Since the election of Richard Nixon in 1968, conservatives and the Republican party have managed to reverse their fortunes from the first half of the 20th century. The Democratic party was able to elect transformative leaders such as Franklin Delano Roosevelt, John F Kennedy, and Lyndon Johnson to the White House and maintained solid control over both the US House of Representatives and the US Senate. During this half century, liberals were able to create and further expand the welfare state under FDR’s New Deal policies, and LBJ’s Great Society initiatives. When Nixon won the presidency, the Republican agenda began to shift towards regulating and minimizing the scope and impact of the welfare state that was created in the early to mid-20th century. The Republican party also took a marked and noticeable shift towards the right as the Rockefeller and moderate Republicans now found themselves on the periphery of the party’s central leaders.

Those who used to be on the fringes of the party came to be symbols of the new conservative party, the most notable of which is President Ronald Reagan who has defined the Republican party and conservatism for the last 40 years. However, despite their ability to win elections at all levels of government, the Republicans found it difficult to put a dent in any of the Democrat’s welfare policies. It is at this point in history, with the election of Nixon, where Steven Teles, in his seminal work, *The Rise of the Conservative Legal Movement*, begins by exhibiting the inability for the Republican party and the conservative movement to achieve this goal.

Due to the revival of the conservative movement and the Republican party in the American political discourse in the mid-20th century, there has been a prominent drive to understand the factors that led to its re-emergence. Teles’s work sits firmly in literature and analysis of the like. He seeks to understand the factors, environment, and variables that allowed conservatives to once again challenge Democrats and liberals for power over a majority of Americans. However, reducing the research and analysis Teles engaged in through this explanation is reductionist and could be seen as unfair to his work. As this review will demonstrate, the ideas brought forth by Teles is much more nuanced. As he explicitly states in his introduction, Teles found the purpose of this text is to “explain how the conservative legal movement, outsmarted and undermanned in the 1970s, became the sophisticated and deeply organized network of today” (2). In essence, Teles seeks to understand how a movement marred by inefficiencies was able to become institutionalized and powerful in a relatively short period of time. Teles also has another objective that he mentions briefly in his introduction as well, that he wants to shed light on the conservative legal movement and be the first to document its history in the scholastic field.

With this purpose and objectives of the text in mind, we must now also look at Teles’s intended audience, and whether that played any role in the objectives he set out to achieve. There is no doubt that the text is a purely academic analysis of the conservative legal movement. Therefore, due to the nature of the text, there is a solid indication that this analysis and study is meant for other academics and collegiate students looking to understand the recent conservative legal movement. To confirm that this is the intended audience, Teles seems to acknowledge the intended audience when he writes, “[The long quotations] should allow other scholars to draw different conclusions and provide a foundation for future scholarship on these subjects” (5). And once more, he acknowledges the audience when he says, “I look forward to having my errors corrected by those who come after me” (5). It is evident throughout the text that Teles demonstrated a clear scholastic audience and objectives as he analyzed the conservative legal movement.

Teles is guided in his research and analysis by both overarching questions about the general conservative legal movement and by more specific inquiries about particular components of the movement. First and foremost is the question surrounding the creation of the movement. The questions pertaining to this subject of course being why was the conservative legal movement created, and similarly, why in the 1970s? The other overarching question is what has the conservative legal movement actually accomplished?

With the way the book is written, the reader will find that each section can seemingly stand alone, primarily because of the fact that each chapter is guided by its own set of questions, appearing to be separate from the rest, yet masterfully interwoven to fit in the context and story of the CLM. In his first chapter entitled, “Political Competition, Legal Change, and the New American State” he is guided by a set of questions not particularly pertaining to the CLM. Teles sets the chapter up to answer what is the current policymaking environment, how does a party or movement operate within it, and what are the challenges that a movement will undergo as they try to gain public appeal? To put it succinctly, the question he brings forth is how do groups or outside factors influence movements?

