

A Simple Matter of Conviction: Legal Consciousness and Critical Theory

All our civilization is like that, it has developed in the midst of internecine moral strife; breaking out from the schools and monasteries, it did not emerge into life, but sauntered through it, like Faust, merely to take a look at it, to reflect upon it, and then to withdraw from the rude mob into *salons*, academies and books.

Alexander Herzen, *From the Other Shore*
(trans. Constance Garnett)

In Chapter 2 we became familiar with those normative ideas which, according to critical legal writers, have been insinuated into and dominate legal doctrine. From this critical perspective, liberalism exerts a tenacious grip on modern thinking about the concept of law; legal institutions; and the respective roles of citizens, lawyers, judges, and legislators. Law is supposed to be shot through with liberal presuppositions and values which pervade the field to such an extent that a participant in the legal process may not even detect their presence or realize their power. These normative assumptions have been the focal point of critical legal inquiries into the interrelationship of law and politics. One of the overarching purposes of early critical legal writing was emancipatory: after demonstrating the centrality of liberal ideas, radical critics attempted to show the value of adopting an alternative conceptual scheme. Rephrased in political terms, the goal was to expose the ideological content of law. Releasing political agents from a mental straitjacket, so that they might finally realize that their real interests are not served by current forms of law, is the task of ideological critique. On the critical legal view, once exposed to the liberal underpinnings of the law, lawyers and citizens alike will in their newfound