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### The Legal Scholar's Guide Book Reviews

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## Book Review

Elizabeth E. Berenguer, *The Legal Scholar's Guidebook*, New York, Wolters Kluwer: 2020, pp. 257, \$71 (paperback)

Reviewed by Jamie R. Abrams

### I. Introduction

Success in law school and in the legal profession often involves mastering and navigating the plethora of unwritten rules and norms that govern institutions and communities. Differences in access to those unwritten rules can privilege and advance some while disadvantaging others. A second-generation law student, for example, is far more likely to know about the professional value of law review than a first-generation law student. Law scholarship is particularly plagued by an insularity that can yield a problematic echo chamber within elite institutions and privileged communities. Thus, the more legal scholarship can be explicitly demystified, taught, and mentored, the more inclusive the scholarly community might become.

It accordingly caught my attention that *The Legal Scholar's Guidebook* is dedicated “to all the voices longing to be heard”<sup>1</sup> previewing for readers the important values that the book champions of inviting more scholars to the table. The book is grounded in values of inclusivity and accessibility. It is a useful resource for new scholars, as it describes the analytic paradigms and organizational frameworks that govern traditional legal scholarship. The content is supplemented with accessible assignments to apply the concepts incrementally. It is a useful resource for student scholars, faculty supervisors, and new or prospective professors.

The book implicitly reveals to readers something of a tension between conformity and inclusion. This is an issue more systemic and entrenched than any single book could ever tackle, but it requires thoughtful consideration for scholars and supervisors. How do supervisors and mentors cultivate the development of *new* scholarly voices, particularly marginalized voices, within a context of reverent conformity to existing paradigms, methods, and schemas? In teaching scholarly writing, is the entrenched reverence and conformity to

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1. ELIZABETH BERENGUER, *THE LEGAL SCHOLAR'S GUIDEBOOK* (2020).

existing scholarship lifting up “voices longing to be heard” or is it conforming the voices longing to be heard with the dominant voices already being heard? Will marginal voices ever properly be centered if we teach too much conformity? Can we teach conformity inclusively?

*The Legal Scholar's Guidebook* also champions the value of producing scholarship that is both successful *and* sustainable. These are important values vital to the supervision and training of new scholars. *The Legal Scholar's Guidebook* candidly acknowledges imposter syndrome and embeds guidance throughout each chapter to “squelch” the imposter voice that can compromise the production of scholarship.<sup>2</sup> Imposter syndrome is real, and it particularly plagues new voices. It most often manifests itself through an intensely time-consuming and superhuman effort to overcome self-doubt in producing a product for fear of being considered an imposter or fraud.

*The Legal Scholar's Guidebook* suggests that research and mentoring will temper the imposter syndrome. The solution to the imposter syndrome, though, may not necessarily be *more* instruction, as explored more below. Mentors might indeed play an important role in “squelch[ing]” the imposter voice,<sup>3</sup> but mentors can also reinforce the problem if those mentors share a different pedigree, background, and resume from the scholar or if those mentors are confused or conflated with supervisors. Imposter syndrome is far more complex in its manifestations, its sources, and its impact on certain communities, as this review explores further.

*The Legal Scholar's Guidebook* has important and timely aspirations and values embedded in it. It has informative content that is not easily captured with such clarity and incremental support. In implementing the lessons and messages of the text, supervisors and students should balance the book's thoughtful content with a broadened and balanced perspective on scholarship, inclusion, and wellness. Readers might particularly balance the rigors of legal scholarship with a keen vigilance to avoiding the inherent limits of an echo chamber stifling innovation. *The Legal Scholar's Guidebook* begins important conversations that need to be cultivated and developed further between authors and their inner voices, authors and their supervisors, and authors and the larger academic community.

## II. Propelling Pedagogical Trajectories

*The Legal Scholar's Guidebook* continues two robust trajectories of pedagogical development—the pedagogy of legal writing and the reforms to legal education pedagogy toward greater measurement and assessment.

2. *Id.* at 84.

3. *Id.* at 19.

### A. Legal Writing Pedagogy

*The Legal Scholar's Guidebook* builds on the scholarly development of legal writing pedagogy.<sup>4</sup> Legal writing today is universally understood to evolve from a recursive process that is grounded within a social context.<sup>5</sup> Legal writing is taught using a “signature pedagogy” deploying real-world assignments with an appropriate level of difficulty, structured teaching interventions throughout the writing process, thoughtful feedback, and opportunities for revision.<sup>6</sup> Good writing follows a method and a process, engages with its audience, communicates a clear purpose, and aligns with formal constraints such as citation and local rules.<sup>7</sup>

Good legal writing is highly active. It involves both process and context. The legal writer does not just communicate what the law is, but instead works through a “process pedagogy” of “thinking, analyzing, and writing.”<sup>8</sup> Legal writing also explores the role of the writer through a social lens compelling the author to contextualize the document and its language within a particular discourse community.<sup>9</sup> Both the process of legal writing and the socialization of legal writing are heavily affected by external forces as authors write for an external audience and an external purpose.<sup>10</sup>

*The Legal Scholar's Guidebook* aligns with this larger trajectory of professionalizing the instruction of legal writing. The pedagogy of legal writing has been