Teles then switches gears to analyzing the rise and dominance of what he calls the liberal legal network (LLN) from FDR’s presidency to present. The questions that guide this section can best be described as narrow questions looking into the process in which the liberal ideology became entrenched in the legal framework of the 20th century. Similarly, Teles sets out to answer why the LLN was able to take such firm root in the legal sphere by looking into the question of ‘what were the social and political factors that allowed the LLN to have a monopoly over legal ideology for nearly half a century?’ As Teles writes, “we need a clear sense of where the LLN came from and why it was such a potent and resilient force for entrenching legal liberalism” (22).

After understanding the LLN, its rise, and the way in which it entrenched itself in the legal framework to promote liberal ideology, Teles turns to analyzing the failures of the first generation of conservative public interest law firms (PILFs). In order to do so, he is guided by the question of what were the organizational and leadership structures in place at PILFs that created the climate and environment for their failure?

Proceeding from the failures of the first generation of the CLM, Teles spends a significant amount of time analyzing their successes and, as his title of the book suggests, their rise. The central guiding question of this section of the book is what were the new approaches and strategies used by the second generation PILFs that allowed them to be successful? A more inquisitive question that Teles grapples with at the end of the book is, has the conservative legal movement been successful? More specifically, has the CLM supplanted the LLN?

Considering all these questions that guide the research and analysis in Teles’s book, there are a number of important conclusions that are offered. On the question of why the CLM was effectively created and why in the 1970s, Teles described it as reactionary. As has been explained, Republicans were able to begin a trend of political and electoral success with the election of Richard Nixon. That success was ever so elusive in the decades that predated Nixon’s victory. However, conservatives found “themselves repeatedly frustrated by the liberals’ success at limiting the impact of conservative electoral power on the law” (2). Furthermore, Teles notes that the Republican party, and conservative movement for that matter were more united in their disdain and displeasure in the increasingly liberal politicization of judges, lawyers, and professors than on any other issue. The combination of the recent political successes of the Republican party and conservatives with the failure to enact the policies that got them elected led to the recognition that “conservatives would have to compete directly with liberals at the level of organizational, and not simply electoral, mobilization” (2). As Teles describes throughout his analysis, the CLM, created out of this environment, was a countermobilization effort to combat the liberal influence over the law.

On the question of how groups or outside actors influence movements introduced in the first chapter, Teles offers an insightful answer on how to battle entrenchment from the perspective of the organization of a countermobilizing movement. Teles begins by arguing that first, in dealing with the challenge of countermobilization, “agents have the capacity to make better or worse decisions, decisions that subsequently become part of the context in which future choices are made” (15) - essentially, an individualist path dependence. Teles then proceeds to discuss how to deal with the challenges of entrenchment and barriers of entry. He argues that in order most effectively deal with these challenges, an “alternative governing coalition composed of intellectual, network, and political entrepreneurs, and the patrons that support them” (17) needs to be created. Doing so “is an extraordinarily difficult process, and one that is likely to be characterized by significant mistakes, long periods of learning and lesson-drawing, and significant lags between the emergence of opportunities and their effective exploitation” (21). This first chapter is integral to the rest of the analysis because it outlines his theory of countermobilization, and it clearly outlines the lens by which Teles will judge the success of the CLM.

