

HAPPY 100TH ANNIVERSARY AND MANY HAPPY RETURNS  
TO THE *DENVER LAW REVIEW*!

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I was privileged to write in honor of the *Denver Law Journal* (now the *Denver Law Review*) for its fiftieth anniversary issue.<sup>1</sup> Invited now to write a tribute on its centennial issue, I am deeply honored and appreciate, indeed, that longevity has some advantages.

Among scholarly journals, American law reviews stand alone for their unique features. No peer review: student editors select and edit the articles they consider worth publishing and have a fondness for large numbers of lengthy footnotes. Critics have taken issue with the language, style, and content of law reviews. However, law reviews have been met with acclaim on the content as well.

To illustrate, sixty years ago, Professor Fred Rodell ridiculed the language and style of law reviews: “[T]he nonsensical, noxious notion that a piece of work is more scholarly if polysyllabically enunciated than if put in short words.”<sup>2</sup>

Thirty-six years later, Professor Lawrence Friedman wrote about “the system of law reviews” that “encourages long, wordy articles crammed with footnotes.”<sup>3</sup> He was equally critical of the content: “The law reviews have such a voracious appetite for material, that *anything* can get published; and by that I mean *anything*. Published, that is, *somewhere*.”<sup>4</sup> He added:

The law reviews also enforced a certain style of writing; and they forced footnotes and sources into a rigid “blue book” straitjacket. The official law review style was dull and flat. All the blood was drained out of it. Law review editors hated short, simple sentences. They loved to string clauses together with words like “whereas” or “albeit.” They loved to say things like “assuming, arguendo, that . . .” They committed many crimes against our mother tongue. To be fair, the straitjacket

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1. Ved P. Nanda, *American Law Reviews Meet Changing Societal Needs: A Tribute to the Denver Law Journal Upon Its 50th Anniversary*, 50 *DENV. L.J.* 1 (1973).

2. Fred Rodell, *Goodbye to Law Reviews—Revisited*, 48 *VA. L. REV.* 279, 287 (1962). However, several years earlier, he had forcefully criticized law reviews in Fred Rodell, *Goodbye to Law Reviews*, 23 *VA. L. REV.* 38 (1936).

3. Lawrence M. Friedman, *Law Reviews and Legal Scholarship: Some Comments*, 75 *DENV. U. L. REV.* 661, 664 (1998).

4. *Id.* at 663.

has gotten a shade looser lately . . . [b]ut on the whole, law review style-blight is still definitely there.<sup>5</sup>

More recently, in 2010, the Chief Justice of the United States Supreme Court, John G. Roberts, Jr., spoke about the gap between the academic and the practitioner:

Pick up a copy of any law review that you see and the first article is likely to be, you know, *The Influence of Immanuel Kant on Evidentiary Approaches in 18th-Century Bulgaria*, or something, which I'm sure was of great interest to the academic that wrote it, but isn't of much help to the bar.<sup>6</sup>

On the other hand, former Chief Justice of the United States Earl Warren wrote effusively regarding the content of law reviews in 1962 on the tenth anniversary of the *UCLA Law Review*:

So far as law reviews are concerned, my views are strengthened. If it were not for their critical examination, we would have a great void in the legal world. Courts would have few guidelines for appraising the thinking of scholars and students or of the bar itself. It is largely through them that we are able to see ourselves as others see us.<sup>7</sup>

In the same issue of the *UCLA Law Review*, then-Justice Roger Traynor of the California Supreme Court wrote, "Thus, even on the assumption that law reviews are more written than read, the evidence is overwhelming that their surpassing standards of work redound to the benefit of the profession."<sup>8</sup>

Noting that American law reviews address changing societal needs, I wrote in the fiftieth anniversary issue of the *Denver Law Journal (Journal)*:

Not only do [the law reviews] reflect societal concerns by noting, investigating, and analyzing major political, social, and economic developments (of course, primarily within a legal setting), but also by anticipating likely legislative and judicial developments, they offer a unique forum for the healthy debate which is essential for weighing various alternatives.<sup>9</sup>

Paying tribute to the *Journal*, I wrote that it "is attracting outstanding students and it continues to offer a unique learning experience at the

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5. *Id.* at 664.

