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The Rhetoric of Catharsis and Change: Law School Autobiography as a Nonfiction Law and Literature Subgenre

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The Rhetoric of Catharsis and Change: Law School Autobiography As a Nonfiction Law and Literature Subgenre

Carlo A. Pedrioli*

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I have a sense of impending doom—as if something terrible is about to happen to me, without my knowing what, where, or how.¹

I. INTRODUCTION

What do Jason Broth, Richard D. Kahlenberg, Seymour Byman, Brian Owsley, Brad Sears, Kevin S. Reuther, and Scott Turow have in common? Since Scott Turow may be the only person on this list whose name has become commonplace outside the legal field, the significance of the question initially

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1. James R. Elkins, *Rites de Passage: Law Students "Telling Their Lives,"* 35 J. LEGAL EDUC. 27, 32 (1985) (excerpt from one law student's journal).

might appear dubious. The key connection among these individuals, whether they know it or not, is that all of them have published autobiographies of varying lengths about their lives in law school. Because autobiography is a literary genre,² and since law school, as part of the process of professional legal training, is clearly related to the law, the works of these authors fall under the study of law and literature.³

To this point in time, scholars have addressed the intersections of law and literature in both fiction⁴ and nonfiction.⁵ Much of the scholarship on nonfiction has involved the genre of autobiography. For instance, commentators have devoted numerous pages of academic journals to presenting and critiquing

2. JAMES OLNEY, *MEMORY & NARRATIVE: THE WEAVE OF LIFE-WRITING* xv (1998) (also noting some of the problems with defining the autobiographical genre).

3. For some background on law and literature studies, see, e.g., Eileen A. Scallen, *American Legal Argumentation: The Law and Literature/Rhetoric Movement*, 9 *ARGUMENTATION* 705 (1995) (also considering rhetorical studies). For a discussion of agendas in law, literature, and both fields combined, see Robin L. West, *The Literary Lawyer*, 27 *PAC. L.J.* 1187 (1996). Studies of law and literature can fall into at least three categories: (1) law in literature, which encompasses legal themes in fictional works; (2) legal literary criticism, which considers legal discourse through the lenses of literary theory; and (3) legal storytelling, which mixes the two previous categories in addressing personal narratives in scholarship. Scallen, *supra*, at 706-12. The study of law school autobiography in the present Article is oriented toward the third category.

4. An inclusive definition of the term *fiction* traditionally has referred to narrative that is invented rather than narrative that is an account of events that actually took place. M. H. ABRAMS, *A GLOSSARY OF LITERARY TERMS* 64 (1993).

For intersections of law and literature in fiction, see, e.g., JONATHAN H. GROSSMAN, *THE ART OF ALIBI: ENGLISH LAW COURTS AND THE NOVEL* (2002); DANIEL J. KORNSTEIN, *KILL ALL THE LAWYERS?: SHAKESPEARE'S LEGAL APPEAL* (1994); JAMES BOYD WHITE, *ACTS OF HOPE: CREATING AUTHORITY IN LITERATURE, LAW, AND POLITICS* 47-81 (1994) (considering Shakespeare's *Richard II*, which is drama but still fiction in a broad sense); Arthur D. Austin, *The Waste Land of Law School Fiction*, 1989 *DUKE L.J.* 495 (1989); Michael H. Hoffheimer, *Law and Legal Education as a Hotbed for the Novel: The Case of Goethe*, 44 *WAYNE L. REV.* 1 (1998); Nancy E. Johnson, *Women, Agency, and the Law: Mediations of the Novel in the Late Eighteenth Century*, 19 *HARV. WOMEN'S L.J.* 269 (1996); Renee Newman Knake, *Beyond Atticus Finch: Lessons on Ethics and Morality from Lawyers and Judges in Postcolonial Literature*, 32 *J. LEGAL PROF.* 37 (2008); Desmond Manderson, *From Hunger to Love: Myths of the Source, Interpretation, and Constitution of Law in Children's Literature*, 15 *CARDOZO STUD. L. & LIT.* 87 (2003); Carrie Menkel-Meadow, *The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft*, 31 *MCGEORGE L. REV.* 1 (1999); RICHARD POSNER, *LAW AND LITERATURE* 11-205 (2d ed. 1998); Margaret Valentine Turano, *Jane Austen, Charlotte Brontë, and the Marital Property Law*, 21 *HARV. WOMEN'S L.J.* 179 (1998); Jamison Wilcox, *The Rumpole Books by John Mortimer: Literature on a Life in the Law*, 55 *U. CIN. L. REV.* 117 (1986).

5. In relation to the term *fiction*, the term *nonfiction* traditionally has referred to narrative that provides an account of events that actually took place rather than those that were invented. ABRAMS, *supra* note 4, at 64.

For intersections of law and literature in nonfiction, see, e.g., LENORA LEDWON, *LAW AND LITERATURE: TEXT AND THEORY* 189-217 (1996) (presenting Henry David Thoreau's *On the Duty of Civil Disobedience* and Plato's *Apology*); WHITE, *supra* note 4, at 275-302 (oratory of Nelson Mandela and Abraham Lincoln); Kristin Brandser, *Alice in Legal Wonderland: A Cross-Examination of Gender, Race, and Empire in Victorian Law and Literature*, 24 *HARV. WOMEN'S L.J.* 221 (2001) (considering fiction as well as nonfiction); Gerald Gunther, "Contracted" *Biographies and Other Obstacles to "Truth,"* 70 *N.Y.U. L. REV.* 697 (1995); J. Woodford Howard, Jr., Symposium, *Objectivity and Hagiography in Judicial Biography*, 70 *N.Y.U. L. REV.* 533 (1995); Mary Pat Treuthart, *A Summer's Tale: Of Marriage, Feminism, and Jury Duty*, 19 *HARV. WOMEN'S L.J.* 293 (1996); Mark Tushnet, Symposium, *Members of the Warren Court in Judicial Biography: Themes in Warren Court Biographies*, 70 *N.Y.U. L. REV.* 748 (1995).

faculty autobiographies,⁶ and some critics have addressed the autobiographies of lawyers and judges.⁷ However, little scholarship, if any, has addressed the autobiographies of law students, which have appeared in law review articles and books since at least the late 1970s.

This shortcoming of law and literature scholarship in the nonfiction genre of autobiography is problematic. In the interest of understanding diverse perspectives in the legal community, legal scholars with autobiographical interests ought to give attention to the autobiographies of different individuals in this community, including the law students who will be the future members of the profession. Also, this shortcoming leaves a gap in the narrative discourse of the law since lawyers may be more inclined to write about their legal careers than their law school careers, the latter of which are much shorter and perhaps less glamorous.⁸ One then must ask what becomes of individuals' law school experiences. Law school is often a time of considerable anxiety and change for many law students,⁹ and this time can be the first major engagement that many law students have with the legal system. Given the prominent role that law plays in U.S. society, a better understanding of students' experiences in law school, which is clearly one of the major professional influences on individuals who ultimately practice law, should be useful to current legal educators, lawyers, and perhaps even hapless future law students.

6. See, e.g., Arthur Austin, *Evaluating Storytelling as a Type of Nontraditional Scholarship*, 74 NEB. L. REV. 479 (1995); Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1243 (1993); Jerome McCristal Culp, Jr., *Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy*, 77 VA. L. REV. 539 (1991); Jerome McCristal Culp, Jr., *Telling a Black Legal Story: Privilege, Authenticity, "Blunders," and Transformation in Outsider Narratives*, 82 VA. L. REV. 69 (1996); Marc A. Fajer, *Authority, Credibility, and Pre-Understanding: A Defense of Outsider Narratives in Legal Scholarship*, 82 GEO. L.J. 1845 (1994); Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807 (1993); Alex M. Johnson, Jr., *Defending the Use of Narrative and Giving Content to the Voice of Color: Rejecting the Imposition of Process Theory in Legal Scholarship*, 79 IOWA L. REV. 803 (1994); Sylvia R. Lazos Vargas, *Critical Race Theory and Autobiography: Can a Popular "Hybrid" Genre Reach Across the Racial Divide?*, 18 LAW & INEQ. 419 (2000); Jean C. Love, *The Value of Narrative in Legal Scholarship and Teaching*, 2 J. GEN. RACE & JUST. 87 (1998).

