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DISCUSSION

Discussion: Why the genre of the interview deserves a place in legal journals

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Interviews in legal journals: there is something unconventional about this genre in the ecology of legal publishing. Perhaps this has something to do with the relatively easy readability of the genre, more in line with a 'normal' conversation. Yet, interviews with legal scholars or professionals are not just there for our amusement. They are not just journalistic stories presented in accessible prose. Why, then, would interviews be worthy of 'scholarly' attention and, perhaps even more important, deserve a place in legal journals? A question that has barely begun to be examined – if at all.[1] And that seems odd.

The 'scholarly' genre of the interview

Before we dive into this question, let us first address some basic specificities of the 'interview genre'.[2] This genre does not follow the rules of the game that govern most contributions published in legal journals. Most significant: interviews are not peer-reviewed, but rather accepted by the editorial board as valuable contributions. In many cases, the editorial board itself conducts the interviews.[3] Basically, the interview in legal journals operates in much the same way as it does in more 'journalistic' fora. They are, to put it a little harshly, merely edited transcripts encompassing both the interviewer's questions as the interviewee's replies. These article-length Q&A are to the point, formulated in conversational idiom, do not jump around topics, and, mostly, they include an introduction paragraph.

The genre of the interview as a stand-alone contribution taken up in legal journals is nothing new. For instance, almost four decades ago and in line with a broader trend in which interviews entered academic journals (especially in the disciplines of philosophy and critical theory),[4] the *Quaderni costituzionali*, one of the most

1 From the perspective of 'the genre of the interview published in legal journals' the writer of these few words was not able to find a single article on the genre in English, German, Italian, French or Dutch. The following 'editorial' does not take up the subject: Alec Stone Sweet and Giacinto Della Cananea, 'Introduction: Conversations with Justices Aharon Barak, Sabino Cassese, and Dieter Grimm', *German Law Journal* 22 no. 8 (2021): 1511.

2 More generally, see: Rebecca Roach, *Literature and the Rise of the Interview* (Oxford: Oxford University Press 2018).

3 'Straatsburg Interview met mr. W.M.E. Thomassen', *NTM/NJCM-bull* (2006): 6; 'Ruim 100 dagen rechter in Straatsburg – Interview met EHRM-rechter Jolien Schukking', *NTM/NJCM-bull* 37 (2017).

4 Arnold Whitney, 'The Secret Subject: Foucault, Death and the Labyrinth, and the Interview as Genre', Criticism 54 (2012): 567.

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prestigious Italian constitutional law journals, published an interview with Carl Schmitt.[5] More recently, in December 2021, the *German Law Journal* even presented an entire special section including interviews with three former presidents of the Israelian, Italian, and German constitutional courts.[6] These interviews offer fascinating insights in the development of both (scholarly) ideas, legal careers, judicial and legal culture, and their interconnectedness.

A closer look at the genre reveals a varied scene. Broadly speaking, there are two categories of interviews published in legal journals: 1) interviews with legal professionals such as judges, and 2) interviews with fellow scholars. The first group often covers someone's particular career, and elaborates how and why the legal professional acted the way she or he did. The basis template is more or less similar to Peter Osborne's outline as 'starting from questions about the interviewee's influences and formative years, they move on, via critical exchanges about key concepts and ideas, to reflections on political issues and recent events'.[7] In the second group, we find questions and answers focusing on a scholarly monograph, a collection of publications or on a particular scholar's intellectual biography.

The scholarly value of the interview

What, then, does the genre of the interview offer the legal (scholarly) community? Why should legal scholars engage with this device? Here, we should distinguish between several scholarly personae: the reader of the interview, the interviewer(s) and the interviewee (a scholar or legal professional). All of these personae approach the genre of the interview from different angles and with different research or practical agendas. The following paragraphs present a few words about these agendas

The interviewee

To begin with the category of the interviewee, the genre of the interview offers a possibility to correct, explain, specify and even extend certain claims. Take, for instance, the *Die Zeit*-interview with Andreas Voßkuhle. In this published conversation, the then president of the German Constitutional Court defended Karlsruhe's 'no' towards the primacy of European Union law over the German constitution.[8] The format of the interview allowed Voßkuhle to answer certain criticisms in a less diplomatic and legalistic form. One insightful example suffices:

5 'Un giurista davanti a se stesso. Intervista a Carl Schmitt', *Quaderni costituzionali* 1 (1983): 5.

6 Alec Stone Sweet and Giacinto Della Cananea, 'A Conversation with Dieter Grimm', *German Law Journal* 22 no. 8 (2021): 154; Alec. Stone Sweet and Giacinto Della Cananea, 'A Conversation with Sabino Cassese', *German Law Journal* 22 no. 8 (2021): 1526.

7 Peter Osborne, A Critical Sense: Interviews with Intellectuals (London: Routledge, 1996).

8 Giovanni di Lorenzo and Heinrich Wefing, 'Erfolg ist eher kalt; Der scheidende Präsident des Bundesverfassungsgerichts zieht Bilanz. Ein Gespräch mit Andreas Voßkuhle über bedrohte Richter, die Gefahren für die Freiheit in der Corona-Krise und Fehler der liberalen Eliten', *Die Zeit*, 14 May 2020.