6. Orin S. Kerr, *The Influence of Immanuel Kant on Evidentiary Approaches in 18<sup>th</sup>-Century Bulgaria*, 18 GREEN BAG 2d 251, 251 n.1 (2015) (quoting *A Conversation with Chief Justice Roberts, Part of Fourth Circuit Court of Appeals: 77th Annual Conference, C-SPAN* (June 25, 2011), [www.c-span.org/video/?300203-1/conversation-chief-justice-roberts](http://www.c-span.org/video/?300203-1/conversation-chief-justice-roberts)).

7. Earl Warren, *Upon the Tenth Anniversary of the UCLA Law Review*, 10 UCLA L. REV. 1, 1 (1962).

8. Roger J. Traynor, *To the Right Honorable Law Reviews*, 10 UCLA L. REV. 3, 5 (1962). Justice Traynor had served as the Editor in Chief of *California Law Review*. *Id.* at 3.

9. Nanda, *supra* note 1, at 2.

College of Law. It provides the single most valuable tool to learn and practice effective legal research and writing techniques,” and I saluted “the editorial boards I have worked with as the faculty advisor and acknowledge[d] my deep sense of satisfaction and gratitude.”<sup>10</sup>

I have expressed similar sentiments for the editorial boards of the *Denver Journal of International Law & Policy*, with whom I have had the pleasure of working as faculty advisor since its founding in 1971 and for the next forty-six years until 2017.<sup>11</sup> The reason is not complicated: I have witnessed all these years the hard work, dedication, creativity, and passion of each team of editors; how they grow and develop competence, and pass the baton to their successors, who strive not just to match but exceed the depth and quality of their predecessors’ performance. Though I am no longer a faculty advisor, I continue watching the *Denver Law Review’s* (*Law Review*) onward ascendance as a prestigious scholarly quarterly with national prominence with keen interest.

A hundred years back, in 1923, the *Denver Law Review’s* journey began with the first issue of the *Denver Bar Association Record*.<sup>12</sup> Five years later, in 1928, the name was changed to *Dicta*, a joint publication of the Denver and Colorado Bar Associations and the Denver College of Law.<sup>13</sup> Students became more active participants in *Dicta’s* editorial and business operations in 1954. The following year, it began its monthly publication. The late Dean Emeritus, Robert Yegge, served on *Dicta’s* editorial board from 1957 to 1958 and wrote his first student note for it.<sup>14</sup>

Major changes occurred in the 1960s—the name was changed from *Dicta* to *Denver Law Center Journal*, and in 1964, students published *One Year Review of Colorado Law*.<sup>15</sup> In 1965, Robert Yegge began his first term as the Dean, and the Bar Associations and the College of Law amicably agreed to separate their efforts.<sup>16</sup> The following year, the *Denver Law Journal* was born and I was designated to serve as the faculty advisor, a role I acknowledged as “the most rewarding and enjoyable task at the College of Law.”<sup>17</sup>

Among the highlights of the first volume of the *Journal*, Volume 43, was a symposium on oil shale, a subject of great interest and concern at the time; an article on the 1965 U.S. military intervention in the Dominican Republic; an article on the Civil Rights Act of 1964; and five student notes

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10. *Id.* at 6.

11. *About*, DENV. J. INT’L L. & POL’Y, <https://djilp.org/about-djilp/> (last visited Mar. 14, 2023).

12. *Editorial*, DENV. BAR ASSOC. REC., Dec. 1923, at 2.

13. *So the People May Know*, DICTA, Nov. 1928, at 3–4; *Celebrating 100 Years*, DENV. L. REV., <https://www.denverlawreview.org/Centennial-Celebration> (last visited Mar. 14, 2023).

