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Heroism Science offers a New Framework for Cultivating Civic Virtue within Clinical Law Programs

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Cover Page Footnote

i. Assistant Professor, Centre for Professional Legal Education, Bond University. ii. Professor, Centre for Professional Legal Education, Bond University. iii. At the time of writing the Prime Minister of Australia, the President of the United States, the Premier of China, the Prime Minister of Russia, and the President of India are all law school graduates iv. The often limited emphasis upon ethics within the typical law degree has been widely criticized (Nicolae, 2015). v. 'Graduates of the Bachelor of Laws will demonstrate: (a) an understanding of approaches to ethical decision-making; (b) an ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts; (c) an ability to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and service to the community; and (d) a developing ability to exercise professional judgement.' vi. Former President of the Law Council of Australia, John North (2005), identified the core elements of professionalism as 'the attainment of high levels of skill and judgment, as well as standards of work, ethics and professional conduct'. vii. According to National Pro Bono Resource Centre (2004, p. 8) 'clinical legal education programs are available at 23 of the 28 law schools (82%)'. viii. However, a USA study has found no relationship between a schools' clinical offerings ('measured by the number of positions available in faculty supervised law clinic courses . . . as a percent of total JD enrolment') and student employment outcomes (Yackee, 2015, p. 606 – 607). ix. A heuristic is a 'rule of thumb' or a mental shortcut that allows a person to solve problems and make decisions quickly and efficiently. The person uses experience or intuition to make the decision rather than careful rationalising or logic. x. Brown and Moffat (1999) describe how the metaphor of the hero's journey can be used for a variety of purposes in educational contexts, including curriculum design. (It can also be used to inspire teachers to become heroic teachers).

Heroism science offers a new framework for cultivating civic virtue within clinical law programs

Abstract

Law schools have an obligation to produce law graduates who are not only knowledgeable and competent but also committed to working towards the public good. Clinical law programs, and in particular pro bono law clinics, have the potential to provoke a positive personal transformation on the part of the law student, leading to the development of civic virtue, but law schools lack a useful framework for conceptualising, facilitating and evaluating this personal transformation. The emergent field of heroism science provides such a framework. In particular the notion of the 'hero's journey' can be drawn upon to address some of the challenges in cultivating civic virtue within clinical law programs.

1. Introduction

Lawyers serve others in a variety of ways. Lawyers serve their clients by assisting them to understand their legal rights and fulfil their legal obligations, to structure and complete important legal transactions, and to resolve legal conflicts. Lawyers serve the court by prioritising its requirements and ensuring it is not misled or misinformed. And as professionals, lawyers have an obligation to serve their communities and contribute to the public good. This third form of service is particularly important: lawyers' thorough understanding of legal and political systems, and their skills in logical and legal reasoning, critical thinking, oral and written communication, advocacy and dispute resolution mean that they are well qualified and well placed to help the disadvantaged and to effect positive legal, social and political reform. Many lawyers volunteer in law clinics and community legal centres, giving freely of their own time and resources to assist clients who cannot pay for legal advice. Many lawyers participate in legal and social reform efforts in order to ensure the legal system is as fair and as inclusive as possible. And lawyers often play important leadership roles within their communities, from serving on the boards of community organisations to occupying the highest political positions.¹

Given the potential for lawyers to contribute to the wellbeing of their communities, law schools have an obligation to cultivate civic virtue in law students. 'Civic virtue' is defined in this article as commitment to the public good, and includes such positive traits as altruism, empathy and a willingness to set aside one's personal interests for the benefit of the community.² Too often, however, the cultivation of civic virtue within the formal law school curriculum receives limited attention. The focus of the compulsory subjects within the Australian law degree tends to be upon the examination of legal doctrine and the development of practical legal skills, largely as a consequence of the Uniform Admission Rules and their prescription of certain areas of knowledge (the 'Priestley 11') (James, 2004) and predominance of vocationalism within higher education generally and legal education in particular (James, 2017). While most law students complete at least one compulsory ethics and professional responsibility subject during their legal studies, the emphasis is typically upon ensuring an intellectual understanding of what it means to be ethical and why it is important to be ethical, rather on the cultivation of civic virtue.³ Clinical legal education, in particular pro bono law clinics, have the potential to cultivate civic virtue in law students in an authentic legal environment, but law schools are confronted by significant challenges in realising this potential.

