

Vol. 77 Reflections on Writing Supplement (2026)

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LEGAL QUARTERLY

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The *Northern Ireland Legal Quarterly* is a leading peer-reviewed journal that provides an international forum for articles, commentaries and notes in all areas of legal scholarship and across a range of methodologies including doctrinal, theoretical and socio-legal. The journal regularly publishes **special issues** within this broad remit.

Established in 1936, the journal has a history and rich vein of legal scholarship, combining distinct publications on the law of Northern Ireland, and prominence within the School of Law at Queen's University Belfast, with leading contributions to the discussion and shaping of law across the common law world and further afield. The School of Law at Queen's University Belfast took over the publication of the journal from SLS Legal Publications (NI) Ltd in 2008, where it has since been published quarterly. The journal became an online-only publication in January 2017.

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The *Northern Ireland Legal Quarterly* is committed to making its contents widely available, to broaden our readership base. At least one article per issue is made available on an open access basis and may be published in advance. All articles become available on an open access basis on our website one year after publication.

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Reflections on Writing Supplement

Mark Flear

Queen's University Belfast

Marie Selwood

NILQ Production Editor

The Editors of the *Northern Ireland Legal Quarterly* were excited to announce the launch of a new opinion-style series of pieces 'Reflections on Writing', in February 2025.

We invited authors to think about their own writing practices. To ask, for example, why do I write? How do I write? Where do I write? How do I carve out the time and space to write? How do I improve my writing? How has my approach to writing changed? Who has influenced my writing practices? What is the value of writing in the contemporary scholarly context?

These are among the questions many scholars ponder wherever they are on their scholarly journey, but seldom articulate to an audience, let alone publish, or even have an opportunity to publish. This new series seeks to develop dialogue around these and other related questions.

We believe that such a dialogue is all the more pressing given the very many constraints put on colleagues in academia at different points in their careers. So, we invited scholars to write up their thoughts on these – and

other – questions. Authors were given the freedom to select their leading question or prompt for reflection and to express their thoughts however they wish within the broad remit of the series.

The inaugural contribution to the series, entitled 'How the academy negatively affects writing practice', by Professor Mariana Valverde of the University of Toronto, was published on 12 February 2025. In the piece, Mariana reflects on how her experience on community newspapers early on in her career taught her much about the craft of writing and how to meet deadlines, which she was later able to draw on when she began her doctoral studies.

In the second contribution, Professor Shaun D Pattinson, Durham University, offers five guiding thoughts for those at the beginning of their academic law publishing journey, gained from his own experience of rejection and acceptance.

In the third article in the series, Professor Barbara Prainsack, University of Vienna, explains how her method of writing a

predetermined number of words each day changed her mindset and made writing something to celebrate.

In the fourth article in the series, Professor Graeme Laurie, University of Edinburgh, examines the idea of ‘stuckness’ – by asking the question, why don’t we write? – and recommends would-be authors to develop and hone their own personal Research Voice as they build up a portfolio of academic work.

The fifth contribution to the series is from Professor Duncan Sheehan, University of Leeds, who describes the academic’s job as ‘a writing job’. His starting points are intellectual curiosity and the desire for understanding. But he also stresses the communitarian aspects of the process, the need for patience and good time-management and, last but not least, the ability to say ‘No’.

In the sixth article in our ‘Reflections’ series, Professor Tamara Hervey, The City Law School, examines the process of co-writing – producing a joint piece of work in which a single ‘voice’ ‘speaks’ to the reader and the authorship is completely intertwined. She explains how working with one or more colleagues can strengthen the finished version, whether it be a chapter, article or even a book, by bringing together different ‘positionalities’, ‘life experiences’ and ‘ways of seeing the world’.

The seventh article in the

series is by Professor Roger Cotterrell, Queen Mary University of London, who describes the deeply personal nature of writing and the sense of satisfaction of communicating successfully with the reader. However, he also stresses the need for ‘never-ceasing self-reflection’ on one’s own writing practice and draws on George Orwell’s influential 1946 essay, ‘Why I write’, for further inspiration.

In the eighth article in our series, Professor Niamh Nic Shuibhne, University of Edinburgh, examines how the UK community of academics working in the field of European law have been affected by the shock of Brexit and reflects on how it has had an impact on her own writing – not just at a professional level but also from an emotional and personal perspective.

In the ninth article in our ‘Reflections’ series, Dr Sylvia de Mars of Newcastle University describes how a stint at the House of Commons Library writing policy briefings for MPs and the result of the Brexit referendum were the catalysts that enabled her to shake off some of the constraints of traditional academic publishing and discover a freer and more enjoyable way of writing about EU law.

The tenth contribution to our series is our first co-authored piece, by David Cowan, Cardiff University, and Simon Halliday, University of Strathclyde. It

comes in the form of an email conversation in which they begin by reflecting on why a collaborative project over 20 years ago resulted in a sole-authored paper rather than a joint publication but move on to a discussion of the difference between working and writing together and what they both learned from the experience.

In the eleventh 'Reflections' piece, in a wide-ranging article, Nicola Lacey, London School of Economics, meditates on 45 years of writing by highlighting four very different projects, describing the hurdles of peer review, loneliness, co-writing and self-doubt and highlighting the complex environment that modern academics must navigate to get their work published.

In the twelfth article in the series, Emily Jackson, London School of Economics, shares the four things that motivate her to write: anger; to answer a puzzling question; shock; and commitment to a big project. She describes the early part of her writing process as a 'scattergun' approach before order starts to emerge, and charts the advantages of co-authorship, knowing when to abandon a project, dealing with feedback and sharing 'work in progress'.

Conor Gearty's contribution, the thirteenth in our series, takes us on a journey through his authoring life, from early childhood, through doctoral angst, and several serendipitous encounters. Drawn from this

experience he provides 'Eight tips for surviving (and enjoying!) academic writing' – a wealth of first-hand advice sprinkled with anecdotal examples on the way.

Michael Dougan, University of Liverpool, has never experienced writer's block and derives real enjoyment from the process of academic writing. In the fourteenth contribution to this series, he describes his highly structured approach to the task, starting with an intuition that there is 'something to say' and moving on via shorthand notes and bullet points to create order out of legal chaos.

In the fifteenth article in this series, Alison Liebling, University of Cambridge, explores the emotional side of her most recent writing journey and describes not only the joy of the process, but also how so-called 'negative' feelings can become sources of creativity as well.

All contributions to this series so far have been published on an advance open access basis as soon as they become available. So please check here to see the latest additions.

We have already published the [first article](#) in the 2026 series of Reflections on Writing.

Look out for further contributions in the near future!



How the academy negatively affects writing practice*

Mariana Valverde

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Well before I had a serious position in the academy, I did a great deal of writing that was published. That meant that when I went on to become an academic I had far more experience, especially of publishing, than most of my peers. And I had also learned some of the ‘tricks of the trade’ – that is, the journalistic trade – which were far more helpful to me, even in my strictly scholarly writing, than one might have thought. I also had a decent sense of the variety of styles and rhetorical strategies that good magazine-style journalism teaches. I knew that writing to persuade people about a point of view (the sort of thing that one finds in opinion pages and op-eds) differs significantly from writing to convey an impression of a place or an event.

Perhaps most significant was the fact that I had plenty of experience of seeing my name and my words in print, which meant that I was relatively free from the anxiety about printed texts that haunted so many of my graduate-school peers and, later,

my academic colleagues. This was because, during a summer in the 1970s, I was writing three articles per week that were all published the following Monday afternoon. This was through a community newspaper, ambitiously entitled *The Common Press*, that had been set up by the staff of the local university student newspaper, in Peterborough, Ontario.

The pressures and the pleasures of writing multiple pieces per week and seeing them published so quickly was a great experience. In addition to producing my three articles per week, alongside my colleagues I was also required to help with the newspaper’s ‘production’ – which then, before computers, involved meticulously measuring spaces for headlines and using Letraset to construct them. All that hard work meant that all the writers, who were also the production people (in keeping with the ‘collective’ ethos of the times), had to stay up until the early hours once a week as it took all night to complete the painstaking task of measuring typeset copy

* First published in *NILQ* 76.RS (2025) 1–8 on 12 February 2025.

and pasting the strips of paper on the blue-lined cardboard base that was then dispatched to the printers. But, like all workers, we were happy to finally 'put to bed' the weekly (as journalists say).

I don't think that the community newspaper was sold. I believe that our government grant included making it free to all residents – although distribution was the one task that was outsourced, so I was never sure how particular readers (who felt entitled to make irate phone calls to the office landline!) actually got hold of the product.

On that community paper, I was hired as the one, perhaps token, outside person. I likely got the job (such as it was, the pay was very low) because I had been very active in the student newspaper as an undergrad at Brock University in St Catherines, Ontario. I had come to the attention of the Peterborough group in part because someone there had liked my writing and because my father was a professor at Trent university, in Peterborough Ontario, home to a student newspaper, *The Arthur*, that provided the *The Common Press* with most of its summer staff. *The Common Press* owed its existence to a summer student employment grant – not unusual back in the 1960s and 1970s.

After I began my postgraduate studies in Toronto I continued to write for community newspapers. I wrote for *Broadside*, the Toronto

feminist newspaper/magazine, although I did not share the feminism of 'the collective', so I was always a bit of an outsider. I also wrote some things for *Fireweed*, which was a feminist arts magazine. But my main experience of both writing and politics was being on the collective of the gay liberation monthly, *The Body Politic*, a high-level magazine that could have been professionally run and financed but was not. Those were the days when it was not uncommon for people to subscribe to three or four periodicals (in hard copy) which meant there was a solid market for real journalism, unlike now. At *The Body Politic* I knew we had a good 'product', as the marketing people would say now. The production and design values, for one thing, were of professional calibre, unlike some of the feminist papers I had written for, which were little but pages of grey text. At the BP (as it was fondly called), I recall one day looking over the head of the gay male volunteer who was updating the subscriber list (which had at one point been seized by the police) and seeing Christopher Isherwood's name in black and white. That meant that a real writer was reading my magazine, which gave me a thrill.

It was that white gay guy, Rick Bebout, originally from Massachusetts, essentially editor in chief at *The Body Politic*,¹ who first embodied, for me, what a

1 He later died of AIDS complications, as many of my former comrades did.

good editor can do. I will forever be grateful to him for taking the time to explain what a 'lead' was and why it mattered. Of course, not every piece of writing needs one, but I now know that if I want an op-ed to be published in my local mainstream newspaper I have to have a good punchy lead. I am also posthumously grateful to Rick for commissioning pieces that appealed to my own political and cultural sensibilities but that he edited, really edited, not just copyedited. One time, I travelled to England for my doctoral research (to read things in the old British Museum), and he commissioned a piece on lesbian life in London, which I dutifully wrote after inquiring of some American lesbians who lived there if they knew of a good leisure venue. I recall that it was in London that I also heard Joan Armatrading for the first time – not in person, just her recorded voice. Eventually, I became co-editor of the cultural pages of *The Body Politic*, along with Alex Wilson.² In that role, I was able to commission book reviews and, in those pre-internet days, books and book reviews really mattered. I realised after a while that sending books to particular people to review was an amazing exercise of largely invisible power. And, back then, our magazine could and did review virtually every book that was published

on LGBTQ subjects, including biographies of famous people (Gertrude Stein, Oscar Wilde) and accounts of movements and struggles.

That experience of community journalism meant that when I began working on my PhD, at York University, in Social and Political Thought (a new programme at the time), I already had considerable experience of meeting deadlines and coming up with quick pieces on timely topics. But, more importantly, I also knew something about the craft of writing – unlike the vast majority of my cohort, who had never peeked out beyond the academy to consider their work as 'writing'. I also had a good sense of what socio-legal scholars now would call the materiality of journalism: those sleepless Monday nights spent measuring the width of Letraset fonts to make sure that 'good' headlines did fit the space stayed with me for years.

Since then, I have published more books than most academics. And I continue to love writing, so it's likely I will keep doing it as long as my brain and my fingers cooperate.

However, my experience in the academy has led me to the view that most academics are not born writers, and some really aren't suited to the task at all. In fact, some are pure researchers and

2 Much later he also died of AIDS: the word 'trauma' was not in circulation then, but the astounding number of deaths amongst the gay men I worked with certainly had its effect.

need someone else to write up their findings in a way that will appeal to their target audience. Sadly, they usually don't team up with a writer but with another pure researcher, thus compounding the problem. Others can write, but only in the most wooden of prose styles – perhaps out of the desire, inculcated in their student days, to sound 'serious' and rigorous.

In my view, the key problem with academic writing in our own day is that there is a largely implicit but sometimes explicit discipline imposed by the formats deemed appropriate for most scholarly journals. For example, I am on the foreign editorial board for *Economy and Society* – certainly a good leading-edge interdisciplinary journal – but I often feel that when I get my complimentary copy in the mail I see articles that look as if they are translated from German or French into English. Even though they are not actually translations, they sound like Habermas at his worst.³

English is actually a great language for what one might call 'plain' writing. My late colleague, Ian Hacking, who had more influence on me than he ever knew, was a master of writing about technical or obscure subjects with a style that did not presuppose a PhD in philosophy

in the reader. His books are models of good English writing – perhaps because, unlike most of my largely Foucauldian friends, he was 'trained'⁴ in English analytic philosophy, which values ordinary language to the point of obsession.

Since I have now come to the frankly programmatic part of this reflective piece, I should mention that the advice I usually give to PhD students who are struggling with style issues is to recommend that they concentrate on 'telling a good story'. This is one thing I learned from, or with, Rick at *The Body Politic* that is still with me today. Scholarly work finds a captive audience of people who feel they must read this or that, to keep up with 'the field'. But, in contrast, in journalism one needs to create a reader, or at least entice a reader who is a free agent and only reads out of choice. Nobody has to read your particular article even if they buy the newspaper or magazine. That is a lesson that PhD students especially would do well to learn. Your supervisor may be forced to read your work, but other readers need to be persuaded. You do that with a good lead that promises a good story. It's stories, narratives as they say, that move people and move the world. Charts, numbers and abstract concepts rarely move anyone. And inventing

3 Although I have not read Habermas in German – it is possible that the translations do not do his style justice, as is certainly the case for Nietzsche.

4 A word I despise, although in this piece one might say I am writing about my 'training' in journalism.

novel classifications for the sake of 'getting published' in highly ranked journals, as so many scholars do, is simply a waste of good writing time.

But academics have had a professional 'deformation' (as the French say), so that many have lost their ability to tell stories, even though as children they no doubt told many and enjoyed hearing them. That is largely the result of academic career pressures pushing writers in the direction of 'top' ranked journals, which usually restrict what they publish to texts that look and sound like previous articles in the same publication.

Most scholarly journals expect a certain 'product' from their authors, and, of course, they usually get it – the race for publishing being what it is – and not only in the UK. That product – and the marketing term is apposite – is generally far too jargonistic and wordy and, ritually, starts with what is called 'a review of the literature'. But, if one is tackling a novel theme, then there is no literature, or else there are many possible literatures. Beginning by telling a good story would be the way to go, in my view, instead of writing something like: 'Here's what these folks have said and here's what these other folks have responded: but there is a gap in the research and I want to fill it.' As an old friend of mine,

Cynthia Wright, once said, 'that is a Polyfilla theory of research' – find a gap, fill it!⁵

Good writing does not seek to fill research gaps. After all, there are countless, perhaps infinite, research gaps, and surely they do not all need filling? Some issues and questions do not deserve to be studied. Further, good research does not seek to add yet another brick to a wall already teetering on the verge of collapse due to too many 'contributions'. Good writing tells good stories. And in the anglophone world, good writing is writing in an English that every literate person who reads books can understand.

The scholarly journal article, it seems to me, has become a disciplinary machine whose usefulness has never been subject to any review. There are many peculiarities of the scholarly publishing world that should never have been invented. For example, my former colleague Rosemary Gartner once said to me that in her work as one of the editors of a 'top' American journal, she was tired of seeing manuscripts that she described as 'LPUs' (the Least Publishable Unit). Chopping up a good research project into three or four parts, each destined for a different journal, is one of the negative consequences of the convergence of university ranking and payroll practices and the character of academic journals. One does

5 Polyfilla is the commercial name for a product one can use to hide cracks and seal edges.

not hear of novelists trying to send ‘least publishable units’ to different markets; a novel, just like a scholarly research project, needs to retain its integrity, and readers expect that.

But the LPU phenomenon is just one of the problems that plague today’s scholarly publishing universe. There are many others, and I hope this series of articles about the ‘writing practice’ of various legal and socio-legal academics will help to identify them.

What is especially sad is that many interdisciplinary journals, perhaps suffering from existential anxiety in the largely discipline-bound world of modern universities, rigidly insist on articles that look like all the other articles they have already published. Often, authors get critical comments lamenting the absence of citations to whatever body of work is the referee’s favourite. Or else referees use the

anonymity of the review process to flog their own agenda and their own work – but that would come close to malpractice, so perhaps I’ll leave it there.

Finally, it may be useful for younger scholars now – many of whom seem to think I was born with an academic silver spoon in my mouth – to know that I have had numerous rejections from ‘good’ journals. For example: I recall many years ago sending a ‘theory’ article to *Theory, Culture and Society* and receiving comments including ‘the author really needs to cite and use Bourdieu’. I gave up. Of course, I knew Bourdieu but I did not want to mention his work on cultural capital, mostly out of a feminist desire not to genuflect before ‘great men’. Eventually, I published the piece in an obscure Canadian journal whose citations were likely not ‘indexed’ anywhere prestigious.

So how could things be different? What would I do if I were in charge of a whole lot of journals, say all the Cambridge ones or the Sage ones or the ones living in Routledge’s capacious stables? I really don’t know. The problems I identify in this piece seem too overwhelming, and, unfortunately, they go to the ‘heart’ of today’s academy.

One thing that could be done is to limit the value – including the salary increase value – of articles published in scholarly journals. I

have found over the past 20 years or so that writing books is far more rewarding. However, I know that not everyone wants to write a book or has the inspiration as well as the (quite specific) book-writing skills to go with it. Perhaps one could try letting people – including tenured academics – experiment with different formats and genres and just see what happens. Not everyone is an artist; only a few people could, say, direct a film. And few of us scholars have the skills needed

to build a wonderful interactive website. But if institutions were to become less rigid in their incentive structure, so that refereed scholarly journal articles were not the 'gold' coin that they have become – if pluralism in genres and formats were to be admissible – then perhaps people in the academy might find that they could enjoy presenting their research.

Of course, today's academy suffers from contradictory incentive structures: on the one hand there's a worship of 'good' journals and the articles published in them, but, on the other hand, there are also rewards for those people who turn their backs on scholarship and pursue what is often called 'impact'. In Canada the federal research funding agency has been promoting what it calls 'partnerships', meaning that scholars with no particular experience of the social world, and usually innocent of any activist experience, are incentivized to 'partner' with organizations such as community groups, or even police departments. Traditional single-authored, carefully researched work – such as that still done by most historians – is still valued in certain institutions. However, the push to be 'relevant' and 'engage' with government and civil society groups is felt very strongly in more workaday, less elite institutions. I suppose that is one of the practical effects of the scholarly journal pyramid of prestige: it enables certain

institutions to call themselves 'research universities', while other institutions and their employees are consigned to economy class (or working-class, as my daughter once noted when we were about to board a plane).

In relation to the 'prestige versus relevance' dialectic, I think it's very important to not fall from the frying pan of the scholarly journal article disciplinary machine into the fire of 'relevance', especially 'policy relevance', often an albatross around the necks of scholars in fields such as law, social work, criminology and public health. But if those seeking 'relevance' feel encouraged to experiment with non-traditional formats – not just writing dreary policy reports for government bodies, a genre which in my experience has a worse disciplinary logic than the scholarly journal article – then perhaps something useful will come about.

In the end, about the only thing that should consistently characterise scholarly attitudes and priorities is the old Platonic notion of 'a sense of wonder'. Surprised at what we discover when we do research – and it's not worth publishing anything that only tells us what anyone would expect to find – we might then talk with one another about choices that are available to us in terms of formats and genres. In my experience, those conversations rarely take place, and certainly never in formal environments. I

hope there's at least agreement that the scholarly journal article is only one of the formats that could be used to present one's research and analysis. Surely, academic freedom should include freedom from the coercion of certain overvalued formats?

Form and format are as important as the content of what we teach/think, but we rarely think about format and genre

choice – much less discuss options with our colleagues and students, despite our much vaunted 'critical' faculties. I hope this short and rather self-indulgent reflection helps someone to think about style, genre and format – important dimensions of texts seeking publication that generally go 'without saying' in the academy.



Writing for publication: inspiration and perspiration[†]

Shaun D Pattinson*

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I was sure there was a white light. As my eyes focused it morphed into a white sleeve, into which a robotic arm retracted. ‘Welcome to New Life’, declared the woman to whom the arm was attached. Only moments before, or what had felt like only moments before, I had been sedated into unconsciousness on the understanding that I would soon die and be cryonically frozen.

This was my reanimation; my second life. I had begun my first life genetically enhanced and gestated in an artificial womb. That had been a long life. Every time a body part had failed it had been replaced with a synthetic part, until my cybernetic body had required treatment beyond what was available to medical science. I had then been informed that the best my billions could buy was the chance to be reanimated, when science could either cure my ailment or transfer my consciousness.¹

These were the opening paragraphs of my last monograph, which develops a legal theory and applies it to future developments in biomedicine.

The idea of creating a fictional scenario to convey the potential of the book’s four focal technologies came to me while walking during the Covid-19 lockdown. I got out my phone and began to put my thoughts into sentences. My walking route was unfamiliar. I had been following a public footpath sign. The path divided and I continued on what I thought

was the path at the side of a field. From the other side of the hedge, a woman shouted that I was on private land. I apologised and headed back the way I had come. I was then challenged by a man in an SUV (again from the other side of the hedge) as I walked back towards the public footpath sign. He repeatedly asked what I was doing but refused to accept my responses. He threatened to call the police. I replied that he was free to do so but that I was committing no crime.

[†] First published in *NILQ 76.RS (2025) 9–19* on 20 February 2025.

* I profoundly thank Clara Martins Pereira and Yuxin Li for their comments on an early draft of this piece.

¹ Shaun D Pattinson, *Law at the Frontiers of Biomedicine* (Hart 2023) 3.

That was the day that the Dominic Cummings story broke, when the UK Prime Minister's top adviser came under fire for travelling across the country during the lockdown.² One of the news reports showed a picture of the family farm from above. I looked up my walking location on Google maps. I had been within metres of the family's house.

Few of my writing experiences are anywhere near this exciting and that was my first – and probably last – attempt at writing science fiction. What this shares with my usual process is that, when inspiration strikes, I immediately attempt to put my thoughts into written form. More often than not, I rewrite those words over and over again. As Thomas Edison is reputed to have said: 'Success is 10% inspiration and 90% perspiration.'

Below I offer five guiding thoughts on academic publishing in law. These are little more than distillations from my own experiences, but I hope they offer something for those earlier in their academic careers.

1 GETTING STARTED

I would like to be able to claim that my early publications were all carefully planned. That would be a nonsense nugget. My first publication was in a student journal, submitted to support a desperate editor. It remained on my CV only a little longer than it took for the printer paper to cool.

The earliest publication still on my CV was co-authored. The supervisor of my second undergraduate dissertation on moral philosophy had only one comment: 'You need to meet Deryck Beyleveld, come here next Tuesday and I'll drive you to meet him.' Upon meeting, I articulated my criticism of the application of Alan Gewirth's moral theory to animals to the principal defender of that moral theory.³ His response was to blast me with a fusillade of supporting arguments well beyond my imagination. Around 18 months later, during my master's degree, we sat at his computer writing a paper.⁴ I learned more from that process than from any course or any other source.

2 For details, see 'Dominic Cummings: what is the scandal about?', *BBC News* 26 May 2020.

3 Deryck Beyleveld, *The Dialectical Necessity of Morality: An Analysis and Defence of Alan Gewirth's Argument to the Principle of Generic Consistency* (Chicago University Press 1991).

4 Published two years later, as Deryck Beyleveld and Shaun D Pattinson, 'Precautionary reasoning as a link to moral action' in Michael Boylan (ed), *Medical Ethics* (Prentice-Hall 2000) 39.

To date, I have co-authored with only one student, Sara Gerke, who was a visiting PhD candidate in Durham for around a year.⁵ I do, however, encourage all my research students to publish during their studies. Not only because publications are essential for an academic career in a permanent teaching and research role, but because the process of writing for publication assists the writing of the PhD and provides external guidance (from reviewers and editors) on how to improve the quality of the work.

As others have pointed out,⁶ most research candidates lack the skills and confidence to publish in high quality journals at the start of their degree. I therefore usually recommend that they start by publishing a book review or a case note and then move on to writing an article. I have had the pleasure of supervising many outstanding legal scholars.⁷

Key point: start writing for publication early because those skills are best acquired through hands-on experience.

2 LEARNING FROM OTHERS

I have already given an instance where I have benefited from the assistance of others. Let me give another from much later in my career.

I was the principal investigator for a three-year project using law to engage 16–17-year-old students with biomedical science, entitled ‘Human Cloning and Stem Cell Research through the Medium of Law’ and funded by the Wellcome Trust. The activities in the second year of the project (2014–2015) involved a day of preparation events, followed by a second day (around two weeks later) in which the students engaged in

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- 5 Sara Gerke and Shaun D Pattinson, ‘EU marketing authorisation of orphan medicinal products and its impact on related research’ (2017) 24(5) *European Journal of Health Law* 541.
 - 6 Irina Lokhtina et al, ‘In pursuit of sustainable co-authorship practices in doctoral supervision: addressing the challenges of writing, authorial identity and integrity’ (2002) 59(1) *Innovations in Education and Teaching International* 82 and Barbara Kamler, ‘Rethinking doctoral publication practices: writing from and beyond the thesis’ 33(3) (2008) *Studies in Higher Education* 283.
 - 7 Some examples of excellent pieces written by my research students during their studies include: Daniel Fenwick, ‘“Abortion jurisprudence” at Strasbourg: deferential, avoidant and normatively neutral?’ (2014) 34(2) *Legal Studies* 214; Clayton Ó Néill, ‘Conscientious objection in *Greater Glasgow Health Board v Doogan and Others* [2014] UKSC 68’ (2016) 15(4) *Medical Law International* 246; Marianna Iliadou, ‘Surrogacy and the ECtHR: reflections on *Paradiso and Campanelli v Italy*’ (2019) 27(1) *Medical Law Review* 144; Zoe L Tongue, ‘*Crowter v Secretary of State for Health and Social Care* [2021] EWHC 2536: discrimination, disability, and access to abortion’ (2022) 30(1) *Medical Law Review* 177; and Yuxin Li and Jingchen Zhang, ‘Zaozao Xu’s case: Chinese women’s appeal for the right to freeze their eggs’ (2024) 24(3) *Medical Law International* 217.

a moot on human cloning and a mock parliamentary debate on a proposed statutory instrument designed to permit mitochondrial replacement therapy. In the preparation for these activities, my understanding of the technique used to produce the first cloned mammal (Dolly the sheep) was corrected by Mary Herbert, Professor of Reproductive Biology at Newcastle University, who was advising on the science and gave a lecture to the students as part of the preparatory activities.

The method used to produce Dolly the sheep is usually referred to as ‘somatic cell nuclear transfer’. I had mistakenly assumed that only part (the nucleus) of the somatic cell (derived from a sheep’s mammary gland – Dolly was named after Dolly Parton) had been transferred into an egg that had its own nucleus removed (an enucleated oocyte). But Mary explained that the *Nature* paper announcing Dolly to the world states that the procedure involves ‘fusion of the donor cell to the enucleated oocyte’.⁸ In other words, the entire somatic cell was fused with a nucleus-free egg, not just the isolated nucleus from that

somatic cell. Chemical signals were then used to trigger embryonic development. Discovering my misunderstanding was humbling. I was, at that point, a full professor, and several of my publications had misdescribed the science behind the creation of Dolly the sheep.⁹

Accordingly, I redesigned the materials that were to be provided to the students. It transpired that I was not the only one to have made this mistake. Misdescription of the Dolly technique was everywhere, including in the learning materials provided to GCSE, AS level and A2 level biology students.¹⁰ The project preparation activities sought to correct this and, as a result, the students were able to present scientifically accurate arguments in the moot. A fortunate byproduct was that our project had a data point by which we could measure the impact of our activities on the students’ understanding of the science of cloning. This led to my writing an article with the co-investigator for a medical law journal.¹¹ A shorter follow-up piece published in *The Biologist* resulted in a telephone call with a memorable opening line: ‘Hello, I’m the embryologist

8 Ian Wilmut et al, ‘Viable offspring derived from fetal and adult mammalian cells’ (1997) 385 *Nature* 810, 810.

9 See Shaun D Pattinson, *Influencing Traits Before Birth* (Ashgate 2002) ch 5; ‘Reproductive cloning: can cloning harm the clone?’ (2002) 10(3) *Medical Law Review* 295; and ‘Some problems challenging the UK’s Human Fertilisation and Embryology Authority’ (2005) 24 *Medicine and Law* 391.

10 Shaun D Pattinson and Vanessa Kind, ‘Using a moot to develop students’ understanding of human cloning and statutory interpretation’ 17(3) *Medical Law International* 111, 117.

11 *Ibid.*

who created Dolly.’¹² I almost fell off my chair. Fortunately, he confirmed my new understanding.

I received Mary’s insight on the science behind the creation of Dolly after I had asked her to read the draft student preparation materials. I frequently ask colleagues to read my draft work. Those acknowledged in the footnotes of my articles and the prefaces of my books have greatly advanced my thinking and saved me from many errors. It is difficult to understate the debt I owe others in this regard. A conference paper became the introductory chapter of my last monograph after critical comments from a colleague forced me to rethink several features of my explanation of the derivation of variant moral judgements, and I completely reworked a later chapter on what I had labelled ‘cybernetic biohacking’ to deal with the incisive comments of another colleague. I like to think that I have returned those favours.

Key point: writers should seek the advice of experienced researchers on their draft work.

3 DEALING WITH REJECTION BY A JOURNAL

Every academic’s CV of failure is much larger than their CV of success. But only the latter usually

gets presented as their CV. Looking through an established academic’s publication and grant record can therefore present a very misleading image of their activities.

Most of my oral papers have been works in progress. Indeed, my advice is to avoid giving papers that are not part of your publication plan because time is the most valuable commodity in academia. Sometimes the path from presentation to publication is smooth. But more often it is not. It is a rocky road that turns back on itself and, occasionally, stops dead.

The worst paper I’ve presented – so far – was entitled ‘Floodgates and slippery slopes in legal argumentation’. I presented it at the annual conference of what is now called the Society of Legal Scholars (SLS), then called the Society for Public Teachers of Law (SPTL). The event, in Glasgow, is burned into my memory for two reasons. First, I watched the news of planes flying into the twin towers on the television in the conference accommodation. Secondly, I presented a paper that still makes me cringe when recalled. The central idea (that floodgate arguments are feared end-point arguments conveying a dread of more immediate consequences than typically conveyed using the metaphor of the slippery slope) wasn’t the problem. The

12 See Shaun D Pattinson and Vanessa Kind, ‘No uncertain terms’ (2018) 65(5) *The Biologist* 6 and the reply by the embryologist mentioned above: William A Ritchie, ‘The complexities of cloning’ (2018) 65(6) *The Biologist* 41.

problem was that I'd built a poor argument (about the need for courts to operate with additional procedures if they are to invoke the floodgate metaphor) without sufficiently deep thought on the underpinning legal theory. The official commentator, one of my PhD examiners, gently pointed out that it lacked the rigour of my PhD. The audience included some of the biggest names in legal philosophy, such as Neil McCormick and John Gardner, who were equally kind in their comments on what was clearly an insufficiently reasoned paper. It took a subsequent rejection of the paper by a leading journal for me to finally accept that it did not have legs. I should have put it aside for several months after the feedback from the oral presentation. Fortunately, the outcome wasn't an unmitigated disaster. A small part of the paper lives on in the section on slippery slope arguments in chapter 1 of my medical law textbook.¹³

Not all journal rejections should, however, be treated as decisive. Often the submitted article has publication potential.

As some readers will be aware, research undertaken within UK universities is periodically assessed on behalf of the UK's higher education funding bodies

in a process originally known as the Research Assessment Exercise (RAE) and later redesigned and rebranded as the Research Excellence Framework (REF). For most of my career, I have produced the four publications then needed for this process without having that as a specific goal.¹⁴ An exception was REF2014, which required outputs to be published between January 2008 and December 2013. Due to adverse personal circumstances, I found myself some way into the publication period without any suitable publications. I was inspired to write an article by my recollection of a scandal I'd heard about many years before from a transplantation surgeon who had taught me on my master's degree. In 1998, the relatives of a deceased man who had died at the Northern General Hospital in Sheffield had agreed to organ donation on the condition that the organs went to white recipients. His liver and kidneys had been accepted and transplanted into three white people. This led to a report, published in 2000, that rejected not only racist conditions, but all conditions on the basis that 'to attach any condition to a donation is unacceptable, because it offends against the fundamental principle that organs are donated

13 Shaun D Pattinson, *Medical Law and Ethics* 1st edn (Sweet & Maxwell 2006) 15–17, retained in every subsequent edition.

14 Four of my publications were submitted by my employer university to each of following assessments procedures: RAE2001, RAE2008, REF2014 and REF2021. For REF2029, there will be no minimum or maximum number of publications submitted on behalf of an individual researcher. See further the REF 2029 [website](#).

altruistically and should go to patients in the greatest need'.¹⁵ The breadth of that conclusion also ruled out donation being 'directed' to a specified individual and was applied to that effect to another family, followed by the refinement of that practice by a later policy. It seemed to me that the blanket rejection of directed donation from deceased donors was not consistent with the requirement in the Human Tissue Act 2004 that 'appropriate consent' was needed for donation, which prioritised the wishes of the potential donor over the interests of the potential recipient. I wrote an article developing a theory that could explain and justify this legislative approach, and a later case on property in sperm, and articulated and extended that theory using three hypothetical scenarios. I submitted it to a leading journal.

Several months later I made the mistake of checking my email while on holiday. My article had been rejected on the back of one review. The reviewer gave two short reasons. One of these ran as follows:

Second, there is no reason why legislation must be entirely logical. It may reflect a politically expedient and workable solution to competing claims, even though it lacks logical consistency.

The editor regarded that review as conclusive and rejected it outright. I'll leave it to you to judge the persuasiveness of the reviewer's second point. The article, after only a cosmetic reworking, was submitted to another journal and published after two supportive reviews.¹⁶

I reacted in the same way to a desk rejection of a later article. This paper examined the relationship between the doctrine of precedent and the Human Rights Act 1998. It was inspired by what I took to be unjustifiably narrow applications of a decision of the House of Lords.¹⁷ The acting editor of a leading journal provided a quick and detailed response, concluding with an invitation to resubmit. The email was kindly worded and referred to that person's own leading publications on the matter, expressly stating: 'please don't read this as a requirement that you say more about my own work'. I did not, alas, take that advice at face value and took the view that my failure to engage with that person's work had led to its rejection. After only minor reworking, I submitted to another journal. The first review was positive but the second reviewer was clearly the editor of the previous journal: the points were the same and they referred to a particular footnote that

15 Department of Health, *An Investigation into Conditional Organ Donation: The Report of the Panel* (HMSO 2000) para 6.1.

16 Shaun D Pattinson, 'Directed donation and ownership of human organs' (2011) 31(3) *Legal Studies* 392.

17 *Kay v Lambeth LBC* [2006] UKHL 10.

was again misnumbered. It was many months before I accepted that the reviewer's points were profoundly insightful. I finally took them onboard and undertook a major re-write, adding a second argument to my article. It was accepted by another journal after two supportive reviews.¹⁸ If I had done this in response to the desk rejection, it could have been published considerably earlier. In fact, it was accepted for publication a matter of days after the publication deadline for REF2014. The upside of this was that I entered the publication period for REF2021 with one submission in the bag.

