PINCITES

SAMUEL FOX Krauss*

Within the literature on legal scholarship, academics have studied citation practices. For example, scholars have examined which authors, journals, and articles are most cited. But no one has examined which parts of articles scholars cite. Understanding which parts of articles scholars cite is not only intrinsically interesting, but also could inform how authors structure articles. This Note presents the results of a unique, hand-coded dataset of thousands of pinpoint citations. In brief: Authors are more likely to cite the beginning of articles but split their remaining citations roughly evenly. This pattern holds across flagship journals of variously ranked law schools and articles of varying length, but it is less pronounced for self-citation. While cynical explanations—that cite-worthy content is concentrated at the beginning, or authors tend not to thoroughly read the articles they cite—of the data is possible, a better explanation serves as a modest rebuttal to certain criticisms of legal scholarship.

INTRODUCTION ................................................. 889
I. METHODOLOGY ......................................... 890
   A. Development of the Dataset .......................... 890
   B. Analysis of the Dataset .............................. 902
II. RESULTS & ANALYSIS .................................. 902
   A. All Pincites .......................................... 902
   B. Self-Pincites vs. Non-Self-Pincites ............... 903
   C. Page Length vs. Citation Location ................. 905
   D. The Last Seventy-Five Percent of Articles ........ 906
CONCLUSION ................................................... 907
APPENDIX ...................................................... 908
   A. Data .................................................. 908
   B. Primary Sources .................................... 908
      1. Yale ................................................. 908
      2. Non-Yale ............................................ 909

* Copyright © 2023 by Samuel Fox Krauss, J.D., 2022, New York University School of Law. The views expressed herein are solely my own. I gratefully acknowledge support from the Brooks Institute for Animal Rights Law & Policy; helpful conversations with Ashley Binetti Armstrong, Cynthia Barmore, David Christie, Garrett Donnelly, Nancy Fox, Andrew Ingram, Chris Ioannou, Simon Fox Krauss, Guha Krishnamurthi, Shirley LaVarco, Paige Rapp, Daniel Rauch, Zayn Siddique, Sabrina Solow, Andrew Stawasz & Aadi Tolappa; superb editing by the staff of the New York University Law Review, in particular Jordan Cahn, Kevin Fodouop, Jonathan Goldberg & Eliza Hopkins; statistical consulting from Brendon Cambra, Donato Cianci, Daniel Gadala-Maria & Abigail Lefkowitz; and Esinam Agbemenu for sharing with me her wisdom, grace, love, and joy. I dedicate this Note to my dad, Ronald A. Krauss, Esq.

LAISH ZIKRA TOMET HADIVRAH

888
INTRODUCTION

Lawyers have long lamented legal scholarship's supposedly sorry state¹: Articles are not anonymously reviewed;² student editors are unqualified³ and rely on the wrong selection heuristics;⁴ articles are


³ See, e.g., James Lindgren, An Author’s Manifesto, 61 U. Chi. L. Rev. 527, 527 (1994) (“Our scholarly journals are in the hands of incompetents.”); Arthur D. Austin, Essay, The “Custom of Vetting” as a Substitute for Peer Review, 32 Ariz. L. Rev. 1, 4 (1989) (“The use of student edited journals as the main outlet for legal writing is an embarrassing situation deserving the smirks of disdain it gets from colleagues in the sciences and humanities.”); Richard S. Harnsberger, Reflections About Law Reviews and American Legal Scholarship, 76 Neb. L. Rev. 681, 682 (1997) (“[L]aw reviews . . . are poorly edited by immature students who are ill-prepared to judge good scholarship . . . .”). A letter from H.L.A. Hart to Lon Fuller, of Harvard, in which Hart asked Fuller to intervene with the student editors of the Harvard Law Review in their editing of the article version of his famous Holmes Lecture defending legal positivism, presents an example:

Meanwhile a spot of trouble! The L. Rev. boys had mutilated my article by making major excisions of what they think is irrelevant or fanciful. They have made a ghastly mess of it and of the references to Bentham and I have written
to say they must not publish it under my name with these cuts which often destroy the precise nuance. I took great care and much time over what they have coolly cut out.

