

BOOK REVIEW

CALLED ON: A NOVEL REFLECTING THE CHANGING NATURE OF LEGAL EDUCATION

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TABLE OF CONTENTS

I. INTRODUCTION	199
II. <i> CALLED ON</i> REFLECTS A NEW PARADIGM: THE KINDER, FRIENDLIER LAW SCHOOL	200
III. THE KINGSFIELD SOCRATIC EXPERIENCE AND UNHAPPY LAW STUDENTS.....	202
IV. <i> CALLED ON</i> GIVES THE CLASSROOM EXPERIENCE ITS APPROPRIATE WEIGHT.....	205
V. CONCLUSION.....	207

I. INTRODUCTION

Called On,¹ a novel by Professor Lisa McElroy of the Drexel University Thomas R. Kline School of Law, chronicles the triumphs and travails of the 1L year for a striving first-year, her fellow classmates, and a thoughtful thirty-something law

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1. LISA MCELROY, *CALLED ON* (2015).

professor. The book's cover blurb, from the *National Law Journal's* Supreme Court correspondent, promises that it will be "[t]his generation's *One L*."² If *Called On* is this generation's *One L*,³ however, it demonstrates a profound shift in the law-school experience today compared to the *One L* generation of the late 1970s. The narrative of *Called On* departs significantly from the two most notable books about law school life, *One L* and *The Paper Chase*.⁴ Those books⁵ from the 1970s concerned the trials of students who survived law school at the mercy of a tyrannical contracts professor.⁶ Instead, *Called On*—written by a law professor instead of a law student—features a student as the book's villain. In contrast to past books about law-school society, *Called On* reflects a changing law-school culture focused on student collaboration with a nurturing law professor. It eschews the "traditional" law-school narrative of the imposing professor who wields the Socratic method to terrorize and embarrass first-year law students. Instead, *Called On* reflects the new law-school experience of a kinder, more student-centric education.

II. CALLED ON REFLECTS A NEW PARADIGM: THE KINDER, FRIENDLIER LAW SCHOOL

Called On is set at fictional Warren Law School, a top law school on the Rhode Island coast.⁷ Libby Behl, the main character, is a first-year from a regional state undergrad who comes to Warren to pursue her legal dreams of furthering social justice.⁸ Most accurately, the book's heroine is also the sort of law-school striver who, in real life, would annoy nearly all of her more sensible and less strident classmates. The first day of class, she shows up wearing not one, but two, law-school logo shirts (a baggy t-shirt proclaiming "Just Say *Roe!*" and a hooded sweatshirt saying WWJD, shorthand for "What Would John [Marshall] Do?").⁹ On top of that, Libby reads SCOTUSblog for fun, spends her Friday

2. *Id.*

3. SCOTT TUROW, *ONE L* (1977).

4. JOHN JAY OSBORN, JR., *THE PAPER CHASE* (1971).

5. Because Turow's *One L* is based on a diary of his experience at Harvard Law School, Turow's account should not be classified as fiction. Osborn, the author of *The Paper Chase*, also attended Harvard Law School and used the experience as the basis for a fictional work. See Arthur D. Austin, *The Waste Land of Law School Fiction*, 1989 DUKE L.J. 495, 495 n.7 (1989), <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3074&context=dlj>.

6. See Phillip E. Areeda, *The Socratic Method (SM) (Lecture at Puget Sound 1/31/90)*, 109 HARV. L. REV. 911, 914 (1996) (noting that novels about law schools typically feature professors who use the Socratic method as villains).

7. MCELROY, *supra* note 1, at 25, 66.

8. *Id.* at 3–4, 180.

9. *Id.* at 4, 8.

nights listening to Supreme Court oral arguments, named her fish in honor of Justice Breyer, and dresses as Lady Liberty for Halloween.¹⁰ She also referenced Lewis Powell on her first day of class.¹¹ Needless to say, because of—or despite—such extreme gunner behavior, she is the law professor’s favorite.