7. See, e.g., William Domnarski, *The Autobiographical Lawyer*, 19 J. LEGAL PROF. 165 (1994) (discussing various approaches that autobiographical lawyers have taken in their writings and also lamenting the "one-sided narrow-mindedness" that many such lawyers use in writing about themselves); Laura Krugman Ray, *Autobiography and Opinion: The Romantic Jurisprudence of Justice William O. Douglas*, 60 U. PITT. L. REV. 707 (1999) (considering the autobiographical writings of Douglas); Laura Krugman Ray, *Lives of the Justices: Supreme Court Autobiographies*, 37 CONN. L. REV. 233 (2004) (reviewing U.S. Supreme Court justices' autobiographies from the early nineteenth century through the early twenty-first century); George B. Autry, *Sam Ervin: The Book by and About Him*, 1985 DUKE L.J. 1245 (1985) (book review).

8. Domnarski, *supra* note 7, at 177 (noting how lawyers speak at length about their legal "battles" and win-loss records).

9. See, e.g., Elkins, *supra* note 1 (discussing the problems that first-year law students write about in their journals); Errol G. Rohr, Karen G. Rohr, & Patrick C. McKenry, *Role Conflict in Marriages of Law and Medical School Students*, 35 J. LEGAL EDUC. 56 (1985) (focusing on role behaviors and changes in role behaviors in professional school marriages).

Thus, to contribute toward a fuller understanding of the lives of the students who populate law school, this Article will present an initial sketch of the nonfiction law and literature subgenre of law school autobiography. To do so, the Article will offer an overview of the literary genre of autobiography, demarcate several categories of law school autobiography, and then address common threads in the law school autobiographies.

II. THE LITERARY GENRE OF AUTOBIOGRAPHY

Literary theorists have offered a variety of insights into the autobiographical genre, including several definitions of the term *autobiography*.¹⁰ A few examples of such definitions give a sampling of the possibilities for the word. Estelle C. Jelinek has suggested that the term *autobiography* refers to “that work each autobiographer writes with the intention of its being her [or his] life story—whatever form, content, or style it takes.”¹¹ John Pilling has described the word as “any kind of personal writing which has to do with the facts of the author’s life, irrespective of whether the author has intended to create a continuous and determinative work of the self-portraiture.”¹² According to Jerome Bruner, the term *autobiography* refers to “life construction through ‘text’ construction.”¹³ In other words, autobiography is a process of creating understanding from writing. Bruner adds that this process of understanding life based on autobiography is much like the process by which a physicist attempts to understand nature through scientific, human-made theories; both processes of understanding are subjective

10. Some additional information about the term *autobiography* may prove useful. The Greek words *bios*, which means “life,” and *graphie*, which means “writing,” help to explain the origins of the term *autobiography*. Susan Groag Bell & Marilyn Yalon, *Introduction*, in *REVEALING LIVES: AUTOBIOGRAPHY, BIOGRAPHY, AND GENDER* 1, 2 (Susan Groag Bell & Marilyn Yalon eds., 1990). At least one study has traced forms of the term *autobiography* and the synonym *self-biography* back to the late eighteenth century in both English and German. Robert Folkenflik, *Introduction: The Institution of Autobiography*, in *THE CULTURE OF AUTOBIOGRAPHY: CONSTRUCTIONS OF SELF-REPRESENTATION* 1, 5 (Robert Folkenflik ed., 1993). Naturally, the phenomenon existed before the term. *Id.* at 7.

Serious scholarly study of the autobiographical genre as a “legitimate” genre dates back to the post-World War II era. ESTELLE C. JELINEK, *THE TRADITION OF WOMEN’S AUTOBIOGRAPHY: FROM ANTIQUITY TO THE PRESENT* 1 (1986). Since that time, understandings of the autobiographical genre have become increasingly more fluid, as the discussion in this section of the Article suggests. Hence, one critic has claimed, “Any theory of autobiography that excludes experimentation . . . and relies on absolute definitions and forms . . . dooms the genre to extinction.” *Id.* at 189.

11. JELINEK, *supra* note 10, at xii.

12. JOHN PILLING, *AUTOBIOGRAPHY AND IMAGINATION: STUDIES IN SELF-SCRUTINY* 1 (1981). Pilling points out that this definition of *autobiography* goes so far as to include subgenres like memoir, confession, apology, diary, and “journal intime.” *Id.* Pilling himself does not approve of such an “elastic” approach to the concept, rather preferring that “the author [intend] to create a continuous and determinative work.” *Id.* at 1-2.

13. Jerome Bruner, *The Autobiographical Process*, in *THE CULTURE OF AUTOBIOGRAPHY: CONSTRUCTIONS OF SELF-REPRESENTATION* 38, 55 (Robert Folkenflik ed., 1993).

based on the lenses used.¹⁴ Finally, Roger J. Porter has noted that “[a]utobiography is the continuation of living by other means.”¹⁵

Just as definitions of the word *autobiography* can vary, the forms of autobiography can vary, too. For example, authors write autobiography in the first person, but they also write autobiography in the third person.¹⁶ Autobiographical authors employ both prose and verse.¹⁷ Authors write from the subject position of the old, but they also write from the subject position of the young.¹⁸ In addition to being written, autobiography can be oral.¹⁹ Indeed, autobiography has norms but not many rules.²⁰

Although authors write about their pasts,²¹ content can be as broad as form. Rather than dealing with the totality of life, an author may emphasize “one particular experience or group of experiences” and get directly at the core of the author’s personality.²² In this vein, a chief executive officer of a large corporation might write about personal experiences with the corporation but omit much consideration of previous work experiences. Traditionally, politicians, especially presidents, have written about their lives and careers in politics.²³ Additionally, many women, aware of the traditional exclusion of women from the autobiographical canon, have problematized some social assumptions about gender.²⁴ Further, Blacks have used the autobiography to focus not only on

14. *Id.*

15. ROGER J. PORTER, SELF-SAME SONGS: AUTOBIOGRAPHICAL PERFORMANCES AND REFLECTIONS xiv-xv (2002) (quoting the work of Jerome Bruner).

16. Folkenflik, *supra* note 10, at 13.

17. *Id.* Two critics have suggested that the genre of autobiography is a spectrum with realistic writings like diaries and letters on one end and imaginative writings like fiction and poetry on the other. Bell & Yalon, *supra* note 10, at 4.

18. Folkenflik, *supra* note 10, at 14. Another way of looking at this phenomenon is that an author does not need “a long life or even a career to the author’s credit” to write an autobiography. JELINEK, *supra* note 10, at 185.

19. Folkenflik, *supra* note 10, at 12.

20. *Id.* at 13.

21. *Id.* at 15.

22. ROY PASCAL, DESIGN AND TRUTH IN AUTOBIOGRAPHY 12 (1960). Some critics use the term *autobiographical writing* to refer to such an autobiography. *Id.* Among others, books in this category can include travel books and books about spiritual experiences during war. *Id.*

23. See, e.g., LYNDON BAINES JOHNSON, THE VANTAGE POINT: PERSPECTIVES OF THE PRESIDENCY (1971); RICHARD MILHOUS NIXON, RN: THE MEMOIRS OF RICHARD NIXON (1978); GERALD R. FORD, A TIME TO HEAL: THE AUTOBIOGRAPHY OF GERALD R. FORD (1979); JIMMY CARTER, KEEPING FAITH: MEMOIRS OF A PRESIDENT (1982); GEORGE H.W. BUSH, ALL THE BEST, GEORGE BUSH: MY LIFE IN LETTERS AND OTHER WRITINGS (1999) (not technically an autobiography but rather commentary by the former president on his writings); BILL CLINTON, MY LIFE (2004); GEORGE W. BUSH, DECISION POINTS (2010).