These experiences embody three reactions to rejection by a journal: (a) junking the article, (b) submitting to another journal after minor reworking and (c) submitting to another journal after major reworking. The difficulty when dealing with rejection is to identify which of these approaches is appropriate. My advice is not to do what I did with that human rights piece, even though it worked out well for me in the end. I interpreted the insights provided by that esteemed academic in their most uncharitable light.¹⁹ I advise taking these three responses in reverse order: first attempt major reworking in light of the reviewers' comments and only junk it if it truly is a stinker.

Key point: give full and proper consideration to negative reviews.

4 PLANNING PUBLICATION

I edited *Medical Law International* for six years and can only remember reviewers recommending publication without revision once. My most common response to authors was therefore 'revise and resubmit'. The author's covering letter should then provide a point-by-point response to the reviewers' comments. The author does not need to accept every comment. Sometimes they pull in different directions or amount to the conclusion that the reviewer would have written a different article. (There's a famous joke about a local responding to a tourist's request for directions: 'Well, if I were you, I wouldn't start from here.') But where both reviewers agree, there is little point resubmitting unless their shared recommendations have been followed. It might still be rejected after revisions. For this reason, it is wise to identify several journals to which you could submit and, if you have the luxury of time, start with the most competitive. Some journals take a very long time to provide a response. You therefore need to build this into your plans.

18 Shaun D Pattinson, 'The Human Rights Act and the doctrine of precedent' (2015) 35(1) *Legal Studies* 142.

19 I regret not acknowledging that person's assistance in the published article. I have expressed my gratitude by email but omit a name here to save my further blushes.

Submitting a book contract is a very different experience. I now have several books under my belt: three monographs, an edited collection and a textbook for which I am currently completing the seventh edition. My first was my PhD thesis, updated and with a chapter removed on the recommendation of a reviewer. The first publisher I approached sought guidance from my PhD examiners, which led to rejection when one honestly asserted that its approach was 'too rarified' to sell. To my relief, the second publisher concluded otherwise. It sold no more than a few hundred copies, so the judgement of my PhD examiner was not unfair.

The process for getting a book contract differs in several ways from the process for getting an article accepted by a journal. Four differences spring to mind. *First*, the reviewer is told the identity of the author and is usually provided with a copy of their CV. I therefore generally recommend that early career researchers publish a couple of articles before seeking their first book contract. *Secondly*, the publisher is principally interested in how your book will fit into their portfolio and how it will sell. Your proposal should therefore briefly explain why your research monograph is likely to sell to and beyond university libraries. Consider, for example, whether you can make the plausible case that your book will sell outside the UK or will be relevant to

existing undergraduate and/or postgraduate courses. *Thirdly*, the author is expected to identify the principal competing works. Authors should anticipate that the publisher will seek reviews, usually three, from a pool of reviewers that includes their previous authors and the persons mentioned in the proposal as the authors of competing books. Indeed, the reviewers who later revealed their identity to me have fallen into these two categories. *Fourthly*, publishers generally require submission of two chapters from early career researchers, whereas experienced authors can usually get away with submission of a proposal without sample chapters.

Selection of a book publisher is similar to selection of a journal for an article. In my experience, it is important to fully research what they have previously published and carefully follow the guidance they provide on submissions.

Key point: submission of work should be tailored to the publisher.

5 IDENTIFY AND ADDRESS YOUR LIMITATIONS

There are many hurdles to writing a strong publication. In my experience, many early career researchers overwrite. They spend too many words outlining the literature and legal context of the piece, rather than setting out the minimal information needed

to articulate their argument and explain how it advances knowledge in the area. Part of the problem is that, in law, journal articles are typically 10–12,000 words and some colleagues (in my view misguidedly) take length (and the journal itself) as measures of quality. I hope it's not controversial for me to assert that reading and assessing against the REF criteria – originality, rigour and significance – is a much better measure of quality than any proxy measure.

Whatever your limitations, you need to develop workarounds. I'm really bad at proofreading my own work. That will be no surprise to those who have received emails or text messages from me, where I frequently use the wrong word (eg 'your' becomes 'you') or use sentences for which good grammar is a distant observer. In recent years, my workaround for this is to use the dictation software on Microsoft Word for mobile to read the piece to me on my daily walk. I can hear my mistakes more easily than I can read them. You may have noticed that I have twice referred to working while walking. That's because I find it helpful to avoid staring at my screen searching for inspiration when words have ceased to flow. Also, the goal of walking 10,000 steps a day remedies my inclination towards indolence.

The biggest hurdle to writing is every other part of work and life. Teaching has immediate deadlines, administration is

an ever-demanding master and television series end with cliffhangers, enticing passive consumption of the next streamed instalment. My workaround to competing demands on my time is to write a little often. A paragraph or two whenever I get a moment, even if that is while walking. Occasionally, I do something more dramatic. I have recently benefited from an academic writing retreat where attendees are required to switch off social media, silence notifications and write in scheduled chunks in a shared room. My first experience was so productive – I restructured an article that ripples with potential, despite being rejected after a revise and resubmit – that I have booked another two. You should be able to see whether that works out for me on the basis of whether my outputs in 2025 include a new edition of my textbook and an article on heritable genome editing.

Key point: identify your limitations and find ways to work around, rather than be hindered or even paralysed by them.

CONCLUSION

Academic writing is an activity of both creativity and labour. I have outlined five insights learned from a combination of failure and success. Even the most casual reader will see that I generally eschew many popular recommendations about writing style, for instance:

be formal, avoid the personal pronoun, write in an impersonal style, avoid contractions and avoid colloquialisms. Writing is about communication, so I follow those recommendations only where they assist with communication.

One parting thought: when you are next asked to review an article or a book proposal, please remember that the recipient is someone like you or me. Reviewer two should not be you!



Don't write on Fridays! My reflection on reading and writing*

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I must start my reflection on writing with a few words on reading. I was lucky to grow up in a household with many books. My first love was an illustrated children's dictionary. I spent many hours looking at every detail, imagining how people slept in the bunk beds in the large sailing ship in the picture and what it would feel like to sleep under a palm tree. I made up stories about the penguins that ate fish on the page about Antarctica.

In elementary school, I discovered stories made of words, and my hunger for new stories could no longer be satisfied with the books in our house. During the school year, I took out books from the school library. During summer holidays, I walked down the hill to the town library every morning, returning the book I had borrowed the day before and picking out a new one. In the afternoons, I sat in the garden and read. Why I didn't make my endeavour more efficient – such as by borrowing a whole week's worth of books as an analogue version of what we would now call bulk downloads – I no longer know. Perhaps the books would

have been too heavy for me to carry. More likely, the daily trip down the hill to the library and back was an essential part of my reading: during that time, I connected the stories from the books with my own life. I wondered whether I would have been as brave as the heroes and heroines of the story. I imagined how the people in the country I was reading about lived. What did their school look like? What pets did the children have?

What I got out of reading made me aware of how much responsibility those of us who write actually carry. That producing corporate, soulless writing is the equivalent of serving stale and loveless food to our families and friends. That careful and spirited writing, in contrast, can change the mental landscape of our readers, and perhaps help them to change the world around them.

My own first attempts at writing were stories scribbled in a lined blue notebook, with the fountain pen we had to use in school. I do not remember the plots of my stories, but I do recall that the protagonists were all girls that tried to figure out the world. At age 12, during

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a long illness in the winter, and with the help of a booklet that had come with my father's electronic typewriter, I taught myself touch typing. Being able to touch type changed everything. I found the process of putting pen on paper much more tedious than letting my fingers run over a keyboard. When I touch type, I can observe the world. I can look out of the window, watch the comings and goings in a coffee shop, or look at the person speaking during a meeting – and write at the same time.

When I entered university, we did not yet have laptops. I used pens to write in notebooks, but I much preferred to be home with my computer. The invention of laptops has been a huge improvement for me. I sometimes use voice recognition software to transfer my thoughts into words when I am travelling. But sitting somewhere with my laptop is still my favourite way to write.

As a doctoral student, and during my post-doctoral years, writing was the core activity of my working day. Not that I wrote for many hours – I spent much more time researching, debating and

doing other things – but I felt that writing was the most important activity of all. When I took up my first teaching post, I found it increasingly difficult to find the time to write. I became anxious about it, and I asked friends for advice.

Then, in 2008, a colleague recommended a book: *How to Write a Lot: A Practical Guide to Productive Academic Writing* by Paul Silvia. I ordered the book online and read it on a trip to a conference. Don't wait for inspiration to find you!, Silvia said. Writing should be built into our everyday routine, not a task reserved for moments of creativity.¹ The author also gave a lot of practical advice, such as writing every day, setting specific quantifiable goals and tracking these carefully. I do not remember all of the details, but I will never forget how Silvia demystified the writing process for me. I started to see text as a process rather than a product. I decided that on the Monday following the conference, I would start a new writing routine: I would write a set number of words every working day, first thing in the morning.

1 P J Silvia, *How to Write a Lot: A Practical Guide to Productive Academic Writing* (American Psychological Association 2007). Since I have started using this method and talking to students and colleagues about it, I have been made aware of other books on writing that give similar advice, most importantly Pressfield 2002 and Belcher 2009: S Pressfield, *The War of Art: Break through the Blocks and Win your Inner Creative Battles* (Black Irish Entertainment LLC 2002); W Belcher, *Writing your Journal Article in Twelve Weeks: A Guide to Academic Publishing Success* (University of Chicago Press 2009). With the help of colleagues who sent their suggestions I curated a list of books and articles on good academic writing: B Prainsack, 'Writing well in the social sciences: recommended readings' (26 December 2019) (this guide focuses less on writing routines, but on writing style).

And I did. With very few exceptions, and with a pause of one year, 2017, during which I tried to write as little as possible,² I have been writing at least 200 words every working day since 2008. I have helped students and colleagues to overcome writing blocks and supported some very busy people in fitting writing into their daily lives. Thanks to Paul Silvia and years of trying out his approach, I have developed a writing method that works. *Always*. I call it the *Don't write on Fridays* approach. If you struggle with writing, or you know someone who does, the only thing that this method requires is that all of the seven rules are followed – and not just ones that seem most palatable. Then it will work – guaranteed! Here it is.

RULE 1: WRITE EVERY (WORKING) DAY

As Silvia said, writing needs to be done regularly, not once a week. Those who keep Fridays free for writing probably know what I am talking about: it takes two hours to get back into the process, and before you have made much progress, time has ran out. You leave your desk frustrated and don't particularly look forward to next Friday, when you plan to write

again. You associate writing with disappointment, also because it takes ages before you get a paper done. There are good reasons for this, of course – our days don't have enough hours for us to do everything that we need to do. It is easy to bump the task that is least urgent farthest down the priority list, only to elevate it to the top of that list when the submission deadline is approaching.

Those who write every day, in contrast, don't need any time to get into writing – they never get out of it. And what's best, their unconscious sometimes solves problems for them. After years of following this method, I don't get upset anymore when I have a bad writing day, or get stuck in a problem. I trust that tomorrow, I'll get unstuck.

RULE 2: QUANTIFY

It is key to write a predetermined number of words each day. If you are new to this method, choose a small number – 200 words, the length of an abstract, is a good goalpost. If this sounds very little, you will be surprised how much you get done if you write 200 words every day! In extremely busy periods, you can make the time to write your 200 words by getting up 20 minutes earlier, or

2 The reason for this was that I had finished several large writing projects in the year before, and I felt empty. I did carry out small pieces of writing that year, such as revising papers or writing text in connection with my teaching, but I tried to do as much as I could orally, rather than in writing. This involved asking my students to send me voice messages rather than email. That part of the experiment did not go so well.

by working on a part of your text that is easier to write (for some, it is the methods section of their research paper, for others it is the part of the argument that they feel most confident about). In quieter periods, the 200 words target will ensure that you have sufficient time for data analysis and other research tasks – or even for some time of relaxed reading.

Whatever your writing goal is, never remain below the target. I think it was Silvia who said that if a sentence ends one word short of your goal, you must write another sentence. You should never move on to your next task without having reached your writing goal in full. Having said this, you should not go much over target either (see rule #5).

RULE 3: WRITE FIRST THING IN THE MORNING

It does not matter whether you are an early bird or a night owl: among all the work-related tasks in the day, writing should be the first. In this manner you will reach your writing goal early in the day, which protects you from the nagging sound of dissatisfaction and frustration when you've ended another day without writing because so many urgent tasks derailed your plans. You will start the day with a sense of achievement.

RULE 4: PUT IT IN YOUR CALENDAR

Whether you have a paper diary or an electronic one, block the time that you will need to reach your writing goal in your diary. It creates a sense of commitment towards yourself and also others. Your colleagues can't make appointments with you when you have one with yourself (whether you can be honest and call it 'writing time', or whether you need to camouflage it as something else, depends on how understanding and supportive your workplace is – a place with a good academic work culture will celebrate those who protect time for writing).

Initially, you may not know how much time you should block for writing, especially when you are new to this method. I normally block half an hour for each 200 words – but this depends very much on the type of writing that we do. You may need more or less time than I do. If you can, err on the side of blocking too much time rather than too little, to avoid writing in a rush. After a few weeks of following this method, you will know what amount of time is right for you.

Do not, however, replace the set number of words with a time goal. Stick with a predetermined number of words, ideally between 200 and 500 a day. One of the secrets of this method is to avoid

sitting in front of an empty page and buying time by ‘thinking’, or answering that urgent email, just to avoid writing. If you feel tired and uninspired, write some tired and uninspired words – as long as you reach your writing goal.

**RULE 5: NEVER TAKE
MORE THAN ONE
WORKING DAY OFF
WRITING**

This rule does not mean that you should never go on a holiday. On the contrary, scheduled breaks from writing are extremely important. Rather than driving you into overwork, this rule applies only to the days on which you have scheduled writing. There will be days where the 200 or 300 words that you have planned to write will feel like a struggle. On other days your writing will go so smoothly that you don't want to stop. Feeling that you are just in the right head space, and because you may have a bit more time than usual, you may end up writing 700 or 1000 words instead of the 200 you had aimed for. In that case, you can skip the writing that you had planned for the next day. *But please don't skip more than one day!* One of the reasons that this writing method is so effective is that you never really get out of the writing process. Writing every working day ensures that your mind will keep working through the problems that you are trying to solve even when you are not consciously thinking

about them. Taking longer breaks too often will get you closer to the ‘Writing on Fridays’ model – and avoiding the downfalls of that is the point of the exercise.

For me, the ideal number of writing days per week is five. I schedule writing Mondays to Fridays. I have had times when I also wrote on Sundays, when I had to finalise a large writing project or when I took on new writing projects at short notice. It did not work very well for me, and I now try to avoid it. At the same time, I have found that writing four days a week over longer periods is not ideal, either. The only time when I schedule only four days of writing is when I am at a conference or when there are other reasons why I really, really can't write on a particular week day.

**RULE 6: EDITING TEXT IS
THE ONLY ACTIVITY THAT
CAN REPLACE WRITING IN
THIS METHOD**

In other words, you should write, revise, or edit every (working) day. Doing fieldwork or reading – as important as these things are – do not count as writing. Also when you revise or edit, the quantification rule (#2) applies, meaning that you should set yourself an editing goal in terms of a set number of pages.

For my own writing, I normally set myself the goal of two pages in the first round of revising and editing, then four to five pages in the second round, and then up

to 10 pages for editing relatively polished text (that, at this point, I know so well that it does not take me long to get through 10 pages).

RULE 7: CELEBRATE YOUR SUCCESSES

My source of inspiration, Paul Silvia, said that those who write a lot will get a lot of rejections – but eventually also get our work accepted. Although I still hurt when my work gets rejected by a journal or a publisher, I now get over it relatively quickly. What has also helped is to celebrate the successes. When I had a less busy job than I have now, I celebrated each accepted paper by taking a day off work. I don't have the flexibility to do this in my current job, but I still celebrate successes – by going out to dinner with my partner, or doing something that I do not normally do during a work

week. When my doctoral students or post-doctoral colleagues get a paper accepted, I take them out for lunch or for drinks.

I did not know that this is where my reflection on writing would take me when I started. I hope that some readers will find it useful, and that those of you who do not need any help with writing do not feel disrespected. If you write one day a week, and it works for you, that's great – even if it is on Fridays. The method I describe here is for people who struggle carving out sufficient time for writing and for those suffering from writer's block. Since starting with this method I have never had a writer's block because I have felt that words on paper are part of a journey. They aren't necessarily there to stay, but they are there to get me – or other people – moving. The words can change in the process, and so do we.

At the end, let me return to reading for a few moments. I don't know whether it is because I am getting older and time becomes more precious, or if it is because the average quality of writing is deteriorating (see also Hilgartner 2024).³ I am becoming pickier and more impatient with my reading.

When I was younger, opening a book or even a paper was like a social encounter with the author: common courtesy would require that we don't walk out in the middle of a conversation, even if it is not the most spirited one. I do walk out now. I abandon books halfway and skip whole

3 Hilgartner S, 'Chats between bots: a real-world experiment in writing, recursion, and reflectivity' forthcoming in Brice Laurant and Sebastian Pfotenhauer (eds), *Handbook on Living Labs and Real-World Experiments* (Edward Elgar 2024).

sections in academic papers.⁴ At the same time, I cherish good writing – and there is still so much of it! Not only fiction, but also academic writing. Some of the best academic writing happens when the writer takes you on a journey of discovery. You feel the

excitement and the vulnerability at the same time. Much is lost when academic institutions and their rewards systems make researchers feel that there is no time space for these things – that writing must be technical and overconfident. Let's resist!

4 I am conscious that there are people telling us that this is how papers are meant to be read, but I never liked it. And no, I don't mean the wonderful Trish Greenhalgh, whose advice on 'how to read a paper' I highly recommend: see T Greenhalgh, *How to Read a Paper: The Basics of Evidence-Based Medicine* 6th edn (Wiley-Blackwell [1997] 2019).



Why do we get stuck in academic writing?*

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INTRODUCTION

After I was invited to contribute to this series of Reflections on Writing – to promote dialogue on why we write and how we write – it took me some time to settle on a question that seems to take us in the opposite direction: why are we not talking about why we are *not* writing? I firmly believe that this question needs to form part of this series. This is because I am confident in making the assertion – completely without empirical support beyond personal experience – that vast swathes of academics have experienced *stuckness* with their writing at multiple stages of their career. Indeed, I wager that this has been a major problem for the majority of us at one time or another. I am much less confident, however, about how accurate my diagnosis might be of the root causes of stuckness and even less sure that my thoughts on tackling the issue will have widespread therapeutic effect for readers. I therefore apologise in advance for any hint of hubris in what follows. Humbly, I merely offer you some insights

from my own (sometimes painful) experiences of being an academic writer for over 30 years. My focus here is on one's own writing. I leave comment on collaborative writing for another time.

This contribution proceeds as follows. In section 2, I explore the question: what am I stuck on? The discussion distinguishes between internal and external forces that produce feelings of stuckness. Section 3 asks: why do I become stuck? This section differentiates between being stuck *about* writing itself as opposed to being stuck *within* the writing process on a given topic. I invite readers to engage in some deep personal reflection about how we approach our writing, what the process requires of us, and what it triggers within us. Finally, section 4 asks: how can I become unstuck? Here, I do not naively suggest that a permanent state of unstuckness is attainable. Rather, I offer some pointers on recognising forms of stuckness for what they are, and I suggest ways of managing them (and ourselves) throughout the writing process.

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WHAT AM I STUCK ON?

We are wont to talk about the writing process without really examining what this *process* entails. For one thing, it begins well in advance of any actual writing. The process begins with the kernel of an idea, and in academic terms that idea needs to be shaped into a coherent research problem to be tackled, which in turns requires the formulation of a top-level research question about the problem – or an interconnected set of research questions – that will be answered through the application of an appropriate research method. All of this must be reflected in the actual writing itself, to produce a tangible output in the form of an article, a chapter, a report, a monograph etc.

But, for me, the writing process also extends far beyond the production of any single output. I believe very passionately in the importance of developing and honing one's own Research Voice over time and through a burgeoning portfolio of our academic work. We might do this in any number of ways, from becoming known as an expert on a specific topic or set of related topics, to offering a particular perspective on said topics in our field which considerably enriches the literature, and/or for taking a sustained and critically reflective stand within our domain. As a dear colleague of mine has often

said:¹ if I checked out one of your publications from the library and it had no name on it, how would I know it was your work? Each of us must answer this in our own way; and this is what I mean by developing our Research Voice.

So, when I ask 'What am I stuck on?' a crucial first step to answering this question is to reflect on where I am in the writing process. Am I struggling to come up with a sufficiently original idea? Or, am I struggling to articulate the research problem in a way that reflects what is already known in the existing literature and yet communicates why this piece of writing is needed and will be valuable? Or, am I facing a structural challenge of making the research problem flow to well-constructed research questions supported by a sound method? Or, am I failing to deliver sufficient originality and significance from my contribution? This, I call the *So What? Question*. After all the thinking, research and writing, how can we avoid a reader simply reacting: *So What?* Or, am I stuck about being true to my Research Voice? This last question forces us to reflect both on the nature of our cumulative contributions to our field and also to ask: what is my academic legacy going to be? I return to this point in section 4.

To continue for now with the present topic, all of these are questions for internal resolution alone; that is, only we can answer

1 My sincere thanks to Niamh Nic Shuibhne who has been my peer reviewer, critical friend and wonderful friend-friend over the years. And that goes for this article too.

them for ourselves. But in asking them we can, at least, locate ourselves at a particular juncture within the writing process. And this is the first step in understanding our stuckness.

But external forces are also in play. Nobody familiar with contemporary academia needs an explanation of the soul-crushing demands on our time from the ever-expanding contours of the world of the academic. Teaching (and teaching preparation), administration (and the mission creep of bureaucracy), student support (and the explosion in special circumstances), marking (and the invidious influence of ChatGPT et al), impact (for scholars required to demonstrate real world influence of their research) and promotions (the arcane conundrum of what needs to be done at which point in one's career, for how long, and to what extent ...). We do not have control over these aspects that make up the job of 'academic'. Undeniably, they devour our time. But we do have control over our attitude towards them and, crucially, we must accept that we are 100 per cent responsible for how we manage the relationship between them and our own research and writing.

From this, I suggest that in order to begin to answer the question, 'What am I stuck on?', we must first diagnose the nature of the problem of stuckness that we face: is this an internal issue that we are experiencing about the writing process, or is it an

external influence robbing us of the necessary time to research and write? Of course, the two are not mutually exclusive and the reasons for our stuckness are often multiple and compounding. But, before we can begin a process of unstuckness, we need to understand why we are stuck because the strategies for unsticking ourselves are multiple and varied. Moreover, as I discuss further below, different strategies are required at different stages of our career.

On external pressures, it is all too easy to become overwhelmed by all the parts of the job that are not research because they are highly time-sensitive in ways that research is not. Of course, there are research and writing deadlines, but these are very fluid in academia as any journal editor or compiler of an edited collection will testify! The deadlines for all other parts of the job are either non-negotiable or come with immediate and profound consequences if they are missed. Rarely is the same true for research and writing. As a result, it is all too easy to be driven by the imperative to meet the red-line deadlines, and research and writing invariably suffer. But given the incomparable nature of the tasks when seen as a series of deadlines, I suggest that we need to think about the job holistically and not in terms of deadlines.

I propose instead that we think in terms of our finite time and how we manage that time relative to what our priorities are. The research and writing process

takes an inordinately long amount of time. As a thought experiment, consider the following: if we make our research the top priority, how much time do we estimate the next writing project will require to deliver on all aspects of the writing process? Think about breaking that process down into bite-size tasks – refining the core idea as original and significant; articulating the research problem well; situating the problem within existing literature (has it been done before/where am I adding value?); drafting robust and well-designed research questions; specifying what type of research is required to answer the questions and how it is to be conducted; developing an appropriate method; estimating time for the research itself; estimating time for deep thinking with the research results; writing up; refining and honing; revising the research problem and questions – are these right for what has been found out?; what revisions of approach or substance are required?; testing the work and seeking feedback before submission; and, finally, tackling the entire submission and peer review process.

This exercise is valuable in numerous respects. First, it gives an overall sense of how much time we require to protect in order to deliver on this research project. All other time devoted to all other tasks must first accommodate this research time commitment. Second, we have started to eat the elephant, so to speak – ie we cannot

expect to devour the pachyderm in one sitting; we must proceed in bite-size chunks and measure progress from there. And third, this exercise re-orientes our mindset from being deadline-driven to focusing on time management. It forces us to confront the reality of how much time it takes to go from idea to output, to appreciate how much work is needed and to recognise that the ‘actual writing’ is just one part of a much more extended process. Done well, this exercise is empowering: my research is a top priority and it will require X amount of time. For all other tasks, this leaves Y amount of time. I will plan for and execute those tasks accordingly.

I have three final points to make about this approach. First, this strategy only works if we make a commitment to ourselves to protect research time, and this must be non-negotiable. Equally, as the above exercise suggests, we do not need to protect vast tracts of time in order to make research progress. Understanding where we are in the writing process, and which is the next immediate task, helps us to make steady, consistent progress. To my mind, this is infinitely preferable to ‘taking the summer to write’ and losing focus and control of our time. As in all other areas of life, incremental consistency of effort is ultimately far more effective for progress than waiting for enough time to make the next big leap forward, which oftentimes never comes.

Secondly, our aspirations for a given piece of writing are inherently tied to how much time we should devote to any one project. It matters very much whether our idea has potential to become truly outstanding in terms of its original and significant contribution to a field, as opposed to an output that might be a reaction to a latest development, say in case law, and which can at best make an incremental contribution to our collective understanding. The UK's Research Excellence Framework (REF) uses a star rating (4* down to unclassified) to benchmark all outputs across all fields in all departments in all UK universities. These are generalisable descriptors of quality. And, while there is much to criticise about the REF exercise itself, the descriptors are very useful as a benchmark for every researcher to ask: what level of contribution am I seeking to make with this particular output? It is very unrealistic (and unnecessary) for any of us to imagine that all of our outputs will be 4* and 'world-leading'. And they do not need to be. Sometimes (indeed, often), a 2* or 3* contribution might be all that is required for you to give effect to your Research Voice on a given matter. If so, one must calibrate dedicated time accordingly. This is not to deny the pressures of REF and the push from departments to deliver a submission replete with 3* and 4* outputs. We all need a respectable level of contribution in this regard. But, from the perspective of the individual

researcher seeking to develop a portfolio of publications over time, to hone their Research Voice, and to leave a lasting intellectual legacy in their field, it is incredibly helpful to ask of each and every writing project – what is my *ness expectation for this piece? This then directly informs the necessary time commitment. It can also free up time when, for example, we decide that a quick-and-punchy response piece is all that is required. Get it out and move on.

The third point is about guilt. Many of us feel guilty about protecting research time. It is not at all clear why this is so, but it is undoubtedly a widespread phenomenon in academia. There can be few other professions where taking time to do up to 40 per cent of one's job provokes feelings of culpability. By the same token, there are others in our profession who go to the opposite extreme, neglecting the other 60 per cent of the job because they are 'focusing on their research'. Neither is an example of responsible time management. For good or ill, academia is messy and our year is incredibly uneven. No one will manage our time for us. Prioritising time for research is crucial, and that should be guilt-free; but not at the expense of the other parts of the job.

I do recognise that academia is messy in multiple ways. There is the messiness of the moment – such as the overwhelming semester that leaves us feeling that we are drowning – and there is also the messy 'lumpiness' of having a

career in academia. Being an early career researcher (ECR) is harder now than ever before. There are so many demands on the time of an ECR and a combination of pressure to get on and inexperience of knowing when to say 'No' can create a perfect storm that wreaks havoc on research plans. My advice here is to cultivate a trusted mentor who can help you navigate the waters of these early days. Also, learn the power of No and how to distinguish between the 'Hard No' (not now, not ever) and the 'Soft No' (not now, but maybe later). As for the mid and later career academic, the messiness of our trajectory manifests in different ways. A common feature of later-stage academe – especially when we are supposed to be 'professing' – is the *chapter scourge* phenomenon.² An invitation to speak at an event or a conference is often tied to an obligation to contribute to a follow-up volume or a special issue in a journal. There are also invitations to contribute to edited collections which are good initiatives in principle, but in practice can become graveyards where great ideas go to die. Our response to such invitations is another opportunity to engage the Hard No/Soft No option. It is also a paradigm example of where reflection of the *ness of our contribution becomes crucial. If I am only willing to deliver a 2* contribution, then I must make this clear to editors from the outset.

And, in terms of our own career trajectory, we must reflect on how any contribution to which we agree enhances our Research Voice while only committing the requisite amount of time necessary to deliver accordingly. And sometimes it is ok to say: I have nothing sufficiently new to say.

WHY DO I BECOME STUCK?

I have suggested above that it is helpful to identify whether our stuckness is because of external and/or internal forces. I now want to offer a further distinction between being stuck *about* writing and being stuck *with* our writing. In the former case, I have deliberately omitted the possessive pronoun because I believe this helps us to frame more accurately what is at stake. 'Writing' can feel like a monumental – sometimes insurmountable – task because of all that it requires to be done well and because of what it can come to represent as a feature of our careers and, at times, a reflection of ourselves. The very notion of beginning a new writing project is daunting because it is a commitment for the long-haul. Academia does not lend itself to the stream of consciousness writing style, pioneered by Virginia Woolf (although see 'noodling', below). It requires an upfront and extended commitment of time and resources set against an uncertain

2 My thanks to NNS for this terminology.

prospect of success at peer review or among a readership. This can impact significantly on motivation in getting started and keeping going, as well as generating fear about putting oneself 'out there'. This, in turn, can spawn protracted procrastination about beginning (which, itself, is a fear response) and/or a misplaced perfectionism that is the enemy of completion. How often have we told our PhD candidates that the only good PhD is a finished PhD? And then, how often do we fail to apply that aphorism to ourselves?

In a further reflection of the overwhelming nature of modern academia, we can easily fall into the trap of displacement activity: I am so busy this week/month/semester with [... *insert non-writing academic task here* ...] that I simply cannot find the time to write. But it is never a question of finding the time. In life, we make time for what is important to us. If we are not making that time, this tells us something profound about our priorities. This is as true in friendships as it is in academic writing. All of this is to say that we should not fetishise 'writing' as a part of our professional lives.

The challenges are different when we are stuck *with* our writing. We can become stuck at any (and every?) stage of the writing process outlined above. Good academic writing begins with great ideas. But where do our ideas come from? Who or what inspires us? Personally, I find it helpful to think in terms of the stubborn research

problems that perpetually and profoundly annoy me in my field. If I can articulate a research problem within a sub-topic of my field, and if I can demonstrate to myself why I believe that the problem has not been sufficiently tackled in the extant literature, then I am well on the path to designing a new research project. It is the identification and articulation of why this research problem is a stubborn one, for me, that helps me to overcome initial inertia and potential early-stage stuckness.

From there, I think it is also very important to make explicit for ourselves and our readers, what kind of contribution our output is seeking to make to the literature. For example, is this an article about distilling patterns in the jurisprudence of black letter law, or about pointing out missteps in judicial reasoning with potential longer-term consequences? Or is this a conceptual contribution that is suggesting we need to think about the problem in an entirely new way? Or does empirical research bring new data to our understanding of the problem, and if so in what ways do such insights head off the *So What Question*?

It is here that I find the role of the Abstract to be a potential game-changer. Oftentimes, we tend to leave the Abstract to the end of the writing process, almost like an after-thought and simply a summary of the writing work that has already been done. However, I have come to appreciate its role quite differently over the years.

Generally, good quality, effective writing is concise, making every sentence count. George Orwell, in his essay 'Why I write' (1946),³ speaks about the value of precision and clarity of language. He talks about his own attempts to write '... less picturesquely and more exactly...' – towards a truthfulness in the attempt to reach one's audience.

The academic Abstract is the perfect example of this. To initiate a project, first write its Abstract. This should outline the stubborn research problem, the research questions that fall out from this, the idea that you have to 'solve' the problem, the method to be used, the central analysis, and the reach and the limits of the overall contribution in terms of its originality and significance. This can, and must, be refined as the work progresses, but its value supports that process too – revisiting the Abstract throughout the writing process (and revising accordingly) not only helps us to keep on track but it demonstrates a degree of progress in our thinking and our work. On days and weeks when writing feels too much like a chore, revisiting the Abstract can still represent a very important morsel in the exercise of eating the entire elephant. Moreover, it acts as a compass in navigating the new intellectual territory being explored through our work.

A crucial part of academic writing is situational: where does my work fit in with the existing

literature? I find it helpful to think of the works already in the public domain as a slice of Swiss cheese – many areas are covered, but where are the holes? If these holes are research problems, then how can I describe the hole that I seek to fill in? How far across the literature does the hole extend? How important is it to the integrity of the cheese slice? Do we, perhaps, need to create more holes? For me, this metaphor helps to refine the writing project and to inform the writing process itself.

My own attitude to the academic writing process improved dramatically when I started to bring lessons from my personal life to my professional world. At the age of 50, I began to learn the cello. It had been an ambition throughout my adult life, but I was too scared (of what others might think), I was too conceited (to become a beginner at something so late in life), I was too busy (which actually meant, I simply did not make the time), and I felt too overwhelmed (this is such an enormous project and I have no clue where to begin). But I did it. I started. And it was awful. I felt stupid; I felt humiliated to play for people; I felt everyone was better than me; I felt everyone was making more progress than I was; and it felt all too easy to give up. But I did not give up. And the best lesson that I learned was this: you can never break down a task into small enough parts. If you cannot play the whole piece, focus on the difficult passage. If that is too

3 Available via The Orwell Foundation: 'Why I write'.

difficult, slow it down. If that does not work, just play one bar of music. And if that is still beyond you, focus on one or two key notes. Master those, take the win, and build up from there. It is not that you cannot do it. You simply cannot do it, *yet*.

I now use this strategy in my academic writing. If I am stuck on a section, then I focus on the individual paragraphs. If I am stuck on paragraphs, then I look at the level of sentences. If the sentences are not working, I step back again and look at structure. It does not matter how small the task becomes so long as there is some progress. I tell myself that it is not time worry yet about the bigger picture and the longer-term goal. Progress is progress and it is to be celebrated whenever, and however, it is made.

An opposing strategy can also be drawn from music, which is the practice known as ‘noodling’. To noodle is to play one’s instrument freely, experimentally, and without regards for a score or a predetermined sequence of notes. In similar fashion, it can sometimes help to free one’s self of the formal constraints of academic writing and just ... write. Let it bubble out of you as long as the words keep coming. They can be corralled into an academic formalistic style and structure in due course. The objective of this technique is to promote ‘flow’ – the experience of being fully immersed in a task and unconstrained. Those who

are interested in the psychology of flow can read more at source: Mihaly Csikszentmihalyi, *Beyond Boredom and Anxiety* (1975).⁴ It is an amazing state of mind to experience.

Towards the end of the writing process, we will often see our old friend Perfectionism raise its impeccably groomed head. This is to be welcomed if it supports the refinement of our arguments, the articulation of the nature of our originality and/or the depth of the significance of what we are saying, and certainly if it helps to tighten the rigour of our methods and the shape of the output overall. But Perfectionism that cloaks fear dressed up as a commitment to quality must be resisted at all costs. We would never permit this in our PhD candidates, so why tolerate it in ourselves?

If we fear the reaction of readers, then anticipate their objections in our writing. If we fear missing a development in the literature, then deploy suitable caveats. If we fear that we have got the issue ‘wrong’, take comfort that we can always change our minds in a future publication. Our Research Voice should never be static and blindly unwavering; we have the power (and the duty) to change our minds if better analysis and arguments are put forward in the public domain. But this will never happen if we fear entering the public domain ourselves.

4 Mihaly Csikszentmihalyi, *Beyond Boredom and Anxiety* (Jossey-Bass 1975).

HOW CAN I BECOME UNSTUCK?

