

Cambridge 02138

Migration, capital punishment, House “master”

JUDGE POSNER

I HAVE TO PRAISE Lincoln Caplan's article on Judge Richard Posner ("Rhetoric and Law," January-February, page 49) for largely avoiding the gushing worshipfulness of the typical *Harvard Magazine* piece. But I still must demur on some points.

First, I think the label "pragmatist," even if Posner's own self-description, is not only misleading but unfair to William James. I see Posner's approach as far closer to John Dewey's perversion, "instrumentalism."

Second, I think his approach is fundamentally wrong, even dangerous, for a

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Curricular Conundrums

DURING the past decade, the Faculty of Arts and Sciences (FAS) has labored mightily and at length to construct a workable general-education component for undergraduates' course of study. At present, Gen Ed comprises eight courses intended to lift young scholars' eyes from their fields of concentration and connect them to the civic and ethical challenges of the twenty-first-century life they will encounter Out There. As the faculty's own review committee reported, the effort has fallen significantly short, for reasons from the profound (real differences of opinion about how best to structure such an education) to the parochial (differences in how graduate students in the sciences and in the arts and humanities are paid)—for details, see harvardmag.com/gened-16. Moreover, too few resources were made available when the program came into being during the financial crisis.

The emerging proposal to revivify Gen Ed triangulates visions of the current program into what might be deemed a Lite version, imposing fewer requirements on students and faculty members alike, and allowing somewhat more freedom of choice among courses—discussed further at harvardmag.com/curriculum-16. The report outlining this reform specifies the places where resources are needed to make it work, even at this reduced scale.

Meanwhile, Wintersession, held Janu-

ary 15-24 this year, is a sort of *anti-curriculum* that occupies part of the hole opened in the College calendar when schedules were synchronized across the University in the 2009-2010 academic year. Offerings range from interesting international academic immersions to campus Winter-session events proper: a wilderness first-responder course, various bootcamps, résumé writing, ice climbing, ballroom dance, Japanese sword fighting, chats with high-profile alumni, ceramics, and so on.

But one cannot help but think that the early promise of innovative intellectual and other forms of outreach and experimentation has not been realized—and that lack of resources (and the committed attention it would take to secure and apply them well) again is a factor. For many students and their families, the result is just a weird hole in the calendar after exams: too late for seasonal employment; a five-week annoyance for some; and—when Harvard's academic year finally ends with its festival rites—an unnecessarily delayed summer break.

Harvard wants to be known for educational excellence alongside its research prowess, and for what the College dean calls a transformative student experience. Perhaps it is time for some undergraduates and teaching-focused faculty members to point out, to those on high, these obvious opportunities to do better on campus during the academic year.

—JOHN S. ROSENBERG, *Editor*

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judge. Take antitrust law, where he has had the most influence. I personally am sympathetic to his wealth maximization approach. But there are many—as Caplan notes—who think economic efficiency is less important than the political and social benefits of having a large number of small operators. This is basically a matter of values—and should the choice be made by an unelected and irremovable judge?

Another example is his switch on photo IDs for voting. He gives two reasons: “voter impersonation fraud is extremely rare,” and the requirement “impede[s] voting by people easily discouraged from voting.” As someone who has lived so many years in Chicago, how could Posner possibly say voter fraud is “extremely rare”? And no one, I think, will disagree that lack of knowledge about or interest in public affairs is widespread even among the roughly 60 percent of the eligible electorate who cast a ballot. Is it thus sound policy to encourage voting by those likely to be the most deficient in those regards?

JOHN BRAEMAN '54
Champaign, Ill.

ON THE LAST DAY of his constitutional law class, the last words that [Loeb University] Professor Paul Freund uttered were, “In the law, there is only one absolute and that is intelligence.” At the time, I was much impressed with this “build a better mousetrap” theory, dovetailing as it did with what I had come to see as the true Harvard motto: *Vanitas* (rather than *Veritas*).

According to Lincoln Caplan, Freund was Richard Posner’s mentor, the man who, e.g., obtained a clerkship for him with Justice Brennan. Just as I did a few years later, Posner probably spent a lot of time parsing the difference in the constitutional thinking of Justices Frankfurter and Black. My memory goes back five decades, but I can still see clearly the process by which these two giants authorized the federal government to bring the states into alignment with what might be called civilized thinking. Frankfurter took the position that it was state conduct which “shocked the conscience” that was prohibited by the

Fourteenth Amendment, while Black argued that the only rights “incorporated” by the due process clause were those enumerated in the federal Bill of Rights.

