

# From Left to Right

## The Conservative Ideological Influence of Legal Education

by Fred Galves, Esq.

There are many academic and even emotional changes that occur in the life of a first-year law student. With respect to politically liberal first-year law students fresh out of college, however, perhaps the most powerful and yet most subtle change is the way in which they slowly seem to be converted ideologically to conservatism, or the way in which they simply become politically apathetic. Although no such empirical data exists, it seems that many idealistic, left-liberal law students are transformed into conservative or cynically apolitical, corporate-bound attorneys by the time they graduate. It would appear that these students' commitment to social justice somehow gets replaced with a concern for a large salary, individual job security, and corporate prestige. This ideological metamorphosis is reminiscent of the larger societal phenomenon wherein the "hippies" of the 60's became the "yuppies" of the 80's.

### Easy Answers

There are two traditional ideological explanations for this phenomenon. Many political conservatives boast that this left to right ideological metamorphosis is nothing more than a function of political maturation. It is surmised that over the three-year period, liberal law students somehow become politically and ideologically mature such that they begin to see the world in more "realistic" and "practical" terms. As a result, the argument goes, liberal law students soon give up on their "unrealizable visions of utopia" and begin to focus on their own careers and individual livelihoods (as Winston Churchill once said: "a man in his twenties who is not a liberal, has no heart; but a man in his fifties who is still a liberal, has no brain").

From the other ideological camp, some fellow left-liberals charge that such law students have simply engaged in the proverbial "sell out." Such former liberal law students are accused of never really having been politically committed in the first place; that, for them, supporting liberal causes in college was merely a fashionable, passing fad that was expected of "hip" college students (known affectionately as the "radical chic" syndrome).

Accordingly, when such pseudo-liberal law students begin receiving outrageously high starting salary offers from large corporate law firms (Skadden, Arp's annual salaries in New York start at \$90,000), they apparently forget all about the poor, the homeless, the environment, South Africa, Central America, U.S. militaristic imperialism, and the inequalities of racism and sexism, etc. It is further charged that these hypocritical law students even forget about their own class, race, and/or sexual status. Indeed, as a fellow law student from a lower socioeconomic background once told me, "I'm going to help the poor by not being one of them!" (yet another apparent visionary casualty of the 1980's era of greed).

For better or for worse, both the liberal and

conservative interpretations of this phenomenon have a certain degree of truth to them. Much has been written regarding both of these explanations. There is, however, much more to the ideological metamorphosis of liberal law students than is addressed by either of these two traditional explanations. I shall focus upon one such additional explanation I witnessed while in law school.

### What Law Students Actually Learn in Law School

Quite simply, much of this ideological metamorphosis stems from the traditional way in which law is taught, rationalized, and justified in our schools. This is especially true during the first year when law students are most insecure about their legal knowledge and are therefore very willing, without question, to accede to whatever the "experts" teach and assume about the law. Although not all law professors subscribe to traditional legal training, much of their general method of exposing the law directly influences and, indeed, often reconstructs a law student's whole liberal ideological outlook. This establishment training is accomplished in a least two related ways.

### Underlying Conservative Assumptions About "The Law"

First, law students often are subtly taught to conceptualize "The Law" as an objective and apolitical set of rules which they must memorize so that they may later correctly analyze various legal hypothetical situations. As a result, many law students seem to accept, right from the outset, that the law is based upon objective and immutable truths, which unbiased and reasonable judges discover and fairly apply using time-tested legal doctrines. Also, on a far less esoteric level, law students often are inundated with so much work and complicated case law that they simply want to know what the law "is," not what it "ought to be," or "could be." Thus, it is much easier for them to conceptualize and study the law if they can make the "shortcut" assumption that the law is simply a vast set of objective, categorizable, and apolitical rules.