NICOLA LACEY, A LIFE OF H.L.A. HART: THE NIGHTMARE AND THE NOBLE DREAM 200 (2006); Richard A. Epstein, Faculty-Edited Law Journals, 70 CHI.-KENT L. REV. 87, 88 (1994) (asserting that student editors “cannot comment intelligently about the structure of the argument, the possible lines of counterattack, and the interpretation given to primary sources”); Geoffrey Preckshot, Comment, All Hail Emperor Law Review: Criticism of the Law Review System and Its Success at Provoking Change, 55 MO. L. REV. 1005, 1006–07 (1990) (“[T]he training or experience in the art of the law, or lack thereof, possessed by such student-writers and editors has been the subject of comment from the first student-published review.”); United States v. Gissantaner, 990 F.3d 457, 464 (6th Cir. 2021) (“Peer review is not student review. . . . [I]t is one thing to convince lawyers in training to publish a piece; it is quite another to convince peers in a professional community to publish a piece.”).

boring,\textsuperscript{5} too long,\textsuperscript{6} and have too many footnotes,\textsuperscript{7} which are them-

\textit{Reviews—The Extreme Centrist Position}, 62 Ind. L.J. 1, 7–8 (1986) (arguing that student selection is “only one step in the process by which it is decided whether the article has merit”).


\textsuperscript{6} See, e.g., Posner, supra note 5, at 159 (“[T]oo many articles are too long . . . .”); Robert J. Spitzer, \textit{Why History Matters: Saul Cornell’s Second Amendment and the Consequences of Law Reviews}, 1 Alb. Gov’t L. Rev. 312, 344 (2008) (including among common criticisms of law reviews that published articles are “too long – and pointlessly so”); L. Friedman, supra note 1, at 663 (“[L]egal scholarship suffers enormously from bloat.”); Max Stier, Kelly M. Klaus, Dan L. Bagatell & Jeffrey J. Rachlinski, Project, \textit{Law Review Usage and Suggestions for Improvement: A Survey of Attorneys, Professors, and Judges}, 44 Stan. L. Rev. 1467, 1498 (1992) (reporting the results of a survey in which, on average, respondent attorneys, professors, and judges all desired articles that are shorter); James W. Ely, Jr., Address, \textit{Through a Crystal Ball: Legal Education—Its Relation to the Bench, Bar, and University Community}, 21 Tulsa L.J. 650, 654 (1986) (“There is widespread agreement that law review articles are too long . . . .”); Larry A. DiMatteo, \textit{Human Capital and the Search for Originality}, 16 Berkeley Bus. L.J. 267, 300 (2019) (“[A]rticles are too long because they tend to engage in an internal dialogue with other papers, summarizing everything that has ever been said on a given topic by other law professors.”); Eric J. Segall, \textit{The Law Review Follies}, 50 Loy. U. Chi. L.J. 385, 387 (2018) (“[M]ost articles break one of the cardinal rules of good writing. Footnotes should only point the reader to the source of the statement in the text or maybe to other helpful information for the interested reader. Placing substantive information in footnotes is quite confusing.”); Lasson, supra note 5, at 934 (“[A]rticles . . . are . . . too long . . . .”); Scott Dodson, \textit{The Short Paper}, 63 J. Legal Educ. 667 (2014) (extolling the virtue of short papers); \textit{Joint Law Review Statement on Article Length}, Duke L.J., https://dlj.law.duke.edu/about/submissions [https://perma.cc/2XV3-VDJL] (expressing, with eleven other law reviews, a preference for articles of fewer than 35,000 words and reporting the results of a survey showing that “nearly 90% of faculty agreed that articles are too long”). But see Carissa Byrne Hessick, \textit{In Defense of Law Review Articles},
selves boring and too long; authors cite themselves too much; 


8 See Zenoff, supra note 5, at 21 (“[A]rticles . . . have too many footnotes, which also are boring and too long.” (footnote omitted)); Lansing, supra note 4, at 248 (“Footnotes can be ‘subterpagean’ weed roots — pods that suck life from the text.”). But see Preckshot, supra note 3, at 1017–18 (defending lengthy footnotes because they are a research shortcut for students and practitioners).

the *Bluebook*’s rules are stupid;¹⁰ and articles are not helpful to

the bar or judiciary.


