

How I Write?

Erwin Chemerinsky

I became a law professor, knowing that I love to teach but unsure about the writing aspect of the job. During college, I thought I wanted to be a high-school teacher and took all the classes, including student teaching at a large public high school, to become a certified social-studies teacher. Being in a classroom with students has always been a great joy for me. I am in my 44th year as a law professor and enjoy teaching as much as when I began.

I quickly discovered as a young assistant professor that I also love to write. Sometimes writing is an extension of my teaching, explaining complex legal issues in an accessible manner. Sometimes writing provides the opportunity to state my opinions on matters of law. Like most other law professors, I have strong views and enjoy expressing them.

In all my writing, I follow the same steps, asking myself a series of questions. First, who is my audience and what am I trying to achieve with the writing? I have the great pleasure and good fortune of writing for many different audiences. I regularly write op-ed pieces for newspapers, including being a contributing writer to the opinion section of the *Los Angeles Times* and having regular columns in the *Sacramento Bee* and the *ABA Journal*. These pieces are written to educate and often to persuade. I am conscious that in writing for newspapers, I have an audience of many nonlawyers. I am also aware that the space constraints of an op-ed, generally not more than about 800 words, require careful focus and a limit to the number of points that can be made and the depth of the idea development.

Like many other law professors, I also write law-review articles, which are meant to provide in-depth analysis of legal issues for lawyers and perhaps for judges. My assumption is that the

audience will be more specialized and more sophisticated about the legal issues I am addressing.

I write casebooks and treatises to educate law students about the law. Here my goal is to make the law as clear and as accessible as possible. Unlike other types of writing, I aim to make these as ideologically neutral as possible.

I write popular-press books — trade-press books — ideally to reach a wide audience about legal issues. I write university-press books with a more specialized audience in mind.

But in everything I write, no matter how long or short, I have a clear sense at the outset of who I am writing for and why I am writing it.

Second, what is my thesis? I try in the first sentence of an op-ed to state my thesis clearly. In the preface to a book, or at the outset of a law-review article, I set forth the thesis as clearly as I can. My most frequent response to student-written work is to ask, “What’s your thesis?” And I do my best to make my own thesis clear in everything I write.

Third, what is my structure? Whether it is an op-ed or a long book, I have a clear structure in mind before I write the first word. Everything is outlined in detail before I start writing. I teach every class in outline form and try to make sure that my writing structure is just as apparent and clear. Again, this is true whether it is a short essay like this, an 1,800-page casebook, or anything in between. I always have a detailed outline before I begin writing anything. I tend to sketch my outline out, especially for shorter works, in handwriting on paper, but do all my actual writing on the computer.

Fourth, I always write in order and try to make my first draft as polished as I can. With rare exceptions, I start with the first sentence and work my way to the last. I don’t write article sections or book chapters out of order. There are certainly times during the writing process when I realize that something doesn’t

work and I need to reorganize. But I find it easiest to write “front to back.”

I try hard to write a first draft that is as good as it can be. I think I am a better writer than editor. I worry that sometimes, once I have the prose on the paper, I am too reluctant to change it. Also, I learned the hard way to do my footnotes as I go along if I’m writing a law-review article or book. Of course, I’ll leave gaps, but it is far too painful to write a long piece and then have to go back and compose the footnotes.

Fifth, I edit; for some things, like major briefs and law-review articles and books, I edit over and over again. I am constantly looking for ways to make my writing clearer and more engaging and accessible. For major works, I will circulate drafts to trusted colleagues and friends for comments. My writing is always improved by their suggestions, and I am deeply grateful to them for taking the time to read my work.

I am sometimes asked when I write; the answer is “whenever I can.” I have used sabbaticals for major projects, but my last sabbatical was in 2005, and the nature of being a law-school dean for the last 16 years is that I don’t have large blocks of time for writing. My schedule is generally packed with meetings all day. So I write early in the morning, when there are no interruptions. I write late in the evening after answering the day’s emails. I write on weekends. I have also learned — and it took some time — to write in short chunks of time, even taking advantage of an open half hour in my schedule.

I tremendously value clarity in writing and speaking and try to be as clear as I can be. I tend to write in relatively short sentences and try to be engaging. I loathe sarcasm and invective and try to be forceful without it. I care deeply about writing and am constantly looking to improve.