

# The Amoralism of Legal Andragogy

Heidi Boghosian<sup>1</sup>

Law schools do a great disservice to a profession that could potentially transform social justice in this country. Legal andragogy<sup>2</sup> is devoid of any critical analysis of the social policies that inhere in law or meaningful discussion of the role of lawyers in society. Rather, law school teaches students to do legal reasoning in a moral vacuum. As a result, graduates see the vocation of law as fee-for-service in which the lawyer cannot make autonomous choices and does not feel responsible for the end to which those services are put. The law school curriculum discourages altruistic values with its conservative view of the lawyer's role as a passive representative of the client's wishes. It discourages activist tendencies since activism is perceived as incompatible with the dominant conception of lawyering as neutral and apolitical.

Legal andragogy should teach that the choices lawyers make – about where to work, about who to represent, even about what reasoning to employ – have important moral and political implications.<sup>3</sup> While law schools teach that the nature of the attorney/client relationship must be neutral and apolitical, the law school experience is anything but. It serves as a de-moralizer in which students learn that it is not lawyerly to stand up for what one believes. Rarely does the law school agenda suggest that students can elect not to work for large corporations whose investments or practices may run counter to their personal values. Students inclined to work for corporate firms graduate without the tools to recognize the negative social impact (for example on human rights or the environment) of corporate work. Students already aware of social issues are strongly discouraged from doing work that addresses them. Anxiety to conform, and to learn how to think like a lawyer, renders students especially vulnerable to becoming less driven by their convictions.

When law students graduate, this drive to conform--frequently to a definition of success not necessarily their own--has deprived them of exposure to 'people's lawyering'<sup>4</sup> and thus models and techniques which can prepare them to work toward creating a more just society. This is not surprising given that only a few law students are exposed first-hand to the faces of indigency or political injustice before they graduate. The American Bar Association (ABA) criticized the traditional law school curriculum in its 1992 MacCrate Report as rendering law students unable to provide competent representation of clients after graduation, and of only providing limited instruction in four fundamental values of the legal profession--one of which includes striving to promote justice, fairness and morality.<sup>5</sup> Yet, part of being a lawyer means accepting responsibility for society's neediest, not only because each person has the right to redress legal grievances through the adjudicative process, but also because meaningful access to the legal system requires the assistance of a lawyer.<sup>6</sup>

The inadequacies of the current legal andragogy are reflected in part in a high level of job dissatisfaction among young practitioners. The ABA's Young Lawyers Division in 1995 found that only 21% of recent graduates were "very satisfied" with practicing law.<sup>7</sup> A study of lawyers by the Johns Hopkins School of Public Health in 1990 revealed that lawyers show the highest levels of depressive symptoms of all professions studied. With a national attrition rate for large law firms at 68% over six years,<sup>8</sup> "[d]isillusionment runs rampant among attorneys who believe they have no personal life and are just cogs in the business machinery of the major law firms."<sup>9</sup>

## I. Teaching How to "Think Like a Lawyer"

The present law school curriculum follows a scientific model in its approach to law as a subject of study. Legal reasoning, according to the dominant paradigm, should not be influenced by feelings or moral considerations.<sup>10</sup> Doctrinal neutrality, or objectivity, as law professors refer to it, is exclusively a methodology used to guide legal analysis, rather than a process of practical

problem solving.<sup>11</sup> This scientific model, introduced to law school pedagogy by Christopher Columbus Langdell in the late nineteenth century,<sup>12</sup> remains the model according to which first year law students are almost universally taught.<sup>13</sup>

Under this scientific model, law is broken down into doctrinal areas such as torts, contracts, property and criminal law, with each area being taught separately. In their first year of instruction, when their very conception of law is being formed, students are rarely exposed to any courses directly addressing ethics or justice.<sup>14</sup> Within each course, students learn both the rules of law applicable to an area (so-called black letter law) and the techniques judges use to reach decisions – the concepts that guide legal reasoning itself (such as *stare decisis* and the plain meaning rule). Using actual decisions as a model, students learn the techniques lawyers must use to make arguments that will persuade judges to rule in their favor.

