_and\\_93\\_2005.pdf](https://ori.hhs.gov/sites/default/files/42_cfr_parts_50_and_93_2005.pdf).

<sup>57</sup> See What is Plagiarism?, <http://www.plagiarism.org>.

<sup>58</sup> See Plagiarism, Oxford Living English Dictionary.

<sup>59</sup> J. Smith. *References, Copyright and Plagiarism* (editorial), 26(1) J. ADVANCED NURSING (1997), *recited from* A Guide to Research Ethics, *supra* note 52, at 11.

<sup>60</sup> H. MARTIN, R.OHMANN & J.WHEATLEY, *THE LOGIC AND RHETORIC OF EXPOSITION* (3d ed. 1969), *recited from* A Guide to Research Ethics at 11.

- “Quotes another person’s actual words, either oral or written;
- Paraphrases another person’s words, either oral or written;
- Uses another person’s idea, opinion, or theory; or
- Borrows facts, statistics, or other illustrative material, unless the information is common knowledge.”<sup>61</sup>

Plagiarism applies to both traditional and modern forms of publication including graphics, text, other visuals, and the World Wide Web.<sup>62</sup> It is not easy for lawyers to avoid plagiarism completely because they often find a variety of sources for their research and intersperse it with their own background knowledge.<sup>63</sup> It is sometimes ambiguous to decide the originality of another source. The following are tips to avoid unintentional or accidental plagiarizing of another person’s work:

- Cite all ideas and information that is not your own and/or is not common knowledge;
- Always use quotation marks if you are using someone else’s words,
- At the beginning of a paraphrased section, show that what comes next is someone else’s original idea;
- At the end of a paraphrased section, place the proper citation.<sup>64</sup>

## D. Investigation

Investigation of research misconduct is a long and painstaking process. The initial stage of an investigation is ‘inquiry.’ It starts upon a report from anyone, including the editor, reviewer, proofreader, and the author’s agency on the suspected research misconduct. In the case of JEAIL, all editorial members have a strong responsibility to report research misconduct at any time. Also, individual reports from the author’s institution are most welcome. The identity of the informant must remain absolutely confidential.<sup>65</sup> The institution regards it as being made in good faith and as the obligation of those involved in the publication.<sup>66</sup>

Once reported, the allegation must be transferred to the head of the institution.

<sup>61</sup> See What is Plagiarism at Indiana University?, <https://www.indiana.edu/~tedfrick/plagiarism/index2.html>.

<sup>62</sup> *Id.*

<sup>63</sup> K. Robertson, Connect Students’ Background Knowledge to Content in the ELL Classroom, <http://www.colorincolorado.org/article/connect-students-background-knowledge-content-ell-classroom>.

<sup>64</sup> Duke University Plagiarism Tutorial, <http://www.writing.nwu.edu/tips/plag.html>.

<sup>65</sup> JEAIL Detailed Regulation art. 6, [http://journal.yiil.org/home/pdf/Detailed\\_RegulationsFINAL130822.pdf](http://journal.yiil.org/home/pdf/Detailed_RegulationsFINAL130822.pdf).

<sup>66</sup> The institution is required to establish policies and procedures that provide for “undertaking diligent efforts to protect the positions and reputations of those who, in good faith, make allegations.” See 42 C.F.R. § 50.103(d)(13).

Then, the head must notify it to the editorial committee as well as to the author under suspicion. Generally, the editor-in-chief is in charge of the notification. At the outset, the editorial board shall appoint a special rapporteur for the allegation. The rapporteur will then initiate queries about the allegation and require the author to defend their work with factual evidence. In this stage, “the inquiry is to conduct an initial review of the evidence to determine whether to proceed with an investigation.”<sup>67</sup> If the evidence is not sufficient to allay suspicion, the head will organize an investigation committee following the rules of the institution and the national law. In the case of JEAIL/CWR, the committee is composed of 3 or 5 members as a fair and independent body including the chief editor and an outside expert.<sup>68</sup>

The investigation process collects all the relevant evidence of the alleged research misconduct, reviews the evidence, interviews those who are involved including the accused author and those with knowledge of the activities.<sup>69</sup> In this process, the author’s right to defend should be fully guaranteed in a written and oral statement. All these defenses should be conducted with factual evidence. Any political considerations should be excluded here. After careful review and discussion, the final investigation report should be released within the period prescribed. The adjudication shall be contained in the final report. The type of penalty should be in accordance with the regulation. In the case of JEAIL/CWR, the submitted manuscript must be deleted from the deliberation list immediately and the journal shall notify the same to the author. If necessary, a notification may be made to the author’s institution. If the violation is minor or unintentional, modification is required. If the paper is already published, it must be revoked and such revocation shall be notified in the upcoming volume and on the official website of the journal. The author shall be also excluded from examination for publishing in the journal for a period of five years.<sup>70</sup> The accused author may appeal the adjudication within some period of time as prescribed when the author has other factual evidence that is newly discovered.<sup>71</sup> In case of JEAIL/CWR, the author should appeal within 10 days of such determination.<sup>72</sup>

The UK Committee on Publication Ethics (“COPE”) also presents a series of flowcharts addressing the standard procedure of reaction to the research misconduct.

