

SHOULD PHILOSOPHERS BECOME PUBLIC INTELLECTUALS?

Samuel C. Rickless

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The public intellectual has come under heavy fire in the last twenty-five years.¹ Academic professionals, particularly tenured university professors, who engage in public commentary on matters of broad social, political, or legal concern in venues with wide readership or viewership, such as newspapers, magazines, popular blogs, and televised programs devoted to analysis of the news of the day, have been pilloried for their lack of accountability and for their intellectual irresponsibility. Some of these criticisms are warranted; others not. My purpose here is to consider whether, and if so how, these criticisms properly apply to professional philosophers who venture outside the groves of academe to pronounce on issues of public policy. I am particularly interested in whether something about academic philosophers renders them *intrinsically* unfit to wade into the public sphere, or whether the shortcomings of their public intellectual output, such as they are, derive from purely *contingent* factors. For if it is the former, then the obvious conclusion is that professional philosophers should stick to their discipline and avoid inducements to venture outside the ivory tower; whereas if it is the latter, then the right

¹ See Russell Jacoby, *The Last Intellectuals: American Culture in the Age of Academe* (1987); Paul Johnson, *Intellectuals* (1989); Russell Jacoby, *The End of Utopia: Politics and Culture in an Age of Apathy* (1999); and Richard A. Posner, *Public Intellectuals: A Study of Decline* (2001).

approach would be to find and correct for those factors that conduce to mistaken public pronouncements on the part of philosophy professors.

I will be focusing on Richard Posner's criticisms of the public intellectual output of academic philosophers in his *Public Intellectuals: A Study in Decline* (henceforth, *PISD*). I do this partly for reasons of space, partly because Posner's attacks are thought provoking and representative, and partly because they are likely to reinforce the widely shared but mistaken public perception that philosophers have their heads in the clouds and are, therefore, signally incapable of contributing much of value to public political discourse.

Most of Posner's criticisms are directed at a very small number of academic philosophers, notably Martha Nussbaum, Richard Rorty, Thomas Nagel, and Ronald Dworkin. I believe that some of these criticisms are accurate, and my main purpose will not be to defend each of these targets against Posner's attacks. But I will discuss Posner's disagreements with some of the details of their public pronouncements in the service of deriving general morals about whether philosophers should be welcomed to the public policy table.

The first of Posner's charges is that philosophers lack the kind of experience that makes it possible or desirable for the non-philosophical public to take their proposals seriously. Posner praises the non-philosopher (and non-academic) George Orwell for his eloquent denunciation of W. H. Auden's blithe acceptance of "necessary murder" as a means to achieving justice (in the form of communist revolution) (*PISD* 84). As Posner sees it, what gave Orwell the moral authority to criticize Auden was the fact that, unlike Auden, Orwell had "not led a sheltered, academic life"; rather, Orwell "had been a

policeman in Burma and so knew murder at first hand, ... had fought in Spain with the anarchists, had been seriously wounded, and had narrowly escaped being killed by the Stalinists” (*PISD* 84). By contrast, Posner criticizes the law professor, Laurence Tribe, for his way of “splitting the difference” between supporters and opponents of abortion rights, largely on the grounds that Tribe was

too little informed about the ethical, scientific, and legal arguments of opponents of abortion to be able to explain them, too unacquainted with pro-life people to understand their motivations or address their concerns, [and] too committed to his own perspective to see things through the eyes of the other side (*PISD* 91, quoting Michael W. McConnell).

This criticism will surely strike a chord with those of us who have experienced suffering first hand, for there are surely facts that those with first-hand knowledge can understand and appreciate in ways that those with second-hand knowledge cannot. Nevertheless, Posner’s criticism is wrong-headed. One need not have been an Auschwitz prisoner, or a victim of the Gulag, or a witness to the Cambodian killing fields in order to see the moral atrocities of Nazism, Stalinism, and Khmerism for what they are. The fact that murder in the service of an abstract goal is a moral abomination is something that all humans, no matter their upbringing or circumstances, can appreciate, and it insults the common moral sense of humanity to suggest otherwise. There is no doubt that the fact that Orwell experienced bloodshed first hand *added* moral authority to his condemnation of political murder; but it does not in the least follow from this that one’s relative *lack* of

experience *detracts* from the moral authority of one's refusal to accept that the end justifies such means.