4. See, e.g., Teresa Godwin Phelps, *The New Legal Rhetoric*, 40 SW. L.J. 1089, 1090, 1102 (1986) (explaining that legal writing for centuries was “wordy, abstruse, and unintelligible” and empowering legal writing teachers to engage a “new legal rhetoric” that will “enable [students] to find their professional and personal voices that will allow them to engage in the ongoing conversation of the law”); Lorne Sossin, *Discourse Politics: Legal Research and Writing's Search for a Pedagogy of Its Own*, 29 NEW ENG. L. REV. 883, 901 (1995) (“Students should be required both to research and write ‘like a lawyer’ and also to see the social, political, and economic implications of this form of discourse, and to be aware of the alternatives.”); Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35, 98-99 (1994) (proposing a revised view of legal writing that “offers an invitation into one of the richest and most complex of the professional discourses: a community that is demanding in its argumentative and analytical paradigms, challenging in its research and writing processes, and complicated by its social pressures”).
5. Carol McCrehan Parker, *The Signature Pedagogy of Legal Writing*, 16 LEGAL WRITING: J. LEGAL WRITING INST. 463, 466 (2010).
6. See e.g., Kathryn M. Stanchi, *Resistance Is Futile: How Legal Writing Pedagogy Contributes to the Law's Marginalization of Outsider Voices*, 103 DICK. L. REV. 7, 12 (1998) (describing this as the “process view” of legal writing pedagogy—the notion that good writing is “knowable” and “teachable”); Parker, *supra* note 5, at 466-67 (explaining that this pedagogy has “roots in composition theory, and cognitivist (developing schemas within the domain of law) and constructivist (creating understanding by acting within the social context) learning theories, and is supported by research in the acquisition of expertise”).
7. See Stanchi, *supra* note 6, at 12.
8. See *id.* at 13.
9. See *id.*
10. See *id.* at 15.

historically deployed most rigorously and programmatically in the first-year legal writing curriculum. First-year writing programs are well developed with robust textbooks, materials, and assessment rubrics. Upper-level courses continue the assessment of writing, but are generally more diffuse, lacking the uniformity and consistency of a first-year legal writing course.<sup>11</sup>

Law schools require students to complete an upper-level writing assignment, but provide relatively little structure, instruction, or formative assessment compared with the novice legal writing courses.<sup>12</sup> An upper-level writing course might produce a scholarly writing or a practitioner document. These upper-level writing assignments can present a “daunting” process that challenges students.<sup>13</sup> While supervising faculty might be experienced in their own scholarly production, that success may not “translate directly” into student supervision.<sup>14</sup> Faculty may lack the writing pedagogical underpinnings or they may not have the bandwidth to commit to time-intensive supervision.<sup>15</sup>

These supervisory realities are particularly true for scholarly writing on law reviews and journals. Huge variety also persists in the rigors of journal training and supervision. Journals may train their students in topic selection, thesis development, research, organization, analysis, and citation, but not always.<sup>16</sup> Student editors often supervise junior students, but more than half of all journals surveyed reported not training those students how to supervise.<sup>17</sup> Even when journals do train their student supervisors, they are often training them in *either* supporting student thesis selection *or* effective commenting on student drafts, but not both.<sup>18</sup>

The supervision of upper-level scholarly writing through courses and journals has benefited from several instructional texts. *The Legal Scholar's Guidebook* notably aligns with these recent texts, strengthening this rigor of scholarly writing instruction and production.<sup>19</sup> These texts collectively stand

11. See Jessica Wherry Clark & Kristen E. Murray, *The Theoretical and Practical Underpinnings of Teaching Scholarly Legal Writing*, 1 TEX. A&M L. REV. 523, 526 (2014).

12. See *id.* at 525.

13. See *id.*

14. See *id.* at 525–26.

15. See *id.*

16. See, e.g., Kristina V. Foehrkolb & Marc A. DeSimone, Jr., *Debunking the Myths Surrounding Student Scholarly Writing*, 74 MD. L. REV. 169, 182 (2014) (reporting that nineteen journals surveyed do not train their members on scholarship writing production).

17. *Id.*

18. *Id.* at 182–83 (noting that this training might just involve an internal manual or a collection of articles).

19. See, e.g., JESSICA LYNN WHERRY & KRISTEN E. MURRAY, *SCHOLARLY WRITING: IDEAS, EXAMPLES, AND EXECUTION* (3d ed. 2019); ELIZABETH FAJANS, *SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES AND LAW REVIEW COMPETITION PAPERS* (5th ed. 2017); TONETTE S. ROCCO ET AL., *THE HANDBOOK OF SCHOLARLY WRITING AND PUBLISHING* (2011); EUGENE VOLOKH, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES,*

to produce better work product, cultivate skills, and improve the quality and efficiency of faculty supervision.<sup>20</sup>

### B. Legal Education Pedagogy

*The Legal Scholar's Guidebook* also aligns with legal education pedagogy reforms toward the development of learning outcomes and the measurement of those learning outcomes. The ABA's Standards and Rules of Procedure for Approval of Law Schools Standard 302 requires that all law schools establish minimum institutional learning outcomes, including "legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context."<sup>21</sup>

The ABA Standards on curriculum, in turn, require law students to satisfactorily complete "one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised."<sup>22</sup> There are many ways to meet this upper-level requirement, including seminar papers, advanced legal writing courses, and law review notes and comments. Some of these methods of complying with ABA Standard 302(b) may be supervised consistently and embedded within a course, like a seminar paper. Other versions of compliance might be more diffuse, such as multiple faculty supervising law review notes and comments.

The ABA Standards further require that law schools use both "formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students."<sup>23</sup> Law schools are empowered to use whatever assessment methods work within a particular course and are not standardized.<sup>24</sup> These ABA Standards compelled a new consciousness of teaching, measuring, and assessing. *The Legal Scholar's Guidebook*

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AND SEMINAR PAPERS (2003); Elizabeth Fajans & Mary R. Falk, *Comments Worth Making: Supervising Scholarly Writing in Law School*, 46 J. LEGAL EDUC. 342, 344 (1996); Richard Delgado, *How to Write a Law Review Article*, 20 U.S.F. L. REV. 445 (1986).

