Becker and Posner: Freedom of Speech and Public Intellectualship

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Gary S. Becker and Richard A. Posner have known each other for over forty years. They have taught at the same university, were involved in the same projects, and worked on similar topics at about the same period, and they share similar—if not identical—views on what economics is and what economists should do. But they never, strictly speaking, worked together in the sense that they never coauthored scientific work. The closest they have come to joint, collaborative work is when, as public intellectuals, they addressed the wide audience of Internet surfers through the then rather original project of The Becker-Posner Blog. Part of this essay provides a historical analysis of what Becker and Posner did in their blog. But we argue that the blog cannot be understood without an analysis of the routes Becker and Posner followed before arriving on the Internet. Indeed, the blog was not their first tries as public intellectuals. Before that, both Becker and Posner had been writing (separately) for nonacademic audi-
ences, experiencing various ways to be a public intellectual and developing different views on its significance and implications for academics. In particular, they realized and appreciated the freedom that writing for a nonacademic audience allows compared with writing for university colleagues; they appreciated the freedom to test (more) provocative ideas and (more) radical policy recommendations without being as rigorous as in academic writings. From this perspective, certainly, the blog was even more interesting and powerful than mass-market books, columns, and journal articles. The blog is a flexible medium that allows them to express their different sensibilities and disseminate their provocative views. But it came after Becker and Posner had had long independent experiences as public intellectuals. Thus the purpose of the present essay is to discuss how Becker and Posner became intellectuals, which resources they used to engage nonacademic audiences, and with what purposes.

Gary Becker: A Social-Minded Scholar

Autobiographical accounts (e.g., Swedberg 1990) tell us that Becker felt the need to engage with society’s problems as a young teenager, stimulated by the conversations he had with his family. Then, as an undergraduate at Princeton, he was interested in mathematics and in social problems (28), but he had no faith in economics. The reason he invoked was that it “wasn’t really dealing with important social problems” (29). He converted in 1953 when, as a graduate student, he came to Chicago and took Milton Friedman’s course. “No course had anywhere near the influence that Friedman’s did,” Becker (1991, 143) wrote, precisely because of the emphasis “on applications of the theory to the real world” (142) through concrete illustrations, from “why companies often sell several products tied together in a package” to “why people buy lottery tickets” to “the determinants of parental demand for children.” Becker understood that economic theory was not necessarily “an end in itself or a way to display pyrotechnics” but could be “worthwhile only insofar as it helped explain different aspects of the real world” (142). Thus it comes as no surprise that Becker chose to study “discrimination” for his PhD dissertation. It was an excellent way for Becker to show how useful economics could be applied to a concrete problem, and a particularly topical one in the desegregation context of the aftermath of the US Supreme Court decision in 1954 in Brown v. Board of Education (Fleury 2012). Similarly, in the 1960s, Becker’s contributions to the emerging theories of human capital and crime consisted in reframing in economic terms problems—education,
1. Still underdeveloped in the 1968 piece, ideas about a policy reform based on the compensation of "enforcers" (such as the police) were developed in a 1974 paper by Becker and Stigler in the *Journal of Legal Studies*.
programs (such as compensatory education programs, Head Start, AFDC, and the reform of marriage contracts) on divorce and intergenerational inequality, as well as how parents redistribute wealth to their children and contribute to their education.

However, academic journals did not seem to be the best place for delivering concrete policy advice. Except perhaps for the few proposals about crime control, his scholarly articles remained relatively timid in terms of “concreteness.” When speaking to economists in scholarly papers, Becker would put forward the methodological powers of economics and insist on how this framework could lead to testable predictions. By contrast, writing for noneconomists would allow Becker to express his views on policy programs and offer reform proposals. And throughout the 1970s, Becker’s interest in writing for a wide audience developed as he came increasingly involved with think tanks and other policy advising activities. In 1971, Becker was invited to attend his first Mont Pèlerin Society meeting—Friedman was then its president. Becker also became a member of the Domestic Advisory Board of the Hoover Institution in 1973. Later, in 1977, he (and Posner) appeared on the initial roster of Stigler’s Center for the Study of the Economy and the State, whose primary ambition was to study regulation and governmental control. Every subsequent paper of his appeared as a working paper for the center. In 1978, when Stigler was president of the Mont Pèlerin Society, not only did Becker’s name appear in the “new board members proposals” section, but he was also invited to present a paper at the society’s meeting. Titled “The Effect of the State on the Family,” the paper was tailored for a broad—not only academic—audience, and its content, which summarized the findings of his research program on the negative impact of government intervention on family decisions, showed that the framework he had developed was indeed suitable for policy advising. No surprise, then, that Becker was increasingly willing to devote some time to this activity (Becker, e-mail to authors, January 31, 2012).

Yet, until the mid-1980s, besides the few and discontinuous involvements with the people from the Mont Pèlerin Society and other think tanks, Becker had not much ventured outside academe. In his own words,


he “had never written one single word in the popular media, not a word, be it a newspaper, magazine, or the like” (Becker 2009, 268). But it did not last: in 1985, he was offered a position as a columnist for Business Week. The recently (on November 1, 1984) appointed chief editor, Stephen B. Shepard, believed that the economic situation—the stock market had taken off after nearly fifteen years of stagnation—justified a need for economic expertise and chose to initiate a strategy of development of Business Week’s Economic Viewpoint column. Until 1985, the magazine had only one outside columnist, the supply-side economist Paul Craig Roberts. Shepard was looking for columnists to balance Roberts’s opinions. Becker’s name was suggested by Bill Wolman, the magazine’s chief economist, and Seymour Zucker, senior editor for economics (Shepard, e-mail to authors, September 7, 2011). The latter eventually contacted Becker to offer him a monthly column, rotating with Roberts, Alan Blinder, and Robert Kuttner.