Let us begin to tackle this last question by continuing the examination of the challenges of perfectionism. It can be easy to demonise perfectionism and even cast it as a character flaw in an author, but there are many drivers of perfectionism that align extremely well with the goals of academia; these include, a commitment to high standards, a desire to make a meaningful impact in the field and beyond, and a source of next-level creativity through the contributions that we make. In her book, *The Perfectionist's Guide to Losing Control* (2023),⁵ Katherine Morgan Schafler challenges the caricature of perfectionism as the enemy of productivity and instead suggests that we embrace the concept of 'adaptive excellence' that honours high standards while acknowledging the inherent messiness of the human condition. This applies very well to the writing process. Instead of allowing perfectionism to cripple our actions through excessive criticism, Morgan Schafler encourages us to distinguish between 'destructive criticism' and 'constructive feedback', something all academics benefit from when they are open to receiving it. Learning to recognise the difference between the two is a crucial professional skill.

This brings me to the role of peer review, which can take many

forms. A very simple technique that we might not immediately associate with peer review is to make the internal process external from time to time. In other words, if we get stuck, it can help greatly just to verbalise the challenges to a close colleague or friend. Clichés are clichés because they hold fundamental truths. Talk about your work to someone as if you are explaining it to a grandparent. Articulate why you are stuck – you might be surprised by how the problem reveals (and resolves) itself. This is a form of peer review. We can do this at all and any stages of the writing process. We tend to think about peer review as the final (damning?) judgment of journal peer reviewers (and the insidious impact of Reviewer No 2), but everything turns on how we *act* when faced with peer review. Here, I deliberately avoid the term 'react' which can be immediate and unreflective. Instead, I am talking about considered action in light of peer review, however painful it feels when first received.

Once again, I am drawn at this juncture to a lesson from my personal life. I have come to understand that when we receive negative input from someone about ourselves (or our work) it is one of two things: either it is true (in which case, deal with it), or it is nonsense (in which case, ignore it or laugh it off). As to negative peer review, either the reviewer has a valid point (and the work could be

5 Katherine Morgan Schafler, *The Perfectionist's Guide to Losing Control: A Path to Peace and Power* (Penguin Random House 2023).

improved) or it is misguided or a misunderstanding (in which case it can be rebutted or politely rejected on good cause shown).

In my capacity as an Editor-in-Chief of an international journal, I always remind authors that they are not obliged to take on board all peer review comments. Indeed, with two or more reviewers it is sometimes impossible to do so. Rather, the task is to treat the peer review as either destructive criticism (to be rebutted or rejected) or constructive feedback (to be welcomed and incorporated). A reasonable, well-justified response avoids the output getting stuck or being rejected outright. And, even if the final decision is not to publish, there is always a valuable lesson to take forward in further refining and honing the work and, ultimately, one's Research Voice. And let us not imagine that we are simply passive actors in these processes: we are entitled to receive productive and constructive feedback on our work, which should be taken in the spirit of adaptive excellence outlined above.

As already noted, the writing and publishing process can take a long time. But we ought to ask: what is our own relationship between our writing and time? More specifically, how do you respond to a deadline? For those who fear disapproval, a deadline can be a great motivator. Some of us work best under pressure, so the deadline provides the impetus to get the writing over the line. For those who fear chaos more than disapproval, however, the deadline makes little difference to

the writing process. They would rather miss the deadline than give rein to a chaotic output in the public domain.

The common point about the role of time and stuckness is this: cultivate your own healthy relationship with the time you need to complete your writing. Use deadlines to your advantage, if they work for you. If they do not, examine what are the motivators and environmental conditions that drive you to research and write. Do not seek to carve out acres of time if the result is just that the research and writing process expands diffusely to fill the time. Experiment with different engagements with time: dedicate fixed pockets of time to complete small research and writing tasks. Explore whether you work better by 'eating the frog' first thing in the day or week or whether dedicated undisturbed days best promote your process. Whatever works for you – protect that time come what may. If all else is failing, go back to your Abstract to remind yourself of your purpose, to check you are still on track, to assess where you are in the writing process, and maybe to change tack a little if you have veered off course.

As the reader will have hopefully realised, much of my commentary in this piece is diagnostic in nature. I have offered ways to think about and approach the writing process with a view to better understanding *where* we are stuck and *why* we might be stuck. As a final point in answering the current question:

‘How do I become *unstuck*?’, I would like to offer one further layer of analysis. This is to invite the reader to consider the notion of stuckness at both the micro and the macro level of what we do when we write for an academic audience.

Examining stuckness at the micro level is about forensically exploring which sub-part of the entire writing process currently confronts us. Are we stuck on the big idea or with giving expression to the research problem, or articulation of the research questions etc? This level of close scrutiny works as an accurate diagnosis of the nature of the stuckness itself. We cannot hope to ‘fix’ a problem unless we understand it in its fundamentals. This micro analysis promotes this process of deep understanding.

At the opposite extreme, a macro analysis leads us to ask: how does this particular output refine and give better expression to my Research Voice? Literally, this is about asking ‘What do I want to say?’ but it does so in the context of a much wider sweep of outputs and publications – put simply, what is the cumulative effect of this academic’s contributions to the field? How does this particular output add to that intellectual legacy? This is not to suggest that everything we write and publish must be part of a connected whole. Rather, it is to encourage self-reflection on where and how any given publication fits into the overall picture we are painting in our field. This is an important exercise for various reasons. If

we are indeed seeking to build a body of work around certain ideas/themes/insights/data, then it can be very helpful in overcoming stuckness to ask: what does this current output need to do to contribute to the bigger picture? In contrast, if our current project is an outlier, not connected to any existing or emerging intellectual narrative, then what does it have to do to make its unique, discrete, one-off impact in the field? Do that and no more. Do not expect more of this piece of writing. Let it go once you have sufficient confidence that it has a reasonable prospect of doing its work.

These last points speak to the process of telling the story of our career. Instrumentally, this is vital for career progression and promotion. Intellectually, there is even more value to be had. Others in this special section offer thoughts on why we write. Self-evidently, we each have our own answer to this question. But collectively, as an academic community, I believe we write because we have something to say about making our understanding of the world and the human condition *better*. This always starts with an idea. If we are not excited about our source ideas, we are sowing the seeds of our own academic discontent. If we are not excited and invigorated by the kernel of our idea, this might actually be the source of our stuckness. In overcoming our stuckness, we need to reveal what is truly at stake within ourselves.

CONCLUSION

This piece attempts to analyse the myriad reasons why we might experience stuckness in academic writing. I offer a three-dimensional matrix of approaches to understanding the problem, being:

- identify internal v external factors driving stuckness;
- distinguish between being stuck about writing v being stuck with our writing;
- engage in micro v macro analysis of the processes of writing and publishing to overcome stuckness

But I misspeak in talking about ‘the problem’ as if stuckness were a unitary thing. As the discussion demonstrates, it is quite the opposite and it manifests in very particular ways to each individual. Accordingly, my ambitions for this piece must remain extremely modest. If my reflections provoke thought and reflection on the writing process, I will consider that my work here is done. If my musing promotes dialogue, I will have exceeded my own expectations. If my advice helps a single colleague to overcome stuckness, then my heart will sing.

As a final point, I feel I should reflect on my own experience of writing this contribution: did I experience stuckness? Initially, yes, when I received the invitation because I was not sure what to write. I needed time to come up with my idea. I was presented with an invitation to discuss ‘Why

do I write?’ but I came to realise that actually what excited me more was the question: ‘Why do I not write?’ The reason why this question excites me is because it has haunted me throughout my career. My most painful and enduring experience of stuckness was with my PhD. It took me almost eight years to complete (back in the day when universities did not care about completion rates). It hung like a millstone around my neck while I started a new lectureship, developed teaching, published stand-alone articles, got involved in committee work, taught Business Law (!) and threw myself into far too many other projects. This was all displacement activity. Valuable for my CV, but a distraction from what I really wanted: the PhD.

In the end, I took drastic action and left one institution for another. I do not recommend this as a strategy! But what I learned was this: we choose our priorities by our actions. I eventually finished the PhD and to this day it remains the professional achievement of which I am most proud. My stuckness had been a fabrication of my own making. I vowed never again to put myself in that position regarding my research. This piece is a reflective account of some of the strategies that have worked for me over the years to honour the vow I made to myself.

What are you stuck on?



Academic writing: craft, scholarship and finding the time*

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The questions posed when I was first approached to write something for this series were intriguing. One which I take first is the question of why I write. The answer to that question I found relatively easy to articulate. The second question was ‘How do I write?’, but a better question might be ‘What makes good writing?’ or ‘How do I go about making sure my writing is good?’ This is much more multifaceted than why I write because writing is both – for me at least – a process of honing my thoughts and the craft of writing. It is simultaneously the process of thinking and of recording in an easily understandable way the outcome of that thinking. I take that second. Lastly, I take the question of how I make sure I have the time and space to write.

WHY DO I WRITE?

Why do I write? I write in part to learn and in part to communicate. It was intellectual curiosity that drove me to do a doctorate. I had finished my undergraduate

degree in Oxford, the BA (Hons) (I did pay the nominal fee later to upgrade to an MA) and the BCL. I had been introduced to the law of restitution while doing the BCL and sat in seminars and tutorials with Peter Birks. Inevitably, what I ended up doing my doctorate on had only a passing resemblance to the topic that I first discussed with Peter, although ‘Mistake’ held pride of place in both titles. As I was doing my doctorate, I taught contract for the Queen’s College, and land law for Mansfield College and St Peter’s. However, to teach I had first to understand, and that was the initial impetus for the DPhil – a desire to understand. How does mistake (later mistake of law specifically) work in the law of contract and unjust enrichment and why?

David Feldman has persuasively argued that, ‘Scholarship involves curiosity about the world, which may be stimulated either by the need to achieve a goal or by desire to understand something for its own sake.’¹ Of course, he went on to explain that there is a bit more

* First published in *NILQ* 76.RS (2025) 40–49 on 11 March 2025.

1 D Feldman, ‘The nature of legal scholarship’ (1989) 52 *Modern Law Review* 498–517, 502–503.

to scholarship than just that, but, in my case, it fits very well – a desire to understand for its own sake, coupled with a desire to communicate that understanding to others. Indeed, Feldman went on to explain that the attempt to understand should be guided by three ideals. First, a commitment to methods of investigation best suited to satisfying that curiosity. Secondly, self-conscious and reflective open-mindedness and, lastly, a desire to publish.²

Where am I going with this? We can all get curious about stuff, but it doesn't necessarily turn us into academics. In fact, I got caught up in the 'lemming run' to the City at the end of my second year as an undergraduate. Big books landed in my pigeonhole at Corpus Christi College giving information on qualifying as a solicitor and barrister. All around me, my friends were applying to Slaughter & May and other City firms. So did I. They got jobs. I didn't. I'm glad I didn't. I would have hated it. It's just not me. Academia is, however, most definitely me. The point then is one of identity. Personal identity is a difficult philosophical question with different overlapping sub-issues. One of the first questions, however, we might pick out is one of characterisation. My personal identity in this sense amounts to the traits I adopt to make me who I am. We all have multiple identities in this sense, some of which change over time and some of which do not. My identity can

be contingent and temporary. This creates philosophical questions about whether I am the same person over time, but the important thing for present purposes is what those traits and attributes are and how they are important to me. I am a father and a husband, but obviously there was a time when I was not a father or a husband. I am a Newcastle United fan (not as hard work as it used to be) but also an academic and a scholar in the sense Feldman means it.

What does it mean to write to learn? Obviously, I must read something first, but to really understand the law – why it is the way it is, whether it should be, or whether the case or journal article has it either descriptively wrong or normatively so – I need to write. I cannot think without writing. It is the act of putting something on paper that somebody might read that forces you to think, 'What do I want to say?' and 'Does this – this rule, case, policy whatever it may be – actually make sense?' and then 'Why?' or 'Why not?' All of this can then form the basis for that most common of academic staples, the journal article, or the book chapter or indeed the monographs I have written. In each of these cases I have set about my task with the intention of learning something or discovering something new and then packaging it up in a way that might (or not, but hopefully might) inform or persuade my reader. However, that cannot really explain the reasons for writing blogs, of

2 Ibid 503.

which I have written a few, or for practitioner journals, or even, dare I say, student handouts. There the motivation is purely to explain, inform and persuade. I have already worked out what I think, and now I only need to persuade you and maybe alert you to where the detail may be found.

Who are you? I have said I am writing for you, but who are you? You are anybody who might be interested. Fellow academics, students, policy-makers. Why do I want to write for you? Feldman points to two contrasting models: individualism and communitarianism.³ Individualism prioritises the individual and therefore puts a high value on the ability to choose for oneself what to investigate and how to go about it. Communitarianism provides for the group to pursue goals taking precedence over those of individuals. Of course, one can wonder what those goals might be and how they can be identified separately from individual goals. Communities do not have ideas; only individuals do. At the same time individuals can only achieve anything by being embedded in a community. We do not operate in isolation. I can only test ideas against others' ideas. That requires me to know what you think and what your ideas are. At the very least it is only fair to return the favour. You need to know what I think. As Feldman has also

argued, 'For scholars to operate as a community, communication is essential.'⁴ That communication is what builds a community, where we share and develop ideas and seek the truth together. My understanding is a private good. It gives me satisfaction to have learnt something, but it is also a public good. The pursuit of understanding for the benefit of all is, as Feldman has also observed, one of the values justifying academic freedom (amongst other things, my ability to indulge my curiosity as opposed to being told what to look at) in a liberal system.⁵

It is that which drives the need to inform the academic community and to teach my insights to students and critically to engage with anyone who might be interested. In my welcome message when I took over as President of the Society of Legal Scholars in October 2024, I observed that nobody wants their research or scholarship to disappear into the aether unnoticed. We want to make a difference, or why are we bothering? It is that which drives the journal articles, blog posts, practitioner articles, written evidence to a House of Lords committee on the Property (Digital Assets etc) Bill, responses to consultations and so on. I write because I want to learn and, by doing so, make a difference.

This may all seem a little idealistic in the rat race world of academia we all inhabit with

3 Ibid 507–508.

4 Ibid 504–505.

5 Ibid 508.

the pressure to publish REF-able 3* and 4* publications (that is, publications assessed under the Research Excellence Framework), chase grant money, achieve ‘impact’ and teach ever higher numbers of students, all as our research time and budgets in more and more institutions are cut. We find ourselves running very fast to stay where we are and even faster if we want a promotion. But, unless we are to give up and do what articulate, well-educated, career-mobile people can do – change our jobs – we need to remind ourselves periodically why we’re bothering.

WHAT IS GOOD WRITING?

Writing as a craft

Liz Fisher has pointed out that writing is a craft.⁶ We are sometimes told that a craft takes 10,000 hours to learn and much of that is on-the-job. It is practice, pure and simple. It should be no surprise, therefore, that I think I write better now than I did when my first journal article was published in 2000.⁷ The finished product, and scholarship like any other craft leads to a finished product – the publication⁸ – looks and reads better than it did 25 years ago. I was rubbish to start with, in fact. Early on, Peter Birks impressed on me the need to write, to put things down on paper. This is what I did

and what I have done ever since, but there was one supervision session in my first year which sticks in my mind. I had written something on contractual mistake, and I remember writing it on my computer at home in Oxford, feeling very pleased with myself. I had made claims that various cases were wrong, that some – rather eminent – commentators had equally got it wrong, and everything needed reforming. On sitting down in Peter’s office in All Souls’ College, I was met with the comment, ‘Well, sometimes you have to get worse before you can get better.’ Ouch. I had let my enthusiasm run away with me. I had over-claimed. I had proven nothing, explained very little and persuaded nobody.

I think I have learnt the lesson. Now I take my time. Everything takes longer than you think. This can be irritating. If it hangs around for long enough, you just want rid of the thing. ‘Somebody, please take this off my hands!’ Be patient though. The temptation is to send it off before it is ready. That, I have discovered, gets me nowhere. It simply comes back from the journal with a rejection or instructions to heavily revise. I haven’t really gotten rid of it at all. Writing well requires you to pay attention to the detail – what does the case say? Why? Is Lord X or Mr Justice Y right? Why? Would it matter if I

6 E Fisher, ‘Craft matters: seven tips for legal scholars’ (2023) 35 *Journal of Environmental Law* 11–20.

7 D Sheehan, ‘What is a mistake?’ (2000) 20 *Legal Studies* 538–565.

8 Fisher (n 6 above) 15.

changed this innocuous fact here? This was precisely what I failed to do in my chapter on contractual mistake. Do not claim too much, therefore. If your material does not support a broad claim, do not make it. Writing it down makes it easier to test these things. My reader can tell if I have hung an entire doctrinal innovation on a single throw-away *obiter dictum*. Too much claimed. If you cannot back your claims up on paper and you cannot point to authority in your footnotes to prove it, then tone down the claims. Having worked all the detail through, however, and decided what you can prove, you must render that detailed argument clear to other people. It really is no use if you understand what you mean, but nobody else does. As Peter Birks also said to me, ‘You are writing for the intelligent lawyer who does not already know the ins-and-outs of the topic.’ His point was that I was not writing for me. I was not writing for him either. All of this takes – and it is worth repeating – time, but the shortcuts are not worth it.

It also brings me to my second point. I try to be aware of my audience. Writing a journal article for a generalist journal such as the *NILQ* is not the same as writing a focused piece in a practitioner journal. The reasonably intelligent, but inexperienced, academic is prepared to put the time into reading an

argument. The practitioner wants the headlines. This in turn is not the same as writing evidence for a committee of the House of Lords. The members of that committee were not even lawyers. Everything needed explaining. Terms I assume lawyers understand had to be excised and so on.

Some things, of course, remain the same. Focus and clarity matter. Inevitably, the clearest explanations require the most work. They take longer. This requires editing. It is easy to start at the beginning and always start at the beginning. This means that the first half of the article gets most attention.⁹ The simplest way to avoid this if you find you haven’t got time to get all the way through is to write ‘START HERE’ at the point you stop editing. Then, when you come back to editing, you can scroll down and know where you left off.

Community also helps. I said something about the importance of community above in the first section, but it is important. I need your help. It is easy to get too close to stuff. I might think something is brilliant (when it is not). Sometimes all that is needed is to set the paper to one side for a while and return to it when I’ve had a break, worked on something else, and have sufficient distance from it. Often, however, somebody else needs to tell me that it’s not fabulous, but rubbish. I religiously make use of other

9 Something my colleague Jo Hawkins warns against too. J Hawkins, ‘Tackling the art of writing: tips from an early career researcher’ (2024) 36 *Journal of Environmental Law* 5–8, 6.

people. And, therefore, I feel the need to reciprocate. I make sure book chapters and journal articles all get read by another pair of eyes before I send them out. Writing out a conference talk or work-in-progress seminar helps. It focuses the mind. You can say a lot in 12,000 words, but you can't fit all of it into 20 minutes. It forces you to think about what's really important.

None of this guarantees acceptance. Often these pieces still come back from the journal, marked reject or with instructions to heavily revise. Particularly when you are early on in your career, this can be heavily dispiriting. It feels like a judgement on you. Not on your work, but on you. I used to take it quite personally, but I have now realised that you simply must accept that there is always a reason why it's come back. It's rare for a reviewer not to have genuinely engaged with the piece. Rare, but not unknown. I did have a piece on the justification for a constructive trust remedy for breach of confidence returned with the comment: 'The author does not seem to appreciate that data protection law is much more important in practice.' Maybe. So what? If I'd wanted to write about data protection, I would have done. Luckily, I had a colleague in the IP/confidential information field who agreed this was nonsensical

feedback. The piece went off again and found a home, largely unchanged, in the *Restitution Law Review*.¹⁰

On the whole though, I take a deep breath and work out why it's not good enough. Sometimes I am trying to do too much. Sometimes I'm making assumptions that the audience understands something (and they don't). Sometimes I think 'What is this referee on about? That's not what I meant at all.' Then I have to remember that is not the referee's fault. It's mine. I haven't made it clear or focused enough.

One of the advantages of not writing the first piece in a series like this is that you can look at what other contributions say. In many ways I appear to be lauding the traditional journal article, and, indeed, I do think it is a useful form of writing. Mariana Valverde argues in the first of this series that the academy has made everyone's writing worse. Is she right?¹¹ She claims that too much work on journal articles goes into some soulless disciplinary machine where we write to a predetermined template. Academics are churning out stuff that explains 'Here is what Dr X says. Here is what Professor Y says. I have found a gap here ...' I suspect that some of the least readable such work is because the author has lost sight of the point of the exercise and

10 D Sheehan, 'Information, tracing remedies and the remedial constructive trust' (2005) 13 *Restitution Law Review* 82–101.

11 M Valverde, 'How the academy negatively affects writing practice' (2025) 76(RS) *Northern Ireland Legal Quarterly* 1–8.

is writing a ‘REF-able’ piece, not necessarily the piece they want to write. We come back to the rat race. They feel under pressure. Maybe someone has told them they don’t write enough, or maybe it’s just that general pressure to publish or perish.

Valverde argues that good writing is about storytelling and that academics have lost the ability to tell stories, even if they read, heard and told them as children. Even as it reminded me of my own former poor efforts at writing science fiction or fantasy, it also reminded me of Peter Birks again. Peter was forever telling stories.¹² One such was the window-cleaner story.¹³ I have dirty windows. A window cleaner stops, sees the mucky windows and decides to clean them. I spot him coming up the driveway with his stuff and dive behind the settee. He cleans the windows, and I refuse to pay. The idea this story was supposed to illustrate, that of free acceptance – that, if I freely accept a benefit, I cannot complain if I have to pay – has been heavily criticised. I have rejected it.¹⁴ However, the point is that by using this – and other – stories, Peter managed to bring the subject alive, to illustrate his point in ways that are clear and easily understood, and indeed he could

use such stories to suggest what the answer should be and, possibly most importantly of all, why the reader should care. Such stories are not always necessary. Indeed, they might be misleading. Not every mistaken payment is a case where the shopkeeper realises almost immediately that he has given me change for £50 instead of £20,¹⁵ and yet that was Peter’s go-to story about mistaken payments, and it draws us in. Valverde may or may not have been talking about stories in this sense, but she certainly was talking about drawing your reader in. This illustrates the vital point about good writing. The reader needs to know why they should care. It is quite hard to explain this to them if you don’t care.

Working out what I want to say

This is remarkably difficult, but it ends up with one of Liz Fisher’s tips. Fidelity to the material matters.¹⁶ Partly, that involves my advice earlier not to claim too much, but it also illuminates research methods.

A lot of people have clear research methodologies. Particularly these days, scholars are often taught research methods. Increasing interdisciplinarity means that PhD researchers and masters students are compelled to do a set of

12 See T H Wu, ‘Storytelling in the law of unjust enrichment’ in A Robertson and T H Wu (eds), *The Goals of Private Law* (Hart 2009) 457.

13 P B H Birks, *An Introduction to the Law of Restitution* revised edn (Clarendon Press 1989) 265.

14 D Sheehan, *The Scope and Structure of Unjust Enrichment* (Hart 2024) 107.

15 P B H Birks, *Unjust Enrichment* 2nd edn (Oxford University Press 2005) 6–7.

16 Fisher (n 6 above) 15–16.

courses on social sciences research methods – either qualitative, quantitative or both. The ESRC demands it if it is funding your PhD.¹⁷ Doctrinal lawyers – and I count myself as such – were often never taught such things. As first-year undergraduates we might have been given some pointers on reading cases. This is the head note; this is the judgment; this is what *obiter dicta* are and so on, but by the time we get to doctoral study it is just assumed that we know how to read cases and articles, and so we never see courses in doctrinal research methodology. This, of course, feeds into the way in which we write. As I've said, I write to understand. Some people, I think, already know what they want to say before they ever put pen to paper. I am not that person. The act of putting things on paper helps clarify things, but it also means that my research methodology is a bit of mystery to me. I read stuff. Then I write stuff about the stuff I've read. An ex-colleague at the University of East Anglia once said to me that she had no idea what her methodology or writing technique was. She started writing, and it was like moulding clay until suddenly something popped out that looked OK. Rather embarrassingly, this is probably true of me as well. Sometimes, I think it should not be this way, that my way of working and writing suffers from some obvious methodological flaw. If so, fortunately the only people who

might have noticed are reviewers of grant and fellowship applications who must see something truly awful in my lack of any easily expressible methodology (or maybe the applications are rubbish for other reasons).

I get interested in a topic. Sometimes I read something where somebody says something I viscerally object to. Take my recent interest in the private law of crypto-assets. The Law Commission spent a couple of years producing a report on this – published in July 2023 – and they're wrong in my view about almost everything they say. That does make it easier. I have a target, and I can explain why each of their arguments in favour of control-based title of crypto-assets is wrong. Sometimes, I have found I already have a strongly held view or set of views built up and developed over years. This also makes life easier, as it did in writing my latest monograph, *The Scope and Structure of Unjust Enrichment*.¹⁸ In that case, I only need to work out how to structure the book or the paper.

However, if I start off not really knowing what I want to say or even having a tightly defined research question, it's not like that. This, I think, is what my colleague was getting at when she said she was just moulding stuff until suddenly it looked OK. That is not a good way to explain it, certainly not in the methodology section of an application to Leverhulme

17 ESRC, *Postgraduate Research and Training Guidelines* (2022) 5–12.

18 Sheehan (n 14 above).

or the AHRC. I start reading. I read the cases. Then I read what other people have said. I read the statutes and regulations. I look to understand the context and often how it is dealt with in other jurisdictions. That gives me a sense of where the contours of disagreement/agreement are and what we do not know. Identifying this is not easy. It requires thought to identify what the hard questions are. Sometimes I have thought that, if there is a debate between X and Y, you can simply identify with one side or another, but that is not enough. Once it is written down, I can see that there is nothing much that either X or Y has not already said. That triggers a process of reading more; is there another approach that can be taken? Are there questions that have not been asked? After all, legal doctrine can be approached in different ways. It can be approached internally or externally, descriptively or normatively. If you peer closely enough, the hard question emerges. Don't dodge it. Admittedly, there is no single right way of doing research, but, ultimately, you do need fidelity to the material. The methods you want to use will determine the materials you need, and the materials you have will constrain the methods you can use, the conclusions you reach and what your writing can and cannot claim. This is good scholarship then. Feldman has observed, as

we have noted, that scholarship depends on a commitment to the use of methods of investigation best suited to 'satisfying that curiosity'.¹⁹ It becomes an iterative process. However, fidelity does more than just lay open the questions. Ultimately, it determines the answers and how we ought to express them, and this returns us to the question of craft and the importance of clearly expressing what the material allows for and only what it allows.

FINDING THE TIME

How do we carve out sufficient time to write? There are many possible ways to do this, but one thing is to find the time of day when you are most productive. You will know when that is. Some people swear by the Pomodoro technique²⁰ whereby you set a timer for 25 minutes, and after the time is up you can take a break. Some law schools may offer 'Shut up and Write' sessions where you all come together collegiately for a couple of hours with the express intention of sitting in silence writing. In terms of making the most of your time there are different ways to go about things.

The point though is that we need to make the most of the time we have and find ways to maximise that time. There are constant competing pressures from teaching preparation, to the student wanting

19 Feldman (n 1 above) 503.

20 [The Pomodoro Technique](#).

a 'quick word', to administration, form-filling and so on. I think that in many ways I had an easier ride as an early career researcher all those years ago than people starting out now. There were fewer demands on the time, in that there was a less rigorous attempt by university management to control how we worked, what we did and when we did it. Marking deadlines were less fierce; form-filling was less fierce. There is more to do in that sense now, and the threat that it will grow to fill the space available is greater. And yet the consequences of allowing it to do so are more severe. If you are on a teaching and research contract and you do not write your 'REF-able' outputs, the likelihood of consequences has grown. The pressures have grown and by the same token the complaints about workload. That question of workload is a larger one than can be accommodated in this piece, but I do have one important reflection on how to do yourself some favours.

I think of myself as a good academic citizen. I do reviews for academic journals. I spend time on work for the Society of Legal Scholars and so on. Often, that is not properly reflected in the small number of hours I am work-loaded for citizenship. I do it because it's valuable and useful and someone should. However, I do not do everything. I make no attempt to do so, and I do say 'No'. The first – and possibly only – lesson is: learn to say 'No'. Only by learning to say 'No' some of the time can you have any

hope of protecting your time. Nor can you be legitimately expected to say 'Yes' to everything, so don't feel guilty. The irony of all this is that I can write this piece on writing because over time I have become highly efficient at managing my time. I have been teaching things for decades that, being honest, don't change massively from year to year. I have my REF submission. However, I would say to many an early career researcher that if they were asked to write such a piece as this, reflecting on writing, to say 'No'. There are way too many other things for you to do, valuable and scholarly things that will help your career. Writing this won't. And that's a pity. I started this piece by saying that I had found the questions intriguing. I think different people's responses are even more intriguing.

CONCLUSION

Ultimately, however, you must remember what the point of the exercise is. Know for whom you write and why you write. The academic's job is a writing job. Try to care about the writing for its own sake. If you care about it for its own sake, you will put the time and effort in, you will carve out the time you need, the scholarship will be better and, trust me, the REF submission will take care of itself.



The company of long-distance co-writing*

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Alan Sillitoe's short story *The Loneliness of the Long-Distance Runner* (WH Allen 1959) relies on the metaphor of running to express the solitary position of Smith, the working-class teenage protagonist, in his struggles against the ruling elite. My own (modest) experience of running is absolutely the opposite: it is Parkrun, a weekly free 5km community event, in which runners (and walkers) of different abilities run together. Parkrun began in the United Kingdom (UK) in 2004 and has now spread to 23 countries. My fastest Parkrun times are when I run with someone else. What I want to share is how adding co-writing to my writing practice has opened up a new set of experiences.

Writing used to be a solitary and sometimes losing struggle, against, at different times, lack of inspiration, competing pressures, perfectionism and insufficient commitment. Co-writing has turned writing into a sometimes joyful, sometimes workaday habit in which it feels I win every week, and, what is more, do so without (nearly so much) pain or distress.

Before I say more about co-writing, I want to acknowledge

that co-writing is of course not for everyone, and not for every piece of writing. A future employer, a current employer from whom you seek promotion, or a research funder all might reasonably ask questions about your professional or academic independence. If your career stage means that you need to show such independence, then sole authorship is a splendid way to do that. If you have a burning idea that you need to get 'out there' and the time and discipline to write it up, then there's no need to look for a co-author. If you really relish solo writing and thrive as a writer, then perhaps co-writing is never for you. There were times in my career – and there are pieces of writing still (this being one) – where I needed or need to write as sole author.

But what I want to do here is to offer some thoughts from my own experience for anyone considering co-authorship. The best things I have written, and the most fun I have had writing, have invariably involved co-authors. It goes without saying that these are just my thoughts, based on my way of doing things, and my reflections, looking back over the 30 years in

* First published in *NILQ* 76.RS (2025) 50–58 on 20 March 2025.

which I've been co-writing. I've structured them around the age-old questions: 'what; who; how and where; and why'. Throughout the answers to those questions, I have threaded some pitfalls and mistakes I have made – and what I learned from those, and how I now do things differently – in the hopes that others might learn from them.

WHAT IS CO-WRITING?

For me, co-writing is not the kind of writing where one person writes a part of a longer piece (some chapters in a book, some sections in a chapter or journal article) and another person (or people) writes the other part or parts. That kind of writing has an important place in the academy too, and I'm proud of the chapters I have contributed to edited scholarly collections, special issues of journals and textbooks. But this is not what I mean by co-writing. For me, co-writing is a collaboration where both (or all) parties take ownership of (and perhaps actually write and/or edit) all of the text. When done well, the single 'voice' in which the writing 'speaks' to the reader is just that: one voice. It's not possible for a reader to tell who wrote which paragraphs, sentences or words.

One of the longest-running co-writing collaborations I've had is with Jean McHale: we were once asked (for the purposes of the UK's Research Excellence Framework exercise) to say who was responsible for writing which chapters of one of our books. We

were literally unable to do so: every chapter, every paragraph, every sentence was the product of us both sharing verbally and writing up our thoughts. The (older generation than us, male) person asking the question did not believe us. If – for whatever reason – you need to be able to show which thoughts and ideas are yours, as opposed to the other person's, co-writing isn't the best way to go.

WITH WHOM DO I CO-WRITE?

Co-authorship is not always easy, and I do choose carefully with whom I co-write. I suppose you could think of my co-authors as falling into three groups: those with greater experience than I have or had at the time; my peers; those with less experience than I have or had at the time. The latter group includes many students, not only research students, but also undergraduates.

I learned a huge amount by co-writing with people with more experience than I had at the time. Of course, I learned about the law, legal analysis and legal argument; about different jurisdictions; and about literatures with which I was less familiar or unfamiliar, especially in different disciplines. But I also learned about the craft of writing for different academic audiences. For example, writing with Louise Trubek taught me how to make socio-legal arguments for non-law journals, where you have just 6000 to 8000 words to convince

your audience, rather than the 10,000-plus words of law journals. By myself, I simply could not see how to make the argument in half the words, yet remain persuasive and based on evidence. And I also learned something about academic comportment: how to respond when you receive a ‘revise and resubmit’ or ‘reject’; how to get the most out of presenting writing-in-progress at conferences; how to organise my time to make sure writing didn’t get squeezed out by other activities; how many ideas are needed for a good case note, book review, book chapter or journal article (it is fewer than one might think).

Some of my early co-written pieces (and some later ones) were the product of dinner or staffroom conversations, some with colleagues; others with my Significant Other, Philip Rostant. It would have been possible for me to write up on my own the arguments that had been hammered out over wine or coffee, but it would have felt quite wrong to do so. Co-writing with my peers, who are at a similar career stage to me, is my ‘go-to’ default for co-authorship. As academic equals, it is not difficult to ensure that both or all our contributions are equally valued and equally credited in the co-writing process. Sometimes, however, it is difficult to reconcile different styles. David Orentlicher and I have very different approaches to comparative law, which resulted in very different written prose in initial drafts. It required a great deal

of compromise and mutual respect to produce our co-authored single-voice ‘Editors’ introduction’: it is a better piece of writing for it.

When I co-write with those with less academic experience than I have, I do spend a lot of time worrying about equality. I think it would be easy to inadvertently exploit someone with less academic experience, especially in today’s academy where it is so difficult for early career people to get a foot on the ladder because of all the unrealistic (and, frankly, sometimes soul-destroying) expectations placed on them. I was not exploited myself – ever – but I know of plenty of people who have been. Just being aware of the possibility of being exploitative isn’t enough to guard against it, of course, but it is a bare minimum.

The three things that I (now) do to try to be fair to my early career co-authors are: maximum transparency, involving a third party and author-ordering. By maximum transparency, I mean that, when I approach a possible co-author at an earlier career stage, I try to set out in as much detail as possible what I am proposing. I explain what specifically I envisage they will do, what I envisage I will do, what the timeline is for each, and – if this is the case – where there is scope for negotiation. Second, if at all possible, I like to involve a third party, not least to allow for a face-saving way for the other person to decline the offer. Usually, this takes the form of ‘don’t answer straight away: ask

your (former) PhD supervisor/professor whether they think you should take up this offer, given your career trajectory and what you need to do to reach the next stage'. If I am the PhD supervisor, that's not so easy, but sometimes there is a co-supervisor or other senior person around. Third, I think carefully about author order. My default is alphabetically by surname: for most legal scholars that denotes equal contributions. I cannot think of a circumstance where I put my own name before an early career academic's name instead of alphabetical order. But I have put the other author first in some instances: for example, where all the data on which the publication was based came from that author's work, and where a student in a group of summer interns who delivered the required outputs (some detailed law and policy briefs) persuaded me that we should write a journal article too, and did most of the legwork to make it happen.

Writing with students involves a whole extra level of possibility for exploitation. I'm ashamed to admit that some of my student co-writing in the past has been on the basis of unpaid work on their part. It was really fun to realise that a first year LLB tutorial based on a recent case could become a case note, by simply writing up what had been discussed during the tutorial and submitting it to a peer-reviewed journal. Four of the 12 students in the group agreed to do so, during the ensuing Christmas

vacation. I naively thought that having their name on a publication would be worth it for the relevant students, despite expecting them to give their labour for free. That was wrong: and I won't do it again. I learned this the hard way from a black woman student summer intern who was being paid below minimum wage on my (then) university's summer student research experience scheme, and made herself ill by also working night shifts in Nando's to pay her rent.

