

of a type. Segmentary lineage systems are designed to operate as self-sustaining tribal societies, entirely independent of government. And of all possible solutions to the problem of lineage solidarity posed by marriage, Muslim cousin marriage is the most “involuted” — the one that tends, both morally and practically, to seal off families and lineages from outside influences and alliances. So the reason Muslim society seems more resistant than many others to modernization may be that its fundamental social structure is a kind of expression, on a grand scale, of a closed and self-sustaining kin-based society.

The self-sustaining tribal structure that enabled Muhammad to quickly conquer the world — and that allowed his successors to knit together a loosely governed empire with minimal effort — turns out to be uniquely problematic in relation to modernization. And from the rise of Europe to the present moment, the transformed tribal ethos of militance and pride that governs Islam has set up a powerful barrier even to recognition of this problem. In a modern setting, the result has been cultural decline, nativist reaction, and a literal clash of civilizations.

What, then, does all of this say about the “Kemalist” option apparently favored by Bernard Lewis? If the fundamental principles by which Muslim society is organized are profoundly incompatible with modernity, a total break with tradition might seem to be in order. But, of course, the very centrality of kin-based structures to Muslim society makes such a break very hard to sustain (as Turkey’s Kemalists have discovered of late). Japan presents a model in which the

traditional ethos of family solidarity becomes an engine of economic progress rather than a barrier. But Japan’s family system is considerably less closed and self-sustaining than that in the Middle East. So knowing “what went wrong” in the Middle East imparts at least as much sobriety and pessimism as wisdom and hope. Nonetheless, we have no choice but to take the measure of the underlying problem, win this war, and afterwards take up the challenge of helping to set things right.

## Thinking Out Loud And Louder

By JON JEWETT

RICHARD A. POSNER. *Public Intellectuals: A Study of Decline*. HARVARD UNIVERSITY PRESS. 448 PAGES. \$29.95

EARLY IN HIS career as a legal scholar at the University of Chicago, Richard Posner began to diverge from the usual path. At the time, nearly all legal scholarship was internal to the law, consisting of the doctrinal analysis of cases and statutes using the techniques of legal reasoning. The monuments of legal

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scholarship consisted largely of comprehensive treatises on particular areas of the law, like *Williston on Contracts* and *Prosser on Torts*. Posner, while no slouch at conventional doctrinal analysis, preferred to analyze the law from an external perspective, using tools developed by other disciplines, particularly economics. In 1973 he published *Economic Analysis of Law*, which ever since has been the principal treatise in the field of “law and economics.” Posner is now at work on the sixth edition. He has written some 28 other books and hundreds of articles, monographs, book reviews, comments, and miscellaneous writings on a wide array of topics. He has as strong a claim to being the foremost legal scholar of the past 30 years as anyone.

In 1981 President Reagan appointed Posner to the United States Court of Appeals for the Seventh Circuit, and he served as chief judge from 1993 to 2000. He is closing in on 2,000 written opinions, and he is unusual among appellate court judges in that he writes the first drafts of his opinions himself rather than delegating this task to a law clerk. The scholarly output of law professors who are appointed to the bench almost invariably drops off precipitously, frequently to zero. Posner is the exception. He still writes for the academic audience — much of his best academic work has appeared since he became a judge — and in recent years has plunged into the public intellectual market with considerable gusto, particularly regarding the Clinton impeachment (*An Affair of State*, Harvard University Press, 1999) and the 2000 presidential election (*Breaking the Deadlock*, Princeton University Press, 2001).

IN THIS BOOK, Posner defines a public intellectual as “a person who, drawing on his intellectual resources, addresses a broad though educated public on issues with a political or ideological dimension.” Applying this capacious definition, he has compiled a list of 546 public intellectuals, both living and dead. Posner does not claim that his list is complete or even representative; he does claim, reasonably, that it includes most public intellectuals who enjoy prominence in the United States today.