Initially, Becker thought of rejecting the offer mainly because, despite his interest in such activities, he wanted to remain focused on his research agenda and thought that he would not have enough time and energy to pursue both. He eventually accepted, first, under the influence of close friends from whom he asked for advice and who encouraged him: Ted Schultz, Stigler, and, most importantly, Friedman. The latter had the experience to understand Becker’s reaction. In 1966, Friedman was invited to write a column for Newsweek and at first turned it down—because, like Becker, of the interference with his research agenda and a fear of lacking interesting subjects. Ultimately, his wife and his son persuaded him to accept. Also, he was convinced (contrary to Stigler) that columns in magazines and newspapers were a more efficient way to influence public policy than other types of interventions, such as, for instance, congressional hearings. Business Week’s offer was made to Becker just one year after the abrupt end of Friedman’s columns. To Friedman, it was a way to ensure continuity in diffusing the Chicago message to the general public. He could not but welcome it.

Even more decisive was the role played by Guity Nashat, Becker’s second wife. An Iranian native, Nashat completed a PhD in history at the University of Chicago and, in the mid-1980s, was an assistant professor at the University of Illinois at Chicago (the Circle Campus) working on the

4. Actually, the Business Week project mimicked Newsweek’s economic columns in gathering authors with different views, and in the case of Newsweek, had opposed Friedman to Paul Samuelson and, later, Lester Thurow (Friedman and Friedman 1998).
history of Iran with a focus on the place of women in Iranian society (see, e.g., Nashat 1980). Before going to the United States, she had studied at the American University in Cairo and later at the Columbia School of Journalism and gained professional experience in journalism. Nashat was also more politically active than her husband at the time. She thus immediately perceived the importance of those columns, and, as Becker acknowledged in an autobiographical account, through his wife’s encouragement he “overcame [his] reluctance to do the Business Week columns.” She offered to help him write the columns, and indeed, she read the various drafts of every column that Becker wrote during his nineteen years at the magazine, “offer[ing] suggestions to help make them more effective” and “propos[ing] many topics, especially those dealing with contemporary issues of public policy” (Becker and Becker 1997, 2). She convincingly argued that these columns “would provide an excellent vehicle for influencing government policy as well as for communicating his ideas to a wide audience” (2). And this is exactly why Becker took on the Business Week columns: as an opportunity to formulate concrete policy proposals, at a time when his participation in think tanks and other policy advising activities also increased.6 His desire to influence policy has implications in terms of what topics were discussed in the columns and also in terms of how these columns were written.

Becker did not write only about issues on which he had already published as a scientist, like crime, discrimination, human capital, or the family. Of course, his policy proposals were related to topics derived from his scholarly work, for instance, the hiring of bounty hunters to collect the debts of “deadbeats dads” for single mothers (an application of his and Stigler’s idea of the compensation of enforcers), the creation of an enforceable yet perfectly negotiable marriage contract, and the increase in severity of punishments; and these concrete proposals added to Becker’s comments on the negative effects of social welfare programs on family decisions. Yet the columns also dealt with other topics with which Becker was not so familiar, such as immigration, international trade, stock markets, antitrust, taxes, capitalism versus communism, government regulation, and welfare

5. Logically, Guity Nashat was credited as coauthor of The Economics of Life (1997), the book that gathered Becker’s 1985–95 Business Week “economic viewpoints.” Indeed, “The Economics of Life is a Becker double-decker, giving us the insights of the two Beckers” (Foldvary n.d.).

programs, as well as environmental problems. In such cases, Becker's angle and recommendations conveyed a traditional Chicago message and sometimes rested on the results of a Chicago-friendly study (by, say, Friedman, Robert Barro, Kevin Murphy, Michael Grossman, Sam Peltzman) about the negative effects of regulation and welfare programs, as well as the organizing role of the market and free competition, for instance, when advocating for the selling of immigration rights, the privatization of public companies, a “pay as you go” social security system, the development of student loans, and school vouchers.

Despite this connection to research, what is striking about these columns is Becker’s focus on policy recommendations and reform proposals, rather than economic analysis. One may even note that, on several occasions, Becker’s columns were only remotely related to economic reasoning, especially on the subject of crime and the family. Yet one should not conclude that when he was writing for a nonacademic audience Becker was distancing himself from economics. What should actually be stressed is that the columns were used to popularize a totally different definition of economics compared with the one we find in his academic works. Here, he never insisted on the predictive powers of economics, its logical consistency, and ability to encompass all aspects of human behavior. Rather, as revealed by a partly ex post but nonetheless significant characterization of his work as a public intellectual, Becker wrote:

Economics analyzes how markets, public policies, and other events affect the behavior of individuals and organizations that try as best they can to improve their situations by competing against each other for incomes, jobs, customers and even prestige and power. Markets and prices help reconcile the unbounded desires of individuals and organizations to make themselves better off and the very finite resources available to satisfy these desires. (Becker and Becker 1997, 4)

Thus the columns were written to promote the idea that economics is a science that explains the importance of markets for organizing society and designing optimal public policies. That idea served as the backbone of the pieces Becker wrote for Business Week and allowed him to make his proposals compelling. This was not only the role of a public intellectual but also a reason for his success. From this perspective, the failure of George Stigler as a columnist (he lasted less than a year) proved Becker right. Although Stigler made provocative analyses, he “did not take a strong
stand on policy questions,” probably a consequence of his distrust of “preaching” (Becker and Becker 1997, 6). As a result, he did not receive many letters, and this lack of feedback led him to quit. For his part, Becker believed that adopting a strong angle would stimulate reactions and debate. Becker’s columns did generate a lively correspondence, ranging from insults to constructive debate, a “contact with readers [that] has been one of the unexpected pleasures from writing these columns” (Becker and Becker 1997, 10). And if the price to pay was sometimes a certain degree of unreality, this was not a problem either. On the contrary, Becker believed that “the sometimes new and frequently ‘unrealistic’ proposals . . . will be accepted in the future” (8). The public intellectual wrote precisely to make his ideas public. And that is what Becker did.