Now I deploy one of two models for ensuring students with whom I co-write are paid for their efforts. One model involves payment in money. I now spend what feels like an inordinate amount of my time trying to source funding for paid student internships. These used to be relatively easy to secure as universities had internal funding schemes for summer research fellowships, or departments would allow research funding to be used to pay research assistants. (I rarely use a research assistant just to 'fix footnotes', although that is also fine, it just isn't co-writing.) Now student interns are fewer and further between, and I find that I am often diverting funds that I have earned through consultancy activities into hiring students. Sometimes the sources are unexpected: a current project with Eraj Haidari involves British Council and Overseas Development Agency funding for transnational learning, but will result in some co-written blogposts.

The other model involves payment in academic credits. I have yet to bring this fully to fruition, but Francesca Strumia and I have set up a module in which students co-produce knowledge in projects with staff, and do so for credit, as part of their degrees. In the current UK higher education climate, this seems to be the only ethical way forward, if we want to bring our students 'behind the curtain' of academia, and help them understand what it is like to work in a university, and what we do all day when not in front of them in a lecture hall or seminar room. When the right opportunity presents itself, I will co-write with a student who enrolls on this module.

Apart from students, I tend not to co-write with colleagues in my own department. I'm not sure exactly why that is, but I think it is probably because I am always looking for both a shared interest in the subject for the writing and a different perspective or quality to bring to the content and to the writing process itself. Colleagues in my own department tend not to work in my specific topics of interest (very few law schools have this kind of focused expertise because of the need to cover the 'foundations of legal knowledge' and to offer a range of choices in their degree programmes). By definition, (almost all) colleagues in my department share my disciplinary perspective. That's why I've entitled this piece 'long distance' co-writing: my co-writers are almost all at a distance. They are

mainly dispersed across mainland Europe, but some are in (the island of) Ireland, and others in North America. I would love to co-author with someone from a completely different part of the world: perhaps I will be able to enjoy that one day.

HOW DO I CO-WRITE?

The Covid-19 pandemic made the practicalities of co-writing much easier. It never occurred to me and Jean that we could call/Skype/Zoom each other to work together: we met physically, in Manchester University, long after we had both stopped being employed there. Now my co-writing practice involves phone calls, Zoom calls, and many shared electronic documents. I still prefer to meet in person whenever possible: there's something that I can't explain about in-person engagements that makes me feel differently from electronic communications.

When I establish a new co-writing project, I now take the following practical steps. I set up a shared online document (Google is my personal favourite), with the title of the project, and a subtitle like 'read me first' or 'landing page'. *Everything* involving the co-writing is then hyperlinked from that document. I have found that I simply cannot cope with collaborations being 'buried' somewhere in my emails. Without the 'landing page' document, I would waste too much time trying to work out where I am with each co-writing project, when I want

to be getting on with writing. When I'm next due to work on that particular project, I need to go to one place, and then be directed to everything I need. A typical 'read me first' document will have hyperlinks to project meeting minutes and to-do lists; a literature review and relevant legal sources; an abstract; calls for papers for possible conferences; and successive drafts of the writing itself.

Then it's a case of agreeing a timeline and who will have the first go at drafting what. Sometimes first drafts are the product of physical meetings, phone calls or Zoom. Other times each of us, or one of us, will produce the first attempt at something, and after that, the other, or others, will respond to that by commenting, suggesting or editing, depending on what has been agreed. I don't tend to get too wedded to my own drafts when I'm co-writing. That's one of the reasons why I find my co-written work tends to be better than what I can produce alone. Usually, we both (or all) know when the next meeting is scheduled and this helps everyone to keep on track. But, sometimes, if the project isn't time-critical, I set up another meeting (or my co-writer does) when it gets to a point where it would be helpful to talk. Meeting requests (via electronic diaries or emails) include a hyperlink to the 'landing page'/'read me first' document, which will include a brief agenda. It's as simple as that. But also that is the bare minimum: these days, I

never leave it vague who is doing, what, by when, or when we are next talking or completing a part of the project.

I don't think I can overstate the importance of regular communication for successful co-writing. Life happens: people don't or can't deliver on what they promised for a host of reasons. When this happens to me, I don't disappear: I let my co-authors know what is going on. In return, I expect the same from them. Without communication, the trust necessary for co-writing dissipates and eventually disappears.

WHY DO I CO-WRITE?

There are three reasons I co-write: quality; quantity; and the overall experience.

The main reason is simple: for almost everything that I want to communicate, what I can say through co-writing is much better than what I could say if writing alone. Writing with people who know about different aspects of law and legal scholarship than me avoids naïve errors and saves me from getting on top of another area of law, or literature, especially when the co-writing needs to bring together topics about which I know a lot and topics about which I know much less. My co-authorship with Jean McHale could not have been done by either of us alone: when we started, she knew all about national medical law; I knew about European Union (EU) social, and emerging health, law. We now

both know a fair amount about each! I'm currently starting a new project with Rachel Horton on EU gender equality law and health: my knowledge of EU gender equality law is decidedly rusty, hers of EU health law is much less than mine. I can't do the project without her, nor can she do it without me.

Working across disciplines, with authors such as Barbara Prainsack (bioethics, sociology), Scott Greer and Holly Jarman (political science), Jeremy Clines (religion and belief identities in universities) means I learned enough about another discipline to reach its audience. What I learned isn't just about the content or methodologies of other disciplines: it is also about how other disciplines communicate in writing. A collaboration with an employment judge (Philip Rostant), a head of a university disability service (Brian Coleman), a sociologist who is expert in invisible disabilities (Harriet Cameron) and a student (Sabrina Rahman) resulted in a publication on reasonable adjustments in university examinations under the Equality Act 2010 that I could not have written without the very broad expertise within that team. Working across borders means I can understand enough about other jurisdictions to write credible comparative law. Because of the nature of EU law, as a non-hierarchical relationship between the law emanating from the EU's institutions and that emanating from the national institutions of the

EU's member states, good EU law scholarship in many domains also requires comparative expertise. I will be co-writing something about the emergence and scope of the field of EU health law with the team of co-authors who are working on health law entries in the *Oxford Online Encyclopaedia of European Union*. It has every chance of being a credible piece of co-writing with an ambitious scope because it combines perspectives from the EU's north, south, east and west.

Co-writing with academics who work in the health policy domain, like Martin McKee, Anna Gilmore or Bart Vanhercke, allowed me to bring my EU law expertise into academic co-writing about health policy, which strengthened our work. The experience of co-writing with those people for academic audiences led to me learning to co-write policy reports, especially with Nick Fahy, formerly of the European Commission, and Mark Dayan of the Nuffield Trust. If I hadn't embraced co-writing, it would have been much more difficult to learn the very different style that is needed for policy outputs, as compared to academic work. That EU health law and policy work led to my Brexit work and a body of co-writing of different types, with Mark Flear, Matthew Wood and Ivanka Antova, all of whom brought different disciplinary and life perspectives on UK health law and policy post-Brexit.

Several of my co-authors are more attentive to specific (legal) details than I am: my desire to tell a 'big picture' story has been saved from being embarrassingly inaccurate by Aurelie Mahalatchimy, Sally Sheldon and several others. When I am working with someone like that, there is always a tension between my capacity for writing sweeping narratives that make grand claims and the other person's capacity for ensuring that the tapestry we are weaving is based on a robust warp and weft of empirical evidence, and/or accurate legal analysis.

Quite simply, good co-authored work is greater than the sum of its parts. Different positionalities, different life experiences, different ways of seeing the world, so long as they are duly respected during the co-writing process, significantly strengthen the quality of a piece of written work.

Secondly, I like to co-write because I can get more done that way. I used to work on just one serious piece of writing each summer. I can still recall my joy in summer 2004, newly returned from maternity leave, at being able to work on two, one of which was with the very first student with whom I co-authored (Hari Black). I remain energised about my writing projects because I am always engaged in several live projects at once. Having a co-author means that it can be their 'turn' to work on a piece, and the project still moves ahead while I attend to something else. Especially students and

earlier career colleagues can be excellent at writing reviews of the literature and specific legal details, with meticulous references, all important aspects of good academic writing but ones that I tend to get fed up with doing. Co-writing plays to my strengths in this respect: I tend to get mired by boredom if I try to work on only one writing project at a time. It's also true that I have experienced getting overwhelmed by too many projects this way. I have learned the hard way that I cannot manage too many at once, if I want to remain mentally healthy. For me, half a dozen different writing projects, which interconnect and overlap with one another, is optimum. I now almost never experience the feeling of having to write something but not wanting to write it, or the overwhelm of a missed deadline. So co-writing means that I can write a lot. To quantify, in the last five years, 'a lot' means three books, one journal special issue, 16 full-length peer-reviewed journal articles, two submitted journal articles, 11 book chapters, 29 shorter articles, three blogs, five successful and four unsuccessful funding bids. Only five of those 74 things were sole-authored.

Co-writing also helps me to stay disciplined about writing and not to give in to any of the multiple other calls on my time. The obligations that I have to my co-authors help me psychologically with any temptation to work on something easier than writing – and so many things that seem urgent about our

jobs are easier than writing. Co-writing holds me to account. (I will admit that sometimes I fuss a ‘desk-cat’ for five minutes before getting down to it.)

Thirdly, for me, co-writing simply gives a better experience of writing. Writing is an inherently lonely process: even if you use a companionable technique such as ‘shut up and write’ (which I have done at times), when you are actually writing it is you and the words. Having a co-author who is going to be the first audience of new or redrafted words, and who will help in the process of sharpening them so that they are the best communication they can be with our available resources, means that I don’t feel the same loneliness as when I’m writing alone. It’s easier to face the emotional response to a ‘revise and resubmit’ with equanimity, and to get the very most out of reviewers’ (almost invariably

sensible) suggestions, when I have a co-author. Having co-authors was nothing short of essential to getting the final major output from the Brexit work written: I was just *so sad* about the waste and damage of it all that I almost didn’t manage it. I felt a duty to my co-authors to make sure that their work saw the light of day that probably wouldn’t have applied if it had been my work alone.

Apart from this piece, some blogs and the odd book chapter, I haven’t written a sole-authored piece since 2012. My work is much better for it. Perhaps more importantly – although I still cannot say that I find writing ‘easy’ – I now enjoy it much more than before. No more loneliness of long-distance running that is sole-authored writing; instead the mutual encouragement of community Parkrunning that is co-writing.



The craft of writing in legal scholarship*

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Writing about writing is hard to do, if only because the practice of writing is often so personal. If you write a letter with a pen (which perhaps few people often do now) you are committing something of your personality to paper, not only in what is said, but in the way it's said and even in the style of personal handwriting – the way the script looks on the page. Expressing oneself in print or via electronic distribution removes that personal factor of handwriting style. But the writer hopes at least for a wider audience by means of technical reproduction.

As a writer presenting your thoughts publicly you want to be read, and so you have to adapt your expression to your imagined readers. Fundamentally and obviously, writing in any context is about communicating as effectively as possible, whether it's a matter of telling a story, explaining a theory, dissecting the reasoning in a law case, marshalling and presenting a set of facts, making an original argument, taking part in a debate, expressing dissent, or evoking moods through poetry or prose. Whatever kind of writing it is,

the idea is always to persuade the reader that you have something to say. As in an oral conversation, the aim is not to bore, but to keep the attention of the person or people addressed. Beyond that there are surely innumerable reasons for writing.

The best reasons probably arise from inner necessity in the writer, a personal drive linked directly to one's own pre-existing commitments, interests and enthusiasms, rather than some externally directed pressure (such as, in an academic context, that of satisfying a national university research assessment census). The following discussion should suggest that externally driven writing is rarely as personally fulfilling as writing springing from an internal need to communicate. I have been lucky in always having had substantial freedom to choose my own academic projects and the writing commitments that go with them, but undoubtedly it is possible to become strongly enthusiastic about and deeply engaged with a writing project having initially been externally directed into it. However, in this article I am more

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concerned with the 'how' of writing than the 'why'.

Reflection on one's own practice as an academic in writing books and articles is certainly essential. But again, it is usually a private matter. In my case it is never-ceasing self-reflection. How to write better? How best to organise what I want to say? How to make sure I'm accurate? How to present the complex as simply as possible without oversimplifying? How to be fair to the subject matter so that the reader isn't misled into a superficial view? But at the same time: how to communicate intricate ideas as widely as possible, in the most user-friendly way? How to make the text flow? How to give it enough structure, with a beginning that moves steadily through to the conclusion, so that one can even hope for some aesthetic arrangement in it?

Popularising can be a word of disparagement, but there can be a great deal of satisfaction in finding ways to interpret difficult ideas as simply as possible with maximum clarity. Then the reader gets a sense of achievement from having mastered something that might previously have seemed just too remote to tackle. And the writer gets at least as much satisfaction from having managed to communicate as well as possible, and to know that it was through the studied craft of writing that communication was made possible.

When the most basic communicative essentials of writing are set out in that way,

the line between teaching and writing (the two key tasks of the research academic) becomes just a difference in scope or emphasis. The satisfaction from being thought to have communicated well through published writing is not fundamentally different in nature from the satisfaction of sensing, from student reaction, that a class or seminar has been well taught, or a lecture has been well received. These are just different sides of the academic's obligation to communicate.

Of course, classes or lectures that go well are much of what makes university teaching seem worthwhile as a career. And having one's writings recognised as worth reading and, if possible, influential in some degree creates part of the satisfaction of being a scholarly writer. If we are honest and we emphasise the fundamentals of what the academic role should be in a field such as legal studies, surely these are the key satisfactions to be sought. With luck, they make it possible to bear other things: bureaucracy, managerialism, rankings, all the form-filling, not to mention the classes and lectures that didn't go well.

Probably, thinking about one's writing practice should remain a matter of quiet, never-ending personal self-reflection unless some general, widely applicable guidelines and advice can be distilled from that reflection. A classic, very well-known instance of a writer producing such a distillation which has been widely

influential is George Orwell's essay 'Why I write' (1946).¹

Orwell sets out four motivations which he claims lie at the root of all prose writing. The first is 'sheer egoism', the wish to be noticed, talked about, remembered, to make a personal mark. Another is 'aesthetic enthusiasm' – desire to share an experience, a discovery, or to express delight in words themselves. And there is what he calls the 'historical impulse' – 'to see things as they are, to find out true facts and store them up for the use of posterity'. Finally, there is what Orwell labels 'political purpose', by which he means a 'desire to push the world in a certain direction, to alter other people's idea of the kind of society that they should strive after'.

Orwell, of course, was a political writer, and how far all of these motivations are generalisable or as fundamental as he claims may be debatable. He can be quite discouraging in what he says: 'Writing a book is a horrible, exhausting struggle, like a bout of some painful illness.' In my experience that doesn't have to be true, but the drive, the strong wish to say something publicly, does need to be there. For Orwell, it was necessarily a political drive: 'it is invariably where I lacked a *political* purpose that I wrote lifeless books', he says, and he must have been thinking of 'political' in his wide sense. It does seem

necessary to find ideas that you care about and need to convey, however limited they seem. It is that commitment to communicate something subjectively important to the writer that sustains the motivation to write when it begins to flag.

Writing at length does not have to be as soul-destroying as Orwell suggests, but it does require an unshakeable determination to see the project through and envisage it as a completed work. That requires confidence. Some academics easily find their confidence (maybe they have a compulsion to write for publication and the issue is just to decide on a topic), others find that confidence is something to be gradually built up through the experience of working on and completing smaller writing tasks. Seeing one's work in print is, for many people, a gratifying experience. I began by writing, in academic journals, a few case notes of about 1500 words and one or two brief book reviews. And my confidence was boosted hugely when the first note I wrote (on a variation of trusts case) was selected for inclusion in a student casebook on trusts.

Orwell says, 'one can write nothing readable unless one constantly struggles to efface one's own personality', but he readily breaks his own advice in his essay, which contains much about his own background and motivations

1 First published in *Gangrel* (1946) 4 (summer). The essay can be found on the [Orwell Foundation website](#).

as a writer. Surely a lot depends on the context and to some extent on the writer's preferences. I find it embarrassing when the personal pronoun 'I' crops up too much in what I'm writing. But this present commissioned task – to write about the craft of writing – almost demands the revealing of some of one's own experiences.

You will have noticed that in writing this I've so far been hiding behind George Orwell. But perhaps one can sometimes be too self-effacing because a personal element can add life to a text. Yet it can also quickly become self-indulgent. Too much 'I' can focus away from what is written and on to the writer in irrelevant ways: an excess of Orwell's 'sheer egoism'. And too much 'we' in a text has many dangers. 'We' can suggest an identity of experience and prior understanding between writer and readers that should not be automatically assumed. Or it can seem to exclude others who are outside this imagined community.

Nevertheless, much depends on the context of writing, which can vary greatly even within academic legal scholarship. When I first began to write about law it was often to contribute to doctrinal legal scholarship. In such analysis – analysing judicial decisions and systematising legal rules – an impersonal style seemed right. When I started my career, academic lawyers often used to avoid all personal reference in expressing opinions about the merits of a case. Instead, they would sometimes

mimic the barrister's old idiom: 'It is submitted that ...' Even, 'it is respectfully submitted that ...' (when they wanted to be especially critical). In most academic legal writing now, such self-effacing formulations have disappeared. Legal scholars are more like academics in many non-legal fields, exploring and expanding their own research terrain, not commenting deferentially on the judicial process.

Nowadays, much book-length legal doctrinal analysis is found in practitioner books often written by practising lawyers, sometimes in combination with legal academics. The field of law-related inquiry that is left for university legal scholars beyond this has become very large. It includes wider policy-oriented, historical, comparative and interdisciplinary commentary on law, many kinds of legal theory informed by various disciplines in the humanities and social sciences, and the diverse, ever-expanding fields of empirical and theoretical research now called socio-legal studies, which draw on social science methods and social theory.

No single writing approach is necessarily appropriate to all of these different kinds of research on law. As legal scholarship becomes increasingly interdisciplinary and multidisciplinary, the problem of communicating across different academic traditions and methods becomes more pressing. I am convinced that it can be solved. Not many people straddle two contrasting knowledge fields or

disciplines with equal commitment to both. But that has been my experience. Most of my writing over several decades has been in two broad and strongly contrasting fields of knowledge: jurisprudence (juristic legal theory) and sociology of law.

Jurisprudence is sometimes thought to be primarily a philosophical enterprise, and the greatest danger in writing about it is unrelieved abstraction and a lack of concern for social context. Legal scholarship intended to be intelligible to lawyers at large is not philosophy – that is, it is not addressed to philosophers and validated by their particular canons of disciplinary validity. Writing about legal ideas and concepts is a key part of jurisprudential writing, but to remain intelligible to legal scholars in general it has to relate to the professional practice of law – law as lawyers, in their many different kinds of practice, experience and use it.

And I think it has to relate also to citizens' experience of law – that is, to a social experience of what law means in everyday life to those who encounter it. Complex and quite abstract theoretical ideas in jurisprudence ought to be explicable in commonsense language, without an excess of technical jargon. There was, after all, a time when jurisprudence was seen as a kind of knowledge not just of law but of life, which should be accessible to educated laypeople. It has long ceased to be that. But there is no reason why

legal scholars should not write in ways that make theoretical writing about the idea of law something with which well-informed citizens, no less than legal professionals, might engage.

In contrast to jurisprudence, sociology of law is a social science, seeking empirical knowledge of the social world, which includes law. I began to read jurisprudence before I had any formal education in sociology. It takes time to acclimatise to the literature of social theory, which I think is the most important part of social science to relate to jurisprudence, but it can be done with patience and a recognition that all scholarly fields have to have some minimal conceptual vocabulary of their own. That vocabulary needs to be learned but not seen as forbidding. The key to good writing in social science, including in its applications in legal scholarship, is – as always – clarity and simplicity; saying everything with short words in preference for long ones; using short sentences rather than convoluted ones; trying to be aware of the reader's interests and fears. I break these rules all the time, but I try to remember them. And they are really no different from the rules applying to any writing about law. Use simple words to express complex ideas; try to meet the reader halfway. And, contrary to what Orwell implied, don't always hide your personality if it can help to communicate.

Case notes and book reviews were a good way to start for me,

if only because writing to (small) scale is a good discipline. Check and keep to the required word length for the publishing outlet in which you aim to place your writing. I can say that for me the best training in writing to scale came not from academic writing but from a sideline in journalistic writing² that I followed for many years, and which began even when I was still an undergraduate.

I fell in love with jazz music while still at school and eventually began writing record and concert reviews, interview pieces and musician profiles for music magazines. It was an activity that I carried on alongside academic life for many years and much enjoyed. I still occasionally write journalistic pieces on music now. Part of what I learned from that experience is that it is possible to write informally as well as concisely, and that there can be merit in writing quickly, as long as you have your facts and ideas worked out well before you start.

Quick writing can often flow well, and journalists always have to write to scale and to deadline. Also, writing about a subject such as music necessarily involves subjectivity and the analysis of one's own personal reactions to musical experience. If the writing is to come alive it has to be informed by personal enthusiasm. I found that there was no point, at least

for me, in writing about music I didn't like. The satisfaction was in trying to explain to readers why I thought some music was good and interesting, and in trying to influence them to hear it in new ways and gain (more) intellectual and emotional enjoyment from it.

So, in this context, the personal element could be a way of aiding communication with the reader. It was an attempt not to claim a common community between writer and readers, but to offer them an insight into the writer's personal experience that might be informative and might help them form their own subjective perspectives on the topic being discussed.

I think I carried some of this journalistic experience into my academic writing – for example, in blog writing, which is a relatively new vehicle for academic writing about law. Blog posts usually have to be written to strictly limited scale. I have occasionally contributed to the blog of the Socio-Legal Studies Association and much enjoyed doing so. It is an experience of having to pare down what the writer wants to say to something necessarily brief and concise. The blog post has to make its points not through comprehensive documentation but through very selective reference, evocative illustration and careful generalisation.

2 Mariana Valverde's journalistic experience, as recounted in her [article](#) included in this series, was very different from and far more intensive than mine, though my more sporadic journalistic work did extend over many decades and still continues occasionally.

Writing full-length essays or journal articles, let alone writing books, involves very different problems and techniques. The scope and quality of the research are the underpinning before a single word can get written. But journalistic techniques are not irrelevant and can set useful imperatives: to write clearly, to scale, and accurately; to use, where possible, short words and simple sentences free of unnecessarily intimidating technicality. All these principles can still apply. Personal elements and informal expressive techniques can have some (but not too much) place in academic writing, as more obviously they do in much journalism. Writing quickly also has its virtues, as long as all the research has been done thoroughly, so that thoughts can be put down on the page or on the computer screen in a flow, with a continuity that, at its best, can make things easier for the reader.

As a reader you will have noticed that I have broken almost all my suggested writing rules or guidance in this piece. Rules are made to be broken, but there has to be a good reason for doing so, a reason that should be intelligible to and perhaps accepted by observers of the rule breaker. Maybe Orwell's rule about limiting the intrusion of personality is a case in point. As was said at the beginning of this piece, the practice of writing is often a very personal thing.

If I analyse my own practice, I recognise that I had a compulsion

to write from an early age; certainly, from when I was a teenager. I wrote a few short stories then, now fortunately lost. And, through much of my academic career I have written, as I said, about music, also about musicians, and about the worlds in which they live and work. I have also kept a diary for many years and that has been a vehicle for writing down thoughts and recording the details of events quickly, without needing to think about any reader except myself. A few of those informally written notes and reflections become elements that feed, after much transformation, into published writings. But often they are just an *aide memoire*, a means to fix detail on record, because my natural inclination is much more towards theoretical ideas than towards the accumulation of factual detail. Recording details is a way to preserve them and occasionally my diary is a reference source I can use to recover memories of the detail of experience. I have also written short 'notebook' pieces for my own pleasure, not for sharing with anyone else. They are exercises in writing seriously – but again quickly – on any topic that interests me, and in small compass of not more than 2000 words.

The books I have written contain many personal elements, although I was not particularly aware of that or intending it at the time I wrote them. But all of them were driven by 'political' concerns in Orwell's widest sense. My first

book, *The Sociology of Law: An Introduction*³ (1st edn 1984) was intended to help to mark out and legitimise a scholarly field of social scientific study of law, which was then a controversial idea for many legal academics. Several other books were intended to promote the idea that jurisprudence and legal theory needed to be sociologically informed and closely related to the political, legal professional and social contexts in which legal doctrine exists. *The Politics of Jurisprudence* (1st edn 1989)⁴ confronted the abstractions of legal theory with lawyers' professional concerns and political issues. My most recent books, *Sociological Jurisprudence* (2018)⁵ and *Jurisprudence and Socio-Legal Studies* (2024)⁶ have waged a little campaign to try to shift juristic attention closer to the social sciences and away from a fixation with philosophical abstraction: one might say away from the study and out towards the world of everyday social experience. But that would be more polemical than is intended here. Nevertheless, I think Orwell was right to say that it helps to have a passion of some sort driving the writing.

It might be useful, finally, to say something about organising the practice of writing. This can only be a personal view because every writer's practice is different, related

to personality and chosen projects. My practice, having decided on a project, is to try to research all existing literature that seems relevant to it and to make extensive notes, organised provisionally to address the different sections or chapters of what I plan to write. What then follows is much thought and self-questioning. What seems important and unimportant in what I've read? What arguments seem to emerge that I want to develop or challenge? How does all this material relate to earlier theoretical work that I've done? Does it challenge or extend my earlier published ideas? How can I use it to advance or revise those ideas? After all the research has been done, and that crucial stage of reflection on the material has been completed – as far as I'm able to complete it with the resources accessible to me – the writing can begin.

It is not easy to start writing, although I always seem to know when it is time to start. I have to force myself to start on the first day, but once I do, I usually find the writing can flow during that day (because the research and the thinking out of ideas have largely been completed). Once a writing project is underway, I try to write every day until it is completed. That means forcing myself to start each day. Once started, however,

3 *The Sociology of Law: An Introduction*, 1st edn (Butterworths 1984).

4 *The Politics of Jurisprudence : A Critical Introduction to Legal Philosophy* 1st edn (Butterworths 1989).

5 *Sociological Jurisprudence: Juristic Thought and Social Inquiry* (Routledge 2018).

6 *Jurisprudence and Socio-Legal Studies: Intersecting Fields* (Routledge 2024).

I'll usually write quickly about 1500 words during the day. But first there must be revision of the previous day's writing. Each day's draft has to be subjected to ruthless checking and editing before I go on to write another 1500 words or so. Sometimes sections have to be moved around after reflection; or extended or discarded. Gradually a complete manuscript – whether for an essay or a book – is produced. Then there must be more checking and revision, and a judgment as to whether the whole piece hangs together coherently and achieves what the writer intended.

Writing does not have to be 'a horrible, exhausting struggle', as Orwell suggested. Regular writing – even sometimes without a view to publication – can steadily

improve the writer's craft. And none of the ideas about writing discussed above should be treated as a rigid rule, even when proposed by a writer as celebrated as Orwell. They are merely guides reflecting personal experiences of writing for publication.

Ultimately, personal development of the craft of writing is the gateway to great satisfactions in legal scholarship, as in other academic fields. It can be the means to make an effective contribution to advancing knowledge, and to achieving the kind of real personal fulfilment that can come from setting out one's findings and thoughts as well as possible, publicly in the marketplace of ideas.



Writing about EU law in the UK after Brexit[†]

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What is it like to do academic writing about European Union (EU) law from within the United Kingdom (UK) since Brexit?

I have spent *a lot* of time over the past decade thinking about the UK's withdrawal from the EU – about Brexit. Yet, I realise that I had not really reflected before on the specific dimension of it suggested to me for this contribution to the Reflections on Writing series. Even though it is something so central to my own academic life. To my academic identity even. For this short article, I thought first about my academic writing in general and then about whether it has changed since Brexit – or more accurately, because of Brexit.

BREXIT FOR AN EU-FOCUSED ACADEMIC: IN GENERAL

We do not write in a vacuum. All academic writing has context.

There are things that are relevant to writing about Brexit that are relevant to writing about all kinds of things: how to find out, reliably, about developments that occur at

scale and at pace, for example; how to ensure that something written about them has more than a two-day shelf-life; how to cut across multiple areas of procedural and substantive law; how to process and to some extent reconcile strongly-held, often polarised, views.

Many academics write about things that require deftness and skill to deal with some or all of these challenges all of the time. But not all contexts carry the same weight at a given time.

I have worked as an academic in the field of EU law at a UK university for over 25 years. I am an Irish national, and I therefore remain an EU citizen. I cannot write this article without saying to its readers, openly and straightforwardly, that Brexit has had a profound emotional and personal as much as professional impact on the life that I live here.

In a professional sense, Brexit has battered the intellectual enterprise of providing UK-based critical analysis of the EU – one that was both highly influential and deeply respected for decades. It has brought about an existential threat

[†] First published in *NILQ* 76.RS (2025) 68–77 on 10 April 2025.

* Thanks, yet again, to Michael Dougan and Graeme Laurie for sharing their thoughts and suggestions with me as first readers of an earlier draft.

to the sustainability of EU studies as an academic discipline in the UK and to EU law more specifically as a subject of interest. It has sparked an exodus of academic talent away from UK universities. It has turned the work of those who stay into an ongoing challenge to demonstrate both credibility and viability. In several UK institutions, it has reduced communities of academic critical mass to lone scholars. They have been lost altogether at some. And notwithstanding the efforts of so many to ensure and to signal the opposite, it has discouraged some students at all levels, from anywhere, and some academics at all levels, from anywhere, from thinking that the UK might still be somewhere that they can learn about and reflect on the development of EU law.

Some of my colleagues from different institutions across the UK have worked and continue to work right in the Brexit epicentre. They have worked – heroically, in my view – to communicate what the EU and its legal order are about, and to various UK publics, notwithstanding the high personal price that has often been paid for doing that work.¹ Abused and threatened just for doing their jobs. Their sense of vocational

purpose and their professional and personal resilience astound me.

So, how do I write about Brexit in that context? Do I even want to write about it?

BREXIT FOR THIS EU-FOCUSED ACADEMIC

The topic that I was given invites me to think more about the intellectual impact of Brexit than its other dimensions. I am not sure, though, that the different strands of Brexit's impact can be neatly disentangled – or even that they should be. I will come back to this point again below.

The first set of questions that I asked myself was: *did* I write about Brexit, and why? The answer is yes, I did – but only to an extent.

It was different for others. For many EU legal academics based at UK institutions, Brexit provided very direct research and writing impetus. Brexit has been the object of their work on its own terms. That has not been my own experience, and I think that the reasons for my relatively limited engagement with Brexit in my academic writing are connected to *why* I wrote about it when I have done so.²

In the first place, the 'why' for me was more about what the legal

1 See, for example, examples of the shocking abuse that Professor Michael Dougan (University of Liverpool) received on a constant basis because of his public engagement work on Brexit, set out in the 'Introduction' to M Dougan (ed), *The UK after Brexit: Legal and Policy Challenges* (Intersentia 2017).

2 On 'why' we write, see more generally in this series, D Sheehan, 'Academic writing: craft, scholarship and finding the time' (2025) 76(RS) Northern Ireland Legal Quarterly, 40–49, 40–43.

dimensions of Brexit meant for research questions that had either interested me already or taken shape later on without Brexit as the catalyst: research questions where Brexit was one part of something but not the driver of the work. I am interested in questions about the distinctiveness of the EU legal order, for example; and the extent to which law places boundaries around political choices; and how the EU relates to other legal orders, especially those proximate to it. I have written about Brexit as a dimension of those questions.³ I am interested in what it means to be a citizen of the EU as well as what it means to lose that identity, so I wrote about the ruling of the Court of Justice in the *Préfet du Gers* case,⁴ which confirmed that both the status and the rights conferred by EU citizenship were lost by British nationals – that Brexit really did mean Brexit for these former EU citizens.⁵

Second, and relatedly, my Brexit-related writing is premised on what Brexit meant for the EU and for EU law – and for the continuing development of the EU legal order. In my academic

writing, I did not focus on the implications of Brexit for domestic law in the UK or elsewhere.

Why not? Because I decided not to. And I decided not to because, rightly or wrongly, I want to continue to contribute to the field that I have studied for more than three decades.

I did not want to change my academic identity because of Brexit; because of the external event itself. I wanted to explore that event and acknowledge its many consequences in consideration of the integrity and the evolution of the EU legal order. Fundamentally, I am interested in how EU law has changed as a result of Brexit. So I wrote about that, characterising Brexit as ‘one’ change – a significant change for sure, but situated alongside how the EU legal order has handled other significant events too, like the Eurozone crisis and the Covid-19 pandemic. The EU legal order is the place where I focus my thinking and my writing. It is where my ‘sense of wonder’ lies.⁶ And Brexit did not change that. Well – not on the surface of things at least.

3 N Nic Shuibhne, ‘Did Brexit change EU law?’ (2021) 74 *Current Legal Problems* 195–234.

4 Case C-673/20 *Préfet du Gers*, EU:C:2022:449.

5 ‘Protecting the legal heritage of former Union citizens: *EP v Préfet du Gers*’ (2023) 60 *Common Market Law Review* 475; ‘“What” are former citizens of the European Union? Articulating the implications of a new legal status’ in A Bouveresse, A Iliopoulou-Penot and J Rondu (eds), *La citoyenneté européenne: quelle valeur ajoutée? European Citizenship: What Added Value?* (Bruylant 2023) 89.

6 M Valverde, ‘How the academy negatively affects writing practice’ (2025) 76(RS) *Northern Ireland Legal Quarterly* 1–8, 7.

BREXIT AND ACADEMIC IDENTITY IN THE UK

Brexit did force academics working on EU law in the UK to reflect on academic identity – on who we are as academic thinkers and writers, and on who we want to be as such. It forced us to step back and to consider much more *what* we are writing and *why* we are writing it.

In a general sense, I sincerely hope that other legal academics never have to experience an existential threat to their entire subject community in the UK that will prompt them to *have to* reflect on who they are as academics.

But even if the catalyst of Brexit has been difficult for EU-focused researchers, the process itself – the reminder to reflect on academic identity and academic writing – can be a good and useful thing. I am not sure that we do it often enough except for when we are provoked to do it by external factors such as applying for a different position or for a promotion.

For some colleagues in EU legal studies in the UK, Brexit changed their academic identity completely. It changed how they describe themselves – reorienting identities around public law or international law or commercial law or global law or environmental law or whatever other kind of law they consider aligns best with their academic interests. That changed, in turn, what they write.

For some, changing academic direction in this way was a choice – a free choice about their own

academic identity and thus the academic writing that they wish to do now and into the future.

For others, however, it was not a choice at all. It was driven more by institutional reprioritisation and/or available opportunities in the UK academic job market and/or fears about career progression by staying in the UK. And there were external forces at play too, especially a sense of futility – a sense that EU legal academics based in the UK are seen from outside as providers now, or at least more than previously, of (only) a UK perspective. And if that is the perception, what is the point of being, of even trying to be, an EU-focused academic in the UK anymore?

I have to emphasise that I could undertake reflection on my own academic identity and academic writing from a position of enormous privilege. I work at an institution that has critical mass in terms of both staff and students to make the continuation of my work on the EU legal order possible – to make it feasible. I am protected by a wider institutional culture that supports what I and my colleagues do in its agreement that pursuing EU-related work in the UK matters – that it *still* matters. I have also been doing my own academic work for long enough to have become part of a meaningful EU law community beyond the UK that will, I think and I hope, continue to appreciate that my perspective on the EU and its legal order is not jurisdiction specific.

In all of this, I am extremely fortunate. And I know it. But I know too that fortunes can change. I take none of it for granted.

For many others, even though the sector strives to nurture and value academic freedom – even though it is designed around that aim – being forced to change what they do, and thus what they write, has been the inescapable reality of Brexit. They constructed new identities because they have no choice. They lost their freedom.

THE RESEARCH– TEACHING NEXUS

It is also important to consider the relationship between what we teach and what we write.

At its best, this is a richly mutually productive relationship. It is truly wonderful when we can engage in research-led teaching. It is also important and hugely beneficial to undertake teaching-led research. Where we can through our teaching learn new literatures ourselves alongside our students. Where we can, through that process of mutual exploration, chart new paths of thinking and produce new questions for our writing.