It is easy, I think, to see the line from Frankfurter to Freund to Posner: the only absolute is intelligence! Certainly, none of these men hide their lights under the Biblical bushel. They were all far brighter than their generational peers and did not hesitate to let everyone know it. However, even as a legal naïf, I could see that Frankfurter was engaging in gross judicial lawmaking, clothing his totally subjective *a priori* conclusions with the patina of erudition. The same can be said of much of Posner’s jurisprudence.

The co-founder of the now ubiquitous 12-step programs said that the first step toward theism is for a person to admit that he or she isn’t G-d. Posner would definitely not make it in Alcoholics Anonymous. Like his Harvard mentor, he sees himself (perhaps correctly) as the smartest person in the room. More problematic, he gives no evidence of recognizing any “higher authority,” e.g. natural law, originalism, constitutionalism.

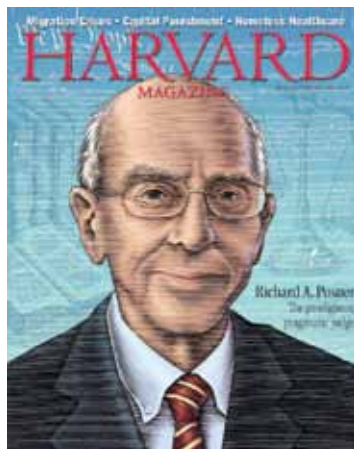
These three Harvard Law School wise men seem to possess in great abundance “the haughty spirit that goes before a fall.” They even fail to recognize that great fundament of our system (which sociologists have basically verified): that the collective wisdom of 12 people, randomly selected, is usually better than that of one genius.

H. JOHN ROGERS '66
New Martinsville, W.Va.

Editor’s note: Stephen Ellmann ’72, J.D. ’76, of New York Law School, observes that the Posner article “refers to my father, Richard Ellmann, but spells his last name ‘Ellman.’ We two-n Ellmanns have fought for generations to preserve that second ‘n.’” The editors regret the oversight.

MASS MIGRATION

IN “When Water Is Safer Than Land,” Jacqueline Bhabha suggests that the abandonment of the Dublin Convention regime was



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LETTERS

a result of Europe's migrant crisis (January-February 2016, page 41). In fact, Germany's suspension of the Dublin protocols helped cause the crisis. The Convention forces migrants to seek asylum in the first European Union country they enter, thereby preventing "asylum-shopping." Since most migrants arrive first at one of the impecunious nations of southern Europe, this sensible policy dampens the allure of generous northern European welfare states. When this bulwark was removed in the summer of 2015, the stream of migrants predictably turned into a flood.

Enoch Powell famously observed that "The supreme function of statesmanship is to provide against preventable evils." Angela Merkel abdicated this function by opening Germany's borders. Her actions have earned plaudits from the elite media, globalist politicians, and ivory-tower academics. But she must weigh this fleeting approval against the enduring scorn of German taxpayers who must now support the foreigners that she recklessly invited. Long after Merkel has left office, Germany will struggle to placate a potentially insimilable minority, many of whose constituents are openly hostile to European culture, traditions, and manners.

If Europe seeks a future other than the dystopia foretold by Jean Raspail in *The Camp of the Saints*, it must turn away from the myopic globalism of Angela Merkel and embrace the sober, far-sighted nationalism of leaders like Viktor Orban, Nigel Farage, and Marine Le Pen.

MATTHEW D. BURWELL, M.B.A. '06
Cambridge

THE UNDERGRADUATE'S IDENTITY

THANK YOU for publishing the essay by Jenny Gathright (The Undergraduate, "My Harvard Education," January-February, page 35) describing her growing emotional maturity in dealing with her insecurities and anxiety as a woman of color in situations that are new and awkward for her in her Harvard

experience, both in and out of the classroom.