20. See CLARK & MURRAY, *supra* note 11, at 525.

21. 2020–2021 *Standards and Rules of Procedure for Approval of Law Schools*, Standard 302(b), AM. BAR ASS'N, [https://www.americanbar.org/groups/legal\\_education/resources/standards/](https://www.americanbar.org/groups/legal_education/resources/standards/) (requiring further that students acquire competencies in the "[k]nowledge and understanding of substantive and procedural law," "[e]xercise of proper professional and ethical responsibilities to clients and the legal system," and "[o]ther professional skills needed for competent and ethical participation as a member of the legal profession"). Schools are free to establish additional learning outcomes as well. *Id.*

22. *Id.* at Standard 303(a)(2). Interpretation 303-2 further states that "[f]actors to be considered in evaluating the rigor of a writing experience include the number and nature of writing projects assigned to students, the form and extent of individualized assessment of a student's written products, and the number of drafts that a student must produce for any writing experience." *Id.*

23. *Id.* at Standard 314. Formative assessments occur throughout a course or program to allow opportunities to improve, and summative assessments are measured at the end of a course or program to "measure the degree of student learning." *Id.* at Interpretation 314-1.

24. *Id.* at Interpretation 314-2.

responds to this trajectory in legal education as well. It provides materials, assignments, structure, and building blocks for grading rubrics that support faculty in assessing scholarly writing.

Having positioned *The Legal Scholar's Guidebook* within the larger trajectory of legal writing pedagogy and legal education pedagogy, the next section highlights the book's structure and content.

### III. The Architecture of Scholarly Writing

*The Legal Scholar's Guidebook* is six chapters in length, with robust appendices demonstrating and annotating the techniques. Chapter 1 begins by walking readers through the process of selecting a topic. Each chapter concludes with a capstone assignment implementing the chapter concepts. Chapter 1 plays an important role defining conceptual terms that faculty and supervisors might be inclined to use routinely without establishing a foundation for their use. Terms like doctrinal, empirical, and historical can help students brainstorm the types of writing projects they might undertake. These foundational definitions are valuable for new scholars, and they remind supervisors of strong supervisory practices.

Chapter 2 moves into the research phase of writing as authors move toward finding relevant sources. It offers authenticity for students by acknowledging that research is not a stable trajectory. Research might be filled with highs and lows for the researcher as they vacillate between experiencing great satisfaction finding relevant and illuminating sources mixed with lows as researchers stumble, spin, and stagnate. Much of the text has a strong empowering tone for students. It is important to candidly acknowledge the challenges that authors will face, to normalize it, and contextualize it.

Chapter 2 breaks research into several stages whereby authors identify the research questions that they have, identify sources to answer those questions, make a plan to locate sources thoroughly, and track information as they find it. Far too often, students approach their research in a "supermarket sweep" style, just frenetically grabbing sources as they race through databases without a lot of purpose or structure to their accumulation. Chapter 2 nudges authors to stay focused on a far more targeted query.

Chapter 2 reminds authors about the differences between primary and secondary authorities and expands their understanding of the types of sources available. Far too often the typical legal research curriculum necessarily focuses on the "bread and butter" sources primarily accessed through Westlaw and Lexis. Students are sensitized only to the *existence* of other sources and databases such as HeinOnline, SSRN, JSTOR, ProQuest, and Google Scholar. A scholarly writing project presents an important hands-on opportunity for students to learn about these sources, master their search capabilities, and candidly assess their respective benefits and drawbacks.

Chapter 3 invites authors to reframe the tentative thesis that they developed back in Chapter 1 based on the authorities they have located. It guides authors

through the process of relating their sources back to the thesis and comparing and contrasting their thesis more actively with the sources. It also walks readers through the preemption check, often an important step in law review and journal approval processes. The Chapter 3 capstone assignment is an essay identifying the leading scholars and their respective positions on the topic.

For faculty readers, Chapter 3 might present some important supervisory revelations. I often require my seminar students to submit annotated outlines, as the law reviews and journals usually do as well. Notably, I never provide much more substantive guidance than this. I might, for example, direct students to include X number of primary sources and Y number of secondary sources or something quantitative. I have never compelled students in their research summaries to cultivate a self-awareness about their unique thesis and its relationship to the existing field.

Consistent with the larger themes of *The Legal Scholar's Guidebook*, this is indeed an important step to bring self-awareness to the author's own voice. The annotated outline serves as an important audit of the research, but it does not—on its own—advance the author's voice or empower it. The Chapter 3 capstone assignment is one from which all law reviews, journals, and scholarly papers would benefit. This was also an important step that I envision adding explicitly to my own methods of scholarship, whereas previously I thought of this only more implicitly.

Chapter 4 focuses on prioritizing resources. It advises readers how to work with the information that they located in the research process as they begin writing. This is useful to help authors through the volumes of sources. The text advises authors to look carefully at source reliability by scrutinizing the identity of the publisher, the identity of the author, the purpose of the source, and the substance of the source. The capstone assignment asks readers to prepare a research summary that is thesis-driven. This step helps students develop their scholarly voice.

Chapter 5 presses readers to consider how they are going to use all of the information that they put together. It introduces readers to various analytical frameworks that can function as a method of inquiry or problem-solving to shape the writing. It explains to authors that the analytic framework will provide conceptual structure to an article, whereas the organizational paradigm will provide physical structure. Berenguer uses a helpful analogy that the cake pan is the organizational frame and the recipe is the analytic frame.<sup>25</sup> This content emphasizes how supervisors can empower authors. Law reviews, journals, and seminar instructors often compel submission of an outline of the article, but it is quite distinct to also require authors to articulate explicitly their chosen analytic method.

Chapter 5 introduces some analytic frameworks such as natural law, legal positivism, legal realism, and legal interpretivism. It introduces some

25. BERENGUER, *supra* note 1, at 67.



normative lenses and some critical lenses. Berenguer provides examples to the reader to make the content less academic and more accessible.

