

# Encyclopedia of Law & Society: American and Global Perspectives

## Cause Lawyers

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In the United States and elsewhere, ethical codes bind lawyers to provide vigorous representation to all clients. Whether or not lawyers approve of a client's moral stance, they are supposed to provide zealous advocacy on the client's behalf. Based on this premise, lawyers should have no qualms about switching sides in a dispute or representing clients whose values and behavior disgust them. Indeed, to do so is a point of professional pride and a demonstration of professional responsibility.

## Legal Professionalism and the Public Interest

In this framing, one measures professionalism largely in terms of technical expertise put at the disposal of clients. William Simon, writing critically about lawyers, referred to this ethical norm as the “ideology of advocacy,” according to which attorneys are supposed to be professionally partisan but personally neutral advocates for their clients. Attorneys should maintain neutrality with respect to any broader social or political issues that may be at stake in their representation.

Lawyers and scholars widely refer to *cause lawyering* as working in the public interest. The term indicates the partisan character of the job involved. Cause lawyering conveys a personal commitment to take sides in political, social, and constitutional conflicts. Whether the pursuit of any particular cause advances the public interest, however, is very much in [p. 164 ↓ ] the eye of the beholder. Cause lawyering takes the special interest controversy off the table. Practitioners and scholars can use the term without plunging themselves into unproductive disputes about what is or is not truly in the public interest.

At its core, as David Luban shows, public interest or cause lawyering uses legal skills to pursue ideals that transcend client service—be they social, cultural, political, economic, or, indeed, legal. Cause lawyers tend to transform the nature of legal advocacy, becoming advocates not only or primarily for their clients but also for causes and, one might say, for their own beliefs. In thus reversing the priorities of the organized legal profession and in staking out the moral high ground, cause lawyers challenge

their professional colleagues. For cause lawyers, political commitment moves from the margin to the center of their professional lives. Law work is, for them, attractive precisely because it is a deeply moral or political activity, a job that allows them to pursue their view of the right, the good, or the just.

At the same time, cause lawyers are associated with many different causes, function with varying resources and degrees of legitimacy, deploy a wide variety of strategies, and seek extraordinarily diverse goals. For instance, their goals may include such polar ideological opposites as poverty and property rights issues or feminist and right-to-life issues, in such disparate areas as human rights, environmental law, and civil liberties. One finds cause lawyering in the full range of professional venues: large and small private firms, salaried practice in national and transnational nongovernmental organizations, and government and privately funded lawyering. This tremendous variation is the hallmark of cause lawyering.

## The Lawyer's Intent and Commitment

Cause lawyering is associated with both *intent* and *behavior*. Thus, serving a cause by accident does not qualify. However, accidental representation can transform itself into intentional representation when a lawyer awakens his or her ideals by service undertaken for other reasons. For example, Stuart Scheingold and Anne Bloom showed that clinical activities in law school, undertaken solely to escape the classroom or to gain practical experience, have often led law students toward cause lawyering.

Derrick Bell has argued that cause lawyers distinguish themselves from, and put themselves ethically at odds with, the vast majority of lawyers, who see their primary professional responsibility as providing high-quality service to individual and organizational clients without being substantively committed to their clients' ends. Conventional practitioners can reasonably see cause lawyers as treating their clients as means rather than ends, which appears ethically suspect at best. In sharp contrast, cause lawyers see themselves as responding to higher ethical standards. They thus stand in an ambiguous relationship to the professional image projected by the organized bar.

Whether pure or impure, before or after the fact, political or moral commitment is an essential and distinguishing feature of cause lawyering. Lawyers draw themselves to causes by a search for something in which to believe or as an outlet to express their beliefs. Often involving low status and low pay, cause lawyering does provide what conventional legal ethics deny: the opportunity to harmonize personal conviction and professional life.

## Beyond the United States

Austin Sarat and Stuart Scheingold describe how cause lawyering is a growing phenomenon in many countries. In the United States, it has flourished at least since the 1960s, due in large part to the successes of the civil rights movement. The work of several well-established social advocacy organizations, such as the NAACP Legal Defense Fund, the Environmental Defense Fund, and the Center for Constitutional Rights, also helps. Elsewhere in the world, scholars trace its emergence to a combination of factors, including the spread of written constitutions and constitutional courts, the neoliberal values driving globalization, and the development of transnational human rights networks.

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*See also*

- [Economic Development, Law and Ethics, Legal](#)
- [Human Rights, International](#)
- [Lawyers](#)
- [Morality and Law](#)
- [Nongovernmental Organizations](#)
- [Professions, Developments in Legal](#)

Further Readings

Bell, Derrick. "Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation." *Yale Law Journal* 85 (1976). 470–516. <http://dx.doi.org/10.2307/795339>

Luban, David. (1988). *Lawyers and Justice: An Ethical Study*. Princeton, NJ: Princeton University Press.

Sarat, Austin, and StuartScheingold. (1998). "Cause Lawyering and the Reproduction of Professional Authority: An Introduction." In *Cause Lawyering: Political Commitments and Professional Responsibilities*, edited by Austin Sarat, ed., and Stuart Scheingold, ed.. New York: Oxford University Press, 3–28.

Sarat, Austin, and StuartScheingold. (2001). "State Transformation, Globalization, and the Possibilities of Cause Lawyering: An Introduction." In *Cause Lawyering and the State in a Global Era*, edited by Austin Sarat, ed., and Stuart Scheingold, ed.. Oxford: Oxford University Press, 3–34.

Scheingold, Stuart A., and AnneBloom. "Transgressive Cause Lawyering." *International Journal of the Legal Profession* 5 (1998). 209–28. <http://dx.doi.org/10.1080/09695958.1998.9960449>

Simon, William. (1978). "The Ideology of Advocacy." *Wisconsin Law Review* 30–144.