CHAPTER FOUR

Reflections on Judicial Independence

Past Achievements and Future Agenda

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I Past Achievements

The Law Faculty at the University of Ghent, where we held the ninth conference of judicial independence, has been linked with international developments in Law & Society for a long time. In 1904, the Institut de Droit International received the Nobel Prize of Peace, since the President of this Institute drafted the rules of warfare.

Since our group has been engaged in conferences and projects, we have made many achievements. And especially, we have been linked with international and comparative procedural law. This Faculty has been embedded in the Access to Justice movement, inspired by one of the most brilliant scholars in procedural law, Mauro Cappelletti, Doctor Honoris Causa of our Ghent Law Faculty.

The first world Congress of International Association Procedural Law took place in 1977 in Ghent: Towards A Justice With A Human Face. And we organised again an international colloquium for the same association in 2000: the Discretionary Power of the Judge, where, inter alia Professor Shimon Shetreet was also a General Reporter.

For this two-day conference, we have received the hospitality of the Law Faculty. I am proud of two specific aspects of this Ghent Conference. First, we
will work in the law facility, which is located in a former Jesuit school. As a former boy of the Jesuit school in Ghent, I am of course very glad to welcome you in the premises of a former Jesuit school in Ghent.

And second, we are welcomed here by the Dean of the Law Faculty, Professor Piet Taelman, a former student of mine, assistant of mine, colleague in my law firm. He became my successor in Procedural Law at this Law Faculty.

And I was helped by Dr Stefaan Voet, who made his Ph.D. on Class Actions and was reporter in the Moscow conference. It is already more than 30 years ago that we drafted in Jerusalem our first report on Mount Scopus. We finished at 3 o'clock in the morning since it seemed rather difficult to get the agreement of our English colleagues. We could find a solution by adding after each principle: “except when for historical reasons...” and long democratic traditions.

It was not necessary in our Mount Scopus Standards on judicial Independence to write down these exceptions because of the reforms introduced in the United Kingdom by the Constitutional Reform Act 2005.

So you can imagine how happy we are here in Ghent to be able to organise a conference of the Shetreet-commission and to say to Shimon how much we appreciate his never-ending Endeavour – first name of Inspector Morse – in favour of the minimum standards of Independence and Impartiality of the Judiciary. Here in Ghent, we set on the task of examining especially the issue of the impartiality.

II Judicial Independence and Impartiality

One hundred years ago, Roscoe Pound delivered a speech with the title: “the popular dissatisfaction about the functioning of Justice.”

As in former conferences, we started in confusion and we ended in confusion, but on a much higher level.

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4 See id.
5 For a detailed analysis of reforms, see Shimon Shetreet & Sophie Turenne, Judges on Trial: The Independence and Accountability of the English Judiciary (2nd ed. 2013).