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Self-Publication on the Internet and the Future of Law Reviews

by

Gregory E. Maggs*

Professor Bernard Hibbitts advances a stunning vision of the future in his superb essay, *Last Writes?: Re-assessing the Law Review in the Age of Cyberspace*.¹ He foresees that law professors will soon cease publishing articles in law reviews.² Instead, as authors in many other disciplines currently are doing, law professors will make their manuscripts public simply by placing them on the Internet.³

Hibbitts's prediction, no doubt, will startle many readers. Law reviews, for better or worse, have served the academic community for more than a hundred years.⁴ As a result, they have become firmly rooted in the law school culture. To many faculty members, any other method of publication may seem almost unthinkable.

Sooner or later, however, self-publication on the Internet almost certainly will become a reality. Self-publication, as Hibbitts explains, has decisive advantages over traditional law review publication: it is cheaper and faster;⁵ it frees scholars from editorial controls;⁶ and it allows authors to reach more people than any law journal currently does.⁷ It also permits authors to enhance their articles with hypertext links and video and audio clips.⁸ These indisputable facts inevitably will cause authors to cease submitting articles to law reviews for publication.

This conclusion gives rise to an important question: what will happen to law reviews when self-publication on the Internet becomes the norm? Hibbitts surmises that self-publication "will almost certainly bring about the end of the institution of the law review as we know it."⁹ If law professors publish their own articles, Hibbitts reasons, law reviews simply will become unnecessary.

This essay presents a different vision of the future. Part I explains why law reviews might continue to exist even after self-publication on the Internet becomes the norm. It suggests that law reviews could still perform many of the functions they currently perform, even if they get out of the business of publishing. Part II then argues that law schools should favor the continued existence of law reviews. It explains that law reviews stimulate and enrich the students who volunteer to serve on them, and that developments on the Internet will make the law review experience even more valuable. Part III then states a brief conclusion.

I.

Although self-publication on the Internet will make printed law journals unnecessary, it need not eliminate law reviews as institutions. Law reviews presently serve many functions in addition to printing and distributing legal scholarship. Most law reviews, in particular, edit articles, evaluate manuscripts, set up symposia, and help students write notes and case comments. Law reviews could continue to perform each of these tasks even if they ceased publishing journals. In fact, if law reviews gave up publication, they might become more valuable to both authors and readers of legal scholarship.

A. Editing Articles

Self-publication on the Internet, as Hibbitts explains, will allow authors to escape the law review editorial process.¹⁰ Some authors will appreciate this development because student editors often demand unreasonable changes.¹¹ These authors will prefer to publish their manuscripts exactly as they have written them, as Hibbitts himself has done with *Last Writes?*.

A significant number of law professors, however, may worry about putting articles on the Internet without first having some editorial assistance. Publication on the Internet instantly makes a manuscript available to millions of readers. Some authors, accordingly, will want to ensure that their work looks its best before taking this dramatic step.

Law reviews can assist these authors. A faculty member who wants to place a manuscript on the Internet could ask the law review to read the article and recommend changes. Even if the law review does not publish the article, its editors could check citations and suggest stylistic and substantive revisions.

Law reviews could receive recognition for their editorial work in a variety of ways. Authors, for example, might state in the first footnote of their articles: "Many thanks to the editors at the [fill-in-the-blank] law review for their careful editing." Authors also could continue to reward hard working editors with letters of recommendation, much as they do now.

Self-publication on the Internet would change the relationship between authors and student editors in a positive way. Because students would no longer have the power to prevent publication of manuscripts, they would have to act reasonably in suggesting editorial revisions. If a law review earned a reputation for poor editing, authors would simply stop asking the review for assistance. In this way, self-publication on the Internet actually may improve the work of law reviews.

B. Reviewing and Evaluating Manuscripts

Law review editors presently spend a good deal of time reading new manuscripts. They must perform this task because they can publish only a handful of the hundreds of articles they receive each year. Naturally, they want to select the best submissions available.