The novel’s other main character, Connie Shuh, a law professor in her late thirties,¹² is far removed from *The Paper Chase*’s Charles Kingsfield.¹³ Shuh craves chocolate, posts on Facebook, and, on the first day of class, wears a suit that she bought at the local consignment shop.¹⁴ Unlike many past law-school books, however, where the dreaded law professor teaches contracts,¹⁵ Shuh teaches Introduction to Legal Thinking,¹⁶ a course that is not part of the traditional 1L core curriculum. Moreover, the professor herself recognizes the standard narrative of the dreaded 1L law-school professor: channeling *The Paper Chase*, Shuh reminds herself, “They’re 1Ls. This is their first day. Don’t go all Professor Kingsfield on them.”¹⁷

In *The Paper Chase*, Kingsfield was the dreaded professor who utilized a “demanding and unkind” form of the Socratic method.¹⁸ The professor could be cold outside the classroom too. In one of the most famous exchanges in *The Paper Chase*, the protagonist law student, James Hart, walks across the Harvard Law School lawn after his final contracts class and bumps into his dreaded contracts professor. An emotional Hart remarks, “I want to tell you that the class meant something to me . . . You meant something to me.”¹⁹ But after Hart lauds the professor and his influence, Kingsfield stares at him as if from a distance and

10. *Id.* at 3, 24, 43, 46, 75.

11. *Id.* at 20.

12. MCELROY, *supra* note 1, at 5.

13. Michael Vitiello, *Professor Kingsfield: The Most Misunderstood Character in Literature*, 33 HOFSTRA L. REV. 955, 955 (2005), http://www.hofstra.edu/PDF/law_lawrev_vitiello_vol33no3.pdf (Professor Charles Kingsfield has “remained synonymous with a particular form of the Socratic method, so demanding and unkind that it rendered students bitter, unhappy and cynical.”)

14. MCELROY, *supra* note 1, at 5–6, 28.

15. See Harvey Gilmore, *Misadventures of a Law School Misfit*, 51 DUQ. L. REV. 191, 193 (2013), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2208927 (“If anyone has ever seen the movie ‘The Paper Chase’ or read the novel *One L*, they would be left with an unshakeable impression that the first-year contracts class is *the* class *everybody* dreaded and that the only mission in life of contracts [p]rofessors . . . is to abuse, torture, debase, and humiliate any student whom had the misfortune of being registered into their classes.”)

16. MCELROY, *supra* note 1, at 22.

17. *Id.*

18. Vitiello, *supra* note 13.

19. OSBORN, *supra* note 4, at 180.

responds, “What was your name?”²⁰ *Called On*’s Connie Shuh, on the other hand, is not the type of professor who would feign forgetting a student’s name.²¹ She invites her students to join her at her home for Thanksgiving dinner.²²

Moreover, the very nature of class assignments at Warren Law suggests a departure from the traditional law school narrative of briefing cases, a strict Socratic method-loving professor, and a make-or-break final examination. In *Called On*, Libby and her two friends complete group assignments, and the trio meet in a bar over drinks to draft their submissions.²³

III. THE KINGSFIELD SOCRATIC EXPERIENCE AND UNHAPPY LAW STUDENTS

Collaborative class assignments and kindly law professors are radical departures from the Kingsfield Socratic experience of previous generations. Kingsfield used the Socratic method “like an intellectual sword, intimidating, if not terrorizing, many of his students in the process.”²⁴ This is less likely to be the Socratic method used today.²⁵ Instead, today’s Socratic method is a modified version that utilizes less aggressive questioning or gives “advance notice of when [a particular student] will be called on in class.”²⁶

Though Professor Kingsfield himself is fiction, there is no question that many law professors utilize a similar style of Socratic method, leading to widespread dissatisfaction with the law-school experience.²⁷ The use of the Socratic method in legal education began with the case-study method created through a series of academic reforms instituted by Harvard Law School Dean Christopher C. Langdell between 1870 and 1886.²⁸ By the 1960s, the law-school

20. *Id.* (describing the scene between the two characters).

21. See John J. Osborn, *Bleak House: Narratives in Literature and Law School*, 52 N.Y.L. SCH. L. REV. 339, 347 (2008), <http://www.nylslawreview.com/wp-content/uploads/sites/16/2013/11/52-3.Osborn.pdf> (“By the way, did Kingsfield know Hart’s name when he asked Hart what his name was? Of course he did.”).

22. McELROY, *supra* note 1, at 83–84.

23. *Id.* at 31–33.

24. M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 SEATTLE U. L. REV. 139, 139 (2001), <http://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1709&context=sulr>.

25. Vitiello, *supra* note 13, at 958–59 (“From my observations, many law schools are gentler today than in the past. But the trend has gone too far.”).

26. *Id.* at 957.

27. See Osborn, *supra* note 21, at 340 (noting that “generally law school students actually hate law school” and that law students “hate law school much more than medical students hate medical school”).

