

Book Review Lawsuits and Book Review Standards: An Editorial Comment

Sienho Yee*

1. With great alarm, I read last year the reports about the editor of a book review website being sued for libel in a criminal proceeding in a foreign country. With great interest, I read the various descriptions of the policies of some journals regarding book review submissions and responses thereto. The fact that an editor of the book review in issue was being hauled as a defendant into a criminal court proceeding in a foreign land gives me, as the Editor-in-Chief of the *Chinese Journal of International Law*, serious discomfort. In my view, such a case will have a chilling effect on academic and editorial excellence, not to mention freedom. The prospect of such lawsuits will have a strong negative impact on the initiatives of book reviewers, book review editors and editors-in-chief of academic journals and websites.

2. Probably, this controversy has resulted from a general lack of clear standards on book review writing. Buried in the debates on lawsuits and the policies of the various journals is the absence of any common understanding of such standards. Absent is also any explicit acknowledgement of the need for such standards. This situation does not augur well for editors or book reviewers.

3. At the beginning of the *Chinese Journal of International Law*, we imagined that there could be controversies arising from publishing book reviews. In order to promote the quality of book reviews, we adopted the following policy:

Rule 3d. Book reviews. Book reviews shall not follow the structure [of an article] given above, but must follow this style guide as much as possible, otherwise. A book review should have no more than 3000 words. We *recommend* that a book review try to present the contents of the book first, understand its “design”, engage the arguments in it in the light of its genre and on its own terms in the first instance and then present the reviewer’s own critique.

* Changjiang Xuezheng Professor and Chief Expert, Wuhan University Institute of International Law; Editor-in-Chief, Chinese Journal of International Law (email: sienho@chinesejil.org). This article was completed on 19 January 2011.

(Chinese Journal of International Law Style Guide, Rule 3d (www.chinesejil.org/style.htm))

4. Although we do not wish to stop a reviewer from expressing, in his or her own way, the assessment, however critical, of a book, we ask that the reviewer first show an understanding of the content, the design and the genre of the book. This is a kind of “first instance reasonableness” standard, or “pre-emptive reasonableness” standard. This is intended to result in a book being reviewed on its merits first and to prevent some reviewers from measuring everything by his or her wishes, rather than by some kind of more objective standard. For example, if a practitioner publishes a practitioner’s manual and expressly declares it to be such, the “first instance reasonableness” standard would not permit a reviewer immediately to treat it or review it as a theory monograph and to declare it as “unfortunate” for lacking in theoretical exposition.

6. Often one may say: If, in a world of free speech, a reviewer makes some incorrect comments about a book, its author can always come to debate with the reviewer by writing a letter to the editor. There are weighty reasons why this approach does not work. Firstly, letters to the editor are usually not published; that is to say, there is no general right of reply. Secondly, such an approach would relieve a reviewer from exercising due care in the first instance and would bring negative publicity to the book under review before its author has a chance to respond to the review. Furthermore, any response from an author will further aggravate the negative publicity. So there is reason for applying a reasonableness standard in the first instance before any such negative effect appears.

7. In any event, when a reviewer first presents a good description of the book’s design, genre and content before offering his or her own critique, a reader of the review is given the best assistance in assessing the merits of the book under review—probably, the main purpose of a book review—and the merits of the reviewer’s own comments. Only in such a fashion may a reader be given sufficient information to be an intelligent reader.

8. This *Journal* has been generally applying this first instance reasonableness standard almost since the very beginning of its life in 2002. The book reviews¹ published in our *Journal* so far have reflected this in the main. Although there is no shortage of criticism² of the books under review, I have yet to receive any responses from the authors of the books that have been reviewed.

¹ See, e.g., WANG Linbin, Review of Guo Ji Fa Ben Ti Lun [On the Noumena of International Law], 8 *Chinese JIL* (2009), 781; Barbara Seelos, Review of Multiculturalism and International Law: Essays in Honour of Edward McWhinney, 9 *Chinese JIL* (2010), 839.

² *Ibid.*