Chapter 5 is particularly useful to faculty looking to establish grading rubrics for writing assignments. The ABA has directed law schools to conduct more formative assessment, to identify learning outcomes, and to measure learning outcomes. For many law faculty, we far too often grade on intuition, trusting that we know good scholarship when we see it, but we lack the rubric and assessment-oriented terminology to articulate expectations and standards. Chapter 5 provides universal intellectual standards for scholarship directing authors to achieve clarity, accuracy, precision, relevance, depth, breadth, logic, and fairness (70). The requirement of *both* a strong analytic framework and a strong organizational framework is a critical learning outcome to assess in student writing, and the intellectual standards could slide nicely into a professor's grading rubric.

Chapter 6 invites students to start to write after careful planning and research. Chapter 6 explains that writing is a recursive process. It acknowledges that authors *may* have been writing already and authors may cycle in and out of writing and researching more recursively. In Chapter 6, readers learn about the organization of the memo. This presents a bit of a conundrum. Conceptually, it makes sense that good scholarly writing would wait until the end to begin writing to benefit from all of the thoughtful source engagement that preceded. Practically speaking, many student authors work with incremental writing deadlines requiring one section to be submitted at a time.

This chapter introduces readers to useful organizational paradigms to structure their writing, explaining the difference between comments and case notes and offering other organizational structures framed around a problem/solution or a historical paradigm. These structural choices, for many students, will align much more with the topic selection phase. Organizational structure is a recursive process that involves insight, saturation, incubation, revelation, and verification.

Chapter 6 includes a useful annotated outline that will align nicely with many law review and journal submission requirements as well as seminar and course offerings. It powerfully pushes authors to reorganize their thoughts around concepts instead of sources as they transition to expressing their unique thoughts instead of spewing back the concepts they read about.

The text of the book ends at page 105 and then continues from pages 106–252 with supporting appendices. Given the famous Robert Graves quote—“There no such thing as good writing, only good rewriting”—it felt a bit abrupt to end as authors were just putting pen to paper. Appendix XI does offer content for “revising, editing, and proofreading” phases though.

In later editions of this book, readers would benefit from more robust development of revising and editing skills, particularly continuing the incorporation of mentors and imposter syndrome that are so well fleshed out in other chapters. In a well-supervised scholarly writing project, student editors,

editorial boards, and/or faculty supervisors will be providing feedback. That feedback—at times—can be scathing, upending, jolting, and time-consuming. Many supervisors may not be trained in the methods of providing feedback to cultivate a growth mindset.<sup>26</sup> Many supervisors may not have the delicateness or tone to deliver feedback in a way that supports the wellness of the author. A student who invests the rigors and time that *The Legal Scholar's Guidebook* calls for may be jolted by upending feedback. The conscientious student who followed all these steps may require some context and support for embracing feedback within the existing frame that Berenguer has already established.

Readers might benefit from some critical candor preparing them to *embrace*, rather than reject, rigorous feedback as a normal and expected part of the writing process. Given that the author uses real examples of her own scholarly writing and her student's writing (Appendix IX), readers might benefit tremendously from some personal and vulnerable accounts of the editing involved in publishing these works. For example, how many rounds of edits went into these sample articles before publication? How many hours were invested in revision? How discouraging might it have been to scrap prior sections? How overwhelming might it have been to reframe a thesis or restructure the organization? This candor and support in writing and revision might be a useful inclusion to support scholarly wellness and to reinforce the role of supervisors transforming written work. Additional content might help supervisors provide productive feedback as they assess scholarship. Additional content might provide a framework for authors to accept feedback and incorporate it productively and holistically, rather than robotically and incrementally.

#### IV. A Symbiotic Relevance for Supervisors and Students Alike

*The Legal Scholar's Guidebook* leads with an acknowledgment that the book was dedicated to the author's five children. As the book continues, this acknowledgment does not surprise the reader at all. The book exudes the efficiencies and time-saving techniques of someone who has surely successfully multitasked her way through many a deadline and publication. That reminds students and faculty alike of the importance of developing strong methodologies and practices to achieve good scholarship and to do so in a way that is sustainable and efficient.

When I began *The Legal Scholar's Guidebook* I was admittedly skeptical that the book could be simultaneously geared toward both professors and students. It seemed to me, perhaps with an unmerited err of confidence, that I did not need a guidebook as an experienced professor while students surely did. By the end

26. See, e.g., CAROL S. DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* (2007); Tracy Turner, *Teaching Ourselves and Our Students to Embrace Challenge: A Review of Mindset: The New Psychology of Success*, 20 *PERSP.: TEACHING LEGAL RES. & WRITING* 122 (2012); Richard K. Neumann, Jr., *A Preliminary Inquiry into the Art of Critique*, 40 *HASTINGS L.J.* 725, 726–27 (1989) (“Critique is the kind of conversation that powers . . . a ‘reflective practicum,’ an institutionalized setting in which a teacher, in direct discussion with individual students about their performances, propels those students into analysis and creativity.”).

of the book, I was convinced that this book is useful for faculty primarily as *supervisors* of students and secondarily as new scholars themselves. This book has important contributions for students as supervisors and students as scholars as well. The book has dual audiences of faculty and students. I ultimately concluded that these dual audiences are symbiotic, but not equal.