It does become apparent that the lawyer has choices to make. Law students are taught that they can argue both sides of a dispute. There are multiple interpretations of how general legal principles apply to specific fact-patterns. There can even be disagreement as to which principles of legal reasoning may be applied. Students are even taught that considerations of social policy enter into judges' reasoning, and that they must choose whether to make social policy arguments and which ones to make. But the lawyer's choices are purely strategic – the lawyer merely chooses what to say to win the argument. The lawyer has no influence over legal doctrine, the relevant social policies, or the principles guiding legal reasoning. The lawyer has no choice to promote particular doctrines or policies. The lawmakers determine what the doctrine is. The courts determine when social policy arguments are relevant and which social policy arguments are relevant. As legal doctrine (including the doctrine of legal reasoning itself) is presented to law students, its moral or political implications appear to be completely irrelevant to the lawyer's job. If they want to present persuasive (read *winning*) arguments, lawyers must simply adhere to the rules as laid down by the lawmakers.

Nowhere is law school's lesson that moral considerations are irrelevant to the practice of law more apparent than in the law school course dedicated to legal ethics or professional responsibility. Rather than being an analysis of the ethical dimension of law – of how legal doctrine implicates moral questions – legal ethics is taught as another area of legal doctrine, like torts or property. Legal ethics courses study the rules of professional responsibility and teach future lawyers how to recognize when their actions may be addressed by these rules. In essence, legal ethics courses teach law students to treat questions of professional responsibility as problems to solve in the course of representing clients.<sup>16</sup> The question "What can a lawyer do for the good of society?" never arises in a course on professional responsibility. Rather, the pertinent question is "What can I get away with without getting in trouble with the disciplinary board?"<sup>17</sup>

Legal education could be structured differently. Legal education could view law not as a set of principles and techniques to be used to fulfill clients' wishes, but as an instrument for achieving a social order and for realizing values.<sup>18</sup> This alternative view considers law not as a set of rules, but as a social phenomenon, and it views the task of legal andragogy not as merely teaching the principles by which courts make decisions, but as a critical evaluation of those principles which has a particular interest in advancing social justice. Law students trained as legal technicians do not know how to question or even identify the moral or political implications of legal doctrine. Law students trained as critical thinkers, under an "enlightened" legal pedagogy, have the tools to expose popular myths about the law, and to direct their careers as lawyers toward improving society.<sup>19</sup>

## II. Keeping Law Students Off the Frontlines

Ingrained pressure to conform to the status quo, coupled with students' resulting vision of themselves as "employees" willing to take direction from long-established institutional norms, rather than as leaders, results in young attorneys essentially relinquishing their own professional

development.<sup>20</sup> By emphasizing technical aspects of the legal profession, law school andragogy fosters a denial of the potential of its graduates' work significance, a process of "ideological desensitization."<sup>21</sup>

Law school perpetuates a kind of dependency on institutions, rather than encouraging self-thinking and direction,

[a]nd it also teaches them that if they are willing to accept extreme dependency and vulnerability for a probationary term, later institutions will (probably) take care of them almost no matter what. The terms of the bargain are relatively clear. The institution will set limited, defined tasks and specify minimum requirements in their performance. The student/associate has no other responsibilities than performance of those tasks. The institution takes care of all the contingencies of life, both within the law (supervision and backup from other firm members; firm resources and prestige to bail you out if you make a mistake) and in private life . . . . In exchange, you renounce any claim to control your work setting or the actual content of what you do, and agree to show the appropriate form of deference to those above and condescension to those below.

By comparison, the alternatives are risky. Law school does not train you to run a small law business, to realistically assess the outcome of a complex process involving many different actors, or to enjoy the feeling of independence and moral integrity that comes of creating your own job to serve your own goals.<sup>22</sup>

While law schools tout their respective public interest programs, and purport to value applicants who boast a commitment to societal betterment, the number of graduates who actually take jobs in the public interest is in the low single digits. The National Association for Law Placement's employment figures for the 1996 graduating class from the nation's ABA-accredited law schools reveals that only 2.5% of graduates listed public interest as their initial employment upon graduation.<sup>23</sup> Private practice and business and industry totaled 69.9%. Judicial clerkships and other government totaled 22.8%. Academic and military ranked 1.3% and 1.2% respectively.