28. Bruce A. Kimball, *Before the Paper Chase: Student Culture at Harvard Law School, 1895–1915*, 61 J. LEGAL EDUC. 31, 31 (2011), <http://jle.aals.org/home/vol61/iss1/3/>;

experience had become increasingly criticized, with many commentators noting that the use of the Socratic case method in the classroom led to student humiliation.²⁹ As the author of *One L* noted, “the peculiar privilege which Socratism grants a teacher to invade the security of every student in the room means that in the wrong hands it can become an instrument of terror.”³⁰

The law-school experience has always been seen as particularly brutal. The first year of the law-school experience is often one marked by intense effort combined with anxiety.³¹ The later years were marked by “withdrawal, depression, and disengagement from [the] classroom.”³² As a group, law students continue to suffer from chronic, elevated anxiety, with the Socratic method linked as one of the greatest drivers of student stress.³³ Even though the strict Socratic method of yore has been linked to poorly trained lawyers,³⁴ results in incivility between lawyers,³⁵ disproportionately disadvantages female law students,³⁶ and even leads to increased alcoholism in law students,³⁷ the Kingsfield method retains staunch defenders among the current legal professorate.³⁸

see also Austin, *supra* note 5, at 502 (“Blending the Socratic style with a casebook, Langdell converted the legal trade into a profession.”).

29. Kimball, *supra* note 28, at 34–35.

30. TUROW, *supra* note 3, at 296; Duncan Kennedy, *How the Law School Fails: A Polemic*, 1 YALE REV. L. & SOC. ACTION 71, 76 (1970), <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1007&context=yrlsa>; Kimball, *supra* note 28, at 34–35.

31. Kimball, *supra* note 28, at 35.

32. *Id.*

33. Abigail A. Patthoff, *This is Your Brain on Law School: The Impact of Fear-Based Narratives on Law Students*, 2015 UTAH L. REV. 391, 412 (2015), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2489134 (“Empirical research has repeatedly confirmed that law students suffer significantly more depression and anxiety than not only the general population but also other graduate-level students.”) (citations omitted); Nancy J. Soonpaa, *Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students*, 36 CONN. L. REV. 353, 367 (2004), <http://repository.law.ttu.edu/bitstream/handle/10601/144/Soonpaa%2036%20Conn.pdf?sequence=1> (noting that the method of law-school instruction is one source of anxiety in the first-year law experience).

34. See Ronald H. Silverman, *Weak Law Teaching: Adam Smith and a New Model of Merit Pay*, 9 CORNELL J.L. & PUB. POL’Y 267, 287–88 (2000), <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1267&context=cjlp> (discussing how the Socratic method does not provide guidance or an in-depth understanding of the material being learned).

35. See Roger E. Schechter, *Changing Law Schools to Make Less Nasty Lawyers*, 10 GEO. J. LEGAL ETHICS 367, 381 (1997) (arguing that the Socratic method encourages rude behavior).

36. See generally Lani Guiner et al., *Becoming Gentlemen: Women’s Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994), http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3541&context=penn_law_review.

37. Ann Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524, 524–25 (1998), <http://coloradomentoring.org/wp-content/uploads/2013/09/Iijima-AL-Lessons-Learned-Legal-Education-and-Law-Student-Dysfunction-48-J.-Legal-Educ.-524-December-1998.pdf>.

38. See, e.g., Vitiello, *supra* note 13. Vitiello defends Kingsfield and the rigorous method of professor/student Socratic interaction. In the acknowledgments, Vitiello offers

Still, the law professors who retain fervent devotion to the Socratic method as utilized by Kingsfield have become a minority. As a recent law review article asserts, “law schools seem to be abandoning the stick-based aspects of the traditional Socratic method (public humiliations for students who could not answer the professor’s questions).”³⁹ Instead, law schools now are creating more positive learning environments. According to Joan Catherine Bohl, the law-school experience is being re-formulated to reflect the learning experiences of Generations X and Y.⁴⁰ For example, this new generation received less training in serious academic writing and is more likely to see the professor as a collegial authority figure.⁴¹ Most significantly, this newest cohort is technologically savvy and prone to turning to Google and other forms of technology to find solutions to class problems.⁴² Unlike earlier law-school novels, *Called On* reflects this internet-savvy student body. In the first discussion in Professor Shuh’s class about adherence to rules, results, and precedent, one student (the eventual villain) turns to Google to find the answers and background to the professor’s hypotheticals based on real events.⁴³