<sup>67</sup> Johns Hopkins School of Medicine, Procedures for Dealing with Issues of Research Misconduct, at 3 (2009), [http://www.hopkinsmedicine.org/research/resources/offices-policies/OPC/Policies\\_Regulations/pdfs/researchMisconduct\\_June2009.pdf](http://www.hopkinsmedicine.org/research/resources/offices-policies/OPC/Policies_Regulations/pdfs/researchMisconduct_June2009.pdf).

<sup>68</sup> JEAIL Detailed Regulation art. 5.

<sup>69</sup> Johns Hopkins School of Medicine, *supra* note 67, at 5.

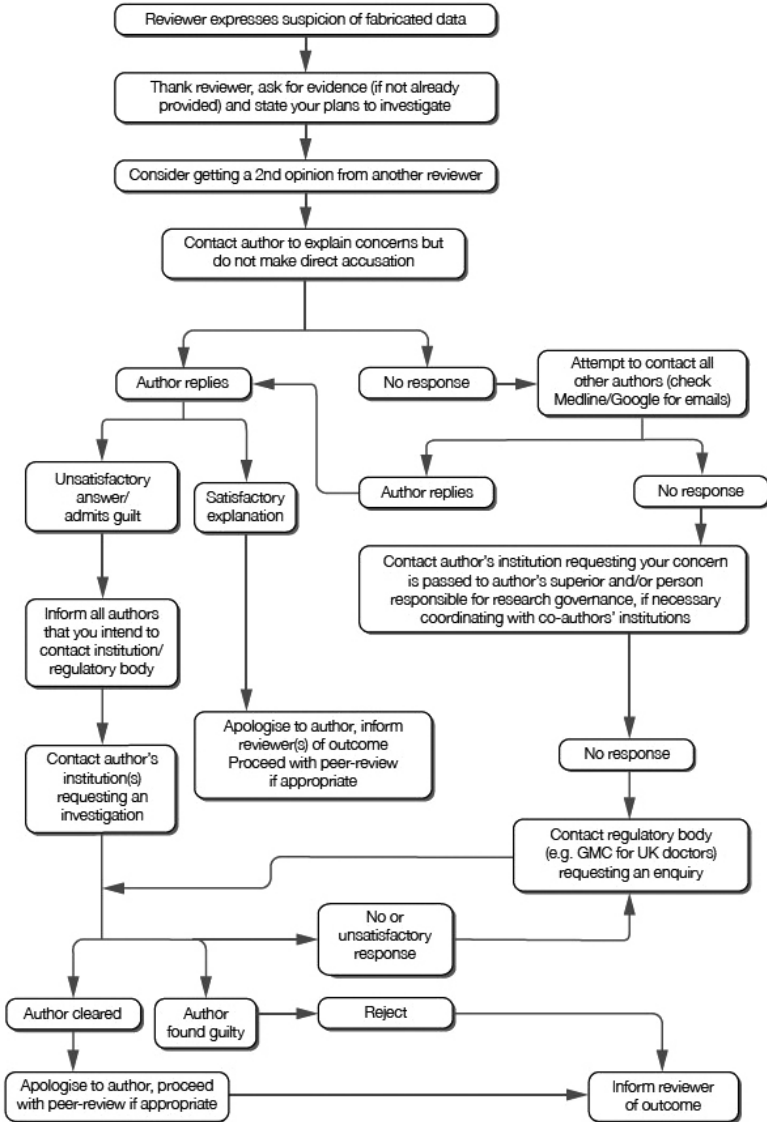
<sup>70</sup> JEAIL Detailed Regulation art. 10.

<sup>71</sup> Johns Hopkins School of Medicine, *supra* note 67, at 6-11.

<sup>72</sup> JEAIL Detailed Regulation art. 9.

Figure 1 shows a case of suspected plagiarism in a submitted manuscript.