Indeed, Posner does not see the potential flip side of harrowing experience. Repeated exposure to atrocities can just as easily deaden the moral sense as it can enliven it. For those who experience human suffering daily, it can begin to seem like the fact of suffering is a part of the human condition, something to which it is appropriate to become inured, rather than something it is incumbent on them to condemn. When Israelis die in a restaurant or bus bombing, some Palestinians feel no revulsion, in part because they experience suffering on a daily basis. And when Palestinians die in the crossfire between Israeli reservists and militants, some Israelis feel nothing, in part because they think that Palestinians have brought this on themselves. Sometimes only those who are not in the middle of the fray can see the true costs of violence, precisely because they do not experience the distorting effects of anger, hatred, and other negative passions. Indeed, one of the reasons Orwell is so much to be admired is that he did not allow his political sympathies and other passions to interfere with his objective evaluation of the facts. And objectivity being one of the virtues most prized by philosophers, one would expect them to *aim* at true, unfiltered understanding of moral wrongs.

The philosopher's quest for objective truth also explains why it is simple-minded to upbraid a legal theorist like Tribe for his failure to understand pro-life motivations from the inside. Many in the pro-life movement rest their evaluation of the morality of abortion on religious dogma, assumptions accepted on faith rather than reason or evidence. The Catholic Church teaches (though it has not always taught) that the human fetus acquires a soul at conception, but offers no evidence that could possibly convince

an atheist of the truth of this particular theory of ensoulment. Were Tribe to do what Posner recommends, he would have to understand from the inside what a certain kind of faith is; that is, he would have to become a Christian fundamentalist. But this is absurd. In order to find a middle way between extremes, it is neither possible nor desirable to “see things through the eyes of the other side” (*PISD* 91). What we want of our legal theorists is to look at the situation *objectively*, without finding themselves tossed this way and that through identification with the motivations of one side or the other. Again, because philosophers at least *aim* at objectivity, it makes sense for all of us to turn to them, perhaps more than anyone else, for enlightenment.

The second of Posner’s charges is that when philosophers attempt to communicate with the general public about matters of public policy, they *ipso facto* range inappropriately outside their own narrow fields of expertise. When they do this, philosophers make mistakes born of ignorance, and these mistakes are *necessary*, and not merely contingent, consequences of their ventures outside university walls.

Exhibit number one in defense of this charge is Posner’s allegation that philosophers such as Martha Nussbaum are wrong to suggest, in his view blithely, that males and females should be treated equally in Third World countries. The thesis of equal treatment is a consequence of Nussbaum’s “capabilities” approach to public policy, a view according to which justice requires the equal distribution of basic capabilities, including the ability to form a conception of the good life and make plans in furtherance of that conception. But, as Posner opines, “it is useless and even mischievous to advocate equal rights for women in a Third World nation on the basis of general principles without

considering the practical entailments of such rights in the specific circumstances of that nation” (*PISD* 345). Posner continues:

Consider the question whether to require that girls be guaranteed the same amount of education as boys. Such a guaranty would increase the cost of the educational system...and responsible analysis would have to consider how large the additional cost would be and where the resources would be taken from to defray the cost and what would be lost by this diversion of resources. The likely impact of additional education on women’s lives would also have to be considered...Its positive impact [in terms of the lowering of the birth rate] would have to be balanced against the cost. In a society in which few occupations are open to women except the bearing and rearing of children, female education is apt to be less productive than male education. And if girls are needed to work in or outside the home, they may not be able to take advantage of the schooling opportunities that are offered to them. Religious and customary obstacles to female education have to be considered, and the costs and benefits of overcoming them assayed too. (*PISD* 345-346)

Exhibit number two is Posner’s claim that philosophers such as Thomas Nagel, who in public fora criticized the impeachment of President Clinton on the grounds that people are entitled to sexual privacy, did not understand “the issue that had prompted the investigation and the impeachment inquiry: the issue of obstruction of justice” (*PISD* 109). The charge here is that philosophers who are not themselves experts on the law of

impeachment should not make public pronouncements on the issue, because they are likely to make mistakes of legal fact, mistakes that there are no public intellectual gatekeepers to correct and no pecuniary or other incentives to avoid.

