

Chapter 1

CLAIMING LAW SCHOOL AS A PLACE OF STORIES

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All too often we fail to acknowledge (let alone celebrate) the changes that are taking place in our students. . . . Students play into the process by denying that they had a life before law school. They think they can shed their old stories just as a snake sheds its skin and become “lawyers” without acknowledging that they are also mothers, fathers, English majors, or flute players.

—Andrew W. McThenia, *Telling a Story About Storytelling*¹

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By the time we enter the mythic realm of law school we come as characters in search of *our* plot. We are looking for the key to *our* text. We want something to do with our lives; we need a story for our life cycle. We are questers who separate from the quotidian world, fall into the netherworld of professors, cases, briefs, exams, law review, clerking, and then emerge—reborn—degree (shaman’s certificate) in hand to tell others the stories of the law.

—John Batt, *Law, Science, and Narrative: Reflections on Brain Science, Electronic Media, Story, and Law Learning*²

I like the idea of talking to students about law school as a place of stories—

When you set out to become a lawyer, you will find that you are in a place that entangles you in stories. As a teacher I want to hear these stories and to see how they are imagined and lived, how they are made a part of your education as a lawyer. I want to know the story that brought you to law school. I want to learn how you have made sense of

¹ Andrew W. McThenia, *Telling a Story About Storytelling*, 40 J. Legal Educ. 67, 68 (1990).

² John Batt, *Law, Science, and Narrative: Reflections on Brain Science, Electronic Media, Story, and Law Learning*, 40 J. Legal Educ. 19, 22-23 (1990).

law school's *rites of passage*, how you are dealing with the new identity legal education seems to demand of you, and how you register and respond to your doubts about this new identity. Listening to your stories, I am curious about how you might attempt to put these stories to use in your education as a lawyer.

If it is stories that guide us, capture us, and liberate us—and would anyone claim that they do not?—then we need an education in how these stories work, how they channel and shape, limit and deform, our professional lives as they do the lives we attempt to live beyond the law. Curious about the stories that shape our lives, I ask: What brings you to study law? What have you learned about yourself during the course of your legal education? Where will you go from here? What kind of doubts do you have about your future as a lawyer? What sustains you in the hope that law will make a worthwhile life possible? The stories I hear in response to these questions reflect fearful imaginings and dazzling daydreams.

I am drawn to these stories—and to the anxiety they sometimes reflect and induce—for the life they bring to the parade of abstractions and numbing routines that are standard fare in legal education. Stories are an antidote to law's numbing abstractions. Our stories, with their scripts and plots, images and figures, characters and familiar stereotypes, enrich and impoverish our lives;³ stories make it possible to think about where Law is taking us and the journey we now have underway. The stories that attract me are the stories where we find a protagonist who has set out upon a journey, stories of muddled confusion and dogged persistence, stories of how we try to make meaning of the mishmash of scripts and images in what is always already a story being lived. Simply put, law school is a story, a journey that will allow you to say: *I am a lawyer*.⁴

³ We know all too well that lives can be impoverished by the clichés and banalities found in a repertoire of conventional thought and stock stories. We also know that in mastering the “game”—of law, of life—we forget our own story. We forget our own story, oddly enough, at the same time we engage in endless talk about who we are, what we are doing, and where we are going.

⁴ Seeking initiation into the legal culture, expressing our faith in legal rules and legal reasoning, Law whispers in your ear: *The Law is the foundation, walls, and roof of your House. The Law is your shelter in the storm.*

Allan Hutchinson captures the contextual complexity of our relation to the I-am-becoming-a-lawyer story in the observation that “There are many stories being imagined and enacted, but we can only listen to them and comprehend them within the vernacular contexts of other stories. Our conversations about these narratives are themselves located and scripted in deeper stories that determine their moral force and epistemological validity Stories are so powerful and pervasive that they not only lay out a path for