Figure1: What to do if you suspect plagiarism in a submitted manuscript?<sup>73</sup>



\* This chart has been reproduced with the permission of COPE (June 14, 2017)

<sup>73</sup> L. Wagner, What to do if you suspect plagiarism: (a) Suspected plagiarism in a submitted manuscript, COPE, [https://publicationethics.org/files/Full%20set%20of%20English%20flowcharts\\_9Nov2016.pdf](https://publicationethics.org/files/Full%20set%20of%20English%20flowcharts_9Nov2016.pdf).

## E. How to Prevent Research Misconduct?

The best way to prevent research misconduct is to keep the principles of research ethics in mind and abide by these rules in the course of the actual research. David Resnik has summarized most important principles of research ethics as follows. (Table 2)

Table 2: Principles of Research Ethics<sup>74</sup>

Honesty	Honestly report data, results, methods and procedures, and publication status. Do not fabricate, falsify, or misrepresent data. Do not deceive colleagues, research sponsors, or the public.
Objectivity	Avoid bias in experimental design, data analysis, data interpretation, peer review, personnel decisions, grant writing, expert testimony, and other aspects of research. Disclose personal or financial interests that may affect research.
Integrity	Keep your promises and agreements; act with sincerity; strive for consistency of thought and action.
Carefulness	Avoid careless errors and negligence; carefully and critically examine your own work and the work of your peers.
Openness	Share data, results, ideas, tools, resources. Be open to criticism and new ideas.
Respect for Intellectual Property	Honor patents, copyrights, and other forms of intellectual property. Do not use unpublished data, methods, or results without permission.
Confidentiality	Protect confidential communications, such as papers or grants submitted for publication, personnel records, trade or military secrets, and patient records.
Responsible Publication	Publish in order to advance research and scholarship, not to advance just your own career. Avoid wasteful and duplicative publication.
Responsible Mentoring	Help to educate, mentor, and advise students.
Respect for colleagues	Respect your colleagues and treat them fairly.
Social Responsibility	Promote social good and prevent or mitigate social harms through research, public education, and advocacy.
Non-Discrimination	Avoid discrimination against colleagues or students on the basis of sex, race, ethnicity, or other factors not related to scientific competence and integrity.
Competence	Maintain and improve your own professional competence and expertise through lifelong education and learning.
Legality	Know and obey relevant laws and institutional and governmental policies.

<sup>74</sup> D. Resnik, What is Ethics in Research & Why is it Important? (Dec. 1, 2015), <https://www.niehs.nih.gov/research/resources/bioethics/whatis>.

## VIII. Publication

### A. Why Publication?

Publication is the final destination of a piece of research. Since humankind invented the letter, every kind of knowledge has been stored, shared, and transferred to the next generation by publication. It is rare that someone does not wish to publish their ideas. Without publication, however, no one can recognize the author of the ideas for human development. In the jurisprudential community, publication also has important implications as a means to deliver new ideas for contribution. Actually, lawyers should publish their ideas or experiences in scholarly law magazines in order to improve themselves and also, to show off their skills. It is said: "Publish or Perish!" To publish articles in law reviews, however, is not easy; in the case of a globally recognized law journal, it is extremely competitive because a highly limited number of spaces are available every year. To be selected, they should have attractive ideas, best writing, and an efficient strategy.

### B. Law Magazine

When completing a draft paper for publication, one has to find appropriate law magazines. They are scholarly, peer-reviewed journals about the law,<sup>75</sup> which mainly contain an academic article or case reports. In the English-speaking world, there are more than a thousand law journals. As of today, Washington and Lee University Law Library has listed more than 1550 law journals edited and published in English in the world.<sup>76</sup> Among them, about 180 journals are international law oriented. There are two types of law reviews: one is published by universities (law schools), the other, by either academic or professional society, or commercial publishers. In the US, particularly, law students often edit their law reviews. Currently, law magazines are published either in paper or online; most of them do both. The following is the list of websites containing law reviews:

- American Law Sources on-line;<sup>77</sup>

<sup>75</sup> M. Whisner, Writing for & Publishing in Law Reviews, University of Washington Law Library, <http://guides.lib.uw.edu/law/writinglawreview>.

<sup>76</sup> Washington and Lee University Law Library, Law Journals: Submissions and Ranking, 2009-2016, <http://lawlib.wlu.edu/LJ>.

<sup>77</sup> See American Law Sources On-line: United States-Law Reviews and Periodicals, <http://www.lawsource.com/also/usa>.



