How to Write a Blog Post

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09.06.2023 doi: 10.17176/20230609-231112-0

I

The most important thing in writing a blog post is that you make sure that you have a clear and sharp thesis. This, if you will, is the thesis I want to put up with this editorial, hardened by many years of experience as a author and editor: the amount of effort the author has put into shaping and sharpening and differentiating her thesis is by far the clearest indicator of whether the text is suitable as a blog post or not. It is the thesis that gives the text structure, direction and traction. It is what charges it with energy. The text needs a clear, razor-sharp thesis in order to be a good blog post, and preferably not more than one. You have to focus your inner author's eye on this one thesis, and this focusing is a process that requires skill, patience and, not infrequently, a modicum of agony, too.

Thesis is not topic. If I want to write a blog post about, say, the agreement in the EU Home Affairs Council on the Common European Asylum System, then I have a topic, but not yet a thesis. I can write pages and pages of interesting facts about what happened, what changed and what stayed the same, what this implies and how this relates to that. That can all be highly meritorious. But it does not make a good blog post. For that, you need a thesis.

Thesis is not opinion either. My judgement, no matter how emphatically presented, my sympathy or dislike, no matter how fiercely felt, is not something I can expect the slightest interest in from anyone except those who are close to me. What I find and feel may be my own motive that drives me to state my thesis, but is completely irrelevant to everyone else. Conversely, it is a widespread but all the more fatal mistake to try to compensate for the absence of a thesis with correspondingly strong opinions. I could bang on endlessly about how terrible I think what the interior ministers of the European Union decided yesterday is. But that won't do. Without a thesis, it will never be a good blog post.

A thesis is also not an argument. You posit your thesis, and because you do, you have to develop it, give reasons, justify it, defend it against objections, i.e. present arguments. The argument is the justification, the thesis is what is justified. It precedes the argument. It is the act of sticking one's neck out and taking the risk of embarrassment if it turns out that one's arguments are not able to support the thesis after all. For any of that to happen, however, one must first put up that thesis.

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Informal inquiries to Professor Ken Oliphant, Head of Law School (hos-law@bristol.ac.uk).

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The thesis does even not have to be particularly bold. No blog post becomes good just by jumping at people with an unexpected assertion. You can represent the plainest common sense in a blog post, there is nothing at all wrong with that. But the thesis must be clear. If you write a blog post, you have to make it clear to your readers and, more importantly, to yourself what exactly you are positing and why and opposed to what. This is an iterative process. You try something

out. And you notice that you get into trouble with it. You modify the thesis. Is it better this way? Yes, it is. But it's no longer so elegant, it's crooked and complicated. So you modify it again. This is how you whet your thesis until it's as sharp as you want it to be.

II

Once you have a clear and sharp thesis, the problem of how to structure of the text pretty much solves itself. It's quite simple: as a rule, you have to state your thesis right at the beginning. In the following paragraphs, you can contextualise and justify it and defend it against expected objections and do whatever is necessary to make it stand firmly and stably – the structure of the text is totally straightforward. But only if you have a clear and sharp thesis.

News journalism teaches that it's the very first sentence that counts most, the so-called lead: it has to make the reader see why she should take the trouble to read that text in the first place. If you save that for the second sentence, she may have already stopped reading and won't even notice. You have to get straight to the point. Right there.

Now, legal blogposts are not newspaper news, and one can expect more patience from the readers of the one than from those of the other, I suppose. If you have the necessary narrative skills, you can of course try a more artful introduction and keep up the excitement for a while before you come out with your thesis. But that is risky, and definitely advanced level. As a rule, you should state the thesis in the second paragraph at the very latest.

German lawyers in particular often find it remarkably difficult to structure their texts in this way. In Germany, law schools teach the so-called *Gutachtenstil* (expert opinion style): here is the case, there is the law, and you check step by step whether or not the elements of the legal norm are fulfilled by the fact of the case before coming to a conclusion. The whole text is written in the subjunctive form – it could be this, if that were the case, or else could be that etc. – and it's only at the very end that you are allowed to write in the indicative: when you finally unveil your conclusion. This is a no-no for a blog post. No one reads through a lot of subjunctives only to find out at the very end what's what. The thesis must be at the beginning, *Urteilsstil*, in the indicative: This. For the following reasons.

Once you have a clear and sharp thesis, the problem of length mostly stops being a problem, too. In order to develop, justify and defend a clear thesis, 1500 words are easily sufficient in most cases. 2000 words, at any rate, are the absolute maximum, I should think. If you believe you need more, then that's probably because you haven't sufficiently sharpened your thesis.