The author's descriptions are a breath of fresh air in the current environment of other college students far and wide demonstrating and petitioning for "safe spaces," "trigger warnings," and more authentic "ethnic foods." Those other students often participate in shout-downs of speakers with opposing views, or may even scream for the removal from buildings and academic departments of names and statues of persons with imperfect histories. By comparison, Gathright appears to possess self-awareness of her understandable insecurities. Instead of demonstrating for external changes that might help her temporarily feel more comfortable, she finds herself developing impressive journalistic skills writing this quality piece that is informative for all of us.

As an undergraduate in the 1960s, and as a white male, I would like to reassure Gathright that I experienced a range of similar insecurities and anxieties about my own place as a Harvard undergraduate then. Kudos to her for sharing "My Harvard Education."

HUGH R. WINIG, M.D. '65
Lafayette, Calif.

WELL SAID.

LAURA BURNETT, M.L.A. '86
San Diego

I PRESENT a small talk to third-year Johns Hopkins medical students, entitled "The Ignorome." It's intended to show that ignorance is a fundamental element in medical care, that the ability to acknowledge and manage ignorance is essential, and that humility is a necessary part of honesty. It is not a uniformly popular talk here.

Jenny Gaithright has provided a brilliant description of one aspect of ignorance and has really helped me. Although not specific to the field of medicine, the ignorance she describes is a direct threat to people of color who become patients. It's an area of ignorance that medical professionals, as everyone else, may not naturally recognize and manage. I am adding her article to the front of the syllabus.

THOMAS E. FINUCANE '71, M.D.
Professor of medicine, Johns Hopkins
Baltimore

CAPITAL PUNISHMENT

SOPHIA NGUYEN'S "Capital Punishment's Persistence" (January-February, page 14),

LETTERS

while apparently objective in approaching the topic, places the United States in company of some notorious human-rights violators, while ignoring that other countries, including Japan, India, and Indonesia, also employ capital punishment. In fact, while technically true that “most countries have abolished the death penalty,” the Amnesty International website states that 101 countries have done so, while the United Nations has more than 190 member states.

To be sure, most countries your readers like to associate with (European Union states, Canada, Australia, etc.) have abolished capital punishment, and some where it is still on the books have not invoked it in recent years (Brazil, Russia, etc.). Nonetheless, journalistic integrity would require that no guilt by association be present.

DERICK P. PASTERNAK '63, M.D. '67
Seattle

The author responds: “Most,” here, simply means “a majority of” countries (not “almost all,” as the word is sometimes used colloquially). Professor Temkin’s paper specifically examines the United States as an exception among Western democracies. India, Japan, and Indonesia do retain capital punishment, as do Singapore and Taiwan, but on Amnesty International’s most recent list of “persistent executioners,” the United States ranks significantly higher than any of the above. In Japan and Indonesia, though, the use of the death penalty is on the rise. Thank you for pointing to this broader global context.

SEXUAL-ASSAULT VICTIMS

DR. ERNEST BERGEL makes some excellent points in his letter on sexual assault (January-February, page 6). But those who are sexually assaulted are not partners; they are victims.

FRANCES PIERSON O’LEARY '54
Cambridge

DIVERSITY DEFICIT

I FIND THE LACK of diversity in the current edition of the magazine unsettling. I read President Faust’s letter (page 5) and expected to read more about the challenges the Harvard Law School is taking on: battling racial inequity, defending human rights, immigration, etc. In the entire issue, I could only find two references or articles featuring Asian men, one feature on an African/Latino male, and one with (please turn to page 75)



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LETTERS

(continued from page 7)

an Indian female. All of the other articles and references were to white males, with the exception of five photos of white women.

As a graduate of the Harvard Graduate School of Education, I took several courses by top scholars and professors of color, and find it upsetting that their work is not more prominently featured in the overall university publication. My work now takes me to areas of the nation that are struggling to deal with race, education, equity, and diversity. My former position at the U.S. Department of Education, as the deputy director for STEM Education, allowed me to tackle issues of underrepresentation in STEM fields, which is a serious concern that should be reflected by our nation's top institutions. Harvard and other top institutions could help us make sense of the racially charged issues of gun violence, educational inequity, immigration, etc. The article on the Syrian refugee crisis is a good example, and it would have been nice to at least include an image of Professor Bhabha. Images matter, and in a magazine that I look forward to reading bimonthly, I want to see the faces of women and men of all races reflected as contributors to this publication from one of the top institutions of learning on the earth.

CAMSIE McADAMS, ED.M. '05
Washington, D.C.