In this article it is suggested that the efforts of law schools to produce graduates committed to the wellbeing of their communities can be enhanced by drawing upon the emergent field of heroism science, and reframing the ongoing academic conversation about the role and the responsibilities of law schools in terms of an endeavour to create 'heroic' lawyers. The emphasis is upon the ways in which heroism science can enhance clinical legal education and pro bono law clinics. Part II is an examination of the close relationship between professionalism and civic virtue. Part III of the article is an explanation of the nature and importance of clinical legal education and pro bono law clinics, and of the ways in which they have the potential to cultivate civic virtue in law students. Part IV describes the challenges faced by law schools seeking to cultivate civic virtue, and Part V presents a description of the emergent field of heroism science and an identification of the ways in which heroism science offers a new framework for cultivating civic virtue in law students.

2. Professionalism and civic virtue

The law degree is a professional degree. The practice of law is clearly a profession, and a lawyer is clearly a professional: law is in fact one of the five 'original' professions, along with medicine, divinity, education and armed service (Carr-Saunders & Wilson, 1933). The notion of professionalism is deeply embedded within contemporary legal education texts and practices. Within the Threshold Learning Outcomes for Law – the set of learning outcomes all Australian law schools have been strongly encouraged to adopt – TLO 2 is concerned with *Ethics and*

Professional Responsibility (Kift, Israel & Field, 2010; Evers, Houston & Redmond, 2011).⁴ Numerous legal education scholars have encouraged their colleagues to embrace the teaching of professionalism (Montgomery, 2008; Smith, 1998; Gibbons, 2010; Penfold, 2013; Noone & Dickson, 2001; Rochette & Pue, 2001; Wilkins, 1995; Terrell, 1994).

Despite the widespread acknowledgement of the relevance of professionalism to legal education, there is little consensus about what 'professionalism' actually means in the context of legal education (Wilkins, 2001, p. 47). At the narrow end of the definitional spectrum, professionalism is simply seen as the competency or skill expected of a professional, or as the behaviour of a person who satisfies the definition of professional (Freidson, 2001, p. 12). Other narrow explanations of professionalism emphasise professional behaviours such as courtesy, punctuality and attention to detail.⁵ When professionalism is identified as a learning outcome of a law program – typically alongside ethics as 'legal ethics and professionalism' – it would appear to be these narrow versions of professionalism that are being referred to. Law students should learn about the ethical rules regulating lawyers' conduct and the importance of treating their clients and their colleagues with courtesy and respect, as well as developing high levels of skill and judgement. They should be honest, ethical and diligent.

Professionalism can and should be defined more broadly. According to Stuckey, for example, professionalism incorporates '(1) a commitment to justice; (2) respect for the rule of law; (3) honour, integrity, fair play, truthfulness and candour; (4) sensitivity and effectiveness with diverse clients and colleagues; (5) nurturing quality of life' (Stuckey et al., 2007, p. 79-91). This goes far beyond an obligation to be courteous and punctual. Broader definitions of professionalism emphasise the link between the professional and their community: a professional is not only someone with specialised knowledge and expertise, but also someone who has an obligation to use that specialised knowledge and expertise for the good of society rather than personal gain (Beaton, 2010, p. 13). Lord Benson insists that ethical standards in a profession should be 'designed for the benefit of the public and not for the private advantage of the members', and that 'it is the duty to serve the public interest which distinguishes a profession from a representative body such as a trade union' (Spada Limited, 2008). Beaton (2010, p. 2) defines professionalism as 'a combination of knowledge, skills, trustworthiness and altruism found in those who commit themselves to a life of service to others'. According to Pound (1953, p. 5):

The term [professionalism] refers to a group pursuing a learned art as a common calling in the spirit of public service_ no less a public service because it may incidentally be a means of livelihood. Pursuit of the learned art in the spirit of a public service is the primary purpose.

