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## RESPONSE TO LANDES AND POSNER

FRED R. SHAPIRO\*

It is a pleasure to have one's work critiqued by scholars as insightful as Professor Landes and Judge Posner. In their very interesting article, they express a number of concerns about my methodology. These concerns have much validity, but I believe that some of them are misguided. The following are brief responses to their points.

1. I acknowledge that my exclusion of articles more than half the citations to which appear in nonlegal journals is somewhat arbitrary. Landes and Posner's suggestion of counting only citations in law journals is a meritorious idea. I decided against this approach because it would have added a considerable amount of labor to an already arduous project and because I was concerned that classic nonlegal articles (such as Garrett Hardin's *The Tragedy of the Commons*,<sup>1</sup> perhaps) would make the list on the basis of legal citations. Such classic nonlegal articles would be, on the one hand, very hard to catch systematically and, on the other, out of place in a law-oriented list.

2. I would love to compile a list of most-cited books or a combined list of articles and books. However, contrary to Landes and Posner's statement that "it is no more difficult to compile a list of the most-cited books in law than a list of the most-cited articles," it is far more difficult to compile a comprehensive list of most-cited books. While there are tools available to ensure that all the most-cited articles are caught, there are no such tools available for books. How would one compile a complete list short of searching every legal book ever published or some very large subset of every legal book ever published? There is also an "apples and oranges" problem with books, as a most-cited books list would mix scholarly monographs, student-oriented texts, and practitioner-oriented treatises.

3. Landes and Posner are correct that not taking account of age introduces some inequities into my study. The list of most-cited recent articles, ranked within years of publication, was a response to this problem, admittedly an incomplete one.

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1. Garrett Hardin, *The Tragedy of the Commons*, 162 SCIENCE 1243 (1968).

4. Of course, I never claimed to be doing anything other than ranking articles. I agree with Landes and Posner that ranking authors is probably more interesting. As with books, however, a ranking of authors is formidably difficult. How does one ensure completeness other than by searching every law professor or every legal author from the past one hundred years or more? Common names also present great problems in searching authors.

5. Charles Reich is certainly not an example of a scholar with a single influential article in his lifetime, as a second article of his, *Individual Rights and Social Welfare*,<sup>2</sup> just missed the "top 100" all-time list.

Let me add that I view the obstacles to compiling lists of most-cited books or most-cited authors to be enormous, but not insurmountable. If there are any wealthy foundations out there willing to fund an extensive research project, I would be happy to consider undertaking such studies.

2. Charles A. Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues*, 74 *YALE L.J.* 1245 (1965).