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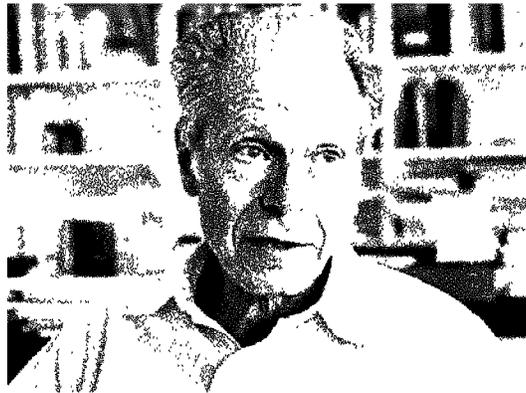
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BOOK REVIEW

A BEAUTIFUL LIFE: SOME LESSONS FOR LEGAL SCHOLARS



JEREMY ADELMAN, *WORLDLY PHILOSOPHER: THE ODYSSEY OF ALBERT O. HIRSCHMAN*, PRINCETON UNIVERSITY PRESS, 2013

*F.E. Guerra-Pujol**

"I believe a scholar should be entitled to write and publish an impressionistic, speculative book provided the book has something suggestive or stimulating to say."¹

-Albert O. Hirschman

I. INTRODUCTION

What is the point to being a scholar? Specifically, what is the point of leading an intellectual life in the domain of law (my area of expertise)? What does it mean for a lawyer or legal academic to lead an intellectual life? In short, what is the point of being a legal scholar?

I pose these personal questions (I am a law professor with an interest in economics and mathematics) having just read Jeremy Adelman's masterful biography of Albert Hirschman—*Worldly Philosopher: The Odyssey of*

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1. JEREMY ADELMAN, *WORLDLY PHILOSOPHER: THE ODYSSEY OF ALBERT O. HIRSCHMAN* 587 (2013) (quoting Letter from Albert O. Hirschman to Paul Streeten (Oct. 6, 1983); Albert O. Hirschman, Reply to Readers (Albert O. Hirschman papers, on file with the Seeley G. Mudd Manuscript Library, Princeton University)).

Albert O. Hirschman.² Although Hirschman was not a lawyer or a legal academic, his work and his approach to research offer important lessons to legal scholars.

According to Adelman, Hirschman was a “worldly philosopher.” But he was not a philosopher in a narrow or academic sense. He was an economist, a life-long student of the dismal science, and most of his scholarly works were in the field of “development economics.”³ Nevertheless, although Hirschman was an economist, he was a most unusual economist, one who preferred metaphors to math, Montaigne to Malthus, *petites idées* to grand theories. Moreover, his interests were not limited to development economics. Among other topics, he also wrote about the difference between “exit” and “voice” (his most famous idea),⁴ about the pivotal role of “the passions and the interests” in the rise of capitalism,⁵ about the nature of political discourse and the “rhetoric of reaction.”⁶ In brief, he carefully observed ordinary behavior and language, searched for hidden connections between ostensibly unrelated events, and wrote down his ideas in plain English, avoiding technical jargon and mathematical models. Simply put, he was a “worldly philosopher.”

Three episodes, in particular, as recounted in Adelman’s biography, stand out in my mind—for these episodes not only expose the secret life of the scholar—they also offer important lessons about law and legal scholarship generally.

II. THE CHILEAN PHONE BOOK (CIRCA 1967)

One such episode took place in Latin America long ago, sometime during the summer of 1967.⁷ One evening, Hirschman asked a friend for the phone number of a long-lost colleague, the Chilean sociologist Claudio Véliz.⁸ His friend, however, did not have the number.⁹

What about the phone book? Hirschman apparently asked.¹⁰ *Could Véliz’s number be in the Chilean phone book?*

Why bother? His friend apparently replied.¹¹

According to Adelman, Hirschman’s friend didn’t even bother to look up Véliz’s number in the phone book; instead, he simply “dismissed the

2. *Id.*

3. Alas, I write in the past tense because Albert Hirschman died on December 10, 2012, at age 97.

4. See ALBERT O. HIRSCHMAN, *EXIT, VOICE, AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES* (1970).

5. See ALBERT O. HIRSCHMAN, *THE PASSIONS AND THE INTERESTS: POLITICAL ARGUMENTS FOR CAPITALISM BEFORE ITS TRIUMPH* (1977).