On the question of how the LLN was able to plant itself firmly in the legal sphere and maintain influence for a prolonged period of time, Teles offers an in-depth analysis of its own rise and creation. The general impetus for the rise of the LLN, according to Teles, came from the enactment of FDR’s New Deal. He argues that FDR’s policies allowed for the increased centralization of government, and therefore, a new interpretation of the Constitution. It is this environment that Teles says “created both the demand and the supply of new kinds of lawyers, and, in the process changed the character of the legal profession’s elites and ultimately the legal academy” (22). According to Teles, the nature of New Deal policies ushered in a new generation of liberal ideological thinking, and by the 1960s, “liberalism had become the philosophy of the middle ground” (23). With the generation of New Deal lawyers establishing themselves within the legal elite and the uncontroversial nature at the time with liberalism, the American Bar Association (ABA), began to “liberalize the legal profession’ (23). However, Teles points to another influence in the legal sphere that solidified the LLN’s entrenchment – the Warren Court. The Warren Court was seen as heroes, providing liberal landmark decisions in cases like *Brown v. Board of Ed* and showing the power and scope of judicial activism. Warren’s impact left liberal law professors with “the moral role of conserving and extending the Warren Court’s accomplishments” (45). Also in this time period, groups like the NAACP and ACLU emerged and gained significant traction, further entrenching liberalism in the courts. All these factors contributed to the entrenchment of the LLN, but according to Teles, the ultimate impetus was provided by FDR’s New Deal policies.

On the question of the failure of the first generation of the CLM, Teles once more provides his conclusions based off of an in-depth review of the organizational structure in place. After understanding and learning of the well-organized liberal entrenchment of the LLN in the law, the first generation of the CLM stands in stark contrast. The CLM failure of the 1970s, according to Teles, is three-fold as it involved “strategic errors driven by dominant movement interests and inappropriate models for action, lags in response to failure, and organizational learning through general succession” (58). First, Teles points to business - the ‘core constituency’ of the CLM – as being problematic. As Teles points out, business was “a problematic ally for the cause because of its unreliable opposition – and frequent support – for state activism” (59). Furthermore, Teles found that the businessmen that offered support “were insufficiently sophisticated in the new mode of legal politics to effectively guide it, and they lacked interest in the broader range of conservative legal opportunities” (88). The first generation of the CLM also found themselves ill-equipped to mount an initial challenge against the LLN because of other organizational faults. The personnel simply was not there to mount a lasting challenge in the 1970s. With the deep entrenchment of the LLN understood, it is necessary to have a vast swath of individuals ready to mobilize. However, that wasn’t the case for the CLM. Teles uses the National Legal Center for Public Interest (NLCPI) as a case study of this. He said, “NLCPI’s most fateful strategic choice was to organize PLF’s successors geographically rather than functionally, a decision that flowed from PLF’s previous plan to open branch offices” (62). By switching to this geographical model, the constituency was split by regions, further separating the already small number of supporters. And to further compound their difficulties, the first generation of the CLM failed to proactively pursue their goals. As Teles shows, “By organizing reactively, conservatives guaranteed that they could only slow down the advance of legal liberalism, but not stop or reverse it” (89). These three factors, according to Teles, combined to ensure that the LLN remained entrenched during the first 10 years of the CLM.

On the question of the new approaches used by the second generation of the CLM, Teles devotes a significant portion of the book to explaining how it differed from the first generation. As he points out earlier in the book, conservatives will have to “change the ideas of legal elites before they could effectively change the behavior of courts” (89). Once more, Teles offers a threefold answer to the question posed for this portion of the book; however, it is less adherent to the structural model he spent the first half of the book outlining. Additionally, each of the three case studies offer new and central conclusions to the text. Firstly, Teles analyzes the economics movement within legal studies. The law and economics movement, though now much more moderate than it was in the beginning, was an intentional and rational attempt by conservatives to critique “state intervention in the economy, and a device for gaining a foothold in the world of elite law schools” (90). Moreover, because the first generation of the CLM so often failed in litigation due to their reactionary nature, the “law and economics movement sought to undermine the intellectual foundations on which its arguments, and its claim to public interest, were based” (90). Due to its intense libertarian foundations, the law and economics movement was at first met with much skepticism. However, the movement “was given substantial financial support from corporations and foundations, in a way that no other conservative legal movement was” (218). Additionally, though the efforts of groups like the Olin Foundation, “these patrons provided strategic coordination and leadership as well as funding” (218) to assist those that were starting law and economics centers at schools – a noticeable difference from 10 years prior. However, in order to move the law and economics movement to the forefront of legal education, the free-market enthusiasm needed to be toned down. Nonetheless, the movement forced a “substantial shift from the prevailing opinion of law schools” (182).