For example, with my students in the EU Law Honours: Foundations course over the autumn of 2024, I set out some tentative thoughts not only about the *rule* of law but about the *role* of law. We studied EU law on its own terms but we used it, too, as an example of a created legal system; a manufactured one. We questioned things. We linked

things. Very often, what they said surprised me.

And those weeks made me want to write. They made me want to write something about the simultaneous distinctiveness and normal ‘law-ness’ of EU law and to explore that paradox in the context of the growing vulnerability of transnational and international law more generally. I hope to complete some work on these themes over the coming months. There are definite links in the emerging paper to what I already wrote about Brexit in terms of what we could observe about both the specialness and ordinariness of the EU legal order through the EU’s response to Brexit. But the newer work moves my writing into different terrain, more recent developments in the world squashing the significance of Brexit in EU legal terms.

We cannot synergise our teaching and our research all of the time. We have commitments to our institutions that require both a wider and thinner spread of expertise in terms of our expected teaching contribution. But when we can do it, it represents the integrity and interconnectedness of the different parts of our academic roles at its very best.

If, in the UK, academics will have less scope to teach (any) EU law even if they retain the formal freedom to write about it, a type of constraint is instituted that ruptures an essential quality of academic life. It is a rupture that splits the academic person in two, making what they are doing for one

fundamental part of their job more sharply detached from what they are doing for another fundamental part of it.

Thus, on top of the diminution of EU scholars as a community within UK institutions, Brexit also dilutes (and in some cases entirely removes) the productive synergies between teaching and research. It renders the lone scholar more the lonely scholar in this sense.

How will colleagues in such situations find, and find again and again, the intellectual energy to drive their research forward?

There are ways, of course, such as engaging as much as we possibly can with the EU-focused academic community beyond the UK as a necessary support system. I have consistently reached out to academic friends beyond the UK to talk through ideas or to read draft papers. But, like much else after Brexit, it will take ongoing effort to continue to do it and, as I have mentioned already above, to persuade the non-UK community that we still have contributions to make. How many will still want to make those efforts as time goes on? And given sectoral financial pressures, how many will have the means, very practically, to be able to do it effectively?

A second strategy is to craft research plans that entail applications for funding with the aim of building more community around us here within the UK –

where we are. This option is not available to everyone. I know that. And even when it is, funding applications, including very good ones, will not necessarily be successful.

But: there is hope and sometimes we need to remember that too. I have been extremely fortunate to secure research project funding from the Leverhulme Trust for work on the unwritten principles that drive the EU's constitution. I was advised by some colleagues before I applied to make the project more UK in focus. I took the risk of not doing so. I know that must have been a risk. But it would not have been authentic for me to have done it.

Happily, the Trust's investment in EU-focused work has created postdoctoral and PhD positions at my institution, growing and deepening our existing community of EU legal scholars. It is temporary relief, of course. Funded projects are time-limited by nature. But when we are lucky enough to be able to shape them, it does mean that we can make time and space and that we can support early career researchers to carry on writing about EU law from within the UK. Not only that: these researchers bring with them the vital intellectual energy reserves and freshness of perspective that characterises the best doctoral and postdoctoral work. Re-energising us in turn.

**WRITING ABOUT A TOPIC
THAT CUTS TO THE CORE
– OF WHAT WE DO, BUT
ALSO OF WHO WE ARE**

What is critical perspective?

This is something that I have asked myself and thought about so often since Brexit. As I write this article, looking around at the world around us in a more general way, the question seems even more and not less resonant since 2016.

At a basic level, academics do all kinds of writing for multiple audiences – we write, variously, for students, for other researchers, for practitioners, for decision-makers, for the public. We produce many different kinds of outputs, and we disseminate them across many different platforms.

Sometimes, as in this series, we are asked very directly for more personal reflections. That task is clear about what we can then be in the writing – we can be personal. Indeed, for a series like this, we should be.

When we write short pieces, for online blogs or opinion-based symposia for example, what are we doing then? We might write short pieces to explain the law – to describe and communicate a new legal development, for example. We also write short opinion pieces, which often, once again, lean into a more personal style. We articulate the degree of us-ness through the

writing itself. I think. I believe. I consider. And so on.

In our ‘academic writing’ more generally, what are we doing? As legal academics, I think that we are aiming, fundamentally, to construct and communicate a defensible argument about the law and/or its institutions. We root our claims in the law itself and in relevant scholarship, which include but are by no means confined to legal literatures. We try to add value to existing thought. Perhaps we seek to offer us-ness here by suggesting a different take on something. We explain why we think that matters. Why something that we write about matters can be expressed in different ways. It might matter in terms of adding our own perspective to the existing academic debates. It might matter to the mobilisation of certain communities or to the reform of the law.

But what about when we are writing about something that matters *to us*? Where then is the line between personal opinion and academic argument, and how do we navigate it? What matters most in academic writing like that: ‘staying’ on the non-personal side of the line or plainly articulating where we are standing in relation to it?⁷ Does Brexit bring something particularly new or sensitive to answering those questions?

7 See further on the nature of the ‘personal’ in academic writing, R Cotterell, ‘The craft of writing in legal scholarship’ (2025) 6(RS) Northern Ireland Legal Quarterly 59–67, 59.

Brexit was so overtly and deeply divisive that it would be disingenuous for any of us to suggest that we do not find ourselves on one side or the other of what has happened. This is as true for the academic as any other affected person. Thus, linking back to the comments above about the academic identity reflection process that Brexit brought about, I cannot pretend that Brexit was not in many respects, and as I have acknowledged, profoundly and acutely personal for me. It brought to the surface questions that were probably always there but implicit before. Questions that were under the surface, not screaming for attention.

That has changed. What do I think about the EU? What do I think about its principal stated aim of more closely integrating the peoples of Europe? What do I think about how the EU institutions go about achieving that? What do I think about the relationship between the EU and its member states? And the relationship between the EU and the peoples of Europe, whether they are EU citizens or not? What do I think about regional integration in a connected world, in the changing world?

Questions of this nature have intensified for me in recent years. And they have spread, even more recently, to questions about the nature of security, defence and (given my nationality) neutrality in an unstable geopolitical global environment – itself under sharp

threat in terms of the objectives and the structures of multilateralism. Law is fragmenting. Law is being ignored. What I thought about law can no longer be taken for granted. How do I write about that in my work? Should I write about it in my work? Do I want to write about it in my work?

But I must admit that it is more than this too. It is more than this exercise of the mind. I must admit that Brexit has forced me to confront not only what I *think* about the EU. It has forced me to consider how I *feel* about it. That Brexit is emotional as much as personal.

To what degree, if any, should my developing thoughts and conclusions (of a sort) on the more personal and emotional dimensions of Brexit feature in my academic writing? Is articulation of these aspects enough or should my academic writing be guarded more by distance from emotion through some attempt to omit it?

To tune the academic voice is not easy when writing about something like Brexit.

My close academic friend and previous contributor to this series, Graeme Laurie, reminds me often to do the essence of my role when I write – just *profess*, he encourages.

I try to do that. I try to do it more now than I did before. And the ‘easy’ answer here about professing in the context of Brexit is to resort to the coordinates of legal method to guarantee that the writing is appropriately academic. As I mentioned at the outset, all

law takes place in a context and, thus, legal writing takes place in a context too. Legal method provides the standards and the tools that academic writers use to shape and to express their ideas with proper rigour. To establish empirical findings appropriately and to distinguish empirical claims or findings from other forms of scholarship. To provide hooks for peer reviewers. To enable the writing to defend itself.

A piece of academic writing needs more than robust methods, of course. Most basically, it needs a good argument too – an argument that adds value, an argument that matters. And making an argument requires that we take a stance.

But still: these answers are not quite enough because writing about the EU and its legal order since Brexit is more complicated than what legal method and good argument will yield.

Since Brexit, scholars – not only but especially those based in the UK – sometimes feel inhibited now from criticising aspects of the EU and its law. There is a fear for UK-based scholars in particular that their critique will not be taken seriously – *of course you would say that now, wouldn't you?* Or a fear that critical perspectives might be perceived as disloyal or damaging. An argument that puts forward well-founded and robust reasons for closer integration

might, on the other hand, be criticised for ‘promoting’ the EU. For not accepting the reality of the UK’s post-2016 world – for not respecting the will of the people. For not accepting that Brexit means Brexit.

Since the pandemic, I have been working my way backwards through the ‘Desert Island Discs’ archive on *BBC Sounds*. Purely by chance in the middle of thinking about (and before the writing of) this piece, I listened to the episode featuring Tony Blair from November 1996 when he was leader of the opposition.⁸ Sue Lawley pushed him quite hard at one point to concede that, as a politician, his work and his vision constituted more of a rational expedition than an emotional one.

Do we have to choose, was his response? Can it not be both?

Academics are only people too in the end. We have worlds beyond our academic world. Sometimes those worlds collide. We have views about that. Must these views be hidden? But, even more fundamentally, ask yourselves – why would we choose to hide them? And why would ‘good’ academic writing require that we hide them?

I mentioned choice earlier. And I think that choice is probably key in all of this.

What do I want to write about, and why? Where then is the best place to publish the writings –

8 ‘Desert Island Discs’ (*BBC Sounds* 29 November 1996). Comments that Boris Johnson had made already in his November 2005 episode make for vital listening for anyone interested in his position or motivation on Brexit: ‘Desert Island Discs’ (*BBC Sounds* 5 November 2005).

which can have different aims and purposes – that result from the making of that choice?

If I *choose* to make a more personal argument, what I think then is that clear writing is what is absolutely essential. Writing that makes it *clear* not only what I am saying but also why I am saying it. Writing that sets out my reasons for saying it.

Let the readers make their judgements in the end.

And let me say this as plainly as I can: I do not think that EU academic lawyers in the UK *should* write about Brexit. That is each individual researcher's choice (in as

much as they have the institutional space in which to make it within the UK now – a space that should, I would argue, be protected to the full extent that it can be).

Not to write though: not to write at all, not to profess; not to feel that we can say something in the context of the realities crushing in around us at the present time, eroding the certainty and the structures and the dignity that defines the law or so we thought – as scholars of any kind of law, saying nothing seems more damaging than saying something through our academic writing. In my opinion anyway.



How I made academic writing work for me[†]

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INTRODUCTION?

At this point of my life, I've been 'in' universities for longer than I've *not* been in universities; as my (seven-year-old) daughter likes to say: 'You've just really never left school!' In a sense, then, the academic 'style' of writing should really feel like it's a native language to me – albeit one that our students frequently find alienating when they first come to university, and one that is regularly derided in the press as being wholly inaccessible.

I don't want to give too much credit to reporting that effectively exists to undermine the worth of academic writing but, if we try to look objectively at a lot of what is published in our disciplines, it's very hard to deny that our output by and large *isn't* accessible to people who aren't already part of the crowd we are writing for: *other academics*. This is generally easy to ignore, because we all do it. But once this hits you, say, because you've come across an article that was discipline-adjacent and you still *really* struggled to make sense

of it, it's hard to forget. I reached a point where I found it very hard to look at the stylistic quirks of my own academic writing and not feel like something uncomfortable was happening: rather than trying to put things in the simplest way possible, to really drive the point I wish to make home, I have to ensure that I'm not overstating my case, that I make very explicit that I cannot possibly be addressing everything in a single article, that I use all the jargon that is expected within my field, and so on.

My native language, in other words, started feeling like an odd dialect that I didn't really *want* to use anymore. This was exacerbated to an extent by the fact that my actual near-native form of English is *American* and, when it comes to general school-related writing, there are significant stylistic differences between the two 'Englishes'. For one, I'd never encountered the passive voice in my life until I started reading primarily *United Kingdom* (UK) academic work, and even now

[†] First published in *NILQ 76.RS (2025) 78–87* on 11 June 2025.

* I have attempted to give this reflective piece the structure of a standard academic article, even if I don't really think I have a wholly obvious introduction or a firm conclusion here; consider it a meta demonstration of what I'm trying to talk about – SdM, May 2025.

wonder what British English is trying to signify with it. Is it about *distance* from the subject of the sentence, so it somehow makes the writing less personal? Or is it just generally understood to be the ‘more professional’ way to write?

More generally, American English is blunter in many ways, and that carries over into academic style to an extent, where the active voice is encouraged, and hedging is discouraged. If you are trying to say that, for example, the UK constitution has shortcomings, or there are significant problems with the impacts of European Union (EU) free movement law on women in particular, in American academic writing you would not need to *couch* that by saying that it can be argued that, or it can be perceived that. You can go in hard – and that leaves the audience very clear about what you’re trying to say.

There is a long-standing joke about how the word ‘interesting’, when deployed by someone who speaks British English, actually means the opposite of interesting. My Dutch cultural heritage and knowledge of American English means I find this both hilarious and baffling. *Just say what you mean!* But – as UK-based academics – can we *do* that, and still get published? I have found the answer to be yes – and it’s reawakened my enjoyment of not only doing research but writing it up, and has opened up all sorts of doors for me that have been very enriching both personally and professionally.

HOW I FIRST ESCAPED ACADEMIC WRITING

My daughter exaggerates slightly: I have, in fact, left ‘school’ a few times, and one of the more notable recent times was when I did a two-year stint in the House of Commons Library in the middle of the Brexit process (2018–2020). I’m raising this for two reasons. First, writing *for* the Commons Library forced me to stop being ‘so academic’ about what I was setting out. Second, the reason I ended up working for the Commons Library is because people in Parliament responded positively to the examples of my ‘writing’ that were not *remotely* academic.

We’ll start with a brief chronology of how I ended up in the Commons Library. I applied for an open post of Senior Researcher in the Commons Library (on international and EU law) after being asked to give evidence to one of the Commons Select Committees on issues related to Brexit. There were two reasons I was invited by one of the committee clerks to do this: first, myself and several other colleagues, who I’ve now been co-writing with for over a decade, were putting out policy papers – again, non-academic writing – on how Brexit would impact Northern Ireland. This was an open door, in that the problems seemed fairly obvious to us, but virtually nobody else was writing about it in detail ... or if they were, they were doing it behind the standard paywalls of academic journals, where

their work was more likely than not failing to reach the decision-makers it needed to in order for it to actually have an impact.

Now, we knew what our aim here was – reaching policy-makers – and so we were writing policy papers that were *more or less* academic in style, in that they contained all the footnoting that you'd expect to see in a legal piece that gets published, but they were organised in a similar way to submissions that academic lawyers make to Commons Select Committees. This means shorter, focused paragraphs, lots of subheadings, and a deliberate choice to not overcomplicate our main points and main findings with, for example, an extended theoretical take on *why* we were observing what we were. The output was rigorous – but also accessible.

The second reason I was invited to come and give evidence to a Commons Select Committee is that the clerk in question followed me on Twitter. I asked her why, years later, and she said that I was doing something that many academics failed to do: rather than promoting my academic work, I was actually using Twitter to set out the basics of how, for example, bits of EU law worked, providing a vague form of free public education. The nature of Twitter meant that, by design, I had to keep that kind of messaging very succinct and to the point, but

it also had to be clear, or 'threaded' messages would be basically impossible to follow. She felt, as a non-subject-specialist, that I was doing this naturally in a way that suggested I would also be very successful at conveying the basics of how EU law worked and what the Brexit process would mean for Northern Ireland to Members of Parliament (MPs).

I remember at the time almost doing a double-take, because obviously 'the general public' and 'Members of Parliament' are quite distinct audiences. Or, at least, they were – in my mind. But I've learned over time that actually, they're closer together than we'd think. This is in large part because the job of an MP is spread so thin – across constituency work and then completely unrelated legislative work – that it is almost *impossible* for them to be across all areas of their brief to the same kind of detail.¹ Select Committee membership suggests that the MPs there have a particular interest in an area – but that still does not mean they necessarily have a complete grasp of the (frequently) complex legal frameworks *underpinning* it.

My job, as a witness, was to try and simplify that material – not to the same extent I would, for example, do it for my level 1 undergraduate students, who are trying to keep apart three different European international institutions

1 For more on this, see Isabel Hardman's *Why We Get the Wrong Politicians* (Atlantic Books 2018), which itself is a great example of parsing a very culturally jargon-heavy place in a way that is very accessible.

that all have names with ‘Council’ and ‘Europe’ in them,² but still to a significant extent compared to what I would ever be expected to do when writing to what I’ll call ‘my people’: academics who are reading journals in their specialist areas.

Doing this when giving evidence to a Select Committee was, in my experience, fun – and came quite naturally, because, again, teaching is to some extent simplifying the things we are expert in and passing them along to others. But it made me wonder if there were other ways in which I could engage with Parliament – or *help* do this simplification work ...

... And then a post in the Commons Library came up. I applied, I got the job, and found myself a small part of a great team of people who spend most of their time writing Research Briefings for MPs that are *in many cases* the only real ‘background’ MPs engage with on an issue they are meant to debate and possibly legislate on. My colleagues in the Commons Library might politely protest me describing them like this, but they are world-leading experts in the particular briefs that they cover, just because of the amount of time they have spent focusing on those, the research they have done to ensure they’re on top of them, and the different ways in which they have to try to convey to MPs what is happening in those

briefs. They just don’t *publish on them* the way that academics do because that isn’t their job.

I remember the first few research briefings that I worked on well and was edited quite significantly by my very experienced ‘team leader’ – in large part because I naturally started writing in my awkward, native ‘academic’ style. But that isn’t the point of working for the Commons Library: we produced those research briefings not to show *how well we’d done our homework* and *what original thoughts we had to contribute*, but to ensure that *MPs were prepared for a debate*. Indeed, I regularly got told off (very gently) for making my own opinion on an issue that was being debated too clear in what I was writing: this a standard expectation in academic writing, but an absolute no-goer in writing for the Commons Library, which prides itself on being party-politically neutral, for understandable reasons.

I learned *so much* from my two years at the Commons Library. In particular, I learned about substance, in the sense that MPs and their staff regularly asked (on behalf of constituents or their own work) wholly unexpected questions, which would have never reached me in my capacity as an academic EU lawyer, but that made me undertake some really fun deep dives into UK and EU history. In addition, I learned about *how to*

2 The European Council, the Council of the European Union, and the Council of Europe. No, I don’t know who decided this was a good idea.

communicate. Writing for this new audience was, in many ways, more straightforward than writing for academic purposes, and it made me think significantly about my own academic writing: its clarity, purpose, and the specific audience I was trying to *reach* through it.

This thought process proved instrumental in a separate but related activity that I took upon myself in the late 2010s: writing a textbook on EU law.

‘ACADEMIC’, BUT FOR STUDENTS

Around 2015 I signed a contract with Oxford University Press (OUP) to write a textbook on EU law. My aim at the time was to do what I tried to do in my teaching: write about EU law like it was a *core part* of the British constitution, rather than treating it like ‘foreign law’ that stands alone, as most other textbooks do. The whole pitch was to write about ‘EU law in the UK’, and I managed to persuade enough people at OUP that this was a worthwhile venture and I could make the material hands-on by means of problem scenarios, and so on.

I was excited about doing this because I thought it would connect well with the students, and I got started, and then ...

Well. Let’s just say the will of the people threw a rather sizeable wrench into my plans.

I won’t go over the four years of author-existential angst in any

great detail here. But obviously, in the absence of having a single clue as to what the settled relationship between the UK and the EU would look like, it was quite hard to progress on a textbook that had as its unique selling point that it would cover EU law in the UK. At the same time, I started absolutely drowning in work on *Brexit* that was time-pressed and felt like it might actually matter for the political process the UK Government was engaged in, and so the final first edition of the textbook was eventually drafted in January 2020 and published later that year.

At the time of writing this piece, my textbook needs an update that once more I have not found the time to focus on, but I anticipate that setting out what was enjoyable about this writing process, and what it taught me about my ability to communicate, will spark something again.

I went into the textbook thinking that I wanted to deliver EU law from a slightly different angle, but I also recognised that many of the ‘classic’ EU law textbooks that I used when I was a student were still there, and absolutely great. But those books were written at what I can only call an ‘academic level’ and seemed to present a struggle for my modern-day students. These books were pitched in a way that made EU law feel ‘remote’ – a type of foreign law that students seemed to find incredibly difficult to get to grips with. I can only speculate as

to why a book that I had managed to work my way through suddenly felt almost like an unscalable mountain for undergraduates a decade and a half on. But the feedback and my own experiences of what I needed to cover in teaching them – which was usually *the same material*, but grounded in a UK viewpoint, with a deliberate focus on making the material as accessible to them as possible – suggested that something was just not clicking with the students.

Almost naturally, I wrote in a wholly different *style* from those textbooks. Much of my drafting took place during the time I wrote a lot of policy papers, some lengthy research reports for the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland, working for the Commons Library, Twitter posts and blogs, and so on ... While I was also still publishing standard academic writing, *most* of my day-to-day writing was for other purposes. Consequently, I slipped out of my awkward ‘serious academic’ voice and into my far more natural writing voice, which I’ve been told is virtually identical to what I sound like when I actually speak. This only became clear to me when samples of book chapters went out for review and fellow academics wrote back about how they were surprised because I’d managed to make really typical/traditional material – like the history of the EU – somehow read in a way that they described as

‘fresh’ and ‘gripping’. My editor pointed out to me that mine was one of the easiest books for her to edit because, even though she didn’t know *much* about EU law, I was making it very approachable.

I suppose I could look at this feedback and conclude that, aha, I must be an *amazing* writer! – but the reality is I got into the habit of writing for non-academic audiences through work-adjacent activity, and that carried over into my writing of this textbook in a way that, as it turns out, people actually really *like* in textbook writing.

Many students politely suffer through EU law – my favourite bit of feedback I’ve ever gotten was from the kid who simply said ‘Well, it’s a bit like going to the dentist, isn’t it, it’s not fun but you’ve just got to do it’, or if you will, ‘EU law: just like a root canal!’ Students don’t usually have much enthusiasm for the subject, but I’ve found that their enthusiasm *does* respond to their confidence, and I’ve managed to improve their confidence by using my own textbook.

Up until a few years ago, I received a few questions every year asking after alternative textbooks, because whichever one or two we recommended, they didn’t click with all the students. Perhaps they’re just afraid to ask if I can please recommend an alternative *to my own book* these days, but I like to think that something about how I’ve written the text is making a fundamental difference.

Even if that's not true, however, I genuinely did *like* writing about EU law when I was working on the textbook, in that I got to study things that I either hadn't studied for ages or got to write up the things I am an expert on in a way that felt natural – and that's an experience I've not always had when writing up research findings for an academic audience.

By the time I finished writing the textbook, however, I realised that I wasn't happy accepting that as the *status quo* anymore: I would try to find a way to make the 'for other academic experts' material work better *for me*.

'NEW-STYLE' ACADEMIC SYLVIA

I'm no longer 'new' to academia, as my daughter would happily confirm; the times when I could apply for funding as an early career scholar are many years behind me at this point. This matters less than you'd think, however, when it comes to having *confidence* as an academic writer. Every new submission is another dive off the deep end, where your prior performance doesn't matter at all: peer review is always anonymous, so my writing always has to speak for itself, even if the fact I'm the author might be more or less obvious.

I don't think I consciously stopped working very hard on adopting a proper academic voice until the last three or four years or

so, and, even then, it was daunting. Sometimes it involved compromise, largely because I co-write with others a lot, and obviously having one very 'casual' writer next to one that adheres to the 'academic style' script may make the end result harder to understand. But I managed to produce a couple of pieces that I wrote just as *I would have articulated them out loud*, and then went through and polished them to hit the baselines of academic writing; these were mostly to do with formatting and referencing, but not much actual changing of the text itself.

I have never been hit with the typical Reviewer 2, who seems to get their joy in life out of making other academics feel small, and I know I'm very lucky for it. I was genuinely surprised, however, that even pieces that I wrote in what I now think of as 'freehand' were not getting picked up on for how casual the language was *in most places*. Fifteen years in academia have made me about as 'un-precious' as I can be about getting my work published, and if any colleague therefore thinks I need to change a few words here and there in order to be properly 'academic', I am happy to do that as part of revisions. It doesn't change that the original writing process felt pretty freeing and allowed me to consider my future audience as a mixed one: not *only* could academics read what I was doing and get something out of it, but perhaps with a few questions they'd like to follow up on, so could

policy-makers, politicians, those working for non-governmental organisations, and perhaps even members of the general public.

I wrote a ‘freehand’ case note on a particular Court of Justice decision in 2023, as part of my long-running campaign to become a household name on the very niche subject of the EU concept of ‘comprehensive sickness insurance’. One of the most memorable moments of my career came when a random member of the public emailed me to let me know that this had proven very helpful to her in trying to figure out what she needed in order to apply for British citizenship. I’ve gotten less surprising, but equally worthwhile, emails from practitioners – long gone from the ‘academy’ – who wanted to follow up with me on my reading of that case and related developments.

Now, case notes aren’t exactly the ‘height’ of academic writing – we can’t submit them for the Research Excellence Framework (REF), which automatically devalues them – but they are still definitely a valuable form, indeed, one that I cannot think of as having a *purely* academic purpose. We, as academics, are usually watching the law as observers – we are *rarely* the people dealing with it in practice. The fact that those who would actually be dealing with the consequences of this judgment got something useful out of my academic writing about it is therefore extremely rewarding. Just as rewarding as when one of the EU’s Advocate-Generals cited

an *actual* academic article I wrote in their advisory opinion for the Court of Justice of the EU. But it was significantly more surprising, since I wouldn’t expect a member of the general public to read my writing, or even those in practice, who tend to have their *own* strand of professional journals, and have no real reason to engage with our much more theoretical stuff.

ON WRITING FOR ‘AUDIENCES’

Some of you might read this and think that what I’m actually saying here in this article is: I like writing policy papers, briefings for the public sector and textbooks *more* than I like writing academic articles, and that’s fine, but they are very different things and they can stay that way.

I think that’s almost a fair take on what I’ve tried to articulate here, but it nonetheless misses my ultimate point. Yes, our writing for different audiences normally looks and feels a little different – but *those differences do not have to be exaggerated* in the way that I find they are between peer-reviewed published journal articles and everything else I write. We do not need to be ultra-verbose, technical or jargony, and ultimately just showing off how much we *know* and *think* to make a very solid and thoroughly academic contribution. If this is something we enjoy doing, by all means! But if we don’t enjoy doing it, we can borrow style from

other types of writing and reach different types of audiences.

There is, in other words, more than one way to be an academic. And if your current approach to being an academic does not always make you feel like you're achieving what you want to, or enjoying what you are doing, why not think about the writing you would *like* to be doing, and what that would look like?

CONCLUSION?

Much of what I have written about in this reflection has flagged the unintentional impact that Brexit has had on my development as a writer. An underlying theme there is that Brexit-type work has a potentially very broad audience because (at the time) there was a tremendous amount of public interest in what was happening – but what was happening also frequently involved the highly technical jargon of two different legal jurisdictions in the form of draft texts. People, not just academics, wanted to know what to *think* about Brexit developments – and while I was in a position to help with that (alongside my frequent co-authors), that audience would not have benefited from me taking the 'lawyer speak' in these draft texts and turning them into 'academic speak' instead.

Working on these types of rapidly moving current events makes the 'academic writing' conundrum stand out all the more: here, not only because the *style* isn't what most of our potential audience is interested in, but also because academic publishing tends to be slow to enable peer review and editing and so on, meaning that a 'quick comment' on current legal developments is likely to not see the light of day for several months.³

Trying to write about these kinds of developments in the normal 'academic' style is therefore a misfit on several levels, and what I found ended up working best is to treat my contributions as taking place in two distinct steps. First, I worked to quickly parse new developments to try to get that broader communication out in the shape of a blog post, policy paper or research briefing; and that non-academic report could then form the foundations of a later, more 'classic' academic analysis. This, too, made the latter easier to produce – the bones of any further article were already there, and fleshing it out into a more academic piece meant *expanding* on that material, while keeping as much of the original 'accessibility' as possible.

In sum, the moral of my story, insofar as there is one, is not purely that there *can* be more to academia

3 I will here give an unsolicited shout-out to the *Northern Ireland Legal Quarterly*, whose editorial team have been absolutely fantastic at getting 'current affairs' legal commentary out with the smallest delays I've experienced during my 15 years in academia.

than just ‘academic writing’ – and, indeed, ‘impact’ as per the REF pretty much demands that there is! – but that ‘academic writing’ itself can also be *more* than what we traditionally expect of it and are likely trained to do. In my experience, we don’t *have* only to be talking to other academics when

we publish; the less we stick to our disciplinary expectations and styles and write about *what we know* with the aim of *reaching as many people as we can*, the more rewarding our academic writing becomes.



Working and writing together – a reflection*

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INTRODUCTION

When the editor of this journal asked me (Dave Cowan) to contribute to this series about writing, it prompted me to revisit a grumbling, perhaps festering itch, about an unsuccessful collaboration I had with somebody I admire (Simon Halliday).¹ We therefore decided to write a piece together, as a series of emails – there are four of them. For both of us, it may have been an unsuccessful attempt at catharsis. By way of context, we are both serial collaborators and work (hopefully) successfully in research teams.

We have also had a sustained friendship, including the odd friendly dig at each other, since around 1996, and a mutual respect for the work produced by each other. Indeed, we often read one another's work as reassurance before submitting it to a journal.

The project which forms the basis for our discussion was a generally well-received study (at least, we think so) about administrative justice – homelessness internal reviews by local authorities of their decisions – and, indeed, it carried on after the events which we discuss in the exchange below, making further subsequent interventions in the interdisciplinary journal *Housing Studies* and the disciplinary journal *Public Law*. It is work of which we are both proud. It was also work in which we engaged with a range of colleagues, including Caroline Hunter, with whom we both have worked subsequently and fruitfully.

However, our unsuccessful collaboration came to a head with the publication (in Dave's name alone), in another journal, of a paper about legal consciousness on which we had both worked.² This

* First published in *NILQ 76.RS (2025) 88–96* on 19 June 2025.

1 Other articles in this series that discuss co-writing are Tamara Hervey, 'The company of long-distance co-writing' (2025) 76(RS) Northern Ireland Legal Quarterly 50–58 and Nicola Lacey, 'On academic writing' (2025) 76(RS) Northern Ireland Legal Quarterly 97–115.

2 D Cowan, 'Legal consciousness: some observations' (2004) 67(6) *Modern Law Review* 928–958.

paper, and our disagreement about it, forms part of the basis of our discussion below. It is a discussion about how we read and report on our research data. In terms of 'legal consciousness' research, the question which we address is how we can read legality in our data when it is not precisely addressed as such by the research subjects. The final draft of the actual article sought to address that point, but the issue of principle remains. The other part of the discussion is a rumination on why our collaboration was unsuccessful, despite our friendship. This is a discussion about the messiness of everyday life, and how we write it up. Journals like this one, and monographs, contain outstanding discussions of socio-legal empirical research. Often, including in our own work, these discussions have the appearance of being smooth transitions, of analytical clarity, of neat structures. This is unlikely to represent, however, either the messiness of the data or the project – as we know, empirically oriented research projects rarely end up as they were initially contemplated. The question faced by the researcher is how to neaten the data for publication – and we are regularly asked how to do this when presenting at graduate research conferences (for example). There is, as we discuss, no easy way to do it, and we have different versions of truth on it.

What we hope our discussion leaves you feeling is that, beyond our mutual respect and occasional

bad jokes, working collaboratively is a process which gnaws at you and raises difficult questions. You could take a principled stand or be pragmatic, but either way the decisions we/you made/make have consequences both for yourselves and the research project/process. Reflecting on them (as we have done over the years) is part of that project and process. The distinction that Simon makes between being co-researchers and co-authors is, we think, an important reflection, as is the discussion about audience (and how to write for it, assuming it exists). Both of these points are commonly forgotten as we, as an academic band, focus on our work; and, we suppose, if you take one thing from our dialogue, it would be to remember the audience, as we have tried to do in our email discussion in the second part of this article.

What is left out of the conversation below is our WhatsApp 'side chat', in which we ask each other if they are ok with what we have written (and wonder if we should edit it), as a process of reassuring each other. We had hoped to include those messages but one of us has automatic disappearing messages on, and so we can't include them. The important point about this paragraph, though, is that working together requires reassurance, and that ensuring the well-being of your collaborator is part of the research process and, we would argue, an ethical duty.

THE EMAILS

From: David Cowan
Date: Monday, 10 March 2025 at 17:37
To: Simon Halliday
Subject: Here we go

Simon

It's been ages since we wrote something together, and I am filled with trepidation about doing this with you now. I have spent most of my career working and writing with different people. It's been fun working and writing with others – the main reason why I am a serial co-author and, given that the subject-matter of our work is frequently pretty depressing and distressing, we should take our fun where we can. I guess I have learnt a lot about how to write over that period. But, I also know (minimal self-reflection and what others tell me) that I am pretty difficult to work and write with. I write quite fast, voluminously, and sometimes in an unstructured way. As somebody (a critic) once said, my work is too 'heart-on-sleeve' to be taken seriously (a badge of pride to me).

That brings me to working with you and my sense of trepidation about describing the 'process'. In retrospect, the problem with us working and writing together was always: how do we merge our very different styles? If I'm 'heart-on-sleeve', you are what I described as *soooo Oxford* (used in a pejorative way) – the opposite of me, ie careful, methodical, neutral, always finding flaws and

going back over it. I loved that we could laugh about it, although it probably also felt a bit bruising. It certainly did when my writing was consciously rewritten, but it kind of helped that I had an enormous amount of respect for you at the time (which has continued). My sense that you were searching for structure and order in things that were inherently messy and complicated meant that our writing styles and the substance clashed. Over the last 20 or so years since we wrote together, my sense is that you had a significant impact on the way I write and analyse materials, but I still struggle with the search for structure and order that you always seem to find.

And then there's that paper – the legal consciousness one from 2003. I sometimes teach it and, when I read it again, realise how much of it you wrote. I couldn't understand why you didn't want your name on it. Do you remember that presentation at the Law and Society Association meeting in Pittsburgh when we presented it to an audience of one (who was there for somebody else's paper) on the Saturday at 8.15am with a slight hangover (may have made that up)? That was a laugh – we just wanted to go and have a chat over breakfast, but they kind of made us present it. It was quite a good piece of work. And it has turned into my most read and cited piece. But it wasn't 'mine'; it was ours; and I still feel really rubbish about it. You said that, if I wanted to publish it, that was fine,

but you didn't want your name on it. In the end (reading that phrase again: where was the end?), it was published with this asterisked note at the start:

* It is with some diffidence that this article appears in my own name. Simon Halliday was a crucial inspiration throughout the many months of its production; it was originally intended as a joint article between us and some parts of the paper were worked through jointly. We disagreed, however productively, on the proper place of 'law' in 'legal consciousness', and Simon graciously chose to allow me to pursue my approach. We co-presented this paper in rough form at the Law and Society Association meeting in Pittsburgh, June 2003. ...

Should I have canned it or tried to persuade you further to appear as an author with me? I've carried that guilt with me for the last 20+ years – was it part of my instrumentalism or ambition? I'd been really ill, I remember that much. When we have discussed it, you have expressed regret, albeit with a laugh. And I can't say that I have ever lain in bed wracked by

guilt about it appearing in my own name. I can barely remember what our disagreement was about, but, at the time, it felt really minor – perhaps we could have finessed it. It was about what 'law' meant in legality, wasn't it? And whether law included the kind of street-level practices we had been investigating. The odd thing, I suppose, about that paper is that we were late to the legal consciousness party – the work had never been set up as that kind of project. I hadn't really engaged with Ewick and Silbey's book until you introduced me to it (is that right?). But our data spoke to those themes although we set up a bit of a straw person argument at the start.

Anyway, I'll be amused to read what you come back at me with. This isn't as cathartic as I thought it might be. But, just to reiterate, we had a great laugh working together, and with our colleagues on that project. But it was also fantastically insightful working with you all and learning from you all.

Looking forward to your response. Love ya

Dave

From: Simon Halliday
Sent: 25 March 2025 19:03
To: David Cowan
Subject: Re: Here we go

Hi Dave,
It's nice to be writing about writing, don't you think? And I like this epistolary format. I suspect we'll

find it liberating – though that may simply beg the question, 'liberating from what?' Maybe we should leave that question hanging for now ...