Students hoping to use their law degree to work for social change are in for a letdown in law school when they find that there is little support, especially financial assistance, for those hoping to work in public interest. Relatively few public interest scholarships, or supplemental income opportunities, exist for summer public interest placements, which may reinforce students' desire to work in that field. And Loan Repayment Assistance Programs (LRAP) are rarely of any real assistance. Georgetown graduates indicate their resulting disappointments: "Public interest work is undervalued and under-emphasized in every conceivable way at Georgetown."<sup>24</sup> And, "I am...frustrated by the fact that I thought Georgetown and LRAP would enable me to do the work I came to law school to do, to provide legal representation to those who would otherwise have limited access to the protection of the laws that is everyone's right."<sup>25</sup>

A second-year student at Benjamin N. Cardozo School of Law notes that a significant factor in her decision to attend Cardozo was the claim in admissions literature that Cardozo was one of the best public interest law schools in the country.<sup>26</sup> When she arrived, she found that while there was a Public Interest Law Students Association (meaning there were students involved in public interest work on and off campus who were dedicated to making sure students had an outlet for progressive ideas) it was apparent that public interest was not a serious priority to the law school administration.

Despite the existence of progressive professors, students and staff members, she noted that "One-Ls are continuously bombarded with rhetoric about the importance of grades, rank and the Socratic method over contributing ideas or skills applicable in a world where all things are not equal and all methods of social classification are neither fair nor just, logical nor reasonable. The law school machine prepares most students for a world of corporate domination, wielding them the skills to do the legal work that maintains the status quo."<sup>27</sup>

The moral neutrality of the law school andragogy deprives future lawyers of potentially endless opportunities for a long and enjoyable career practicing law in a way that is personally and professionally meaningful. Some of the most rewarding legal work consists of helping others work in the frontlines to right social injustices. René Saucedo, an attorney at La Raza Centro who has organized resistance to INS raids in the San Francisco Bay area, describes the rewards of being what she calls a "radical woman lawyer."<sup>28</sup> Working with women who experienced INS raids, they filed a housing discrimination case and pressured the local police chief, using the local press, to stop collaboration with the INS. The police chief yielded to their demands. A similar victory occurred in San Francisco, in which undocumented immigrant women organized and persuaded the Board of Supervisors to pass landmark legislation, declaring itself an "INS Raid Free Zone," including in that legislation that the Mayor communicate directly to the INS that it is not welcome in San Francisco.<sup>29</sup> "My role as a radical woman lawyer in efforts of resistance is to contribute knowledge, to share information, to create dialogue to find effective strategies, and overall, to be supportive of other women's ideas and plans of action. Resistance is sometimes frightening but it almost always works, eventually."<sup>30</sup>

### **III. Values Shifting in Students**

While a large number of incoming students plan altruistic careers, few actually follow this path after graduation. Law school andragogy shifts both perceptions of what constitutes altruism and how it can be accomplished. By placing great emphasis on corporate and commercial law concerns, interviews and job placements, law schools limit the concept of how lawyers can serve society. Given the real financial and perceived psychological rewards that accompany joining prestigious law firms, even the most altruistic students frequently deviate from a planned path of public interest law.

One decade ago, sociologists studied students from working class backgrounds at Harvard Law School and argued that a shift among entering students who planned to pursue public service jobs in which few graduated with such aspirations was due to a re-socialization process rather than because of monetary demands or job availability.<sup>31</sup> From the welcoming speech, a dominant moral code was revealed in which no part of the legal profession has a monopoly on good doing.<sup>32</sup> Public service law is redefined, so that *pro bono* work sponsored by elite corporate or firm employers is seen as the most effective way to promote social change.<sup>33</sup> First-year students in the working class study reported higher levels of stress than their classmates, in part due to fears of academic shortfalls. Nearly all those entering working class students interested in pursuing public interest said they felt inferior in the first year.<sup>34</sup> They sought to rebuild their esteem by changing their behavior. Nervous about law school and anxious to succeed, they do this by adopting the values of the elite environment. They are rewarded by feeling accepted and belonging, as well as by economic confidence associated with firm jobs. The process of fitting in is finalized when these working class students are offered high paying summer jobs. These students gradually believe that effective social change happens largely through an elite position with its accompanying resources --they can have it all and still maintain their ideals.<sup>35</sup>

### **IV. Law Students in the Trenches: Inculcating Morality into the Legal Profession**

Law schools can prepare students for the profession and for working for justice by giving them alternatives to working for the big firm, and by teaching them that just as "professionals" are held to a higher standard, that standard includes taking responsibility for the kind of work they pursue. The legal andragogy should foster autonomous thinking and action and implement a hybrid system of teaching that includes the Socratic method, problem solving, integrated research, and writing into each course, clinical education program and professional mentoring program. Students should also participate in changing the law school agenda, much as they should later work to redress injustices in society.