The most striking aspect of the list is its heterogeneity. Posner’s definition is so broad that it lumps together people in very different lines of work, making problematic any generalizations about public intellectuals as a group. To use Posner’s terminology, there are many public intellectual genres. And so is it really meaningful to speak, as Posner does, of the “average quality” of a single supercategory that includes both Ezra Pound and Martin Feldstein? Posner’s list is interesting in that it illustrates the enormous diversity of intellectual discourse addressed to the non-specialist. But to support useful apple-to-apple comparisons it must be extensively subcategorized. Posner knows this, but at times he lapses into generalizations about public intellectuals that apply only to a subset of his list.

For each of the public intellectuals on his list Posner has calculated the numbers of media mentions, web hits, and (for academics) scholarly citations for the period mid-1995 to mid-2000. He also sorts the list into a variety of demographic and other categories, such as academic vs. non-academic and right-leaning vs. left-leaning. As Posner

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rightly emphasizes, both the list and the analytical methodologies that he applies have severe limitations, but he nonetheless does come up with plausible quantitative evidence in support of a few propositions about public intellectuals.

Living public intellectuals tend to be old (average age 64), male (84 percent), left-leaning (63 percent), disproportionately Jewish (46 percent), and either academics or affiliated with think tanks (74.5 percent). About 6 percent are black. Most academic public intellectuals are drawn from the humanities and social sciences, and non-academics are predominantly writers, journalists, lawyers, educators, and publishers.

A comparison of the demographics of the living and dead public intellectuals on Posner's list shows that a substantially higher percentage of the living are academics or affiliated with think tanks, and more of the dead were writers. This appears to support Posner's contention that the public intellectual market has increasingly come to be dominated by academic specialists, but the reliability of his statistical comparisons of living and dead public intellectuals is questionable. Much of the output of academic and think-tank public intellectuals concerns research findings or policy issues that date fairly quickly. It is plausible that a higher percentage of the dead public intellectuals who are still remembered, and thus made Posner's list, are writers simply because work of literary or rhetorical distinction survives longer. The same may hold true for today's public intellectuals. In 50 years Norman Mailer and Tom Wolfe may still be read. It is highly unlikely that

Lester Thurow or Jonathan Turley will still be on lists of public intellectuals. From a future vantage point, today's academics may appear no more dominant in the public intellectual arena than their predecessors of 50 years ago. Although the sheer magnitude of the increase in the number of college professors and think-tank scholars in the twentieth century suggests that they comprise a higher percentage of public intellectuals than in the past, Posner has not produced convincing empirical evidence that this is so.

As the subtitle *A Study of Decline* suggests, Posner believes that the output of public intellectuals has declined in quality, but his data again are too limited to support this contention. There is, of course, the problem of the absence of objective measures of quality. But even if we stipulate that the dead intellectuals on his list generally produced higher quality work, any comparison is hampered by selection bias. Two-thirds of the intellectuals on Posner's list are still living. The number of people in the public intellectual category surely has increased, but a list of public intellectuals compiled as of 1925 would still undoubtedly have included many people who are now deservedly too obscure to make Posner's list. Time has filtered out not only many academics, but also the weakest public intellectuals of the past, while leaving figures like Max Weber, George Bernard Shaw, W. B. Yeats, and George Orwell. The unfiltered present naturally suffers by comparison.

POSNER LIKES to apply the methods of economic analysis to areas where economists have not previously ventured, and

he does so here. He makes many thoughtful observations about the market for public intellectual work and the incentives at work in that market, but some of his generalizations seem unwarranted. He argues that the overall quality of the work produced by the public intellectual market is low, despite the obvious competitiveness of the market, and is characterized by many symptoms of “market failure.” In this context Posner is not using the term “market failure” in its technical economic sense; he means that public intellectuals as a group deliver a product that is “a disappointment in light of expectations widely held in academic circles.” One wonders what academic circles he is referring to. The University of Chicago Committee on Social Thought, perhaps?

