On My Way Out – Advice to Young Scholars

Editorial

On My Way Out – Advice to Young Scholars I: Presenting a Paper in an International (and National) Conference

I first published this piece in an Editorial for the benefit of *I.CON* readers, but in the light of my recent experience at the ASIL Annual Meeting and in view of the forthcoming ESIL Annual Conference, *EJIL* readers might also find it of interest.

I have most certainly reached the final phase of my academic and professional career and as I look back I want to offer, for what it is worth, some do's and don'ts on different topics to younger scholars in the early phases of theirs. A lot of what I may say will appear to many as a statement of the obvious – but if it so appears, ask yourself why so many experienced and seasoned academics still fall into the trap.

So you have all been there – I must have 'been there' literally hundreds of times in the last 40 years. You are at some international conference. The most common format for presenting a paper is in a 'panel'. Most typically there will be four panelists. Imagine you are one of them, maybe number four. There might be two 'discussants' or 'commentators'. Again, most typically, each panelist will be allocated 15 to 20 minutes. The commentators are allocated 10 minutes each. If all goes according to plan, one hour and 20 minutes are allocated to the speakers. There is then a planned discussion; on a good day 25 minutes are allocated. In this, the most common of plans, a session beginning at, say, 9.00 is meant to last until 10.45, after which there is a coffee break of 15 minutes and then the next session is meant to begin. There is usually a 'moderator' or 'chairperson', or, if you are in Europe, a 'president' of the session.

Except that it never (ever) goes according to plan; here is what most commonly happens. The session often does not start on time. People are still shuffling in; the previous session finished late; the moderator's introduction (which often consists of reading a Wikipedia-based bio of each of the 'distinguished panelists') goes on a little bit longer than planned. Now finally the first speaker gets the floor. You glance sideways across the table, your heart sinks. He or she has a sheaf that seems to be at least 20 pages long. In fact, she has the precious, original, paradigm-shifting paper she has written for the conference. How, you think to yourself, will the speaker get through all of that in her 15 minutes. (You

are right; she will not). Your heart sinks even further. The speaker just said that he will try to be brief. That 'try' is ominous. It sounds great in Italian: '*Cercherò di essere telegrafico*'. More like stagecoach than telegraph you are thinking to yourself. She introduces the paper, she gets going. You note, again glancing sideways, that on each page some paragraphs are highlighted in yellow. Hope – those will be the text that will actually be presented? Disappointment – she just goes more slowly, giving added emphasis to the highlighted text. It is now five minutes from termination time. The moderator passes a piece of paper: five minutes! The speaker glances up with astonishment. He is only a third of the way into the paper. Not even at that paradigm-shifting theorem yet. He begins to speak faster; he is looking at the pages and skipping one or two. The 15 minutes are up. We are about halfway through the paper. The other panelists are not listening. They are busy reviewing their own papers and in growing frustration: you do not need to be a calculus expert to understand the ramifications for your time slot. Anticipating the moderator, the speaker turns to him or her and asks? Can I have five more minutes? In my entire career I only remember a handful of times when the moderator said: 'No.' I would remember. It was me. Usually the moderator mumbles a 'Yes, but only five.' They come and go. At this point the speaker is speaking even faster, skipping even more pages, and apologizing that, actually, the most important point cannot be elaborated. If he is using Power point? You know that feeling: finally, this is the last slide and oops, yet another one. Then the slide with Conclusions pops up, but it is three pages long. You're in luck if the charade ends in 25 minutes. Only 10 minutes 'injury time', what's the big deal? – she exceeded the allocated time by a mere 66 per cent. The speaker smiles sheepishly, makes an apology. Sometimes the apologies are priceless: 'I am sorry I have to end now, but my time is up' (Hey, it was up 10 minutes ago) as if the thing the audience would want most of all is another 15 minutes.

It's a dead loss for everyone. A paper delivered in such a manner is worse than ineffective. The moderator and other panelists are sore; the audience had either too much or too little. The main point is obscure or obscured by the delivery. Speaker 2 takes the floor – for a repeat performance. Now your heart is at about knee height. If only speaker 3 will be brief. The moderator reminds the speakers of the need to be brief. Finally it is your turn. And, *Mirabile dictu*: You do the same!

By the time the turn of the commentator comes around coffee is on the mind of most. The commentators will, if lucky, only have received the papers the night before. But even if they had received them a week before it's so often, 'I'm not going to spend *my* precious conference time on his paper.' So we get into the 'John-spoke-about-the-elephant-the-largest-animal; I-will-complete-the-analysis-by-speaking-about-the-fly-the-smallest-animal' trick. By this point the moderator is consulting his playbook: Will it be: 'I am sorry we have no time for discussion' (sigh of relief); or 'I am sorry we can only take a few questions' (which often are not questions but rambling statements).

The next session starts not five minutes late, but 15 to 20, and so the musical chairs continue.

So, I exaggerated a bit. It is not always like that, or not quite as bad. But how far from the truth is my description even in smaller so-called 'colloquia', not mega-conferences, where the purpose is real academic engagement and not just networking and bragging rights to have been on a panel – helpful in getting faculty funding for the conference? What I never stop to marvel at is how ubiquitous these presentational sins – the proper word – are; as common as the common cold, and practised even by experienced academics and seasoned intellectual tourists (for this is what many of the conferences are).

A lot of the responsibility falls on the organizers who, with their eyes wide shut, over pack the programme and engage in unrealistic time planning. With some colleagues I am drafting a Best Practice Code for the organization of workshops, seminars, colloquia, and mega-conferences.

But here are a few ideas, plain common sense, on how you can avoid some of these mistakes and make the best of your presentation in these circumstances.

1. You have invested time, labour, thought in researching, writing and editing your paper. It is an important paper. It is also important for your career – you would like people to read it, to be aware of your work, to be, yes, impressed. You want it to become part of the literature. And, you would genuinely like to discuss it with others, to get feedback. The conference and the panel to which you were invited could be important vehicles if you approach them thoughtfully, professionally.

2. The most important advice is to think of your paper and of the presentation of your paper as two discrete and separate exercises, each of which requires a different intellectual effort. The paper can be, and oft should be, nuanced, subtle, allow for contestation and exception. Demonstrate impeccable research, erudition, et cetera. You can be more expansive: 10K words? 15K? Maybe even 20K. The presentation should *not* be thought of as simply an abbreviated version of the paper. It is not unlike the challenge that an appellate litigator faces: a 100-page brief, but only 20 minutes for oral argument. It is even tougher. It is likely that the judges will have read the brief before the oral hearing. In the mega-conference the chances that people will have read your paper are non-existent. They often do not receive it (assuming you sent it in on time). This is the case even in colloquia and workshops. Many who should have, would not have read it; many will have 'read' it, meaning a quick scan. So unless you know that you are presenting before an audience that is veritably sure to have read your piece, think of your presentation as an invitation to read, or to read carefully. And for those who may have read it, as a guide to what you think are the most important points, the central theses.
3. When I ask authors whom we publish in *EJIL* or *I.CON* to shorten their piece, at times by 25 per cent or more, they groan. They have fallen in love with their text. It is like cutting into the living flesh. Everything and every thing is so important. In preparing your presentation, fall out of love with your paper. Be Orwellian: all parts are equal but some are more equal than others. Ask yourself: If someone in the audience were asked by a colleague after your presentation, 'so what did she have to say?' What would you like them to answer? Whatever that is should be the core of your presentation. You must invest intellectual effort into the dispiriting exercise of deciding two things: What am I going to pick of my wonderful paper as the core of my presentation and what would be the most effective way in the time allotted to communicate such? The result is not a summary of the paper – ineffective – but a different paper, with no aperitif, no hors d'oeuvres, no soup or first course and no dessert. Maybe a coffee at the end. But the main course alone: delicious. If you insist that the whole is important, there are ways of getting there too. One I have seen used effectively and used myself

is the ‘Decalogue’ method. 10 points, 10 propositions, which will walk the audience through the paper. So there is sequence, there is development, there is momentum, but remember, even here it is not the full meal: it is a *Menu degustation* – even if only a bit of each course, if well planned, it can be a very satisfying meal.