Becker’s work as a columnist lasted nineteen years. His success was validated when he was awarded the 1992 Nobel Prize, which certainly provided additional incentives to address a broad audience and offer opinions on and proposals of reforms for many public policies. It is likely that Becker’s stature as a public figure has had a feedback effect on his work as a scholar from the 1990s on: some characteristics of his work as a public intellectual might be found in some of his work as a scholar. More precisely, a few clues indicate that Becker the scholar might have also turned into a provider of new ideas and intuitions to be deepened and studied more rigorously by others. First, most of his papers since the early 1990s have been written with younger scholars (Kevin Murphy, but Luis Rayo, Casey Mulligan). Second, Becker has increasingly published short and “simplified” papers, providing an introductory analysis to a new phenomenon. Examples of such pieces are his 1991 piece on restaurant pricings and social interactions, as well as his “simple theory of advertising” published in the Quarterly Journal of Economics (Becker and Murphy 1993). Moreover, although Becker has remained involved in “technical” papers, the number of less-mathematized ones has increased. These developments in Becker’s work as a scholar and as a public intellectual provide an interesting entrée to understanding Becker’s subsequent activity: the blog.

7. In 1987, Stigler was contacted by Business Month (previously Dun’s Review) to write a column, rotating with Robert Solow. This offer was part of the aggressive strategy of the newly appointed editor John van Doorn to boost the magazine’s advertising revenues by providing “top notch” editorials (“Putting a New Twist on Business Journalism” 1988). Stigler quit in 1988 because “nobody had criticized it. They didn’t get any letters to the editor” (Freedman 1997).
Posner: What It Means to Be a “True”
Public Intellectual

Between 1968—when he was appointed associate professor for the first
time at the Stanford Law School—and the mid-1980s, Posner was focused
on trying to reach an academic audience. The number of academic articles
he wrote—over one hundred in that period—vastly outnumbered the three
ccontributions he made to strictly nonacademic journals, to which one can
add two articles that were pitched to an audience “between” the academic
and nonacademic: “Some Thoughts on Legal Education” (1972) and
“Reflections on Consumerism” (1973b), both of which appeared in the
University of Chicago Law School Record, the “magazine for alumni and
friends” of the law school.

Toward the end of the 1970s, Posner started to address a nonacademic
audience. In 1977, Posner, William H. Landes—an economist who com-
pleted his thesis under Becker’s supervision and was one of the first con-
tributors to an “economic analysis of law”—and one of their students,
Andrew Rosenfield, created Lexecon Inc. A consulting firm, it aimed at
explaining “basic economics (and even econometrics) and showed [attor-
neys] how they could use economics to help structure and strengthen legal
arguments” (Landes 2009, 67). Then, a few years later, in 1981, Posner was
appointed by Ronald Reagan to the US Court of Appeals for the Seventh
Circuit. Certainly, writing legal opinions and making judicial decisions—
especially at one of the highest levels in the judicial hierarchy—as well as
advising attorneys do not equate to writing articles for newspapers or mag-
azines. Yet one cannot doubt that, first, it suggests a taste for addressing
wider, various, nonacademic audiences, and second, in a legal system in
which the names of judges are linked to the decisions they make, there is
probably no other activity that can satisfy such a taste and allow someone
to reach a wide audience.

These activities may have served as a substitute for being a public intel-
lectual, or maybe they simply were too time-consuming. It is hard to tell.
It nonetheless remains that, until the second half of the 1980s, Posner’s
contributions to magazines and newspapers were scarce, nonsystematic,
and restricted to legal topics. One (coauthored with Landes) article for
Regulation Magazine (1986) was about punitive damages. In the New
Republic (Posner 1987b) appeared a paper on judicial decision making.
For the Wall Street Journal, in 1990, he wrote a review of Sheldon M.
Novick’s 1989 book on Oliver Wendell Holmes and a note on antitrust. It
slightly changed in the early 1990s, when Posner became a regular con-
tributor to the New York Times Book Review and to the New Republic—for which he mainly wrote reviews of legal books; to the Washington Post; and among other newspapers, the New York Times. Yet, by comparison with Becker and even if one recalls that we are talking about “the wonder of the legal world” (Dworkin 2000), a judge who delivered twenty-five hundred judicial opinions over forty years at the US Court of Appeals, who was described as a “hyperactive” scholar (Brooks 2002), as well as “America’s most prolific writer on legal subjects” (“Sense and Nonsense” 2003), the fact is that Posner wrote few pieces for magazines, journals, or newspapers.