6. See ALBERT O. HIRSCHMAN, *THE RHETORIC OF REACTION: PERVERSITY, FUTILITY, JEOPARDY* (1991).

7. ADELMAN, *supra* note 1, at 412.

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

telephone book as a list of numbers for people who had died or left the country.”¹²

Later that evening, however, after Hirschman had returned to his hotel, he found a copy of the phone book in his room and decided to look up Véliz’s number for himself.¹³ In the words of his biographer: “Curious, he . . . dialed the number and quickly found the voice of his friend at the other end of the line.”¹⁴

According to Adelman, this episode “was an example of the ways in which Latin American intellectuals had a habit of overperceiving the ways in which things remained the same.”¹⁵ Perhaps. Perceptions do matter. But this anecdote also reveals as much about Hirschman’s approach to life as it does about Latin American intellectuals or academics generally.

Specifically, the phone book incident illustrates Hirschman’s deep curiosity about the world, his inherent inquisitiveness, and his skepticism about skepticism. Most importantly, Hirschman was willing to test his friend’s dismissive attitude about the phone book, the conventional view that the phone book would be out of date. Instead, he took the time to look up Véliz’s number and was curious enough to actually dial the number to see whether Véliz would be on the other end.

This lesson is especially relevant to law and legal scholarship. Legal scholars and lawyers tend to appeal to authority, and we also like to argue by analogy. But why should authority matter, and what criteria should determine whether two cases are similar or dissimilar? Instead of relying blindly on authority or on made-up analogies, we would do well to question such appeals to authority and question our analogies. That is, we would do well to actually test our claims and not just assert them.

Inquisitiveness and imagination, along with the willingness to test conventional wisdom, are the hallmarks of a true scholar. A scholar does not simply accept conventional claims, whether it is about phone books, the causes of crime, or whatever. Instead, she will follow her curiosity, and she will find a way of putting such claims to the test.

III. TRAFFIC IN BOSTON (CIRCA 1971)

Another illuminating episode, another eureka moment in Hirschman’s life, occurred while Hirschman was stuck in traffic in Boston.¹⁶

Hirschman was driving to Logan Airport in Boston one summer day.¹⁷ As he approached the entrance to the tunnel to the airport, traffic in all lanes came to an abrupt halt.¹⁸ Eventually, the cars in an adjacent lane

12. *Id.*

13. *Id.* at 413.

14. *Id.*

15. *Id.*

16. *Id.* at 464.

17. *Id.*

18. *Id.*

began to move forward.¹⁹ According to Adelman, Hirschman began to observe the drivers around him and “noticed that those in the stationary lane greeted the advance in the adjacent lane with relief—with the expectation that they too would start to move.”²⁰

But the cars in the stationary lane did not move forward, and Hirschman now noticed that his fellow drivers started to get angry and become jealous as the cars in the next lane continued to move forward.²¹ The expectation of movement created a false hope that the cars in the stationary lane would soon also start moving, or in the words of Hirschman’s biographer: “relief became envy, and envy involved outrage because drivers [in the stationary lane] began to feel that someone up front was cheating them. Their mood, as a result, grew much worse *because* they were once gratified and now felt deprived.”²²

In sum, by taking notice of the drivers around him and carefully observing their emotional reactions, Hirschman was able to generate an intriguing hypothesis about the role of envy and emotions in perceptions of fairness, including perceptions of income inequality and distributive justice. Specifically, he observed that one’s perception of fairness might depend not just on one’s own absolute position or status in society but also on one’s position relative to others.