4. Which brings us to time management: here you should take your cue from politicians. It has been my fortune and misfortune to participate in quite a few meetings of politicians at the highest level, ministers and the like. When at home, they go on forever. When in the company of their opposite numbers from other countries the time-keeping is impressive. How do they achieve that? Their text is spelled out. Their experienced staff knows the optimal speed of delivery. They know how many words take how many minutes, including the pauses for emphasis, for laughter and the like. Sometimes the speaking notes will say: ‘slow down!’ They are pros. And chez nous? How can it be that someone asked to present in 20 minutes comes with a slide show that will clearly take 35 minutes? Is it bad faith? In my experience, not really. He or she looks at it, or looks at their text and simply, optimistically, carelessly misjudges the time it will take. I am not suggesting that you come with a teleprompter and a team of handlers. But I am suggesting that you first and foremost get to know yourself. Then practise your presentation, time it, pay attention to the effectiveness and communicative dimensions (not only to content), and then present. I have a role model: Bob Keohane. A wonderful scholar and the most professional of academics I have encountered. If the deadline is a week before the event, his paper will be on time. If he has 20 minutes, he will present for 20, not 25. And he takes care to be clear and effective. He never tries to do in a presentation what can only be done in a paper. I have often disagreed with him. I have never misunderstood him. If asked by another: ‘What did Keohane say?’, I can summarize it effectively. It is his merit.

The conference organization might be woeful in its time management. The moderator might be no more effective than a traffic policeman in Delhi or Cairo – or for that matter the Bronx. But your presentation can be a point of light: powerful in what it says, how it says it, and an effective teaser for the audience to seek out your paper and want to read the full version.

Editorial

On My Way Out – Advice to Young Scholars II: Career Strategy and the Publication Trap

Do you ever have the feeling that simply too much is getting published these days? That one simply cannot keep up with it all, that things would be a lot better if less were published, not least because then there would be a greater chance that what we ourselves publish, never too much of that, of course, would get noticed?

Technology has certainly increased academic productivity, as it has increased productivity elsewhere. It is easier to do research (so long as the sources are digitized and searchable), to write, to cite, and to publish. The number of legal journals has exploded, increasingly in online form, driven at least in part by the lower entry barriers, set up and distribution costs for publishers as well as the scandalous profits they make from journal publication. And then, of course, there is self-publishing. In the world of literature, when an author self-publishes it is called vanity publishing; in academia it is called SSRN. I say this tongue in cheek, of course, but grant me it is something of a mixed blessing. Democratization of publishing has increased (good); discernment has diminished (less good).

Not surprisingly, everybody is so busy writing these days, publishing, self-publishing and then self-promoting (attaching links to one's own recent publications at the end of every email has become more the norm than exception) that hardly any time is left for reading. By this I mean serious, reflective reading and not simply picking up a few citations to put in what I happen to be writing, which, if lucky (very lucky), will be read by others in the same cursory manner. But then who cares as long as my piece ends up being similarly cited?

I read. A lot more than I write, and not only because I have aged and have, even in my own eyes, less interesting things to say and certainly less time to do research.

As Editor-in-Chief of two scholarly journals I have to spend an inordinate amount of time reading submissions to *EJIL* and *I•CON*. As you will appreciate, this does not just mean reading everything we publish; we are able to publish only a fraction of what is submitted – but we do read everything. And, as President of

the European University Institute for the past two and a half years I statutorily preside over all Chair selection committees. That means a lot more reading. (One redeeming feature of this task is that I'm forced to read regularly in other disciplines.) In fact, excluding weekends in which law is banished and all reading is *Belle Lettres*, sacred texts and a smidgen of theology, I read little else. Admittedly a somewhat skewed, somewhat perverse menu (one does not get to choose what one reads), but in an attempt to make a virtue out of a vice I want to offer some reflections on the relationship between writing, publishing and career advancement for young scholars – particularly appointments, promotion, and tenure. For, in a chicken and egg fashion, it is not only technology that is driving this development, but also some profound changes in the habits, practices and very culture of the academic profession generally, and legal academia more specifically.

I think few would disagree with me in affirming that the 'quantitative' element in the various career Vital Moments has become far more prominent, at times (I fear) even decisive. It is not just that, say, entry-level candidates are expected in many places to have a publication list of considerable volume. In an attempt to quantify and objectify qualitative judgment of such writing, the journals in which one publishes are increasingly ranked or at least assigned to excellence or prestige grids, citations are counted, and various measurements of 'impact' (almost all deeply flawed) are used. Bibliometrics and other such 'indicators' are playing an increasing role in these evaluative processes.

There is some virtue to this: it does, for example, help counter Old Boy Networking and within its own logic and premises objectifies and assists, thus, in comparing competing candidates. It also produces a variety of negative consequences, some unintended: it has, for example, brought about a domination of English as 'the' scholarly language, which in law has far less justification than in, say, the hard sciences or economics. In many, many countries the only publications that count in such evaluative exercises are those that are 'international', which means in most cases, English. It discourages esoteric or 'niche' research and scholarship which, by their nature, receive less attention and citation. I could go on.

In selection and promotion procedures, though many would deny this, it is also taking its toll. There is far less discussion in various committees of the writing

itself; of the quality of the mind behind the writing. What gets discussed *ad nauseam* and *ad tedium* are CVs rather than the content of the intellectual achievements of the scholars. In some deep sense (and perhaps just as many would deride this as sentimental drivel) it risks debasing the very soul of the academic and intellectual endeavour – which often means careful, time-consuming, disinterested (yes) and deep thinking, critical reflection and a delight in the life of the mind.

Not surprisingly, it is also having, understandably, a huge impact on the writing and publication strategies of young scholars in the early stages of their career. It starts already during the doctorate – instead of acquiring the habits (and love) of *la vita contemplativa*, through four to five years of sustained research and reflection about research, critical thinking, writing and rewriting, the pressure is already on, not only to complete a dissertation but to have one's name on a series of publications. To be admitted to high-quality and prestigious (whatever this might mean in this context) post-doctoral programmes it is not enough to produce a first-class dissertation; one needs also to boast a CV with several 'publications' as well as workshops, lectures and all other accoutrements of academia. (A visible measure of the changes in process can be gleaned from the very form and content of CVs that are attached to applications and tenure review.) It is, in my view, not only irrational from a selection point of view – is the predictive value of such better than the actual content of one's dissertation? – but it has a deleterious impact on the foundation and formation of future scholars and scholarship. And the story then repeats itself during a post-doc or in the early years of an appointment in the race for tenure and beyond. It is trite, but it cannot be altogether wrong, to assert that there is an inevitable relationship between quantity and quality. The idea of taking a couple of years to work on an article (or two) seems so passé.

Are we better off for this? Not from my two vantage points. I see so many journal submissions that show evidence of inquisitive and powerful minds, but are hurried and especially suffer for not having had enough time invested in thinking through their principal propositions and arguments. At *EJIL* and *I•CON* we have had to invent a new category to add to the classical accept, revise and resubmit (with peer review comments guiding the revision) and reject decisions. It is the category of 'potentially very interesting piece but simply unripe at this stage'.