24. PHEBE DAVIDSON, RELIGIOUS IMPULSE IN SELECTED AUTOBIOGRAPHIES OF AMERICAN WOMEN (C. 1630-1893): USES OF THE SPIRIT 6 (1993). Davidson notes that society traditionally excluded women’s autobiographies from the autobiographical genre; hence, women were outsiders to this genre. *Id.* at 5, 7. In the days of the British Colonies, as well as in the early days of the United States, autobiographical writings of women that were published often did not go to press until two or three generations after the deaths of the writers. *Id.* at 8. Given this history, Davidson has called for further explanation of gender in autobiography. *Id.* at 213.

themselves but also on their communities.²⁵ Such autobiographies have addressed the historical subjugation of members of these communities.²⁶ Also, taken together, autobiographies can present perspectives different from the European and North American perspectives that traditionally have received attention from Western critics.²⁷ Numerous other areas of content are possible.

Examining autobiography without considering the likely purposes of the author in question can be difficult.²⁸ One possible purpose for writing autobiography is to gain insights. Autobiography allows the author “to understand and interpret, to articulate and organize, to synthesize and universalize” his or her life experiences.²⁹ Moreover, autobiography “imposes a pattern on life” so as to build “a coherent story.”³⁰ The author takes a standpoint to review and interpret his or her life.³¹ Accordingly, autobiography becomes the personal “philosophical history” of the author,³² and the genre allows the author to come to a personal version of truth from an accumulation of particular aspects of his or her life.³³ In the end, the author comes to a fuller understanding of himself or herself.³⁴

In addition to gaining personal insight, authors often write autobiographies to advance social causes. For instance, authors can point out the social power structures that oppress members of outsider groups.³⁵ Along these lines, authors can document experiences, provide voices for the voiceless, alter the dominant record of history, and expose governmental repression.³⁶ In so doing, authors are

Some feminist research has observed that men and women have not necessarily written autobiographies in the same manner. JELINEK, *supra* note 10, at ix. Given this point, such scholarship has urged that critics not use male-created standards to evaluate autobiographies by women. *Id.* at xii.

25. CHINOSOLE, THE AFRICAN DIASPORA & AUTOBIOGRAPHIES: SKEINS OF SELF AND SKIN 155 (2001). This approach contrasts with the individualistically oriented autobiographies of many Whites. *Id.*

Much like women, Blacks traditionally have been outsiders to the autobiographical genre. Indeed, in the United States, Blacks did not begin to write autobiographies until the late eighteenth century. Emmanuel S. Nelson, *Preface*, in AFRICAN AMERICAN AUTOBIOGRAPHERS: A SOURCEBOOK xiii (Emmanuel S. Nelson ed., 2002). Fugitive slave narratives, which became a tool of abolitionists in the fight against slavery before the U.S. Civil War, were among the beginnings of Black autobiographies. *Id.* at xiv.

26. Nelson, *supra* note 25, at xiii-xiv.

27. Phyllis Granoff & Koichi Shinohara, *Introduction*, in OTHER SELVES: AUTOBIOGRAPHY AND BIOGRAPHY IN CROSS-CULTURAL PERSPECTIVE 1 (Phyllis Granoff & Koichi Shinohara eds., 1994).

28. PORTER, *supra* note 15, at xi.

29. JAMES OLNEY, METAPHORS OF SELF: THE MEANING OF AUTOBIOGRAPHY 8 (1972).

30. PASCAL, *supra* note 22, at 9.

31. *Id.*

32. *Id.*

33. WAYNE SHUMAKER, ENGLISH AUTOBIOGRAPHY: ITS EMERGENCE, MATERIALS, AND FORM 29 (1954).

34. PASCAL, *supra* note 22, at 184.

35. Nelson, *supra* note 25, at xiv.

36. MARGO V. PERKINS, AUTOBIOGRAPHY AS ACTIVISM: THREE BLACK WOMEN OF THE SIXTIES 149 (2000).

able to “invite readers to interrogate hegemonic ways of knowing and understanding.”³⁷

While autobiography can help the writer order and interpret life experiences as well as promote a social agenda, autobiography can benefit the reader, too. Autobiography satisfies human curiosity about the life of someone else,³⁸ as the autobiographer may have experiences different from those of the audience, may be secretive, or may be able to offer new insight into historical events.³⁹ Autobiography provides a window into the mind of another, giving the audience a new look at the personality of the author.⁴⁰ Additionally, autobiography has the potential to create an empathic response in the audience, and truth, as the audience sees it, lies in that empathic response.⁴¹ In short, the autobiography can offer powerful insight into human conditions,⁴² at least from the perspective of the autobiographer.

Critics who accept autobiography as a genre place autobiography in conversation with the genre of biography. Traditionally, critics have thought that autobiography is about the self and that biography is about others.⁴³ However, more recent conceptualizations of the two genres have blurred the distinctions.⁴⁴ Specifically, the construction of identity can come from a variety of sources. For instance, critics have argued that biography is a function of autobiography because the biographer makes writing choices based on his or her own life experiences.⁴⁵

Given the fluidity of autobiography noted above, some critics have questioned autobiography as a literary genre.⁴⁶ For example, some scholars believe that autobiography is historical rather than literary.⁴⁷ Others think that the genre is a hybrid that has both literary and historical dimensions to it.⁴⁸ In light of this uncertainty, other critics have maintained that the genre does not even exist.⁴⁹ Nonetheless, today critics employ literary criticism in studying autobiography.⁵⁰

37. *Id.*

38. PASCAL, *supra* note 22, at 1.

39. *Id.*

40. *Id.*

41. GUYORA BINDER & ROBERT WEISBERG, LITERARY CRITICISMS OF LAW 182 (2000) (referring to Robin West, *Authority, Autonomy, and Choice: The Role of Consent in the Moral and Political Visions of Franz Kafka and Richard Posner*, 99 HARV. L. REV. 384 (1985)).

42. PASCAL, *supra* note 22, at 1.

43. Hans Bak & Hans Krabbendam, *Introduction*, in WRITING LIVES: AMERICAN BIOGRAPHY AND AUTOBIOGRAPHY 1 (Hans Bak & Hans Krabbendam eds., 1998).

44. *Id.*

45. Bell & Yalon, *supra* note 10, at 3.

46. JELINEK, *supra* note 10, at 4.

47. *Id.* at 2.

48. *Id.* at 3.

49. *Id.* at 4.

50. *Id.*

This Article assumes that autobiography can have both historical and literary qualities to it.

III. SOME CATEGORIES OF LAW SCHOOL AUTOBIOGRAPHY

The autobiographies this Article considers are those located via searches of the Westlaw and LexisNexis databases. Search terms for words in the titles of law review articles included *autobiography*, *autobiographical*, and *autobiographer*, as appropriate for the law school context, as well as *experience* in conjunction with *law school*. In light of *One L*,⁵¹ the well-known account by Scott Turow of his own experiences at the start of law school, and the likelihood that some more recent law school autobiographers would refer to Turow's popular law school autobiography, the search sought out law review articles that contained the terms *Scott Turow* and *One L*. Relevant works identified via the citations in the works located through Westlaw and LexisNexis received consideration, too.⁵²

Based on this search, the Article defines three categories of law school autobiographies: autobiographies of unfulfilled expectations, autobiographies that address social ills, and autobiographies that grapple with the fear factor of law school. Defining only three categories does not deny the existence of other categories; doing so simply addresses the categories into which the autobiographies uncovered for this study logically fit. Also, the categories are not mutually exclusive since one work may have several areas of emphasis.

A. *The Unfulfilled Expectations Autobiography*

The first category of autobiography that this Article explores is the *unfulfilled expectations autobiography*. The unfulfilled expectations autobiography refers to

51. SCOTT TUROW, *ONE L* (1988).

52. In the interest of focusing on literary texts in autobiographical form, this study does not consider studies of students' experiences with law school gathered through surveys, interviews, and similar research methods. See, e.g., Paula Gaber, "Just Trying to Be Human in This Place": *The Legal Education of Twenty Women*, 10 YALE J.L. & FEMINISM 165 (1998) (presenting the experiences of twenty female students at Yale Law School as provided through interviews); Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994) (studying the experiences of female law students at the University of Pennsylvania through consideration of academic performance data, survey data, written narratives, and group interviews); Scott N. Ihrig, *Sexual Orientation in Law School: Experiences of Gay, Lesbian, and Bisexual Law Students*, 14 LAW & INEQ. (1996) (discussing the experiences of sexual minority law students conveyed through survey responses). Although those studies address some of the same concerns addressed in the texts in the present study, the interest in the present study is in locating the voices of law students who have chosen to write directly to their audiences through some form of autobiography.