I have not proved that the market for public intellectuals is failing to produce a product of high average quality, and the qualification implicit in “average” is worth stressing. But I have presented a fair amount of evidence that it is. Anecdote is not proof. But we have seen that there are good economic reasons for expecting this market to perform badly and statistical evidence that it *is* performing badly in comparison to other markets in symbolic goods, particularly the academic market. The theory and statistics buttress the anecdotes; the trio of proofs is convincing.

Posner overstates his case. The passage quoted above reads like a weak legal brief, an attempt to cobble together faulty arguments to make them appear collectively stronger. Note that

after conceding that anecdote is not proof, he includes it in his “trio of proofs.” His anecdote is — necessarily, in view of the size of the list and the vast and heterogeneous body of work that it represents — highly selective. Anecdotes may effectively show that much public intellectual work is of poor quality in terms of accuracy and intellectual rigor, and that some public intellectuals are irresponsible, but he makes no attempt to apply objective criteria to a representative sample of public intellectual output, and his anecdotal evidence is thus not adequate to support a general characterization of the quality of the public intellectual market or the contention that quality has declined.

There are in fact good theoretical economic reasons for the public intellectual market to perform well; it is highly competitive and has low barriers to entry. Posner argues that it nonetheless can be expected to perform badly because the public intellectual market does not feature quality controls such as an informed consuming public or expert consumer intermediaries, legally enforceable warranties of product quality, or high costs of exit for sellers detected selling poor quality goods. I do not find his arguments to be convincing.

Arguments that the hapless consumer is too ignorant to determine the quality of the goods being sold in a particular market should be regarded with skepticism. On the basis of my own experience as a longtime consumer of public intellectual goods, it is an argument that in this case does not ring true. I feel that I know the public intellectual market well enough to assess the reliability, and ideological

bias, of the purveyors of various intellectual products. I am not an expert in either sociology or foreign policy, but I am confident that I know enough to place a high degree of confidence in the public intellectual writings of James Q. Wilson and very little in those of Noam Chomsky. I am not a scientist, but I have figured out where Stephen Jay Gould and Richard Lewontin are coming from, and take their popular writings with an appropriately sized grain of salt. I do not think that I am an atypical consumer of public intellectual fare.

The segment of the public that pays attention to public intellectuals is small and highly educated. Posner underestimates the ability of these consumers to intelligently evaluate the work of public intellectuals. And a relatively small minority of knowledgeable consumers is often sufficient to control quality in a market.

As for expert consumer intermediaries, where a piece is published conveys a good deal of useful information, as to both likely ideological coloration and reliability. If I want careful analysis of public policy by experts, I am confident that it can be found in the *Public Interest* or in the publications of think tanks like AEI and Brookings. For lively, provocative opinion pieces from different political perspectives, I can go to *National Review Online*, *Slate*, and the *New Republic* with an equal degree of confidence. The consumer does not expect or desire the same degree of academic rigor or depth of analysis across the board. I see little evidence that these publishers are not delivering a product that fulfills the expectations of their readers, or that those expectations can reasonably be described as low.

Posner might respond that to be effective consumer intermediaries, the publishers of public intellectual work should not be content with giving their readers what they want, but should shield them from inaccuracies and obviously fallacious arguments to a greater extent than they do. More filtering may be Posner's preference, and

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an understandable one given his workload (when does the man find time to read?), but it does not seem to be shared by most other consumers of public intellectual fare. Perhaps the consumer of public intellectual work prefers to do his own filtering, if it means that a wider variety of work will be published.

Academic-style editing and peer review tends to result in tentative, heavily qualified conclusions, muffling the voice of the author. Unfiltered pieces can be more revealing of a writer's true colors and can illuminate his academic work. I do not want the *New York Review of Books* to subject its contrib-

utors to rigorous content editing and fact-checking in the name of quality control. I prefer for their authentic voices to come through clearly.