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'Do we really want to be guided by how Polish or other politicians might possibly react to a constitutional ruling? Is that to be the benchmark for a constitutional court?' Elaborations such as these show that judges speak *not* only through their judgments.[9]

With an eye specifically on the interviewee being a legal scholar, the interview provides the space to step outside the regular institutional dynamics. As such, the genre offers the possibility to intervene in a debate without writing an article or book (chapter) and formulate thoughts in a voice that may be slightly separate from the established discourse. And there is more: it is a format that allows scholars to reflect upon regular mainstream academic practice, to comment on it, and explain her or his intentions. It is a form in which ideas could be presented to the interviewer and to the audience (consisting of the readership of a particular legal journal). In short: an interview could serve as a complementary note to a 'main' work by the author.

The interviewer

A word now on the possible agendas of the interviewers. From their perspective, the genre offers the possibility to engage directly with the writer of a scholarly work or judicial decision, not solely with the text. This is particularly useful when a certain published passage written by an interviewee contains a certain ambiguity and a reader (the interviewer) is confronted with a variety of possible readings. In such a case, an interview could help to retrieve the 'actual' meaning of the author.

At the same time, an interviewee could be asked to relate and position her or his work to other texts not explicitly listed in the text under discussion. This is important. At best, a written text (whether a scholarly monograph or a judicial decision) documents only part of the ideas on which it builds. These text, carrying substantial cargoes of ideas, seldom tell the full story of interpretations accepted or dismissed or explain their 'why' and 'wherefores'. In this way, the genre of the interview could function as a brick stone in creating intellectual biographies. As Jeffrey J. Williams stresses: the critical interview is an entryway into otherwise obscure terms and concepts and an excellent way to find out what *they* – the authors – had to say about their own writings.[10] From this perspective, no one interested in the intellectual and more practical origins of legal texts can ignore the value of the interview device. In addition, interviews could bring to light practices of scholarly writing: they offer the interviewer the possibility to ask questions about legal scholars' strategies for gathering and shaping their ideas and the sometimes 'hidden' rhetorical conventions that govern their writings.

If we combine the agendas of the interviewer and the interviewee, the idea arises that an interview is worthy of our attention because it serves as a kind of annotation

9 Jannika Jahn, *Die Medienöffentlichkeit der Rechtsprechung und ihre Grenzen* (Baden-Baden: Nomos, 2021).

10 Jeffrey J. Williams, 'The Rise of the Critical Interview', *New Literary History* 50 (2019): 2.

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to an academic publication or a judicial decision. The questions and answers as published in interviews, extend the boundaries of a text (whether it is a scholarly work or judicial decision) by clarifying and illuminating parts of its contents. From this perspective, the genre of the interview is comparable to introductions, prefaces, and epilogues: they all are connected to a main text and are in 'critical' dialogue with it. This latter dimension explains why scholars should not turn away from interviews with their fellow scholars. Through the interview tool they are offered a conversation with an author of a text – a conversation with the potential to be more open and comprehensive than a bare written commentary. In case of an interview with a judge, interviews are promising sources of how judges legitimise their own judgments.

The readers

Besides the abovementioned promises, readers could obtain even more from the genre of the interview. On the one hand, the interview could help illuminate interesting processes of scholarly research and debate. To the extent that the presented answers are the interviewee's self-reflexive commentary on a book or judicial decision, they are excellent sources to show that the voice of scholars of legal practitioners is not stable, not always consistent and intimately linked to certain sensitivities and affinities. It gives us some insight in how certain authors are in dialogue with their own ideas.

However, interviews can reveal much more than just the *answers* by the interviewee. The *questions* brought up by the interviewer(s) are just as interesting. While aimed at the interviewee, they tell us something about the person who asks them. These questions are normative, place and time specific and fascinating for what they include and for what they omit. From this perspective, interviews open up new paths for legal scholarship. They are intriguing sources to study scholarly culture. This especially applies when an interview is conducted by scholars from another scholarly culture. A telling case in point is the interview with Hans Lindahl enclosed in this edition of the *Netherlands Journal of Legal Philosophy*. Here, Japanese scholars open the conversation with questions on Hans Kelsen, Carl Schmitt, and, more surprising, the French thinker Maurice Hauriou and the Italian constitutionalist Santi Romano. This interest in continental legal philosophy brings up questions about the enduring legacy of early twentieth century legal thinkers. Of much interest is Hajime Yamamoto's (Keio University) question on collectives and individuals, addressing a gap between Western legal culture(s) and Asian conventional legal conscience(s).

Of course, this interview with Hans Lindahl by Japanese scholars is just one interview. Yet, if other scholars follow suit, the genre of the published interview in legal journals could perform the task of building intellectual bridges between various scholarly legal cultures. At the same time, global legal academia is served with a source (interviews) that presents regular knowledge about the questions asked across the world. As Jeffrey J. Williams argues: 'interviews composed a de

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facto syllabus of the schools of theory at that moment'.[11] In this way, interviews give the reader some insight in legal knowledge canons. They offer researchers an opportunity to join an emerging body of scholarship on the spatial foundations of legal thinking.[12] From this perspective, many interviews from the past decades deserve our attention. This category of 'historical' interviews could function as a source of temporal processes of research, thought and critique. As scholars, we should ask questions about their contents and development.

All this might make you wonder: why has the genre of the interview by and with scholars and legal processionals remained unexamined for so long. The above presented words are, for that matter, only a bold plea for more attention to this still largely undefined but fascinating genre and source.

11 Williams, 'The Rise of the Critical Interview', 11.

12 Tommaso Pavone, 'Putting European Constitutionalism in its Place: The Spatial Foundations of the Judicial Construction of Europe', *European Constitutional Law Review* 16 no. 4 (2020): 669.