The genuine change occurred during the 1990s, when Posner started to write “books on a variety of legal subjects [and] in numbers that would be amazing even if he had no other responsibilities” (Dworkin 2000).8 Now, if one stresses that Posner, like Becker, was publishing books in a field that does not care much about books, this should be interpreted as Posner’s major means used to enlarge his audience.9 Certainly, one could object that, when asked what was his “intended audience” when he wrote How Judges Think? (2008), Posner answered by saying that “most people write for themselves. Academic writing, which is what this was, is not focused on an audience. I try to write very simply. Beyond that, I don’t have a precise sense of audience” (Posner 2009, 1808). The statement might be exact for what is one of Posner’s most recent books, focused on a relatively specific topic, written when his reputation is already made and the scholar and the character are perfectly well known. However, the same can hardly be said of the books Posner wrote in the 1990s. Revised versions of his academic writings, these books were described as tailored for a nonacademic audience.10 For instance, in Sex and Reason (1992), Posner wrote that he was presenting, “in a form accessible to the legal profession,” the “principal findings of... a literature to which medicine, biology, sociobiology,

8. Posner has written fifty-four books since the beginning of his academic career, including revised editions. The figure remains remarkable, and it has been noticed: “Judge Richard Posner... is... the author, seemingly, of more books written while in active judicial service than many judges are of opinions” (Leonard H. Becker 2001).

9. Posner (2009, 1808) even declared, “I don’t think that judges do much reading—at least, not much secondary reading. The ordinary judicial job itself requires a great amount of reading. Most judges probably figure that that is enough.”

10. Aging and Old Age was based on presentations made in various academic seminars—among others, the Tanner Lectures on Human Values he gave at Yale University in 1994. The Problematics of Moral and Legal Theory was based on the 1997 Oliver Wendell Holmes Lectures he gave at the Harvard Law School and on an eponymous article published in the Harvard Law Review.
psychiatry, psychology, sociology, economics, jurisprudence, theology, philosophy, history, classics, anthropology, demography—even geography and literary criticism—have all contributed” (2). Similarly, in Aging and Old Age (Posner 1995a), he said that he had written the book to make “intelligible” to “different audiences” (2) knowledge included in disciplines “ranging from evolutionary biology and cognitive psychology to philosophy and literature” (1). Obviously, in his books, Posner was translating knowledge from a vast range of diversified disciplines and passing it to a broad and nonacademic audience. In a way, this activity of translation has always characterized his academic work, which, in the form of review articles, scientific books, or textbooks—like his seminal Economic Analysis of Law (1973a)—can be described as introducing and therefore passing the technical knowledge of economics to law scholars.

That he dealt with “almost absurdly wide ranging” subject matters (Ryerson 2000) for which answers remain imprecise, unclear, and debatable could not bother him. First, for personal reasons and capacities, Posner does not hesitate to acknowledge loving “variety, which may be another name for being impatient,” and “loving [his] work and having plenty of energy and concentration and only limited family responsibilities, and having the ability that many intelligent people lack of switching from project to project without loss of momentum.”11 Second, he is “intelligent about the use of [his] time. You need good work habits, such as: not procrastinating; careful prioritizing; and accepting assistance, in my case from law clerks and student research assistants. The trick is to delegate the truly delegable parts of one’s work but retain full control over the nondelегable.”12 Third, one should not forget to insist on the role of economics, which, as a scientific method, allowed him to go beyond the nominal boundaries of his discipline. In the case of aging, for instance, “economics can do a better job of explaining the behaviors and attitudes associated with aging, and of solving the policy problems that aging presents, than biology, psychology, sociology, philosophy or any other single field of natural or social sciences” (Posner 1995a, 2). This is certainly no surprise for someone who believed that the use of economics to analyze the functioning of the legal system is legitimate because economics could only be defined in terms of method, as “a powerful tool” (Posner [1973] 1986, 3), as an open-ended set of concepts such that “when used in sufficient density

11. The quotation is from the January 14, 2002, entry in an online diary that Posner kept on slate.com (www.slate.com/articles/arts_and_life/diary/features/2002/_34/entry_1.html).
these concepts make a work of scholarship ‘economic’ regardless of its subject matter or its author’s degree” (Posner 1987a, 2; emphasis added).

Thus, for Posner, economists—that is, scholars trained in economics or not but nevertheless using economic assumptions and models—were virtually never outside their domain of expertise. This idea had permeated Posner’s scholarly work almost since the beginning, but it progressively led Posner to think about the proper role of a public intellectual, about what public intellectuals should or should not do. In another collection of revised articles, Overcoming Law (1995b), Posner sketched a dichotomy between the intellectuals who use economics and the others: contrary to the latter, the former are able to make scientific and indisputable claims. This dichotomy was deepened in his Oliver Wendell Holmes Lectures given at the Harvard Law School in 1997, in which Posner extended the distinction to public intellectuals: only the claims made using economics could be valid outside academia; those who did not use economics, but philosophy or moral theory, were only to make useless, unscientific analyses. Significantly, Posner named those intellectuals “professors of morals” or “academic moralists” and used the label to designate in particular Ronald Dworkin, one of his earliest opponents, a legal philosopher and a public intellectual. The relatively violent reply by Dworkin (1998, 1718), who criticized “Richard Posner’s jeremiad” and his “spectacularly unsuccessful” arguments, led Posner to write an article and then a book titled The Problematics of Moral and Legal Theory (1999b). That Posner chose to go beyond a set of articles and write a book about exactly this topic illustrates that he not only wanted to give more details about what are good and bad “public intellectuals” but also aimed at making his views on the role of public intellectuals known outside academe.

He was even clearer about the role of public intellectuals and how they should engage the public during another controversy with Dworkin just after—and because of—the publication of Posner’s Affair of State: The Investigation, Impeachment, and Trial of President Clinton (1999a). Posner “began writing [it] in October 1998 when the crisis was very much in media res . . . and . . . finished on February 16, 1999, four days after the Senate trial ended” (4). But it was also one of the only attempts by a scholar to understand the legal dimension and consequences of the affair. Indeed, Posner was surprised by the “deafening” (241) silence of the academic legal profession about Bill Clinton’s conduct during his testimony to the grand jury. Rather than restraint, this silence pointed to a form of incapacity—the “debacle” of the “academic practitioners of ‘soft’ subjects
in the humanities or the social sciences” (233; emphasis added). Intellectuals could be good; this was not sufficient to be a good public intellectual. A scientific methodology was also required.