Likewise, I see so many scholars in the appointments process with some outstanding pieces of work but also with tons of noise, often the products of endless conference papers, workshops, edited symposia, the dreaded *Festschriften* and other such publications which, in my view, add little to the substantive appreciation of the candidate and even less to the world of scholarship. It is some consolation that much of it is never read – though the opportunity costs are high.

It is not my intention to hearken back to some Golden Age. I will say, again, that these developments are a mixed blessing. But I do want to offer some common sense and hopefully practical advice in thinking about a publication strategy to young scholars facing the reality of this increased quantification of career development.

My first observation, which may appear romantic, but is not so at all, is that quality is indispensable. If over the course of your career your portfolio does not include a few pieces that are truly remarkable (and there is more than one way to be remarkable) you may still have a good career, but you will never earn the respect which, it is happily still the case, only truly remarkable scholarship earns, and, unless your power of self-deception is more elevated than is usually the case, you risk slowly losing self-respect too.

If you are persuaded by this argument (and try thinking of the scholars in the field whom you truly respect and not just envy their career successes), the strategic challenge – for which there can be more than one solution – becomes clear. How does one manage one's time, one's agenda, so that the quantitative pressures do not compromise the qualitative imperative.

Here are a few suggestions to consider.

Ambition: Over the years I have been consulted so many times by young scholars who have sought my advice on writing projects they had in mind. Very frequently my comment was that the idea was good, the project was interesting and would make for a useful, even good article, but that it lacked ambition. Since, in the new quantitative world, you will be continually multi-tasking – working simultaneously on various commitments – it is, in my view, indispensable, I will repeat this for emphasis, indispensable, that at any given moment you should be working on one medium to long-term, truly ambitious project. A project that stretches you (and the

field) to the limits of your ability. It seems simple. In some ways it is. In reality, it is so easy to glide from one small project to another, racking up the numbers on your publication list, without even noticing.

Master of your own agenda: This is an impossible task. If you have not discovered this yet, you will soon discover one of the greatest paradoxes of academic life. In theory, we do not have a 'Boss'. Academic freedom guarantees that we get to decide what we will research and write about. But in reality an inordinate, stupefying amount of what we write, of what gets written, is determined by the agendas of others: invitations to conferences, to symposia, to research projects, to book chapters, and most insidious of all, by the parameters of grant-giving authorities of various kinds which, explicitly or implicitly have their own agenda. Money is great, but it has the potential greatly to corrupt. Yes, in some sense it is your sovereign decision whether to accept such. The critical question is whether you would have engaged in that task, in that particular paper or contribution had you not received that invitation? The answer is usually a big fat No. This dilemma will accompany you all your life. The realistic position is to ensure that at least some of what you do remains self-generated and that you manage to maintain, like a state in today's interdependent world, a modicum of sovereignty, real not illusory. To the very young scholar this might seem an artificial issue – since they may hanker to receive those invitations as an indicator that they are beginning to make their mark and get noticed. Yes, there is truth to that. And it is a good sign. But mark my words, the trickle will become an avalanche very soon: all those journals about which I spoke before have to fill their pages. How to achieve this balance? Well, in her simplistic way Nancy Reagan gave the answer: Just Say No … (to some things). Put yourself on a diet. Only so many workshops, conference papers, moderatorships in any one year.

Be discerning – Five is not necessarily better than three. So you cannot stick your head in the sand and remain oblivious to the quantitative pressure, even if, to my mind, two wonderful articles in two years are better than seven merely good or indifferent pieces. But I do not run the show. Yet consider this. A selection committee or tenure committee examines your portfolio. They might send your articles out for external review. (I get such all the time.) The reports come in. One or two got to see the good pieces. Three or four got to see the indifferent ones. Overall judgment? You get it. Here is another way of saying this. The intellectual

(and reputational) weight of three pieces with a high specific gravity can and often will be greater than of six with a low specific gravity.

Editorial

On My Way Out – Advice to Young Scholars III: Edited Books

I have most certainly reached the final phase of my academic and professional career and as I look back I want to offer, for what it is worth, some dos and don'ts on different topics to younger scholars in the early phases of theirs. This is the third instalment and it is one in which, even more than my earlier instalments, I look back ruefully and in St Augustine fashion offer a 'don't do what I did…' set of suggestions.

A more appropriate title would have been Unedited Books and the crux of my advice is – proceed with caution, avoid if at all possible.

The routine is well-known and well-practised. You receive an invitation to present a paper at some conference. You accept (see below). You may adapt something you have already written or something that you are working on which is in some way connected. It is often not exactly what the conveners had asked for or had in mind, but perhaps close enough so as not to have to reject the invitation. The conveners are often accomplices in this little approximation. They are committed to the conference; it is often part of some grant they have received. Almost always you are pressed for time – after all it is not as if these invitations arrive when you are sitting back, twiddling your thumbs and looking for things to do. In general they are disruptive of your flow of work. So the result is not as good as it might have been. Sounds familiar?

You attend the conference. It shows. The papers presented are of very variable quality and relevance. There is the usual conference overload so that the habitual 10-15 minute 'commentator' input may be interesting but of limited value to your paper. The general ('unfortunately we only have xx minutes for questions') discussion is even less so – how many actually read the papers (which not infrequently arrive two days before the conference)? Still sounds familiar?

At the end of the conference the conveners remind participants of the publication plans. More often than not they already have an agreement, even a contract, with the publishers. Typically one is given a deadline for the final version of the paper. How much work is done on the draft presented at the conference? It varies, of course, but in general not much. Crossing T's and dotting I's. One is already busy preparing the next paper for the next conference. Now we arrive at

the crux of the problem. How often does one receive detailed editorial comments from the 'Editors' on one's final submission? The sad answer is – rarely. And even when one does they are all too often of a tentative and even perfunctory nature. How often have you, as editor – hand on your heart – sent out such? The fiction is that the conference, with the commentators and discussion, would have served that editorial function. It is a fiction.

The publisher is meant to act as a quality brake. Even those who have a referee system usually end up with an overall quality assessment, but not with serious editorial input to the individual papers. Occasionally a paper or two are nixed, but that too is more an exception than a rule. There is copyediting of variable (very variable) quality. This is true even for many of the most illustrious publishers in the Anglo-American world and certainly true for the European continental publishers who rely entirely on the book editors.

The editors will typically write an Introduction that, more often than not, is a reworking of the Mission Statement of the conference, with the addition of a road map giving a synoptic capsule of the contributions. The classical Introduction, which uses the papers in the book for the purposes of writing a serious Introduction, pulling threads together and producing a major contribution that enhances the overall added value of the contribution, is a rarity. Still sounds familiar?

The book is then published with an enticing title and on occasion wonderful artwork. More often there is 'programmatic artwork': flags, a globe, whatever. The publishers assess the captive market and act accordingly. The print runs are small, the price typically exorbitant and in any event unattractive for individual purchase. It is common that the conveners have budgeted a subsidy to the publishers. An expensive cemetery – rightly so. If you are lucky, the book may be reviewed. And if you are even luckier, the review will be more than, well, a rehashed version of the 'Introduction' and road map.

Am I exaggerating? Yes, I am. Am I that far from the truth? No, I do not think so. And sure, there are exceptions – sure, the book you edited, the book to which you contributed. But these are exceptions.

To judge from the *I.CON* and *EJIL* mailbags, far more 'edited books' are published in our field than single or double-authored monographs. It's a bit of a mystery, since so many of them are hardly ever read, certainly not cover to cover. Do a reality check with your own reading habits over, say, the last year. I am

reasonably confident that you have bought hardly any, and read, if any, not many more. Even if I were to allow reading just a handful of papers rather than the whole edited book, I am sure the results would not be appreciably different.