Elizabeth has met with me several times to discuss her writing about her law school experience and her concerns about what lies ahead. Listening to Elizabeth, I hear the hope she places in becoming a lawyer—her puzzlement over the faintly sketched phantasy of her *future*. For Elizabeth, this imagined future follows her like her own shadow; it poses a persistent threat of intrusion—an *imagined future she fears will not become a reality*. With Elizabeth, anxiety leaks from her walled-off and barely contained fear of what the future may actually hold for her. Elizabeth and I, in our conversations, have begun to puzzle over how her dream-like sense of the future—and her fears—are embedded in the story she now tells herself about being the kind of student she is. What Elizabeth and I circle around is whether and how she might find a way to make this story a part of her education as a lawyer, whether in telling her law school story she might find, beneath the immediacy of her everyday law school work, parts of her self that she has stored away in the attic of unlived possibilities.

I don't expect these unexplored parts of the self to show up on command or by my teacherly probing. Stories meet resistance: "The knowing self is full of darkness, distortion, and error; it does not want to be exposed and challenged to change."⁵ We find, when we engage in an enterprise like self-reflection, as Elizabeth does, "everyone is more or less blind, more or less out of touch with so very much that really matters . . ."⁶ We are partially blind when we try to see the shape of our lives as lawyers; we are like blind men trying to figure out the shape of the elephant by touching some part of the elephant through the gauzy feel of our technical training.

We may inhabit a world rich in stories, stand knee-deep in them; we may concede that lawyers are, in the nature of our work, storytellers, and yet, students remain cautious about the place of stories in legal education. They want to know of their teacher: Where I came by this idea that reflection and introspection are important lawyer skills and that we can sharpen our skills of reflection with the study and use of stories, that stories might be an antidote to what ails us. And if we need

us to follow, but also provide a limited range of dramatic devices and rhetorical strategies for rescripting the story." Allan C. Hutchinson, *And Law (or Further Adventures of the Jondo)*, 36 *Buff. L. Rev.* 285, 286 (1987).

⁵ Parker J. Palmer, *TO KNOW AS WE ARE KNOWN: A SPIRITUALITY OF EDUCATION* 121 (New York: Harper & Row, 1983).

⁶ Robert Coles, *WALKER PERCY: AN AMERICAN SEARCH* 92-93 (Boston: Little, Brown & Co., 1978).

a more highly-developed story sensibility, as I contend we do, how do we foster an education for story-awareness in a law school regime of training that focuses on learning a catalogue of legal rules and the craft skills we expect lawyers to possess?

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In legal education, your professors introduce you to the study of law and assume that you understand the implications of the fact that you will be required to master a bulky catalogue of legal rules, organize these legal rules into sets of legal doctrines, and then learn how to use these rules and doctrines to make legal arguments, produce legal writings, and sound like a real lawyer when you talk about the law. There is an abundance of legal rules to learn; it's the student's lot in life to learn law, case by case, doctrine by doctrine, in a relentless march from one law school course to another. The law school version of self-reflection begins by observing what happens when we read judicial opinions—and relentlessly, continue to read them—and how we learn from this persistent reading to talk (and act) like a lawyer.

Many students, as they navigate their way through the law school labyrinth—with its rule-focused regime of adversarial legalism—question whether reading judicial opinions and the case method we use in law school is the only way to learn to be a lawyer; a good many of you will question the lawyer identity you are being offered. You may become curious about how a lawyer identity can be held out for you to adopt without inviting you to reflect on or question this identity. What we do not tell you is this: your lawyer training may put you in danger of becoming what few of you want to end up being—an embodiment of a lawyer stereotype. We tell you virtually nothing about the legal worldview we ask you to adopt, and we have little to say about the *legal persona* that lawyers develop (and some students will learn to rely on in a self-destructive fashion). The traditional law school curriculum has little to offer on how you will acquire a lawyer identity, and nothing about how to live with the identity you end up adopting. In fashioning a new identity, you can accept an off-the-shelf law school version of a lawyer's role, or, if you agilely navigate law school's introduction to law in the doctrinal courses and law school's *shadow curriculum*, you may find—or create—an identity that actually fits you. It would be difficult to find a student who is willing to admit that she is willing to allow law to dominate all her thinking, or that she is willing to grant her new law school fashioned worldview a veto over her ideals. It makes more sense to assume—as some of you obviously realize—that you will need a

modicum of self-knowledge—insight gained from reflection and introspection—to know what parts of the self you will give to the law while preserving those parts of the self you want to remain free of law’s magnetic, polarizing attraction.