Civic virtue is thus a key element of professionalism in the broader sense. While not every professional will demonstrate civic virtue – professionalism is a fluid concept rather than a fixed selection of knowledge, skills and attributes (Susskind & Susskind, 2015) – most will be committed to serving the wider community by, for example, ensuring equal access to justice and striving for social justice (Wilkins, 2001, p. 47). They will demonstrate positive personal traits such as altruism: Cheetham and Chivers (2005, p. 20) include altruism – defined as being oriented towards service rather than profit – in the list of characteristics that distinguish a profession from a trade. Professionals 'express their altruism through serving in networks of responsibility within their profession, often on a volunteer basis' and 'a certain degree of altruism is expected in the true professional, a certain amount of selfless service' (Beaton, 2010, p. 6).

Any law school committed to inculcating professionalism in law students has a responsibility to not only teach law students legal knowledge and legal skills, but to also inculcate in law students civic virtue and positive personal traits such as altruism. In 2004 the Australian Law Reform Commission stated (Weisbrot, p. 30):

Australian law schools should be encouraged to support programs that (a) highlight the legal profession's service ideal and promote a pro bono legal culture, and (b) enable students to acquire 'high order professional skills and a deep appreciation of ethical standards and professional responsibility.

How can law schools develop civic virtue in law students? All law students in Australia are taught professional ethics during their law degree. Ethics and professionalism is one of the

prescribed areas of knowledge that students must have studied during their law degree in order to satisfy the academic requirements for admission as a legal practitioner.⁶ The emphasis in many ethics subjects, however, is upon teaching professional conduct rules rather than cultivating civic virtue and ethical traits such as altruism (Nicolae, 2015). And even when civic virtue is taught in the law classroom, learning *about* civic virtue is not the same as *developing* civic virtue. Law students are provided with the opportunity to actually develop civic virtue when they participate in pro bono law clinics and other clinical law programs.

3. Pro bono law clinics and civic virtue

Clinical legal education or CLE is an established part of law school curricula in most Australian law schools. It is an approach to legal education that facilitates a law student's engagement with 'real clients' in a community legal centre (Campbell, 1991), in an in-house campus clinic, or through a placement program or internship (Coss, 1993). It includes 'any law school course or program in which law students participate in the representation of actual clients under the supervision of a lawyer/teacher' (Bloch, 1982, p. 326). Most Australian law schools have introduced CLE programs into their curricula (Evans et al., 2012, p.23; Kingsford Legal Centre, 2014).⁷

The embedding of clinical experiences within the law degree provides law students with a wide range of educational benefits, and a substantial body of literature concerned with characteristics and advantages of CLE has emerged in recent decades (Campbell, 1991, p. 122; Bloch, 1982, p. 326). The CLE literature examines the ways in which engaging in clinical experiences develops law students' ability to interact with clients, undertake practical legal research, and hone their problem solving skills. It has been recognised that extra-curricular community engagement enhances law student employability by combining course work with experiential learning and community service (Kinash et al., 2015, p. 11).⁸ The 2012 report *Best Practices Australian Clinical Legal Education* (Evans et al., p. 23) identifies a range of benefits flowing from clinical legal education. According to the report, clinical legal education has the potential to:

- help students reflect on and analyse their experiences;
- develop student awareness of law in the context of society;
- engage students in deep and active learning, with timely, rich feedback;
- develop student emotional skills, values, responsibility, resilience, confidence, self- esteem, self-awareness and humility;
- move a student towards responsible professional identity;
- sensitise students to the importance of all relationships – including with clients, students, professionals;
- benefit from student-centred learning, which comes out of flexible and adaptable approaches; and
- educate students to become effective, ethical practitioners.

There is a general view that the potential benefits of CLE extend beyond purely pedagogical and employability outcomes for students, and include a range of positive outcomes for the wider community. CLE is seen as a way to integrate 'service learning' into the law curriculum (Evans et al., 2012, p. 23). Service learning is a teaching and learning strategy that integrates meaningful community service with instruction and reflection to enrich the students' learning experiences, teach them civic responsibility and strengthen communities (Evans et al., 2012, p. 23). Civic responsibility is a key element of civic virtue.

