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OPINION

The Quest to Protect Creative Policy Ideas

By J.H. Snider

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Sen. Hillary Rodham Clinton last year delivered a keynote address to a conference on big, new policy ideas sponsored by a Washington think tank. She flattered the audience by observing that “everyone in Washington knows there are a lot of good ideas knocking us over the head. We haven’t yet decided to open the door and let them in.”

Senator Clinton’s remark was not simply flattery, however. It had an element of truth to it because, as reporters and political scientists frequently observe, Congress often lacks the political motivation to find and champion good public-policy ideas out of fear that they would offend powerful special interests.

However, another potential explanation for the lack of innovation by Congress is that think tanks and college scholars put too little money into developing such ideas because public-policy ideas can easily be stolen without legal or social sanction. It is time for foundations, which sponsor the bulk of this research, to change the rules of the game so that the incentives are to create rather than plagiarize socially valuable public-policy innovations.

That people need incentives to engage in intellectual work is a bedrock assumption of modern economic thinking and was the reason America’s founders included patent and copyright

provisions in the Constitution. It is also why all major universities have strict prohibitions against plagiarism.

Unfortunately, when it comes to public-policy ideas outside of academe, we have been blind to this type of economic logic — and for good reason. No one has figured out a way to legally protect public-policy innovation without doing more harm than good. The whole point of a public-policy idea is that it can be copied and used by anybody, not just those who can afford to pay for it.

The concept of plagiarism as applied to ideas is also maddeningly ambiguous. People of goodwill frequently disagree both on what plagiarism is and how much harm a particular act of plagiarism causes.

Politically, the problem of public-policy plagiarism appears equally intractable. Nobody is organized to fight against public-policy plagiarism because such plagiarism predominantly harms the faceless public rather than powerful corporations or even public-policy experts. Think-tank and academic experts protect themselves against plagiarism simply by avoiding work in areas where they cannot protect themselves. The consequence for the public, however, is that the same old stale ideas dominate public-policy discourse.

At least partly because of the lack of protections for original public-policy ideas, most think-tank experts focus on refining and popularizing other people's ideas rather than developing new ones. Writing opinion articles, getting quoted in the news media, and speaking at events attended by high-ranking policy makers are accepted hallmarks of think-tank success.

At the other extreme are university scholars, who have relatively little incentive to develop public-policy ideas in a form usable by government officials.

First, the traditional academic publishing cycle — often more than three years from first paper submission to publication — causes scholars to recognize that if they care about their publication

record, they cannot afford to contribute to policy debates that usually come and go in a much shorter time.

Second, scholars are rewarded for using rigorous empirical methodologies, but a lot of the work to research and develop public-policy ideas deals with proposals that have never been put in place and therefore cannot be tested.

Third, academics have strong incentives to be exquisitely sensitive to issues deemed important by their small circle of colleagues but not by those who make public policy. To the extent that policy makers have strong incentives to use the works of scholars (and the universities to which they belong) without crediting them, faculty members who have careers to worry about and families to feed rationally tune them out.

Fortunately, the information-technology revolution is creating new opportunities to protect the ideas of think-tank experts and to distribute the ideas developed by academic scholars in a more timely and relevant way.

The key is to duplicate the informal social sanctions against plagiarism that work effectively in the academic world while speeding up the time it takes for an academic paper to get published by separating the process of publishing from peer review.

Sanctions against plagiarism work in the academic world not because college faculty members are more moral than their think-tank brethren but because the sanctions are self-enforcing.

Successful scholars, especially junior faculty members, typically write for a small community of colleagues who have the ability to easily detect plagiarism (because they are experts in their subject matter), incentive to expose plagiarism (because a plagiarized academic feels his own reputation has been damaged), and ready means to punish plagiarizers (through academic peer review of hiring, publishing, and conference participation).

In contrast, plagiarism is a shrewd strategy in the think-tank world because scholars there write for audiences — policy makers, reporters, and grant makers who lack expertise in a particular topic and are not competitors for intellectual prestige. That is, their audiences lack both the motive and the ability to detect plagiarism. This does not mean their audiences are wholly indifferent to plagiarism; it only means that it hasn't ranked high on their list of priorities and hasn't been cost-effective to ferret out.