To be sure, in some cases pieces are published that are difficult for most general readers to assess. For example, *Commentary* has published articles by the mathematician David Berlinski attacking modern theories of evolutionary biology (“The Deniable Darwin,” June 1996; “What Brings a World into Being?” April 2001). Arguably, general-interest intellectual publications would be well-advised to steer clear of such work, and recognize that a serious scientist who wishes to challenge a generally accepted scientific theory will typically do so in a scientific publication. But such failures are ameliorated by the competitiveness of the market. There is plenty of excellent criticism of Berlinski and other anti-Darwinians available to the interested reader. And *Commentary* put its readers on notice of the extent to which Berlinski’s thinking is rejected by the scientific community by publishing critical letters from members of that community (“Denying Darwin: David Berlinski and Critics,” September 1996).

On the other hand, what obviously is at work in the public intellectual market is the human tendency not to question assertions that conform to one’s worldview, and to look for confirmation of that worldview. There is not much overlap in the readership of the *Nation* and *National Review*, and neither magazine is inclined to publish pieces that challenge the fundamental assumptions of its readers. But is this really an indication of poor quality — or simply a reflection of the market niche each has chosen to occupy?

POSNER ASSERTS that the public intellectual market performs badly in comparison to the academic market, attributing this to the absence, in the public intellectual market, of the formal quality controls of academia. Scholarly publication involves three levels of filtering: the “norms of the academy,” the use of peer review by scholarly journals, and the presence of an expert audience. But why then, after all this filtering, the poor quality of so much of the work that is published in the thousands of peer-reviewed academic journals, particularly in the humanities and social sciences? Has a public intellectual publication ever failed in its gatekeeping function as spectacularly as the academic journal *Social Text*, where New York University physicist Alan Sokal published a hoax article that was deliberately “salted with nonsense” but employed au courant academic jargon and was consistent with the editors’ ideology? In some academic disciplines, such as education, the quality of most published work is low. And academic journals also tend to reflect sets of assumptions about the world, and are no more likely — perhaps even less likely — than public intellectual publications to publish work that rejects those assumptions.

Posner produces no real evidence that public intellectual work is of lower average quality than academic work. In both domains there is a great deal of chaff. What Posner seems to have in mind is that when academics write on subjects outside of their fields for a general audience, they are often not as careful as when they write for an expert audience on subjects in which

they specialize. Granted, but only a small fraction of public intellectual writing falls into this category.

Posner understates the degree to which public intellectuals pay a price for doing work of poor quality. In part this is because different public intellectuals in different genres do radically different kinds of work. For example, no reasonable person, even on the left, would think of looking to the novelist E.L. Doctorow for serious analysis of public policy. The quality of Doctorow's public intellectual work has nothing to do with compliance with academic norms. He is a leftist partisan in the business of caricaturing and excoriating conservatives. For Doctorow, extravagant rhetorical excess is not a symptom of poor quality.

In contrast, virtually all of the denizens of think tanks, and many academics, want to influence government policymakers and politicians. Their work is generally subjected to critical scrutiny — there are always advocates of competing policies, and the political audience tends to be skeptical — and if it turns out to be weak and unreliable the penalties can be quite severe. Academics can lose opportunities, in which they may have made a substantial investment, to gain a government position or contract, and credibility is the lifeblood of think-tank public intellectuals. The likelihood and cost of loss of reputation in the public intellectual market typically may not be as low as Posner thinks.

**P**OSNER IS TOO clear a thinker not to be aware of the weakness of the evidence he adduces for market failure,

and he grudgingly admits that the public intellectual market may be no more imperfect than most. Still, he concludes that public intellectual work produces small or nonexistent net public benefits. This conclusion is not well supported. He recognizes that public intellectuals accelerate the diffusion of ideas, but unjustifiably downplays the value of this function. He also acknowledges the corrective function of public intellectuals — discrediting bad ideas — but seems to think that this merely offsets the production of those bad ideas by other public intellectuals. But public intellectuals are not the only ones who produce bad ideas. Think tanks in particular perform a very valuable public service in helping to shoot down or cause the modification of policy proposals the likely consequences of which have not been thought through, or that advance the agendas of interest groups at the expense of the public interest. Of course, sometimes bad policies nevertheless are adopted, but far less frequently than otherwise would be the case, and for this public intellectuals deserve some credit.