As the faculty supervisor audience, the book caused me to reflect on my own experiences supervising student work. A notable percentage of my time every semester is spent supervising student writing through law journals, independent studies, and seminar courses. I have often played these supervisory roles when my job did not require it out of a commitment to supporting student writing and cultivating student expertise in my fields. I have supervised students as a visitor and as an adjunct, and while on my own leaves of absence. Reflecting more carefully on this supervisory workload, it is rarely visible or counted toward teaching or service obligations in any meaningful way.<sup>27</sup> It is almost always more time-consuming than I anticipated when I took on the obligation. This is usually because the student becomes overwhelmed by the research and writing, because the student struggles to develop a thesis, and because the student writing needs help developing structure and substance. It almost always leads to a longer-term professional investment in the student through letters of recommendation, reference checks, etc. These realities are well documented for women faculty and they can create a “gender divide.”<sup>28</sup> These supervisory roles, in turn, cost the supervisors who play these roles countless hours of time invested in their own scholarly work.<sup>29</sup> With limited time, my own scholarship production can become compressed, rushed, choppy, and fragmented. I have known each of these points for some time, but I still do the work because it is rewarding and important. In that sense, the diffuse and unstructured supervision of student writing feeds into the troublesome, time-consuming nature of service that is undervalued and undercounted.<sup>30</sup>

*The Legal Scholar's Guidebook* caused me to reflect a bit further on whether these truisms actually need to be truisms. *The Legal Scholar's Guidebook* presents a road map for more efficient supervision of student writing. The same efficiencies would benefit student supervisors of law reviews and journals as well. Law schools have an institutional memory of three years, and extracurricular

27. See e.g., Susan B. Apel, *Gender and Invisible Work: Musings of a Woman Law Professor*, 31 U.S.F. L. REV. 993, 995 (1997) (explaining that the work of women faculty is “completely ordinary, so normalized as to be unremarkable, and hence, invisible in the academic community”); Nancy Levit, *Keeping Feminism in Its Place: Sex Segregation and the Domestication of Female Academics*, 49 U. KAN. L. REV. 775, 790 (2001) (explaining that much of women’s service does not “fit neatly as resume fodder”).

28. Ann C. McGinley, *Reproducing Gender on Law School Faculties*, 2009 B.Y.U. L. REV. 99, 150–51 (2009).

29. See, e.g., Levit, *supra* note 27, at 790.

30. *Id.* (highlighting how women do more service and more service that is lower in status and unrewarded institutionally).

writing opportunities like journal and law review renew their leadership ranks every year. This requires the constant training of new supervisors and new students. *The Legal Scholar's Guidebook* presents a framework for supervision that is more structured, replicable, and consistent.

The final piece that bears consideration is the cost of the text relative to the longevity of its usage for most students. I struggled with something of a purchase paradox. The book is marketed on Wolters Kluwer at \$71. The lowest price that I could find online was \$68, and the highest that I observed was \$86. As strong as I saw the value of the book, I struggled in conjunction with the overall cost of law school with whether I could justify assigning the text as a supervisor or whether I would just grow as a supervisor from having read it myself. Most of my faculty supervisions are one-off supervisions or small cohorts in which I would not have the authority to suggest or compel a book purchase. In the context of a seminar or an advisor role of law review, where the faculty might have a stronger argument to compel purchase of the book, the faculty's professional obligations are better aligned to deploy *The Legal Scholar's Guidebook's* teachings directly by acquiring the knowledge and deploying it with more thoughtful deadlines and consciousness.

*The Legal Scholar's Guidebook* revealed for me a symbiotic relationship between the professor as scholar and the professor as supervisor. It introduces important efficiencies and standardization of methodologies to this supervision.

## V. Scholarship Inclusion and Innovation

*The Legal Scholar's Guidebook* empowers authors to find their authentic voice and champions them through the process. It strongly communicates that scholarship can be taught and that standards can be communicated more explicitly to position all scholars for success. This is important, empowering, and equality-oriented. *The Legal Scholar's Guidebook* also raises difficult questions about legal scholarship's inclusivity and innovation.

As legal rhetoric and legal writing pedagogy have developed, so too have critical discussions about how the pedagogy of writing might unintentionally reinforce the outsider status of some communities.<sup>31</sup> The language of law and the analytic paradigms we teach are strong socialization tools that can “come[] at the price[] of suppressing the voices of those who have already been historically marginalized by legal language.”<sup>32</sup> Legal writing pedagogy can direct authors to draft in a *process* that is focused on audience and purpose and in a *context* that is focused on immersion in the existing professional discourse community.

Professor Kathryn Stanchi has explored how writing pedagogy can “contribute[] to the muting of outsider voices in the law because it teaches

31. Stanchi, *supra* note 6, at 9–11.

32. *Id.* (“The two pedagogies of legal writing that prevail today in most American law schools with professional, long-term legal writing teachers—the “process” method and the “social” view—are built around the idea that legal writing is a way of teaching law as a language.”).

law as a language, and thereby both reflects and perpetuates the biases in legal language and reasoning.”<sup>33</sup> “[M]uting theory” complicates legal writing pedagogy because it risks “silenc[ing] or devalu[ing]” outsider groups, their languages, and their experiences.<sup>34</sup> Legal writing pedagogy can compel authors to encode their writing to meet the dominant audience’s perspectives.<sup>35</sup> This can compromise the development of original and authentic voices. Muting outsider voices is problematic for outsider groups themselves, but it also compromises innovation and “ensures that the biases in legal language and reasoning will be perpetuated and new languages or realities will be devalued and suppressed.”<sup>36</sup>

These points present a Catch-22 for supervisors of scholarly writing. Do faculty and supervisors “socialize” authors to conform to existing norms of language and structure and risk “contributing to the suppression of certain unique and valuable voices, cultures and concepts in law, and ensuring that law remains a language of power and privilege?”<sup>37</sup> Or, do faculty empower students to find their own voice more authentically, but risk compromising the publication and proliferation of that scholarship in a traditional academic world?