The Internet now offers the promise of radically changing the incentives for plagiarism so that the social sanctions against plagiarism that work in the academic world can be transferred to the think-tank world.

As described in *The Wealth of Networks*, by Yochai Benkler, a professor at Harvard University and co-director of its Berkman Center for Internet & Society, a revolution is now taking place in the economics of community building and peer reviewing, as illustrated by such services as Google, Amazon, and eBay, each of which has made powerful new forms of peer reviewing central to their business success.

The task now is to use similar methods to create a community of experts with the incentive to reward genuine public-policy innovation.

The specific method I propose is for foundations to finance an authoritative online clearinghouse of think-tank research with new tools to facilitate peer review.

The existence of such a community would not eliminate the other inexpert audiences that think-tank researchers seek to please.

But it would create additional costs when think tanks attempt to exploit the ignorance of these audiences by engaging in plausible but misleading credit taking.

Journalists, for example, could quickly consult the clearinghouse to assess whether a potential source was a popularizer or original thinker. The journalists would then have the means to both

track down additional relevant sources for their articles and accurately designate the sources they ultimately choose to use.

The closest precedent for this proposal may be the a pilot project developed by the U.S. Patent and Trademark Office with the help of New York Law School's Community Patent Review project.

Due to the difficulty in assessing the originality of patent applications, the patent office now takes an average of four years and four months to issue a patent. And even then, many patents turn out not to be original because the patent office's staff lacks the expertise to accurately assess the originality of many patent applications.

To solve those problems, the patent office is experimenting with an open online clearinghouse of patent applications, where competitors and other experts are invited to comment about the originality of a particular patent application.

The think-tank peer-reviewing system I propose would result in no patent for originality, just a list of published citations and a discussion of their relevance to the published work.

The clearinghouse would provide an authoritative, time-stamped citation for think-tank research, which until now has often been self-published.

It would provide free or low-cost access to research that is now available free via think-tank Web sites.

It would offer other researchers the incentive to identify the missing citations as a way to cultivate their own scholarly reputations; reviewers could also be rated, just as they are on many peer-reviewing sites.

And it would provide independent, professional reviewers with powerful new tools to rate think tanks the way they currently rate academic publications and academic departments. Perhaps, for

the first time, foundations would also find it feasible to sponsor Pulitzer Prize-like awards for innovative public-policy ideas backed by research.

Many think tanks would continue to specialize in popularization and advocacy rather than research. But in that case their truth-seeking, academic pretensions would be less credible with the news media, policy makers, and foundations. The result would be additional incentives for think tanks to actually do significant, original research rather than merely claim they do.

By separating the publishing from the reviewing process, a well-designed public-policy clearinghouse would also spur relevant and timely academic research. Publishing is fast and reviewing is slow, so by disentangling the two, scholars gain a greater incentive to contribute to the many public-policy debates with a shorter time horizon than the traditional academic publishing cycle.

Many creative efforts are under way to solve the problems of the academic publishing system, as illustrated by such innovations as PubMed Central (for government-financed peer-reviewed medical research), the Public Library of Science (for author-financed pre-publication peer review and public post-publication annotation), the Social Science Research Network (for on-demand publishing of working papers and other non-peer-reviewed work), and PolicyFile (for fee-based access to select nonprofit public-policy research).

The task is to bring the best of all these new publishing approaches together to reduce the incentives for public-policy plagiarism and narrow the current ethical chasm between universities and think tanks.

Grant makers have a public responsibility to do so because their own money derives from tax breaks provided by the federal government.

Foundations have the prestige and clout to bring about a new think-tank publishing approach because they are a primary sponsor of think-tank research and thus have the leverage to require the participation of their grant recipients.

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Individual foundations focused on short-term, tangible, public-policy achievements may have no more incentive to care about plagiarism than do Chinese consumers who benefit from pirated Hollywood movies. But it is in the long-term, collective interest of foundations to solve the systemic problems that are poisoning the well for innovative public-policy research.

The foundations that have historically been the largest supporters of public-policy research should recognize that, if they band together, they can be a powerful force to mitigate this great social harm.

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