One of those criticized for their silence, Dworkin (2000) attacked Posner in a sharp review for the New York Review of Books, precisely because the judge should have remained silent and, by failing to do so, had made a double ethical fault.\(^\text{13}\) This led, again, Posner to answer Dworkin in an article—also published in the New York Review of Books—and then, following the suggestion of his editor at Harvard University Press, a book. Public Intellectuals: A Study in Decline (2001) was not simply another book on public intellectuals: it was meant to be the ultimate book on the topic, in which Posner established again and more firmly the norm of what is a good or “true” and, complementarily, a bad or “false” public intellectual. The former develops positive analysis and makes positive statements based on the use of scientific methods, namely, economics or statistics. By contrast, the latter are simply “engaged in naïve extrapolation” because they lack a “causal theory”; their opinions are normative, personal, and subjective, and of a poor quality, as Posner kept on stressing in further newspapers and magazine articles tellingly titled “In Over Their Heads When Intellectuals Tackle Issues beyond Their Expertise, They Often Finish Way Off Base” (2002a) and “The Professors Profess. Ordinary People Can Say Stupid Things. Brilliant People Do It Brilliantly” (2002b).

Beyond the lack of an internal control mechanism, provided only by a sufficiently powerful analytical framework such as economics, one excellent reason explains, according to Posner, why such “false” public intellectuals could survive and flourish: the lack of an external mechanism to discipline them. Since academic knowledge got increasingly specialized, the expertise and legitimacy of many public intellectuals were, in many cases, impossible to question. Moreover, public intellectuals were not accountable for the explanations and recommendations they formulated. The cost of making foolish recommendations grounded

\(^{13}\) Posner (1999a, 241) wrote: “Harsh words about Clinton might also have been expected from Professor Dworkin, who is a lawyer as well as a philosopher and who is well known for advocating that law be reconceived as a branch of moral philosophy. These expectations would have been disappointed.” Dworkin (2000) replied that Posner “misstated the rule: Canon 3(A)6 of the Code of Conduct for United States Judges prohibits federal judges from commenting publicly on ‘pending or impending’ cases.” Also, Posner’s “own ethics, in publishing a book about Clinton’s impeachment so soon after the event, are open to question, because judges are not meant to enter political controversies” (Dworkin 2000).
in inconsistent reasoning was very low. Since public intellectuals were only part-time columnists, the cost of being fired or fooled was low, as were the costs of leaving public intellectual life altogether. Finally, there was no peer review process, and one’s reputation was hardly engaged. The high number of specialized comments, as well as the diversity of support (printed media, interviews, etc.), made them hard to monitor.

Considering such lack of incentives to provide accurate reasoning and predictions, the market for public intellectuals performed less well than other markets for what Posner (2002b) called “symbolic goods,” such as scholarly work: “Academics are smart and fast, and, in nonscientific fields such as law and history, they can be glib. . . . But when academics speak off the cuff, especially about matters outside their areas of expertise, quality tends to go to hell.” Yet his book also offered a few modest solutions to improve the market for public intellectuals, mostly centered on a monitoring system that would improve the public intellectual’s accountability. He notably proposed to require university faculty members “to post annually, on the university’s web page, all the nonacademic writing, in whatever form or medium published, and public speaking that they have done during the preceding year” (Posner 2001, 390). This reform would be “a deterrent to irresponsible interventions by academics in public controversies” and would act the same way as how trial judges and lawyers control professional experts (390). Another reform sketched by Posner would consist in forcing public intellectuals to disclose any conflict of interest, as well as the income they receive from their activity as a public intellectual, including their consulting activities for think tanks, which would have some interests in advocating certain policies. In short, Posner dreamed of a Journal of Retractions, in which public intellectuals would “periodically review their predictions and other statements and report which one had turned out to be true and which false” (396). As we will see in the next section, The Becker-Posner Blog offered an interesting opportunity to implement and test similar types of reforms.

**The Becker-Posner Blog:**
“Here’s What I Think and Why”

The creation and launching of the blog in 2004 seems to be, at the same time, the product of coincidences and the desire both for Becker and for Posner to remain active as public intellectuals. First, let us recall that, although the earliest blogs were created in the 1990s, it was only in the
mid-2000s that blogging became a recognized activity and bloggers were eventually viewed as influential people. More precisely, 2004 is the year that marked the end of the “ancien régime” of the media, after bloggers revealed the weakness of the documents used in a CBS show about George W. Bush’s National Guard service during the Vietnam War (see Munger 2008).

