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Alan M. Dershowitz

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A Tribute to Joseph Goldstein

Alan M. Dershowitz[†]

Yale Law School Professor Joseph Goldstein, who recently passed away, was a personification of the teacher as moral provocateur. Though extremely proud of the thousands of students who came under his tutelage during his distinguished academic career, Professor Goldstein was never satisfied with what his students accomplished. He always wanted more, especially from those from whom more was possible. He was my mentor during my three years at Yale in the early 1960s, and I know that he was proud of the work I did under him. Yet he always pressed me: “Sharpen it.” “Make it smarter.” “Take it further.” Until the final year of his life, he never told me that he was completely satisfied with anything I had written. Imagine how I felt when he finally praised one of my books without reservation. Somehow, I think he knew it would be the last of my works he would have an opportunity to appraise. It was my final grade for the lifelong course I took with him in law, social sciences, and life.

Though Joseph Goldstein is not a household name in the general world of law, he was among the most influential lawyers in the last half of the twentieth century. His writings on the interface of law and the social sciences have had an enormous impact on other law teachers, on mental health professionals, on courts, and on legislatures. He has influenced both theory and practice. But his most enduring contribution has come through the thousands of lawyers whom he taught over the years. No student could fail to be influenced by Goldstein, whether they realized it or not at the time they were in his class. His influence was as subtle as his mind and sometimes as quiet as his voice, but it stayed with you. I know that over the years I have asked myself countless times, “What would Joe think about this issue?” or “How would Joe have approached this problem?” Sometimes I’d call and ask him. More often, I would just work it through in my own mind, employing the tools that Joe had given me.

There was nothing that Joe did not challenge. He believed in no orthodoxy. He was a member of no intellectual club. He reflected no group perspective. He was just Joe Goldstein, as unique and individual a thinker

[†] Felix Frankfurter Professor of Law, Harvard Law School.

as I have ever encountered. He was neither liberal nor conservative. Labels of that kind simply had no meaning to a mind far too complex for such pigeonholing. He thought for himself and he arrived at conclusions that challenged every discipline he confronted. He changed the nature of law. He changed the nature of psychoanalytic theory. He changed the way we think about children. He changed the way we think about ourselves.

By working closely but critically with people from other disciplines, he broke open the legal system and welcomed in the insights of other disciplines. But unlike others, he always viewed the input of other disciplines with a critical eye. I recall vividly a seminar that he conducted along with Dr. Anna Freud, the daughter and protégée of Sigmund Freud. Dr. Freud was near the end of her active career and something of an icon within the psychoanalytic world. Yet, in his quiet way, Joe challenged her and made her defend conclusions that had long been accepted.

I had the privilege of working with Joseph Goldstein on two books. We began our collaboration while I was still a student at Yale Law School, and we produced, with Dr. Jay Katz, the first casebook on psychoanalytic theory and law. Several years later we collaborated, along with Richard Schwartz, on a criminal law casebook. The process of working with Joe was always challenging and often scintillating. Every meeting was a seminar, a dialogue, an encounter, and a lesson in life. Though we were now colleagues, he was still my teacher. He remained my teacher until the day of his death.

Joe will be remembered by all of his students and by his legion of admirers. But even after his name has faded from memory, he will continue to influence new generations of lawyers. His insights are reflected in every class taught by his academic protégés all over the world. His influence will also be felt in every child custody case across the land. I recall vividly the first phone call I received after Elián González was rescued at sea. "How should the law approach this difficult case?" I was asked. My mind immediately turned to the family law class I had taken with Professor Goldstein and to his extensive writing on the best interests of the child. I'm not certain whether Joe and I would have agreed on our conclusions about the case, but I know that I was employing the methodology that he had pioneered. Indeed, one of the great virtues of the Goldstein approach is that it was not result-oriented. Unlike his mentor Harold Laski, the great British socialist, Goldstein had no political, economic, or other agenda. The thrust of his work was methodological and conceptual. Though he understood that no methodology could ever be entirely value-free, his values were not the narrow partisan ones that so often masquerade as neutral principles. He cared more about building the road, with its various detours and byways, than arriving at a predetermined destination.

I will miss Joe Goldstein every day, but he will remain with me and with so many other people through his monumental works and his intellectual and moral influence.