In preparing this instalment of my Advice to Young Scholars I recently conducted a little wholly unscientific survey. In relation to the six edited books I surveyed even some of the contributors to the book had not read all the contributions of their fellow authors. And I harbour the suspicion that in some cases, especially with those heavy tomes such as *Festschriften*, where everybody since the author's Bar Mitzvah has been invited to contribute (and the honoree supposedly does not know of this wonderful surprise being prepared by his or her faithful assistants), not only do the authors not read the other contributions, even the editors, and I suspect the honoree him or herself, don't get much beyond the table of contents.

I can understand the publishers – their business plan calls for loads of these tomes that each produce a modest profit, and which all adds up at the end of the year. But what about us? Why do we continue to engage in this scholarly farce, which is all the more mysterious since as far as prestige or kudos is concerned, rarely does one enjoy much of either of these, not by being the 'Editor' of a book nor for publishing therein.

I can think of many explanations, some of which are not mutually exclusive and which I present in no particular order.

So why do people contribute?

- You get a trip to somewhere – hopefully beautiful, sometimes exotic – where your paper will be presented as part of a workshop/conference. Sometimes these conferences are even interesting. One learns.
- There may be some interesting people to meet.
- There is not always a workshop or conference involved. Sometimes you do it because a good colleague or friend has asked you, pleaded with you and you do it as a favour. Other times it is someone 'important' who does the asking and you are 'honoured' at having been asked.
- Sometimes you look at the other contributors (or would-be contributors) and think 'if they are there, how can I not be there?) or some variant on this theme. In these cases it is even less likely you will read with attention the

other contributions – the book typically arrives a year or more after the deadline for submission – your agenda has moved on.

- Oftentimes it is just so easy to say yes because you already have a readymade paper that you have already posted on SSRN and that will just require some cosmetic retouching – so the whole thing becomes a boondoggle.
- Alternatively, it is easy to say yes because the deadline is a very long time ahead. If the deadline were, say, two months from the time of request you would probably say no, but lo and behold, even in the first instance, you actually get to the writing not more than two months before the deadline.
- Occasionally it is a serious project with serious people, which actually interests you – and maybe the book and your piece will draw attention, be read, discussed and add to the conversation.

What about the editors of such books? Why do they go down this road, the results of which are so often of so little gravity at all?

Oftentimes the edited book is the result of a workshop, conference or some such event, which is part of some funded 'research project' – yet another instance of the corrupting effect that money has wrought on the academic vocation. All too often these 'research projects' are nothing much more than a good, or not so good, idea or theme that is more or less worth exploring, and on which a bunch of scholars are invited to contribute papers which are then presented at the conference for the results of which, see above.

Indeed, the 'barriers to entry' of such publishing venture is usually quite low. Once the theme is set, the planning consists of trying to think of the persons who will be invited and ensure their participation. The mission statement is often cursory and generic – most times a contribution to a subtheme within the general framework. The result is a potpourri of pieces of different lengths and quality and only tenuous connectivity.

So what is my advice for young scholars in the face of this rather demoralizing phenomenon?

Invitations to participate are often tempting: the company your piece will be in; the prestige of the editors, the flattery of being invited, the general excitement (for what it is) of travelling to a conference or workshop somewhere with the attendant accoutrements (the dinner, etc). There are several costs, the most important being

the opportunity cost. It will distract you from your own sovereignly set research agenda. You pay here a double price: pieces written for these events and the ensuing books are often hurried and recycled and hence unsatisfying, adding little to the field (and to your reputation). The saving grace is that they are, as mentioned above, hardly ever read. But then, why bother? More painfully, since research, thinking and writing time as well as mental energy are our most precious and scarce resource, it is not only the forgettable paper you prepare that suffers, but the more important piece of work you are working on.

I know how difficult it can be to say No. I also know how easy it is to rationalize this oftentimes irrational behaviour. The obvious solution is Aristotelian or Maimonidean – exercise good measure; ration yourself; be rigorous about it.

When it comes to editing a book, the best advice is to avoid the dubious honour and work. Still, I want to offer some advice as regards successful edited books, which should and often do get read. If you are to edit a book try and follow good practice in this respect.

- Aim for a focused overall theme and a tight and ordered table of contents. This will make the resulting book not only interesting but indispensable in its systematic coverage of the theme.
- Invest in the invitation. Not simply the overall mission and the subject you wish the author to contribute, but provide an individualized description of what you expect the author to cover. There can be some overall reflection pieces but this must be part of your plan.
- 'Big names' are far more difficult to control, far less likely to pay attention to your requests and suggestions and far more difficult to nix if their contribution is not up to scratch. Keep this in mind.
- Workshops are better than conferences if you have an edited book in mind. But make sure it is a veritable Workshop - with real time to 'workshop' the contributions, with commentary on content and form. Make sure that commentators do not use the occasion simply to present their ideas, but take their task with the seriousness of a good journal referee. Insist that they provide the author with a detailed written comment on their paper.
- Manage the expectations of your contributors, starting with the letter of invitation. Describe the planned editorial process and prepare them to

expect detailed commentary and to be ready to respond to such – just as they would when submitting a piece to a journal.

- It is bad form to edit a book and not to include within it your own contribution. But consider the Introduction as your principal intellectual contribution, in some ways, the raison d'être, the justification for the entire project. It should not be just, or above all, a summary of the contributions but the proof that the whole is greater than the sum of the parts. Unlike your contributors, you are the one who has the opportunity to deal with the whole, to benefit intellectually from the range of individual contributions. A good introduction should be able to stand – with somewhat different framing – as a major contribution in its own right.

All this sounds like hard work. It is. It is rarely done, but that is your opportunity. If you do it, do it right.

Editorial

On My Way Out IV – Teaching

I have almost reached the final phase of my academic and professional career and as I look back I want to offer, for what it is worth, some Do's and Don'ts on different topics to younger scholars in the early phases of theirs. A lot of what I may say will appear to many as a statement of the obvious – but if it so appears ask yourself why so many experienced and seasoned academics still fall into the trap. In previous Editorials I addressed the art of delivering a conference paper,[1] the management of one's scholarly agenda[2] and the pitfalls of editing or contributing to edited books.[3] I turn here to the issue of teaching.

To put it mildly, there is considerable ambiguity, even ambivalence, in the messages, explicit and implicit, that a young university teacher receives upon starting his or her academic career as regards teaching. To be sure, much lip service is paid to the importance of teaching as part of the academic duties of the young teacher. Practice varies but in several systems, especially in the early stages of one's career, the title itself provides an indication: Instructor, Lecturer (even Senior Lecturer) and in several languages the title Professor itself indicates primarily the teaching function. Applicants are oftentimes required to provide a Statement on Teaching and in some systems there is a requirement and in others it is desirable to provide, in addition to a scholarly portfolio, demonstration of some 'teaching practice'.

But consider the following, almost universal, paradox. To receive a position as a kindergarten teacher, an elementary school teacher or a high school teacher, in most jurisdictions the applicant would have to have undergone specialized training – in addition to any subject-matter university degree he or she may have earned – to occupy a position of such individual and collective responsibility. The exception? University teachers. There are very, very few universities around the world that require any measure of formal training in the art and science of university teaching. A doctorate has become an almost universal requirement for teaching in our field – the USA being the glaring exception (as regards law). It is a

[1] 'Editorial', 26 *EJIL* (2015) 311, available at http://ejil.oxfordjournals.org/content/26/2/311.full.pdf.
[2] 'Editorial', 26 *EJIL* (2015) 795, available at http://ejil.oxfordjournals.org/content/26/4/795.full.pdf.
[3] 'Editorial', 27 *EJIL* (2016) 553, available at http://ejil.oxfordjournals.org/content/27/3/553.full.pdf.

requirement in practically all other disciplines in the USA. And yet typically a doctorate programme is training for research, not for teaching.