11 See, e.g., Ely, supra note 6, at 654 (“Put bluntly, much of what academic lawyers turn out in the name of scholarship is of little utility to the average lawyer.”); Erik M. Jensen, The Shortest Article in Law Review History, 50 J. LEGAL EDUC. 156, 156 n.1 (2000) (“[I]t’s been a long time since law review articles had to have anything to do with anything.”); Harry T. Edwards, Another Look at Professor Rodell’s Goodbye to Law Reviews, 100 VA. L. REV. 1483, 1484 (2014) (“[L]egal scholars should do a better job in producing scholarship that is of interest and use to wider audiences in society.”); Harnsberger, supra note 3, at 682 (“[L]aw reviews . . . are full of useless theoretical articles . . . .”); C. Steven Bradford, As I Lay Writing: How to Write Law Review Articles for Fun and Profit, 44 J. LEGAL EDUC. 13, 15 (1994) (“Not just any important legal issue will do. In fact, no important legal issue will do. Law reviews brown upon importance. If law reviews discussed important issues, people would start reading them and the editors would come under closer scrutiny.”); Peter A. Joy, Law Schools and the Legal Profession: A Way Forward, 47 Akron L. Rev. 177, 181–82 (2014) (arguing that this critique “is supported by the data” and citing several studies for support); Margaret Martin Barry, Practice Ready: Are We There Yet?, 32 B.C. J.L. & SOC. JUST. 247, 256 n.40 (2012) (describing a talk by Professor Richard K. Neumann in which he reports that “people who make law—namely legislators, courts, and the bar—have increasingly ignored law faculty scholarship”). But see Ann Althouse, Let the Law Journal Be the Law Journal and the Blog Be the Blog, 116 YALE L.J. POCKET PART 8 (Sept. 6, 2006), https://yalelawjournal.org/forum/let-the-law-journal-be-the-law-journal-and-the-blog-be-the-blog [https://perma.cc/W6GM-NKH9] (defending law review journals as doing “important work that the legal profession . . . relies on”).

12 As Chief Justice Roberts once said, 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.

Within scholarship on legal scholarship, citology examines citation practices, including who is most cited, which journals are most of Liptak, supra, see generally Orin Kerr, The Relevance and Readership of Student-Edited Law Reviews: Another Response to Liptak, VOLOKH CONSPIRACY (Oct. 21, 2013, 3:08 PM), https://volokh.com/2013/10/21/relevance-readership-student-edited-law-reviews [https://perma.cc/L3HY-NOBU] (criticizing Liptak's article for overstating the decline of law reviews). Some studies found that courts now less frequently cite law review articles. See Brent E. Newton, Law Review Scholarship in the Eyes of the Twenty-First-Century Supreme Court Justices: An Empirical Analysis, 4 DREXEL L. REV. 399, 404, 408 (2012) (finding that Supreme Court citations to law review articles decreased over a roughly thirty-year period, and finding also that only 61.62% of authors of the cited work were full-time law professors); Michael D. McClintock, The Declining Use of Legal Scholarship by Courts: An Empirical Study, 51 OKLA. L. REV. 659, 684 (1998) (“The number of judicial citations of law reviews in each of the courts surveyed declined dramatically from 1975 to 1996. . . . [T]here was a 47.35% decrease in overall citations by the federal courts and state supreme courts combined.”); cf. Gregory Scott Crespi, Judicial and Law Review Citation Frequencies for Articles Published in Different “Tiers” of Law Journals: An Empirical Analysis, 44 SANTA CLARA L. REV. 897, 897 (2004) (“Courts virtually ignore altogether legal scholarship that appears in lower-tier law journals.”). But see David L. Schwartz & Lee Petherbridge, The Use of Legal Scholarship by the Federal Courts of Appeals: An Empirical Study, 96 CORNELL L. REV. 1345, 1363 (2011) (finding that appellate courts cited legal scholarship more than twice as frequently from 1999–2008 as they did from 1950–1959); Kenneth F. Ripple, The Role of the Law Review in the Tradition of Judicial Scholarship, 57 N.Y.U. ANN. SURV. AM. L. 429, 444 (2000) (defending the law review as “intellectual fuel for the task of judging and . . . the chief source of responsible criticism for the judicial work product”); Fuld, supra note 1, at 917 (noting that while the primary role of law reviews is to “serve the editors who labor over them,” they also “render a real service to lawyers,” including judges).