The literature about Harvard Law School, the most chronicled of law schools, corroborate *Called On*’s indication of a gentler law-school experience today. Such a change is a radical departure from the past. As one article notes, “For most of the past fifty years, attending Harvard Law School was a miserable experience for the majority of its students.”⁴⁴ At that time, “[t]o meet a recent Harvard Law grad was sometimes to meet an embittered person who vowed never to give a dime to the institution.”⁴⁵ Much has changed over the last ten years at Harvard Law owing to the tenure of Dean Elena Kagan and the continuation of those reforms

his thanks to his “personal Professor Kingsfield,” his contracts professor at the University of Pennsylvania.

39. Gerrit De Geest & Giuseppe Dari-Mattiacci, *The Rise of Carrots and the Decline of Sticks*, 80 U. CHI. L. REV. 341, 344 (2013), https://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/uploads/80_1/13%20DeGeest%26DariMattiacci_ART.pdf; see also Orin S. Kerr, *The Decline of the Socratic Method*, 78 NEB. L. REV. 113 (1999), <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1437&context=nlr> (finding that two-thirds of Harvard professors no longer use the traditional Socratic method in first-year classrooms).

40. See generally Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the “MTV/Google” Generation*, 54 LOY. L. REV. 775, 791–95 (2008), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1150925.

41. *Id.* at 786.

42. *Id.* at 776 (noting that law-school students today are “digital native[s]” where the “skillful googler is the norm, not the exception”).

43. MCELROY, *supra* note 1, at 18–21.

44. Kevin K. Washburn, *Elena Kagan and the Miracle at Harvard*, 61 J. LEGAL EDUC. 67, 67 (2011), <http://www.swlaw.edu/pdfs/jle/jle611washburn.pdf>.

45. *Id.*

by Dean Martha Minow. The “new” Harvard Law School is a transformed institution where students embrace the institution and the learning process. Though recognizing that Dean Kagan reformed the first-year Harvard Law curriculum,⁴⁶ Kevin Washburn argues that Harvard’s transformation was the result of a number of law-school initiatives that re-centered the institution’s focus on the student-learning experience.⁴⁷ As part of that focus, Harvard instituted smaller section sizes, faculty-led student reading groups, and for-credit collaborative workshop courses.⁴⁸

IV. *CALLED ON* GIVES THE CLASSROOM EXPERIENCE ITS APPROPRIATE WEIGHT

In addition to reflecting the changing nature of American legal education, *Called On* succeeds in capturing the first-year law-school experience.⁴⁹ *Called On* captures the missteps, the creeping doubts, and the general feeling of unease about his or her abilities that each student feels during the 1L year. Unquestionably, “law school is a period of transition.”⁵⁰ For all its vaunted renown as a beacon of learning, law school is ultimately a trade school where bright minds are taught to “think like lawyers.” The learning of this trade also comes with a sense of bewilderment, at least initially. *Called On* masterfully depicts that nagging sense among law students that other students are more capable, more knowledgeable, or better prepared for the trade.⁵¹

46. *Id.* at 68 (“Nor was the miracle accomplished by the recent curricular reforms at Harvard. The law school recently departed from the curriculum first designed by Christopher Columbus Langdell. Harvard’s reforms are focused primarily on the first year. They include modest electives in the first year, a moderate de-emphasis on century-old core common law subjects to create room for electives, and inclusion of two new courses, one on international law and another on administrative, legislative, and regulatory law.”).

47. *Id.* at 69–70 (“What each of these initiatives had in common was that all were focused on a specific virtuous theme, namely, that the needs of students in achieving a healthy academic community were paramount and thus should be at the forefront of the Harvard approach.”).

48. *Id.* at 70–74. See also Elaine Mcardle, *The Laws of Adaptation*, HARV. L. BULL., Fall 2015, at 40, <http://today.law.harvard.edu/feature/the-laws-of-adaptation/> (describing a new team-based course taught at Harvard Law School).

49. For an additional essay regarding the bewildering nature of the law-school experience, see Dathlia Lithwick, *Letter to a Young Law Student*, SLATE (Aug. 15, 2002, 4:54 PM), http://www.slate.com/articles/news_and_politics/jurisprudence/2002/08/letter_to_a_young_law_student.html.