In appointing entry-level university teachers, the screening process focuses almost entirely on the scholarly and intellectual achievements and prospects of the candidate. Even where, as mentioned above, a demonstration of some 'teaching experience' is required, it is limited to just that – a demonstration of so many hours of teaching experience. Good teaching? Bad teaching? Successful teaching (and what does *that* mean?) are not part of the investigation. The requirement is almost invariably purely formal. Whether you wish to count the above as 'explicit' or 'implicit' I leave to you, but the message is clear enough.

The assumption is that one would have 'picked up' teaching skills from one's experience as a student – a very problematic assumption. To be sure, all of us, with no exception, experienced as students teachers of wildly different qualities – great scholars who were awful teachers and run of the mill scholars who were wonderful teachers, and mostly a general mean of mediocrity – OK teachers. As students, we often are unable to differentiate in our minds between likeable and popular teachers and good teaching. Student evaluations, the form of which is copied from one institution to another, are rarely designed with the same care and professionalism that would be given to similar questionnaires in a serious social science research project, with attention to the classical biases of that investigative medium. They are oftentimes little more than popularity tests and rarely supplemented by additional verification techniques, unless you count the sporadic 'class visits' by another faculty member in the run up to, say, a tenure procedure – the visitor himself or herself (very often an awful or mediocre teacher themselves) – as a meaningful verification. From my experience as a University President, and having examined some cases in depth, I am confident that student evaluations – important as they are as one indicator – are also rife with false positives and negatives.

That aside, even if one takes one's student experience of an excellent teacher or teachers as a role model for one's own teaching, one soon discovers, as no doubt many of you have, that it is one thing to have been taught by an excellent teacher; it is quite another to learn and know how to do the same without some guidance or even instruction. I may take, as an art student, my inspiration from a great painter. Does that mean that with nothing more than that I can simply paint as he or she painted?

Many institutions offer a variety of teaching clinics, but these are almost invariably voluntary and not a requirement in the formation of young (or older) academics. In the professions, lawyers and doctors, among others, are required to undertake 'continuing education' (of variable quality) but not in our profession, that of university teachers.

I think it is fair to say that in the academic profession, teaching is one of the least professional dimensions of the university. The matter is particularly acute – at times tragic – when, indeed, it comes to doctoral supervision. There is, with few exceptions (Denmark being one), no training for supervisors of doctoral students – the future teachers in universities. I regularly give workshops, around the world, on writing a doctorate in law. They are well attended, and the feedback I receive from the attendees is mostly positive, sometimes very positive. I always offer a special workshop for supervisors. Rarely is the offer picked up, the attitude being 'I have supervised x number of students; no one is going to teach me how to be a supervisor'.

But the problem goes beyond the ubiquitous absence of serious professional training for the teaching dimension of the academic profession.

In the measurable tangibles of academic progress – salaries, promotion, leave, appointment to another (more 'prestigious') university – teaching is always mentioned but in reality it hardly counts, unless one is truly catastrophic in the class room (a rare occasion, the norm is, as mentioned, 'OK teaching'). What counts today is publication record, the laughable measures of 'impact' of one's scholarship, and fundraising, all of which are typically assessed by a variety of very problematic quantitative indicators. Scholarship is the gold standard for academic career success. One of the highest prizes? A Research Chair which will absolve one from the duty of teaching so that one can dedicate oneself entirely to scholarly, more important, pursuits.

The impact of money is particularly pernicious. It is understandable that in a system in which universities must rely on fundraising to receive financial breathing space,, the result is a series of incentives that overlook teaching.

But has anyone actually bothered to evaluate, especially in our discipline, the relative public good to society of the increasing and in my opinion excessive weight given to 'scholarly production' of oftentimes fungible articles, the average readership of which is humiliatingly low, and the diminution in the importance of teaching as a central purpose of the university? I can only give an intuitive

evaluation but I doubt if a serious evaluation of such would justify the current discrepancy between the two.

There is another assumption at work here: either that a good scholar will be a good teacher (patently false) or, at least, that if someone is not a good scholar he or she cannot be a good teacher. There is a kernel of hard truth in this last proposition. Good teaching is not just or even primarily about smooth and clear delivery, charisma, etc. It is what you teach which is at least an absolutely necessary condition for good teaching and not simply how you teach it. But even here I want to add a caveat – which is about what counts as a good scholar. I have had wonderful teachers and I have some wonderful colleagues who are extraordinary teachers, and yet whilst they have published little – though of very high quality – they are at the same time veritably great scholars. They read, they think about what they read, they are knowledgeable and learned, deep and thoughtful, though their H Factor or Impact Factor might not reflect this. There is some virtue, surely, in reading widely and deeply and not just producing paper after paper that few read and that provide questionable added value. In the Jewish tradition the highest accolade a scholar may receive is to be regarded as a wise/knowledgeable pupil. (*Talmid Chacham*). Many of them publish scantily, but they educate generations of students, many subsequent giants in the field, who owe so much to these wise/knowledgeable 'pupils'.

Be all this as it may, the signalling of the career structure, implicit or explicit is here, too, abundantly clear. The ambitious young scholar (and note how the terminology so often shifts from teacher to scholar) is incentivized to spend his or her energy, creativity and time in building as impressive a scholarly portfolio (judged by those very same quantitative indicators), whereas teaching becomes a necessary chore not to say a de facto necessary evil – something that has to be done on the margin of that which really counts. So yes, there is some measure of exaggeration in the above, but I have employed such to drive home a point that I think is essentially true. If nothing else it is sad because so many young academics value teaching and enjoy it in a variety of ways.

Far be it for me to deride the importance of scholarship, but I do want to extol some of the virtues of teaching. Essentially, it is all a question of balance, if you want, of proportionality. Our scholarship is occasionally important. And for the world of knowledge as a whole it is crucial. But we should consider ourselves lucky if in a life of scholarship we are able to produce a few pieces that are neither

ephemeral nor fungible and that leave some enduring impact. A lot of what we write, maybe even most, does not reach that standard and carries an opportunity cost, the cost oftentimes being our unwillingness or inability to dedicate the necessary amount of time, creative thinking and intellectual energy to our role as teachers.

At the risk of sounding sanctimonious, teaching is probably the most noble – giving – aspect of our profession (which is not to disregard the ego-caressing dimension of such.) The experience of teaching and educating, as many will attest, can be deeply satisfying and rewarding in the purest sense of these words.

There are also less noble pay offs.

If we are at all interested in leaving a 'legacy' – and a university career is one of the few workplaces where one can on occasion leave a legacy – it is much more likely to be in the minds and memories of our students than in the world of scholarship.

At a deeper level it is a question of self-understanding of our role and identity. I have tried to be a good scholar but I have almost always regarded my vocation to be that of a teacher and educator, with the concomitant investment of time, resources and self. I do not for one minute think that it is a less noble vocation – as I said, it is a question of measure and balance. It is regrettable that in the reality of contemporary academic life, for reasons alluded to above, the burden of incentives skews this balance so much in one direction.

There is no single model of what counts as good teaching and, more common in the United States than, say, Europe, is the uplifting experience of law students who do not only learn different law subjects from different teachers, but different ways of learning those law subjects from teachers whose conception of teaching and learning is as diverse as the subject matter they teach.

One might legitimately think that this is an impractical exhortation, given the system of incentives and values that underlie so much of university life today. In an earlier piece ('On My Way Out – Advice to Young Scholars II: Career Strategy and the Publication Trap'[4]), I offered some advice to young scholars on how they might intelligently negotiate these pressures.