The second success that Teles found with the second generation of the CLM was the Federalist Society. The society is a polarizing topic with liberals on one side – fearful of the control it can have over its numerous members, many of which find themselves as judges as high as the Supreme Court, representatives as high as the US Senate and House of Representatives – and conservatives on the other hoping the society can “turn the tide” against the LLN (135). The reality of the situation is that the society is more or less a ‘provider of public goods’ for the CLM. As Teles points out, the Federalist Society provided conservatives with recruitment of law students and attorneys, investment in human capital through debates and events, and a producer of cultural capital by instituting the conservative legal culture in the next generation of lawyers. They have been very successful, but the question is how? For one, the society is only committed to given conservatives in the legal realm a place to voice their opinions and essentially provide an open forum. The success of the society, though, came in the form of their leadership. As Teles points out, the Federalist Society has been “sustained by a leadership cadre that has, with only small adjustments, controlled the Society for its first quarter-century and will, in all likelihood, do so for another two decades” (138). Today, the Federalist Society has over 70,000 members, and this is due to the devotion of networking, free and open debate, and recruitment of future lawyers by the leaders of the society.

The next success seen from the CLM came in the form of victories in the Supreme Court and through litigation. New conservative PILFs found that they could crack the armor of the LLN in the 1980s, a dream that those in the 70s were never able to attain. The Center for Individual Rights (CIR) and the Institute for Justice (IJ) are the two PILFs Teles devotes significant time to in his text due to their success. Both took major cases to the Supreme Court, were able to set precedent, and of course, were able to limit the control of the LLN. When understanding how these firms were successful, Teles points to what he calls, “intra-movement learning” (263). As he says, “it took ten years of missed litigation opportunities before this process of learning and generational replacement produced CIR and IJ” (263). Part of the process was waiting for the new generation of conservative legal minds to find their way to the top of the network because of the lack of mobilization during the first generation (263). Another central feature of their success was their movement away from business as a primary patron of their work. As Teles writes, “the public interest law firms capable of defending the free market depended strongly on the emergence of a ‘new class’ of conservative activists motivated by ideological and cultural goals rather than economic interests” (264). This movement in patrons occurred because business interests were one of the primary reasons for the first generations failures. This shift also transformed the principles of the PILFs. Now the firms “were able to take advantage of a structural bias in the American legal system orienting public interest law to challenge governmental discretion and power rather than … defending it” (264). Thus, as Teles outlines, the second generation of the CLM was able to ultimately find success by learning from the mistakes of the past and evolving their operation, leadership and functionality.

Ultimately, Teles finds that the CLM was successful in combatting the LLN, although that is not to say that they have won. Teles understands that there is still much to be fought over in the legal realm, and that liberalism is certainly still engrained in many legal institutions. However, he also understands that after a couple decades, the conservatism in law went from virtually unrepresented to having one of the most influential societies in the legal sphere and continues to win cases. Essentially, the CLM has become competitive against the LLN as they fight for control over the legal realm in the 21st century,

Clearly Teles offers a number of conclusions that require analysis. The first of which is the conclusion regarding FDR being the impetus for the LLN to become the dominant legal movement for half a century. This is consistent with what has been discussed in class. It is consistently said that FDR not only won resounding elections, but he was also able to transform the Democratic party during his time as President, something that other Democratic presidents were unable to do. In regard to the impetus for the creation of the CLM, Teles is also consistent with what has been taught in this course. His argument is that in order to respond to the threat of liberals in the legal realm, the CLM began. While this does not indicate which ideology came first, nor should it, the legal realm is not different in demonstrating that conservatives were often reactionary in an operational sense. For instance, Young Americans for Freedom (YAF) was created as a counter measure to the Students for a Democratic Society (SDS). This is the most relevant due to its nature of recruitment on college campuses, nevertheless, this occurred throughout the conservative movement since FDR’s presidency.