While this Article focuses on law school autobiographies, research for the Article did locate one law school biography. See Alan J. Hobbins, "Dear Rufus . . .": *A Law Student's Life at McGill in the Roaring Twenties from the Letters of John P. Humphrey*, 44 MCGILL L.J. 753 (1999) (looking at the law school experiences of Humphrey, who eventually became the author of the first draft of the Universal Declaration of Human Rights).

two types of autobiographies: the *academic and social aspirations autobiography* and the *gamespersonship autobiography*. Academic and social aspirations autobiographies describe experiences in which law school thwarts the autobiographers' quests for scholarly pursuits and social justice. Gamespersonship autobiographies are autobiographies of individuals who hope to compete more successfully at various aspects of law school, such as examinations or moot court, than the individuals actually do. The initial two authors considered in this section write academic and social aspirations autobiographies, while the last author considered writes a gamespersonship autobiography.

1. *Jason Broth*

Jason Broth, who graduated from the University of California, Hastings College of the Law, in 1996,⁵³ found himself disillusioned with his quest for scholarship at law school. In his law school autobiography, Broth describes himself as a "new left student" and one of the "progressive thinkers."⁵⁴ Before coming to law school, Broth was an English major who focused his studies on literary theory and the ideas of philosophers such as Jacques Derrida, Roland Barthes, Michel Foucault, and Claude Levi-Strauss.⁵⁵ Broth developed an appreciation for both the academic value of critical theory and also its practical application of forcing individuals to confront social ills and question the contents of the academic canon.⁵⁶ At the time of his graduation from college, Broth faced what he saw as the choice of obtaining a Ph.D. in English or earning his J.D. and trying to fight for social change.⁵⁷ Later, reflecting back on this choice, the author states that the pragmatics of needing secure employment pressured him to go to law school.⁵⁸

Broth finds himself a 1L in large classes with professors who do not expect creative thinking but only want a certain brand of logic, regardless of the consequences of that logic.⁵⁹ The author conveys one incident in Contracts class in which he clashes with his professor over the merits of the unconscionability doctrine.⁶⁰ Broth stands up for a poor plaintiff while the professor, standing up for

53. Jason Broth, Note, *Note Topics, Professors, and Scholarship: An Autobiographical Sketch of a Law School Experience*, 7 HASTINGS WOMEN'S L.J. 113 (1996).

54. *Id.* at 113, 115.

55. *Id.* at 116.

56. *Id.* at 116-17 (noting the author's belief that scholars who challenge assumptions about the world have the power to bring about positive change).

57. *Id.* at 117.

58. *Id.*

59. *Id.* 119, 131.

60. See U.C.C. § 2-302(1) (2004), which states the following regarding unconscionability and contracts for the sale of goods: "If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made, the court may refuse to enforce the contract, or it may enforce the

certainty in the law, makes fun of what he calls Broth's "tender conscience."⁶¹ Broth sees no room for his critical approach amidst the "dictation" of the law school forum.⁶²

Beyond his problems with creative thinking, Broth finds that the lack of satisfactory academic and philosophical matters haunts his law school experience. Broth is so academically unfulfilled with his assigned first-year reading that he has to squeeze in outside reading to satisfy his academic interests.⁶³ This attempt comes despite the demands of first-year legal studies.

As a 2L and seeking deeper studies, the author takes the Jurisprudence class, only to discover that the professor is a specialist in federal courts, not in Critical Legal Studies, continental philosophy, or any other area that might provide suitable background for teaching Jurisprudence.⁶⁴ Broth finds the class disappointing because he estimates that the professor teaches the equivalent of an introductory course at undergraduate school.⁶⁵ Naturally, before coming to law school, Broth expected a graduate education in a graduate program. Dejected, Broth describes the law school's motivation for offering classes like Jurisprudence as preparing "the façade of a lawyer" for "a cocktail party."⁶⁶

In the end, a somewhat bitter Broth sees law school as a forum that refuses to offer him the opportunity to explore further his own leftist views or the views of his academic role models. Broth closes his autobiography by claiming that leftists are losing the war over the redistribution of wealth in the United States.⁶⁷ The world of law school that Broth describes is a world in which conservative forces indoctrinate law students for life in business.⁶⁸ This one-sided forum has bitterly disappointed Broth.

remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result." Section 2-302(2) continues: "When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination."

61. Broth, *supra* note 53, at 120-21 (also noting that the author believes one of the parties in the case used its superior wealth and legal knowledge to the detriment of the other party).

62. *Id.*

63. *Id.* at 119 (noting that the author purchases and reads DAVID KAIRYS, *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* (1982) and MICHEL FOUCAULT, *DISCIPLINE & PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan trans., Vintage Books 1979) (1977), but that academic constraints force the author to focus on his prescribed studies to the detriment of his outside reading).

64. Broth, *supra* note 53, at 123.

65. *Id.* at 124.

66. *Id.*

67. *Id.* at 131.

68. See Duncan Kennedy, *Legal Education as Training for Hierarchy*, in *THE POLITICS OF LAW* 38-58 (David Kairys ed., 2d ed. 1990).

2. Richard D. Kahlenberg

Richard D. Kahlenberg, who graduated from Harvard Law School in 1989,⁶⁹ paints a picture similar to Broth's picture. In his law school autobiography, Kahlenberg describes some of the factors that lead to his frustration with law school.⁷⁰ For instance, the autobiographer points to "[b]eing embarrassed before one hundred people" via the law school version of the Socratic method,⁷¹ large classes such as the 560-person first-year class that is divided into four sections,⁷² and what he calls "the mundane quality of much of the law" he learns from his teachers.⁷³ Moreover, Kahlenberg discovers that, while grades shape students' professional futures and personal identities, the law school's rigid bell curve allows very few students to succeed grade-wise.⁷⁴ As a consequence, the author begins to "drop out" of law school mentally.⁷⁵

Of particular note, Kahlenberg is disappointed with what he sees as the faculty's lack of interest in students. For instance, the author describes his experience with Anthony Lewis, a journalist whom the author admires as "compassionate" and a man of "law and letters."⁷⁶ Kahlenberg asks Lewis to supervise a research paper on a new congressional bill that will modify the standard for defamation, and Lewis agrees.⁷⁷ Unfortunately for the autobiographer, Lewis soon destroys Kahlenberg's enthusiasm by first being unavailable for discussions on the paper and then later passing off the paper with a single dismissive remark.⁷⁸ "I think it's fine," Lewis tells Kahlenberg over the phone.⁷⁹ Kahlenberg laments the "detached formality" of Lewis and the other

69. RICHARD D. KAHLENBERG, *BROKEN CONTRACT: A MEMOIR OF HARVARD LAW SCHOOL* 5 (2d ed. 1999). This subsequent edition of Kahlenberg's autobiography contains a new afterword. The original edition came out in 1992.

70. *Id.* at 49.

71. *Id.* at 214 (noting that, by third year, students really resent the way law professors employ the Socratic method).

72. *Id.* at 13.

73. *Id.* at 49.

74. *Id.* at 51.

75. *Id.* at 49.

76. *Id.* at 75-76 (noting also that Lewis covered the famous defamation case *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964)). In *New York Times Co. v. Sullivan*, the U.S. Supreme Court greatly expanded protection for speech critical of the government. Justice William Brennan's opinion for the Court declared the following: "We hold that the rule of law applied by the Alabama courts is constitutionally deficient for failure to provide the safeguards for freedom of speech and of the press that are required by the First and Fourteenth Amendments in a libel action brought by a public official against critics of his official conduct." 376 U.S. at 264.

77. KAHLENBERG, *supra* note 69, at 90.

78. *Id.* at 90-91. Kahlenberg recalls that the phone conversation about the paper takes only about three minutes. *Id.* at 91.