Law reviews will not need to read manuscripts when self-publication on the Internet becomes the norm. Because authors will publish their own articles, law reviews will have no power to select or veto manuscripts. Law reviews, however, may continue to perform the screening function as a service to the academic community.

If law professors can put anything that they want on the Internet, problems of quality may arise. Readers will have difficulty knowing what to look at, and what to ignore. Law reviews can alleviate this difficulty by evaluating new manuscripts and steering readers to the works they consider the best.

Law reviews could learn about the existence of new publications in several ways. Authors, for example, voluntarily could notify editors whenever they place new manuscripts on the Internet. Alternatively, editors could search directories of law review articles for recent submissions.¹²

After reading new manuscripts, law reviews then could make their evaluations known in several ways. For example, each law review could create a site on the Internet containing evaluations of recent articles. Alternatively, law reviews might permit the authors of worthy pieces to display a "seal of approval" on their self-published articles.

Both methods of identifying quality currently exist on the Internet. Numerous organizations have developed directories to guide Internet users to interesting web sites.¹³ Some groups have also developed service marks that they allow the developers of important or interesting web sites to display to indicate their superior quality.¹⁴ Law reviews simply could adopt these methods and apply these ideas to sites containing self-published legal scholarship.

C. Setting up Symposia

Law reviews, at present, often organize symposia on important issues. These symposia have great academic value. They often focus debates and bring together scholars who enjoy discussing the same issues. This collection of essays on Hibbitts's article, indeed, presents a fine example of a scholarly discourse that would not have taken place without the efforts of law review editors.

Even if law reviews cease to publish articles, they could continue to set up symposia. Editors could still ask a group of authors to exchange their views on a particular subject, or invite speakers to a conference at their school. They could also write introductions and responses to the remarks made by the speakers.

Self-publication on the Internet, in fact, might encourage law reviews to set up more academic conferences. At present, many law review editors like organizing symposia, but dislike the task of publishing symposium issues. Symposium pieces notoriously delay publication of journals because they often involve many authors, some of whom procrastinate in reducing their spoken remarks to writing.¹⁵ Because the participants

would publish their own remarks on the Internet, a delay by one person would not have to hold up everyone else.

D. Publishing Notes

Many students join law reviews because they want to publish a note or comment about a topic that interests them. In the future, many students will realize that they can publish this kind of writing on the Internet by themselves. As result, they will not need to serve on a law review to make their work public.

Like faculty authors, however, some students will want the editorial assistance that law reviews currently provide. They also will want some seal of approval so that readers will take their work seriously. Law reviews can continue to serve both roles, even after they cease to publish printed journals. They can edit notes and comments and, when appropriate, they can list worthy student writing in their directories of important legal scholarship.

II.

Even if law reviews can continue to serve the academic community, that possibility does not guarantee their future existence. Some law schools may not want to keep law reviews around once other methods of publication become possible. Indeed, in a brief but thoughtful passage, Hibbitts suggests two reasons for supporting the demise of law reviews.¹⁶

First, Hibbitts observes that much law review work has little educational value.¹⁷ Checking citations for accuracy and *Bluebook* form, after all, does not make students brilliant lawyers or legal scholars. This menial work, unfortunately, often takes precedence over more valuable editing, research, and writing.

Second, Hibbitts believes that shutting down law reviews would allow students to focus on more important matters. He explains that "[i]f law review work were largely eliminated, there would be more time for classes, studying, and getting the benefits of a formal legal education."¹⁸ He also suggests that law schools could make up for any missed learning opportunities by adding additional legal writing and research classes.¹⁹

This reasoning makes sense as far as it goes. No one seriously thinks that law reviews provide the exclusive method of teaching law students the skills they will need as lawyers, judges, or legal scholars. Indeed, many law students currently complete law school without working on a journal and do just as well as fellow students with law review training. A law school without law reviews, as a result, doubtlessly could complete its educational mission.