Participation in a pro bono law clinic is a particular form of CLE that has the potential to inculcate civic virtue and other positive values within law students, as well as offering experiential learning experiences (Rosas, 2002, p. 1078). Pro bono is 'the provision of legal services which will enhance access to justice for disadvantaged or marginalised persons or organisations and/or promote the public interest' (Australian Pro Bono Centre, n.d.). Pro bono work is voluntary work done out of a sense of professional responsibility, where the primary motivation for the work is a

concern for justice or for reasons of kinship or friendship, as opposed to securing gain (Corker, 2005, p. 5). A pro bono law clinic is a clinic where law students work with legal practitioners to provide legal services, free of charge or at a discounted rate, to clients who would not otherwise be able to access legal advice and assistance. This includes legal assistance to individuals or organisations who can 'demonstrate a need for legal assistance but cannot access the legal system without incurring significant financial hardship', to individuals or organisations whose matter raises an issue of public interest, and to charities and other non-profit organisations (Australian Pro Bono Centre, n.d.). Law clinics that provide assistance to indigent individuals, small businesses and non-profit organisations unable to afford legal assistance provide a valuable community service.

A number of Australian law schools collaborate with local community legal centres (CLCs) to offer pro bono law clinics, including the law schools at University of South Australia, Flinders University, Monash University, Murdoch University, Newcastle University, Bond University and the University of New South Wales (Evans et al., 2012; Kingsford Legal Centre, 2014). The importance of promoting in law students an appreciation of the importance and value of pro bono work has been widely recognised (Corker, 2005, p. 8). The National Pro Bono Centre advocates the introduction of pro bono education in all law schools, arguing that (Corker, 2005, p. 6):

CLE and student pro bono activity are vital components of a comprehensive social justice education at law school. They should both exist in all law schools in Australia so as to provide a proper legal education for students. It is important that they be managed as complementary activities, occurring in close cooperation with each other.

Engaging with volunteering opportunities can be a personally transformative experience. Volunteering has been strongly linked to 'a values based approach and enhances an individual's leadership and teamwork skills, including resilience, courage and recognising one's impact on others' (Kinash et al., 2015, p. 12). A pro bono law clinic offers an opportunity to enhance the benefits of CLE, and in so doing promote altruism and civic virtue in law students. According to McCrimmon (2003, p. 54):

[S]uch opportunities will instil in law students one of the fundamental values of the legal profession – the desire to promote justice, fairness and morality for all, and in particular the poor, disadvantaged and marginalised members of society.

In practice, however, law schools face a number of challenges in cultivating civic virtue in clinical law programs. Some of these challenges are considered in the next section of the article.

4. The challenges

A law school administering a pro bono law clinic or other clinical law program is likely to confront a large number of challenges, including providing as many students as possible with a placement of adequate duration and depth of experience; accessing sufficient funding to ensure an appropriate student to supervisor ratio; ensuring all supervisors have appropriate mentoring skills or emotional intelligence; and managing the relationship between clinic supervisors and academic coordinators. Three significant challenges are of direct relevance to the effort to cultivate civic virtue in law students.

Firstly, law students participating in a law clinic are very likely to be distracted from the altruistic aspects of the endeavour by the stress and anxiety that accompanies being placed in an unfamiliar situation. Many of the students participating in a law clinic for the first time struggle with the differences between learning the law in the classroom and advising real clients about the law applicable to real legal problems. There is often a substantial disparity between the expectations of law teachers and the expectations of clients about how to address and resolve legal problems. A law teacher will usually expect legal advice to take the form of a structured, formal essay setting out the issues, the law, an analysis and application to the facts, and a tentative conclusion (Munneke, 2008, p. 103). A client, on the other hand, will usually expect a short, succinct advice setting out their legal position and their options going forward. While a simulated problem scenario presented in the classroom will usually be tailored towards a particular category of law such as

contract law or company law or tort law, the real life problems presented by clients will involve an unexpectedly confusing mixture of legal categories, concepts and processes. It can be difficult for an inexperienced law student to distinguish between issues that can and should be dealt with by the clinic and those that fall outside the scope of the clinic such as family law issues or financial issues. Collectively, these challenges can cause law students to experience significant levels of stress and anxiety in the early stages of the clinic, especially when clients appear emotionally upset by their problems. This stress and anxiety distracts the students from the altruistic objectives of the clinic, provoking the students to become task-oriented rather than goal-oriented, and to miss the opportunity to reflect upon the good that they are doing.