The problem, however, with accepting these largely undiscussed and neatly-packaged apolitical assumptions about the law, is that very often conservative political ideology and values have been enshrined in the law to a much more pervasive extent than have liberal political ideology and values. Accordingly, conservative ideological manifestations in the law are legitimized as "mainstream" apolitical legal doctrine, while liberal values are often viewed as political challenges existing outside of the legal status quo. Thus, liberal causes often seem to be reduced to a mere critique of the legal (conservative) status quo--while conservative causes are accepted and legitimized for the most part because they often make up part of the very fabric of that which constitutes the law.

For example, whenever a law student dares to critique the inequitable racist and/or sexist underlying political, social, or economic implications of certain legal decisions (as opposed to focusing exclusively on the technical legal reasoning of the cases and the black letter rules developed therein) she is often reprimanded for "politicizing the legal issues." She is told: "Your political and philosophical observations are all well and good, but this is a political science or philosophy course—it is a law course."

Thus, students subtly are instructed to ignore that the interpretation of law is sometimes nothing more than a polemical manifestation of a particular judge's own social policy and political philosophy. As a result, liberal law students begin to view the legal status quo merely as an objective state of affairs. For them, the law is not inherently conservative, it simply "is."

Paradoxically, however, liberal law students continue to view challenges to, and critiques of, the legal status quo as political. Moreover, they slowly and tragically begin to believe that the liberal social change to which they were once committed was actually nothing more than a collegiate hodge-pox of their own vague, benevolent, populist yearning. They condescendingly come to think of their former political selves as untrained and uninitiated lay people who may have been well-meaning but simply unaware of the intricacies and complexities of the law. Eventually, they subscribe to the notion that sharply trained legal mind does not confuse hard legal analysis with "non-lawyer like," emotional, political (liberal) concerns.

Idealistic leftist college students, then methodically become visionary cripples in law school as their concern for social and political reform seems to fade with time and become dreamlike and visionary. Again, because liberal causes are often an attack on the legal status quo, while conservative causes are often manifested within the legal status quo (hence the term conservative), law students move more towards conservatism because they are taught to focus almost exclusively on the legal status quo. They simply do not have time for political (which often ends up meaning liberal) considerations when they are trying to learn a vast array of purportedly objective rules of law supposedly devoid of conservative political manifestations. I do not at all mean to denigrate law students by portraying them as individuals lacking in original thought or autonomy; it is just that they are vulnerable to these subtle assumptions given their workloads and desire to "know" the law.

Although the legal status quo certainly contains various liberal manifestations, e.g. school desegregation, abortion rights, the Civil Rights Act, etc., such manifestations are not nearly as pervasive as conservative manifestations. This is especially true when one moves away from constitutional and civil rights law and studies contract, tort, property, business, and corporate law which cover a much more signifi-

cant area of our day-to-day legal system.

Law students, then, come to accept the underlying legitimacy of much of the conservative legal status quo. Moreover, as their heavy reading assignments begin to take their toll, these beleaguered law students soon do not want to be bothered with the additional liberal task of critiquing the legal status quo. Not surprisingly, this acceptance and legitimization of inherent conservative assumptions contained within the law, coupled with the dismissal or even wholesale rejection of liberal, "political," observations about the law, obviously tends to make conservative law students out of liberal college students.

### The Courses Themselves

Second, and very much related, law school course subjects subtly perpetuate and legitimize our economic system of capitalism along with its corresponding social, political, and economic hierarchical relationships. Property law, for example, is based largely upon remnants of English law at a time when England was under the oppressive economic system of feudalism. Such purportedly apolitical and objective assumptions about property and ownership rights as derived from English law, however, often are not considered ideological or political; instead, they simply are considered an integral part of the legal landscape: "that's just the way it is."

Seldom, however, does anyone ever attempt to question seriously the basic assumptions about private property and the power of ownership rights. Instead, law students are taught to master the detailed maneuvers which protect the interests of

landowners. If, however, a law student argues for an interpretation that would extend property rights to, say, workers over the machines and mills in which they produce the goods of society, they quickly are reprimanded for trying to change the very nature of property rights with political ("Marxist") rhetoric.