13 See Balkin & Levinson, supra note 9, at 843, 849–50 (coining the term “citology” and offering a self-help guide to garnering citations suggesting that, first, one have attended Harvard, Yale, or Chicago Law; second, one have published in those law schools’ law reviews; and third, one have become a professor at Harvard, Yale, or Chicago Law, among other suggestions); Leigh Anne Williams, Note, Measuring Internal Influence on the Rehnquist Court: An Analysis of Non-Majority Opinion Joining Behavior, 68 OHIO ST. L.J. 679, 692 (2007) (giving a more detailed definition); McPherson, supra note 7, at 457 n.1 (assuring the reader that citology “is now a real thing”); Kathleen M. McGinnis, Revisiting Claim and Issue Preclusion in Washington, 90 WASH. L. REV. 75, 78 n.7 (2015) (“[C]itology is ‘a thing.’”); Robert C. Ellickson, The Market for “Law-and” Scholarship, 21 HARV. J.L. & PUB. POL’Y 157, 158 (1997) (attributing the “boom in legal citology” to declining search costs); Thomas A. Smith, The Web of Law, 44 SAN DIEGO L. REV. 309, 310 n.4 (2007) (noting that “[c]itation studies of law constitute a significant literature” and giving many “leading” examples). For a delightful romp through the world of citation analysis, see Mary Whisner, My Year of Citation Studies, Part 1, 110 LAW LIBR. J. 167 (2018); Mary Whisner, My Year of Citation Studies, Part 2, 110 LAW LIBR. J. 283 (2018); Mary Whisner, My Year of Citation Studies, Part 3, 110 LAW LIBR. J. 419 (2018); Mary Whisner, My Year of Citation Studies, Part 4, 110 LAW LIBR. J. 561 (2018). See generally Mary Beth Beazley & Linda H. Edwards, The Process and the Product: A Bibliography of Scholarship About Legal Scholarship, 49 MERCER L. REV. 741 (1998) (providing a bibliography of scholarship about legal scholarship).

14 See, e.g., Fred R. Shapiro, The Most-Cited Legal Scholars Revisited, 88 U. CHI. L. REV. 1595 (2021) (providing lists of the most cited legal scholars, with each list representing different criteria or characteristics); Fred R. Shapiro, The Most-Cited Legal Scholars, 29 J. LEGAL STUD. 409 (2000) (same); see also Ian Ayres & Frederick E. Vars, Determinants of Citations to Articles in Elite Law Reviews, 29 J. LEGAL STUD. 427, 439
cited,15 which articles are most cited,16 which law faculties have the greatest “scholarly impact,”17 and bias.18 Among other grievances, scholars and judges have noted that people do not really read law

(2000) (finding, in a study of citations of articles that appeared in the Harvard Law Review, Stanford Law Review, and Yale Law Journal from 1980 to 1995, that articles by “minority women” were the most heavily cited); Christopher A. Cotropia & Lee Petherbridge, Gender Disparity in Law Review Citation Rates, 59 WM. & MARY L. REV. 771, 771 (2018) (finding that “[l]aw review articles authored by women receive significantly more citations than articles authored by men”). See generally Deborah Jones Merritt, Scholarly Influence in a Diverse Legal Academy: Race, Sex, and Citation Counts, 29 J. LEGAL STUD. 345 (2000) (finding a “small” lag in citation counts between, on the one hand, “white women, women of color, and men of color” and, on the other hand, “white men,” and predicting that this discrepancy in citation count will diminish over time); Christopher A. Cotropia & Lee Petherbridge, The Dominance of Teams in the Production of Legal Knowledge, 124 YALE L.J. 18 (2014) (finding that articles with multiple authors are more frequently cited).

15 See, e.g., Crespi, supra note 12, at 897 (“[B]oth courts and scholars cite articles that are published in the three most prestigious law journals at much higher rates than they cite articles that appear in either mid-level or lower-tier law journals.”).