Posner also recognizes that public intellectuals have entertainment and solidarity-building value as well as informational value. Posner is something of a lone wolf intellectually, so it is not surprising that he does not value solidarity very highly. It is more surprising that he does not seem to give entertainment, which includes rhetorical and aesthetic values, much weight. The public intellectual work that Posner most admires, especially the writings of George Orwell, is valuable primarily for its literary qualities, i.e., as “entertainment,” not for hard information or rigorous marshalling of evidence in

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support of a theory. How much of Orwell's work satisfies rigorous "academic standards" or would have been improved by peer review?

Posner laments the disappearance of the "charismatic public intellectual" as a consequence of the absorption of intellectuals into university faculties. By "charismatic public intellectual" he means a writer who, like Orwell or Justice Oliver Wendell Holmes Jr., is "able through the force of rhetoric or the example of one's life . . . to make fresh, arresting, or heterodox ideas credible to the general, or at least the educated, public."

I too wish we had an Orwell or Holmes around, or for that matter an H.L. Mencken or a Mark Twain, but it hardly seems fair to compare today's public intellectuals to such singular and extraordinary figures, so much the products of circumstances that no longer exist. And curiously, Posner has omitted from his list some present-day non-academic public intellectuals who might fairly be characterized as charismatic, who write from experience and write well, and have something to say. V.S. Naipul is in this category. I also am thinking of public intellectuals like the serious novelist and former secretary of the Navy James Webb, who was a highly decorated officer in the marines; John Derbyshire, novelist and writer of a *National Review Online* column that frequently affords pleasures similar to those of Orwell's *As I Please* columns; and Theodore Dalrymple, a physician and genuine intellectual who works in a British inner-city hospital and prison.

**I**N CONTENDING that the average quality of public intellectuals has declined, Posner seems

to have yielded to the "golden age" fallacy he described in *Frontiers of Legal Theory* (Harvard University Press, 2001) as the perception "that the world is going to hell in a handbasket," which is "as tenacious as it is naïve."

It reflects the aging process, which sheds a golden glow over our youth (the nostalgia fallacy, we might call it); selection bias, which leads us to compare the best of the past with the average of the present because time has not yet sorted the best of the present from the average; related to both, a tendency to hero worship that requires a temporally distant hero to make worshipfulness a remotely plausible attitude; and, in recent times, the growth of specialization, which makes us feel smaller than our predecessors.

It is perplexing that Posner can describe a fallacy so clearly and then fall victim to it anyway. In the first chapter, he discusses the danger of selection bias, and he later devotes a chapter to the errors of the "declinist" school of public intellectuals. He writes that because of these pitfalls, he "must be extremely careful in speaking of the public intellectual." And then he proceeds to make claims based on assessments that are obviously infected by selection bias and declinist thinking, and exacerbates his errors by claiming that some very shaky assertions constitute a "convincing trio of proofs."

Posner's denigration of today's public intellectual market is best understood as an expression of frustration and disappointment with a small group of academics rather than the product of a dispassionate examination of the market as a whole. When Posner writes



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of low quality and market failure, he really has in mind a specific subset of his list, consisting of academics — “the people who have never left school” — who are, as he puts it, “on holiday.” Posner knows this group well — he has tangled with them extensively over the past few years and has spent much of his life in their milieu — and the passages in which he describes them are the strongest part of the book:

A proclivity for taking extreme positions, a taste for universals and abstraction, a desire for moral purity, a lack of worldliness, and intellectual arrogance work together to induce in many academic public intellectuals selective empathy, a selective sense of justice, an insensitivity to context, a lack of perspective, a denigration of predecessors as lacking moral insight, an impatience with prudence and sobriety, a lack of realism, and excessive self-confidence.

