



# BERLINER RECHTSZEITSCHRIFT

JURISTISCHE FACHZEITSCHRIFT AN DER FREIEN UNIVERSITÄT BERLIN

## AUS DER LEHRE

*Prof. Dr. Andreas Engert*  
Empirische Rechtswissenschaft –  
Vorstellung einer Forschungsrichtung

## ZIVILRECHT

*Paul Jakob Suilmann*  
Der gewillkürte Parteiwechsel

*Florian Ziehr*  
Patententeignung und COVID-19 (§ 13 PatG)

## ÖFFENTLICHES RECHT

*Marco Vöhringer*  
Die Militäraktion „Peace Spring“ der Türkei in Syrien:  
eine völkerrechtliche Einordnung

## GRUNDLAGEN DES RECHTS

*Dr. Enno Mensching*  
Der Verfassungsbegriff im Nationalsozialismus

*Johanna Hasenburg*  
Kant: Recht als kategorischer Imperativ

## DIGITALISIERUNG IM RECHT

Siegerbeitrag aus dem BRZ-Schreibwettbewerb

*Hannah Wissler*  
Wie kann der Einsatz von KI / Algorithmen in der  
Strafverfolgung kontrolliert werden?

3. Jahrgang | Seiten 1–88

[www.berlinerrechtszeitschrift.de](http://www.berlinerrechtszeitschrift.de)

ISSN (Print) 2699-948X | ISSN (Online) 2699-2132

# AUSGABE 1/2022

**Herausgeber:** Berliner Rechtszeitschrift e.V.

**Schriftleitung:** Alexander Kloth, Yola Kretschmann, Belisa Miller, Jan Rinklake, Hendrik Schwenke, Sabrina Seikh, Hannes Weigl, Julian Westphal

**Redaktion:** Rebecca Apel, Moritz Breckwooldt, Yeseo Choi, Leah Gözl, Magnus Habighorst, Valentina Kleinsasser, Laetizia Krigar, Lina Lautenbach, Ruth Lipka, Charles Müller, Antonia Novakovic, Lionie Offenbach, David Reichenheim, Silas Schimmel, Paula Schöber, Felix Schott, Gabriel Schrieber, Jilina Schucht, Antonia Schwarz, Linus Wendler, Utku Yilmaz

**Wissenschaftlicher Beirat:** Univ.-Prof. Dr. Christian Armbrüster, Univ.-Prof. Dr. Helmut Philipp Aust, Prof. Dr. Burkhard Breig, Univ.-Prof. Dr. Christian Calliess, LL.M. Eur, Univ.-Prof. Dr. Ignacio Czeguhn, Univ.-Prof. Dr. Kirstin Drenkhahn, Univ.-Prof. Dr. Katharina de la Durantaye, LL.M. (Yale), Univ.-Prof. Dr. Andreas Engert, LL.M. (Univ. Chicago), Dr. Andreas Fijal, Univ.-Prof. Dr. Johannes W. Flume, Univ.-Prof. Dr. Helmut Grothe, Prof. Dr. Thomas Grützner, Univ.-Prof. Dr. Felix Hartmann, LL. M. (Harvard), Univ.-Prof. Dr. Markus Heintzen, Prof. Dr. Peter Kreuz, Univ.-Prof. Dr. Heike Krieger, Prof. Dr. Bertram Lomfeld, Univ.-Prof. Dr. Cosima Möller, Univ.-Prof. Dr. Carsten Momsen, Univ.-Prof. Dr. Christine Morgenstern, Univ.-Prof. Dr. Olaf Muthorst, Dr. Hilmar Odemer, Univ.-Prof. a. D. Dr. Helmut Schirmer, Univ.-Prof. Dr. Gerhard Seher, Dr. Michael Sommerfeld, Prof. Dr. Maik Wolf, Prof. Dr. Johanna Wolff, LL.M. eur. (KCL)