18 See, e.g., Lawprofblawg & Darren Bush, LAW REVIEWS, CITATION COUNTS, and TWITTER (Oh My!): Behind the Curtains of the Law Professor’s Search for Meaning, 50 LOY. U. CHI. L.J. 327, 341–42 (2018) (arguing that law review citation practices are biased with respect to gender, the author’s law school alma mater, the author’s institution, and the rank of the journal in which the article appears); Moreno, supra note 2, at 413 (asserting that law reviews prefer articles from faculty at “high-prestige institutions”); Debra Cassens Weiss, Only 2 Women Make List of Most Cited Legal Scholars, ABA J. (Nov. 11, 2021, 1:29 PM), https://www.abajournal.com/news/article/only-two-women-make-list-of-most-cited-legal-scholars [https://perma.cc/GT97-AEJ4] (“A list of the 50 most cited U.S. legal scholars of all time contains many well-known names but only two women.”).
review articles, and both quantitative and qualitative studies support this. But no one has studied which parts of articles scholars cite when they do cite them.

This Note fills a gap in the literature by empirically examining which parts of law review articles scholars cite. It presents the results of a unique, hand-coded dataset of thousands of pinpoint citations—or “pincites.” In brief: Authors are more likely to cite the begin-

---


20 See Smith, supra note 13, at 336 (finding, in a study of about 385,000 law review pieces across 726 U.S. law reviews and journals, that forty-three percent of articles are never cited, and about seventy-nine percent are cited ten or fewer times); Deborah L. Rhode, Legal Scholarship, 115 HARV. L. REV. 1327, 1331 n.16 (finding, in a survey of “70,560 articles published between 1981 and 1993”, that “roughly fifty-seven percent had not been cited by 1997”); Newton, supra note 12, at 400 (describing the Smith study, supra note 13, as “convincing evidence that a substantial amount of law review scholarship today is not considered useful even by other law professors.”).

21 See Wise et al., supra note 2, at 68 (finding, in a study of law review reading practice among law professors, lawyers, and judges, that “it appears that attorneys and especially judges only occasionally read law review articles”).

22 For the non-lawyers—hi Mom!—pincites, or pinpoint citations, are the page (or section, paragraph, etc.) where the relevant information in a referenced source appears. See The Bluebook, 21st ed., supra note 10, r. 3.2(a). Note that, despite its name, a pinpoint citation can be a page range. Id. For example, a pincite to this footnote would look like this: Samuel Fox Krauss, Note, Pincites, 98 N.Y.U. L. REV. 888, 897 n.22 (2023) (explaining what a pincite is and giving an example). “897 n.22” is the pincite. It tells you that within the cited article, the relevant information can be found on page 897 at footnote 22.
nings\textsuperscript{23} of articles but split their remaining citations roughly evenly among the remainder.\textsuperscript{24} This pattern holds across flagship journals of various law schools and articles of varying length, but it is less pronounced for self-citation—when an author cites themself.

A cynical interpretation of the data is as follows: If cite-worthy content—as measured by authors’ propensity to cite—were evenly distributed throughout articles, and if articles were read in full, citations would be distributed evenly across those articles. The data show that citations are not evenly distributed—they cluster at the beginning—so either cite-worthy content is concentrated at the beginning, or authors tend not to thoroughly read the articles they cite. In either case, this might lead one to conclude that articles ought to be shorter. That is, either cut the less important content or write articles that people will fully read.

But there is a better explanation of the data. First, important claims in law review articles appear at least twice: once in the introduction and once in the body.\textsuperscript{25} Second, the introduction is usually better than the rest of the piece: It is concise, has a congenial style, and has been revised more. So, authors may be more likely to cite the introduction’s version of the same proposition, even if it appears later in the piece, and even if the author actually read until the end. Among other reasons, the version of a proposition that appears in the introduction is more likely digestible to the average reader. In addition, authors may read an article and incorporate some of it in their draft, holding off on adding pincites until later. Then, when adding in the pincites—either before submission or at the encouragement of student editors—authors may select the version of the propositions that appear in the introduction.

These results, therefore, may serve as a modest rebuttal to criticisms of citation practice.

\textsuperscript{23} I do not define “beginning,” but as a quick reference point, over a fifth of citations are to the first ten percent of articles.

\textsuperscript{24} See infra Part II (providing empirical results).

