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The Problem with Plagiarism

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In 2004, 17-year-old Kaavya Viswanathan signed a two-book deal with Little, Brown on the basis of a few drafted chapters and an outline for a novel. Most 17-year-olds are not capable of writing a novel, and as it turned out Viswanathan, who entered Harvard soon after, was no exception. She hired a "book-packaging company" to help map out the plot and she plagiarized shamelessly from several sources, including works by Salman Rushdie and bestselling author Megan McCafferty. Her book, *How Opal Mehta Got Kissed, Got Wild, and Got a Life*, was published in 2006, but its anticipated big splash came as a belly flop. Some of her plagiarism was exposed by the *Harvard Crimson*, and soon other media took note. The publisher first announced it would reprint the book with the bits heisted from McCafferty redacted, but before long more plagiarism charges came to light. The book was soon pulped and Viswanathan's contract cancelled. Plans to develop it into a movie were shelved. Whatever Viswanathan does in the future, she will have to deal with the taint of her plagiarism.

The Little Book of Plagiarism
By Richard A. Posner
Pantheon ~ 2007 ~ 117 pp.
$10.95 (cloth)

In his *Little Book of Plagiarism*, Richard Posner, a federal judge and prolific author, shows some understanding for the frustration and even the envy that might drive talented writers to such depths. He begins the book with an epigraph from the fourth-century Roman grammarian Aelius Donatus which expresses an annoyance every writer has felt: "Perish those who said our good things before we did." Posner applies the maxim to Viswanathan's misdeeds, writing that "in an age of specialization . . . a creative person is apt to have a feeling of belatedness—a feeling that though just as creative as his predecessors he has appeared on the scene too late; the ship has sailed; the niche he might have filled has been filled already." A discerning reader might detect a note of sarcasm, however, as he continues: "Oh, the unfairness, Viswanathan might have thought, of McCafferty's having picked the low-hanging 'chick-lit' fruit rather than leaving some of it for her." Posner's judicious mix of sympathy for the motive with harsh criticism of the infraction colors his book throughout.

In Posner's telling, Viswanathan is only a small fish in the larger Cambridge swamp. In fact, "newspaper readers might think plagiarism a Harvard specialty": Doris Kearns Goodwin, Laurence Tribe, Charles Ogletree, and Alan Dershowitz have all been accused relatively recently of plagiarism. Both Tribe and Ogletree copped to minor plagiaristic infractions and got academic slaps on the wrist. The judge lets Dershowitz off the hook—the worst of the allegations against him was that the law professor had relied on secondary sources to cite primary works, which couldn't be proved. Goodwin doesn't escape so easily. Her book *The Fitzgeralds and the Kennedys* turned out to be a quilt of unacknowledged quotations.

When this came to light in 2002, Goodwin "left nothing to chance. She hired the political consultant Robert [Bob] Shrum to drum up support for her in the media." Several historians, including Arthur Schlesinger, Jr., lent their names to an open letter to the *New York Times* that stated Goodwin "did not, she does not, cheat or plagiarize. In fact, her character and work symbolize the highest standards of moral integrity."

Posner isn't having it. Goodwin admitted to "inadvertent" copying from several books, "claiming implausibly to have forgotten having written out in longhand verbatim passages from those works and to have thought them her own notes—as if there were no stylistic differences between her writing and that of other writers." When some plagiarism was made public, she failed to own up to "the extent of the copying" and failed "also to acknowledge having paid an undisclosed amount of money in a legal settlement, presumably for copyright infringement."

Posner finds it "remarkable" that professional historians should declare an "acknowledged plagiarist" to be a "moral exemplar because her plagiarisms *may* (improbably) have been inadvertent." He calls their attention to the American Historical Association's reply to the most popular plagiarism excuse: "The plagiarist's standard defense—that he or she was misled by hastily taken and imperfect notes—is plausible only in the context of a wider tolerance of shoddy work."

Moreover, Posner believes politics "played the decisive role in Goodwin's surprisingly swift rehabilitation." Here was a "prominent liberal" who had been outed by a "conservative magazine" (the *Weekly Standard*) and "extravagantly defended by her prominent liberal friends." Posner uses this as an occasion to charge that "the Left, which dominates intellectual circles in the United States, is soft on plagiarism." He argues that "notions of genius, of individual creativity, and of authorial celebrity, which inform the condemnation of plagiarism, make the leftist uncomfortable because they seem to

celebrate inequality and 'possessive individualism' (that is, capitalism)." But this is far too broad a generalization, and frankly seems unfounded: American liberals, especially the highly driven and ambitious liberals of the academy, are by no means opposed to individual achievement or authorial celebrity. Nor is it fair to say they are soft on plagiarism; the response to the Goodwin case was an instance of liberal solidarity—an exercise in wagon-circling—and not representative of liberals' broader responses to plagiarism.

