

BLOGS AND THE PROMOTION AND TENURE LETTER

ELLEN S. PODGOR*

The phone calls and e-mails start near the end of the summer. They come from deans and committee chairs, and all have the same request—would I be so kind as to evaluate a candidate’s scholarship for promotion and/or tenure.

Writing promotion and tenure letters is an important service to the academy, albeit one that is seldom rewarded in comparison to the enormous time consumption involved. And although my evaluations to date have all been premised on hard-text material, it is likely that soon the day will come that the packet of scholarship material arriving on my doorstep will be a Website address that leads to a blog. So in thinking about whether law blogs are legal scholarship, an important consideration in answering this question is how a blog should be evaluated for promotion and tenure purposes. The articles by Professors Douglas A. Berman, Kate Litvak, and Lawrence B. Solum offer some advice that may assist in answering this question.

Professors Berman and Solum describe how blogs offer a different medium for expressing an idea.¹ Professor Berman, in providing a historical perspective, also shows the fluid nature of legal scholarship.² This is contrasted with Professor Litvak’s work, which questions whether blogs are nothing more than “bugged water cooler” talk.³ She finds that blogs do not “transform legal scholarship.”⁴ For the most part, blogs offer greater accessibility to information when compared with written work.⁵

* Associate Dean of Faculty Development & Distance Education & Professor of Law, Stetson University College of Law. Blog: White Collar Crime Prof Blog, http://lawprofessors.typepad.com/whitecollarcrime_blog.

1. Douglas A. Berman, *Scholarship in Action: The Power, Possibilities, and Pitfalls for Law Professor Blogs*, 84 WASH. U. L. REV. 1043 (2006); Lawrence B. Solum, *Blogging and the Transformation of Legal Scholarship*, 84 WASH. U. L. REV. 1071 (2006).

2. Berman, *supra* note 1, at 1044.

3. Kate Litvak, *Blog as a Bugged Water Cooler*, 84 WASH. U. L. REV. 1061 (2006).

4. *Id.* at 1070.

5. There are, of course, concerns that accessibility may be hampered by a class distinction that fails to provide equal computer access to the general public. See J.M. Spectar, *Bridging the Global Digital Divide: Frameworks for Access and the World Wireless Web*, 26 N.C. J. INT’L L. & COM. REG. 57 (2000) (discussing the “digital divide” and the tech “haves” and “have-nots”); Ann Mullen, *Computers Can Bridge—or Widen—the Gaps Between Rich and Poor*, WIRED DETROIT, Nov. 17, 1999, <http://www.metrotimes.com/20/07/Features/wdTechnical.htm> (last visited July 26, 2006). As more communities move to having group Internet availability, this may become less of a concern. See

But accessibility is not necessarily a confirmation of readership or acceptance.⁶ Nor does accessibility always equate with what one might call “good scholarship.”⁷ On one end of the spectrum we have many law review articles that are overly descriptive, while at another end an article might be mere advocacy without support. Blogs can suffer from both of these ills. Additionally, blogs as an early development form of scholarship may be in need of substantial refinement. Environmentally, the blog may have superiority in that no live trees are killed to disseminate the product.

So in writing the promotion and tenure letter, the focus needs to be on the content as opposed to the medium being used to disseminate the message. If the product is, as Professor Litvak concludes, nothing more than “bugged water cooler” talk, then it hardly fits the bill of furthering the scholarly legal landscape. On the other hand, if it presents new thoughtful material that is well written and important to the field, it should be considered in the mix of a candidate’s scholarship for promotion and tenure purposes. Admittedly the “real time” speed of composing sentences for a blog may make it less likely to be deemed “good scholarship.” But there will be times that statements made on a blog advance the discussion and justifiably fit the bill of “good scholarship.”

Blogs can also be factored into the promotion and tenure letter from the perspective of the research dimension of the materials being reviewed. In examining articles submitted for review, one determines whether the candidate has thoroughly researched the topic. When important content from the Web is omitted, the piece may be deficient. Thus, if blogs provide relevant information, when this citation or material is omitted from an article, the value of the piece is diminished.

Blogs, without doubt, fit the category of “service” in the candidate’s portfolio. Blogs can provide recognition to the candidate and to his or her

City to Offer Wireless Web for All, CNN.COM, Dec. 17, 2003, <http://www.cnn.com/2003/TECH/internet/12/11/sprj.ws.wifi.city.ap/>.

6. For some attorneys, legal scholarship distributed via both the Internet and written format remains unused because of the lack of time available to read these materials. For example, some criminal defense attorneys may find it difficult to expend time reading law review articles. A column that I write for the *Champion*, a magazine of the National Association of Criminal Defense Lawyers (NACDL), reviews new law review articles each month to provide a more accessible avenue for finding relevant articles. See, e.g., Ellen S. Podgor, *Reviews in Review*, 30 CHAMPION 57 (May 2006) (reviewing a recent symposium and law review article).

7. The term “good scholarship” is used here to recognize what might be generally accepted in the legal academic community as satisfactory for promotion and/or tenure standards. Obviously, there is a certain amorphous nature to the term “good scholarship” as standards differ within the academic community.

school.⁸ In this regard, the line between service and scholarship can differ depending on the institution. One school may place scholarship value on practitioner bar journal pieces, while another may designate this form of writing as mere service. As such, the level of credit offered to blogs, when determining whether the information is more justifiably service or scholarship, may be institution specific.

In deciding how to treat blogs when evaluating legal scholarship, it is important to consider that blogs may not be the end-all medium for dissemination of legal ideas. There may be future avenues for presenting scholarship to consider. On the road from listservs, to blogs, to video podcasts, technological advancement may offer yet another form or forum for presenting scholarship. But perhaps the question will always be the same as that asked in so many tenure and promotion letters. Does the article, blog, or podcast—and more importantly the information within these mediums—advance the legal landscape?

8. Ellen S. Podgor & Paul L. Caron, *Perspectives: How Blogging Opens Up New Areas for Professors*, DIVERSE ISSUES IN HIGHER EDUCATION, July 19, 2006, at 27 (discussing how White Collar Crime Prof Blog and TaxProf Blog have garnered attention from the national press).