Editor's note: We take the point, and encourage you to look at multiple issues, not just one bimonthly edition, and the magazine's extensive reporting online. The magazine does not run photographs of contributors, so to do so for repeat contributor (and subject—see the photograph at harvardmag.com/bhabha-16) Jacqueline Bhabha would be an aberration. Finally, as the reports of the senior vice provost for faculty development and diversity suggest (<http://faculty.harvard.edu>), in many respects, the University's professoriate is less diverse than it wishes—a subject of regular, thorough reporting in these pages (see page 21).

"MASTER" NO MORE

THE PURPOSE of a university is to teach, and to try to teach accurately when public opinion would prefer obfuscation. The English word *master* is a very old Indo-European word, among whose cognates are Latin *magister* ("teacher"), French *maître*, and Ukrai-

nian *майстер* ("expert"). In English, it has countless benign usages other than the one denoting the owner of slaves in the pre-1865 American South. Yet, with President Drew Faust's approval, public opinion at Harvard is about to expunge the term "House master" [see page 17].

Of itself, what one calls the leader of a Harvard House is not important. But the effort to expunge "master" is a sign we are in a silly season of the intellect. Harvard is not doing away with its *magister in artibus* ("master of arts"), and there is no agitation against "Overseer"—a Harvard word whose context in slavery bespoke brutality.

What is really going on? "Master" and "mistress" were common terms for teachers in English and American schools and colleges, including in the 380 years of Harvard. Language changes and the usage may seem quaint to us. But it never implied condonation of slavery, which many Harvard graduates spent their lives opposing. More than a few died in the war that ended it.

It is fashionable—worse, I think, it is acceptable—to despise the class of people who founded and led Boston, Harvard, and Massachusetts in their first three centuries. The peer tribalism of the sophomore has sometimes shaken the world for the better. But in this case, it only seems to want to walk off with the head of the dean, or of the dean's English. "House master" never had anything to do with "slave master." The real implication of the agitation to expunge the term is to exclude a certain class of people from the human family. It closely resembles anti-Semitism, which it could easily turn into.

To date, Drew Faust has led Harvard with a common-sense enlightenment that was making her beloved. Her association with this silly season of the intellect halts that.

DAVID A. MITTELL JR. '66
Boston

MURPHY MEMORIES

I READ WITH INTEREST the note in the "Yesterday's News" column (January-February, page 32) that in 1916 "William Stanislaus Murphy, Class of 1885, leaves all his money to establish scholarships at the College for young men with his last name." Thanks to this generosity, my father, John Gordon Murphy '25, LL.B. '31, who grew up in a large working-class family in Somerville, was able to receive a Harvard education. Many years later, at my

father's urging, I inquired whether the Murphy Scholarship still existed. Alas, the funds had long since been expended.

JOHN G. MURPHY JR. '68
McLean, Va.

EDUCATION AWOL?

IN ALL of the articles I have read in *Harvard Magazine* concerning the improvement of teaching at Harvard, I have yet to come across any reference to the Harvard Graduate School of Education, a readily available resource that, on the surface at least, would seem to be able to make some contribution to the effort. Is this lack because there has been no effort to reach out to HGSE, because HGSE has rebuffed the effort, or because the magazine has chosen not to mention any such collaboration?

JOHN H. GILLESPIE, ED.D. '72
Old Lyme, Conn.

Editor's note: Recent coverage of the online initiative and of the College's General Education program did not involve HGSE people because they were not specifically engaged there, but they appear in the broader spectrum of coverage on teaching and learning, many times.

The magazine has profiled Pforzheimer professor of teaching and learning Richard Light and reported on several of his initiatives; devoted a recent cover story ("Computing in the Classroom," March-April 2015, page 48) to HGSE faculty members and others involved in developing and deploying educational technology; profiled its current dean in unusual depth and detail ("Education and Opportunity," September-October 2013, page 52), following initial news coverage; reported on the school's capital campaign and priorities online (see harvardmag.com/hgse-16) and in print; covered the new Harvard Teaching Fellows Initiative; and reported extensively on HGSE researchers' evaluations of HarvardX, among other examples. Our reporters are in regular contact with the school.

ERRATUM

THE VITA on Cora Du Bois (January-February, page 46) mentioned the American Association of Anthropology; the organization's correct name is the American Anthropological Association. We regret the error.



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