The year 2004 was also a turning point in Becker’s and Posner’s careers as public intellectuals. On July 12, Becker wrote his last Economic Viewpoint column in *Business Week*, anticipating coming changes in the magazine’s editorial team. But the pleasure and interest felt during those nineteen years as a columnist could not be easily forgotten. Becker rapidly “missed writing regularly.” He then invited Posner to a debate through this new technique, blogging, that he perceived as “the wave of the future” (Becker, e-mail to authors, January 31, 2012) and a way to satisfy his hunger for addressing real-world problems. Yet Becker’s project might not have met with immediate enthusiasm had Posner not already published some posts on Lawrence Lessig’s blog. One of Posner’s former clerks at the Court of Appeals, and now a law professor at Harvard Law School, Lessig was particularly interested in new communication technologies and their effect on intellectual property law. In 2001, he founded Creative Commons, a nonprofit organization aimed at expanding the range of the public domain. In 2002, he received the Advancement of Free Software award, for promoting the understanding of the political dimension of free software, was named one of the top fifty visionaries from the world of research by the magazine *Scientific American*, and launched his own blog. In August 2004, as he used to do with various people when on vacation, Lessig asked Posner to host the blog for a few days. Posner very much liked the experience (Lessig, e-mail to authors, October 9, 2011). He found it “fun,” enough to take it to heart, writing twenty-six (some of them long) posts in seven days and answering a few comments. But when

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14. Shepard, who had hired Becker in 1985, left in 2005, and the Economic Viewpoint column, which was then held by Robert Barro, Laura Tyson, Jeffrey Garten, and Robert Kuttner, ended in December of that year.

15. See, on the website of the GNU operating system, “2002 Free Software Awards” (www.gnu.org/award/2002/2002.html). Lessig was given the award because he “argued against interpretations of copyright that could stifle innovation and discourse online” (http://www.sci.american.com/article.cfm?id=the-scientific-american-5-2002-11-11&page=2).

Lessig invited him to host his own blog, Posner somehow accepted by joining Becker and creating a blog with him. Lessig then helped Becker and Posner with the basic Web administration work, notably registering the name of the domain (becker-posner-blog.com) and mobilized some Creative Commons human and material resources to develop the blog. Thus, if, as Posner told us, the blog was “all Becker’s idea” (October 4, 2011), Lessig also “can claim credit for only one thing that [Posner’s] done: The Posner-Becker [sic] Blog.”17

At the end of November 2004, the word was spreading that Becker and Posner were going to start their blog “soon.”18 One week later, on December 4, 2004, it started with an “introduction,” in which it was emphasized how important, and why, blogging already was. It is, they wrote,

a major new social, political, and economic phenomenon. It is a fresh and striking exemplification of Friedrich Hayek’s thesis that knowledge is widely distributed among people and that the challenge to society is to create mechanisms for pooling that knowledge. The powerful mechanism that was the focus of Hayek’s work, as of economists generally, is the price system (the market). The newest mechanism is the blogosphere.19

At that time, the blog had already attracted a certain amount of attention, with thirty subscribers, and they increased to sixty-eight on December 5, 2004, the official launching date of The Becker-Posner Blog.20 Comments, posted by ordinary people, students, and scholars as well, were more numerous (156 after the introductory note and 127 after the first

20. Evan Schaeffer, another blogger, joked about the visibility of the blog, noting on December 13, 2004: “Recently, someone stopped me on the street to ask, ‘Hey, Evan, what do you think about the new Becker-Posner blog?’ The question didn’t surprise me: who’s not thinking about The Becker-Posner Blog?” (“The Becker-Posner Blog and My Own Shitty Writing Style,” December 13, 2004, www.legalunderground.com/2004/12/becker_posner_b.html). In the discussion that follows, we write in the past tense because our narrative is about the blog as it existed between its inauguration and 2009; it is important to point out that the blog is still an active concern.
post). Some of them were enthusiastic and others critical. After the first post, Kieran Healy, then assistant professor of sociology at the University of Arizona, ironized that “the blog is an elaborate hoax” and “that the reader is being gamed,” not only because of “the absurd suck-up comments from law students” but also because “the real Richard Posner is one of the preeminent legal minds of our time” and thus “can hardly be responsible for this” (our emphases). “This” referred to one post by Posner about preemptive war that another blogger considered a “toy numerical example” and that went as follows:

Suppose there is a probability of .5 that the adversary will attack at some future time, when he has completed a military buildup, that the attack will, if resisted with only the victim’s current strength, inflict a cost on the victim of 100, so that the expected cost of the attack is 50 (100 x .5), but that the expected cost can be reduced to 20 if the victim incurs additional defense costs of 15. Suppose further that at an additional cost of only 5, the victim can by a preventive strike today eliminate all possibility of the future attack. Since 5 is less than 35 (the sum of injury and defensive costs if the future enemy attack is not prevented), the preventive war is cost-justified.

Healy’s irony was lost to commenters, who seriously replied by emphasizing how Posnerian such reasoning was and suggested that it had to be debated as if it were scientific. This revealed, at least to some commenters, how flawed were the analyses and demonstrations made in the posts. Typically, this was why the Anti-Becker-Posner blog was created in May 2005,

21. Greg Newburn noted: “It’s fascinating that the Internet and, more specifically, blogs, allow people from all disciplines and backgrounds to comment on the ideas of heavyweights like Becker and Posner. When was the last time a ‘regular guy’ got to comment on, say, a law review article by a Nobel Laureate? Who says technology is divisive? This is amazing!” Michael Kim wrote: “This blog will be on my daily must reading.” And Art de Vany congratulated them: “Gary and Richard: What a great idea for the two of you to comment on the world’s events from the deeper perspective of economics and law that you have done so much to advance.” Note that a lot of comments are lost because the blogs on which they were published have been shut down since 2004.