Another one of Teles’s main conclusions was that in order to be successful in the legal realm, the intense libertarian rhetoric had to be somewhat toned down in the law and economics movement. I would argue that this too is the case with the conservative movement as a whole. In the response to the FDR New Deal Policies, conservatives knew they would be unable to repeal his policies and follow Friedrich Hayek’s model of free government. They then needed to tone down their economic rhetoric if they wanted to win elections. While there were certainly other factors at play in Eisenhower’s elections, he made a commitment to not cut the New Deal policies, but also not spending more, thereby toning down the free market rhetoric. However, perhaps the biggest conclusion Teles comes up with is that of the leadership and organizational structure of the CLM. He concludes that they were able to learn from their mistakes in the first generation to find success in the second generation, but namely they moved away from business interest to mobilize at a more grassroots level. I believe this is consistent with the 20th and early 21st century of the conservative movement. While business was certainly well represented by Republicans in government, in order to win elections, the grassroots needed to be cultivated. One need only look at the election of Donald Trump who was propelled by his ‘common-folk’ supporters.

As has been mentioned by Teles in his introduction as well as in this review, this book is the first to fully analyze the CLM. In doing so, Teles brings forth evidence that has never been seen before. As Teles writes, “very little of the documentary history of the conservative legal movement has been archived. Almost every document referred to in this book, therefore, was given to me directly by the organizations involved” (5). Teles conducted numerous interviews with the founding and top members of the Federalist Society, IJ, CIR, and the law and economics movement. As also mentioned, Teles used the quotes in their entirety, often using block citations that took up nearly a third of the page. He did so because he wanted to ensure that the evidence he was able to obtain was not put out of context out of respect for the evidence. Therefore, his logic flows naturally from the evidence he provides. In regard to his language and rhetoric, as is similar with the logic he demonstrates throughout the text, Teles is very fair in his analysis. He does not use any inflammatory language and remains scholarly throughout.

The main theory that Teles uses in his analysis, as mentioned before, is the theory of countermobilization. He uses this theory to show the progression of the CLM throughout the duration of the analysis. He demonstrates the CLM’s faltering starts and their failures were then used as learning experiences for the more successful movements and programs within the CLM. Teles does not engage much with other political theory due to the nature of the subject being the legal realm, and his lack of focus on ideological differences besides the issue of judicial restraint and libertarian economics.

Similarly,Teles uses an impartial tone and is unbiased in his rhetoric. This was an intentional and purposeful choice by Teles because he did not want to ‘taint the evidence.’ Perhaps this impartial tone is too impartial because Teles never gets into the actual ideological components of the movement. Thus, while he remains unbiased in his analysis, this actually hinders his ability to fully understand the CLM because the ideology is so central to understanding the movement. Nonetheless, the unbiased nature of the book and presentation of evidence allows this text to fulfill one of its main objectives – to be the first of many scholarly sources fairly documenting the rise of the CLM.

This book is an exceptional first venture into the conservative legal movement, and the conservative response to the liberal explosion in the courts and law schools following the New Deal. He clarifies to many scholars that the Federalist Society is not a grand scheme to take over the courts but was more of a debate society that took off to be the vast recruiting network that it is today. However, the most significant aspect of this book is the new evidence and information that Teles is able to provide. A new source of primary documentation on this under researched subject is essential and incredibly valuable to future research. That future research should be dedicated on filling in what Teles was unable to do, understanding the ideology behind the movement. Teles focused on the organizational process and methods, but his research would be significantly enhanced by this research. Another question that this text prompts would be to ask how the liberals responded to the successes of the CLM.

Teles offers a significant step forward for research into the legal realm and the entrenchment of certain ideologies. He does so through never before seen evidence and delivers it in a way that is miraculously unbiased and moderate, and most importantly, fair to the parties that provided him the evidence. Future research in this area will look back at *The Rise of the Conservative Legal Movement* as the first to understand how politics and political ideology has impacted the legal battleground.