14. 34 DICTA (1957); 35 DICTA (1958); Robert B. Yegge, *Dog’s Bill of Rights*, 34 DICTA 178 (1957).

15. *Notice to Our Readers*, 40 DENV. L. CTR. J. 1, 1 (1963); *Introduction*, 41 DENV. L. CTR. J. 61, 61 (1964).

16. Richard M. Koon, *Editor’s Note*, 43 DENV. L.J. (1966).

17. Nanda, *supra* note 1, at 4.

I described as marking “the beginning of a new phase of emphasis on student writing which, with each succeeding issue, has assumed an increasingly important place in the overall function and objectives of the *Journal*.”<sup>18</sup>

In Volume 44, the *Journal* featured a special issue on law school curricula, which contained papers presented at the meeting of the Curriculum Committee of the Association of American Law Schools held at the College of Law.<sup>19</sup> Volumes 45–49 contained several noteworthy symposia and studies on then cutting-edge topics including the transfer of technology in transnational business, “riots and the law,” interdisciplinary research, an empirical student piece entitled *Rural Poverty and the Law in Southern Colorado*, and a special magazine issue providing interesting and informal material on a variety of issues unencumbered by the traditional law review format.<sup>20</sup>

Finding myself unable to do justice to the *Law Review*’s varied and rich developments over the last fifty years, I will highlight here a selection of its initiatives, symposia and special issues, a few notable topics, and a few noteworthy authors the *Law Review* published. I should, however, mention at the outset that this law school, which pioneered the law and society movement, remains attentive to the issue of relating law to society, and the *Law Review* aptly reflects that interest in the content it publishes.

The three selected initiatives are: first, the more recent addition of an online publication, *The Forum*, and *Inter Alia*, a podcast the *Law Review* produces. Second, the *Law Review* added an equity editor to its executive board to lead a special committee aimed at advancing the inclusivity that the *Law Review* fosters within its staff and in its publications. Third, starting with Volume 52, the *Law Review* began the practice of utilizing a special issue—initially the first issue and now the second issue—to analyze Tenth Circuit decisions. Concurrently, inspired by the *Harvard Law Review*’s regular publication of tables on the U.S. Supreme Court’s decisions, the *Law Review* instituted the Tenth Circuit Database Project which provides annual statistics on the decisions of the Tenth Circuit.

The symposia and special issues of Volumes 51 to 99 of the *Law Review* address not only cutting-edge issues emerging in the law, legal education, and legal profession but also issues society must address as it undergoes change. For example, the topics addressed in past symposia and special issues include “Global Climate Change and the Kyoto Protocol”; tort reform; dispute resolution procedures; an interdisciplinary examination of the law and policy surrounding youth violence prompted by the school shooting at Columbine High School near Denver; privacy law as prompted by the terrorist attacks on September 11, 2001; animal rights;

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18. *Id.* at 5.

19. *Introduction*, 44 DENV. L.J. i, i (1967).

20. 45 DENV. L.J. (1968); 46 DENV. L.J. (1969); 47 DENV. L.J. (1970); Note, *Rural Poverty and the Law in Southern Colorado*, 47 DENV. L.J. 82 (1970); 47 DENV. L.J. ix, ix (1970).

immigration law in shifting times; artificial intelligence and bias; the implications of science and technology for the legal process; racism in the wake of the Los Angeles riots; new directions in legal education and practice with a preface by the president of the Association of American Law Schools; the American Bar Association's standards for criminal justice; the annual study of Latina/o critical legal theory and praxis in a world of economic inequality; and Lat Crit (LatinX critical theory).

Special topics include ocean thermal energy conversion; development under United States and international law and institutions; U.S. intervention in Syria and the "Responsibility to Protect"; judicial accountability and judicial independence; *Democracy and Revolution: An Enduring Relationship*; the rejection of Robert H. Bork's nomination to the Supreme Court; observations on the fifteenth anniversary of the National Labor Relations Board by the chair, Honorable Howard Jenkins; hate speech; and COVID-19 and the Colorado Supreme Court.