A possible model for accomplishing these objectives might look like this:

### Create Culture that Rewards Rather than Punishes Activism

Students should be given academic credit for initiating or participating in actions that directly help local communities. For example, students may invite lawyers to conduct trainings at law schools on how to serve as legal observers at local events, such as actions by pro-life demonstrators in front of abortion clinics or larger anti-globalization demonstrations. Students who attend trainings and serve as legal observers for several local events during a semester would receive one or two academic credits by presenting a paper outlining key points learned at the training and put into practice at documented rallies. Learning how to serve as a neutral observer collecting information on incidents in order to be a credible witness in a potential criminal court case, and to adapt to the circumstances of each event, provides more real-life training in one or two hours than is often gleaned in an entire semester. Observers gain critical skills by learning how to talk with those who have been arrested, and to inform them of their rights, including the right to remain silent. Learning to make clear that they are not speaking for protestors and that evidence to be collected is to be used in the defense of protestors rather than to incriminate them forces legal observers to think on their feet and is excellent preparation for legal practice.

Students can work during winter and spring breaks with asylum seekers, detainees, and other non-citizens seeking immigration status in South Florida or on the U.S./Mexico border by volunteering with agencies at the forefront in the fight for immigrants' rights. Arranged through the National Immigration Project of the National Lawyers Guild (NIPNLG), participating students employ advocacy skills in a context quite different from a clinic or classroom. In addition, NIPNLG has joined efforts with the Detention Watch Network (DWN) to provide a greater diversity of opportunities for students who wish to work for the rights of immigrants by creating the Immigration Detainee Defense Initiative Directory. Students should encourage law schools to give academic credit for such work and to aggressively promote such endeavors in school literature.

### Professors Provide Examples of Alternatives to Corporate Jobs

Professors should explain that graduates could work to improve society by advancing the goals of political and social movements, or by working as a public defender or for a nonprofit legal services organization. Non-corporate work doesn't have to be not-for-profit work--other opportunities include pro-labor firms, plaintiff side firms, or private practice for non-corporate clients.<sup>36</sup> Some statistics reveal that plaintiff attorneys actually make more money than corporate lawyers when considering class action judgments.<sup>37</sup> Personal injury firms, "long denigrated as 'ambulance chasers,' bear a certain Robin Hood quality when you consider that insurance companies make obscene profits by short-changing plaintiffs on legitimate claims."<sup>38</sup>

Working for the government, for example, is rife with opportunities to work to preserve and/or enforce the rights of the people or to enforce the relatively few regulations imposed on corporations.<sup>39</sup> Such regulatory agencies as the Environmental Protection Agency, the Securities and Exchange Commission and the Federal Trade Commission not only require attorneys to enforce regulations but also to propose changes,<sup>40</sup> which allows a certain amount of creative thinking. And attorneys can defend employees' rights by working for administrative agencies such as the National Labor Relations Board and the Equal Employment Opportunity Commission, or their state equivalents.<sup>41</sup> For those with a prosecutorial bent, working for the U.S. Attorney's white-collar crime division can be progressive. State prosecutors offices afford opportunities for oversight, such as diversion programs created to lift the weight of prison overcrowding.<sup>42</sup>

### Clinical Experience in Public Interest a Requirement for Graduation

Working in law school clinics serving low income clients shows law students that the legal profession can be their own mode of civic involvement, as well as a means of providing others access to justice.<sup>43</sup> Such work sensitizes students to the burdens of poverty and fosters a

commitment to serving the indigent community after law school.<sup>44</sup> *Pro bono* placements can legitimize the practice of working with underserved communities and reveal how rewarding such practice can be.<sup>45</sup>

Professor David Dominguez describes a clinical seminar in which students learn the art of “redemptive lawyering.”<sup>46</sup> According to Professor Dominguez, in both legal andragogy and society at large, lawyers are predominantly conceived as “problem solvers.” Lawyers step in to usher people through an arcane judicial system designed to handle disputes that could not be resolved privately. Professor Dominguez argues that instead of merely solving problems, lawyers could empower community organizations to tap their own resources as advocates and problem-solvers by building relationships with other organizations, government service providers and businesses. Redemptive lawyering “seeks to cut the legal system down to size” by creating “a responsible network of caring relationships and effective collaboration.”<sup>47</sup> Rather than viewing the lawyer as someone who reacts when someone calls on her to settle a dispute, redemptive lawyering views the lawyer as an instrument in building a civic community less dependent on the legal system and more reliant on its own networks to fulfill people’s needs.