Now I readily admit that there are occasions when philosophers intemperately pronounce on matters concerning which they have no expertise. In this they are surely to be faulted, as would anyone whose judgments are not grounded in the relevant facts. But there is nothing about philosophers *per se* that makes it more likely that they will make these sorts of mistakes, and indeed, I would contend that their knowledge and experience make it *less*, rather than more, likely. To establish this, I will first consider the examples of Nussbaum and Nagel, and then move on to more general remarks about the sorts of public issues that philosophers are particularly competent to discuss.

Is Nussbaum naïve about the costs of implementing a system of education in Third World countries that treats boys and girls equally? And does this kind of naïveté derive from the fact that she is a philosopher concerned with theory over practice? Surely not. Nussbaum would be the first to point out that the pursuit of equality is hardly ever costless. But even supposing that the costs of implementation outweighed the benefits (by some measure or other), this would not prove that she is Panglossian. Nussbaum's political philosophy (like many non-utilitarian, non-consequentialist political theories) is guided by the claim that justice is worth pursuing even when the costs of doing so outweigh the benefits. So pointing out that the cost of educating girls in Third World countries outweighs the benefits of doing so merely begs the question against her.

And indeed, there are good reasons to reject the utilitarian approach that underlies Posner's charge of naïveté. To see this, one need only transpose Posner's remarks about

the education of girls to the case of the education of African-Americans at the time of *Brown v. Board of Education*. Looking back at *Brown*, should we think of the U.S. Supreme Court as having been naïve in its endorsement of the proposition that African-Americans have a right to equal opportunity in education? After all, didn't the need to accommodate African-Americans on equal terms impose serious costs on the educational system of the United States, and weren't there customary obstacles to the employment of African-Americans in a wide variety of economic sectors? Merely considering these questions shows that the answers to them should not be taken to determine public policy in this area. It is not that costs do not matter: it is that justice trumps a poor cost/benefit ratio. Equalizing educational opportunity is the right thing to do *even if* the costs of doing so outweigh the benefits, and this is no less true regarding the education of boys and girls in the Third World than it is true regarding the education of blacks and whites in the United States.²

To his credit, Posner himself *supports* “allocating more resources to the education of girls” in the Third World, but “not because of any philosophical arguments in favor of the capabilities approach”; Posner’s rather tepid support for this policy derives from his “guess, for what little it is worth” that “the most certain consequence of an increase in the female educational level” would be a reduction in the birth rate (*PISD* 346). But are we

² It would also be wrong to suggest that the reason for favoring equal educational opportunity across the races in the United States is that the benefits of equality outweigh the costs *in the long run*. No one knows enough about the long run to make this judgment, which renders it completely irrelevant in deciding questions of public policy.

to say that the policy of racial equality endorsed by *Brown* is justified only because more professions were open to African-Americans in 1954 than are open to women in India now? The very notion is absurd. One need not endorse Nussbaum's "capabilities approach" to recognize that women have a fundamental right to equality that encompasses educational opportunity. A society that denies them this right is fundamentally unjust, so unjust, in fact, that only a serious risk of total anarchy or social implosion would justify such a denial.³

On the question of President Clinton's impeachment, the policy question is far more complex than Posner acknowledges. It is true, as Posner claims, that the charge of obstruction of justice is far more serious than the charge of sexual infidelity. The impeachment was ostensibly designed to punish Clinton for a public, rather than a merely private, transgression. But if Clinton obstructed justice, it was obviously to prevent the public (including his political opponents) from knowing the truth about his private life,

³ Consider also that one of the most important reasons why preferences and customs run *against* the education of girls in the Third World when they do is that girls and women are not well enough educated to *realize* that they have a right to an education! To his credit, Posner recognizes the existence of "adaptive and inauthentic preferences," that is, preferences that do not reflect what is all things considered good for the people who have them (*PISD*, p. 327). But when push comes to shove, he is more than happy to take existing preferences as fixed, suggesting that public policies be crafted in such a way as to accommodate them. This is a practical contradiction, and it infects the entirety of Posner's analysis of female education in the Third World.