A landmark event was the *Law Review*'s seventy-fifth anniversary celebration and the publication of a special seventy-fifth anniversary issue, which featured College of Law alums sharing their "[r]eflections on the College of Law and the *Denver University Law Review*."<sup>21</sup> These included John A. Love, Governor of Colorado 1963–1973; Chief Justice of the New Mexico Supreme Court, Patricio M. Serna; Judge John C. Porfilio, Tenth Circuit Court of Appeals; and Kenneth R. Kay, Founder and Chief Executive Officer, Infotech Strategies, Washington, D.C.<sup>22</sup> In addition, Lawrence M. Friedman contributed *Law Reviews and Legal Scholarship: Some Comments*, which I have noted above, and Robert Yegge narrated *The Final Word: Some Historical Notes*.<sup>23</sup>

Patricio M. Serna, then-Justice of the New Mexico Supreme Court, recalled his time working as note editor of the *Journal* in 1970 and as a staff member in 1969:

Serving on the *Law Review* was quite memorable and one of my most rewarding experiences in law school. Particularly, I enjoyed the camaraderie that grew from working closely with talented editors and staff toward our common goal of publishing an excellent *Law Review*. The experience engrained in me many valuable lessons in analytical thinking, problem solving, and legal research and writing, which I have been able to put to good use in my subsequent government service, legal practice, trial bench, and, currently, appellate bench.<sup>24</sup>

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21. Patricio M. Serna, John C. Porfilio, Kenneth R. Kay, John A. Love, & Robert B. Yegge, *Reflections on the College of Law and the Denver University Law Review*, 75 DENV. U. L. REV. 693, 693 (1998).

22. *Id.*

23. Friedman, *supra* note 3; Robert B. Yegge, *The Final Word: Some Historical Notes*, 75 DENV. U. L. REV. 706 (1998).

24. Justice Patricio M. Serna, *In Celebration of Seventy-Five Years of the Denver University Law Review*, 75 DENV. U. L. REV. 694, 694 (1998).

Among many eminent and noteworthy scholars of national and international repute, and jurists, including of the U.S. Supreme Court, federal circuit courts and district courts, and the Colorado Supreme Court, I will mention only three: former Justice Sandra Day O'Connor, Kimberlé Crenshaw, and Erwin Chemerinsky.

Justice Sandra Day O'Connor's article in a 2008 special issue of the *Law Review* on judicial accountability was entitled *Judicial Accountability Must Safeguard, Not Threaten, Judicial Independence: An Introduction*.<sup>25</sup> She noted that judicial independence, "the vital mechanism that empowers judges to make decisions that may be unpopular but nonetheless correct," is a means to guarantee the "Rule of Law."<sup>26</sup> Justice O'Connor expressed regret that judicial independence is frequently threatened and "[t]here have been demands for 'mass impeachment,' stripping the courts of jurisdiction to hear certain types of cases, and using Congress's budget authority to punish offending judges."<sup>27</sup> She described some of the most egregious examples of such occurrences.<sup>28</sup> Justice O'Connor further observed:

The exercise of independent judging in the face of such pressure requires great courage. Judges are called upon to stand firm against both the tide of public opinion and the power of the legislative and executive branches. A compelling example can be found in the 1954 decision of the Supreme Court in *Brown v. Board of Education* . . . . The case provoked a firestorm of criticism in much of the country. The unpopular decision was, however, the necessary first step in desegregating public institutions in the United States. It was an exercise of accountability to the Rule of Law over the popular will.<sup>29</sup>

Referring to some of the proposals and ideas presented following her article, Justice O'Connor expressed hope that some of these proposals and ideas "will help us stem the tide of threats to the independence of our judiciaries. The fair and effective functioning of our democracy demands as much."<sup>30</sup>

Kimberlé Crenshaw, one of the founders of critical race theory, was responsible for coining the term "intersectionality." In 1993, she and her coauthor, Gary Peller, wrote *Reel Time/Real Justice*,<sup>31</sup> in which they analyzed:

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25. Sandra Day O'Connor, *Judicial Accountability Must Safeguard, Not Threaten, Judicial Independence: An Introduction*, 86 DENV. U. L. REV. 1 (2008).