III

Style and language are the personal signature of the author, and a blog must respect that. There is no specific blog style, and no one needs to feel compelled to use "funky" language just because it is a blog she is writing for. Some write in a bone-dry and strictly scientific manner, others allow themselves more literary and/or polemical liberties, and it's all fine with me as long as the author is confident in her chosen style, the language remains precise and is not used to conceal intellectual flaws.

There are, however, linguistic idiosyncrasies that I would call quirks, if not deformations, that the German legal education inflicts on those who go through it. Being formed into a German lawyer means learning a certain way of thinking and thus also a certain way of expressing oneself. You learn to organise the flow of what is happening around you into *Tatbestände* (factual elements of a legal norm). That is the formative experience of studying law: living in a flat suddenly becomes a tenancy, ordering a coffee in the bar becomes an offer of a contract. You learn that, and with it comes a tremendous sense of empowerment. You suddenly have a magic wand with which you can transform what happens into neat, square, subsumable and stackable *Tatbestandsmerkmale* to which the law attaches legal consequences! This is how one learns to think and then also to speak and write. What happens becomes a fact, action turns into act, the verb becomes a noun, and poof: suddenly one expresses oneself only in flawless German legalese.

That's fine for pleadings, judgments and administrative documents, but it's bad for a blog post. That's

why we're editing out all those verbs that have petrified into nouns, all the passive and participle constructions that are so characteristic of German legalese, without mercy.

IV

At least that is our ambition. We don't always live up to it as much as we would like to. Most of our posts go through one, two, sometimes even three or four editing loops in an effort to get the best out of them. And yet we often have the feeling that much more would have been necessary. But that's all we manage.

We and, even more, our authors could save ourselves and each other a lot of work if they took these things to heart from the outset before and while they write down what they then send to us for publication. Hence these suggestions.

If you find them useful, I'm glad. If you have criticism, comments or need explanation and email me, likewise.

The week on Verfassungsblog

… summarised by PAULA SCHMIETA:

Continuing last week's discussion on (postponing) the **upcoming Hungarian Council presidency**, THU NGUYEN argues that the practical damage which could flow from a such presidency is limited. MARTIJN VAN DEN BRINK, moreover, doubts that preventing Hungary from holding the Presidency would be consistent with the EU's own rule of law.

On the occasion of the summit of EU interior ministers on the controversial **reform of the Common European Asylum System** (CEAS), JONATHAN KIEßLING & ISABEL KIENZLE assess the reform proposals and reiterate that upholding and respecting codified human rights must not become a secondary matter.

Following the adoption of the **Corporate Sustainability Due Diligence Directive** (CSDDD) by the European Parliament (EP), KLAAS HENDRIK ELLER believes that the EU has come a big step closer to passing the most ambitious due diligence legislation worldwide. He puts the EP's position into perspective and looks ahead to the upcoming Trilogue.

On the first day of pride month, the **ECtHR** determined in *Maymulakhin and Markiv v Ukraine* that the **general absence of legal recognition for same-sex couples violates Art. 14** of the European Convention of Human Rights. GIULIO FEDELE explains the significance of the court's coming out.

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Website: *www.eurac.edu/digop*

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What enabled the systematic dismantling of **Poland's rule of law**, without formally amending the constitution? A peculiar interpretative technique by the name of 'spotlight interpretation' argues MIROSŁAW GRANAT.

JANNIS LENNARTZ comments on **Adrian Vermeule**'s lecture on **common good constitutionalism** at Berlin's Catholic Academy. Vermeule's attempt to use *ius commune* to re-read US-law makes Lennartz raise his eyebrows.

One week ago, **YouTube** announced that it will no longer remove false claims about past US Presidential elections. RICHARD MACKENZIE-GRAY SCOTT sees up- and downsides in this development and concludes that the **US constitutional framework regarding online regulation** requires updating.

Following the Amthor affair, the Azerbaijan affair and the mask deals, TILL ZIMMERMANN & FRANK ZIMMERMANN believe that the time has come to **reform sec. 108e** of the German Criminal Code – the criminal offence of **corruption of elected officials** – and make a proposal as to what a reform could look like.

Finally: during the past week we received further contributions to our blog debate **Kleben und Haften: Ziviler Ungehorsam in der Klimakrise –** this time by JOCHEN VON BERNSTORFF, FELIX HANSCHMANN and FIN-JASPER LANGMACK & ANNA-MIRA BRANDAU.

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That's it for this week. In the meantime, all the best to you!

Max Steinbeis

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SUGGESTED CITATION

Steinbeis, Maximilian: How to Write a Blog Post, Verfassungsblog, 09.06.2023, doi: 10.17176/20230609-231112-0.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20230609-231112-0.