Posner reviews in detail the appalling performance of this category of academic public intellectuals, including such luminaries as moral philosophers Thomas Nagel and Ronald Dworkin, Harvard law professor Alan Dershowitz, and Princeton history professor Sean Wilentz, in the context of the Clinton impeachment and the 2000 presidential election.

It is good that Posner takes them to task. He does it well; they richly deserve it. But I think he is wrong in viewing their performance in the context of highly sensational political controversies as representing a decline from the standard set by previous generations of public intellectuals. Posner does not explain how the irresponsibili-

ty displayed by current public intellectuals differs from the *trahison des clercs* described by Julien Benda 75 years ago. Aristophanes and Jonathan Swift also made a few pertinent observations about the public intellectuals of their day. What Mark Lilla calls “the reckless mind” seems to be a natural trait of intellectuals who venture into political and social controversies.

Finally, Posner is chagrined that our current crop of irresponsible academics does not seem to have paid a price. He believes that they can return to the groves of academe without being called to account, apparently with their reputations intact. I think that he may be excessively pessimistic. To take one example, the increasing scrutiny that highly politicized Middle Eastern studies departments have received since September 11 suggests that accountability is not always as far off as it appears.

The academic public intellectuals Posner criticizes may not be ostracized or penalized in obvious ways, but that does not mean that they will not pay a price in terms of credibility. I suspect that even inside the academy, many of their more thoughtful colleagues have quietly noted that they allow their political passions to impair their scholarly judgment. And outside the academy there has been substantial criticism, some of the most effective from Posner himself. Dershowitz and Dworkin have demonstrated their unrestrained — and at times vicious — partisanship to a large audience. Many people who previously knew nothing of Sean Wilentz now remember him as the historian who made a pompous fool out of himself by testifying before Congress that if members of the House voted for

impeachment, “defying the deliberate judgment of the people you are supposed to represent,” their reputations would be darkened “for as long as there are Americans who can tell the difference between the rule of law and the rule of politics.” Attention has been paid, and their future public utterances are likely to be discounted accordingly.

In conclusion Posner proposes, without much conviction, the creation of certain norms for public intellectuals for the purpose of improving the market. One would be for universities to require faculty members to post all of their public intellectual output, other than books, articles, and other readily accessible work, on the university website. Posner would also require that academic public intellectuals disclose their income from public intellectual work. He would like to see a norm emerge against magazines’ printing book reviews written by persons criticized in the book that is reviewed (a practice Posner himself has fallen victim to more than once).

The emergence of the norms that Posner proposes would probably be a good thing (although assigning books to interested reviewers does at least produce entertaining spats), but it is difficult to believe that they would have more than a marginal effect on the quality of public intellectual work.

Posner’s own efforts as a public intellectual provide a more useful corrective. No one does a better job of systematically demolishing the bad ideas of other intellectuals, particularly the lofty rationalizing of prejudices so often indulged in by the intellectual carriage trade. This book may not meet his usual standards, but his usual standards are extraordinarily high.

# Teaching Evil

By STEVEN MENASHI

ROBERT D. KAPLAN. *Warrior Politics: Why Leadership Demands a Pagan Ethos*. RANDOM HOUSE. 224 PAGES. \$22.95

IN THE FIRST phase of the war on terror outside Afghanistan, the United States dispatched some 660 military personnel to the southern Philippines. The last time Americans battled Islamist terror in the Philippines was after the Spanish-American War, when Gen. John Pershing commanded U.S. colonial forces in the islands. American anti-terrorism tactics have evolved considerably, it seems, over the past century. In his time, Pershing didn’t need to bother with reconnaissance operations. His forces captured some of the militants, executed them with bullets dipped in pig fat, and wrapped their bodies in pigskin before burial — a devastating contamination according to Muslim law. “You’ll never see Paradise,” one U.S. officer reportedly told the terrorists, dashing their hopes of martyrdom. Pershing’s approach is probably no longer in the army’s counterterrorism repertoire, but the result was that guerrilla violence ended — and failed to

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