Some students take up the study of law and assume that the core essence of their legal education lies in acquiring a knowledge of legal rules and a modicum of practical skills training. Other students, troubled by what they see in their legalistic—law obsessed—colleagues, fear a life devoted to the confines of legal thinking.

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Is it really necessary that *every* law school course, *every* legal text, be law-practice oriented?⁷ Does anyone actually believe that a law school diet of judicial opinions is all you will need to succeed as a lawyer? Karl Llewellyn, in his *Bramble Bush* lectures to students, some eighty-five years ago, addressed these questions. Llewellyn contended that the “bulk” of law school learning lays well beyond the confines of legal rules.

I suppose, the first thing which occurs to you . . . is that you need to “learn the law.” That you need information, knowledge; that you become the repository of the rules. *I am Sir Oracle—and when I open my mouth let no dog bark.* Would, gentlemen, that we could make you so! But between us and the making stretches, looms, a bulk of learning which three years can never compass, which, I think fair to say, no life-time is enough to compass. Any system of law bulks large enough. The law of a high civilization bulks out of all understanding.⁸

In the spirit of Karl Llewellyn and what he set out to convey to students in his *Bramble Bush* lectures, I pursue questions about legal education that lead to stories that set us to thinking about where the law might take us and what kind of people we end up being when we

⁷ Paul Kahn suggests that legal scholarship and our thinking about law is crudely and thoroughly misshaped by the fact that it is so thoroughly practice-oriented. See Paul W. Kahn, *THE CULTURAL STUDY OF LAW: RECONSTRUCTING LEGAL SCHOLARSHIP* (Chicago: University of Chicago Press, 1999). The demand that law school be ever more practice-oriented is relentless and never-ending.

⁸ K.N. Llewellyn, *THE BRAMBLE BUSH: ON OUR LAW AND ITS STUDY* 92 (Dobbs Ferry, New York: Oceana Publ., 1960) (“These were lectures on ‘Law and its Study’ delivered—no doubt inimitably—to the class which entered Columbia Law School in 1929; today they would be called An Introduction to the Study of Law. In part narrowly pedagogical—how to brief a case—in part broadly jurisprudential—what *is* the law?—they are all informed with Llewellyn’s infectiously exciting and only occasionally irritating personality.” Grant Gilmore, *Book Review* (Llewellyn’s *The Bramble Bush*), 60 *Yale L. J.* 1251 (1951)).

become lawyers: What brought you to law school? What do you bring to your legal education that will help you understand law and what it demands of you? How will you find in law a vision for your work that honors the ideals that law represents, and how will you develop the wherewithal to resist the practices engaged in by lawyers that dishonor the profession? What can you do in law school to make your quest to become a lawyer a story worth living?

In honoring a place for stories in legal education, we might rehabilitate vast stretches of law school where we teach more and more law and devote so little time to an education that informs and enriches one's work and one's life as a lawyer.

Having an appreciation of stories, the skill to tell them, the willingness and patience to hear them, and the intellectual mindset that allows us to see stories as a resource and a way of knowing, is one way to confront the narrow confines of legal thinking.⁹ There is, obviously, no guarantee that stories will be the magic—the medicine—that saves us, but we need not resort to magic to claim that:

—story awareness makes us better readers of the work we and others do, better readers of our own lives;

—drawing on stories, we might learn the identities we adopt and enact as lawyers and how our identities become the narrative plots that structure our lives;

—we use stories to locate ourselves in the fiction(s) of what we come to call the Real World.