for what were clearly both private and political reasons. So it is of the utmost importance whether citizens were entitled to know that Clinton was being unfaithful to his wife. And the signal fact here, as Nagel pointed out in both academic and non-academic venues, is that they were not so entitled. This is precisely what Clinton's having a right to privacy entails. Clinton's problem was that he had fallen into a political and legal trap that Kenneth W. Starr, the independent prosecutor whose work led to impeachment proceedings, had no right to spring on him: either reveal lurid details of his private infidelities or lie under oath. If Clinton committed obstruction of justice, it may have been in order to prevent the general public from knowing what they had no right to know in the first place. So there is no call for Posner to criticize philosophers such as Nagel for missing the point on the impeachment question.⁴

So much for Posner's charge that Nussbaum and Nagel committed serious errors of fact when they ventured outside of philosophy proper to make public policy recommendations about the education of women and the impeachment of presidents. But what of his more general charge that philosophers who venture beyond university walls inevitably err in ways that bring their public policy recommendations into disrepute? The charge is, in a word, baseless. To see this, it is sufficient to make two points.

⁴ I leave aside the question whether Clinton lied about his sexual liaisons in order to avoid prosecution for abuse of power. This kind of obstruction of justice may be impeachable. My point is that it is simple-minded of Posner to suggest that obstruction of justice *per se* is impeachable.

The first is that philosophers are well placed to help those of us who are enmeshed in the details of some issue see the forest for the trees. As long as they keep to what they have learned in the course of their professional studies, they have a great deal to teach us. Nussbaum's public policy recommendations rest on a philosophical conception of the right to equality, and Nagel's public policy recommendations rest on a philosophical conception of the right to privacy. Like many philosophical theories, Nussbaum's and Nagel's positions have *practical* consequences. This is no accident. For philosophy is not a purely academic exercise, limited to an examination of the nature of reality and the possibility of knowledge. Moral philosophy in particular is the search for fundamental moral truths and an examination of their theoretical and practical consequences. So when Nussbaum and Nagel pronounced in the way they did, it was only because they were applying what they had learned in their fields to the particular facts in front of their noses. Indeed, this is something that philosophers do *routinely*, and there are even academic journals almost wholly devoted to the investigation of the practical consequences of normative ethical theories, such as *Philosophy and Public Affairs*, *The Journal of Social Philosophy*, *Social Theory and Practice*, *Social Philosophy and Policy*, and *Ethical Theory and Moral Practice*. The topics touched on in these journals include abortion, euthanasia, assisted suicide, torture, lying, promise-breaking, juvenile detention, secession, the targeting of innocent civilians in war, terrorism, self-defense, the death penalty, the moral status of non-human animals, genetic screening and enhancement, privacy, and property. This is as it should be, and it puts paid to Posner's absurd charge that philosophers do not know enough to speak confidently on issues of general public concern.

The second is that the professional discipline of philosophy is concerned, above almost all else, with rigor and logical consistency. Philosophers receive extensive training in logic and the detection of fallacies. This training puts them in a great position to recognize errors of reasoning in *any* area of general concern. When public intellectuals confuse euthanasia and assisted suicide (as it often happens), self-defensive war and pre-emptive war, deductive proof and inductive evidence (for, say, Darwin's theory of evolution), socialism and fascism (as in the recent debate over health insurance legislation), it is perfectly appropriate for philosophers to step in and hold them to account. Indeed, there are no persons inside (or, for that matter, outside) the academy better able to detect and correct common and pernicious logical fallacies than philosophers. If they do not stand up and speak their piece, then we are all the worse for it.

The third of Posner's main charges is that philosophers are intrinsically incapable of persuading anyone, whether they appeal to authority or to their own theories. On the issue of authority, Posner chides Nussbaum in particular for relying on Aristotle for inspiration on a wide variety of issues. He is concerned to make three points. The first is that appeal to the authority of Aristotle for a liberal conception of justice is a "two-edged sword" because Aristotle's articulation of a worldly conception of human flourishing runs hand in glove with his approval of slavery and the subjection of women (*PISD* 332). The second is that appeal to the authority of Aristotle "suggests anxiety that [one's] arguments...are not compelling in themselves without regard to their provenance" (*PISD* 333). And the third is that philosophers such as Aristotle "have little resonance for

modern Americans, even of the educated class,” and hence appeal to philosophical authority is “the wrong strategy for an aspiring public intellectual” (*PISD* 334).