\textsuperscript{25} See, e.g., Andrew Ingram, Pinkerton Short-Circuits the Model Penal Code, 64 VILL. L. REV. 71, 73, 82 (2019) (arguing in both the introduction and body of the article that while the Model Penal Code is committed to the principle that punishment should not exceed culpability, jurisdictions that adopt the Code violate the principle when they add Pinkerton liability to it); Daniel E. Rauch, Customized Speech and the First Amendment, 35 HARV. J.L. & TECH. 405, 410, 426–27 (2022) (arguing in both the introduction and body of the paper that states may, in some cases, limit audience-information collection practices).
June 2023]  

PINCITES  

899  

I  

METHODOLOGY  

A. Development of the Dataset  

This Note’s purpose is to study from where, within articles, authors draw citations. So, I looked at over 4,000 pincites in the 2020–2021 publication cycle. I started with the Yale Law Journal’s most recent (at the time of this study) complete volume: Volume 130. The Yale Law Journal is the flagship law review at what was the highest-ranked law school. Presumably, the scholarship and student editing exhibited by the journal is among the best in the country, so one would expect the citation practice to be top-notch. Volume 130 had 2,297 pincites, which make up the “Yale” part of the dataset.

But articles published in the Yale Law Journal are not representative. To look at a broader spectrum of legal scholarship, I also looked at pincites in lower-ranked law schools’ flagship journals. Using the U.S. News & World Report’s Law School Rankings, I looked at the flagship journal from each school ranked at intervals of

---


28 Staci Zaretsky, The 2021 U.S. News Law School Rankings Are Here, ABOVE THE LAW (Mar. 16, 2020, 11:46 PM), https://abovethelaw.com/2020/03/2021-u-s-news-law-school-rankings [https://perma.cc/CTN2-2TFU]; see also Perry, supra note 9 at 28–29 (finding a strong correlation between a law school’s U.S. News ranking and its flagship journal’s rank, as determined by citation frequency and impact factor). Note, however, that while U.S. News is routinely used by faculty to gauge law journal quality, critiques of this practice exist. See, e.g., Timothy T. Lau, A Law and Economics Critique of the Law Review System, 55 DUQ. L. REV. 369, 376 (2017) (“[B]y using the U.S. News & World Report rankings of law schools to rank journals, legal academics are taking the rankings far beyond their intended use and essentially are ranking journals based on factors that have little to do with the journals themselves.”). However, Lau also notes that legal scholars default to evaluating the quality of the journal by the U.S. News ranking of the school with which it is affiliated. See id. at 377–78.
twenty lower than Yale. The rankings involve many ties; for example, there is not a standalone school ranked forty-first. Instead, several schools are tied for thirty-eighth. The University of Wisconsin-Madison is listed in the forty-first slot, so that is the school I included. I included in the dataset each of 1,788 pincites in the first issue of that school’s flagship journal during the 2020–2021 academic year. These pincites make up the “Non-Yale” part of the dataset. Every article from which I drew pincites is listed in the Appendix, infra.

The study proceeded in the following way. I gathered every published article, essay, and book review (rather than traditionally student-written pieces, such as notes) that appeared in the above-described journal issues. Each time the author cited a law review article and included a pincite, I pulled the cited article, determined its length, in pages, and then calculated how deep into the cited article, as a percent, the pincite was. There are several ways to describe how far into an article a pincite appears: by words, paragraph, line, or section number (i.e., Introduction or Section I). I chose pages for several reasons. First, this is how authors cite propositions. If an author cites a quotation, then it would theoretically be possible to calculate how many words into an article the quotation appears, but where an author guides the reader to a page, they provide no further granularity. Second, pages are close to standardized across articles: All articles have a beginning and end page; not all articles have an introduction section, and, of those that do, the sections vary in length. However, not all articles actually “begin” on their first page: Some have one, two, three, or four pages before the introduction section. Nevertheless, I deferred to the article’s “first” page, even if it contained merely an abstract or table of contents.


30 When choosing the issue, I intended to skip symposia: articles are often solicited, or else, on a theme, and I thought that might skew the data somehow. This explains why the articles from the Oklahoma Law Review come from Issue 2 and not Issue 1 of Volume 73. This was not possible for the relevant volume of the University of St. Thomas Law Journal: Each of the three issues in Volume 17 are symposium issues (and one is a “Special 20th Anniversary Edition”), so I included Issue 1, even though it was a symposium. Volume 17, U. ST. THOMAS L.J., https://ir.stthomas.edu/ustlj/vol17 [https://perma.cc/VE83-YNRX].