- ABA Free Full-Text Online Law Review/Journal Search;<sup>78</sup>
- Bluebook Abbreviations of Law Reviews & Legal Periodicals Indexed in CILP;<sup>79</sup>
- Information for Submitting Articles to Law Reviews & Journals;<sup>80</sup> and
- Washington and Lee University Law Library, Law Journals: Submissions and Ranking, 2009-2016<sup>81</sup>

### C. Target the Law Magazine

It is difficult to target appropriate law Magazines to submit your draft manuscript. Generally, authors like to choose top ranked law journals in each field whose articles will be indexed to highly prestigious academic databases like the Web of Science/ SCOPUS. However, those top journals are extremely difficult to publish in.<sup>82</sup> Most scholarly articles published in this category of journals will be a combination of highly creative, challenging, and provocative ideas of significance. It is often the result of theoretical and empirical studies in a long and painstaking process, with considerable financial and institutional support.<sup>83</sup> It is thus important to find and categorize relevant journals and then list with priority a group of those journals.

The best way to successfully pick up relevant journals is to read the aims and scope, or author guidelines of the journal very carefully. Each journal has its own academic aims with topical or regional scope. You are also required to check the purpose of the academic or professional institution which publishes that journal because it is a flagship magazine of the organization, whose purpose reflects the content it carries. Two journals with similar titles would sometimes have totally different editorial directions. Sensitivity is necessary to identify the position and the criteria of publication. <Aims and Scope> section will show these vividly.

Law reviews generally accept submissions on a rolling base; the draft can be submitted all year. In some cases, however, there are strict timing deadlines for submission. It is particularly so in the case of the student edited law reviews of US law schools. They also temporarily do not accept submissions for some time of the

cgi?usj.

<sup>78</sup> ABA, Free Full-Text Online Law Review/Journal Search, [https://www.americanbar.org/groups/departments\\_offices/legal\\_technology\\_resources/resources/free\\_journal\\_search.html](https://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/free_journal_search.html).

<sup>79</sup> See Bluebook Abbreviations of Law Reviews & Legal Periodicals Indexed in CILP, <https://lib.law.washington.edu/cilp/abbrev.html>.

<sup>80</sup> A. Rostron & N. Levit, *Information for Submitting Articles to Law Reviews & Journals*, UMKS L. J. (2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1019029](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1019029).

<sup>81</sup> Washington and Lee University Law Library, *supra* note 76.

<sup>82</sup> See 5 Tips for Publishing Your First Academic Article, Inquires Journal blog, <http://www.inquiriesjournal.com/blog/posts/51/5-tips-for-publishing-your-first-academic-article>.

<sup>83</sup> *Id.*

year. Drafts can be emailed to the editor of the journal. But recently, American law journals seem to prefer a web-based article submission management system such as Express-O<sup>84</sup> or Scholastica.<sup>85</sup> Authors are required to check the submission rules carefully in this regard.

#### D. Captivate Editor's Eyes.

Every year, top ranked law journals accept hundreds of draft papers. Just a few of them will be selected for publication. In case of JEAIL/CWR, less than 10 percent of all submissions are shortlisted for publication in the preliminary decision. They are selected by the editorial board. Particularly, the chief editor plays an influential role in this process. In general, the chief editor shortlists promising papers for publication and organizes the editorial board for the review process. It is thus extremely important to captivate the attention of the chief editor with a well-written paper. The following are some ways of keeping an editor's eyes on your draft. First, the paper should say something new and creative; which has not been dealt with before. No journal is going to take interest in a paper reiterating the same story.<sup>86</sup> Second, the title should be noticeable. Editors often casually joke: "Title should be sexy!" Third, the organization of paper should be well-balanced. Sub-headings must be simple, yet must vividly represent what the author would like to say and must be structured compatibly with each other. Fourth, the references must be precisely provided for academic credibility. Some people think that writing is the main concern, while referencing is additional. However, providing valuable primary sources for academic arguments is a critical way to promote your academic performance. Strategic referencing will improve chances to be selected.<sup>87</sup> The following are general strategies for referencing:

- To provide primary sources as much as possible;
- To discover and provide a new and valuable sources which have not been cited yet
- To refer to articles that are widely cited; and
- To cite articles from the journal to which you are submitting.<sup>88</sup>

Last, possessing good legal English, while constructing statements, is extremely

<sup>84</sup> Express-O, <https://www.bepress.com/products/expresso>.

<sup>85</sup> Scholastica, <https://submissions.scholasticahq.com/login>.

<sup>86</sup> *Supra* note 81.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

important. In the initial stages of shortlisting, editors cannot carefully check every single line of all drafts given the time-limits. The better the English is, the faster and easier they will read it, and understand what the author wishes to say. Few editors are willing to struggle with bad English. Good English in this context means grammatically correct, cohesive, well structured, terse, and straightforward. In scholarly legal writing, it is advisable to avoid complicated metaphors, long phrases, unnecessary Latin sentences, archaic words, etc. Careful English proofreading is indispensable before submission. Table 3 shows the checking points for the final draft.