In Professor Dominguez’s seminar, students established ties between, for example, church representatives, police officers, and agents of public and private family treatment programs. The students encouraged these groups to collaborate in managing the issues facing the community as a whole, and thus to free themselves of the paralysis imposed by the adversarial legal system.<sup>48</sup>

#### Law School Administration Commits to Hybrid Model of Teaching

The Socratic method has value for helping students think on their feet, avoid intimidation, develop some competency in public speaking, and learn how to analyze and speak about caselaw. This should be combined with the other frequently used problem solving method of teaching, in which students apply rules of law to written fact patterns, more along the lines of how practicing attorneys work.

Most important, perhaps, is making legal writing and research a part of each course, in addition to the introductory course required in all schools. Writing forces students to think analytically, to express themselves cogently and envision a real-life audience more similar to real life than the classroom environment offers. It helps them develop their own unique means of communication, thereby helping foster a sense of autonomy.

Because law professors already serve as role models for students, and because most students develop professionally in their first legal job, law schools should institute a formal mentoring program. In the early days of legal education, apprenticeship in an attorney’s office provided an alternative to law school before taking the bar exam. This “real world” experience would serve students, and the legal profession, well.

#### Students Participate in Making Changes

Students should supplement their legal studies by working to effect positive systemic changes in their law schools.<sup>49</sup> They can do this in several areas: admissions; financial aid/loan repayment assistance; student government; faculty/academic committees/ alumni/public relations; career planning and faculty diversity.<sup>50</sup> It is essential that progressive students become involved in learning about the admissions process to ensure that the right questions are asked and that the students, faculty and staff understand how its admissions process works. Loan repayment programs are critical to ensure that students opting to pursue public interest careers can be assisted in meeting their debt obligations. Student government is a highly effective way in which to promote changes in the curriculum, from allocating student activities funds to speaking as the “legitimate” voice of the student body when dealing with administration. Students need to work to ensure that this voice is reflective of the range of interests and people comprising the student

body. Faculty and Academic committees are influential places to decide what courses are required and what new faculty will be hired. Often these committees are unaware that they can play a role in promoting public issues. Involvement with alumni affairs can be a means of promoting a more diverse, public-interest-oriented agenda, as many alumni might be interested in helping to fund such initiatives.

These alumni can also wield some influence with the law school administration that seeks their continued financial support. They can also help with public relations to highlight the law school within the community. The Career Planning Office will likely be very open to working with students to help make available public interest employment opportunities, through expanding the Office's resources and contacting public interest alumni. Students can also maintain pressure on law school faculty and administrators to recruit faculty from diverse backgrounds.<sup>51</sup>

Students should send requests for information to the law school dean so as to evaluate the extent to which the school provides information and resources necessary for students to grasp the fundamental values of the legal profession and to make well-informed decisions about a range of rewarding practice options.<sup>52</sup> Examples of what to include in the requests for information are: written material describing how faculty teaches the importance of self-development and the obligation of students to take positions that are in line with personal values and professional aspirations; a list of fundamental skills with a course catalogue indexing courses by the skills taught; the years of experience of all tenured faculty in representing individuals in "personal plight issues" stated as a number and as an average; the name of the person whose full-time responsibility is to advise students on budgeting and financial planning, aside from a student loan office staff member; the percentage of career services budget for on-campus interviewing and the percentage for career counseling; any written policies covering the percentage of faculty work week devoted to preparing for class, teaching, and advising students versus the percentage devoted to research and writing; any policies that detail the responsibility of faculty to mentor and guide students into law practice by recommending courses and referring to positions, along with the weight given to such advising when considering tenure decisions.<sup>53</sup>

#### Career Services Work One-on-One with Students to Find or Create Jobs That Will Best Suit Their Needs

Law school career development centers should encourage students to think creatively about designing their own public interest jobs. One lawyer describes how she created an organization devoted to stop "patient dumping" in California. "When I began law school I never imagined that, two years out, I would consider fundraising to have become one of my most valuable skills...since the current resources devoted to public interest work do not begin to match the needs in the communities, students should recognize that finding their own funding is an especially effective route to take. Raising money has enabled me to set up an organization to do exactly the kind of advocacy work I hoped to do on issues of access to health care."<sup>54</sup> She notes that after identifying a need, or a cause they care about, students need to focus, be visionary about how to fill it, build allies, and organize coalitions.

