
Editorial

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Item: *EJIL* and *I•CON*, like most of their peers, used to classify article submissions into three categories: Accept, Revise and Resubmit, and Reject. In recent times, a good few years now, we have added what we call ‘Category 4’. It happens increasingly that on the first screening of an article we come to seemingly contradictory conclusions. On the one hand, the piece may be striking in any number of ways: the choice of topic, the originality of the principal argument, the novel empirical data therein. On the other hand, our accumulated experience tells us that it will never pass peer review, not even the Revise and Resubmit threshold. It is simply too rushed and hence too raw. That’s why the Category 4 was invented. An encouraging letter is sent to the author indicating that we believe there is much promise in the piece but it requires a general overhaul before the specific road map, which is the hallmark of a good Revise and Resubmit peer report, can take place: more research, more depth in developing arguments, more attention to counter arguments, more care in expressing them, etc.

Item: In preparing a tenure review report, or assisting in an entry-level appointment process I read the file – a dozen articles or so. One is strikingly good. A handful, truly mediocre. One or two, real garbage. From the same hand, from the same mind. How so uneven? We cannot be at our best in everything we put out, but I am talking discrepancies that go beyond that standard distribution.

Item: I’m a commentator in our post-doc workshop. I later meet with the young scholar to give detailed comments and suggestions for the work. You’ll need, I say, a good few months, maybe half a year’s more work to produce what could become a splendid piece. The post-doc looks at me forgivingly: ‘It won’t happen. My dean expects us to publish seven pieces (!) in two years. I have to move on.’ This ‘quota’ may be at the higher end but is not atypical. I later see the piece, in its original form, on SSRN and eventually in some journal.

I could go on, but the common thread here is obvious: the immense, self-defeating pressure put on young scholars, at the early stages of their career, to distinguish themselves by insane quantitative criteria. It started with worthy objectives: introducing some objective indicia in the evaluation of individual and institutional academic

merit – countering some of the pathologies of a purely subjective evaluation of individuals (gender, class and ‘old-boy-network’ biases to mention but a few) and reputational stasis among institutions where ‘famous for being famous’ prevented energetic and innovative institutions from achieving their due reputational desserts and even surpassing the iconic ivory towers that oftentimes rested on their desiccated dried-out laurels. There was also a normatively more complicated background to this phenomenon, namely the application to academia of marketplace principles, and thus the search for measurable indicia of ‘productivity’ and utility.

Be all this as it may, what we are witnessing now are the sour grapes of excess. Of initial worthy and defensible objectives, reasonable if applied proportionately and with a deep understanding of the inherent tension between these market principles and some intrinsic, even ontological, features of the world of the mind of which academia is also a custodian.

Much has been written on the disastrous effects on the humanities, in some cases permanent and irreparable, which this phenomenon has produced. But what interests me here is something far more specific – the inimical impact on young scholars making their first steps in legal academia. Let me list some of these.

It used to be (the USA apart) that a doctorate was the entry ticket to academia, with its originality, quality of research, contribution to the field and writing skills being the determinant criteria of excellence. Believe it or not, selection committees actually read the doctorate. This has changed in a few fundamental ways. To go ‘on the market’ simply with one’s doctorate, wonderful and path-breaking as it may be, will not even get you on a longlist, let alone a shortlist. A handful of articles is a *sine qua non*. Moreover, increasingly a ‘post-doc’ is required. Now this would make sense if the entry ticket to the post-doc were the doctorate, and the post-doc gave the time to write those additional articles. But the reality is that even admission to a post-doc is well-nigh impossible if all you present is your doctorate, excellent as it may be. Since, rightly in my view, doctoral programmes are now much stricter in imposing time limits for completion, there are several inevitable results. Doctoral students are pressed not only to complete their thesis but to write three? four? five? articles contemporaneously, as well as attend conferences and workshops so that when they apply for a post-doc programme (!) they can boast a CV which has all of the above: dissertation (hopefully with a book contract) articles, presentation at conferences. What’s so bad with all this? Quite a bit. As any academic knows, time is the scarce resource. Time to read, research, think(!), write with care. There is no question in my mind (and I have directed the doctoral programmes at Michigan, Harvard, NYU and oversaw such at the EUI) that the quality of the dissertation inevitably suffers. That people do not produce the best work their intellectual potential would allow. And the same is true for the articles produced in this manner. If that is so, you might ask, surely the quality controls in admission to the post-doc programmes or entry-level positions would detect and prevent such. They don’t. The failure is structural. Selection committees examine dozens of files. Sometimes more than that. So the screening, often performed by administrators rather than academics, is done on the very same quantitative criteria. Dissertation? Check. Four-six articles? Check.

Conferences? Check. Etc. You can see how many false positives and false negatives will be thus produced. But surely at this stage, the intrinsic merit of the written work will be assessed? Sadly, this is often not the case. It is too time demanding. 'I am not an expert in the field, so I cannot really assess' comes into play, and then, irony of ironies, it is the reputation of the institution where the work has been done and the prestige of the referees that carry an inordinate weight, and we are almost back to square one.