---

## EDITORIAL

### Student-Led Law Journals in the US (and Beyond?)

The American approach to publishing legal scholarship is distinct from most other fields. Indeed, most (or nearly all) academic fields follow the traditional approach to journal publication: Individual pieces written by scholars are submitted for peer-review, and, if accepted, published following recommended revisions. Yet if the unknowing observer were to peruse the masthead of nearly any American legal journal, they would not find the usual prestige-laden titles of academics common in most fields. In their place? Mere law students. While opposing fields (and at times even the legal field itself) may disagree with this amateurish supervision, this contrarian approach has lasted because its benefits permeate the legal system in its entirety. Namely, these benefits can be categorized into accessibility, evolution of legal thought, and professional development.

First, the student-led approach makes legal academia more accessible. Since participation on journals is seen as a hallmark of the American law school experience, law journals and reviews are common at nearly every institution. As an example, there are 13 separate student-led journals at my institution, each holding numerous slots for article publication with subjects ranging from labor law to intersectional gender studies. This range of publication opportunities has only increased in recent decades through the expansion of online publishing. As a result, more academic concepts are disseminated from broader points of view. At the Berkeley Business Law Journal (BBLJ) we have encouraged diverse perspectives by publishing articles from international and domestic sources alike, with authors from a variety of legal backgrounds. For those authors who seek to advance their standing in legal academia, the system rewards (or, more accurately, requires) frequent publication for career advancement. By relying on students to oversee scholarship publication, legal academia reduces the barriers to both publication and career progression for scholars, allowing for more diverse perspectives to be featured both in journals and on faculties.

Second, student-led journals play a significant role in advancing developments in legal thought, and, as a result, American jurisprudence. In an aspirational sense, the same law students that will lead the legal field in the decades to come can begin making an impact today. Taken more realistically, students are able to decide which legal ideas to promote (or impede) by their publication decisions. Additionally, these editorial staffs play a role in determining the language that is deemed acceptable within legal academia via their editorial suggestions and discretion. Even in a legal system reticent to change, recent years have seen journals adopt increasingly inclusive language through their publication power. Of course, these same advancements could also be experienced with a traditional approach to academic journal leadership, and much of legal academia still falls

short of promoting any meaningful change. Yet the beauty of American legal academia is that the agency lies with the student editors. The groundwork for any meaningful jurisprudential change in the future must be laid today. Thanks to the student-led approach, the foundation-laying masons of today are the practitioners of tomorrow.

Third, student-led journals directly benefit the student editors themselves. While these editors get to play a role in advancing legal thought, this noble mission alone could not explain the thralls of editors who agree to perform unpaid labor for the benefit of an exorbitantly wealthy legal system. Instead, student editors are rewarded for their efforts through developing legal writing skills, gaining connections to both the legal field generally and legal academia, and by using the signaling benefit of law review membership in career advancement. While the latter two benefits can have varying magnitudes corresponding to the journal's prestige, the skills-development benefit is arguably constant, as editors gain both soft and hard academic skills absent of the journal's standing. As a result, the American legal system gains better trained lawyers who have been exposed to complex and innovative legal issues.

Legal academia's reliance on law student editors creates strong benefits throughout the legal system. While an academic-led publication system may provide other benefits, the student-led approach reduces costs for publication, granting more diverse voices access to academic publication. In turn, increased diversity promotes greater competition in the marketplace of ideas, further promoting innovative thought. Although less experienced than their practitioner or professorial counterparts, student editors tend to be less entrenched in observing convention and more willing to push boundaries and promote inclusivity of traditionally silenced voices. Adopting a more student-dependent approach in other jurisdictions, including Europe, could thus benefit stakeholders throughout the legal community while developing more forward-looking scholarship.

*by* **Tucker Cochenour**

Juris Doctor (J.D.) student at UC Berkeley School of Law, Class of 2023  
Senior Technical Editor at Berkeley Business Law Journal (BBLJ)  
Senior Publishing Editor at California Law Review Volume 111