The second challenge is that the goal of cultivating civic virtue in students is not one that is operationalised in a systematic manner, and the extent to which the goal is achieved is not systematically evaluated. McCrimmon (2003, p. 68) observed that there is in Australian law schools 'significant hesitation, possibly even a lack of sufficient interest, in working for the public good' and that

[s]imply participating in a pro bono program while at law school will not necessarily manifest in a willingness to engage in pro bono work following graduation. The experience must be monitored closely to ensure that the educational objective – that is, to foster or, in some cases, to inculcate, an ethic of volunteer service – is achieved.

Law teachers – usually more familiar with an emphasis upon teaching legal doctrine and developing legal skills – may be daunted by the task of explicitly inculcating traits such as altruism within law students. And the success or otherwise of efforts to date to inculcate such traits is unclear. There is little research in this area, perhaps because of logistical issues inherent in tracking law students into the workplace and the difficulty of measuring the altruistic effect of their clinical experience.

The third challenge is that developing civic virtue is for many students (but certainly not all students) going to involve a significant transformation in outlook. While some law students arrive at law school with a commitment to the public good, a passion for helping others, and an interest in social justice, many do not, and a commitment by a law school to cultivating civic virtue will require the law school to deliberately facilitate a personal transformation in its students.

Facilitating a transformation in the beliefs and behaviours of students is the central focus of transformative learning scholarship (O'Sullivan, 2003). 'Transformative learning' is a model of learning and an approach to teaching that focuses upon facilitating a transformation in the student's beliefs, attitudes and emotional reactions. The transformative approach to education can be contrasted with alternative approaches such as the transmission approach and the transactional approach (Miller & Sellar, 1990). The transmission approach sees education as the transmission of knowledge from teacher to student, i.e. it is teacher focussed. The transactional approach is student focussed, and sees education as student learning through experience, inquiry, critical thinking and interacting with other students. The transformative approach is also student focused, but the emphasis is upon facilitating a fundamental change in the student's worldview. O'Sullivan (2003, p. 326) describes transformative learning as involving

experiencing a deep, structural shift in the basic premises of thought, feelings, and actions. It is a shift of consciousness that dramatically and irreversibly alters our way of being in the world. Such a shift involves our understanding of ourselves and our self-locations; our relationships with other humans and with the natural world; our understanding of relations of power in interlocking structures of class, race and gender; our body awareness, our visions of alternative approaches to living; and our sense of possibilities for social justice and peace and personal joy.

Mezirow (1991) argues that perspective transformation results from a 'disorienting dilemma', which can be triggered by a life crisis or a major life transition. It can also be triggered by a dramatic predicament created by a teacher. Prompted by the 'disorienting dilemma', the student engages in a rational and analytical process of critically reflecting on their assumptions and beliefs, and changing their frames of reference (Mezirow, 1997). There are three elements to this transformation: psychological transformation, which is a change in the student's understanding of

the self; convictional transformation, which is a change in the student's belief systems; and behavioural transformation, which is a change in the student's lifestyle (Mezirow, 1991). In the context of legal education, these equate to a change in the student's understanding of their personal role as a lawyer, a change in the student's belief about the importance of the wellbeing of others, and a change in the way the student relates to others, and is prepared to put the interests of others ahead of their own interests. The 'disorienting dilemma' that triggers the transformation may be participating in the pro bono law clinic, and being obliged to assist people in need for the first time.

Facilitating a transformative learning experience is not a simple or straightforward process. The teacher must carefully create a learning environment where students become aware of and question their own deeply held beliefs and assumptions. Students must be encouraged to view problems from new perspectives, and to apply new frames of reference to interpretation of their experiences (Mezirow, 1991). It is important that the teacher not attempt to exert too much control over or dictate the outcome of the transformative process; rather, they should encourage the students to explore different perspectives and allow the individual students to reach their own conclusions (Cranton, 2006). This can be extremely challenging for those law teachers unfamiliar with transformational learning scholarship, and more comfortable with an approach to teaching that focuses upon the content of the curriculum rather than personal transformation by students.