79. *Id.*

professors, wishing that some of the teachers would realize that “small words of encouragement, gestures of interest, can mean the world to a student.”⁸⁰

Furthermore, Kahlenberg describes with great frustration Harvard Law School as an institution which transforms idealistic students who want to use the law for social change into prospective associates for private law firms opposed to any social change.⁸¹ The hype over getting summer jobs and positions as associates at law firms sweeps the campus, promoted by the career center’s focus on law firms⁸² and also by the liberal law professors who give rousing speeches about the importance of doing public service and then spend their free time working for big-money interests.⁸³ Even Kahlenberg, deeply interested in public interest law,⁸⁴ gets caught up in the frenzy for material success and spends the summer after his 2L year at Ropes & Gray, a large private law firm in Boston.⁸⁵ During his 3L year, the author goes as far as tentatively accepting an associate position at Covington & Burling, a large private law firm in Washington, D.C.⁸⁶

By the end of his law school autobiography, Kahlenberg observes that the “faculty’s inability to inspire us [is] a tremendous failure of leadership” and that the faculty’s “success in infecting us with their cynicism [is] a tremendous disservice.”⁸⁷ While Kahlenberg ultimately returns to embrace his liberal political beliefs and accepts a position on the staff of Senator Charles Robb rather than going to Covington & Burling,⁸⁸ many of Kahlenberg’s fellow liberals fail to act in a similar fashion.⁸⁹ To demonstrate his disappointment with the law school and its effects on students, the author refuses to attend his own graduation ceremony, instead spending the day in Annapolis, Maryland, with his family.⁹⁰ As his law school experience concludes, Kahlenberg no longer believes in the “elevated rhetoric” delivered at Harvard Law School graduations.⁹¹

80. *Id.* at 91-92. The author adds, “In the cold environs of Harvard Law School, students look to a small group of teachers who have the capacity to inspire as a source of strength, and when the students are let down, their disappointment is quite bitter.” *Id.* at 92.

81. *Id.* at 95.

82. *Id.* at 94.

83. *Id.* at 234 (also pointing out that the students who observe this hypocrisy are not “stupid”).

84. *Id.* at 97. The author describes himself as having been raised to support “civil rights and civil liberties,” “ethics in government and a clean environment,” and “the consumer movement and the women’s movement.” *Id.* at 14.

85. *Id.* at 116.

86. *Id.* at 203. Throughout his autobiography, Kahlenberg describes his quest to learn how liberals can work for large corporate law firms and remain true to liberal beliefs. The answers he gets, such as, “In life, you learn to make compromises,” apparently prove unpersuasive for the author because he abandons as futile his quest to reconcile conflicting ideals. *Id.* at 100.

87. *Id.* at 234.

88. *Id.* at 232.

89. At the beginning of Kahlenberg’s first year of law school, 130 students attend a major public interest meeting on campus; of the students in that group who later report career decisions, over 70% go to work for large private law firms. *Id.* at 233.

90. *Id.*

91. *Id.* at 234.

3. *Seymour Byman*

While Broth and Kahlenberg produce academic and social aspirations autobiographies, Seymour Byman presents a gamespersonship autobiography, a slightly different type of the unfilled expectations autobiography. Byman began his legal studies at “Great Lakes University Law School” in 1982.⁹² In his law school autobiography, which covers only the first year of law school, Byman introduces himself as a history professor who goes to law school as part of a program that his university implements to bridge the gap between law and the humanities.⁹³ Byman takes time off from his professorial duties and, putting his graduate student hat back on, begins law school. He has great expectations of raising philosophical and theoretical questions about the intersection of law and the humanities.⁹⁴ Moreover, because Byman’s son has enjoyed and done well at law school, Byman, who in tongue-in-cheek fashion describes himself as “older, wiser, and more immersed in scholarship” than his son, expects to enjoy his law school experience, too.⁹⁵

Unfortunately for the historian, law school does not go according to Byman’s plans. Byman spends almost three hours reading the initial case for his Civil Procedure class.⁹⁶ Then he gets a “C+” on his first legal writing memo.⁹⁷ In taking a practice exam for Contracts, Byman writes an extensive philosophical paper on consideration in which he compares the views of Benjamin Cardozo with those of Emmanuel Kant. The paper fails.⁹⁸ Byman does so poorly that, despite having previously vowed not to use any supplementary materials, he nonetheless abandons his ideals and purchases prepared outlines in time for exams.⁹⁹ Byman, the published scholar, comes to realize that he does not have a firm grasp of law school.

In the end, Byman believes that a connection exists between law and the humanities but that such a connection is not a part of the law school curriculum.¹⁰⁰ He feels that law school should teach examination of legal principles as well as facts.¹⁰¹ Furthermore, while law school may train law students to solve specific problems, law school fails to train law students to think

92. Seymour Byman, *Humanities and the Law School Experience*, 35 J. LEGAL EDUC. 76, 76 n.1 (1985). Byman has invented a fictitious name for the law school.

93. *Id.*

94. *Id.*

95. *Id.* at 77.

96. *Id.*

97. *Id.* at 78.

98. *Id.* at 79 (noting as well that the dean informs Byman that the paper might have done well in Jurisprudence but will not suffice in Contracts).

99. *Id.* at 78, 81.

100. *Id.* at 83. However, he still acknowledges the need for lawyers to solve specific problems like those that the law presents. *Id.*

101. *Id.*

about how the specific problems relate to society in general.¹⁰² Regardless of his insights, Byman still has to explain his grades to his son, who is disappointed with his father, the published historian.¹⁰³

B. *The Social Issues Autobiography*

The second category of autobiography that this Article explores is the *social issues autobiography*. This category refers to autobiographies that address problems of race, gender, sexual orientation, class, and the like. In such autobiographies, events unfold with differing results. Sometimes the author is pleased with the results, and sometimes the author is not. Naturally, some overlap exists between the social issues autobiography and the academic and social aspirations variety of the unfulfilled expectations autobiography. However, in the academic and social aspirations autobiography, the author hopes to wrestle with social problems professionally after graduating from law school, while in the social issues autobiography, the author is already grappling with social problems at law school.

1. *Brian Owsley*

Brian Owsley, who graduated from Columbia University School of Law in 1993,¹⁰⁴ sets out in his law school autobiography to present a Black male perspective on law school.¹⁰⁵ In his writing, Owsley mentions that his choice to enter law school is not entirely voluntary because he has seen how his father's undergraduate degree in business failed to help his father obtain financial security.¹⁰⁶ Owsley believes he needs more than just a college education to succeed. In endeavoring to further himself, Owsley enters law school, which he describes as "a sea of mostly white faces,"¹⁰⁷ and feels much like a racial token.¹⁰⁸

Owsley offers a mixed picture of his overall experiences with minority professors and how White students perceive such professors. For example, Owsley notes how he and other Black students like going out to lunch with an inspirational, student-oriented Black professor. The author also enjoys Torts, a class taught by an Indian woman who, in declining to use the Socratic method, focuses "on issues of justice as opposed to the law."¹⁰⁹ On the down side, the

102. *Id.* at 87.

103. *Id.* at 84.

104. Brian Owsley, *Black Ivy: An African-American Perspective on Law School*, 28 COLUM. HUM. RTS. L. REV. 501 (1997).

105. *Id.* at 502.

106. *Id.* at 510.

107. *Id.* at 512.

108. *Id.* at 515 (observing that many of the Black students feel as though they are attending someone else's law school).

109. *Id.* at 518, 520 (noting that the professor raises questions about assumptions such as the validity of

author senses hidden racism when he hears rumors from White students that the student-oriented Black professor noted above tends to give Black students higher grades than White students; Owsley doubts that the White students would believe that they receive better grades from White professors than Black students do.¹¹⁰ Additionally, some White students indicate that the Indian professor is teaching Torts poorly because she has a non-traditional approach to teaching, and these students refer to her class as “Space Torts.”¹¹¹ Owsley is not pleased with this perception of the Indian professor and her course.¹¹²

Owsley hones in on racial issues beyond the classroom as well. For instance, he reads a story in the *New York Times* about an article in the law school newspaper at Georgetown University in which a student has written that Georgetown is admitting Black students with lower GPAs and LSAT scores than those of White students not offered admission.¹¹³ Owsley takes great offense at the Georgetown newspaper article and believes that, whether the claim is accurate or not, Whites have created the standards and are judging Blacks by White admission standards.¹¹⁴ The author sees this situation as grossly unfair.