34 See, e.g., Farah Peterson, Expounding the Constitution, 130 YALE L.J. 2, 2–6 (2020).
June 2023] PINCITES 901

This study required many choices. One choice was to examine only pincites, rather than citations to whole articles. Thus, the study excludes citations that do not include pincites. This is intentional: The purpose of the study is to look at which parts of articles scholars cite. Others have studied various aspects of citation practice;35 examining citations to whole articles is beyond the scope of this Note.

Another choice was to determine what counts as a “law review article,” because this study concerns only pincites to other law reviews. To be as inclusive as possible, I included all and only periodicals that appeared on Washington and Lee School of Law’s Law Journal Rankings,36 which includes 1,554 journals. Thus, this study excluded citations to books, reports, government documents, letters, websites, and any publication not on the Washington and Lee list, but it does include citations to some publications that are not conventionally thought of as “law reviews,” like Ratio Juris. The study further excludes pincites to manuscripts (even forthcoming articles). Relatedly, some journals change their names, or merge. Take footnote 1 of Darcy Covert’s article: “See, e.g., Robert H. Jackson, *The Federal Prosecutor*, 31 J. A M. INST. CRIM. L. & CRIMINOLOGY 3, 3 (1940).”37 The *Journal of the American Institute of Criminal Law and Criminology* was founded in 1910 and changed its name several times.38 It is now called the “*Journal of Criminal Law & Criminology*.”39 Only the latter is on the W&L list. I decided to include the pincite, anyway.

Authors sometimes include two or more pincites in the same citation clause. I counted these as separate citations. Authors sometimes cite a page range, rather than one page. I counted pincites to page ranges as one citation to the average of the page range.

Authors and student editors make mistakes. They get page numbers and *supra* cites wrong. In those cases, I tried to determine what the author meant, and when I felt confident I could, I included the pincite in the dataset. When I could not, I excluded it. For example, in Loren Jacobson’s article, the following citation clause appears at note

---

35 See *supra* notes 13–18 and accompanying text.
263: “See Berg, supra note 206, at 225–26 . . . .” But the only article by Berg appears at note 204. Note 206 cites a case. Despite the inconsistency, I decided to include it. From context, it is clear that some supra citations were not properly updated.

These choices surely affected the results, but I did not make them to change the results in a particular way. And, while I strove for accuracy, inevitably there are errors.43

B. Analysis of the Dataset

In addition to looking at all the pincites and noticing trends, this study compared self-citations (when authors cite themselves) to non-self-citations (when authors cite others); it compared pincite location (how deep into a piece the pincite occurred) to the cited article’s length; and it examined what pincites to the last three-quarters of articles look like.

II
RESULTS & ANALYSIS

The results of the study follow. I show what pincites look like in both parts of the dataset—the Yale and Non-Yale journals; I compare self-pincites to non-self-pincites, pincite location to article length; and I examine what pincites to the last seventy-five percent of articles look like. The data exist online.44

A. All Pincites

Figures 1 and 2, below, show all the pincites in the dataset. For both the Yale and Non-Yale pincites, citations cluster at the beginning of the cited article, and then even out. For Yale pincites, the mean citation location was approximately 41%; for the Non-Yale pincites, the mean citation was approximately 39%.

41 Id. at 102 n.204.
42 Id. at 102 n.206 (citing Rust v. Sullivan, 500 U.S. 173, 180 (1991)).
43 Cf. D.C. Makinson, The Paradox of the Preface, 25 ANALYSIS 205, 205 (1965) (explaining the preface paradox: the phenomenon of authors endorsing each of the statements in their work while acknowledging that at least one of them is wrong).
44 Find the Yale data here: Yale 2020–2021 Compiled Data NYU, GOOGLE SHEETS, https://docs.google.com/spreadsheets/d/1aqxrbzVv484abJSJah6-SJOALvaRZsRiokUGmLZL6o/edit [https://perma.cc/KS4F-A8QG]. Find the Non-Yale data here: Non-Yale 2020–2021 Compiled Data NYU, GOOGLE SHEETS, https://docs.google.com/spreadsheets/d/1i5msooaNxLqdlNiCHNyhFm6Ie5iYX0WJ_uG3Gfu4Y/edit [https://perma.cc/D5XT-AUZZ].
B. **Self-Pincites vs. Non-Self-Pincites**