Similarly, in contract law, law students learn, once again, the detailed maneuvers that skilled lawyers make in construing agreements. Seldom, however, are law students taught to question seriously the unfair bargaining power of the parties which often dictate the terms of many agreements in the first place (unless the unfairness is so grotesque that it borders on fraud; legally such is termed "unconscionability"). The excuse for this curious deletion is that contract law cannot be expected to deal with society's larger political, problems such as social and economic inequality. Therefore, law students are taught that it is simply impractical and unproduc-

tive to attempt to meddle "too much" with the rules of contract law since those rules are essentially outside the scope of such political challenges. Thus, teaching law as a mere set of objective, political rules facilitates the legal and political status quo (which is based largely on conservative values and conservative precedents from the past). As a result, law students come to believe that they are only in law school to learn the law, not to question or challenge it from a political (which, again, often ends up meaning "liberal") point of view. To intellectually maintain the status quo, however, is the very essence of conservatism. Consequently, taking such courses and analyzing the law so narrowly for three years necessarily is going to have the subtle but powerful effect of changing at least some liberal law students' ideological visions of social and political reality.

### Undergraduate Vis a Vis Legal Education

It is also important to compare and contrast the critical differences between a liberal arts undergraduate experience and the law school experience. While in college, liberal students are encouraged intellectually to challenge the conservative status quo, to question assumptions, and to be visionary. In law school, however, these same students often are made to feel that they are wasting their time challenging the legal status quo because the study of law is essentially outside the realm of "politics." Indeed, often times political critiquing of the legal status quo is reduced to sort of an extracurricular activity in

and concerns are often dismissed as subjective, fringe, political critiques of the system existing outside the realm of law and the judiciary.

As a result, law students almost unwittingly become experts and defenders of "the system." That is, they learn how to employ the law in such a way as to reinforce and justify the existing distribution of power and wealth in American society. Moreover, they do so all the while believing they are not engaging in a political act. Accordingly, the inherent conservative values and ideologies in which they slowly come to believe sort of "sneak up" on them surreptitiously simply because they think they are just learning legal rules and doctrines (not conservative political ideology). Moreover, given their heavy workload, mastering the rules is all law students seem to have time for anyway. Such indoctrination, therefore, is certainly not going to make liberals out of young conservatives, and it should be easy to see why the reverse is often true.

By making these observations, I am not advocating necessarily that law should be taught in a totally different manner, although that would be an interesting subject for a related but different article. Instead, I simply have attempted in this article to describe an *additional* reason why liberal law students fresh out of college seem to become conservative or politically apathetic by the time they graduate. Thus, it is not just the lure of money or the process of "growing up" politically, which causes their ideological metamorphosis. The move from left to right along the political spectrum also has to do with how liberal law students come to conceptualize and accept inherent conservative manifestations in the law and, simultaneously, how liberal concerns and ideology eventually are dismissed because such concerns, after a while, are deemed to exist "outside" the law on the unimportant "political fringe."

None of the foregoing, I think should be surprising to anyone. It is no secret that law schools and many other such professional schools prepare graduate students to be the driving force behind corporate America. Ultimately, however, if an ideological left-liberal law student is constantly aware of (1) the inherent conservative political slant of law school training; (2) why they came to law school in the first place; and, (3) who they want to be, then they can garner valuable legal education without falling victim to the subtle ideological metamorphosis which is so pervasive in law schools.

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law school. Although such critiquing is sometimes acknowledged by some law professors as an important analytical exercise, often it is simply postponed. "Learn the law as it is," students are told, "then you can critique it later"—but the promised "later" never seems to come. Moreover, such political concerns "probably won't be on the test," (and they certainly will not be on the bar exam), so why even bother?

### Conclusion

One of the ultimate lessons of law school, then is that although capitalism and hierarchical arrangements are to be protected by the law, the law, somehow, must simultaneously be thought of and exposed as a largely objective rule system devoid of conservative political ideology. Consequently, conservative values inherent in the law are subtly legitimized as part of an objective mainstream apolitical rule system, while, on the other hand, liberal values