In the end, Owsley points out that his law school autobiography is aimed at a broad audience: law professors, law school administrators, White students, and minority students.¹¹⁵ The author wants law professors and law school administrators to understand what he sees as a need for greater awareness of racial issues at law school.¹¹⁶ He wants White students to become more aware of different legal perspectives and minority students to learn that they are not isolated in their law school experiences.¹¹⁷

2. Brad Sears

Another example of law school autobiography in the social issues category comes from Brad Sears, a gay individual who attended Harvard Law School beginning in 1992.¹¹⁸ In an autobiography about his first year at law school, Sears points out that, although he comes out at the beginning of law school, his classmates fail to grasp that he is gay.¹¹⁹ For instance, on one occasion, a female

a free market).

110. *Id.* at 516-17.

111. *Id.* at 518-19. Owsley explains that his colleagues who call the class “Space Torts” do so because they believe that the “class discussions [are] all over the place and generally out of the realm of tort law.” *Id.* at 519 n.61.

112. *Id.* at 519-20.

113. *Id.* at 537.

114. *Id.*

115. *Id.* at 549.

116. *Id.*

117. *Id.*

118. Brad Sears, *Queer L*, 1 NAT’L. J. SEXUAL ORIENTATION L. 235, 235-36 (1995).

119. *Id.* at 236.

colleague seductively attempts to invite Sears back to her home for the evening.¹²⁰ Displeased that his heterosexual colleagues do not take his sexuality seriously, Sears lacks many opportunities to interact with sexual minority students.¹²¹ Indeed, despite his best efforts, Sears fails to find many sexual minority students at law school.¹²²

With regard to his studies, Sears focuses on his experiences in Criminal Law. While pleased that his professor brings materials about gay individuals into the class, Sears laments that all the materials are negative.¹²³ For example, the class discusses a case in which the male defendant allegedly murdered a man with whom the defendant had anal sex.¹²⁴ Later, when reading the transcript of the 1978 murder case of Harvey Milk, a prominent gay civil rights leader in San Francisco, Sears realizes with horror that Milk's sexual orientation is never mentioned in the transcript or the notes after the transcript.¹²⁵ In class the next day, Sears embarks on a diatribe about the inequities in the presentation of the course material on gays.¹²⁶ Sears is so distraught that when the class discusses *Bowers v. Hardwick*, in which the U.S. Supreme Court grappled with intimate sexual minority behavior, a state sodomy statute, and privacy,¹²⁷ Sears remains mute to avoid being accused of being overly theatrical or less than substantive about sexual minority issues.¹²⁸

Despite his troubles as a gay 1L, Sears manages to help organize a commencement protest of the federal government's policy of discrimination against sexual minorities in the military.¹²⁹ In the scene that Sears describes, General Colin Powell¹³⁰ is the speaker at commencement, and Sears and his

120. *Id.*

121. *Id.*

122. *Id.* at 237-38 ("There were only a handful of students in the entire law school who were out.").

123. *Id.* at 241.

124. *Id.* at 242.

125. *Id.*

126. *Id.* at 243-44.

127. The exact nature of the issue in this case depends on one's perspective. The majority of the Supreme Court framed the issue as whether a fundamental right to sexual minority sodomy exists. *Bowers v. Hardwick*, 478 U.S. 186, 190 (1986). In contrast, a dissent focused more on whether a right to privacy in intimate sexual relations exists. *Id.* at 199 (Blackmun, J., dissenting). Seventeen years after the *Bowers* case, the Court reversed itself, holding that the right to substantive due process liberty protects the privacy of intimate sexual relations between consenting adult sexual minorities. *Lawrence v. Texas*, 539 U.S. 558 (2003).

128. Sears, *supra* note 118, at 244.

129. *Id.* at 253. At the time that Sears wrote his autobiography, the military's policy prohibited sexual minorities from serving openly. See *Former Major on Military Gay Ban*, NAT'L PUB. RADIO, Feb. 3, 2010, available at <http://www.npr.org/templates/story/story.php?storyId=123341979> (transcript on file with the *McGeorge Law Review*). During the administration of Barack Obama, the policy came into question, and President Obama sought to repeal it. See Mark Memmott, *Repeal of "Don't Ask Don't Tell" Is "Right Thing to Do," Top Officer Says*, NAT'L PUB. RADIO, Feb. 2, 2010, available at http://www.npr.org/blogs/thetwo-way/2010/02/dont_ask_dont_tell_gays_milita.html (transcript on file with the *McGeorge Law Review*).

130. Powell was Chair of the Joint Chiefs of Staff in 1993 when the military prohibited sexual minorities from serving openly, and at that time he supported the policy. See *Former Major on Military Gay Ban*, *supra* note 129. During the first term of the administration of George W. Bush, Powell was Secretary of State. See

fellow organizers distribute pink helium balloons with a “Lift the Ban” slogan printed on them.¹³¹ Sears describes how Powell, staring out at a sea of pink protest balloons, delivers a moderate speech, calling for a balance of the competing interests involved in the dispute over sexual minorities in the armed forces.¹³² At the end of his autobiography, when the protest appears on network news and receives front-page coverage in major newspapers, Sears expresses a feeling of “exhaustion and accomplishment.”¹³³

3. Kevin S. Reuther

Like Brad Sears, Kevin S. Reuther is a gay individual who attended Harvard Law School.¹³⁴ Reuther started at Harvard after the U.S. Supreme Court’s 1992 *Jacobson v. United States*¹³⁵ decision and prior to 1995.¹³⁶ Introducing himself at the beginning of his autobiography, which covers his first-year experience, Reuther points out that, although he is gay, he is also White, male, Lutheran, from a small town, upper-middle class, from a tolerant family, a brother for two siblings, slightly older than the average law student, and an eater of meat.¹³⁷ In short, being gay is only one part of his identity.¹³⁸ Nonetheless, Reuther admits, “[T]here is something peculiar and particular about being gay that makes it different from the other pieces that make up my identity.”¹³⁹ To Reuther, being gay is important enough that he “came to law school to learn skills to be an advocate for gay people.”¹⁴⁰

In telling his story, Reuther presents several encounters with alienation. For example, Reuther describes his experience in Criminal Law, in which he and his

Colin Powell Resigns as Secretary of State, NAT’L PUB. RADIO, Nov. 15, 2004, available at <http://www.npr.org/templates/story/story.php?storyId=4170163> (transcript on file with the *McGeorge Law Review*). Despite having made a prominent, and eventually dubious, case for the 2003 U.S. invasion of Iraq to the United Nations, Powell ultimately left the administration because of his misgivings about the ensuing war in Iraq. *See id.*

131. Sears, *supra* note 118, at 253.

132. *Id.*

133. *Id.* (noting that the *New York Times* describes the demonstration as the largest mass protest by advocates for changing the U.S. military’s policy toward sexual minorities).

134. Kevin S. Reuther, *Dorothy’s Friend Goes to Law School*, 1 NAT’L J. SEXUAL ORIENTATION L. 254, 258 (1995).

135. 503 U.S. 540 (1992) (dealing with the case of a defendant who, after sustained government inducement, ordered child pornography through the mail). The Court held that the prosecution had failed to show, beyond a reasonable doubt, that the defendant, without the government’s attempts at entrapment, was predisposed to violate the law by obtaining child pornography via the mail. *Id.* at 554.

136. Although Reuther does not give either the beginning or ending year for his legal studies, he does comment that he reads *Jacobson*, 503 U.S. 540, which the U.S. Supreme Court issued in April 1992, and his autobiography has a 1995 publication date on it. Reuther, *supra* note 134, at 254. Thus, he would have started law school after spring 1992 and prior to 1995.