whose tagline reads, “Correcting the mistakes, omissions, and downright nonsense on the Becker-Posner-Blog.” However, such an objective would have made perfect sense if Becker and Posner had intended to write with the rigor that some expected from academics like them.\textsuperscript{25} Actually, the promoters of the Anti-Becker-Posner Blog missed the point: in their blog, Becker and Posner were not interested in being theoretically sound and correct, which was one reason the economist and the judge were able to publish posts at such a regular pace. It was a pace that the authors of the Anti-Becker-Posner Blog, in their concern for accuracy, could not keep up, and they gave up the blog in June 2005. Indeed, Becker and Posner kept on using the same “consequentialist-for-beginners” analyses as they used in their first posts. Omissions and shortcuts were not a problem because, to them, the blog provided a space that, to a wider extent than with other media, they could experiment and refine their thoughts, a space in which theoretical arguments, observations of the outside world, and policy views would evolve together and influence one another in a way flexible enough so as to allow for the use of price theory without the strong limitations imposed by the criteria of academic research, but rigorous enough so as to give them the legitimacy to make provocative analyses and claims.\textsuperscript{26} To use a categorization put forward by Deva Woodly (2008), they followed a “here’s what I think and why” standard (117), in which the objective is to “frankly disclose their political leanings and affections” (116), and what matters is to be “insightful” (117). In our words, Becker and Posner engaged in “casual economic thinking.”

One of the first consequences of this approach of blogging relates to their way of using data. Some posts would disseminate the results of an empirical study or a report, like with Becker’s previous columns. But such data would also be used casually to substantiate Becker’s or Posner’s arguments. Thus the rather loose use of figures in their examples, a recurrent feature of their posts, gave the blog its provocative tone. It is obviously a

\textsuperscript{25} To illustrate this expectation, one may note a remark made by an associate professor of political science at George Washington University, Henry Farrell, who welcomed Becker and Posner’s venture precisely because it came from two top academics. Recall that Posner was the first federal judge to blog, and Becker was the first Nobel Prize laureate in economics to blog. Among noted economists, he was preceded only by Brad DeLong, who has blogged since 1999, and Tyler Cowen and Alex Tabarrok, who created Marginal Revolution in 2003 (Mata 2011).

\textsuperscript{26} One may wonder if their blog is really a blog at all. We thank Emily Skarbek for having emphasized this point. Indeed, the posts read too long, are not reactive, and lack the puns and witticisms of the blog form. Actually, the pieces Becker and Posner write are more like traditional columns that happen to be posted on the Internet than genuine blog posts.
freedom that was impossible to have in traditional media, much less in academic papers. This is illustrated by Posner’s evaluation of the benefits of the New York trans-fat ban proposal (December 17, 2006), arguing that the decision would save five hundred lives—“an upper bound,” since “it seems unlikely that removing trans fats from restaurant meals alone would cause a 2 percent drop in heart disease” (emphasis added)—each year and that the “consensus economic estimate of an American life” is $7 million (emphasis added). For these reasons, Becker confessed to preferring writing the blog over any other media, so he “doesn’t have to deal with copy editors,” which he replaced with his own assistants, when facts or other things needed checking (Becker, e-mail to authors, January 31, 2012). Similarly, Posner confirmed that there is no editor for the blog (Posner, e-mail to authors, June 14, 2012). Thus Becker and Posner did not only like but also use without restraints the freedom that blogging allowed by comparison with other media, not to say academic publications.27

From this perspective, it is significant to note that, in addition to the blog, Becker and Posner kept addressing a broad audience through print media, for instance, the Wall Street Journal, and even online ones (the Atlantic Monthly and the Hoover Digest). Yet, within these other media, Becker and Posner would more tightly conform to defined style and constraints, and thus these columns would appear closer to previous op-eds by both authors. They put forward the less controversial of their proposals—such as the need for economic growth in Pakistan to prevent terrorism. By contrast, in the blog, they could allow themselves to reach conclusions too provocative—as when they argued in favor of racial profiling and preventive war—to be printed or published elsewhere. In other words, the blog pushed to the limit the habit of controversy that characterized their past work. A good instance is provided by Becker’s arguments about the death penalty. On the blog, he wrote that “public policy on punishments cannot wait until the evidence is perfect. Even with the limited quantitative evidence available, there are good reasons to believe that capital punishment deters murders.”28 And, quite significantly, when he moved from the blog to the paper, that is, when this debate was partially reprinted in the book Uncommon Sense (Becker and Posner 2009), Becker was less controver-

27. Ironically, it was for indulging in that same freedom that Posner had criticized public intellectuals. We thank Paul Dudenhefer for this point.
sial, conceding that “perhaps given the strength of the emotional opposition to capital punishment, and the limited quantitative evidence supporting the deterrent effect... it is best not to use such punishment unless the evidence gets stronger” (309).

The liberty to be as casual as they want also rubbed off on their choice of topics. Becker and Posner did not hesitate to address the controversies of the day independently of whether or not they had specialized knowledge of them. Their blog mixed discussions about issues on which they had already written—for instance, education, global warming, capitalism, immigration, marriage, and supply-side economic policies in the case of Becker, law and regulation in the case of Posner—with issues that neither Becker nor Posner had ever addressed, such as racial profiling, the involvement of the Muslim community in the 2005 French riots, terrorism prevention, the Iraq War, pharmaceutical patents, the fat tax as well as trans-fat bans, organ sales, and intellectual property.29 For Posner, the blog was more than a place to translate knowledge in the most balanced way possible; it was also a place devoted to opinions and policy recommendations; it was, for Becker, a place that allowed him to introduce more basic economic thinking and new theoretical intuitions that were not found in his previous columns because of space constraints and the kind of audience that was targeted.30 Evidence is provided by the introduction of Uncommon Sense, which spends much more space than the beginning of Becker’s Economics of Life to introduce economics (its definition) as well as some important conceptual tools such as rents, externalities, agency costs, and full prices (prices including search costs). This also suggests that, just as Posner did not worry too much about his audience when wrote about his previous books, Becker and Posner did not give much thought about the audience their blog might attract: depending on the kind of post, Becker and Posner could have raised the interest of former Business Week readers who wanted strong policy opinions and concrete policy reforms, but also students and scholars in economics and law in search of theoretical intuitions on how to tackle a topical issue; too, a post could have interested companies looking for innovative and provocative pundits for hire, since Becker had also participated in Steve Levitt’s Greatest Good consulting company (co-created

29. In the case of the Iraq War, however, this perhaps resulted from Becker’s involvement as a member of the Advisory Committee to the secretary of defense from 2001 to 2004, which gave him an opportunity to expand the applications of his views about crime and punishment.