Once an academic position is secured you would think that now one could recapture the virtues of *la vita contemplativa*. Cultivate your young scholars, give them the space and time – remembering that now they also have time-consuming teaching obligations, to do the best possible scholarship their potential allows. But no – tenure decisions loom, institutional rankings increasingly influenced by bibliometrics, grant money also impacted by such, all combine to continue the 'productivity steamroller' measured by the number of pieces 'produced'. Now note: oftentimes it is not an external pressure. The last time I checked the British Research Excellence Framework required a very reasonable four pieces in six years. But when the mentality becomes more-is-better the pressure is on. It has become increasingly uncommon to think of an article as a project of a year or two. Two or three months per article (alongside teaching and many other chores) is far more common. Some are good, many are not. This becomes internalized and, to my mind, to the detriment of our young scholars, and in some ways to the detriment of scholarship too.

There is additional collateral damage. So much is 'produced', and one is so busy 'being productive' that surely less time is spent reading, except in the narrow field on which one might be 'producing'. And yet the quantitative market logic also requires 'impact', measured by citations. It is impossible not to notice the number of emails one receives from colleagues that end with a little plug coupled with a link to the most recent article(s) published by her or him. I have sympathy; for the pressure from Deans is not simply to meet these quantitative measures of productivity, but also to have impact, typically measured by number of citations (or Likes!). So marketing, of the hastily produced pieces, becomes another imperative, including other even less savoury means of generating citations.

And the damage does not end there – for consciously or subconsciously – it must also impact the research agenda. Why would I explore a somewhat esoteric subject which by definition will generate less citations, less 'impact'? Or reduce the chances of winning a grant, of getting 'time off'.

These market pressures are real. Rankings count. Productivity, this time without 'scare quotes', is important. I have experienced and witnessed such when serving as an academic administrator. But we have, in my view, been sliding into a situation where we are doing real damage to the formation of young scholars, starting with the doctoral experience and carrying through to tenure. I believe Deans, Faculty Chairs and University authorities have it in their power to attenuate this situation in very meaningful ways without compromising the quality and reputation of the institutions they serve. In the long run they may even enhance such.

In This Issue

This issue of the *European Journal of International Law* features prominently the theme of ‘Perpetrators and Victims of War’.

We open the issue with a series of articles focusing on International Criminal Law. *Sofia Stolk* starts off by shedding light on the construction of an ‘ideal perpetrator’ – a ‘sophisticated beast’ in international criminal law trials – to allow both accountability and condemnation. A complementary perspective is put forward by *Christine Schwöbel-Patel*, who analyses the social, political and legal construction of the ‘ideal victim’. Following, *Line Gissel* scrutinizes Africa’s support for the International Criminal Court (ICC) between 1993–2003. *Alexandra Adams* concludes this section with an examination of the legacy of the International Criminal Tribunals for the Former Yugoslavia and Rwanda and their contributions to the intricate definition of rape.

In the next section, we feature the penultimate instalment of our Symposium on International Law and the First World War, focusing in this issue on the end of the War. *Randall Lesaffer* retraces the development of aggression as a concept of international law, showing that a long history of thought on use of force law preceded the Versailles Peace Treaty. *Markus M. Payk* analyses the Paris Peace Settlement after the Great War, examining the impact that notions of law, justice and legality had on the negotiations leading to the Settlement in the Allies’ quest to establish the ‘reign of law’.

Roaming Charges features a photograph of the stunning relief found in Wrocław by the local sculptor Eugeniusz Get Stankiewicz: ‘The Crucifixion – Do It Yourself’. We are all perpetrators is one lesson one may take from this work of art.

Due to the recent activation of the International Criminal Court’s jurisdiction over the crime of aggression, this issue continues with a Symposium on this topic, organized by *Dapo Akande*. Following his Introduction, co-authored with *Antonios Tzanakopoulos*, the complex relationship between international criminal justice and peace is examined by *Frédéric Mégret*. In the next contribution, *Tom Dannenbaum* looks at the criminalization of aggression with regard to soldiers’ rights. *Tom Ruys* then reflects on the implications of this recent activation for the legal regime of the use of force between states. *Marieke de Hoon* focuses on the openness of the crime of aggression norm, which may cause great challenges for the ICC and could eventually result in mere show trials. *Dapo Akande* and *Antonios Tzanakopoulos* conclude by examining who will be subject to the ICC’s jurisdiction over the crime of aggression.

Our EJIL: Debate! section in this issue features an article by *Rosa Freedman* on the accountability of UN peacekeepers with regard to sexual abuses and an exchange between the author and *Devika Hovell* on the issues raised by the article.

For the *Last Page* of this issue, centred around ‘Perpetrators and Victims of War’, we reflect on ‘The Quality of Mercy’ from William Shakespeare’s *The Merchant of Venice*.

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