137. Reuther, *supra* note 134, at 254.

138. *Id.*

139. *Id.*

140. *Id.* at 255.

classmates are studying the Model Penal Code's treatment of mitigation of murder to manslaughter under circumstances that could seem reasonable to someone in a defendant's situation.¹⁴¹ Concerned that the language of the Code might be used against gay individuals, Reuther asks his professor, "Since the reasonableness of one's actions is judged from the perspective of the perpetrator—in light of the situation as he perceives it—couldn't one who is taught to believe and truly believes that gay people are aggressors and present a threat use this belief to mitigate in a gay murder case?"¹⁴² Reuther's professor pauses and then develops a "scrunched up" look on his face.¹⁴³ Finally, before moving to another student's question, the professor replies, "Well, no. I've never heard of that."¹⁴⁴

Furthermore, Reuther is upset at the small number of gay and lesbian individuals he encounters in class readings, all of whom appear in materials for Criminal Law. As he puts it, "All of these gay men and lesbians are criminals of one sort or another They are the ONLY gay and lesbian characters who appeared in the thousands of pages I was assigned to read in my first year of law school."¹⁴⁵ Reuther wonders if gay and lesbian individuals make contracts, own property, and commit torts.¹⁴⁶

Along with questioning legal doctrine and the law school curriculum, Reuther questions the sexual minority community at Harvard Law School. As he describes the situation, "We accommodate the straight power holders and protect the closets of our 'straight-acting' sisters and brothers. The bottom line is our pocketbook not our self-respect. We are proud GUPPIES."¹⁴⁷ Despite this dissatisfaction, the autobiographer, taking inspiration from a speaker he hears at the International Lesbian and Gay Association World Conference in New York, ends his writing in the following defiant manner: "I am not afraid."¹⁴⁸

C. *The Fear Factor Autobiography*

The third category of autobiography that this Article explores is the *fear factor autobiography*. This category focuses on the dread that often initially accompanies law school classes, law school exams, and other aspects of law school. The fear factor autobiography addresses the harsh world that law school can be, the personal weaknesses of the autobiographer, and the means by which

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.* at 255-56.

145. *Id.* at 254.

146. *Id.*

147. *Id.* at 258.

148. *Id.* at 259.

the autobiographer survives the experience. At issue are how far the writer will go to succeed and what degree of humanity he or she will retain in the process.

Scott Turow

Scott Turow, who began his studies at Harvard Law School in 1975,¹⁴⁹ presents a narrative of the fear that often accompanies the early law school experience. Turow “meet[s] [his] enemy,”¹⁵⁰ whom the author initially describes as “that funny, indefinite collection of shadowy and unnerving recognitions about myself and what was around me.”¹⁵¹ The enemy plagues Turow throughout his autobiography. Early on, Turow suffers from an obsession with over-preparation for class. For instance, he spends the weekend before his first Contracts session reading, re-reading, and meticulously briefing two cases, as well as rehearsing what he will say if called upon in class.¹⁵² Turow admits that he has been “lured [unknowingly] onto enemy ground.”¹⁵³

The trend continues. Throughout the year, Turow suffers from a clenched stomach, a violent pulse, and being “always on the verge of a light sweat.”¹⁵⁴ In an attempt to deal with the angst of possible failure, Turow begins to read psychological literature about law school and makes an appointment with the school psychologist.¹⁵⁵ As exams draw near, Turow, who admits that he badly wants to succeed and sorely fears failing, suffers from fitful sleep “and a nervous sensation . . . in [his] gut.”¹⁵⁶ By noting the traditional opportunities that come with success on law school examinations, including law review membership, clerkships, and other jobs, Turow explains his fear of failure and his desire to succeed.¹⁵⁷ He wonders whether he will become one of the privileged few who have the chance to take advantage of the opportunities. One night, the author is in such a distraught state that his wife predicts that he is going to destroy himself with “pills and liquor.”¹⁵⁸

149. TUROW, *supra* note 51, at 15.

150. *Id.* at 20. Perhaps because Turow limits his autobiography to the first year of law school, the fear he describes is more intense than it would be if the autobiography contained all three of Turow’s years at law school. Descriptions of two additional years at law school, when students become adapted to the law school experience, might have diluted Turow’s description of fear somewhat.

151. *Id.* at 168.

152. *Id.* at 35.

153. *Id.*

154. *Id.* at 105-06 (noting that when Turow, his wife, and two friends spend Columbus Day weekend in upstate New York, Turow is relaxed and feels the absence of the physical ailments that plague his first year of law school).

155. *Id.* at 168 (noting that Turow ultimately cancels the appointment).

156. *Id.* at 190-91.

157. *Id.* at 191.

158. *Id.* (informing the reader that Turow’s wife abandons Turow for the night by sleeping in the living room).

The autobiography comes to an emotional climax when Turow's study group argues about whether to give anyone who wants it a copy of the group's outline for Civil Procedure or whether to demand a quid pro quo for outlines. During discussion one day after class, Turow suddenly explodes at his friend Terry, "I want the advantage. . . . I want the competitive advantage. I don't give a damn about anybody else. I want to do better than them."¹⁵⁹ Later, in the nocturnal quiet of his study, Turow has the presence of mind to counsel himself not to give up his decency and self-respect.¹⁶⁰ Ultimately, Turow characterizes his enemy and inner-demon as "that greedy monster, . . . still in there rattling his cage."¹⁶¹ Through his first year in law school, the author is forced to confront much of his own ugliness and learns more about that ugliness than he cares to know.¹⁶²

Turow's autobiography details what happens when numerous high-achievers compete against each other in a very uncertain environment. The need to survive and the drive to thrive take over. Hence, just before exams, law students in Turow's world seem on the verge of killing each other for fractionally better grades that will give them the opportunities to join law review, clerk for judges, and work for large private law firms.

IV. COMMON THREADS IN THE AUTOBIOGRAPHIES

The above discussion provides insight into a number of common threads in the autobiographies examined. With regard to form, the various autobiographies in this study have several characteristics in common. For instance, all of the authors write in prose rather than in verse. In writing law review articles, Jason Broth, Seymour Byman, Brian Owsley, Brad Sears, and Kevin S. Reuther all write what are akin to nonfiction versions of short stories about law school. In writing books, Scott Turow and Richard D. Kahlenberg both write what are akin to nonfiction versions of novels about law school.¹⁶³ In addition to writing in shorter or longer prose, most of the authors are relatively young, writing before or shortly after graduating from law school. To the contrary, Byman, a history professor and father, has much more life experience from which to speak.

Additionally, the various autobiographies in this study share similar content. To one extent or another, the autobiographers all have had problematic experiences with law school. Broth and Byman want more of a humanities experience at law school. Broth and Kahlenberg desire that law schools allow liberals as well as conservatives to flourish ideologically. Owsley, Sears, and

159. *Id.* at 285.

160. *Id.* at 285-86 (noting that this self-counseling takes place at the same time as the battle of the study groups rages frantically on campus).

161. *Id.* at 299.

162. *Id.*

163. Nonfiction writing is not necessarily true by virtue of being nonfiction, but such writing can represent the truth as authors understand it. *See, e.g.*, SHUMAKER, *supra* note 33, at 29.

Reuther want law school to address matters of social justice, such as race and sexual orientation, more adequately. Turow wants a kinder, more humane law school that will not bring out the enemy within the law student.¹⁶⁴ In short, these authors are all dissatisfied with law school.

Not only do the autobiographies in this study share similar content, but they also share what appears to be common purpose. In expressing dissatisfaction with law school, each autobiographer, having ordered and come to understand his experiences, purges his frustrations through the process of writing an autobiography. This process of purgation is a catharsis of sorts.¹⁶⁵ Each autobiographer then suggests improvement of some kind or another, which one might identify as the promotion of a mini-cause. For example, Broth and Byman suggest that the humanities receive serious attention in the law school curriculum, while Owsley, Sears, and Reuther call for more widespread acceptance of minorities at law school. Whether explicit or not in its approach, each author's narrative calls for change of some type.

On a note related to purpose, most of the voices in this study appear to be quite liberal.¹⁶⁶ For instance, Broth refers to himself as a "new left student" and one of the "progressive thinkers."¹⁶⁷ Kahlenberg ends up rejecting the business aspects of law, despite their financial temptations. Owsley, Sears, and Reuther call for social change in the areas of race and sexual orientation. Indeed, the research for this Article failed to uncover any outspoken conservative voices. Liberal law students' use of narrative as a means of calling for social change should not come as a complete surprise because liberal law professors use narrative in their scholarship.¹⁶⁸ However, liberal law students' use of narrative for liberal ends would not preclude conservative law students' use of narrative for conservative ends.¹⁶⁹

164. One could argue that such an environment might not be practical for preparing law students for the traditionally confrontational world of legal practice.