26. *Id.* at 1.

27. *Id.* at 2–3.

28. *Id.* at 3 (discussing examples including South Dakota's "Jail for Judges" initiative, a Congress leader's remarks that federal judges will eventually have to answer for their refusal to restore Terri Schiavo's feeding tube, and death threats made to federal judges).

29. *Id.*

30. *Id.* at 6.

31. Kimberlé Crenshaw & Gary Peller, *Reel Time/Real Justice*, 70 DENV. U. L. REV. 283 (1993).

[T]he ideological and symbolic intertwining of race and power in American culture. . . . [E]xplicat[ing] the outlines of a *critical race theory*, focusing not solely on the Rodney King incident, but considering more broadly how racial power generally is produced, mediated and legitimated—an approach that seeks to connect developments in diverse arenas in which race and power are contested.<sup>32</sup>

After undertaking a detailed discussion of these issues, Crenshaw and Peller concluded:

[O]nce the narratives become so disparate between a community and the police or the legal system, we realize that it is time to recognize that, in a deep sense, Blacks in Los Angeles live in a different world from whites—something like a different nation. The police and the people are like foreigners to each other. Understanding this distance means comprehending relations, not according to norms of universal equality and equal treatment, but as the rule of one community over another.<sup>33</sup>

From this counter-narrative, what is needed is not colorblindness on the part of the police force, but the redistribution of power so that the police force is not an outside occupier, but rather a part of the community itself, subject to regulation by the Black community in Los Angeles. The community does not need formal equality from the police, but actual control *over* the police—as well as other public institutions.<sup>34</sup>

Finally, the *Law Review* has shared with its readers on multiple occasions over the last fifty years the visionary and insightful perspectives of Erwin Chemerinsky, a leading scholar and analyst of constitutional law, currently serving as the Dean of the University of California, Berkeley, School of Law.<sup>35</sup>

The *Law Review*'s centennial celebration is a tremendous milestone. These one hundred years have seen previously unimaginable developments in our society and the law that we hold so dear, and the *Law Review* has been an invaluable witness to those developments. But the *Law Review* is not a living being—it is the product of the untiring efforts of its editors and staff members who give it life.

I spoke with two editorial board members of the 100th anniversary issue—Rebecca Glenn, Editor in Chief, and Rachel DeSimone, Equity Editor. They both expressed their pride in serving in their respective capacities and singled out the *Law Review*'s equity initiatives as a special accomplishment.

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32. *Id.* at 283 (footnote omitted).

33. *Id.* at 296.

34. *Id.*

35. *Erwin Chemerinsky, Faculty Profile*, BERKELEY L., [https://www.law.berkeley.edu/our-faculty/faculty-profiles/erwin-chemerinsky/#tab\\_profile](https://www.law.berkeley.edu/our-faculty/faculty-profiles/erwin-chemerinsky/#tab_profile) (last visited Mar. 14, 2023).

None of us can anticipate where the next 100 years will take the *Law Review* as an institution any more than today could have been predicted a hundred years ago. But the institution has matured and progressed in an exemplary fashion with the changing times and will continue to do so.

Twenty-five years ago, my dear friend and colleague Robert Yegge wrote: "The *Denver University Law Review* and its predecessors in title have had a distinguished 75-year history. As we approach the new millennium, I am confident that the same quality, creativity, and vigor will remain, if not escalate."<sup>36</sup> His words were prescient, for the *Law Review* has escalated in quality, creativity, and vigor twenty-three years into the new millennium, and the future looks even brighter given past trends.

I salute the *Law Review*'s current and preceding editorial boards for your stellar accomplishments and wish you and your successors many, many happy returns.

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36. Yegge, *supra* note 23, at 708.