Furthermore, Hirschman turned his observations into a landmark paper in the economics literature²³ and invented a new metaphor, what he called “the tunnel effect,” to describe this negative emotion of having one’s expectations dashed.²⁴

But beyond the domain of economics, the tunnel effect is also relevant to law and legal scholarship for two reasons. To begin with, the existence of the tunnel effect encourages lawyers and legal scholars to recognize the role emotions might play in people’s perceptions of justice and “just deserts.” In addition, the tunnel effect also implies that one’s perception of the legal system and legal institutions might depend not just on one’s own legal position or set of legal rights but also on one’s position relative to the legal position and legal rights of others.

In sum, this episode illustrates the pivotal role of emotions in shaping people’s perceptions and behavior, a theme that appears in many of Hirschman’s leading works, including *The Passions and the Interests*²⁵ and *The Rhetoric of Reaction*.²⁶ More often than economists and legal scholars neglect or ignore the role of emotions in human interactions.

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.* (emphasis in original).

23. Albert O. Hirschman & Michael Rothschild, *The Changing Tolerance for Income Inequality in the Course of Economic Development*, 87 *QUARTERLY J. ECON.* 544 (1973).

24. *Id.* at 552-559.

25. See HIRSCHMAN, *supra* note 5.

26. See HIRSCHMAN, *supra* note 6.

For example, whether studying the behavior of consumers or the behavior of firms, Hirschman's fellow economists tend to assume an unchanging level of perfect rationality on the part of economic actors.²⁷ Although this tendency is starting to change with emergence of behavioral economics, the dominant approach in economics is still abstract and mathematical; emotions are assumed away.²⁸ Likewise, legal academics often consider the "incentive effects" or "inner morality" of alternate legal rules and institutions (depending on our normative views about law, i.e., whether we think "efficiency" or "fairness" is the ultimate goal of law), but we rarely consider emotive aspects of law, such as what emotional impact an existing or proposed legal rule might have on the actors whose behavior such rule is designed to regulate.²⁹

But what does this lesson about the importance of emotions have to do with my original question about the purpose of scholarship? Everything.

For if curiosity is one of the hallmarks of the intellectual life, shouldn't we scholars be curious about the role of the emotions in human interactions? Shouldn't we follow Hirschman's lead and take a different approach? That is, instead of brushing emotions under the rug (like most legal scholars do) or simply assuming emotions away (like most economists do), let us recognize the role of emotions in law and life. After all, humans are not machines. We are emotional creatures.

A third episode in Hirschman's life, and the most dramatic one, taught me the greatest lesson of all . . .

IV. THE BICYCLE THEFT (BEHIND ENEMY LINES IN OCCUPIED FRANCE, JUNE 1940)

At the start of the second world war, Hirschman (a German Jew exiled in France at the time) gave up the life of the scholar and joined the French military.³⁰ Later, when the Germans invaded the Low Countries and rolled into Paris, he confronted a dire predicament: he found himself behind enemy lines, inside German-occupied France; his only material possessions, some pocket change and the clothes on his back.³¹ To save his skin, Hirschman would have to flee into the unoccupied zone in southern France.³² But how? The unoccupied zone was hundreds of miles away, guarded by German checkpoints, and Hirschman had no ready mode of transportation at his disposal.³³

27. See, e.g., HIRSCHMAN, *supra* note 4, at ch. 1.

28. See, e.g., Charles Hall, et al., *The Need to Reintegrate the Natural Sciences with Economics*, 51 *BIOSCIENCE* 663 (2001).

29. See, e.g., Robert C. Ellickson, *Bringing Culture and Human Frailty to Rational Actors. A Critique of Classical Law and Economics*, 65 *CHI.-KENT L. REV.* 23 (1989).

30. See ADELMAN, *supra* note 1, at ch. 5.

31. *Id.* at 169.