Your opening gambit raises a couple of important issues, I think: (1) the distinction between writing and working together; and (2) the value of searching for structure in a

messy world. I'll deal with those in a moment, but first I want to clear something up about that article that we didn't write together.

I remember the disagreement well. It was about who gets to say what counts as 'legal' within legal consciousness, wasn't it? I've always been of the view that researchers should run with what their participants think is 'legal'. I feared that you were ascribing legality to the things our interviewees were saying. So, to my mind, that counted as your legal consciousness, not theirs.

But that wasn't why I withdrew from the article. That's the kind of disagreement I like! It was about ideas, not each other. And isn't getting to argue about that kind of stuff why we become academics in the first place? I'm pretty confident our respective positions became a bit sharper for the exchange.

No, the reason I encouraged you to go ahead and submit without me was because I didn't think we'd have enough time to find a 'third way' to write about legal consciousness together, given our basic difference of perspective. You've always thought and written much faster than me. When we were writing our book together, I very distinctly remember taking a full month to send you 6000 words, while you took 8 days to send me back 22,000. I just didn't want to slow you down with the subsequent article. I felt I'd already done that with the book. So, it was a good decision. I don't think you should feel guilty at all. Save that for the

next life (as the Calvinist in me would say).

Anyway, let's tackle those two issues I mentioned earlier. The first issue – the distinction between working and writing together – follows on very nicely from what I've just been discussing.

You're right to say, I think, that working with people can be a lot of fun. It certainly was with you. You're one of my favourite people. And getting to have fun in the process of doing research is much undervalued, I suspect. It's not talked about enough. The importance of the topic, ethics, outputs, impact, etc, take centre stage. But finding some space for fun can get you through a project, particularly when it goes wrong, which is not infrequent.

Yet '*working together*' is a much more expansive category than '*writing together*'. And while we really enjoyed working together, I'm not sure you'd say we enjoyed writing together. I'd put money on the fact that what made working together so enjoyable was what made writing together quite hard. It's because we're very different people. That difference makes engaging with you very stimulating – and often very funny. But there's something potentially rather personal about writing. It's not just words on the page. I suspect one doesn't realise that until the first time you try to write with someone you can't get into step with. And, because it's personal, you have to tread carefully (though by the sounds of things, I maybe

didn't tread carefully enough ... I'm sorry). A potential compromise, of course, is to give each other the lead on separate articles. Maybe we should have tried that. Perhaps, there's still time ...

The second issue you raised was about my habit of trying to find structure in things that are inherently messy. And here I'm going to prove the point by drawing another distinction within your observation. The world we research is very messy, I agree. But the way we write about that messiness doesn't itself have to be disordered. When I write, I always have someone like my undergraduate self in mind as the reader. I was lucky enough to study a lot of sociology of law during my two honours years at Edinburgh (a great benefit of the Scottish educational system). I really loved the subjects, but some of the material was really difficult to understand. At the time, I found

it frustrating and disheartening and felt the failure was in me. But, looking back, I suspect the failure was in the writing – for some of the material, at least. Since becoming an academic, I've been much taken by the ability of some writers to make otherwise complex material accessible to those who are curious about the ideas but not yet steeped in the literature. Think about David Garland writing about Foucault, or Martin Krygier writing about Marx. If they can do it, shouldn't we aspire to it?

So, being '*soooo Oxford*', as you put it, wasn't about denying the messiness of the social world, it was just about taking pity on the poor buggers who find our stuff on their reading lists.

OK, I should stop there for now.

Simon

P.S. I'll get to edit this, won't I?

From: David Cowan
Date: Thursday, 3 April 2025 at 18:27
To: Simon Halliday
Subject: RE: Here we go

Simon

Your email made me smile as it demonstrated yet again the kind of methodical scholar you are, and how our styles are so different. I love the way you have always brought structure to what I was trying to say, and the distinctions you draw between co-working

and co-writing are spot on. And I appreciate that co-writing can be a frustrating enterprise. Both of us are serial co-authors, and I suspect you are more successful at it.

Following your structure (as I always do) ...

That methodological discussion we had about what counts as 'legal' was also a pretty fundamental discussion about what constitutes law, and, in the article, that understanding was expanded to include unofficial law, as well as identity and rights (including

assertions of dignity and self-worth). I think you disagree with that extension, but that enabled a reading of the data which accepts that I was reading law into their interview text. Looking back at it today, I suspect that I might not agree with myself – as my old doctoral student said to me the other day, I can be frustratingly inconsistent – but the point was not to provide a finished article about legal consciousness (our study wasn't about legal consciousness and wasn't set up in that way, anyway, which perhaps gave me a bit more licence than I might have felt in the first place). It did, however, enable observations to be made about the value of legal consciousness in opening up our understandings of everyday life; and re-focusing our gaze on the mundane/everyday and away from the spectacular. That was the purpose of the slightly pompous title.

That exploratory approach is probably part of the way I write too. Frustratingly quickly but also frustratingly stream of consciousness – quite often, when I start writing, it's not clear to me how it will end up; and so, being a rather self-indulgent person, I like to take the lead. You are right that writing is personal. It would be interesting to see what would happen if we adopted your suggestion of taking a lead on different pieces. My suspicion is that I would probably find it quite difficult ceding control of a draft. I have been part of a discussion

with colleagues about co-writing at Cardiff, and I marvel at the ability of my colleagues to have successful, truly 'co-' experiences; one of my colleagues talked about sitting in a space together for an extended period writing (it reminded me of the way some comedy writers come up with gags together), and I felt a bit jealous about that. It seemed to me to be a proper 'co-' experience, but one which, for whatever reason (generally personal about time and place), has proved impossible for me. Maybe, I'm not suited to that – it seemed like a lovely idea, but really difficult to pull off in practice. Do you do that? I'm afraid that I haven't really learned to do that – my dream is always control of the first draft – but I have learned to respect the way my brilliant co-authors bring structure to my work and question my style.

The one thing I would say about writing with you is that I learned an enormous amount both about *how* to write, as well as how to structure work. I'm always a little dismissive in a take-the-mickey kind of way about your style, but the truth is that I really valued it and learnt an enormous amount and have tried to slow down since then. Writing quickly has served me well, I guess, in career terms, but I really did take on board the way you work. It's just I can't do it like that (or, perhaps better, don't want to).

Where we might continue to disagree lies in how to tell the complex, contradictory stories of our research participants. I still have not found a way to do

that convincingly – I’ve tried structuring or bringing archetypal stories together (Lydia Hayes adopted that approach in her brilliant monograph) and doing them in the same book; but it just doesn’t work for me. Disorder needs to be acknowledged – and to throw this back at you – because otherwise we are reading order into our participants’ narratives. As undergrads, I guess we both would have appreciated a simple story, but we also would have understood that social life is complex, messy, contradictory. To be sure, I do agree with you that the failure was not you but the authors you were reading who made their work difficult to understand. Over time,

I have become equally annoyed with that kind of work, although I suspect you would say that I have contributed to it (and I accept that I have, sometimes consciously) but the kinds of narratives that I’m talking about here don’t need to be made difficult to understand to appreciate their complexity. We can do that in a way which doesn’t bring structure to them, which may not be there, *and* do it in a way which our undergrad selves might appreciate? In short, we can have it all.

And I’m going to stop there too. No editing allowed, I think.

Love ya, mate
xxx

From: Simon Halliday
Sent: 24 April 2025 14:35
To: David Cowan
Subject: Re: Here we go

Dave,
You were much too generous (and characteristically kind) in that response, I think. It is greatly appreciated, of course. And for the record, I have learned a great deal through working with you too, not least because you seem to be relentlessly theoretically current. But before this morphs into some kind of slushy bromance, I think we should probably move on ...

On the question of structure and disorder, I think we’re actually in agreement for once! I could never bring myself to endorse a ‘you can have it all’ mantra, of course. No

one ever gets it all (and rightly so, in my view). But I sense we’ve finally arrived at a consensus on the importance of ultimately writing clearly about the messiness of the social world.

I’m also 100% with you in your scepticism about writing together in the same room at the same time. Personally speaking, I can think of nothing worse. Certainly, as far as we’re concerned, the attempt to write together like that would likely have extinguished the fun of working together. I do know two co-authors who have done this successfully (you know them too), but they’re better psychologically disposed (and probably ideologically committed) to that mode of co-operative endeavour. Neither of us has the personality type for

that kind of thing. Much like the silent discos one observes on the streets of Edinburgh during the Festival, I'm happy to be happy for those who are happy but it's definitely not for me.

This talk of personality types does makes me wonder about the psychological dimension of academic writing. I couldn't help but notice the passing references in your last email to streams of consciousness and dreams of control. A psychoanalyst could probably go to town on that material. But for me the question is about the psychological work that one's style of writing is doing. I certainly need to create a sense of order as a buffer against the threat of chaos, whereas I suspect you gain some energy from its expression. At least, that's where you want to start. Maybe, at an unconscious level, it's a challenge you throw out to the world. And perhaps my role was to meet it. In doing so, I got to comfort myself that order is possible.

Adler might have something to say about that (Alfred, not Mike). But, in any event, my point is that our writing partnership may have been fortuitous in a way we didn't appreciate at the time. Food for thought ... I'm not suggesting, of course, that people should swap psychometric test results before embarking on a joint writing project, but being attuned to issues of psychological compatibility may not be a bad thing.

Well, I've enjoyed this short exchange on writing together. I hope you have too.

Cheers for now,

Simon

P.S. In case you were wondering, I spotted the fact that you got to go first in this exchange ...

P.P.S. Are you thinking of this as a possible REF piece? It'd score well on originality, albeit less well on significance.



On academic writing[†]

Nicola Lacey*

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This is a meditation on my experience of academic writing over the last 45 years. It sets out by asking why it matters to try to understand scholars' varied experience of writing: both the barriers which we face under different circumstances, and the pleasures, satisfactions and rewards which – mostly – keep our nose to the grindstone even through tough times. It then moves on to describe four different case studies from my own writing career, drawing out what now seem to me the lessons of each experience. In conclusion, I try to synthesise what emerges from these personal case studies by way of some more general understanding of the psychological, cultural, institutional and structural factors which shape experiences of writing over time.

WHY WRITE ABOUT WRITING?

Earlier this year, emerging from a lengthy period of feeling somewhat overwhelmed by multiple self-

inflicted writing deadlines, I decided to call a moratorium on new commitments for at least a few months. Shortly afterwards, I received the Northern Ireland Legal Quarterly's invitation to contribute to this series on writing – and found myself, notwithstanding the moratorium, immediately and strongly inclined to accept. Why, I wondered? As I thought about it, I realised that there was a lot I wanted to say about the experience of writing; and about the emerging trend to run writing workshops and seminars oriented to passing on tips about the craft of writing. These have emerged as a further resource in the ever more systematised pedagogical toolbox, expanding the skills which, as teachers, we are meant to impart to our students and nurture in our younger colleagues (reviving and adapting, perhaps, a much older tradition epitomised by the teaching of rhetoric). A very brief survey of my own university website uncovered a wide range of such provisions aimed at both students and staff. And beyond the

[†] First published in *NILQ 76.RS (2025) 97–115* on 19 June 2025.

* School Professor of Law, Gender and Social Policy, London School of Economics. I am grateful to Liz Frazer, Emily Jackson, Hanna Pickard and David Soskice for thoughtful comments on an early draft; to my LSE colleagues for a very helpful discussion of its themes; and to many fellow writers for engaging with me so generously on the topic of writing over the years.

legal academy, the development of creative writing programmes and intensive writing workshops is testimony to the belief that literary, as much as academic, writing is not merely a matter of having interesting ideas and wanting to impart them, but requires craftsmanship and technical skills.

At one level, the emerging assumption that we should be teaching writing skills seems eminently reasonable, indeed common sense. The ability to produce clear, well-structured, carefully argued and readable prose is, after all, central to not only effective scholarly work but also virtually every other form of legal or law-adjacent career: legal practice; adjudication and the framing of arbitral awards; policy development; the advocacy of legal reform. Even in a world of rapidly developing artificial intelligence (AI), there is strong reason to think that it matters that young people should be equipped with an understanding of what makes good critical and analytic writing, not least because, without this, they are unable to evaluate the outputs of AI with which we will all be working. And, undoubtedly, there are certain key skills, and useful rules of thumb, which can be imparted and absorbed to good effect.

But there is, to my mind, also a problematic side to this, as it were, technical professionalisation of the writing process. To see what the problem is, one need only think for a moment about the various

sorts of difficulties that academics encounter: for example, a ‘writing block’ or an inability to settle on a particular structure or finalise and share written texts. These sorts of writing difficulties afflict academics – I use the term to encompass anyone writing an extended piece of scholarly work, whether a student dissertation, a PhD thesis, or an academic book or article – even when they already possess excellent technical writing skills. Moreover, they affect people even when they have powerful and original ideas. I am sure I am not alone in having supervised PhD students who, notwithstanding impeccable writing credentials evidenced by first class degrees and excellent Master’s qualifications, as well as intriguing research plans, struggle to translate the latter into a well-structured piece of extended writing. Of course, this doesn’t mean they don’t finish their degrees: rather, it affects the difficulty involved in doing so. Teaching writing, in the sense of helping students overcome those barriers, seems to demand something rather different from imparting a technical craft.

Anecdotally, one exceptionally talented former colleague of mine who suffered excruciating difficulties in finalising written work managed to labour through the pain barrier to produce a single published essay before they left academia for a very successful career in legal practice. Decades on, that one essay is still widely read, and is regarded as a classic in its

field. Significantly, my colleague's writing difficulties were alleviated by the very different context of a busy legal practice. For them, the hard deadlines and constant pressure that might be thought to present real difficulties for anyone with a history of writing block in fact mitigated them. Perhaps it freed my colleague from a self-critical perfectionism that the less structured context of academic writing allows: the immovable deadline and practical restriction on relevant arguments offering permission to be more pragmatic about the standards to be reached, and less opportunity to revisit the framing and structure of arguments. This anecdote, I think, reveals something very important about writing: that the experience of it, and of barriers to writing, are varied, contextual, and in significant measure personal and psychological. For the production of good writing – whether academic or literary – depends on a delicate balance of two things which are ostensibly in tension with each other: the self-confidence and self-esteem to think that one can articulate one's ideas effectively and that those ideas are worth committing to final textual form and sharing with others; and a capacity for engaging in, and acting upon, critical self-reflection. Writing, in other words, requires a balance between the ego and the super-ego: an unchecked ego threatens quality, while an over-active super-ego can close down the writing process entirely. Hence

the limits of the 'skills' model of writing pedagogy, important though writing skills are.

But if the lived experience of writing is so personal and contextual, why did I feel it would be useful to share and reflect on my own experience over my 40-year career? For two reasons. First, very few scholars have an even experience of the pains and pleasures of writing over the life course. So each of our individual experiences offers an opportunity for reflection on the contexts and psychological factors which make writing easier or harder, more pleasurable or more painful, at different times.

The second follows on from this, but has more to do with the impact of the experience of difficulty in writing, and the shame that can come with that, particularly in an increasingly competitive and demanding academic world. My former colleague, who is also a close friend, sometimes reminds me how lucky I am that I find writing reasonably easy. Probably most people assume, from my publication record, that that is indeed the case. To believe otherwise would seem to indicate a rather longstanding masochistic tendency. And perhaps there is some truth in that. Another person I am close to, one of the most successful and highly cited social scientists of their generation, finds every piece of writing excruciatingly difficult, but sticks with it because of the depth of their commitment to developing and sharing ideas

which can help us to understand the world we live in. I haven't had to face anything approaching this kind of problem. For some reason, I have always regarded expressing my ideas in writing as entering a dialogue: I care that my written work should be well argued and polished; but I have rarely felt burdened by the sense that it must be definitive. This longstanding disposition was crystallised by a key piece of advice early in my career, when Ted Honderich, the editor of the series in which my first book appeared, concluded his comments on a draft with an injunction not to spend too long finalising the text, underlining the message in characteristically emphatic style: 'It's not the sermon on the mount, Niki!'

But, alas, while I have indeed often found writing exhilarating and straightforward, that has most definitely not always been the case. And two experiences over the course of my career have convinced me that it is important – perhaps, given the developing structure of academic life, increasingly important – to be open about those difficulties and to share one's experience of them.

The experiences that brought me to that conclusion were these. First, in researching a biography of legal philosopher HLA Hart, I was fortunate to have access to his personal diaries. These shone much light on the development of

his ideas. But they also revealed the intermittent, but acute, crises of confidence which attended the whole of his writing career, often leading to periods of inability to finalise papers or believe that what he had to say – even what he had already published – was worthwhile. The pressure he felt was mainly generated by his own exacting super-ego; but it was exacerbated by the high-profile Oxford chair which he held and the desire for some respite from that pressure was the main reason for his early resignation from that chair in 1968.¹

Hart's adult children were initially dubious when I stated my intention to include an account of his struggles with his writing in the biography. They worried that this revelation of his intense anxieties – in stark contrast to his worldwide reputation as a, if not the, pre-eminent legal philosopher in the post-war English-speaking world, and a well-known public intellectual, founded in his track record of books and articles many of which are still regarded as classics today – would in some sense undermine his reputation. I argued that, on the contrary, his commitment to overcoming the difficulties should be seen as enhancing rather than diminishing his reputation. Few of us, I think, would have had the strength to persist in the effort to articulate our ideas in the face of the torments

1 Nicola Lacey, *A Life of HLA Hart: The Nightmare and the Noble Dream* (Oxford University Press 2004), in particular ch 9, 11, 13.

of insecurity which Hart expressed – one hopes, to some therapeutic effect – in his diaries. So the account of these struggles did find their way into the book. Readers do not seem to have thought in fact that they diminished his achievement: in the academic world, as elsewhere, nothing succeeds like success. But my account of his struggles did have a big impact on readers. I received (and, 20 years on, still receive from time to time) dozens of letters, particularly from young scholars, thanking me for telling the story, and reporting the relief that they felt to realise that even the most eminent academics can face real difficulty in committing their ideas to paper. ‘If even HLA Hart had these difficulties,’ the reaction broadly went, ‘then I am not inadequate in having them too; I feel less alone; I am reassured that they can be overcome.’

The second experience which made me think it important to share our reflections on writing came in the wake of the Covid pandemic. Academics’ experience of the pandemic seems to have varied wildly. This became apparent in my own, highly collegial, department, whose very effective leadership during the pandemic kept us regularly and informally networked via Zoom and other online platform events. It seemed – and I hope it really was the case – that people felt able to talk openly about their experience of lockdown. This was of course very different along obvious lines such as where you lived and how much space

(including outdoor space) you had access to; whether you were home-schooling and caring for children and/or worrying about the impact on their development; elderly care responsibilities; whether you were living alone or with others; how readily you could access friendship and other support networks; and, last but not least, whether you or your loved ones were among those who suffered serious illness from Covid or other causes. But as we emerged, it became clear that the experience of writing during the pandemic differed radically, and did so in ways that were not entirely explained by these objective differences in context. While some colleagues reported finding the enforced seclusion highly conducive to writing, I noticed that others were much less positive.

Despite being in very fortunate circumstances, with plenty of space, company and emotional and practical support, I myself succumbed to a depression which had probably been lurking for some years as I tried to negotiate the combination of doing my job and caring for my mother, who has dementia. I sought medical help, which definitely improved matters. But not enough to save me from one of my most painful writing experiences ever, notwithstanding that I had the support of my co-author, Hanna Pickard, who is also a friend, and of my husband, David Soskice, who is also an academic and well acquainted with the tribulations of writing.

When I presented the relevant paper, after the pandemic, at a department research seminar, I prefaced my presentation by saying that, while I knew many people had found that the relative calm of the pandemic provided a good writing environment, and admired them for that, I was, alas, not among them. (Indeed, so painful was the writing of that particular paper – since published in a peer-reviewed journal² – that only the fact that I felt a responsibility to my co-author, and even feared that if I abandoned the paper I might never be able to face writing again, kept me going. Fascinatingly, Hanna tells me that she has no memory whatsoever of the writing process, or even the paper’s argument.) Following the seminar, I had many emails from younger colleagues, thanking me for my openness and saying – like my biography correspondents – how reassuring they had found it.³

It is in that spirit of openness, and for the reasons I have set out, that I offer my reflections on my varied experience of writing. I will relate five case studies covering research projects which resulted in some form of publication, recalling the experience and trying to reconstruct why it took the form that it did. The third and fourth

case studies included extended moments of intense difficulty; the first, second and fifth were much easier, in part, in the case of the latter, because it offered a chance to reclaim what had felt like a loss in my earlier life, as well as a manageable diversion from a much larger, unmanageable project which continued to cast its shadow on my experience of writing for years to come. In conclusion, I will try to synthesise these experiences into a tentative account of the structural, institutional, cultural, personal and psychological factors which make writing, for many academics, a process which is central to their lives, careers and professional reputations, yet fraught with unpredictability.

STARTING OUT: MY GRADUATE DISSERTATION AND ITS UPSHOT

I sometimes joke to friends that my career is based on comparative advantage theory and a certain lack of imagination: I basically discovered at school that I was good at writing essays, and kept going. As a student, I rarely had difficulty in completing written assignments, and often enjoyed doing them. Don’t get me

2 Nicola Lacey and Hanna Pickard, ‘Why standing to blame may be lost but authority to hold accountable retained: criminal law as a regulative public institution’ (2021) 104 *The Monist* 265–280.

3 Other articles in this series so far that discuss co-writing are Tamara Hervey, ‘[The company of long-distance co-writing](#)’ (2025) 76(RS) *Northern Ireland Legal Quarterly* 50–58 and David Cowan and Simon Halliday, ‘[Working and writing together – a reflection](#)’ (2025) 76(RS) *Northern Ireland Legal Quarterly* 88–96.

wrong: my run-up to drafting in particular has long been attended by anxiety, mood swings, and the sudden impulse to throw myself into domestic or administrative tasks which I generally avoid as long as possible. I privately (until now!) thought of this as a kind of writing related PMT ... But writing was generally, for me, a source of pleasure.

This was certainly true of the first piece of writing that was consequential for my career: my graduate dissertation while on the BCL programme in Oxford. Despite having a famously exacting supervisor, who had (unwittingly) pulverised the confidence of another student I was close to, I found it exhilarating. For me, the process of writing has always been bound up with that of thinking. Unlike people who, enviably, can articulate their ideas in discussion and debate, I often don't really know what I think about something until I have written it out. So, when it goes well, writing is a process of creative discovery and – the ego is never far! – self-realisation. (Interestingly, the successful academic friend who finds writing so painful has no difficulty in articulating their views orally: but as they try to commit them to paper, they find the impulse to capture on the page the complexity of the interacting parts of social and political institutions overwhelming.)

My dissertation was around the length of a journal article, so when I was lucky enough to land a

tenure track job straight after my degree (those were the days ...), I assumed, with all the confidence of youth, that it would be reasonably easy to place it. I worked hard to streamline and polish it, and submitted it to a leading journal. In stark contrast to what happens today, I received a reply, from the main editor, personally signed, within about three weeks. The brief letter contained a polite but discouraging rejection, with no feedback whatsoever. As it happened, a colleague had asked me to write a paper for an edited collection, and the piece ultimately appeared there, complete with a typo in the title.

It was hardly a distinguished start to my professional writing career. But it did have an important effect on my publishing practice and, hence, my experience of writing over the next few years: it entirely put me off submitting, cold, to journals; and most of the publications on which I built my reputation in the first 20 years of my career were commissioned for book series, edited collections or special issues. It helped that there was far less pressure to publish in particular journals in those days (indeed, at the very beginning of my career, there was little pressure to publish at all, and many law academics built a perfectly respectable career on their teaching and the drafting of the occasional case note or commentary).

After this, I began to subject myself to the peer review process. This was because national research

assessment – along with promotion processes which were often yet more rigid in their demands, including the (to me) excruciating requirement to vaunt one's main writing achievements in the career development process – had made this a key condition for career development. I felt that I should be subject to the same experiences as my PhD students, mentees and colleagues still needing to build their careers.

I am sure I do not need to explain to this readership how exacting the process of article submission now is. One subjects oneself to a lengthy process, often culminating in confidence-sapping reports or contradictory feedback. Much as I applaud a focus on rigour and high standards, and applaud the hard work and professionalism (usually unrewarded) which goes into reviewing and editorial work, I cannot but feel that the particular peer review processes with which we have saddled ourselves are inattentive to the psychology and human experience of writing. I often reflect on the fact that the freedom which my ability to publish in whatever outlet took my fancy is no longer available to young scholars today. When I told colleagues that I had agreed to write HLA Hart's biography, a common response was to ask whether I was worried about its eligibility for the national assessment process. As a tenured professor at a leading university, and one with a pluralistic research culture, I could afford to shrug my shoulders. Most scholars are not

so fortunate. I firmly believe that the freedom I enjoyed in my early career helped me to emerge from that initial brush with a journal rejection pretty much unscathed; as well as allowing me to find my own voice and explore ideas and resources beyond those then recognised as conventional legal scholarship.

**CO-AUTHORING,
BREACHING
BOUNDARIES:
RECONSTRUCTING
CRIMINAL LAW AND THE
POLITICS OF COMMUNITY**

In 1987, I was nearing the conclusion of work on my first monograph and thinking of turning my hand to some writing which might directly inform my teaching. This included criminal law. Oxford boasted many talented criminal law scholars, but the first year course was quite conventional. As a result of studying and teaching criminal justice, I was already finding myself drawn to a socio-legal vision of the enterprise which was largely absent from the course. So I was delighted when William Twining approached me to contribute a text to the Law in Context Series, and eager to share the task with Celia Wells, with whom I had struck up a friendship and close intellectual relationship through the Women Law Teachers' Group. Luckily, another criminal law colleague, Andrew Ashworth, was already travelling in a contextual

direction, so, although I was still feeling quite insecure in Oxford, I felt the confidence to accept. I have written elsewhere about what led me into the substance of my various research projects;⁴ here I confine myself to the process of writing, and in particular to how that process is shaped by the praxis of co-authorship.

Writing can be a lonely business; and the pleasures and rewards of writing are often thought of in very individualistic terms. But writing is in fact, inevitably, a relational practice – a process of co-production in dialogue with and/or counterpoint to not merely current interlocutors but authors with whose ideas one has engaged over the years. The experience of co-authorship makes this general fact particularly vivid, and, when it goes well, I believe that it can genuinely produce something which is greater than the sum of the authors' individual contributions.

But this is not to say that all successful co-authorship takes the same form. In Celia's and my case, we shared an overall vision of a text which would be accessible to students; which would make different voices and perspectives heard; and, above all, which would set criminal law in its historical, social and procedural context, approaching the law through the

lenses of these different contexts rather than setting out the law and then, as an afterthought, noting their relevance. Within that framework, our approaches were quite different. Celia regarded my taste for setting out broad theoretical frameworks with amused indulgence, but constantly reminded me that the framework had to accommodate, and be sensitive to, the detail and texture of how legal arrangements emerge over time and have their meaning and effect in particular contexts. Conversations with our partners, respectively a medical lawyer and a political scientist, were also influential in encouraging us to reach beyond our comfort zones; and Joe, Alice and Lydia's cheerful scepticism that what we were doing on a Saturday could be anything like as important as the plans they had for us, was an important part of keeping everything in proportion. The collaboration, which extended to three editions,⁵ also afforded a painful lesson in the impact of writing difficulties and how to work around them: a third co-author contributed significant ideas to the overall conception, but struggled to finalise text, and our co-author relationship did not survive beyond the first edition. I remember the writing process being fairly easy once Celia and I

4 'Companions on a serendipitous journey' (2017) 44(2) *Journal of Law and Society* 283–296.

5 Nicola Lacey, Celia Wells and Dirk Meure, *Reconstructing Criminal Law: Critical Perspectives on Crime and the Criminal Process* (Weidenfeld & Nicolson, Law in Context Series 1990); 2nd edn with Celia Wells (Butterworths 1998); 3rd edn with Celia Wells and Oliver Quick (Cambridge University Press 2003).

had sketched out a plan and our division of labour. In a striking example of one way in which the experience of writing has changed over the course of my career, I also remember writing the first draft of chapter 1 in longhand; and losing the entire text of chapter 2 in one of those basic mistakes which it was so easy to make in the early days of what we then called ‘word processing’. (I stayed up all night to rewrite it – another learning process, but one which I have not repeated!)

A very different, but equally happy and formative, collaboration came out of a reading group on the communitarian themes emerging in the feminist and critical legal theory of the 1980s. My political theory colleague Elizabeth Frazer and I were struck, but also somewhat troubled, by what we saw as the resonance between contemporary feminism and communitarianism. Our book *The Politics of Community*⁶ was, in effect, our effort to work out what we thought. Whereas Celia and I had simply divided up the chapters of *Reconstructing Criminal Law*, commenting on each other’s drafts, Liz and I wrote much more organically, swapping fragments and sometimes working on drafts together. But once again, working

with someone with different skills – in Liz’s case, in sociology and political theory – to mine, gave me the confidence to expand my horizons, as well as being a lot of fun. I am genuinely unsure which of us wrote large chunks of the text. The journey to publication was not, however, smooth. Each of us had major crises of confidence along the way. Luckily, they came at different times, and we were able to help each other through them.⁷ When mine came, I also had fantastic support from David, and from a group of colleagues at Stanford Law School, where I was a visitor while drafting the final chapter of the book. But this first experience of writing paralysis felt existential, and I remain deeply grateful to the people who calmed me through it. It gave me a lasting sense of the importance of forcing oneself to share drafts even when one dreads the reaction; as well as of the kindness and generosity of other scholars. I have gone on to develop several other significant co-authoring relationships, and, while I personally find it necessary and productive to intersperse collaborative with single-authored projects, I really treasure the companionship and inspiration that comes with co-authoring.

6 Harvester Wheatsheaf 1993.

7 Amusingly, when Liz kindly commented on a draft of this piece, she noted that she had felt quite uncertain about the book and had worried that my grasp of political theory was more confident than hers. My perspective was, of course, precisely the opposite: she was the political theorist, and I was simply a transgressive lawyer. Perhaps this kind of productive mutual misrecognition should be accorded one of the benefits of co-authoring ...

**USING PAST EXPERIENCE
TO ORIENT MYSELF IN
NEW TERRAIN: A LIFE OF
HLA HART⁸**

Throughout my career, I have interspersed what I thought of as ‘purely academic’ writing projects with projects aimed at a broader audience: mainly undergraduate students and policy-makers. A literary agent friend suggested several times that I try my hand at biography, which she argued would bring my research skills together with my desire to write more creatively. The idea was appealing, but no subject readily came to mind. A few months later, I had a huge stroke of luck. David and I dropped in on Jenifer Hart, widow of HLA Hart (we had known the family both personally and professionally from our time working in Oxford). She said she would like to consult us on who should write Herbert Hart’s biography. We discussed various names (my first thought was Ray Monk: Jenifer’s riposte was characteristic: ‘Don’t be silly, Niki: Herbert wasn’t famous enough for Ray Monk!’). As we drove back to London, David said to me, ‘You’d like to do that, wouldn’t you?’ He had realised it before I had. I rang Jenifer the next day to make the tentative proposal; she took a few days to consult with the wider family and, several days later, I found myself as the commissioned biographer of one of the leading

figures in twentieth-century legal philosophy.

The opportunity came at a very good time: I had a year-long fellowship at the Wissenschaftskolleg in Berlin, awarded for a project on the historical development of criminal responsibility (of which more below). For a while, I tried to run the projects in parallel, but both involved a huge amount of material entirely new to me; and, given the urgency of interviewing the people well placed to talk about Hart and his work, many of whom were elderly, the biography gradually took priority. It was a dream project: I had unrestricted access to a fascinating archive of letters and diaries, many of which had never been read, let alone interpreted; the archive was of manageable size, as was Hart’s oeuvre, which I knew well but re-read, chronologically; I had incomparable library facilities at the Wissenschaftskolleg; and Hart’s family, friends and colleagues were on the whole willing and very articulate interviewees. In addition, I knew not only Hart and his family but his intellectual world, and my 11 years at New College from the mid-1980s had given me a good sense of the peculiarities of Oxford. So the research process was thoroughly enjoyable and fairly straightforward. About two years in, I had plenty of material on which to base an outline for the book: it was time to start writing.

8 Lacey (n 1 above).

And that was when my difficulties began.

Biography is a notoriously tricky terrain: one which throws up a variety of practical, intellectual and ethical challenges. Moreover, there is nothing approaching an established methodology or set of protocols about how to approach the task – at least beyond a list of obvious ‘no-no’s. The very project of biography seems to be premised on the assumption that the biographee’s life experiences and personality have in some way shaped the work or other features which make them an interesting subject – but how does the biographer render this without succumbing to reductivism? How should one select among the myriad stray facts, events, materials so as to weave the sort of coherent narrative that biography readers enjoy reading? Does that very process of narrative shaping imply a flattening out of the complexity and multiplicity of human experience, pandering to readers’ desire for narrative closure and imposing a ‘character’ on the subject rather than letting them speak for themselves? What self-imposed limits should the biographer draw around the use of very personal material? How should the biographer, in a post-Freudian world, approach an interpretation based on materials among which those relating to early childhood are almost invariably the least rich? Many established biographers have written thoughtfully about these and other issues, and I

gratefully drew on their insights, as well as the generous advice of a few biographer contacts. But as I got closer and closer to the time of a research trip to the Australian National University during which I had planned to start writing, I felt a welling sense of panic. I distinctly remember browsing in Blackwells bookshop in Oxford one day when I had been doing archival research, and finding myself desperately seeking out the ‘how to ...’ shelves in the ludicrous hope that there might be a volume on life-writing.

The first weeks in Australia duly involved a lot of painful sitting in front of a blank computer screen. I knew the rules: I needed to work out the structure of the book, and then I’d be able to start writing. But ... every time I thought I had settled on that structure, I would be beset by anxiety about whether I could really justify its shape and direction of travel. Gradually, I came to two insights which loosened the knot of anxiety and allowed me to start writing – at first painfully slowly, but with increasing pace and confidence as my particular interpretation of Hart’s life began to emerge. The first breakthrough was precisely coming to that conclusion: that any biography is simply one interpretation. It followed that the key ethical and practical condition for realising the project was to articulate to myself (and, ultimately, to my readers, in a foreword about the research and writing process) the precepts on which I made my selections of both material and its limits. My

book would not be the last word on Hart, his life and his significance: all I could do was offer a reading and be transparent about its basis. The second followed from the first: I had to, in effect, make up my own methodology. And here I found the resources of social theory, which I had discussed with Liz Frazer while we were working together, invaluable. I worked out a conception of biography as a particular form of social theory: a vision of the world as seen through the lens of a particular life. At the centre of the biographical vision is, of course, the biographical subject: but, flowing from or bearing on him or her, are vectors of influence running both to and from that core. The subject's distinctive personality is shaped by their relationships, their childhood, their experiences in the institutions – schools, elite universities, MI5, the Bar, in Hart's case – in which they have worked; by the period through which and the environments in which they have lived; by the geopolitics of time and place. Conversely, the subject him or herself also influences the people, institutions and social world around them. Life-writing, in other words, raises not only psychological and historical questions, but some of the key questions animating theoretically reflective social science.

From then on, the writing was steady, though not without its difficulties. I vividly remember

getting feedback on my first draft chapter from my literary agent friend, Ros Edwards, who had very kindly offered to act for me, and who gave me my first real taste of how much brilliant editorial advice can contribute to a writing project. The chapter – I began in the middle of Hart's life, which was where I felt the key to my interpretation lay – dealt with his return to Oxford after the Second World War. 'Marvellous,' Ros wrote: 'an excellent start. Just a few thoughts:

You know what Oxford looks like, and so do I. Hopefully, you will have some readers who don't. Show them! (And *don't* tell them!)