Table 3: The Final Checking Points before Submission<sup>89</sup>

Title page	Some journals ask for a separate title page with abstract and keywords. Title page does not include the author's name. You may submit two different drafts: one includes the author's name, the other does not.
Author Profiles	Just shortly refer to the author's profile including current affiliation and status, educational background, and contact points. If any co-author(s), those profiles are also to be included.
Acknowledgement	If there is someone who helped draft the paper, remarks of appreciation may be duly inserted. Also, financial support or research project number should also be included.
Abstract & Keywords	In a scholarly legal article, abstract would contain 150-250 words. Abstract is just a summary of the paper; it does not refer to any substantial thesis. Keywords are composed of a few words of important in the article.
Table of Contents	A table of contents may or may not be required. If necessary, just Level 1 or 2 headings are provided. Please check if the sub-headings in the main text and numbering are in accordance with the journal's house style.
Main Text	Check the description of main text. Recently, some journals seem to ask the author to provide numbers in front of each paragraph for electronic publication.
References	Please check if footnote style follows the journal's house style and the numbering is orderly. The web-data should be connected at the time of publication. In particular, please check if each internal citation note ( <i>supra</i> or <i>infra</i> ) number is consistent with the reference that the number is accurately designating.
Typos or Grammatical Errors	Please check for typos or grammatical errors, if they still remain.
Bibliography (if necessary)	Please provide books first, then chapters in books, journal articles, web-based materials, miscellaneous ones.

<sup>89</sup> WHITE, *supra* note 8, at 22.

## E. Peer Review

Once shortlisted, the peer-review process starts. Peer-review is an essential element of publication because no writer can identify and address all potential issues with a manuscript.<sup>90</sup> It is the coordinated and corresponding work between the author and the reviewer. The chief editor organizes the editorial commission, including outside experts, and ask them to review the draft. Their professional comments will be returned to the authors for revision. Peer review process is a kind of negotiation. In a sense, it is a game between the two sides. When editors ask for revision along with the comments, the author should do their best in addressing them. The most important thing in this process is to keep an open mind. Many authors believe that their arguments are perfect and that the paper deserves to be published in its entirety without any big amendments. However, publication is finally decided by the editors, not the author. For the author, the article is the only one in their world, while, for the editor, it is one of many. To accept or reject is part of the daily life and routine of editors as is life or death for doctors in the operation room. The author should have the patience to humbly accept the comments from the editors. In most cases, the collective evaluation of the editorial commission including outside expert(s) is more objective than the sole subjective perspective of the author in the course of their own research. If you have different ideas from the comments of the editors, please do not automatically refute them, but describe your personal opinions convincingly with evidence. Even if finally rejected, please do not regard it as an insult. Both views are simply different. Some papers of mine have been published in the world's major law reviews after being rejected by other minor regional journals. It is likely that a better opportunity may make itself available.

When the peer-review process is over and your final revision is authorized, the journal will finally notify the volume and number of the issue, and the date of publication. Most globally recognized law journals ask the author to sign the grant of license agreement, which transfer copyright of the work to the publisher.

## IX. Conclusion

This paper has suggested the practical ways of writing and publishing scholarly legal

<sup>90</sup> Aijaz Shaikh, 7 steps to publishing in a scientific journal, <https://www.elsevier.com/connect/7-steps-to-publishing-in-a-scientific-journal>.

articles. It contains guidelines for young lawyers who have just begun their careers toward academic research, instead of legal practice. However, practitioners can also refer to these suggestions efficiently when they try to write client reports or court notes. The comments included in this paper are from the author's experiences of a writer and editor. Good writers in law need to know what to consider and what to avoid, in case of writing and publication. They should understand not only the basic ideas, but also the techniques to efficiently transform it into publication.

Through this paper, the author has tried to tackle a wide range of subjects which should be kept in mind for writing and publication of scholarly legal paper. However, it has not fully covered everything. In particular, all types of research ethics issues such as self-plagiarism, duplicated/redundant publications, salami publications, authorship disputes, conflict of interests, or sloppy science are not fully referred to here. Research module is not fully analyzed, either. Hopefully these questions will be examined in the future with special references to publication ethics.

A professional is evaluated by their writing. Good legal writers are those who recognize themselves first as human beings. They are not free from mistakes. The most important principles are 'transparency' and 'integrity' for scholarly conscience. Try to make your paper a work that displays cutting-edge, provocative, and thoughtful work. If borrowing an idea from others' work, please do cite to it. These simple rules will bring you toward becoming one of the best publicists of your age.

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