32. *Id.*

33. *Id.*

According to Adelman, “Hirschman procured a bicycle in Le Mans, ditched his uniform, and bought some clothes from a peasant.”³⁴ On route to the unoccupied zone, “he went into a backyard and buried his German [identification] papers in a tin can.”³⁵ Thus he pedaled his way to safety and snuck into the unoccupied zone.³⁶

But, at first, we are not told how exactly Hirschman was able to “procure” that bicycle. Who sold it to him? How much did it cost? Did some Good Samaritan donate it to him? In fact, he stole it. Towards the end of his biography, Adelman reveals “the bicycle that wheeled him to freedom . . . was one he had stolen.”³⁷ Later, he would change his identity and procure false papers and flee into Spain.³⁸

This dramatic episode not only illustrates the difference between “exit” and “voice” and the interplay of markets and politics (Hirschman’s most influential idea),³⁹ it also offers important lessons for legal scholars as well. One lesson is that we cannot study law and legal doctrine in the abstract. We must also consider the strategies people and organizations use to comply with or evade law. In other words, we should follow Hirschman’s lead and observe how laws are actually enforced and why laws are often evaded.

I have thus far recounted just a few episodes in Hirschman’s long life, episodes that offer lawyers and legal academics some larger lessons about law and the meaning of legal scholarship.

One lesson is the importance of curiosity. A scholar does not accept claims of conventional wisdom; she questions them and puts them to the test. Another lesson is the role of emotions in shaping behavior and perceptions. Instead of ignoring such emotions, we should embrace them. Yet another lesson, especially for legal scholars, is the interplay of enforcement and evasion in the domain of law. That is, when we study the law, legal scholars should observe and perhaps try to measure the level of enforcement as well as the level of evasion.

But perhaps the most important lesson is that law is simply a means to an end. After all, what does the law of theft matter when one’s very survival is at stake? During those dark days in June 1940, for example, Hirschman, behind enemy lines, had few options. In his shoes, we would no doubt have done the same, for without that bicycle, without those false papers, how would Hirschman have survived the war? How would he have fled the Nazis and led his future scholarly life?

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.* at 522.

38. *Id.* at 180-186.

39. See HIRSCHMAN, *supra* note 4.

V. CONCLUSION

Allow me to conclude this book review by returning to my original question: what is the point to being a scholar?

The word “odyssey” in the title of Adelman’s book is revealing in this regard. Indeed, one of my favorite passages in Adelman’s biography of Hirschman appears on the next to last page of his erudite tome: “Odysseus’ quest was a homecoming to Ithaca; by contrast, Hirschman’s course had no destination.”⁴⁰

To me, this short passage captures the adventurous and odyssey-like qualities of the intellectual life. But unlike an Odysseus, who at least knows where he is headed, a wide-ranging worldly philosopher like Hirschman doesn’t really know where his intellectual life will take him. Perhaps, then, this is what it means to lead an intellectual life. Perhaps a scholar is simply an open-minded and curious intellectual, one who doesn’t know ahead of time where her intellectual pursuits will take her.

In sum, Hirschman’s life shows us the importance of curiosity and observation. Simply put, a scholar is an observer and an intellectual detective. Page after page in Adelman’s book, we see Hirschman carefully observing ordinary human behavior and the people and places around him, and we also see him exploring possible connections between seemingly unrelated events.

Thus the life of an intellectual is in many ways an adventure, an odyssey, because, to paraphrase Sir Karl Popper, the intellectual life consists of an “unending quest” for knowledge.⁴¹ But what is the purpose of this unending quest? To go back to my original question above, what’s the point?

Perhaps there is no point. Perhaps the intellectual life is overrated.

Hirschman’s beautiful life, however, provides one possible answer to my original question, and this is why I found Adelman’s biography of Albert Hirschman so compelling. Adelman not only retells the main events of Hirschman’s life and reviews his most important contributions to the world of ideas, he also (perhaps unwittingly) reveals what it really means to be a scholar.

40. ADELMAN, *supra* note 1, at 656.

41. See KARL POPPER, AN UNENDED QUEST: AN INTELLECTUAL AUTOBIOGRAPHY (2d ed., Routledge, 2002).