30. Posts are longer than Becker’s past printed columns.
with Lexecon’s Andrew Rosenfield), devoted to applying innovative economics tools to business problems.

Quite surprisingly, for scholars interested in blogging because of the lack of constraints it offers, Becker and Posner allowed readers to comment on their posts and did not regulate those comments. This seems to imply that the readers of the blog were allowed to control what Becker and Posner had written, by identifying mistakes and inconsistencies in their comments. At first, one might think that comments were viewed by Posner as playing the role of the kind of external mechanism that Posner thought necessary to discipline the pronouncements of public intellectuals and that, according to him, was lacking so far. Comments, in other words, could improve and refine the content of the posts. This was obviously how readers interpreted this possibility, repeatedly underlining the inconsistencies of Becker’s and Posner’s arguments vis-à-vis their previous writing, as the website offers a complete record of all Becker’s and Posner’s posts. However, for their part, Becker and Posner did not actually use comments as a corrective device. In effect, comments were not used by Becker or Posner to change their beliefs and casual thinking.

Actually, and although Becker and Posner almost systematically wrote replies to (some of) the comments a few days after the initial post, they did not modify their analyses, but restated what they had already said in the initial post, by striking directly at the heart of the misunderstanding or using more compelling illustrations. Even Becker’s disagreements with Posner, which were more numerous than Becker had initially expected, did not lead one of them to change radically his mind (Becker, e-mail to authors, January 31, 2012).

No surprise then if Becker and Posner, from the second half of 2009 on, stopped replying to—and even “ceased reading” (Posner, e-mail to authors, June 14, 2012)—comments and that the blog, like the columns, became more “a regular monologue than an ongoing dialogue between

31. Such openness is far from systematic in the blogosphere. Greg Mankiw does not permit comments on his blog, and Marginal Revolution, which began in 2003, did not appear to permit comments until around January 2006; Paul Krugman’s and Brad DeLong’s blogs permit comments, but the authors do not reply explicitly to them.

32. Let us mention only one of Becker’s replies (dated November 2006) about women, marriage, and rationality, which reads: “I repeat what I have said in my post: I have considerably more confidence than some of the posters that young women can make at least as considered decisions with respect to marriage as young men” (Becker, “Reply on Polygamy,” The Becker-Posner Blog, November 12, 2006, http://www.becker-posner-blog.com/2006/11/reply-on-polygamy--becker.html).
author and readers” (Woodly 2008, 117). To Posner, the explanation was the “sheer lack of time” (Posner, e-mail to authors, June 14, 2012). It also revealed that comments were not a way to change their minds and improve their posts. Comments and answers were, rather, a dissemination device. Accordingly, allowing people to comment on their posts was a strategic choice, because it increased the circulation of Becker’s and Posner’s ideas among commenters. Even if one reader never completely agreed with the message, the resulting discussion prevented Becker’s and Posner’s idiosyncratic approach from being neglected, as provocative as the analysis might be. And then, progressively, the initial argument made by Becker or Posner rapidly ceased to be at the heart of the discussion, as an independent discussion emerged between commenters who tried to convince each other about the validity of their own views on Becker’s and Posner’s views. This way, the message disseminated in the blog got more attention than it would have if communicated through a more traditional outlet. Thus, whatever ability it had to influence and shape the public debate came from the blog’s specific combination of provocative arguments and the possibility of commenting on them thoroughly without any form of regulation. Interestingly, Daniel W. Drezner and Henry Farrell (2008) argue that it is their ability to frame a problem that confers blogs their influential power over journalists, leaders of opinion, and government officials. Becker often framed a problem with references to the organizing power of markets, while Posner often framed the problem as a cost-benefit calculation.

Conclusion

Although they may have disagreed about what a public intellectual is supposed to expect from his or her engagement—to offer policy recommendations and proposals to the public (Becker) or to bring them knowledge to confirm their beliefs (Posner)—and even if they may not have used the same resources, from early on in their careers Becker and Posner nonetheless had the same objective: to promote and disseminate their ideas and their views of the world. Writing for magazines, newspapers, and now the Internet allows them to put forward provocative claims and radical policy recommendations without the constraints and limitations of academic writing. Being a public intellectual gives them the freedom to address a great variety of topics and allows them to potentially influence public policies related to those topics. From this perspective, it is no surprise that Becker and Posner eventually ended up on the Internet, authoring a blog.
Compared with their previous works as public intellectuals (books, columns), the blog provides a unique place to shape their opinions through theoretical intuitions, casual empiricism, and policy views. Blogs may attract less attention and be less directly influential than standard media, but they provide a potentially huge network for disseminating their ideas and therefore can be indirectly influential. More specifically, it is by allowing readers to comment on their posts that Becker and Posner introduced an innovation in the way public intellectuals interact with their audience and disseminate their message. Yet, in 2009, Becker and Posner ended one form of interaction, when they stopped replying to the comments. This is not surprising from the perspective of how Becker and Posner see public intellectualship. But the regular decrease in the number of comments per post might eventually call into question the specific disseminating powers of the blog compared with traditional media.

References

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