In haling the elimination of law reviews, however, Hibbitts has overlooked two factors. First, he has not taken into account the ways in which self-publication on the Internet would improve the work of law reviews. Once law reviews stop publishing articles, they

will have more time for the substantive activities of editing and evaluating articles, setting up symposia, and helping students publish notes. These changes will make law review work more educational, while reducing the time and expense currently involved.

Second, Hibbitts has not addressed an important issue that transcends the purely educational mission of law reviews. In particular, many law students simply enjoy working on law reviews. While some law students want to spend their spare time playing intramural sports or performing in musicals, others desire to edit, write, and publish law review articles. Many law schools, in fact, have voluntary law reviews that do not carry great prestige, but that still have many students staffing them.

Students volunteer for law review work for a variety of reasons. Some enjoy the editorial process because it gives them a connection to faculty members that they otherwise would not have. Others like to read manuscripts because they want to know what legal scholarship is all about. Still others want to meet speakers at symposia, or want to influence courts with quality notes and comments.

The elimination of law reviews, as a result, might deprive law students of an enjoyable and often intellectually stimulating extracurricular activity. That possibility seems a shame. If students want to participate in the development and dissemination of legal scholarship, somehow they should have that opportunity.

III.

Although this essay suggests a slightly different vision of the future of law reviews, it hardly reduces the value of what Hibbitts has done in *Last Writes?*. Hibbitts has demonstrated that authors can publish excellent articles by themselves on the Internet. He also presents a tremendously thorough argument for why electronic self-publication will supplant printed journals in coming years. His copious footnotes and attention to detail leave no argument unexamined. Perhaps most importantly, Hibbitts has given faculty authors reason to think about ways to improve the dissemination of legal scholarship.

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gwu.edu. The author presented a version of this essay at the annual meeting of the National Conference of Law Reviews on March 15, 1996, in Lexington, Kentucky.

1. Bernard Hibbitts, *Last Writes?: Re-assessing the Law Review in the Age of Cyberspace* (version 1.0, Feb. 5, 1996) <<http://www.law.pitt.edu/hibbitts/last.htm>>.

2. *See id.* at 1.

3. *See id.* at 22.

4. *See id.* at 2. The *Harvard Law Review* began publishing in 1887. *See id.*

5. *See id.* at 17.

6. *See id.*

7. *See id.*

8. *See id.* at 18.

9. *See id.* at 25.

10. *See id.* at 17.

11. For perhaps the best collection of complaints about student editing, see James Lindgren, *Fear of Writing*, 78 Cal. L. Rev. 1677, 1680-94 (1990). The *Chicago-Kent Law Review*, the *University of Chicago Law Review*, and the *Journal of Legal Education* have also published symposia on this issue. *See* 70 Chi.-Kent L. Rev. 71-152 (1994); 61 U. Chi. L. Rev. 527-58 (1994); 36 J. Legal Educ. 1-23 (1986).

12. Hibbitts suggests that the American Association of Law Schools should compile such a directory. *See* Hibbitts, *supra* note 1, at 20.

13. A listing of leading directories of fine web sites appear at <http://www.yahoo.com/Computers_and_Internet/Internet/World_Wide_Web/Best_of_the_Web/>. For information on the compilation of these and other directories, see Denise Caruso, *Wanted: Web Site Reviewers*, N.Y. Times, Feb. 26, 1996, at D5.

14. Lycos, Inc., a company that offers many services on the Internet, has perhaps the most popular service mark. It allows selected sites to display a logo bearing the words "Top 5% of the Web." For information, see <<http://www.pointcom.com>>.

15. The author apologizes to the *Akron Law Review* for any delay he has caused with this slightly tardy essay. [Apology accepted. -Eds.]

16. *See* Hibbitts, *supra* note 1, at 21.

17. *See id.* at 10.

18. *Id.* at 21.

19. *See id.*