Schools should balance the corporate influence by incorporating into career development resources references to effective efforts of lobbying, advocacy and grassroots legal organizations and alternative bar associations. The career center should invite guest speakers who have experience in these efforts. Guests should talk about their practice, significant cases they have worked on and the challenges and rewards they experience in their day-to-day practices.

The Columbia University Law School Chapter of the National Lawyers Guild took seriously the issue of researching law firms and prepared a guide for other students to use in deciding if firms measure up to the values of the students applying for jobs. A committee of eleven Guild members researched the ten largest firms in New York City and documented their research techniques, focusing on three areas of concern that they deemed to merit attention: a) clients the firm has represented, b) specific cases the firm has taken, and c) *pro bono* programs.

The guide encourages students to ask whether the clients the prospective firm serves are the kinds of organizations they would want to benefit from their talents, and whether students would feel comfortable working on the cases the firm handles. Included is *The Multinational Monitor's* list of the ten worst corporations of 2000 and results of the committee members' research to determine which firms represented those corporations.

The authors note that *pro bono* programs vary considerably from firm to firm and urge students to ask prospective employers if they will actually get to do both the type and amount of *pro bono* work that they want to do. They recommend that when researching *pro bono* opportunities, students should consider whether *pro bono* hours are billable, whether they are limited (officially or unofficially), who the *pro bono* clients are, and who in the firm actually does *pro bono*. The authors advise that: "By making *pro bono* work a priority in choosing our employment, we can and should demand that firms value *pro bono* clients as much as their corporate ones."<sup>55</sup>

The career development center at all law schools should conduct comparable research and make similar information and guidance available for law students.

## V. Conclusion

The existing law school curriculum and method of teaching is harmful both to young lawyers' ability to make autonomous decisions about the way in which they practice law, and to how justice is administered in this society. The dominant paradigm discourages students from thinking autonomously about what they can do as lawyers, and instead encourages them to adhere to a status quo model that may espouse values contrary to their own. This model is detrimental to the student, the profession of lawyering and the larger society.

A better andragogy integrates multiple teaching models--socratic, legal reasoning, clinical, professional mentoring, legal research and writing--and instills in students the value of thinking and functioning autonomously. A more effective law school curriculum incorporates a critical analysis of the moral and political content of law. By giving students a wide range of models of how law can be practiced, as well as the tools to comprehend the social import of their work and the power they possess, students, the legal profession, and society at large will benefit.

---

<sup>1</sup> Executive Director, National Lawyers Guild. Brown University, BA; Boston University, MS; Temple University Law School, JD. The National Lawyers Guild was founded in 1937 as a racially-integrated alternative to the then-segregated American Bar Association. Its members are lawyers, legal workers, law students and jailhouse lawyers dedicated to the principle that human rights are more sacred than property interests.

<sup>2</sup> The term andragogy, meaning to teach adults, was popularized by Malcolm Knowles, who was frustrated in attempts to adapt a pedagogic model for use with adults. Pedagogy derives from the Greek words child (paid) and leading (agogus), or to lead a child. Andragogy sees learners as unfinished beings (as opposed to receiving objects) who chose between ignoring or dealing with disorienting experiences. It is through the process of dealing with incongruities, that learning occurs. Filippa Marullo Anzalone, *It All Begins with You: Improving Law School Learning through Professional Self-Awareness and Critical Reflection*, 24 *HAMLIN L. REV.* 324, 348 (2001).

<sup>3</sup> J.G. Deutsch, *The Teaching of Corporate Law: A Socratic Investigation of Law and Bureaucracy*, 97 *YALE L.J.* 96, 97 (1987).

<sup>4</sup> Various terms exist to describe lawyers actively working to effect social change, including Rebellious Lawyering, Transformative Lawyering, Cause Lawyering and Critical Lawyering. Although Louise Trubek and M. Elizabeth Kransberger write that these terms describe a relatively new strategy for socially conscious lawyers that developed in the 1990s, the National Lawyers Guild has been committed to "People's Lawyering," since the late 1930s. The goal is to provide subordinated groups more access to legal representation and social amelioration. Louise Trubek & M. Elizabeth Kransberger, *Cause Lawyering and the Organization of Practice: Social Justice and the Structures of Private Practice*, *CAUSE LAWYERING*, 201 (Austin Sarat & Stuart

---

Scheingold eds., 1988) (citing GERALD LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992)). Trubek and Ruth Buchanan have described critical lawyering's two-prong goal of improving lawyer/client relationships to more effectively work on behalf of traditionally subordinated groups while also rethinking the relationship between legal work and political mobilization. *Id.* at 222 (citing Ruth Buchanan and Louise G. Trubek, *Resistance and Possibilities: A Critical and Practical Look at Public Interest Lawyers*, 19 N.Y.U. REV. L. & SOC. CHANGE 687 (1992)).