Nonetheless, apart from a general exhortation to Take Teaching Seriously as an integral and desirable part of one's vocation and to remember that the classroom

[4] *Supra* note 2.

is oftentimes the harbinger of wonderful ideas that will feed into one's scholarship, I do want to give some hopefully useful practical pointers to young teachers.

The most common 'error' lies in the conception of the good course, which is about to be taught. I want my students to end the course both knowing the subject matter and understanding it deeply; and I want them to achieve the above in an interesting and engaging manner. I think this is how many a young teacher will approach their course preparation. And rightly so. But here are some add-ons, some indispensable spices for this basic dish.

Law is a dynamic discipline in a very empirical and concrete way – new legislation, new cases, new treaties, new sources, new understandings, new social and other sensibilities. If I teach my IL or Con Law or Ad Law course in the first year, by the time the students graduate, and throughout their lives, what we covered will become increasingly irrelevant or outdated in terms of material knowledge. So I consciously need to build into the course the didactic elements that will enable my students to become lifelong auto-didacts. This can be done in a variety of ways, but it should not be done only through osmosis. Learning to read treaties or legislation, and other sources, critically and analytically, has to be consciously built in. It is hard, though perhaps not impossible, to achieve such if everything is spoon-fed. So the necessary tools have to be employed, either in the classroom or through homework, or both. Hermeneutics is at the heart of legal thinking – yet in few schools if any are our students given formal training in hermeneutics. I certainly received none and I studied and taught in some of the finest. So it has to happen in each and every class room. (Two to four hours on Articles 31 and 32 of the Vienna Convention do not meet the bill …). So again, how do I design my course so that I am comfortable not only that my students know and understand the subject I am teaching, but that they acquire this particular tool that is so ubiquitous in all legal discourse?

There are specialized courses in legal research and writing – laywering courses they are sometimes called. But there are specificities to each subject that will not be covered by these generic courses – and need to be built into one's own. We teach, train and educate not professors but future practising lawyers – in some ways each of our classes has to be, too, a lawyering class. I make heavy use of the professional reference librarians and actually ask them to give a couple of classes, especially on the use of online resources, including a couple of practicums with research assignments designed to exercise the students' online skills.

You may not agree with all or any of the above. As I have said, there is no unique model to what is good teaching. But I hope I have at least convinced you that it is worth your while, alone or with colleagues, to sit down and make such a checklist of didactic and heuristic objectives that you believe are important and then spend time and thought on how these may best be built into your course.

Finally, a few idiosyncratic ideas that have served me (and hopefully my students) well over the years.

- It is hard for me to imagine any course on any subject that would be taught effectively entirely by frontal lecturing or entirely by interactive teaching. Balancing the two is in my view almost indispensable. One or two practicums – be it moot courting, simulated negotiations, etc., are equally useful and very gratifying to the students.
- At the end of each course, I destroy my teaching notes. Thus, in the following year I can prepare afresh for class – reading the assignments as do the students, and coming up with novel or new ideas. It also helps you to appear fresh and engaged. On several occasions my Research Assistants have pointed out that I analysed the same text differently in the preceding year. I took that as a vindication and compliment.
- When you ask a question in class and are met with that familiar silence, I often tell the students: take a few minutes, talk to each other, and then I ask the question again. At that point there is a far greater willingness to 'risk' an answer and the answers and discussion are usually better.
- I am a conscientious objector to PowerPoint, not because I am an anti-technology Neanderthal, but because I believe it produces a schematic mind set and a class that becomes like a bar exam preparation course rather than an exercise in exciting and subtle thinking. I know there will be many objections to this, but I suppose you cannot teach an old dog new tricks.
- All my exams are 'take aways' – I have never administered an in-class exam. I want the students to have time to think and draft, rethink, revise and submit. I am not concerned with cheating. The students sign an honour statement and the exam is so challenging and time consuming that the ability to get external help is limited.
- In my exams I always tell the students that there will be one question that will cover material we did not examine in class. I assign the material before

the exam and use this to test but also to demonstrate to the students that they have learned to digest new materials without the help of the classroom. I also say that in the questions that will address material covered in class, there will be points or issues that were not discussed in class – memory and digestion are not enough; even the exam is an occasion for critical and creative employment of the legal imagination. But most importantly it helps condition the way students understand the process of teaching and learning during the class.

- After the exam I distribute a detailed memo – not a model answer but an analysis of the issues and especially of common errors or omissions which indicate where students may have lost points. I will post one such memo on EJIL: Talk!.
- I disallow the use of laptops in the class – unless the class involves the use of online resources – and, more extremely, I disallow note-taking. For each session of the class there are three designated note-takers (who rotate) and whose notes I review and then post on the class website. The rationale is simple: we teach law, and not stenography. And the business of taking down notes means that whenever a question is asked, the typical reply is – 'can you repeat the question?' – since the student is busy writing down what was said a few seconds earlier. Being able to dedicate oneself entirely to following the class without the burden of note-taking makes a considerable difference. Some students are sceptical at first ('note-taking helps me think …') but after a trial period of a couple of weeks almost all become converts. Those who don't are of course excused and may happily practise their stenography.

I could add a lot – but my intention is not to provide a manual for teachers but rather to put what I think is a serious issue squarely on the agenda and encourage discussion, debate and hopefully push back a trend that undermines a central facet of what the university is about, and who we are.

Embrace teaching!

Editorial

On My Way Out – Advice to Young Scholars V: Writing References

I have most certainly reached the final phase of my academic and professional career and as I look back I want to offer, for what it is worth, some dos and don'ts on different topics to younger scholars in the early phases of theirs. This is the fifth instalment and regards that staple of academic life: writing references.

If you are at the beginning of your career as a teacher it is likely that until now you have mostly been the recipient of references rather than the writer of such. Let us separate the writing of references for entry-level candidates seeking an initial teaching appointment or for colleagues in the process of tenure or promotion from references for students seeking admission to graduate programmes, which is likely to be the bulk of your reference writing. I do write references from time to time – though, as you will see, I am quite circumspect in accepting to do so. But since I have, throughout my career in the United States, been involved almost without interruption in the direction of graduate programmes at three major universities (Michigan, Harvard and NYU) I must have read – no exaggeration here – thousands of reference letters for potential masters', doctoral and postdoctoral candidates. And though you are likely to think that the following is hyperbole, I will state here too, with no exaggeration, that a very large number of these references were worthless or close to worthless.

The following is a generalization, meaning that there are plenty of exceptions, but academic (and public life) culture are hugely impactful in determining the quality of a reference. In many Continental European countries and in many Asian countries – some more, some less, there are also North–South variations – it appears that *who* writes the reference seems to be more important than the content of such. Applicants will go to great lengths to receive a reference not from the Assistant, or Privatdozent or Maître de Conference etc. with whom there may have actually been a much closer intellectual and academic relationship but from a 'famous' professor or judge on the Supreme or Constitutional Court and not infrequently even ministers and the like. It must be a spillover from a more general culture of the labour market. Since the *who* is more important than the *what*, the content of these references is predictably short and vacuously laudatory. The 'big name' might have scant knowledge of the candidate and in a more or less

subtle manner the burden of the reference is 'You should admit X because I (the big name) think you should.' Often you can tell that the candidate himself or herself had a hand in drafting the reference. One tell-tale sign is similar phraseology in the reference and the personal statement of the candidate. This scandalizes me less than you might imagine, since it is so often the case that the structure of legal education in many of these countries, with large classes and frontal teaching, means that the professor has, at best, a superficial knowledge of the applicant. What *can* he or she write? This is typically true of Central and South America too.

The UK, Ireland and the so-called Old Commonwealth (Australia, New Zealand, South Africa, etc) are, as a rule, a shining exception. There is a well-established tradition of detailed and honest references that are typically based on meaningful knowledge of the applicant (again, a result of the structure of legal education) which are very helpful and to which I will return below in suggesting how you might think of the task of writing a reference.