And so it went on. I had to work hard on making my sentences shorter and more vivid; and finding a way to make the book intelligible to a general audience while not compromising on putting Hart's work, which was often quite technical, at its core. I was definitely a better writer by the end of this apprenticeship. I have never worked so hard (or so obsessively! – David was working abroad at the time, leaving me free to indulge my taste for late night writing sessions ...) But I wince to recall that when I worked over the draft of my first journal article after the biography was finalised, I noticed that I had immediately returned to my comfort zone of lengthy sentences punctuated by parentheses ...

**RECLAIMING THE PATH
NOT TAKEN: WOMEN,
CRIME AND CHARACTER⁹**

The publication of Hart's biography led to a glut of speaking invitations, and for the next year or so my writing was dominated by post-biography projects of one kind and another. It was also time to take on an administrative job at work, acknowledging my department's generosity in allowing me to take some special leave to work on the biography. But the criminal responsibility project now demanded my attention. The years of neglect had accorded it a rather sinister aura: could I get back into all the historical detail I had amassed and synthesised in a couple of papers written before the biography took over? The task suddenly seemed overwhelming. But I then had another incredibly lucky break: I was awarded a three-year Leverhulme Fellowship to resume work on the project.

What happened next is really an object lesson in how *not* to organise the writing of an ambitious, long-term project. I did a larger version of succumbing to an urgent need to tidy the house or do my

administrative filing in the face of a writing deadline. I took on the delivery of two tempting sets of public lectures. One of them was, admittedly, adjacent to the criminal responsibility project, but the other was in the very different field of the comparative political economy of punishment.¹⁰

The former was a particularly alluring project for me. I had spent the summer before starting my Leverhulme fellowship reading eighteenth and nineteenth-century novels, so as to get my head back into the period in which my larger project was set. I had been asked to give a lecture on International Women's Day, preferably on a feminist topic. As I pondered the invitation, I found that the next novel in my pile was Daniel Defoe's *Moll Flanders*¹¹ – the tale of a working-class woman who makes her way through late seventeenth-century England via regular theft and a variety of enthusiastic sexual adventures. It struck me that such a heroine would be more or less unthinkable at the other end of the period of literary realism in the late nineteenth century: on the rare occasion they made an appearance (other than in the

9 Nicola Lacey, *Women, Crime and Character: From Moll Flanders to Tess of the d'Urbervilles* (Oxford University Press 2008) (The Clarendon Law Lectures).

10 Nicola Lacey, *The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies* (Cambridge University Press 2008) (The Hamlyn Lectures). This book's analysis drew on the 'varieties of capitalism' paradigm, developed by Peter A Hall and David Soskice (eds), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (Oxford University Press 2001), and led in due course to a series of papers co-authored with David. We are agreed that the – remarkably common – practice of marital co-authoring calls for a separate essay ...!

11 Penguin Classics [1722] 1989.

Gothic novels – a fascinating story too), female offenders were more likely to resemble Thomas Hardy's abused and oppressed *Tess of the D'Urbervilles*.¹² It also happened that legal historians had shown that the time of Moll Flanders was an exceptional one for women in the criminal courts: on the cusp of the eighteenth century, they even exceeded men in numbers of defendants tried for theft at the Old Bailey, before gradually dwindling in numbers steadily through the end of that century.¹³ Here was a new challenge: to weave together the insights of legal and literary history so as to put together a persuasive interpretation of the links between the construction of women in criminal law and their construction in the emerging processes of informal social ordering so eloquently represented in the great novels of the period.

I absolutely *loved* writing this book. Despite the obvious challenge of bringing legal and literary resources into productive dialogue, it almost felt as if the book wrote itself. As with my other projects, I found scholars in other disciplines incredibly generous, which was a significant help to my amateur historical and literary effort. But the ease of the writing, had, I think, another source which is perhaps worth pondering amid any effort to understand the dynamics of academic writing.

As a schoolgirl, I had loved studying literature, and had intended to read it at university. Indeed, I applied to do so. But I then came under very sustained pressure from my school and my parents, and I caved in and changed my application to law. The enthusiasm – even joy – which I felt in writing this book flowed, I think, from a subconscious sense that I was getting a second chance: the opportunity to live at least part of a life I had imagined for myself but had ultimately rejected. It also helped me to come to terms with that earlier decision because it led me to the conclusion that I might not have enjoyed literary studies as much as my 17-year-old self had anticipated. I have always had a taste for legal, social and political theory, and I am more than willing to work my way through difficult theoretical texts where I can see that they will help me to shape my ideas and understand whatever I am researching. But I am intolerant of carrying more theoretical baggage than I think is necessary, and I did feel that some forms of literary theory came into that category. But the insight – which of course I came to rather late, law and literature studies of various kinds already being a well-established field by then – that literature could inform and animate interpretive legal work was a revelation, and one which

12 Bantam Classic [1891] 2004.

13 Malcolm Feeley and Deborah Little, 'The vanishing female: the decline of women in the criminal process 1687–1912' (1981) *Law and Society Review* 719–758.

has stayed with me and given me several happy writing projects since. And even though writing *Women, Crime and Character* further delayed my work on the broader responsibility project, it also, ironically, helped me to domesticate what had become in my mind the dangerous creature of that broader project. For a while to come, my engagement with it consisted of the occasional, timorous visit to its cage to see whether it looked as frightening as I remembered. It usually did. But the interpretation I had shaped in *Women, Crime and Character* gave me a sense of how to tell the broader story; and after a bit more groaning and engagement with writing pain barriers, the monster re-emerged between the covers of a remarkably well-behaved book. I wish I could tell you that I enjoyed writing it. But I do feel intense gratitude that I managed to finish it before it finished me ...

**IN CONCLUSION:
SYNTHESISING THE
LESSONS OF A LIFE OF
WRITING**

I hope to have shown that experiences of writing are shaped by both psychological states and a wide variety of external circumstances. It follows that they affect individuals in different ways both across the life course and in relation to particular projects. So it is difficult to sum my argument up in any neat synthesis, let alone any set of injunctions about how

to go about the writing process. But it is, I think, possible to draw out some broad lessons about the factors which are likely to bear on academics' experiences of writing, in the hope that these speak beyond my own very particular (and in many ways very privileged) experience.

Let me start with the factors that seem to be to be broadly conducive to reasonably enjoyable writing. First and foremost, being motivated by a question or avenue of inquiry in which one is genuinely interested and, preferably, about which one feels passionately. This, one might think, is obvious: but, as I shall argue below, institutional factors which steer academics towards certain kinds of projects or forms of output can be a significant complicating factor intervening between the intellectual excitement which motivates a writing project and its realisation. However, excitement, interest and passion provide much of the satisfaction of writing, and hence, ideally, should lie at the core of any writing project.

Second, the psychological pre-conditions. To write without undue pain, one has to not only feel a keen interest in what one is doing: one has to have the confidence that one has something worth saying, and the capacity to do the analytic, critical and/or creative work to get it said. This is probably the most elusive, as well as the most individual, component of writing. Almost all writers go through periods of self-doubt, and the

road back from them can take radically different forms, from medical or therapeutic treatment for depression or anxiety through strategies such as discussing the difficulty with friends and colleagues, taking a holiday, taking time out from the project which is causing the problem or, most radically of all, simply abandoning it for something more tractable. The latter may seem like a nuclear option: but I think being willing to contemplate it is probably an important component of a healthy writing psychology. Nor need it be an admission of failure. To take just one example, the distinguished biographer Richard Holmes turned several abandoned biographical projects into a fascinating volume of essays reflecting on what he had learned from each uncompleted book.¹⁴

Finding the right project for one's circumstances is, I think, a third key to avoiding too much pain in the writing process. To take a personal example, I think that the difficulty I encountered in finishing my book on the historical development of responsibility was not simply the successive deferrals I have already mentioned, or the admittedly overambitious nature of the project, but also my circumstances at the time. My elderly mother's needs were growing inexorably, and I experienced, for the first time in my life, what I imagine most

parents of small children have to contend with: the feeling that a considerable part of my intellectual and emotional bandwidth was subconsciously distracted by the effort to anticipate and/or deal with the various problems which care responsibilities throw up, often in entirely unpredictable ways. Once the book was finally done, I resolved not to take on a book-length project until I found myself in a less stressful situation: and only now, two years after my mother's admission to a care home, do I feel able to contemplate a long-term project once again. Obviously, some people are much better at compartmentalising the demands on them, and they would probably have had a very different experience. But conversations with friends suggest to me that I am not alone in finding it hard to achieve the deep levels of concentration and continuity required by work on a monograph in emotionally demanding periods, though my taste for ambitious projects which transcend disciplinary boundaries – an important precondition for my retaining intellectual interest – has doubtless made things worse. Meanwhile, I have found that working on single articles provides plenty of intellectual stimulation, and much less strain.

A fourth strategy is finding the right way of working on a project, given one's psychology and circumstances. For me,

14 Richard Holmes, *Sidetracks: Explorations of a Romantic Biographer* (Harper Collins 2000); see also his *Footsteps: Adventures of a Romantic Biographer* (Hodder & Stoughton 1985).

working collaboratively has been a source of intellectual inspiration, of motivation in difficult times, and of joy (though ill-fated collaborations can, obviously, produce quite the opposite ...). Co-authorship is not for everyone: but for many of us, it brings a companionship which mitigates the loneliness and pressure of writing; and which expresses the quality of writing as entering into an ongoing conversation rather than producing definitive texts. More generally, the support and companionship of colleagues, friends and family seems to me a key part of the emotional architecture of enjoyable – or at least non-traumatic! – writing, not least in helping us to keep that sense of proportion which Celia's children so ably provided when we were writing *Reconstructing Criminal Law*. One of the many pitfalls of the solitary aspect of writing is that we can lose that sense of proportion, and this is doubtless more of a risk in the world we now inhabit, in which good publications and research recognition are accorded far more importance than they had at the outset of my career, and in which the relevant criteria for what counts as excellent writing are institutionally defined.

Last but not least, the experience of writing depends, of course, on access to resources: time, notably sabbatical leave and reasonably uncluttered vacations; libraries and archives, digital and otherwise; clever colleagues and students able and willing to give

feedback; outlets willing to publish our work and institutions willing to promote it, within the framework of a robust defence of academic freedom. This might seem too obvious to deserve mention; but it has to be reiterated in a world in which higher education in many countries is under challenge. The most obvious challenges come from interference with free expression and with academic freedom. But robust funding models which can sustain the institutional conditions for a defence of that freedom and the provision of the time and other resources necessary to sustain academic research and writing are equally important.

The factors which can obstruct the writing process are to a large degree simply the converse of those which nurture it: a loss of motivation or even interest in one's subject (approaching a taboo topic among academics, but I suspect much more common than most of us like to admit); crises of confidence; isolation or difficulty in drawing on networks of intellectual communication and support (a problem for many during the pandemic, for example); a lack of access to the resources necessary to good research and writing – time, a peaceful space, research materials, freedom to think, people with whom to share and discuss ideas.

It is, however, very well worth pondering the institutional arrangements which may in subtle ways produce or exacerbate some of these counter-writing

dynamics. Interference with academic freedom or cuts to the resources available to universities are obvious examples. Equally important, I would argue, are the detailed regulatory processes through which academic writing is increasingly governed. Aimed at the promotion of good research and the recognition of quality though they have doubtless been, the reach and intensity of academic auditing of one kind or another has undoubtedly, in my view, intensified the competitive and individualistic nature of academic life, increasing the psychological strains of writing. In addition, the organisation of research assessment on disciplinary lines has encouraged the development of rankings of journals whose criteria for publication have in some subjects – happily, far less in law than in some other social sciences – narrowed the range of work which can find the most prestigious outlets. This has also been inimical to the development of research infrastructure well adapted to nurturing the sorts of

interdisciplinary conversations and collaborations on which the resolution of many of today's most urgent social problems depends. Moreover, these arrangements have handed a further premium to those fortunate enough to have high levels of self-confidence or for whom competition for recognition provides one of the key incentives for writing. It seems all too likely that this has differential impacts on groups traditionally marginalised along lines such as sex, gender, race or ethnicity in the academy as elsewhere.

It remains only to reiterate that what I have offered here is a very personal set of reflections. Other academics would doubtless see things differently. But I offer them in the hope that they may spark glimmers of recognition in at least some readers, and perhaps help to assuage that experience of loneliness which I suspect is at the core of many moments of writing difficulty, and which was so eloquently expressed by my post-biography correspondents 20 years ago.



Writing: why, how and when?[†]

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There are times when I write for very dull and uninspiring reasons, perhaps because I've been asked to contribute something by a nice colleague, *and* I don't have a good reason to say 'no', *and* I think I could do it relatively quickly and easily. Happily, there are usually more positive reasons for writing, of which an overarching one – which applied to this particular request to 'write about writing' – is that I think it might be interesting and fun to do. I love reading and get huge pleasure from the painstaking process of converting a stream of consciousness in my head into words on a screen. But aside from interest and fun, my reasons for writing fall roughly into four categories.

WHY?

First: anger. If I feel cross, affronted or irritated by something, writing about it can be my way of feeling as though I am 'doing something', however ineffectual. And, fortunately for me, medical law serves up endless issues that

matter to me or to people I care about.

My first forays into medical law (having started out writing about feminist jurisprudence and family law) were related to the regulation of reproduction. When I was in my late 20s and early 30s, every aspect of pregnancy – including preventing it, ending it, trying to start it and policing it – felt personal. Although I had initially planned to write a quasi-textbook about the regulation of reproduction, as I became more immersed in the subject, I found myself becoming crosser and crosser. I no longer wanted to write a dispassionate account of the law relating to birth control, abortion, pregnancy, childbirth, assisted conception and surrogacy, and so my text turned into what could fairly be described as 'a bit of a rant', organised around the central claim that women should be allowed to make these important decisions for ourselves.¹

I've been cross about other things since then – occasionally for reasons that are personal and

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* I am very grateful to Hugh Collins, Nicola Lacey, Timothy Liao, Linsey McGoey, Marie Petersmann and Sarah Worthington for their comments.

¹ Emily Jackson, *Regulating Reproduction: Law, Technology and Autonomy* (Hart 2001).

raw, and more commonly because something just feels unfair – and putting this sense of injustice, or at times actual rage, to work has undoubtedly helped spur me on to write. For example, I became interested in the regulation of the pharmaceutical industry when I found out that it had proved impossible to prosecute a pharmaceutical company which had hidden ‘commercially inconvenient’ trial data about a serious adverse side effect. Fortunately for me, I had a wonderful colleague and co-author, sociologist Linsey McGoey, who not only shared my outrage,² but also taught me a great deal about the pharmaceutical industry’s reliance upon ‘strategic ignorance’.³

A second reason for writing is to try to figure out something that I find puzzling. In relation to medical law, I tend to start from the presumption that if someone wants to make a choice about their body or their life, it should be up to them. When I first started working in this field in the late 1990s, I was thrilled by John Harris’s

unflinching libertarianism⁴ and by conversations with my late colleague and friend Helen Reece, whose work was bravely uncompromising in its defence of autonomy.⁵

I’m not a complete libertarian though, and I do think there should be some limits to freedom of choice, although I don’t always find it easy to work out where and why. In relation to assisted conception, for example, I am worried about patients being sold treatments with a very low chance of success, even if they are fully informed about this beforehand. Some ‘paternalism’ in restricting patients’ freedom of choice seems justifiable to me, but I puzzle over how extensive this should be.⁶

Or, to take another example, in the last decade or so, I have been hugely impressed by the sensitive way in which judges in the Court of Protection have sought to respect the preferences of people who lack mental capacity, but at the same time, I agree that it is sometimes right to override those preferences. Writing about this was a way to try

2 Linsey McGoey and Emily Jackson, ‘Seroxat and the suppression of clinical trial data: regulatory failure and the uses of legal ambiguity’ (2009) 35 *Journal of Medical Ethics* 107–112.

3 Emily Jackson, *Law and the Regulation of Medicines* (Hart 2012).

4 John Harris, *Clones, Genes and Immortality: Ethics and the Genetic Revolution* (Oxford University Press 1998).

5 Helen Reece, ‘The paramountcy principle’ (1996) 49 *Current Legal Problems* 267–304.

6 Emily Jackson, ‘A perfect storm: non-evidence-based medicine in the fertility clinic’ in Graeme Laurie et al (eds), *The Cambridge Handbook of Health Research Regulation* (Cambridge University Press 2021) 373–381.

to explain, or impose some sort of order upon my own contradictory instincts or impulses.⁷

When the Supreme Court compared patients with ‘consumers exercising choices’ in a decision about informed consent,⁸ I was struck by the comparison, given my memory from contract law that consumers’ choices are generally pretty *uninformed*. If consumers do not engage with information provided before they enter into standard form contracts, perhaps unwittingly, why should patients be any different? That made me wonder whether medical law might be able to learn anything from behavioural economics, and the evidence that consumers are more interested in advice or ‘ratings’ than they are in reading and weighing up a contract’s terms and conditions.⁹

A third reason is shock. A couple of years ago, I was invited to a meeting about embryo models, probably because of my interest in the regulation of embryo research. After learning about what scientists

were doing and where this research could lead, I was astonished. I can still remember the journey back from Cambridge, chatting about what we’d heard with another equally shocked attendee. If I didn’t know about these amazing developments in stem cell biology, it was likely that others didn’t either, and writing about it was a way to communicate not only how thrilling this new research is, but also to draw upon the history of the regulation of embryo research in the UK in order to set out the potential benefits to research of a permissive regulatory regime.¹⁰

My final reason for writing is confined to one rather large writing commitment, my *Medical Law* textbook.¹¹ I started a Medical Law course at the London School of Economics (LSE) in the late 1990s, and although there were a couple of textbooks available, there wasn’t anything that was a good fit for the course I wanted to teach. Ian Kennedy and Andrew Grubb’s *Medical Law* was an excellent book, but in its third edition, it

7 Emily Jackson, ‘From “doctor knows best” to dignity: placing adults who lack capacity at the centre of decisions about their medical treatment’ (2018) 81 *Modern Law Review* 247–281.

8 *Montgomery v Lanarkshire Health Board* [2015] UKSC 11.

9 Emily Jackson, ‘Challenging the comparison in *Montgomery* between patients and “consumers exercising choices”’ (2021) 29 *Medical Law Review* 595–612.

10 Emily Jackson, ‘Future challenges for UK regulation of brain organoid research’ (2025) 33 *Medical Law Review* fwae047; Emily Jackson, ‘Regulating embryo models in the UK’ (2024) 11 *Journal of Law and the Biosciences* lsae016; Sarah Franklin and Emily Jackson, *The 14 Day Rule and Human Embryo Research: A Sociology of Biological Translation* (Routledge 2024).

11 Emily Jackson, *Medical Law* 6th edition (Oxford University Press 2022).

was too big, too expensive, and too unwieldy for undergraduates.¹² When someone from Oxford University Press approached me about writing a 'text and materials' book, I was tempted only because I thought it would be helpful for my students. I wrote it for them, and I continue to do so, often choosing extracts because I can imagine the lively class discussion we will have about them.

HOW AND WHEN?

Once I have decided that I am going to write about something, my very unsophisticated way of going about this – I would hesitate to call it a method – is to begin by reading a lot and making lots of notes. At some point, I start to worry about what I want to say, and I generally try to figure this out while walking (for this, my three-mile walk to work has become invaluable). After a while, on one piece of paper, I will write bullet points of 'interesting things' in a scattergun way, and I'll stare at that piece of paper for a long time, trying to impose some sort of order or flow on my random observations. Eventually, and after more time spent reading through my notes, and more long walks, I'm ready to draw up a detailed plan, with section headings and subsection headings, and I start filling this in by writing.

As I have got older, I have realised that there are several things

that really help me with the process of writing. One is to have lots of different writing commitments on the go at the same time. I find some stages in the process of producing a piece of writing easier, and others harder. The 'reading a lot' stage, for example, is easy and fun. I sit at my computer, reading electronic versions of articles, cases, books, policy documents etc, and making notes into a document, or a series of documents, along with my own comments. At the same time, I'm continually adding to my reading list, finding references in other people's footnotes, or coming across random things that can take me in new directions.

As an aside, that this process of reading interesting things and thinking about them is actually a part of my job never ceases to amaze me, and makes me feel eternally grateful for my good fortune and privilege (in my year off before university, I spent five months working in a warehouse, sticking price labels on toiletries, which undoubtedly helped to cultivate a 'glass half full' attitude to academic work).

Sorting out references and footnotes and correcting proofs are other easy tasks that I can do in odd slivers of time here and there. In contrast, the hard jobs for me are planning and writing, and, for them, I have to be in the right frame of mind. Writing lots of different things simultaneously means that

12 Ian Kennedy and Andrew Grubb, *Medical Law* 3rd edn (Oxford University Press 2000).

there is always something I can be getting on with, even when I'm exhausted and unable to think straight after a week of challenging meetings and/or back-to-back teaching.

The second thing that has made a difference to me as I've got older is co-authorship. I find it really energising to write things with other people, and I often agree to co-author something, or ask someone to co-author with me, because it sounds like it might be fun. I'm currently writing something about assisted dying with Colin Gavaghan and Rob Heywood, people I've known for years but haven't had the pleasure of writing with before. I'm hugely enjoying checking in with them via Zoom every couple of months, to share what we're thinking about the current Bill's progress through Parliament.

Writing with people from other disciplines, for me most commonly sociology, has also helped me to realise that my instinctive focus on identifying and worrying about a problem with the law will only ever be a part of the answer to any social problem.

I have also learned the value of abandoning or giving up on something that isn't working. This can happen early in the process when I've realised that there just isn't anything interesting to say, or that it's all been said perfectly well already. More painful, but no less valuable, is giving up on something after receiving negative feedback. Sometimes, an article just doesn't

work, and although it's never easy to hear that, it's better to abandon something than continue to 'flog a dead horse'. In my experience, abandoned work is seldom entirely wasted. While working on something new, I've often found myself cutting and pasting sections, or even just the odd sentence or two, from something I gave up on years ago. As a whole article, it may have needed to be put out of its misery, but parts of it may go on to have a useful afterlife.

When I was in my late 20s, I very nearly gave up on an academic career altogether because I thought it just wasn't working out. The problem was that I didn't have anything to say. I had been working on family law, and I felt as though I had run out of steam. I had no new ideas, and everything I wanted to say had been said already by others, far more eloquently than I could ever have managed. Having gone straight into a research post and then a full-time teaching position after graduating, I didn't have another career to fall back on, and I very seriously considered abandoning law altogether and starting on a completely different path.

What changed for me was that – for reasons I can't now remember – I started to become interested in abortion law. I went to panels about abortion law at conferences, and I started to read about it, and to meet people involved in policy-making and activism, including from other academic disciplines. Here was an issue I cared about, where the law

was clearly problematic on multiple levels, and where there was a great deal of academic commentary with which I did not just disagree, but which I found massively and personally offensive. Suddenly, I felt energised again, and as though I had something I wanted to say.¹³ From abortion, I became interested in the history of compulsory sterilisation, the policing of pregnancy, and the regulation of assisted conception.¹⁴ A new job at LSE enabled me to set up a new course in Medical Law, and I was hugely fortunate to find a subject I love and care about, and continue to feel passionately about 27 years later.

The final, but really important piece of the writing jigsaw for me, is feedback. A few years ago, we were having yet another discussion in a departmental meeting about how to satisfy students' apparently unquenchable thirst for feedback, communicated through disappointing National Student Survey scores. At some point, a colleague said something which resonated with me, about acknowledging how bad we are ourselves at receiving feedback.

In theory, like our students, we want as much feedback as possible

on our work. But in reality, many of us don't actually want to read whatever awful things reviewers might have said about it. If feedback is negative, I tend to avoid reading it, at least at first. When an article has been rejected, I know I should immediately read the reviewers' comments thoroughly and think carefully about them. But, knowing that the journal's answer is 'no', my instinct is to file the email away in order not to have to think about it for a while. Of course, in time, I will go back to the comments, and, however difficult they might be to read at first, they are invariably invaluable in making the article better, or clearer, or prompting a complete and necessary rethink.

Feedback is incredibly useful, but in order to be useful, it will also sometimes be challenging to hear. Despite this, shirking or avoiding feedback is always a mistake, and in my experience, the more feedback – oral and written – the better. I've often received the most useful feedback from colleagues whose area of expertise is very far away from my own, whose distance enables them to say that the whole piece doesn't work, or that they don't understand what I'm saying, or what the point of it is.

13 Emily Jackson, 'Abortion, autonomy and prenatal diagnosis' (2000) 9 *Social and Legal Studies* 467–494; Emily Jackson, 'Abortion: medical paternalism or patient autonomy?' in Ellie Lee (ed), *Abortion: Whose Right?* (Hodder & Stoughton 2002) 1–15.

14 Jackson (n 1 above); Emily Jackson, 'Conception and the irrelevance of the welfare principle' (2002) 65 *Modern Law Review* 176–203; Emily Jackson and Ellie Lee, 'The pregnant body' in Ellie Lee and Mary Boyle (eds), *Real Bodies* (Palgrave 2002) 115–132.

In my experience, it's important to ask for feedback on a piece of written work at the right time: not too early, so that your reader has to wade through irritating typos and grammatical glitches, and not too late, when you've become so attached to it that you're not open to hearing that it is fundamentally flawed and you need to start again. My writing has also benefitted from being read by non-academics, including one very old friend who saved me from some gruesome mixed metaphors.

Presenting 'work in progress' at conferences and seminars will invariably highlight gaps, omissions and inconsistencies of which I was previously unaware. As well as experts saying you should read X or that you've misunderstood Y, I've also benefitted enormously from the comments of non-medical law colleagues at staff seminars, who have pointed me in the direction of a tangential but hugely helpful body of literature, or a different way of looking at a similar problem, which I wouldn't have found otherwise.

Reading some 'classic' texts on a difficult question – 'What is consciousness?' – that I need to get to grips with for my current work on organoids, I have been struck in the 'Acknowledgments' by quite how many previous iterations these books had clearly been through, and by how many people had contributed to the development of the ideas they contain. It has made me reflect on the widespread perception today that we are all in a hurry to get things published

quickly. Of course, there are external pressures that contribute to this sense of urgency, including the need for a 'job paper', a REF contribution or a promotion 'case'. But, in reality, the pressures tend to be to publish high-quality work regularly, rather than at breakneck speed. In our mentoring and career development advice, we should be stressing the value of taking time over a piece of writing, by getting feedback on successive oral and written versions of it, and by being willing to take a break from it and only go back to it when you've figured out how to fix a thorny problem.

It is also worth noting – as was pointed out to me by my fabulous colleague Marie Petersmann, in her feedback to me on this piece – that putting together constructive and kind feedback on others' work is itself an important aspect of academic writing. We tend to think of peer-reviewing articles, grant applications and promotion applications as an administrative chore, rather than an exercise in creative and productive writing. But being able to offer commentary which is honest and useful, while also being sensitive to how it will feel to be on the receiving end of it is an important skill.

Finally, and this goes back to my job on an industrial estate in Watford in the 1980s, it is undoubtedly true that, as well as being pleasurable and life-enhancing, writing can also be challenging, stressful and anxiety-inducing. Most academics will have

struggled with writing at some point – as I did in my late 20s – and failing to write can provoke horrible feelings of self-doubt. But having done a job where from 8am to 5pm, I watched the hands on a clock turn agonisingly slowly, while doing something so mindless that

there was never going to be even the tiniest chink of satisfaction, I feel lucky every single day that I have a job in which I can regularly choose to do something – like writing these reflections – just because I think that it sounds like a fun and interesting thing to do.



Eight tips for surviving (and enjoying!) academic writing[†]

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I remember the moment when I realised that good writing was not simply about using fancy words. I was reading a novel by Graham Greene, probably *Brighton Rock*, and I suppose I was in my late teens. Each sentence was one that I could have written myself for sure, but they combined together in ways that took you well beyond words, into a world of thoughts and feelings that transcended the means of getting there. In Greene's hands, sentences were the taxi that took you on a journey into your heart. Of course, good writing in law is not quite the same, since the journey is often towards an understanding outside rather than within yourself. But it is not the less thrilling for that.

The best legal writing – scholarly or judicial – has a musical feel to it; the writer takes you on an exhilarating ride towards a full grasp of something previously opaque to you: no wrong turnings, no cul-de-sacs, no loose-ends. The things you think might be missing suddenly appear and in the right place; every mystery is anticipated and resolved. I remember a moment exactly like

that in my third year studying law at University College Dublin. Putting a fine text book down (I can't now remember which), I finally understood the equitable doctrine of tracing. I went to have a coffee to celebrate and when I returned it was gone, and I never got it back. I didn't have the energy to retrace my reading steps, and besides, the magic could probably not be repeated. (I got 52% in Equity.)

I was very slow to enjoying writing as an academic lawyer myself. Sure, I'd written lots of stuff as a kid. (*The Adventures of Simon DeSilver*, written when I was eight, unfortunately still survives – there is an uncanny resemblance to *Robinson Crusoe*.) In those early student days, I was given as a lawyer not to the vice of plagiarism (I didn't read enough to be tempted) but rather to the extravagant, the overstated. One professor said I wrote my exam as though I was giving a series of speeches to the student debating society. Since only three essays were required in all my time as a law undergraduate, and none at all during my LLB (as it then was) year

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in Cambridge, the opportunities for self-improvement were slight – and I was not the kind of student who took the initiative so far as extra work was concerned. I knew, though, that I wanted to avoid returning to Ireland where in an absent-mindedly ambitious way I had qualified as a solicitor. Academe presented itself as a potential escape route; a three-year studentship at my Cambridge college settled me into my agreeable academic asylum.

That is how I came to embark upon a 100,000 word legal writing project at the age of 23. The eventual end-product is now to be found among my mother's books, and in my home, solidly at the end of a shelf where real books can rely on it for support. It never found any publishing home in any form; none was ever sought, not even for the possibly good bits of it. I nearly failed, the corrections so vast that I could barely face them. The subject was one on which I was never to write another word. All the doctoral students around me were churning out vast numbers of words while I seemed stuck on 67,343 (this was before word count so you had to count manually, which I did almost every day, seeming to go backwards with each passing recount). I only completed it having turned myself into a medical experiment in the Old Addenbrookes which required six weeks of isolation, and the endless consumption of carbohydrate. (I lost rather than gained weight so the trial was

abandoned, but it was Trappist isolation not scientific progress I was after so I didn't care.)

By then I had secured a fellowship at one of the traditional Cambridge colleges. This gave me the opportunity to get the guidance I needed. I learnt about writing from two people in particular. The first, in the late 1980s, was Conor Brady, then editor of *The Irish Times*, who was attending a British–Irish conference at my College. The late Thatcher assault on press freedom (the media ban on Sinn Fein; Sarah Tisdall's conviction under the Official Secrets Act; the *Spycatcher* cases) excited interest in Ireland, and I became a columnist of sorts, a kind of UK legal correspondent for the paper. Brady drove home how important it was to engage readers, to hook them early and keep them interested, to be mindful of them, sensitive to the pressures on their own time, to keep things short. A good place to practise these skills quickly presented itself: the *Cambridge Law Journal* ran 1000-word notes on recent cases which required concision and rigour in equal measure. My first was returned to me by the then note editor John Collier with the direction to cut as it was too long. It had come in at 1009 words.

The second influence I met in Cambridge was when we were both appointed examiners in the first-year constitutional law course. This was Keith Ewing, still going strong as a professor of public law

at King's College London. My first book was with Keith, *Freedom under Thatcher: Civil Liberties in Modern Britain* (Oxford University Press 1990). He showed me how much structure mattered, how the way ideas were organised was in many ways as vital as the words that were used to communicate them. He also brought a perspective to his work, not a bias (a word he hated) but a judgement as to what was right, which was based on principle and which informed whatever was being written. In our case this was the damaging impact of the 1980s' Thatcher government on civil liberties, a subject that led us to condemn not only the actions of the authorities (predictable) but also (shocking at the time) the liberal effort to counter them by enacting a British bill of rights. This was like 'treating a heart attack with a used Band-aid' in our (okay Keith's) memorable words. We knew our line would be unpopular with readers, then reeling from the Thatcher years and desperate for the salvation that they were convinced the courts would deliver if given the chance. But we ploughed on regardless.

These four early writing tips – **concision; sensitivity to audience; structure; and the importance of having something to say, however unpopular** – have stayed with me all my working life. I had no mentoring or any writing plan that I could share with anyone,

nor any scholarly benchmarks to strive towards. No REF threatened, no conference obligation cast a shadow over the long vacation. This *laissez-faire* approach worked for me very well. My second book is one of the ones I am proudest of, and it would not have been written in a law school with sensible mentoring and external hoops to negotiate. *Terror* (1991) was published by Faber & Faber and so reached a wider audience than was usual for a scholarly book. There was no law in it at all. I did my research in those pre-search engine days by browsing the bookshelves in Cambridge's glorious university library. Forsaking the dull shelves of my own discipline (all arid analyses of the precise operation of this or that terrorist convention or anti-terrorist provision), I ended up doing a book which, as it turned out, was to anticipate a shift in the international relations literature some years later towards what is now called *critical terrorism studies*. It had been my (embedded and legalistic?) concern for facts which had led me to the view – one I still hold – that the idea of global terrorism is a contrivance designed to legitimise state violence against political opponents. This was the volume that set me on the terrorism scholarly road which I am still travelling along. My latest book, published last year, finally got to grips with the law in the field, but by telling the story of the development not of 'terrorism'

(meaningless) but of anti-terrorism law (all too real).¹

These two fields – civil liberties and terrorism – have been very productive for me, with each bringing an historical dimension, an attention to what is happening on the ground, that is probably the style that recurs most often in what I do. (Later this year the *Cambridge Law Journal* will be publishing my ‘Suffragettes and the law’, an article that has been in my head and on bits of paper for years, bringing together both civil liberties and ‘terrorism’ in a single piece.) But what about human rights? I am a professor of human rights law after all. Where does my supposed central specialism fit in the story I am telling?

To answer that I need here to suggest a fifth factor in my career: **grabbing chances that present themselves**. How did I come to get a book published by a commercial house like Faber & Faber so early in my career and without an agent? Answer: my best friend from school and university in Ireland worked for Channel Four and through him I got an idea for a documentary on terrorism (with a book deal thrown in) adopted by a famous independent producer (Peter Montagnon, creator of Kenneth Clarke’s *Civilisation*) and then commissioned by the Channel. I’ve been writing on and off for the *London Review of Books* for 30 years – my first piece only

happened because I was spotted by a friend of the editor doing a talk in Cambridge on a wintry wet night to a small audience and having travelled up from London to do it: in other words, an irrational career move that nevertheless produced an opportunity to write for a wonderful paper. In my thirties I did many programmes for the BBC on both Radios 3 and 4, including a series in the weekly 9:05 am slot (‘Common Ground’), bringing two people together of wildly different views and seeing on what, if anything, they could agree. This only happened because an academic had pulled out of an interval talk on Radio 3 and I willingly agreed to take their place. So, when a new post as Rausing Director of the Centre for the Study of Human Rights came up, naturally I thought I was well suited – despite my then position on the idea, neatly encapsulated in the first question at interview: ‘Given your well-known objection to the whole idea of human rights, Professor Gearty, why have you applied for this post?’

Luckily, I got the job. Human rights has been a fantastic third creative wheel to my scholarly personality, forcing me to go more deeply into an eclectic range of subject areas and to see how, in a world of diminishing social democratic values, this idea of rights can have an important role to play. I glanced through my Hamlyn

1 Conor Gearty, *Homeland Insecurity: The Rise and Rise of Global Anti-Terrorism Law* (Polity 2024).

lectures recently (published as *Can Human Rights Survive?* in 2006 by Cambridge University Press), and they reminded me of how vibrant the field then was, and how much human rights were able to do to challenge ‘the war on terror’. By now I was more a fan than a sceptic of the idea, and my fandom has increased in the years since as the most basic of our assumptions about human rights (democracy; the rule of law; universal dignity) have come under direct attack by the authoritarian change-makers in the United States and further afield. (And to think we used up all our critical language excoriating George W Bush, leaving us no words to describe today.) A sixth thought about my writing career emerges from my human rights story: **it’s okay to change your mind if you feel you have to**. As Keynes famously did not say: ‘When the facts change, I change my mind – what do you do, sir?’