<sup>5</sup> Robert MacCrate, *The MacCrate Report*, 1992 A.B.A. SEC. LEGAL EDUC. & BAR ADMISSIONS.

<sup>6</sup> Tigran W. Eldred and Thomas Schoenherr, *The Lawyer's Duty of Public Service: More than Charity?* 96 W. VA L. REV. 367, 394, (1993-94) (citing DAVID LUBAN, *LAWYERS AND JUSTICE: AN ETHICAL DUTY* (1988)).

<sup>7</sup> Gary L. Reback, *Down by Law*, FORBES, Dec. 3, 2001.

<sup>8</sup> David Schuyler, *Disillusioned Lawyers Seek Careers Outside Law Firms*, MILWAUKEE BUS. J., August 6, 1999, available at <http://www.bizjournals.com/milwaukee/stories/1999/08/09/focus2.html>.

<sup>9</sup> *Id.*

<sup>10</sup> Jane B. Baron & Richard K. Greenstein, *Constructing the Field of Professional Responsibility*, 15 NOTRE DAME J. L., ETHICS & PUB. POL. 37, 42 (2001).

<sup>11</sup> ARTHUR AUSTIN, *THE EMPIRE STRIKES BACK: OUTSIDERS & THE STRUGGLE OVER LEGAL EDUCATION* (NYU PRESS 1998).

<sup>12</sup> See Christopher C. Langdell, *Teaching Law as a Science*, 21 AM. L. REV. 123 (1887).

<sup>13</sup> Jane B. Baron & Richard K. Greenstein, *Constructing the Field of Professional Responsibility*, 15 NOTRE DAME J. L. ETHICS & PUB. POL'Y. 37, 39 (2001).

<sup>14</sup> *Id.* at 43.

<sup>15</sup> See generally

<sup>16</sup> *Id.*

<sup>17</sup> Some law professors, however, including Deborah Rhode of Stanford Law School, are successful in making the study of legal ethics both engaging and enlightening. Unfortunately, such efforts remain the exception rather than the rule.

<sup>18</sup> S. Prakash Sinha & Philip S. Eder, *An Enlightened Legal Pedagogy for Today*, 27 J. LEG. EDUC. 572 (1975).

<sup>19</sup> *Id.*

<sup>20</sup> Catherine Gage O'Grady, *Preparing Students for the Profession: Clinical Education, Collaborative Pedagogy, and the Realities of Practice for the New Lawyer*, 4 CLINICAL L. REV. 485, 487 (1998).

<sup>21</sup> Margaret Thornton, *Technocentrism in the Law School: Why the Gender and Colour of Law Remain the Same*, 36 OSGOODE HALL L. JOURNAL, 369, 380 (1998).

<sup>22</sup> Duncan Kennedy, *Legal Education as Training for Hierarchy*, in *THE POLITICS OF LAW* 54, 65 (David Kairys ed., 3d ed. 1998).

<sup>23</sup> National Association For Law Placement, *The Job Market For Recent Law School Graduates*, available at <http://www.richmond.edu/academics/a&s/polisci/prelaw/nalp.html> (last visited May 3, 2002).

<sup>24</sup> Georgetown Equal Justice Foundation, *Revitalizing Public Interest At Georgetown: A Report of the Equal Justice Foundation*, 1993 available at <http://www.geocities.com/CapitolHill/Lobby/2263/rpi.html> (last visited May 3, 2002).

<sup>25</sup> *Id.*

<sup>26</sup> Lauren Johnson, *Making Public Interest Work More Than Just A Catch Phrase*, 25 GUILD NOTES (National Lawyers Guild, New York, N.Y.), Winter 2001, at 41.