165. CHRIS BALDICK, CONCISE OXFORD DICTIONARY OF LITERARY TERMS 32 (1996). Baldick discusses *catharsis* in the strict Aristotelian sense, in which the audience of tragic drama, originally Greek tragic drama, is purged of the emotions of fear and pity. Some controversy about Aristotle's exact meaning remains, particularly about whether the audience or the protagonist is purged of emotions. *Id.*

Regardless, the present study of law school autobiography uses *catharsis* in a broader manner, such that the autobiographer, rather than just the audience, is purged of emotions of frustration, not just of fear and pity. Assumedly, the autobiographer wants to purge personal frustrations, but, in calling for change, the autobiographer likely also wants an emotional reaction from the audience. This emotional reaction would get to the so-called truth value in autobiography. See BINDER & WEISBERG, *supra* note 41, at 182.

166. The term *liberal*, used here in a political sense, broadly refers to favoring progress or reform. See RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY 781 (1st ed. 1991) (referencing the first definition provided). In contrast, the term *conservative*, also used here in a political sense, broadly refers to favoring preservation of current conditions and institutions or bringing back traditional conditions and institutions. *Id.* at 290 (referencing the first definition provided).

167. Broth, *supra* note 53, at 115.

168. See generally note 6 and accompanying text.

169. If law school helps, rather than frustrates, conservative law students with their career objectives, perhaps conservative students would be inclined to write favorably about their law school experiences.

Assumedly, when an autobiographer calls for change, he or she needs to address an audience, lest the call for change be lost on the universe. Few of the autobiographers in this study explicitly indicate their audiences. An exception to this silence about audience comes from Owsley, who indicates that he aims his law school autobiography at law professors, law school administrators, White students, and minority students.¹⁷⁰ Owsley likely describes the audience for his fellow autobiographers because, for the most part, law professors, law school administrators, and law students read law review articles and related books. One could add that practicing lawyers sometimes read law review articles and related books, too. Writing to an audience like the general public, which mostly does not read such publications, particularly law review articles, could be useful only to the extent that some law-related books become available to the general public.¹⁷¹ Additionally, each part of the audience that Owsley identifies has some say in the quality and nature of law school. For example, students can protest bad law school policies, professors can protest and change bad policies, and administrators have the final say in changing bad policies. Also, by withholding financial donations, practicing lawyers can put pressure on their alma maters to address such bad policies.

Although audiences often turn to the genre of autobiography for insight into human conditions,¹⁷² audiences of the law school autobiography likely turn to law school autobiography by chance. The reader of law school autobiography might be reading an issue of the *Hastings Women's Law Journal* or conducting research on Westlaw and happen upon a piece by Jason Broth. An exception occurs when a law school autobiography like Turow's becomes well-known for a general audience. Then the audience may be looking specifically for some insight, much like the audience of a traditional autobiography. However, for the most part, some difference exists between why the audience of law school autobiography is reading a specific autobiography and why the audience of autobiography in general is reading a specific autobiography.

Finally, one might ponder what types of autobiographies the writers discussed in this Article would have produced had they written their works many years after law school. As noted above, all of the autobiographers wrote during or shortly after law school. Perhaps time and experience would have softened the hard edges of law school. Nonetheless, authoring an afterword to his autobiography eleven years after he wrote the autobiography, Turow comments,

Regardless, the ensuing autobiographies by conservatives would lack the cathartic purpose that the autobiographies of liberals would have.

170. Owsley, *supra* note 104, at 549.

171. While few individuals outside the legal community read law review articles, books such as Kahlenberg's *Broken Contract* and Turow's *One L* can reach extra-legal audiences as well as legal audiences. However, one would need to ask whether the curious botanist who reads *One L* would be in a position to help reform law school. If not, the autobiographer would be limited to offering the audience insights into human experiences.

172. PASCAL, *supra* note 22, at 1.

“I still believe that my own experience was very much as it is reflected here. I would still criticize the same things: The classes were too big, the teaching methods too severe. The competition at the end of my first year was ungoverned.”¹⁷³ For his part, Kahlenberg, authoring an afterword to his autobiography seven years after he wrote the autobiography, notes that his perspective has remained the same.¹⁷⁴ The only thing that has embarrassed him is that he “came as close as [he] did to joining a large corporate law firm.”¹⁷⁵ Time and experience may not have changed anything for the other autobiographers either.

V. CONCLUSION

This initial study has attempted to shed light on the essentially ignored nonfiction law and literature subgenre of law school autobiography. In doing so, the study identified three types of law school autobiographies: autobiographies about unfulfilled expectations, autobiographies that address social ills, and autobiographies that grapple with the fear factor of law school. The study suggests that law school autobiography allows the autobiographer to purge personal frustrations regarding law school and then call for improvements to the law school experience.

Several limitations of this study provide fertile opportunities for future research. As suggested above, since this study by chance has dealt with autobiographers who happen to be more liberally inclined, attempts to find and listen to more conservative voices would be appropriate. Additionally, this study happened to examine the narratives of individuals who hold some degree of social privilege because of the law schools the individuals attended. For example, Broth attended U.C. Hastings, Owsley attended Columbia University, and Kahlenberg, Sears, Reuther, and Turow all attended Harvard University. Each of these individuals went to an elite public or private law school. Although Owsley is Black and Sears and Reuther are gay, these three men still enjoy a degree of privilege because they attended Columbia and Harvard. Other authors considered here who attended high-profile law schools enjoy an even greater degree of privilege by virtue of their being White and heterosexual. Examination of the law school autobiographies of students who have attended less high-profile law schools ought to help in obtaining a broader variety of perspectives. Along the same lines, since the research for this study did not locate any autobiographies by women,¹⁷⁶ future research should search for such autobiographies to address female law students’ perspectives on law school.

173. TUROW, *supra* note 51, at 304.

174. KAHLENBERG, *supra* note 69, at 239.

175. *Id.*

176. Research for this study located writing on women in law school from female law students’ perspectives, but the writing did not take the form of autobiography. Hence, those pieces did not fall within the

While the insights gained from law and literature studies that address fiction have been great, law and literature studies essentially have ignored an important area of nonfiction. In the subgenre of law school autobiography, law students have experiences to share with legal educators, practicing lawyers, and future law students. Accordingly, a better understanding of this subgenre is essential to a fuller understanding of the law school experience. Also, because law school is the first major experience that many law students have with the legal system, law school can play an important role in influencing the ways in which future lawyers think and act as professionals. When the reputation of the legal profession has not been as high as one might like, a key opportunity to address this problem and others comes with training for the profession.¹⁷⁷ A better understanding of law students, who constitute a significant audience for individuals and groups interested in remedying problems within the legal field, is of considerable consequence.

parameters of this project. See, e.g., Felice Batlan, Kelly Hradsky, Kristen Jeschke, LaVonne Meyer, & Jill Roberts, *Not Our Mother's Law School?: A Third-Wave Feminist Study of Women's Experiences in Law School*, 39 U. BALT. L.F. 124 (2009) (mainly discussing a survey on gender issues at law school, but including a few personal anecdotes); Gaber, *supra* note 52 (presenting the experiences of twenty female students at Yale Law School as provided through interviews); Autumn Mesa, *A Woman's Climb up the Law School Ladder*, 9 CARDOZO WOMEN'S L.J. 379 (2003) (mainly considering prior research on the environment that confronts female students at law school).

177. Carrie Menkel-Meadow, *Feminist Legal Theory, Critical Legal Studies, and Legal Education or "The Fem-Crits Go to Law School,"* 38 J. LEGAL EDUC. 61, 81 (1988) ("Lawyers use and abuse their power and are widely criticized for it . . . Much, though certainly not all, that is wrong with lawyers—the abuse of other lawyers, clients, and family members—may stem from the conflicting messages of our present legal education system. Unless we can radically alter legal education, we will not be able to reconstruct our legal system or our society.").