The supervisory piece is complicated because, far too often, conceptions of “scholars” are framed around dominant groups. The scholarship we study in traditional legal education materials features a narrow range of scholars. This can create an echo chamber within the academy that might complicate mentoring scholars through the development of their own voice. For example, all but three of the tenure-track or tenured faculty at Harvard and Yale graduated from a top ten law school.<sup>38</sup> Within the other top ten U.S. News-ranked law schools, nearly ninety-five percent of all tenure-track and tenured faculty graduated from other top ten schools.<sup>39</sup> This trajectory continues through the top twenty-five law schools, with eighty percent graduating from top ten schools.<sup>40</sup> The number drops to forty-four percent after the top twenty-five law schools. These data reveal a profound lack of academic diversity. This creates an echo chamber that threatens to stifle scholarship and devalue hundreds of other law schools’ scholars. How do scholars see themselves as authentic and belonging when the scholars they are reading, citing, and

33. *Id.* at 20.

34. *Id.*

35. *Id.* at 21.

36. *Id.* (“legal writing pedagogy aggravates the already imperfect fit between outsiders’ realities and the language legal writing imposes on them”).

37. *Id.* at 9–11.

38. Eric J. Segall & Adam Feldman, *The Elite Teaching the Elite: Who Gets Hired by the Top Law Schools?* 68 J. LEGAL EDUC. 614, 615 (2019).

39. *Id.* at 615–16.

40. *Id.* at 618.

studying and who are mentoring and supervising them do not look like them or share their experiences?

These reflections suggest that a strong supervisor and a strong mentor are two very different roles. *The Legal Scholar's Guidebook* relies almost exclusively on the advice that scholars should “talk to a mentor” as a tool for support. It is important to note that the difference between a mentor and a supervisor might be quite dramatic in a scholar's development. Most law schools ensure a “supervisor,” but scholars should be wary of assuming automatically that a “supervisor” is the same as a mentor in their scholarly journey. Future editions of the book might unpack this further to help students see the difference. The book relies heavily on mentors to help scholars through self-doubt, suggesting it really is a “mentor” contemplated in the book.

Successful mentors are hard to secure for marginalized communities.<sup>41</sup> As Callie Womble Edwards queries in her scholar ethnography, “[W]ho was both a Black woman and had completed advanced study in my field of higher education? Further, who was both a first-generation college graduate and considered a distinguished academic in my field?”<sup>42</sup> Edwards describes the benefits of joining a support network of other Black women pursuing their doctorates as a support strategy, named “DIVAS (Distinguished, Intellectual, Virtuous, Academic, Sistas).”<sup>43</sup> This ethnography led Edwards to create and share hashtags #TheLifeOfAScholar and #iLookLikeAScholar to expand roundly our concepts of who scholars are.<sup>44</sup>

More content in *The Legal Scholar's Guidebook* might be necessary to ensure that scholars have strategies in place to navigate selecting an *effective* “mentor” and working with a “supervisor.” Many readers might mistakenly assume that their supervisor *is* their mentor. Mentors will be particularly savvy at navigating new voices into scholarship in a way that retains their authentic voice while bridging it into existing paradigms. A good mentor will help a scholar find their voice and “translate[]” or “encode[]” that perspective to their audience.<sup>45</sup> A good *mentor* will ease the students' entry into the community, not compel conformity at the expense of the authors' own sense of self.<sup>46</sup> A *supervisor* might be laser-focused on conformity with existing norms. The challenge with teaching legal scholarship is that the more effective we are at teaching legal scholarship, the

41. See, e.g., Judy Robertson, *Dealing with Imposter Syndrome in EQUALBITE: GENDER EQUALITY IN HIGHER EDUCATION* 151 (Judy Robertson et al., eds., 2018) (explaining that “mentors and peers who belong to the same ingroup can ‘socially vaccinate’ against negative self-perceptions if the staff member identifies with them,” while noting that there are risks to “over-burdening the few existing female staff with additional mentoring roles”).

42. Callie Womble Edwards, *Overcoming Imposter Syndrome and Stereotype Threat*, 18 TABOO: J. OF CULTURE & EDUC. 31 (2019).

43. *Id.* at 33.

44. *Id.* at 29.

45. Stanchi, *supra* note 6, at 17.

46. *Id.* at 22.

more likely it mutes those individuals most likely to be already marginalized within it.<sup>47</sup>

## VI. The Internalities of Imposter Syndrome

Imposter syndrome is a concept that threads through each chapter of *The Legal Scholar's Guidebook*. The text describes imposter syndrome as the “fear of being exposed as a fraud” and characterizes it as a “natural, albeit unnerving” part of the scholarly experience.<sup>48</sup> The imposter syndrome is addressed in every chapter through the lens of how to “quiet the impostor voice” or how to “kill the impostor.”<sup>49</sup> The text explicitly advises its readers that “research is the *only* way to quiet the impostor voice.”<sup>50</sup> It offers chapter sections titled “Never Forget, You **Can** Do This” and “Squelch the Impostor” to address the problems presented by imposter syndrome.

The term “imposter syndrome” was first used in 1978 by Dr. Pauline Rose Clance and Suzanne Imes as a phenomenon particularly experienced by individuals who are quite successful in demanding fields with high educational attainment.<sup>51</sup> This phenomenon was later described as having three symptoms: “The sense of having fooled other people into overestimating [their] ability. The attribution of [their] success to some factor other than intelligence or ability. The fear of being exposed as a fraud.”<sup>52</sup> Imposter syndrome is not about nerves or self-esteem.<sup>53</sup> It is “necessarily cyclical in nature creating [a] negative feedback loop” that works like this: assigned a task; fear that you cannot perform the task; fear motivates “inhuman efforts” of overwork to prevent discovery; success in performing task, reinforcing the belief that success was from luck or overwork, thus repeating the cycle.<sup>54</sup>

The imposter syndrome could infect every phase of the writing process. In selecting a topic, scholars might perform inauthentically, concealing their beliefs and drafting for their perceptions of the audience.<sup>55</sup> Imposter syndrome is connected deeply to perfectionist behaviors. Those so afflicted

47. *Id.* at 20.