The United States (and Canada, sigh) follow the English in oftentimes writing detailed references but the most common sin is that just as often these read as advocacy – as if the exclusive purpose of the reference is to get the refereed person admitted. Take a few dozen of these and in no time one could compose a dedicated Referee Thesaurus composed of 30 different ways of stating that Moses or Sarah are wonderful without repeating any superlative. At the same time, North Americans are accustomed to discussing an applicant on the phone and these conversations are usually more frank and helpful.

Probably the most common, transcultural misconception about references is that, indeed, their exclusive purpose is to get 'your candidate' admitted. This is simply not so. *A balance needs to be struck between helping the candidate in his or her application purpose and an academic fiduciary duty owed to the admitting institutions in their selection procedures.* If all your references end up looking the same (as is so often the case, see *supra*) you are failing to strike the right balance. Obviously it would be wrong to accept the task of writing a reference knowing that what you are willing and planning to write would positively harm the applicant. But there is a midway which is both fair and helpful.

The key is to go light on the 'one of the best students I have ever had' phraseology, which also runs the risk of provoking mirth in the admission office when a professor uses the same phraseology again and again and which is a datum that in most cases will emerge from the objective, empirical data in the application (grades, ranking, etc.). Instead, it is far more beneficial to provide information and insight that would not be transparent from the formal file. It requires time. You should certainly read the application carefully – there might be things about your education system that are worth explaining in the reference. There may be a paper you supervised that will reveal strengths (and weaknesses) worth discussing. The reference very often plays a role in decision-making when the objective data in the application makes it difficult to choose among what appear to be equally qualified applicants. The result should not be determined by the referee whose superlative thesaurus is richer, but by providing the selector with information that individualizes the applicant and enables the selector to know the person better. In this way, the selector does not simply decide 'who is better' but can select the candidate who is more suitable for the programme in question.

I oftentimes open my reference by explaining that I would not be giving a reference if I did not think that the applicant would be suitable for the programme to which he or she is applying, but then I state explicitly that the rest of the reference will speak in substantive terms rather than evaluative ones. I also add that, given that so many references traffic in superlatives, my self-imposed diet should not be construed as killing with faint praise. As I mentioned above, I have learnt this from the best in UK practice.

Here are some Dos and Don'ts.

- If you agree to write a reference never forget and always respect the deadline – to do otherwise is a capital offence.
- Speak to the applicant. If you do not think you can write a substantive reference, or a favourable one, be transparent about it. Explain that for a reference to be meaningful real knowledge is more important that status. If you think that you would only be able to write a perfunctory reference you should say so. Countless times I have told former students seeking a reference: What can I say? That you took my class and got an A- ? Students tend to come to you if they got a good grade. I have a practice of many years that you may find helpful. Towards the end of the class I tell students that if

they are thinking of doing graduate work at some point and think they might wish to have a reference from me, they should let me have a cv and photo on the last day of class so that I can make notes about them (on the cv itself) when their presence and contribution in class are still fresh in my mind. These get filed away for future reference, excuse the pun.

- If you belong to a system where there is little opportunity to get to know your students, I would mention that on the reference. If in your system you have Assistants who get to know the students better than you do, write a joint reference with them explaining such. It will be appreciated and others might learn from you.
- No, you should not ask or allow the applicant to write his or her reference. But I think it is acceptable, and I frequently do this, to ask them to alert you to anything on their vita which they believe is of significance in the context of the specific programme. You will often do a better a job in contextualizing such for the benefit of the selectors.
- If the application is for a research degree it is not so important that you praise the research project – the selectors will form their own view of that. It is much more helpful if you can provide information on the aptitude of the applicant to engage in such research.

There is a kind of 'bottom line' to all of this. To be effective (in helping the applicant) and useful (to the admitting institutions) references are a serious business that require some time, dedication and commitment – not unlike grading exams. Like all things one gets better at it, but it should never just become rote, sloppy or careless. In the panoply of academic citizenship duties this is one which is least welcome and most sacred.

Writing references for persons seeking entry-level appointment, tenure or promotion is a somewhat different kettle of fish. The stakes are much higher both for the candidate and for the appointing or promoting faculty. Thankfully, these requests are not quite as frequent; but this is balanced out by the need for a greater effort at reading and writing.

In many systems there is still the practice that the candidate nominates two to three referees to whom the Selection Committee then turns for a reference. There is nothing wrong with this unless they are the *only* referees to whom the Committee

will turn. Even more so than with student applicants it is unlikely that a referee nominated by the candidate will not be on the whole laudatory. So the American custom of turning to a bunch of referees not nominated by the candidate is salutary. Such referees are asked, or should be asked, if they have any conflict of interest of the friend-foe type. I have only rarely seen this emerge as a problem and usually, in the evaluative dimension of the report, such references are more frank and illuminating.

The advantage of having a nominated referee is usually a consequence of the holy trinity of appointment criteria: scholarship, teaching and academic citizenship. Someone who knows the candidate may better be able to comment on teaching and citizenship. Also, a referee, even if nominated, deeply in the field may, if not lazy, be able to explain the importance of the work, relate it to that which is done by other scholars and the like – with the caveat mentioned above. Being nominated by the candidate has a chilling effect on total candour.

The amount of work involved is typically quite large – especially in tenure reviews. One needs to read a significant sample of the writing (and even more difficult, reread it if one knows it already) and then write a meaningful report, assuming that not everyone on the Selection Committee or the faculty that will eventually make the decision is familiar with the field.

When approached and under time pressure I will tell the Selection Committee that I am only able to write a 'conclusory report' – almost like grading an exam or a person. I think these 'testimonials' are for the most part worthless to any self-respecting selection committee but they are not uncommon. Here, too, the culture of *who* writes is more important than *what* is written sadly often applies.

To a much greater degree than writing references for students applying to graduate programmes the reputation and credibility of the referee are at stake here. If you take average work and praise it as 'paradigm shifting' (one of the most odious clichés of the genre) the discrepancy will be noted, the candidate will not be helped, and your own reputation and credibility will take a hit. This incentive for 'self-preservation' apart from the substantiality of the file explains why for the most part references for appointment, tenure and promotion have more heft and are more helpful. More time is given, an honorarium is sometimes offered (which

makes doing a superficial thing a little bit more difficult) and a more substantial analysis is expected.

All in all, when focusing on scholarship, selection committees are mostly interested in explaining the work, the quality of mind behind it, its contribution and where it fits in the field rather than reading a series of superlatives.

It is very, very hard to refuse your name when asked by a colleague or former doctoral or post-doctoral student applying for a job or tenure or promotion. It has been a while since I have made this kind of request, but I think it is good practice when doing so to put in a sentence such as 'I know how busy you must be and will understand if you are unable, etc…' It may also be the case that more than one candidate for the same appointment may approach you – it is totally understandable if you indicate that you are already committed.

I cannot end this reflection without a *cri de coeur* as regards peer review for articles. My view, which I have often expressed, is that in an era of extensive self-publication the role of peer-reviewed journals is no less and maybe even more important. I expect selfless service, especially from those who have published in *EJIL* and/or *I.CON* and have thus, themselves profited from peer review.

Editorial

On My Way Out – Advice to Young Scholars VI: WeakPoint, On the Uses and Abuses of PowerPoint

I have most certainly reached the final phase of my academic and professional career and as I look back I want to offer, for what it is worth, some dos and don'ts on different topics to younger scholars in the early phases of theirs. This is the sixth instalment and regards that staple of academic life: PowerPoint.