Of the citations in this study, 8.4% in the Yale dataset were self-citations; 5.5% in the Non-Yale dataset were self-citations. In general, citations to one’s own article were likelier to be deeper in that article. This makes sense if one assumes that authors are more familiar with their own work and may be engaging with more-substantive material, deeper into their piece, than they might with someone else’s work. Figures 3 and 4 show the locations of non-self-citations (citations to articles not one’s own) and self-citations, respectively, in the Yale
dataset. Figures 5 and 6 compare pincite placements of non-self-citations and self-citations in the Non-Yale dataset. For articles in the Yale dataset, the mean citation location for self-cites (Figure 4) was 46%, and that for non-self-cites (Figure 3) was 41%. For articles in the Non-Yale dataset, the mean citation location for self-cites (Figure 6) was 45%, and that for non-self-cites (Figure 5) was approximately 39%.
Scholars often complain that law review articles ought to be shorter.\textsuperscript{45} Perhaps, the argument goes, if law review articles were shorter, scholars would be more willing to read them and cite deeper into them. While this study does not address whether scholars are more likely to cite shorter articles, the data show that an article’s page length does not predict how deep into it an author is willing to cite. Figure 7, below, shows citations in the *Yale Law Journal* with the

\textsuperscript{45} See *supra* note 6 and accompanying text.
average citation location of pincites at every article length in the dataset.

**FIGURE 7**

![Figure 7](Diagram)

D. The Last Seventy-Five Percent of Articles

Pincites in articles in this study cluster at the beginning of articles. If one ignores, however, pincites to the first twenty-five percent of articles, pincites are almost evenly distributed throughout the rest of the article. Figures 8 and 9, below, show that there is a slight downward trend.

**FIGURE 8**

![Figure 8](Diagram)

\[ R^2 = 0.0657 \]
The purpose of this study was to determine where, from within articles, authors draw pincites. The data show that the pincites cluster at the beginning of articles and then even out. Authors are less likely to cite the beginning of their own articles than they are when citing other authors’ articles. Long articles do not dissuade deep pincites. Moreover, these trends hold at the Yale Law Journal and law journals at schools of divergent ranks. While this result could be cynically interpreted as yet another contribution to the law review grievance literature—in particular, that people do not read law review articles in full, especially long ones—in fact it shows that scholars generally are willing to dig deep for citations, and that this subspecies of citation practice holds across the discipline. If there is a normative implication from all this, it is that authors should not be afraid to put substantive material deep into their articles: Scholars will find it.
APPENDIX

A. Data

The raw data exists online in Google spreadsheets.\textsuperscript{46} Anyone can share or adapt the data, with attribution, for noncommercial purposes.

B. Primary Sources

As described in Section I.A, supra, the dataset has two parts, “Yale” and “Non-Yale.” The “Yale” part of the dataset draws its pincites from every article in the Yale Law Journal’s Volume 130, 2020–2021. The “Non-Yale” part of the dataset draws its data from every article from Issue 1 of the corresponding volume from the flagship law journals of seven law schools of divergent U.S. News ranking. The source articles are below.

1. Yale


\textsuperscript{46} For Yale and Non-Yale data links, see supra note 44. For the raw data, you can find the Yale sheet at Yale 2020-2021 Compiled data NYU, Google Sheets, https://docs.google.com/spreadsheets/d/15IhCZvWUnNYdgvZWCZfJWyqetAZQJhZhVNXD/edit?gid=395458581 [https://perma.cc/DFN8-76LD], and the non-Yale sheet at Non-Yale 2020-2021 compiled data NYU, Google Sheets, https://docs.google.com/spreadsheets/d/15eAS4Y-xmu7AFw7My6C9jCqwRtXin1P/edit?gid=1775834368 [https://perma.cc/8DX2-AKFK].

2. Non-Yale

June 2023] PINCITES 911