48. BERENGUER, *supra* note 1, at 2.

49. *Id.* (“At the end of each chapter, you will find two sections that can help you kill the impostor.”).

50. *Id.* (emphasis in original).

51. Pauline Rose Clance & Suzanne Imes, *The Imposter Phenomenon in High Achieving Women: Dynamics and Therapeutic Intervention*, 15 PSYCHOTHERAPY THEORY RES. & PRAC. 1 (1978).

52. Lacy Rakestraw, *How to Stop Feeling Like a Phony in Your Library: Recognizing the Causes of the Imposter Syndrome, and How to Put a Stop to the Cycle*, 109 LAW LIBR. J. 465, 467 (2017) (citing JOAN C. HARVEY & CYNTHIA KATZ, IF I’M SO SUCCESSFUL, WHY DO I FEEL LIKE A FAKE? THE IMPOSTOR PHENOMENON 8 (1985)).

53. *Id.* at 470.

54. *Id.* at 469.

55. Edwards, *supra* note 43, at 19.

suffer from an “‘intense fear of failure’ and thus believe that they have to achieve perfection to gain approval.”<sup>56</sup> One author described this as “[t]aking a ride on the imposter syndrome carousel,” which can lead to a “circle of over-meticulous preparation/postponing, short-term relief, and self-doubt,” which further “fuel[s] the carousel ride.”<sup>57</sup> This can lead to a very exhausting and overwhelming writing process. Imposter syndrome can also lead to anxiety and depression.<sup>58</sup>

Imposter syndrome is not a monolithic experience, though. It is heavily reinforced by external hierarchies, power structures, and implicit biases. Studies position imposter syndrome as a phenomenon from which as many as seventy percent of Americans suffer at least once in their lives.<sup>59</sup> While Clance and Imes’ initial work was heavily framed around highly successful women, modern research suggests that both men and women experience imposter syndrome.<sup>60</sup> Women may, however, suffer from more intense effects of imposter syndrome.<sup>61</sup> Imposter syndrome is highest for both African American higher education students and Asian American students, with all racial minority groups reporting psychological stress attributed to the experiences of students on predominantly white campuses.<sup>62</sup> Imposter syndrome is most prevalent for individuals who are the first in the family to achieve a particular educational or professional goal.<sup>63</sup> In professions in which one gender predominates, the opposite gender is likely to suffer imposter syndrome.<sup>64</sup> It is prevalent in both law and education.<sup>65</sup>

It is thus an important contribution to the wellness of scholarly writers to address imposter syndrome directly and candidly in a text guiding authors through scholarship. The question that festers, however, is whether imposter system is truly driven by internalities, externalities, or both. The text delivers the perception that imposter syndrome comes from an internal voice and that authors can take careful, methodical steps to quiet, “squelch,” or “kill” the imposter voice. This is quite nuanced, though, when legal writing is understood as a social process in which authors are writing for an audience externally.

56. Rakestraw, *supra* note 53, at 469.

57. *Id.* at 475-76.

58. *Id.* at 473.

59. *Id.* at 467.

60. Anna Parkman, *The Imposter Phenomenon in Higher Education: Incidence and Impact*, 16 J. HIGHER EDUC. THEORY & PRACTICE 51, 53 (2016).

61. Leslie P. Culver, *The Rise of Self-Sidelineing*, 29 WOMEN’S RTS. L. REP. 173, 190 (2018).

62. Parkman, *supra* note 61, at 56.

63. *Id.* at 53.

64. *Id.*

65. *Id.*



Imposter syndrome is fundamentally about the “inability to accurately self-assess with regard to performance.”<sup>66</sup> It has a feedback loop component to it where the “internal voice” is anticipating how the external audience will perceive and engage with the work. Accordingly, to understand imposter syndrome requires a strong command of the context of legal scholarship. Academics and professionals engaging in scholarly writing are comparing themselves with others in the field, “interpret[ing] and internaliz[ing] the perceptions of others.”<sup>67</sup> That external audience truly *is* critical. That external audience is also notably a generally elite and privileged audience too. This raises a paradox of how we squelch the imposter voice that tells ourselves that we are frauds when so many external forces and messages might reinforce that lack of perceived belonging every day.

For example, I am a tenured law professor who did not obtain a J.D. from an elite T-14 law school. Rather, I have been a scrappy underdog my entire career. My writing is often nontraditional and critical of conventional approaches. I struggle every day with imposter syndrome in the classroom and in my scholarship, but it feels like a much more complicated package of imposter syndrome reinforced by the “presumption of incompetence” that so often objectively and measurably *does* attach to women faculty, faculty of color, and nontraditional faculty.<sup>68</sup> The imposter syndrome might come from within, but it is validated daily by the invitations that law schools make for guest speakers, the symposia invitations that are extended to authors, the casebook author selections that are made, the tenure criteria that are used for hiring, and the course evaluations that students write. Actual messages of marginalization and inadequacy are pummeled at entire communities of law faculty and entire tiers of law schools regularly.

If we position the imposter syndrome with strong internal *and* external forces feeding its existence, this broadened lens raises concerns that the book may work against its own values. Jessica Fink coined the concern brilliantly in framing gender sidelining when she said

[s]ilence begets further silence; disempowerment begets disempowerment. Without any positive reinforcement to encourage women to push back against marginalizing behavior in the workplace, women may continue to tolerate (or even grudgingly expect) such sidelining, writing it off as simply another cost of doing business in the predominantly-male working world.<sup>69</sup>

Imposter syndrome causes scholars to work longer and harder because those are the only paths they see to meet expectations, causing an “extreme emphasis

66. *Id.* at 52.