Another major influence on my writing life has been the Bar. Once again, the story here is of grabbing a chance. After I became a professor at King’s College London, the well-known human rights barrister Peter Duffy wrote to me, ‘Why not come to the Bar?’ he asked. I took the hint and, having deployed various means to avoid a proper training (being a solicitor in Ireland helped; so did having joined an Inn 10 years before), I showed up, duly qualified, at interview at his chambers and secured a ‘door tenancy’. Within seconds Peter was gone, to the rarefied

world of (then) Queen’s Counsel, part of the perks of which were a prohibition on having trainees (‘pupils’). Poor Hugh Mercer – a specialist in European Union law – was pressed to take the new human rights guy, which he duly did with immense care and a very generous concern for giving me some sense of the new career I was hoping to (half-) follow. (Hugh has just been elected as the British judge at the European Court of Human Rights, which news has given me great pleasure.)

When Matrix Chambers came along, I joined as a founder member and found myself actually arguing cases. I then hit a problem: I had never been in court. Literally. I didn’t know which side to sit on and whether to stand when the judge came in or wait until you were called. Did you shake hands with barrister colleagues or weirdly avoid doing so? My first ever piece of advocacy involved me humiliating myself in the Court of Appeal, having taken it upon myself to lecture Lord Phillips and his colleagues on some abstruse parts of the jurisprudence of the European Court of Human Rights of near zero relevance to the case before them, on which I had recently written a long article in the *Modern Law Review*. The then Master of the Rolls put me out of my misery by pretending all that I was saying was already set out in my skeleton argument. Throat dry, panic having set in, I grabbed the straw offered with relief. The experience was on a par with having your

brilliant submission to this or that journal torn apart by anonymous (*anonymous* – cowards!) referees. I got over it after a bit, just as I have always recovered from hostile reviews. This leads to my seventh professional life lesson: **if you are not failing, you are not learning.**

Two of my cases in court – one at the start of my Matrix life, the other just last year – have connected with my academic interests in very direct ways. In the first, in the House of Lords with my being led by that wonderful advocate Cherie Booth QC, I was able to put a proof copy of a forthcoming *Law Quarterly Review* article by me before the judges and then to write a defence of their lordships' decision in the same journal. (The case went our way.) The second, in August 2024, begins with a failure. I was unable to persuade the judge hearing my judicial review case (despite his having been taught by me in Cambridge in 1985 as he reminded me as I began my submissions) that the privatised provision of care under section 117 of the Mental Health Act 1983 should be subject to the rights guarantees set out in the Human Rights Act 1998. A social policy academic in Bristol, Lucy Series, was appalled and – knowing my name from the *London Review of Books* (serendipity again) – she

wrote to me and promptly went on to build a coalition of interests which looks as though it will overturn the result via a clause in legislation very likely to be passed this year. (The relevant measure has been through the Lords and is at Report stage in the Commons.)

This series invites writers to reflect not only on the content of their writing but also the practice. I am acutely aware that my age has charmed my life, that opportunities have come (early this; early that) simply because of when I was born not how good I am. That said, I hope that the points I have identified above have a general relevance. And, over the years, I have for sure developed a particular method: think hard about the project; develop a feel for its broad themes; write a set number of words every day (other than Sundays) without fail (usually 500, sometimes 1000); write those words in the super-early morning so that ordinary work and (especially) family life does not interfere. I never wait for time to write because I know that **if you wait for writing time it will never come.** This is my eighth tip. Real life is a violent intrusion of competing calls upon one's time. My early morning writing is like my Matins before the chaos. I would never have it any other way.



Writing as a middle-aged legal academic[†]

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In this short contribution, I will reflect on legal writing from the perspective of a middle-aged academic – self-defined as someone with around 25 years of experience to draw upon and maybe another 15 years left to go until his retirement.

Let's begin with the process of writing itself. In many respects, my technique for drafting a given paper has barely changed since doctoral days. It is tempting to assume that this approach is so commonplace as to be barely worth explaining – but my experience as a journal editor regularly reminds me that there can indeed be real value in sharing effective principles and practices of academic legal writing.

My technique consists of a combination of three main strands. First, a single-minded focus on structure. I want to organise the world at hand into a list of main points, then those into subpoints, and then those into sub-subpoints ... all done with a pen and notepad, using an idiosyncratic but lightning-fast shorthand first developed during my own time as an undergraduate. Among the many joys offered by our profession, this remains one of

my very favourites, as much for its challenges as its rewards: late-night reflections and revisions inspired by reading the latest batch of case law; unexpected computations while sitting on the 82 bus into Liverpool that need to be scribbled down for later incorporation; the savage but necessary butchery of ripping ideas apart so they can be carefully stitched together again (hopefully) in a more compelling way. Above all, I savour the quiet satisfaction of expressing one's academic self through the innately creative act of imposing some tolerable sense of order onto what might otherwise be perceived as legal chaos, or of discovering latent patterns in materials that might otherwise appear entirely disparate or unremarkable. In any case, the goal is to produce a structure sufficiently detailed that, once it is time to open the word-processor, what remains is largely a matter of converting bullet points into sentences, and thereby skeleton notes into narrative text, in a quasi-mechanical fashion.

Secondly, the question of message. My goal is to write works that convey a clear and memorable thesis, preferably an idea that

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* I am very grateful to Niamh Nic Shuibhne for her comments and suggestions on a first draft of this piece.

could be communicated on the back of a postcard, but hopefully at least a message that will leave the reader not just better informed than before but with some new sense of insight or understanding of the subject. Some might ask: shouldn't message come before structure? Don't you have some idea of what you want to say before you elaborate the framework for saying it? For me, that order or distinction is not at all clear. I usually start with little more than an intuition that there might be 'something to say' about a given field. But what that 'something' actually is only emerges as my structured understanding of the topic improves. Of course, sometimes my intuition is not matched by my imagination: if I begin to sense that a compelling message will eventually be lacking, I struggle to see the point of working on (let alone finishing) any paper. Usually, though, my intuition is sufficiently grounded in middle-aged experience as to bear some fruit: a thesis takes shape, whether confidently or tentatively. And with the requisite message in mind, I feel the piece has the necessary impetus and a reference point around which the entire structure (and eventually the narrative text) can be tailored and refined. It guides my choices about what issues to include or exclude, what points to emphasise or relegate. It exhorts me to consider whether every word has a role to play within its sentence, every sentence within its paragraph, every paragraph

within its section, and every section within the overall paper. I have learned to enjoy (rather than just feel unsettled by) the way that even relatively small or subtle changes to the core message can necessitate drastic alterations to the overall structure or far-reaching revisions to one's tone and language.

Thirdly, structure and message are also intimately linked to the matter of audience. Whatever professional and personal reward I may derive from my own academic writing, I do not write 'for myself', as if my (essentially publicly supported) research were a sort of private indulgence. I always write for an intended or assumed readership – whether of a given journal, or edited collection, or policy report etc. So, for me, it is crucial that both my structure and my message are tailored to the nature and needs of their eventual audience. In practice, that translates into certain general guidelines that shape almost everything I write (though the context can also justify exceptions, the present paper among them). For example, while I appreciate that many colleagues prefer to allow their core message to emerge only gradually as their paper unfolds, I avoid approaching legal writing as if it were a murder mystery – shadowy characters, twisting plot, sudden denouement. I want my message to be told and understood upfront, so that the rest of the paper is merely a matter of elaboration and substantiation. And the latter also means a fixation with signposting: both macro, for

example, in doggedly summarising what has gone before and what is about to come next; and micro, for example, through a well-settled repertoire of words and phrases (from ‘on the one/other hand’, through ‘nevertheless’ and ‘however’, to ‘moreover’ and ‘furthermore’ ...) that seek to clarify the relationship between one sentence or paragraph and the next. In all situations, if the average reader cannot follow my argument, and follow it first time round, I regard it as a failure of effective communication on my part.

Within or rather because of those parameters, I consider myself lucky not to struggle with the actual process of writing – of getting the requisite words down on paper. I have never experienced ‘writer’s block’. On the contrary, it feels like my working methods (spend whatever time is needed to get the entire, detailed structure in place, before trying to convert hand-written notes into word-processed text) somehow free up mental space, while sitting at the computer, to concentrate (quite literally) on ‘the writing’ – from judging the correct degree of confidence or conditionality with which to assert a given proposition, to choosing the most appropriate expression for conveying my desired intensity of criticism. At this stage, another set of writing guidelines comes into play – aimed at expressing certain values I want to respect in my finished outputs. For example: I prefer to present

and engage with abstract ideas, attributed to or associated with individuals only in the references rather than in the text; if there is good reason to ‘put a name’ to an issue or argument, it should always be done objectively, constructively and respectfully. Another example: keeping a sense of proportion about both what I have to say and how I go about saying it. I think back now to some of my early publications and know that they defy this guideline in a way that makes me cringe with embarrassment: how could I ever have thought that such a specialist technical question about detailed legislative interpretation should be treated as if it were of earth-shattering importance; or that some moderately interesting but frankly marginal criticism of a recent CJEU ruling should read as if straight from the Book of Last Judgment? Middle age is a good time for learning lessons ...

... though also for being stubborn. Even if I should be the first to recognise my own writing faults, in some cases, I have long given up on doing very much to correct them. Take, for example – and this is a source of occasional tension with diligent copyeditors – my consistent but apparently incorrect use of both colons and semi-colons. It makes complete sense to me and has become essential to my methods of written expression, but it is apparently (though at least consistently) incorrect. And from one vice has spawned another: using colons to begin a list, then semi-colons to

mark off its component elements, encourages me to write stupidly long sentences that apparently only I do not perceive as being stupidly long. However, the worst habit of all must be my terribly inefficient practice of adding references only at the very end of the writing process, when the entire narrative text may well be complete, but my memory of which primary or secondary sources I had in mind when I wrote that elaborate sentence or inserted that blank footnote has long since faded away. Again, wickedness flourishes upon wickedness: what a supreme hypocrite that makes me, when I denounce such poor practice as a pathway only to academic despair for any doctoral student or early career researcher.

But if my own approach to writing, with its strengths as well as its deficiencies, has remained fairly constant over the course of a quarter-century, surely what has changed more radically is the wider context in which my research is conducted. Like most colleagues, I assume, and regardless of age or experience, I try to balance the very real freedoms that come with working in the academic profession, against the sometimes considerable pressures exerted upon and by my own institution as well as our wider sector, whilst also absorbing the inevitable knocks and jolts thrown up by the vicissitudes of every human life. And like many colleagues, I assume, though this time maybe closer in age and experience, I suffer the

recurrent sense of intellectual insecurity that wonders whether 'next time' I'll have anything new to say, or whether my best days (such as they were) are now sadly behind me, so all that now remains is to recycle the same handful of ideas, just as I still do my three best playground jokes (think: constipated mathematician; coalman's daughter; two nuns on a bench).

Setting aside such communal tribulations, every middle-aged academic will also have their own more particular story to tell. In my case, it feels like two main sets of factors have exerted an important influence over the wider context in which I have set about my life as a researcher.

First, there are the factors and choices that steer the macro-evolution of our individual academic careers over a period lasting several decades. I perceive my professional experience in terms of blocks or phases – each marked by a particular balance between the different components of the job, and each bringing its own palette of opportunities and challenges. In fact, not just perceive, but actively conceive and pursue – not least as an effective immunisation against the risks of boredom and frustration, sliding then towards resentment and bitterness, that seem to blight so many once happy and productive academic lives. Phase 1: following my first academic appointment in 2000, I enjoyed a brief but blissful period of energy and freedom, comradeship

and collaboration, free from any significant administrative duties, even if there was still plenty of teaching to be done. Phase 2: in 2004 came the Chair in Liverpool, for me a remarkable opportunity, of course, though with it began a period of increasing management responsibilities – not least during my stint as Head of Department. Phase 3: around 2015, the gathering Brexit clouds signalled a new era entirely dominated by hyper-intensive, often positively dizzying, sometimes deeply unpleasant, impact and engagement activity. Phase 4: around 2020, just as Brexit was got done, a new career recalibration began; the opportunity to participate in various institutional, national and international research evaluation processes now constitutes a core part of my professional life.

Of course, each phase in an academic career calls upon us to find the necessary resources and develop the requisite skills not only to survive the experience but hopefully to emerge a little wiser and a little stronger. For me, the Brexit years – seething with tension, strife and abuse, but also full of solidarity, determination and resilience – were emblematic in that regard. And, of course, there are some experiences that provide a valuable sense of continuity across different phases in one's professional life. After 25 years, I still sincerely enjoy teaching EU law to undergraduate students. Through different channels and in varied contexts, I remain dedicated

to mentoring and supporting emergent researchers. And it is not now far off 20 years since I first joined the unique community of scholarship and friendship that is the *Common Market Law Review* Editorial Board. Whatever the battle-scars and encumberments accrued by, and still during, middle age, I nevertheless consider myself very lucky indeed.

But more to the point: what does current Phase 4 mean for my plans and ambitions as an academic author? Of course, the time available for personal research is now much more limited; indeed, for large stretches of the academic year, it feels entirely non-existent. And not just for planning, thinking and writing, but also when it comes simply to keeping on top of the myriad developments taking place across the enormous and dynamic field of EU law. Frankly, I suffer from a constant sense of being way behind or simply out of touch with the latest primary materials. In many respects, I have come to rely on a deeply embedded, historically informed familiarity with and understanding of the principles and forces that underpin the EU legal system. But I see little point in moaning about a lack of time and space that rightly belongs to the emerging rather than the established scholar. I prefer to accept that, since my professional responsibilities have changed, I can and should reimagine also the nature of my own contribution as a researcher. Which means leaving the fast reactions and forensic

analyses (of precisely the sort I once revelled in myself) to the new generation of talented and ambitious colleagues. Instead, I try to concentrate on offering the sort of reflections that can benefit from decades of accumulated knowledge and experience – exploring the structural or systemic features of the EU legal system, identifying certain patterns or challenges that reverberate across the entire framework, of the sort that speak (albeit with different accents) to the discipline of European law broadly conceived.

That reimagining of my own potential academic contribution, prompted primarily by my changing professional profile and commitments, is sympathetically reinforced by the second set of factors referred to above, which are associated precisely with certain broader forces in the evolution of the discipline of EU law. Over the 25 years of my career thus far, EU law has undergone an enormous growth in both breadth of activity and depth of specialisation, alongside a very significant diversification and enrichment of legal and interdisciplinary methods, as well as an increasing intermingling with research grounded primarily in the national legal systems and traditions of the member states. All of that contrasts increasingly with my personal academic profile: I remain a generalist constitutional lawyer, using firmly doctrinal and conceptual approaches, investigating the EU legal system in its own right and on its own

terms. Does that make me a curious relic, in the process of becoming an obsolete fossil? I prefer to think that the growth and diversification of EU legal studies have created room for everyone. I make time to experience and appreciate the enormous diversity that now exists in EU legal research in terms of perspectives, methods and skills. But, perhaps even more so than before, a viewpoint that focuses on the functioning and evolution of the overall constitutional system, together with the identification of cross-cutting phenomena or emergent common trends, can help provide a type of insight, maybe even a sense of collective coherence, that might otherwise be lost through excessive fragmentation or compartmentalism.

It seems fair to add that that aspiration to provide a distinctive sort of academic perspective and contribution has been driven not only by major changes in the discipline of EU law as such, but also by some far-reaching upheavals in the UK as an academic environment. Which inevitably brings us back to Brexit. As Niamh NicShuibhne has already eloquently testified, in this very Reflections on Writing series, withdrawal has impacted significantly upon the experience of being an EU legal researcher in the UK: one regularly hears reports about the dwindling numbers of colleagues, a sense of waning institutional interest or support, the damage done by Brexit's deliberate politicisation or even demonisation of an entire

academic discipline, including the fear or suspicion that that might affect access to various forms of research support, not to mention the risk of being left ‘out of sight, out of mind’ by our colleagues across the EU27 ... Despite all that, I am determined to remain an EU legal researcher writing for my inherently international discipline. Indeed, precisely because of all that, I want to help ensure that the UK remains a vibrant and valued centre of intellectual life in the discipline of EU law – for the benefit of myself and my colleagues, of course, but also for that of the country in terms of its current and future intellectual resources.

And, in that endeavour, it goes almost without saying that the wider UK academic culture offers some positive and distinctive benefits. After all, the way in which the evaluation of research outputs focuses primarily on quality according to the scientific criteria of rigour, originality and significance provide far better support for the cultivation of research excellence than one might find in some other approaches (based largely on quantity and other metrics) or systems (including those that rely on publication quotas or approved journal lists). Though of course, the UK system also has its fair share of problems. To take one example: a gathering sense that the possibility of embarking upon an academic career lies increasingly beyond the realistic aspirations of many working-class students, entirely regardless

of their intelligence, talents and motivation. I would never claim to be able to verify for myself the true scale and seriousness of that problem. But I often wonder, and sincerely doubt whether, if I were an undergraduate student today, but having come from the same socio-economic background as I did, I would ever rank ‘do a PhD to become a university researcher’ among my viable career options.

Let’s conclude with a broader thought – almost painfully pretentious, but nonetheless sincerely professed. Academic freedom of thought together with the time to develop and express it are an enormous privilege for us as individuals: to be paid to think and write, on whatever subject we see fit, in whatever direction our reason takes us, that really is a wonderful thing. Yet we are living through a time when academic freedom feels less and less like a privilege, and more and more like a responsibility, ie to uphold fundamental scientific principles, within the framework of a civilisation built upon the values of liberal democracy, all of which are now under direct attack from increasingly belligerent and confident authoritarian political movements in the UK, across Europe, and far beyond.

What does that responsibility mean? That we should be preparing to defend the barricades?! Of course not. Or at least not yet. For now, it means that we should dutifully carry on with our generally peaceful, largely modest lives as professional researchers. Because particularly

in an essentially incremental and discursive discipline such as law, the real value of what we write lies not only in what we say but also in how we say it: with a bedrock of evidence, rigour of analysis, precision of thought, and clarity of expression. All of which stands in stark contrast to the shallow commentary, or ideological determinism, let alone fake news and deliberate disinformation, that currently appears to dominate so much public discourse. In effect, every work of academic writing has become an act of defiance. And, every day, the ensembled academic 'we' seek to disseminate the same basic scientific and liberal principles that underpin our research, in countless different ways, to as broad an audience as

possible: our students, friends and acquaintances, civil society, lobbyists and influencers, policy-makers, the wider public. In an era of geopolitical turmoil fuelled by the likes of Putin and Trump, when fundamental features of our political and social system feel under direct and existential assault, this middle-aged academic finds himself reflecting upon, and to some degree even comforted by, the idea that our individual academic lives (however dutiful, peaceful, modest or indeed privileged they may be) both inherit and express a body of civilisational values that, through the massive and diffuse labour of our collective writings, we nourish and pass on to the next generation.



Treating love, joy, anxiety, anger and pain as scholarly allies*

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I love to write, mostly. Life goes better if I manage more of it (as with yoga practice) but I also believe in writing as a precious agent or builder of the ‘between’ in the world. I have just finished a second major book, finally. It took five years (thanks to a Leverhulme Major Research Fellowship for the first three). I have emerged from the process feeling like a writer. The difference between the ‘first’ book (*Prisons and their Moral Performance*)¹ and this one (*Aristotle’s Prison: A Search for Humanity in Tragic Places*)² is that I let go a little more this time: the text developed its own narrative and it has more of my soul in it. I allowed those initially just-out-of-reach threads that were longing to be connected up to lead me, breaking out of disciplinary boundaries in ways that were a bit scary (‘Can I write about moral philosophy, or the history of science?’). I trusted the somewhat creative process, read like a demon (I had gathered and organised hundreds of books in the years

leading up to the fellowship), and plunged myself back into decades of fieldwork notes from observational and other work in prisons. It was all there, waiting to be discovered, synthesised, or drawn out. As someone thoughtful said to me during the blissfully slowed-down process, those fieldwork notes (120 volumes) and my pen are ‘part of my brain’. Such are the mysteries of thinking and handwriting. My energy rose as I talked about those notebooks, professional friends told me. I will never write the ‘old way’ again. The old way was conscientious and somewhat rule-bound: aiming for neutrality, authority and yet due deference to others. Good scholarship, I now believe, does not have to be quite so disinterested, or *masculine*.

My new book is essentially about what kinds of environments favour rather than destroy life, and why. It is anchored in data, gathered throughout a professional lifetime in prisons research, but the account has developed from wide reading in moral and political philosophy

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1 Alison Liebling, *Prisons and their Moral Performance: A Study of Values, Quality, and Prison Life* (Oxford University Press 2004).

2 Alison Liebling, *Aristotle’s Prison: A Search for Humanity in Tragic Places* (Oxford University Press 2026).

and literature: I have gone back to my roots. I have cared about this writing project more than any other I have attempted and have loved living in it. It has two narratives: it is about prisons and it is about being treated as human.

I revere the craft or alchemy of writing: something develops out of ‘nothing’ – inside ourselves are thoughts, memories, and skills we are barely aware of until we invite them to appear. We often need the words of others to coax them out. We barely know how much feeling and experience we store inside that can be drawn on to help us appreciate the lives of others. I have found writing to be a kind of discovering and returning that has made it especially meaningful this time. I love the feeling of a mind in action, or the form of thinking that writing requires. The form is a kind of mastery and a kind of surrender, simultaneously. It involves finding a narrative or shape for describing experience, making new connections, and a feeling of being able to articulate ideas and unravel knots, however painful and solitary this process can be at times. But it also requires giving in to powerful, sublimated feelings, and trusting the process without knowing where it might lead. It becomes a kind of absorbed, nuanced alchemy.

Maria Popova advised in her journal, *The Marginalian*:

The best ideas come to us when we stop actively trying to coax the muse into manifesting and let the fragments of experience float around our unconscious mind in order to click into new combinations. Without this essential stage of unconscious processing, the entire flow of the creative process is broken.³

I find this description to be very close to my experience.

Graham Wallas outlined four stages of the creative process – preparation, incubation, illumination, and verification (1926).⁴ These four stages can all go on inside what I will call ‘the zone’: a place of utter presence, as well as outside of it (whilst we are doing other, sometimes physical, things). At the preparation stage, we ‘ready the mental soil’, accumulating intellectual resources, gathering books intuitively, and paying attention to our subject.⁵ Incubation involves letting worlds and sources combine, playing, revisiting, searching, and wondering. Illumination can feel sudden: something clicks into place, but it has been painstakingly brewed. That ‘aha!’ moment can’t be willed: it comes often at the most surprising moment. Of course, it is always very welcome. Then we return to the conscious process of checking and refining, verifying our account. This is the least exciting stage, but it is the

3 Maria Popova, ‘9 learnings from 9 years of Brain Pickings’ (*The Marginalian* 2015).

4 Graham Wallas, *The Art of Thought* (Martino Fine Books [1926] 2025).

5 Maria Popova, ‘10 years of Brain Pickings’ (*The Marginalian* 2016).

necessary hard labour. Our most worthwhile projects have to take a long time.⁶

What I need in order to write is a room (with warmth and sunlight in it), a drive (something is troubling or calling me), some data (to think with), inspiration (from others' writing, a podcast or encounter), and a block of time. For this project, something had been building up in me for years as I watched prisons disintegrate morally: I needed to retrieve the positive lessons from all the research I had done: what had I learned about human survival and growth as well as destruction during all these years of working in prisons? Why did staff–prisoner relationships matter? The moral and emotional distress I was feeling in the field, because others were feeling and expressing it, became existential: why have I done all this prisons research? Does it have a meaning? Can I bear to continue to do it? How can research be a 'good' if improvements motivated by it are reversed, and policy is being driven in the wrong direction despite a growing knowledge-base? My fieldwork notebooks acted as a kind of anchor: they tied me to the world, and to people I had listened to, talked with, or scenes I had observed, often quite vividly. My inspiration came in the form of a book I received as a gift from my former Masters' degree supervisor (Philip Davis' *The Transferred*

Life of George Eliot). This book woke up my intellectual past and helped me to see the just-out-of-reach thread in my own work: there is a moral grammar to experience; facts exist within and between persons. Intellect and feeling belong together. We can read the text of the universe in human lives.⁷

There is no question for me that writing is a joy. I love it and want to do more of it. The joy is both a motive and a product of the writing process. The finding or unfolding of sense and meaning is exhilarating. Writing about difficult material can be therapeutic, soothing, or healing, as well as a challenge: the work in progress acts as a kind of 'container'. It is a creative, often rapturous process (almost like a drug; it can feel urgent and sacred). I often feel more peaceful after writing. The *stretch* is deeply satisfying – analogous to climbing a mountain (though I have not climbed many mountains). When it works, the process gives some order to the chaos of life and feelings. It is like reaching the top of the mountain, fleetingly, before we descend back into turmoil. We unfold, intellectually, emotionally and, some might say, spiritually in the process of writing. Sharing the results of that process with others or finding others who help to bring it into being is life affirming. Other people can be a cause of vitality in

6 Ibid.

7 Philip Davis, *The Transferred Life of George Eliot* (Oxford University Press 2017) 116.

us as we work: either directly, or they put us in touch with sources that resonate meaningfully. This can offset the inevitable loneliness of a long writing project. Mentors, writing buddies, or just friendly supporters, can be sustaining. Patti Smith urges us to 'seek out what magnifies your spirit'.⁸ It's a beautiful phrase and a beautiful notion. Other people – live and in print – do that for us.

I like writing first thing in the morning, but if I can do yoga or go for a walk first, I often find my ideas begin to flow naturally, like they are waiting to be called upon, so that by the time I sit down at my desk, I have already entered the zone. Entering it feels, as Michelle Walker describes in her book, *Slow Philosophy*, like 'a transformation from one existential state to another'.⁹ Time stops as we transition into this receptive, contemplative place. There is *Eros* here: love, desire, meaning, an 'opening up to something beyond ourselves'.¹⁰ I like to stay in the zone for as long as possible, until I have to emerge to do something else. Then I am ready for company, or a different kind of work.

But, of course, there are more complex feelings involved in the writing process. I have referred to anxiety, anger and pain. I have learned that these less pleasant feelings can be allies.

Anxiety worked as an ally in the following way. One chapter of my draft manuscript troubled me as I realised I had written it with a kind of freedom that time and privacy brought: the stage where we write without thinking about being read (who is the intended audience? Is it for a particular kind of reader? What feelings might it evoke in others?). The chapter was about anger – I will say more about that in a moment. I had not anticipated this theme when I had started to write the book. I was worrying about some words I had used – was 'contemptuous' too strong a term to describe a prison culture? Did it matter that I was describing a prison I had studied 10 years ago? It resembled other prisons I knew – it was a kind of archetype and required deep analysis, just as the good prison in my narrative did. Some sleepless nights, a few bad dreams, and a feeling of discomfort about what I had observed, what prisoners had said, and how I felt, made me check my facts, take out some less necessary detail, and embark on a series of conversations with those who might be affected by the account. I talked to colleagues. I wanted to both honour the data and protect any improvement journey that a new senior management team were taking the prison on. It seemed clear that an experienced, committed

8 Popova (n 3 above).

9 Michelle Walker, *Slow Philosophy: Reading Against the Institution* (Bloomsbury Academic 2017) xvii.

10 Ibid 2.

governor (whom I knew from other places and times) was 'building a between' in what had been a rather 'I-It' prison: an expression meaning that people in it felt treated as 'experienced objects', rather than as 'experiencing subjects'. How could I reconcile these competing demands?

A chance encounter at a meeting led to a meaningful conversation about how to combine critique with compassion. Somehow, I started to describe the dilemma I was preoccupied by. My new scholarly companion used the word love. She introduced me to her notion of 'compassionate critique'. She said, 'the feminine values are neglected in our search for wisdom'; 'no-one takes care of the staff who are working in brutal prisons'. She took care of me in my struggling, anxious writer condition. I liked her standpoint. These moments of transmission are a gift. My feelings were relieved once I had edited the text in a way that felt more careful, fair, albeit still hard-hitting. I added a preface to those sections, acknowledging my complex feelings about the writing process. I arranged to visit the prison in its new state: a profound experience. I was taking care, with my writing, with the truth, with those who struggle every day to make a difficult prison work, whilst still trying to represent the devastating experience of prisoners, and the politics and effects of austerity and punitiveness. There were many other sources of anxiety (I

suffer from this condition) and have mainly learned to treat it as a friend and guide. It is telling us something.

So, to anger. When I started to write my book, I thought I would begin with research methods: often the easiest place to begin. What did I do in the field, and why? I normally love writing about research methods. Out of nowhere, as I wrote, feelings of anger and betrayal erupted. I was burned out, traumatised, exhausted and demoralised by the world I had been studying, and by the university's neglect of the meaning of research funding to those of us who do the fieldwork, manage the politics (macro and micro), and sweat blood over the account. There is no connection, or communication, between 'bringing in money' (a good and straightforward task in the university's eyes) and our experience of doing research in high-intensity places that sometimes challenge our grasp of the world. The moral disintegration I was measuring in prisons was linked to increasing violence of new kinds. This was extremely difficult to witness *and* to leave behind (we carry our concerns for the safety of others with us). 'You're good at bringing in money, bring in some more', said a senior colleague, under pressure. At the time, I didn't know whether I could survive another 'project'. I was on the edge, almost precipitated over it by the realisation of such indifference to my fate. I was living

my hypothesis. I was saved by time out, and some words of compassion by scholars I barely knew. My angry feelings moved elsewhere in the book and opened up a whole new world for me. I began to understand the value and meaning of anger and its place in prison, and in the broader search for justice. This was a painful but productive process. This experience also led to my eventual decision to reduce my working hours to 50 per cent, so I could work more slowly, and humanly, on what mattered most, on what was happening in prisons, and on surviving – or doing meaningful work – in the modern workplace.

The pain of writing is partly related to the world we study – humankind can be a painful place, but this is especially the case in prisons and criminal justice. The stories and experiences of the people we write about are often deeply traumatic and may have become more so. We respond to the world and would be poorer scholars if we didn't. These responses in us often drive our urge to write. Prisoners (and staff) have sometimes said 'you are our witness'. This is no straight-forward task.

The process of writing can be painful too: we have to be prepared to 'lose and regain intellectual control or orientation'.¹¹ When we lose orientation, we lose ourselves. Almost every chapter of my book went through this process – until I spotted the twist

(this struggle was often painful at the time and hard to endure or move through). Occasionally, the process led the other way, usually after the disorientation phase: I found myself and didn't want to: 'Oh, this is *my* theme.' I began to understand suppressed aspects of my relationship with some of the key themes in my book. This was unexpected: it both intensified and slowed down the process.

We can, as many philosophers have said, learn to suffer well and to embrace the joy when it comes. The suffering comes in unexpected ways: self-doubt, self-knowledge, and the facing up to difficult features of the world. The joy is worth working at and waiting for.

I read about writing more than I used to (there are some very good books available). I also go on writing retreats now and again, and to literature festivals, to hear people talk about their own books and writing experiences. There are some craft rules. I have done a *lot* of editing, perhaps five rounds on each chapter, sometimes having asked someone I trust to read the account. There are two main types of editing: clarifying the argument and simplifying the language. The ordering and re-ordering of ideas is important as part of the clarifying process, and a challenge throughout, particularly as I am not an advance planner. Working out what goes where is a huge part of the process of thinking and communicating clearly. It still

11 Ibid 19.

doesn't feel like enough (the thing is, it won't, ever), but I was starting to feel ready to let the book go: its narrative was found, I was satisfied that I had made some sense of my life's work, and I could imagine starting to write something else. It was whole rather than perfect: there remain some struggles in it.

Then there is attention to detail: I think I now know and can therefore contain most of my bad writing tics (stop putting words in 'scare quotes'; take out those brackets; shorten that sentence). I wish I had been better at noting all my references and page numbers as I went along (sometimes I am so in the zone, I cannot bear to check the details of my sources at the time). Susan Sontag's advice on the craft of writing was, 'Love words, agonize over sentences. And pay attention to the world.'¹² That is just right.

I now talk about writing more than I used to. I find it such an enticing topic. I was invited to give my first seminar on 'The scholarly writing craft: my pilgrimage from first idea to published book' to staff and PhD students at Griffith University in 2023, as my Leverhulme Fellowship period ended and I was close to producing a first full draft of the book. I think it was my favourite seminar ever! The conversations we had felt vivid, liberating, energising, and unusually creative. I loved the preparation phase for this seminar

– reflecting and reading about writing in order to make sense of this deep and precious process. There is so much to discover. The new enthusiasm I feel for doing this is rather like the way I used to feel about reading certain research methods texts after being immersed in fieldwork. Suddenly, they come to life and are full of meaning. Experience and concepts mingle and something new and exciting emerges. Now, having finished, I can't get enough of reading and talking about writing.

Several authors have influenced my writing practices: philosopher Andy West and criminologist-writer Yvonne Jewkes, in particular, as I have attended their writing retreats, but also all the good, clearly written books I have ever read. I increasingly like professional memoir, or professional books with a hint of the personal in them, so I have inched very slightly in that direction in my own writing: we shall see whether that works for readers. One effective technique I learned this time around was to start a chapter with a very personal statement about what this topic means to me, or why it matters – what is my personal relationship to it? – and then to take it out once I got going. That process opened up a sort of channel inside me to the subject. The process was often surprising.

12 Maria Popova, 'Susan Sontag on storytelling, what it means to be a good human being, and her advice to writers' (*The Marginalian* 2015).

There are plenty of anti-writing models in the world: anything pompous, obscure, over-dense and un-human alienates me – why should I spend my time reading writing that is meant to ‘impress’ rather than allure or reach out to others? I love reading, but only when the text speaks.

So, do I know why I write?

When I was 13, I asked for a typewriter for Christmas (yes, I am that old!). I knew I wanted to be a writer. I have always seen books as sacred things, and I have always been mesmerised by the lives of writers: their walks, daily routines, inner demons and struggles as well as triumphs. I didn’t know what kind of writer I wanted to be. I knew it wouldn’t be journalism. I wanted something deeper, more reflective, and less likely to bring about hostility. When I discovered criminology – by accident – I knew it was my subject. I remember thinking, ‘Now I have something to write about.’ I suppose I wanted to write as a way of making sense of the world which I knew, early on, was full of wounds, wrong moves, and betrayals of love. This writing project – slow, sustained, and ‘late career’ – has taken me somewhere new. My good friend Susanne Karstedt described it as a pilgrimage. It is less evasive than my previous work. Something has synthesised in me, which feels important, even if I am only now

beginning to work out what that is. I needed more courage, as well as more time than usual, to write this book. I had to work hard to overcome some blind spots. I feel somewhat vulnerable in letting go of it but also satisfied that it is the book I needed to write. I am a different person at the end of it, more convinced than ever that writing, and the life of the mind in action, are our most precious scholarly activities. They are linked to action in the world in ways we will never measure.

Finishing a book, especially a long-incubated one, feels strangely bereaving as well as satisfying. One writer friend said, ‘this is because being in the process is where we find meaning’.¹³ His comment troubled me (‘What am I going to do without it?’), though I recognised the truth of his observation in the endings of both of my big books. This phase made me nervous. We don’t find ‘answers’ but take a kind of temporary leave of an ongoing inquiry. In the end, there is life as well as meaning in the unknowable place we inhabit while we write: this is part of what it means to be in the world. We detect a germ of an idea, pay it attention, and it manifests itself.¹⁴ He said, ‘feelings of both unknowable-ness and wholeness haunt the creative process.’ These are the ‘very grounds on which thought arises’. I love that idea. Writing is ‘a journey in the

13 Many thanks to John Briggs and other colleagues at the Pari Centre for New Learning for this helpful conversation.

14 John Briggs and F David Peat, *Seven Life Lessons of Chaos: Timeless Wisdom from the Science of Change* (Harper Collins 1999) 25.

direction of meaning'; it takes us to the place where life arises – in the tensions between order and chaos, the implicit and the explicit, the endings and beginnings.

At every writer's ending, we invite unknown others to share

and respond to our own inquiry. The idea of going public was never really at the forefront of my mind, in either case, whilst I was writing. Yet, I want the book to connect me to other minds. I want it to connect me to life.

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