Readers familiar with Judge Posner's economic jurisprudence and his previous books will be unsurprised by how much his analysis depends on weighing the various costs and benefits of plagiarism for readers, authors, and plagiarizers. For instance, Posner notes that readers are rarely injured by plagiarism—and might, in fact, get some benefit from it if a mediocre author improves his own writing by pilfering from superior works. On the other hand, living writers whose work has been plagiarized might be harmed through lower book sales and dead authors can slip from memory if their words are used without acknowledgement.

Posner describes some of the formal and informal sanctions against plagiarism that governments, guilds, schools, and other institutions have developed. He pays special attention to copyright, a legal mechanism that balances the interests of creators against the social good of making creative works widely accessible, and stresses the differences between plagiarism and copyright infringement—it is possible to have plagiarism without infringement and infringement without plagiarism. He argues that measures taken to prevent or punish plagiarism ultimately benefit the reader, since authors sure that their works are protected are more likely to develop distinctive styles and undertake more ambitious projects.

Posner also speculates on how the Internet and other relatively new technologies will shape the future of plagiarism. He takes the counterintuitive position that plagiarism will become much harder to get away with. In fact, "student plagiarism may be becoming less common as more colleges and universities adopt plagiarism-detection software," such as Turnitin (pronounced "turn it in"), an online service several thousand colleges use. Each student's paper submitted to Turnitin is compared to a series of databases containing millions of texts, including one containing an archive of the Web. The service is sophisticated enough to avoid flagging acknowledged quotations and short strings of common words, and to subject suspicious papers to greater scrutiny. When finished, it issues an ominously-named "Originality Report."

There are of course ways to beat Turnitin, but in general such anti-plagiarism services make it more difficult for students to surreptitiously lift text and make it easier to catch and convict copiers. For reasons of legal liability, publishers may be slow to start using such services, but Posner argues that it's only a matter of time. He's probably right. This may be the Era of Cut-and-Paste but it's also the Age of Google.

The judge goes on at great length—at least relative to this small book—about the rise of individualism and its supposed role in stigmatizing plagiarism. In times past, plagiarism was not a major concern; in fact, many of the great classics of Western civilization were to some extent taken from other works. Even Shakespeare was arguably "a plagiarist by modern standards." His plays are peppered with "verbatim copies or close paraphrases from various sources, all without acknowledgment." Furthermore, "most members of his audiences would not have been aware of his appropriations from other writers." Shakespeare's improvements, however, are considered acceptable appropriations. Posner sets side by side similar passages from Sir Thomas North's translation of Plutarch's life of Marc Antony and Shakespeare's *Antony and Cleopatra* and writes, "If this is plagiarism, we need more plagiarism."

As Posner tells it, advances in technology and changes in how artists were funded helped to give borrowing a bad name. "When the market for expressive goods was thin," Posner explains, "writers and artists depended heavily on patronage to finance their work." The final product had to be individuated enough to satisfy the patron, but only just. As long as you, the artist, could keep him happy, the fact that others aped your work might be irksome without being harmful. But as technology improved and mass reproduction became possible, the dynamic changed. Artists had to sell many copies of their work for lower prices, and plagiarism became one way to gain advantage over competitors. And as people were increasingly allowed to "think for themselves," as Posner puts it, they came to prize authentically original expression and to frown upon works that were not wholly original.

In tracing the roots of our current understanding of originality to the advent of individualism and the rise of modern commerce and technology, Posner raises profound questions about the *future* of creativity. We live at a time when, once again, advances in communications technology are transforming the ways creative works are made and disseminated; when collaboration, borrowing, and parody are becoming easier and more common. These changes will resonate far beyond the publishing industry and

the halls of academe. It is too early to tell just how things will fall out, but the technological revolution that has already shaken up the world of intellectual property may well ultimately reshape our appreciation for honesty in authorship, our reverence for the integrity of creative works, and our denunciation of plagiarism as the enemy of originality.

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