50. See, e.g., Austin, *supra* note 5, at 505 (“Law school is a period of transition; students spend three years between the pleasant experiences of undergraduate life and the upbeat materialism of a yuppie lifestyle”); Osborn, *supra* note 21, at 344 (“For the students, law school is just a blip, just a short pit stop on the broad narrative of their life.”).

51. For example, comparing himself to a boat at sea, one student wonders if there was some secret book that everyone else was reading on how to succeed in law school—or at least how to make it appear that one knows more than he does about the law. MCELROY,

Instead of merely chronicling the Socratic classroom humiliations under a tyrannical contracts professor,⁵² *Called On* weaves three different plotlines into a rich tapestry set over the course of a 1L year, including Libby Behl's continued struggle with the death of a parent and a more banal cheating incident among the 1L classmates.⁵³ Law professor and *The Paper Chase* author John J. Osborn argues that a strong sense of narrative is something that many law professors lack because, while law school represents one period in a student's life, "for law professors, law school is the end of the line."⁵⁴ In this case, McElroy's compelling narrative represents an exception to Osborn's theory about his fellow faculty members.

The overarching narrative, however, is one based on a decidedly law-school idea: the strong tug between the strict rules of procedure and the quest for "justice." On the first day of class, Professor Shuh asks the class to debate whether Paul Hamm should have been awarded the 2004 Olympic gymnastics all-around gold medal even though a universally agreed scoring error cost the bronze medalist the gold medal.⁵⁵ The incorrect result ultimately stood on a procedural decision: the official protest was filed too late.⁵⁶

In the final class, after foreshadowing the event for much of the novel, Professor Shuh revisits the question of procedure and justice with a personal story. Here, the issue is Shuh's friend, James, who was killed by three attackers after leaving a gay bar.⁵⁷ The key evidence in the case was suppressed

supra note 1, at 52–53. The main character wonders how another seems to have so much knowledge about law school on the first day of class. *Id.* at 8.

52. The de-emphasis on the Socratic method may be a blessing for the narrative. One legal commentator asserts that law-school fiction fails when there is bitterness toward the law-school experience, causing the story to revolve around the use of the Socratic method to humiliate law students. The humiliation created by the Socratic method is often overwrought. Thus, "[u]sing the Socratic method as the motif in a minimalist novel is another Vietnam—failure is inevitable." Austin, *supra* note 5, at 501.

53. MCELROY, *supra* note 1, at 107–10, 197.

54. Osborn, *supra* note 21, at 344 (arguing that law professors have a simplistic idea of narrative that centers around law school and that professors fail to realize how their own personal narrative differs from students' experiences and lives).

55. MCELROY, *supra* note 1, at 15–21.

56. American Paul Hamm won the gold due to the judges' scoring error. Though all parties acknowledged the judging error cost South Korean bronze medalist Yang Tae Young the gold, the International Gymnastics Federation determined that a protest from the South Korean gymnastic delegation was filed too late. In a ruling that came over two months after the close of the men's all-around event, the Court of Arbitration for Sport determined that Hamm could keep the gold. For background regarding the incident and Court of Arbitration for Sport decision, see Alan Abrahamson, *Court Rules Paul Hamm Can Keep Olympic Gold*, L.A. TIMES (Oct. 21, 2004, 11:12 AM), http://www.latimes.com/la-102104hamm-gold_lat-story.html.

57. MCELROY, *supra* note 1, at 240.

because of search and seizure and Miranda warning violations, and the killers were ultimately found not guilty.⁵⁸ In addition to offering another legal lesson, Professor Shuh opens a window into her personal life, which is particularly jarring when compared to the past attitudes of fictional law professors such as Kingsfield.

V. CONCLUSION

McElroy's *Called On* avoids the standard traps and instead offers a fresh narrative that captures the full law-school experience that occurs within—and outside—the classroom today. As a novel, the work is a fun jaunt through 1L year. As an indication of present-day law-school culture, *Called On* reflects the changed nature of legal education that today de-emphasizes the Socratic method of learning and emphasizes a more supportive, student-centric education. *Called On* certainly isn't *One L*, but for much of the law-student audience, such a distinction is very much a blessing.

58. *Id.* at 241. For a story of a law student who experienced a similar scenario, see Amie Ely, *In Search of Truth and Justice—Without Becoming an Empty Suit*, 32 CORNELL L.F., 13 (2005), <http://www.lawschool.cornell.edu/alumni/foralumni/classnotes/upload/FallWinterForum2005.pdf>.