If, by some future work of adept science, we learn there is no measurable quantifiable advantage in life that comes from being attuned to stories, I have no doubt that we will continue to embrace them. For my part, stories have kept me alive; asking students to write about their lives—and writing about my own life—I see how being atten-

⁹ What draws me to stories is the way they transgress settled boundaries and defy containment in or by an academic discipline or the narrow path of a regime of professional training. Our stories are more complex and enduring than the academic disciplines we use to try to understand them; stories cannot be easily packaged, and yet can be resources we can use in our professional work. We learn, with stories, that we are “tied with manifold knots to the world and other selves.” Gerald Postema, “Self-Image, Integrity, and Professional Responsibility,” *in* David Luban (ed.), *THE GOOD LAWYER: LAWYERS' ROLES AND LAWYERS ETHIC* 286-314, at 304 (Totowa, New Jersey: Rowman & Allanheld, 1983).

tive to stories has changed the way I think about legal education and the way I teach. The stories I hear my students tell, with their concerns and doubts, anxieties and fear, anger and outrage—and yes, their resilient hope—convince me that we will always have stories in legal education and that we can learn much that we need to know by being more fully attuned to these stories.

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My claim is simple: Stories set us to thinking and prompt reflection; they offer an occasion to pause and experience the world in which we find ourselves. Stories turn out to be an escape route—a road that does not appear on the official law school map—from the stale conventions we are tempted to embrace when we think about ourselves and our work. Stories take us places where we have not been; they take us places where our existing maps are inadequate, and legal education happens to be one of these places.¹⁰

Stories help us see how we are shaped by the work we do; they invite us, amid the distraction of the great hum of law school busy-ness, to illuminate what anthropologist Bob Scholte refers to as “the nature of

¹⁰ E.F. Schumacher offers the following observation about maps that might relate to our situation in legal education:

On a visit to Leningrad some years ago I consulted a map to find out where I was, but I could not make it out. From where I stood, I could see several enormous churches, yet there was no trace of them on my map. When finally an interpreter came to help me, he said: “We don’t show churches on our maps.” Contradicting him, I pointed to one that was very clearly marked. “That is a museum,” he said, “not what we call a ‘living church.’ It is only the ‘living churches’ we don’t show.”

It then occurred to me that this was not the first time I had been given a map which failed to show many things I could see right in front of my eyes. All through school and university I had been given maps of life and knowledge on which there was hardly a trace of many of the things that I most cared about and that seemed to me to be of the greatest possible importance to the conduct of my life. I remembered that for many years my perplexity had been complete; and no interpreter had come along to help me. It remained complete until I ceased to suspect the sanity of my perceptions and began instead, to suspect the soundness of the maps.

E.F. Schumacher, *GUIDE FOR THE PERPLEXED 1* (New York: Harper & Row, 1977).

If we think of law school and legal education as embodied in a stock cultural narrative, we might need to remind ourselves, as Mary Catherine Bateson does, that “[o]ur cultural narratives are becoming more complicated and ambiguous, and the culturally given plotlines are likely to mislead.” Mary Catherine Bateson, *PERIPHERAL VISION 83* (New York: HarperCollins, 1994).

our own confinements and possibilities.”¹¹ Stories can help us see the fiction of what we imagine as the Real World; they can help us see the reality in the fictions that we use to create a *legal persona* and to keep it in place as we try to imagine ourselves as lawyers.

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When we “turn to stories” in legal education, we remind ourselves of the place of stories in our lives and in our work. For the student, this means that stories are fundamental to who you are and what we have set out to become.

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There is some story or other that brings each of us to study law, a story that shapes, and fundamentally influences, one’s education as a lawyer.¹²

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Law school sets one upon a path—a journey—on which the initiate is invited to take on a new identity. When we undertake the journey, we can adopt an off-the-shelf version of this new identity from among the several stock versions of a lawyer identity, or we can try to fashion an identity that fits who we are and who we actually want to be.