<sup>27</sup> *Id.*

<sup>28</sup> René Saucedo, *Radical Women Lawyers: Building a Culture of Resistance to Oppression*, 57 GUILD Prac. 14, 17 (2000).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Robert Granfield & Thomas Koenig, *From Activism to Pro Bono: The Redirection of Working Class Altruism at Harvard Law School*, CRITICAL SOCIOLOGY 57 (Spring 1990).

---

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 71.

<sup>36</sup> Nathan Newman, *Resist the Corporate Suck!*, 2001-2002 DISORIENTATION HANDBOOK 14 (National Lawyers Guild 2001).

<sup>37</sup> *Id.*

<sup>38</sup> Dave Saldana, *It's Not a Choice Between Saving the World and Losing Your Soul*, 2001-2002 DISORIENTATION HANDBOOK 15 (National Lawyers Guild 2001).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Michael A. Mogill, *Professing Pro Bono: To Walk the Talk*, 15 NOTRE DAME J. L. ETHICS & PUB. POL'Y. 5, 27 (2001).

<sup>44</sup> *Id.* at 28.

<sup>45</sup> Jill Chaifetz, *Value of Public Service: A Model for Instilling a Pro Bono Ethics in Law School*, 45 STAN. L. REV. 1695 (1993).

<sup>46</sup> David Dominguez, *Redemptive Lawyering: The First (and Missing) Half of Legal Education and Law Practice*, 37 CAL. W. L. REV. 27 (2000).

<sup>47</sup> *Id.* at 32.

<sup>48</sup> *Id.*

<sup>49</sup> In 1946 the National Lawyers Guild recognized the importance of bringing law students into the organization, and amended its constitution to allow for student chapter and individual student membership. Chapters were immediately organized at several law schools including University of Michigan, University of California, Columbia, New York University, Wisconsin, Yale and Harvard. One reason was to assist with post-graduate employment, since over 80% of the student bodies were veterans. The Guild's program of Neighborhood Law offices was to be presented to students as a method of expanding professional employment opportunities. Of nearly equal importance was the need for fundamental law school curriculum reform. Basic deficiencies with the case method of teaching, a lack of contact with practical problems of the bar, and inadequate problem resolving techniques were cited as deeply ingrained curriculum problems. Finally, the need for "fuller personal integration with the profession while still at law" ?? school was cited. Joint student-lawyer activities, panels of lawyers, and extra-curricular 'discussion groups' were seen as a partial way to help integrate students to the profession. The final reason was the need to help erase discrimination in legal education. Discrimination against African-American students, was prevalent. As a democratic bar association, the Guild paid special attention to organizing activities in the Southern Negro law schools, and took part in pending legal fights aimed at Jim Crow educational practices in the South. [Is this a quote?] The end of the war has brought about a resurgence of discrimination against women in the law schools which should equally be opposed by the Guild together with the existing discrimination in admission, moot courts, legal fraternities, against Jewish, Negro and Catholic students. Finally any policies of discrimination in employment of faculty members should be brought into the open by the Guild. *The Guild and the Law Student*, 6 LAWYERS GUILD REV., 596, 597 (Sept.-Oct. 1946) (Report of a Special Committee submitted to and adopted by the National Executive Board, National Lawyers Guild).

During the civil rights movement, the National Lawyers Guild provided legal aid to a historic movement before it became a national cause. The Southern Project presented an opportunity for thousands of movement activists and scores of law students to see the Guild at work. A HISTORY OF THE NATIONAL LAWYERS GUILD 1937-1987 40 (Victor Rabinowitz & Tim Ledwith eds., 1987).

<sup>50</sup> Sue Schechter, *Making Changes at Your Law School*, 2000-2001 DISORIENTATION HANDBOOK 13 (National Lawyers Guild 2001).

<sup>51</sup> *Id.*

<sup>52</sup> Ronald W. Fox, *Making Changes in Your Law School*, 2001-2002 DISORIENTATION HANDBOOK 19 (National Lawyers Guild 2001).

---

<sup>53</sup> *Id.*

<sup>54</sup> Maryann O'Sullivan, *Create Your Own Public Interest Job*, 2001-2002 DISORIENTATION HANDBOOK 18 (National Lawyers Guild 2001). Maryann O'Sullivan is the Executive Director of Health Access in San Francisco, California. She was out of law school for less than a year when she and others convened Health Access under the organizational umbrella of Public Advocates, a San Francisco based public interest law firm. She was active in the statewide health? movement during her last two years of law school.

<sup>55</sup> *Id.*