What should we make of these criticisms? Not much. To say that we should not appeal to Aristotle for inspiration when developing a theory of justice because Aristotle took the institution of slavery for granted and treated women as inferior is like saying that we should not appeal to John Stuart Mill’s harm principle (as Posner himself does) because Mill was more worried about the tyranny of public opinion than he was about governmental coercion of the citizenry. What matters is whether Aristotle’s theory of justice is *inherently* sexist or *inherently* inegalitarian, not whether Aristotle made mistakes in the course of *applying* his theory to the facts as he (mistakenly) saw them. And what matters is whether Mill’s principles are *essentially* designed to protect equally against governmental coercion and the tyranny of public opinion, not whether Mill was right to worry about the latter more than the former. Further, the idea that philosophers, such as Nussbaum, appeal to Aristotle out of some sort of anxiety that their arguments are not compelling in themselves is, quite frankly, laughable. Nussbaum references Aristotle, not because she worries that her arguments do not stand on their own, but because she believes that he is right about very important matters and (rightly) believes in giving credit where credit is due. Finally, the claim that Plato, Aristotle, Locke, Mill, Kant, and their ilk have little resonance for educated Americans is silly. Why else would Posner himself appeal to Mill’s *On Liberty* as “the best starting point for a public philosophy” (*PISD* 355)? And why else would thousands upon thousands of students at universities across the country go out of their way to study the works of long dead philosophers? At the University of California, San Diego, where I teach, courses on

Plato, Aristotle, Hellenistic Philosophy, Seventeenth Century Rationalism, Kant, Nietzsche, and Existentialism are routinely oversubscribed. This is no accident. Educated Americans know that there is a great deal to be learned about the human condition from the philosophical giants of the past.

But what of Posner's charge that philosophers' appeal to their own theories is, of its very nature, rhetorically useless? Posner writes:

There is no intellectual procedure for arguing someone who would prefer a society dedicated to martial glory or aesthetic or spiritual perfection or radical egalitarianism out of his preference. Only a lack of imagination makes us unshakably convinced that our values are really the best and that we can prove this. (*PISD* 334)

This, I think, is really the nub of most attacks on the potential resonance of philosophy on matters of general public concern. The charge is based on a hidden and particularly insidious brand of philosophical relativism, and simply begs the question against philosophical objectivists. The claim that there is no *possible* way to argue someone out of his particular political preferences rests on the view that it is impossible for philosophical arguments to sway those who do not share one's own philosophical premises. And this view itself rests on the claim that which philosophical premises one chooses to accept is essentially a matter of personal preference: what is right is merely what seems right *to me*. But, as Posner ironically rightly recognizes himself, relativism

“is vulnerable to serious criticisms, such as that the relativist is disabled from arguing that relativism is true; he can say only that it is true for him” (*PISD* 329).⁵

The basic fact of the matter is that there is nothing intrinsic to philosophy as a discipline that should disable its academic practitioners from speaking publicly, knowledgeably, and intelligently about important issues of public policy. Of course some philosophers who are lucky enough to be given a public platform will make mistakes of fact, some will appeal to mistaken philosophical theories, and others will distort or simplify the truth in order to make their writings more widely accessible. Some may even fall in love with their own celebrity, develop hubristic tendencies, and opine where they should withhold judgment. But the best of them (such as Nussbaum and Nagel), as befits their profession, will pronounce wisely and temperately, distinguishing between what they are and what they are not in a position to know, keeping their own desire for widespread acclaim in check in the service of truth. They will do this because they have received the education and training to do so, because they are signally aware of the pitfalls of not doing so, and because the very nature of their discipline enables them to avoid self-congratulation and self-aggrandizement. We very badly need philosophers to help us see our prejudices and irrational proclivities for what they are; they, more than others, are likely to view matters objectively, without passion but with understanding. It is a remarkable irony that Posner’s favorite public intellectual, John Stuart Mill, is well ensconced in the philosophical pantheon. May we continue to heed Mill’s

⁵ It should also be noted that, even if it is true, relativism puts philosophers at no greater disadvantage than anyone else who chooses to pronounce in the public square.

pronouncements, as well as the pronouncements of his intellectual ancestors and progenitors, despite the naysayings of his own misguided intellectual supporters.⁶

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