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Law school evokes fantasies of a new self, or, an old self re-minted. By becoming a lawyer we envision acquiring legal knowledge and skills that will make it possible to live an accomplished life marked by competence and acknowledged achievement. The story we tell of the decision to become a lawyer is a story of faith premised on the belief that legal skills and knowledge of law will lead to socially significant work and a meaningful life—we use stories to imagine the future.

¹¹ Bob Scholte, “Toward a Reflexive and Critical Anthropology,” *in* Dell H. Hymes (ed.), *REINVENTING ANTHROPOLOGY* 430-457, at 442 (New York: Pantheon Books, 1972). We find stories, embrace them, puzzle over them, ignore them, without always knowing what a particular story means, or what the story demands of us, or where it might fit with the stories that already have a place in our lives.

¹² Your stories highlight the world you bring with you to law school, a storied world that melds imprints of family, places lived/visited/dreamed, education (the banality and the wonder of it), images derived from popular culture; these imprints will be overlaid with stories you tell about your initiation into the world of lawyers.

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When we seek out (and talk about) the stories that an education in law and the practice of law makes possible (and excavate lawyer images that legal education holds out to us, and take account of the images of lawyers we have acquired from popular culture), we can expect to find new images, metaphors, and myths that allow us to reimagine our lives as lawyers.

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In composing a law school story, we engage in myth-making. The poet, W.B. Yeats, may have gotten right when he said, “I have often had the fancy that there is some one Myth for every man, which, if we but knew it, would make us understand all he did and thought.”¹³

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We tell stories about our own lives when we weave metaphors and images, thoughts and feelings, training and education, into a meaningful narrative.¹⁴ A life story may—or may not—embrace a consistent theme or a readily recognizable plot. Some lives are a tapestry of diversions

¹³ Richard J. Finnerman & George Bornstein (eds.), *THE COLLECTED WORKS OF W.B. YEATS: VOL.4—EARLY ESSAYS* 81 (New York: Scribner, 2007). As students of law, we are schizoid about myth: The myth-making we engage in one day, we deny the next. A demythologized view of legal education pictures us as technicians who solve legal problems. The danger with the lawyer-as-technician image is that we forget the story we set out to tell when we become a lawyer.

¹⁴ When I say, “My life is a mess”—“I am in a jam”—“I am sick of the situation I am in”—“I feel like I am drowning”—I am groping for metaphors. I am trying, often without being aware of what I am doing, to grab the wisp of a story. By seeing the story in what is happening, I begin to see what my own words mean; I am offered a chilling glimpse of my own life. When I start telling the story of how I learn, or teach, or practice law, I discover the metaphors I have adopted: “Life is an education from beginning to end.” “Life is a journey.” “It’s all a throw of the dice.” “Life is a gamble.” “Life is a game.” “Law school is a bootcamp of the mind.” “Legal education is just three more years of school.” “Life is really nothing but the slow, inevitable, inching toward death.” Some of these metaphors are more appealing than others. I can tell a story about my life using some of these metaphors; some of them clearly don’t get me very far. If I can get at the metaphors I use when I talk about law school or about life, I am on the way to telling a story.

Metaphors find their way into our conversations when they connect with and energize the story we are trying to tell. They connect because they fit a story I am living or a story that I hope to live or want to avoid living. When you begin to think about the practice of law and the adversarial ethic as a “contest” or a “game,” you have found a metaphor (and an image of yourself) that can take hold of you. The images that accompany the metaphor work their way into your life and your story. Metaphors work above and below the surface; we use them without realizing the hold that they have on our imagination. We can either ignore the metaphors we use or become conscious of how they shape our story.

that make a single plot-line hard to identify. The stories we live are not always straight-forward plots that keep the protagonist on a well-marked path: our lives are entangled and entangling, complex and puzzling, conflicted and confounding.

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We know about stories what we do because we use stories every day: to pass time, to make use of information, to forge an identity, to locate ourselves in a world that we inhabit with (and without) others. Stories are, simply put, a way of questioning how we inhabit the world in which we find ourselves, the world we inherit and the world that we reimagine as we live with that inheritance.