There is a concept in Jewish law called 'Fencing' (*Seyag*). It is a prophylactic; a new prohibition is decreed, which is not, in and of itself, biblically based but is introduced in the interest of protecting people from inadvertently committing an infraction of a divine commandment or in order to prevent people from entering into a danger zone of temptation. Here is a trivial example: the recitation of one's nightly prayers can (and should) take place during the night. Night time lasts, surely, until daybreak – just before dawn. One o'clock in the morning is surely still night time. The Rabbis decreed a 'Fence' and fixed a deadline of midnight. 'A man', they reasoned, 'will return home, and say to himself: I'll eat a little bit, and drink a little bit, and sleep a little bit – and then recite my prayers. [After all, I have all night ahead of me]. He ends up sleeping all night and missing his nightly prayers.'

I have imposed on myself a Fence: No PowerPoint at all (for that matter, no FaceBook, Twitter or Instagram). It is an extreme (im)position, which I am not suggesting others should adopt. However, I am advocating a far more prudent and discerning use of PowerPoint.

The technology was originally developed for the American corporate world, driven by an ethos in which time is money – cut it short, get to the point – and in which presentation trumps deliberation, decisiveness trumps doubt, and communication is oftentimes in the command mode.

It migrated rapidly and with a vengeance into the world of higher education and has become a default in both the classroom and all manner of conferences, workshops and other forms of presentation. Students expect it and will oftentimes criticize an instructor who does not use it. When invited to give a paper one is almost automatically prompted for one's memory stick or link. And as the technology has developed, the PowerPoint presentations have become fancier.

Now it is not enough to have bullet points: better to present photos, and embedded videos, and caricatures and artwork, and even musical effects. Wow – or, rather, wow them. It has many advantages that I need not highlight, seeing how ubiquitous its use has become, but here are some shadows.

It has an almost inherent tendency to 'dumb down' complex issues, to drive the classroom to resemble a Primer, a Nutshell, an Emmanuel or other learning aids more associated with Bar exam preparation. And yes, from there the road is short to Twitterholicism and Facebookitis. Colleagues will often tell me: 'But in my class, the PowerPoint is but the shell around which I build the complex and deep discussion.' This may be true, but what often rests in the students' minds is the slide and the bullet points – the kernel, with the discussion inadvertently reduced to the shell. Revision often focuses on the slides or on slide mentality. And should not at least part of what you teach be the training of students to follow a complex argument, keep five balls spinning in the air and follow a train of thought that is not reducible to bullet points?

It is not only the students who run the dumbing down risk. The PowerPoint mentality drives teachers to the 'here is a difficult problem, here is a (neat) solution' *modus pensandi* and away from 'here is a difficult problem and after our discussion you will see it is even more difficult than you thought'. The very process of preparing the slides, though salutary in some respects, can have this inimical impact on our own thought processes.

In a somewhat different vein, the PowerPoint rigidifies the class scheme. It is the King's Way through the forest. It militates against exploring alternative routes (unless these are predetermined, which in some ways defeats the purpose) and free, innovative discussion. It over-privileges the function of the class (important of course) as the transmission of knowledge at the expense of exploration, interrogation, and critical thinking. It has a propensity to shut down discussion or channel it to the content and scheme of the slides and thus reduces the potential of learning from one's students. It has a tendency to put a premium on conclusion and certainty at the expense of open questions and dilemmas.

Even more than lecture notes it also risks rigidifying the year-to-year rethinking and evolution of the teacher. Once one has perfected one's slides to cover the entire course the barriers to change are elevated – they are used from year to year, in this case with the false assumption that 'if it works, why fix it?'

I must confess here to another idiosyncratic extremism. When I started teaching many more years ago than I care to count, a wise colleague at the University of Michigan Law School (Richard Lempert of Law & Society fame) advised me to tear up my lecture notes at the end of each year – a recipe for both keeping fresh and spontaneous with one's students and being forced to rethink even a subject that we believe to have mastered. Not just updating, but rethinking. It has happened more than once that a Teaching Assistant has said to me: 'But last year you said something quite different!' I feel vindicated when that happens.

As I mentioned above, graphics of all manner are now a staple of most PowerPoint presentations, a *de rigueur* background and accompaniment to practically every slide. What's wrong with that, you may ask? Sometimes a picture is worth a thousand words, as the adage goes. Yes, but the emphasis should be on the 'sometimes'. In my recent piece on *Achbita*,[5] no words could convey as effectively the message delivered by three photographs I used. But the graphic inflation I observe in one PowerPoint after another has the precise opposite effect. One deep and profound insight is worth a thousand pictures may be true too. And with some slide sets I often wonder where education and knowledge end and entertainment begins. It is not uncommon to see 'credit' given to the graphic designer of the presentation – usually a hapless assistant.

PowerPoint is second to none in the ability to project graphs and tables and matrices, and there is a case to switch it on when one gets to that part of a class or presentation. But there is a danger, and it is real, that one is pushed to develop graphs and matrices by the medium itself and that, when the point of the graph is simply to show a trend, a few well-chosen words could be just as effective without the distraction.

It is, indeed, *distraction* that is the operative word when thinking of PowerPoint in the context of conference presentations. True, when one has only 10-12 minutes in so many conferences there seems to be a compelling case to resort to PowerPoint. What can be more effective, many think, than a series of slides capturing the essence of a serious paper that I am compelled to squeeze into 12 minutes? My view is exactly the opposite. It is perhaps sometimes the case, but in my experience it usually has the opposite effect. A long and involved

[5] JHHW, 'Editorial: Je Suis Achbita!', 28 *EJIL* (2017) 989, available at http://www.ejil.org/pdfs/28/4/2835.pdf.

presentation may (or rather might) perhaps benefit from a PowerPoint presentation that helps keep the audience from losing the long train of thought. But when you have just a few measured minutes (not unlike an oral argument before an appellate jurisdiction in many systems) there is nothing more powerful, communicative and effective than the Word, than eye contact, than a conversation-style talking with (to) your audience, than modulating your presentation with the subtle signals you pick up from your audience. You see perplexed faces? You explain again. You insert a quick example. There is only one thing, in these measured time situations, that is worse than PowerPoint – reading a text. But have you not noticed that with PowerPoint the presenter is looking at the screen instead of at you, and then back to his smartphone? That she is reading instead of listening? Do you really think that a bunch of sophisticated academics are unable to keep three and a half ideas and five propositions (how much more can one manage in 12 minutes?) in their mind for 12 minutes? You may be thinking that you are not a gifted speaker, but this is a learnable virtue, one that improves dramatically with practice. Paradoxically, a gifted speaker can survive the distractions of PowerPoint because her manner of delivery will capture attention – but in this case too, the PowerPoint is a superfluous distraction. In my view if you are an average or unconfident speaker, not only will PowerPoint distract and debilitate in many cases, but it will remove the incentive to improve and perfect your presentation skills by offering false comfort. Is it not the case that preparation of the slides oftentimes replaces the thinking about, designing and practicing an effective oral presentation? And presentation skills are essential to our profession as teachers, educators and scholars. Profound thinking that is ineffectively presented is lost.

I would like to end with two pleas:

Please do not dismiss all of this as the rumination of an aging (correct) technological troglodyte (incorrect). I use technology extensively in my research – notably empirical work – and have no phobia of it. These are ruminations that are rooted in my lifelong commitment and reflection on good teaching, and I include conferences as integral to our teaching vocation.

And kindly accept that I have, of course, overstated the case and, as I mentioned at the outset, I do not advocate my own extremism of eschewing PowerPoint altogether (and anyway I cheat, I do use the blackboard when helpful). But I am recommending a much more judicious, reflective and restrained use of PowerPoint. Not in every class. Not in the whole class. Not for every presentation.

A measured use of graphics. And pictures only when they really serve better than words.