67. Edwards, *supra* note 43, at 19.

68. See generally PRESUMED INCOMPETENT II: RACE, CLASS, POWER, AND RESISTANCE OF WOMEN IN ACADEMIC 3 (Yolanda Flores Niemann, et al., eds., 2020).

69. Jessica Fink, *Gender Sidelining and the Problem of Unactionable Discrimination*, 29 STAN. L. & POL'Y REV. 57, 89 (2018).

on perfection and effort.”<sup>70</sup> It results in “self-inflicted excessive standards for achievement [that] lead to the creation of unrealistic goals that are ultimately unachievable.”<sup>71</sup> The worry that this presents is that communities will either self-select out of legal scholarship or will be overcome with anxiety by legal scholarship.

While men and women experience imposter syndrome, the effects for women may be more career-altering. As a result of the imposter phenomenon, women can experience career “self-sidelining.”<sup>72</sup> Jessica Fink popularized the term gender sidelining to refer to the practice of marginalizing, sidelining, and upstaging women in ways not addressed by antidiscrimination laws.<sup>73</sup> Professor Leslie Culver expands this concept to include “self-sidelining.” Self-sidelining threatens “to further silence, suppress, and shrink voices,” but it happens “unconsciously of their own accord.”<sup>74</sup> Self-sidelining results in women’s downplaying their achievements and opportunities and allowing “external gendered forces” to “consciously or unconsciously” prevent achievement and advancement.<sup>75</sup> Self-sidelining is also real in legal scholarship, and savvy mentors would help scholars navigate these risks.<sup>76</sup> Women scholars’ “lack of self-confidence” leads to self-censorship, making them “more likely to second guess their opinions, suppress doubts, and couch opinions in a tentative manner.”<sup>77</sup> These doubts can lead women scholars to self-censor, not self-promote, and over time self-sideline.<sup>78</sup>

Thus, truly overcoming imposter syndrome is not so simple as a good mentor and a good research plan. In fact, it calls for some critical self-reflection from academia regarding our own scholarly identities, our institutional cultures, our messaging of who belongs and who does not, and our nuanced understanding of how different communities address the hardships of imposter syndrome.

### Conclusion

When I was first asked to write this review, it was likely because of my experience teaching legal research throughout my career and writing about legal education pedagogy. I expected this review to be a fairly quick and tidy task. I never expected how much self-reflection the review would provoke for me. I write this review fourteen years into a law teaching career plagued

70. Parkman, *supra* note 61, at 52.

71. *Id.*

72. Culver, *supra* note 62, at 175.

73. *Id.* at 175–76 (quoting Jessica Fink, *Gender Sidelining and the Problem of Unactionable Discrimination*, 29 STAN. L. & POL’Y REV. 57 (2018)).

74. *Id.* at 177.

75. *Id.*

76. *Id.* at 212–13.

77. *Id.*

78. *Id.*

with self-confidence issues. I have lost count of the articles that I started and scrapped because I could not rally back from the fair and thoughtful critiques that I received. Before nearly every promotion consideration, I have contemplated withdrawing my name out of fears and uncertainties. I have spoken to countless colleagues who have done the same. Even fourteen years into teaching some of the same classes, I still spend endless hours prepping and tweaking my teaching materials out of fears and anxieties.

*The Legal Scholar's Guidebook* is savvy in its quest to help the voices longing to be heard, and in its efforts to help address the self-doubts that nag so many scholars. It introduces important concepts of inclusion and imposter syndrome, boldly addressing them head-on, which is worthy of great gratitude.

It is only because I have cultivated an incredibly strong network of mentors and champions over the years that I have survived in law teaching. In fact, lack of mentoring and scholarly isolation are sources of imposter syndrome in higher education for both faculty and students.<sup>79</sup> Never have I thought about leaving law teaching more than during the pandemic, likely because that community of mentors is so diffuse and distant and because the family pressures are so great. It has never been harder to put “pen to paper” to work on scholarship than it has been during the pandemic for me and many of my beloved professor colleagues. Imposter syndrome is hard on any given day, but it is crippling when I actually *look* like a fraud at home, surrounded by kids’ toys and their intense daily demands even as I finish this book review.

*The Legal Scholar's Guidebook*, when read during a global pandemic and amid a crescendo of calls for racial justice in our communities, likely reads far differently from what any author or reader may have anticipated before 2020. It perhaps calls for more self-reflection as a community of scholars. Conquering imposter syndrome requires a strong sense of authenticity and belonging.<sup>80</sup> This requires an alignment between one’s authentic values and identity and acceptance in a setting, institution, or task.<sup>81</sup> *The Legal Scholar's Guidebook* is savvy to introduce these concepts and care about them in the support of new scholars. For readers of this book in modern political, economic, and social times, it might also be a springboard to deeper conversations about the chasms between the communities that feel like they belong in legal scholarship and those that do not. It might call for us *all* to strengthen the intentionality of our mentoring of students of color, nontraditional students, LGBTQ+ students, and women students. There has never been a better moment for us all to revisit how we produce and define “good” scholarship, the breadth of the scholarly voices we reproduce and consume, and the entrenched assumptions and hierarchies that shape our scholarly practices. In that sense, this “guidebook” might guide us all to a more inclusive and inviting place guiding new scholarly voices.

79. Parkman, *supra* note 61, at 53.

80. Michelle Silverthorn, *How You Can Overcome Imposter Syndrome*, 39 LEGAL MGMT. 10, 11 (2020).

81. *Id.* at 12 (“Part of the way to cure imposter syndrome is to hold on to your values, the ones that matter the most to you.”).