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Daniel A. Farber, Suzanna Sherry. *Beyond All Reason: The Radical Assault on Truth in American Law.* New York: Oxford University Press, 1997. 195 pp. $25.00 (cloth), ISBN 978-0-19-510717-3.

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The Diversity of Merit

The dust jacket of this book carries a very interesting "blurb," written by Laura Kalman: "Although I disagree with every word of this book, I found it utterly absorbing and uniquely provocative." Like Professor Kalman, I disagree with much of this book, and like her I found it not only absorbing and provocative, but challenging as well. The argument offered by Daniel A. Farber (Henry J. Fletcher Professor of Law and Associate Dean for Research, University of Minnesota) and Suzanna Sherry (Earl B. Larson Professor of Civil Rights and Civil Liberties Law, University of Minnesota) forcefully illustrates the need for historians to address the story of post-World War II America. The children of the baby boom have to start thinking about their parents' and grandparents' lives with the same intensity, precision, and professionalism that they bring to the study of our more distant past.

Professors Farber and Sherry argue that much current legal scholarship contributes to a debasing of public discourse. Concerned with stories, the relativity of truth, and the absence of objective reality, much contemporary legal scholarship is a form of "radical multiculturalism" deeply hostile to the rationalism of the Enlightenment that is the basis of democracy. Much of the book reads like a lawyer's brief. Looked at as a contribution to debates about law and legal scholarship, the work is a primary source illustrating how some law professors think rather than a history of late twentieth-century America. The history the authors write is a forensic history.

They do analyze American society from a historical perspective, however, and it is that analysis that poses the real and valuable challenge for historians of the United States. An important part of the authors' thesis is that radical multiculturalism at the least has the potential to lead to anti-Semitism. Radical multiculturalists argue that "merit" has no meaning; all criteria of success are social constructions and in our society are constructed by and favor straight white males. The deck is stacked against people of color, gays, lesbians, all women, and all outsiders. The authors believe that Jews and Asians, however, have attained success, at least as measured by data on family income. That success is most plausibly explained by the emphasis that Jewish and Asian cultures place on "many of the values that turn out to be needed in modern society–like education and entrepreneurship" (p. 59). The necessary corollary of the radical multiculturalist position, however, is that success has been brought about either by evil means–a pervasive conspiracy, the ability of Jews and Asians to mimic the dominant culture, elites permitting their success in order to coopt them–or the coincidence that American culture somehow embodies Jewish or Asian values (pp. 59-67). In short, Farber and Sherry argue that the success of the powerless and despised (Jews and Asians) undermines the radical multiculturalist thesis that merit is a fraud, thus leading to attacks on the successful.

This argument poses interesting questions about American society in the late twentieth century, but the historian's approach to investigating them can pose a

serious challenge to Farber's and Sherry's thesis. First, we should think critically about the claim that Jews and Asians are "successful." For the authors' purposes, the primary support for that claim comes from data on family income. Let us take the datum that, according to the 1970 census, "average Jewish family income was 172 percent of the average American income" (p. 57), and let us assume away all the ambiguities inherent in asking people to self-identify (especially when it is the government asking the questions). Is being Jewish the only or even the most likely explanation of this disparity? First, incomes in urban areas are higher than incomes in rural areas, and incomes in the Northeast are the highest of all. According to the Census Bureau, the median household income in the Northeast for 1994 was $34,926; for the South, it was $30,021. To the extent that the nation's Jewish population is concentrated in the Northeast and underrepresented in the South, some of the disparity reflects the relationship between location and income. Second, other ethnic groups–for example, Italians, Poles, Irish, Germans–may be as successful as Jews and Asians.

Taking a broader look at the question of who is successful, then, might lead us to focus on the enormous change that swept over American society in the wake of World War II. Many members of despised and discriminated-against groups became successful in the second half of this century. It is at least plausible to argue, on the basis of income data, that identifiable groups besides Jews and Asians are successful; second, it is easy to forget how despised many of those groups were in the first half of the twentieth century. The Ku Klux Klan, for example, reached its greatest influence and numbers in the 1920s and its hatred was directed against African Americans, Jews, and Catholics. The Klan could be relegated to the fringes of American life at that time, but we should also remember that Prohibition was both widely popular and explicitly directed at aspects of working-class culture that some people, often old-stock Protestants, found distasteful. The legendary Italian, Irish, or German workingman who drank away his pay and then beat his wife was a staple of dry propaganda, and the neighborhood saloon where these men congregated could be and was seen as an arena of dissolute living, the center of a profoundly "un-American" culture. Al Smith's candidacy for President in 1928 brought forth a torrent of anti-Catholicism. There is no greater symbol of the changes that have occurred in American society than the relative lack of concern over John F. Kennedy's religious heritage. What seemed almost quaint and silly in 1960 was a powerful wave of hatred forty years before.

How and why did American culture change? First, the Second World War did bring together many young men of varied background in circumstances where the threat to life itself may well have overshadowed religious and ethnic differences. On a more mundane level, the greatly enlarged armed forces needed officers and skilled soldiers–and, given the desperate need, they could not be too fussy about how a man's name was spelled. It is certainly possible that Officers Candidate School, open to those without a college education, brought into positions of leadership and authority those who never could have reached such positions otherwise, both emboldening them to dream and accustoming the existing elites to working beside them. After the war, these same men had the opportunity to pursue higher education in numbers impossible a decade before. Educated men in an expanding economy might very well become successful.

In addition, the working-class culture that seemed so threatening in the 1920s seems to have been greatly weakened in the aftermath of the war. Urban ethnic neighborhoods declined in importance. Through both explicit and implicit policy choices, the allure of the suburbs increased. What had been the "old neighborhood" was now seen as a slum, and the dream of home ownership, focused on the suburbs, certainly appealed to many. In addition, many white Americans with working-class roots believed, for whatever reasons, that they could not live beside the African Americans who moved from the rural South to Northern industrial cities. Working-class culture would have a hard time in the suburbs. Density of population decreased dramatically and ethic groups dispersed. Entertainment was more centered on the home. After a long commute by car, how many would undertake another journey every evening to drink with the boys? Television brought a new entertainment medium into the home and provided something for families to do together. With few viewing choices provided by nationwide networks, watching television promoted a common culture–or at least gave people something to talk about–based on something other than shared experience rooted in old country ties. As ethnic communities diminished, a new middle class community arose.

The children of the new middle class suburbanites were the real beneficiaries of these changes. Enormous public resources were devoted to their education. With most schools funded by local property taxes, well-funded schools in one community needed to share nothing with poorer neighbors. When the children of the baby boom came to compete for admission to elite colleges and professional schools, they found themselves in a world

more and more dominated by standardized tests. Well-prepared by their schools–be they public or private–they often did well enough on the standardized measures to be attractive candidates for admission to the most selective of institutions, no matter how their names were spelled or how despised their ancestors had been. In short, not only Jews and Asians have been successful despite widespread discrimination.

Whatever one's opinion of multiculturalism, the importance of this book lies in its provocative thesis about merit. The provocation, however, should lead to serious thought about who has and who has not been "successful" (at least as measured by education and income). The ability of so many to leave behind the prejudices of the pre-World War II period only emphasizes the continuing role of race as the great dividing line in American life. Towards the very end of the book, the authors do acknowledge that "our society does face urgent problems relating to race and gender" (p. 141). It is impossible not to agree. Answering those problems requires us to think clearly and to work hard to understand the history of our own lives.

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