The emergent field of heroism science can make a valuable and helpful contribution to addressing these challenges. The next section is an in-depth examination of this potential contribution.

5. Heroism science

Heroism science is an emergent multidisciplinary field that seeks to better understand heroes, heroism and heroic behaviour (Allison, 2015). It draws upon recent work from psychology and other disciplines into 'morality, cooperation, altruism, wisdom, meaning, purpose, resilience, hope, flow, human growth, courage, empathy, spirituality, health, public service, self-control, emotional intelligence, and character strengths' (Efthmiou, 2015). Modern heroism scholarship began with a paper by Franco and Zimbardo (2006), and gained momentum with their delineation of the conceptual principles of heroism (Franco, Blau & Zimbardo, 2011). This scholarship was supplemented by work by Walker and Frimer on moral exemplars (Frimer, Schaefer & Oakes, 2014; Frimer, Walker, Lee, Riches & Dunlop, 2012;), and by the investigations by Kinsella, Ritchie, and Igou (2015a, 2015b, 2016) of lay-perceptions of heroes. While the field of heroism science is still relatively small, it is gaining momentum and is beginning to coalesce into an established and autonomous field of inquiry (Allison, 2015). The emergent field is not without its flaws and limitations: its relative novelty means that important aspects of heroism remain unexplored, and inconsistent conceptions of the meaning, causes and consequences of heroism are yet to be resolved. Nevertheless, the field is a source of valuable insights of direct relevance to the legal education enterprise,

The term 'hero' has been defined in a variety of different ways (Alison & Goethals, 2011). The definition favoured in this article is that of a 'hero' as a person who behaves heroically by providing greater-than-expected benefits to others (Kafashan, Sparks, Rotella & Barclay, 2017) and by demonstrating moral courage, including a willingness to intervene in norm violations to stop the unfair treatment or degradation of people and violence against weaker individuals (Halmburger, Baumert & Schmitt, 2017). Heroism begins with 'everyday ethical behaviour' such as *justice* (behaviours concerned with fairly distributing resources), *solidarity* (behaviours concerned with group-beneficial self-sacrifice) and *pacifism* (behaviours concerned with the avoidance of harming others). These behaviours become automatised as 'social heuristics',⁹ and when these heuristics are taken to extremes and become 'maladaptive' (i.e. the benefits to the individual are outweighed by the cost to the individual), we label the behaviour as heroism (Kraft-Todd & Rand, 2017). Heroes are not always warriors; they include volunteers and other individuals who devote extensive time and energy to pro-social causes (Zimbardo, Breckenridge & Moghaddam, 2013).

There are obvious parallels between heroism and civic virtue. The latter has been defined as commitment to the public good, and as including positive traits such as altruism, empathy and a willingness to set aside one's personal interests for the benefit of the community. This selfless willingness to put the interests of others ahead of one's own interests is consistent with the hero's commitment to providing greater-than-expected benefits to others, often at their own expense. Heroism science can thus offer useful insights to law teachers seeking to cultivate civic virtue in law students.

A Contribution to legal education

Heroism science can enhance and improve the teaching of law in at least three ways. Firstly, by reconceptualising the teaching of law as an endeavour leading to the creation of heroic lawyers, it has the potential to elevate the legal education narrative beyond the accumulation of knowledge and acquisition of practical skills, and thereby better inspire and motivate law teachers and law students. Secondly, heroism science offers law teachers a clearer understanding of the nature of civic virtue and of the specific traits demonstrated by a lawyer with civic virtue. And thirdly, heroism science offers law teachers alternative models for conceptualising and facilitating the transformational development by law students of civic virtue.

1. Elevating the narrative

By emphasising the potential for lawyers to play heroic roles, and by focussing upon the development of heroic virtues at law school, the application of heroism science to legal education has the potential to elevate the legal education narrative, and shift the emphasis away from the acquisition of knowledge and development of skills and towards the transformation of the self. When a law student is seen as being on a journey towards becoming a heroic lawyer, and when teaching the law is seen as the process of creating legal heroes, both law students and law teachers can be better inspired and better motivated. Consider for example Joseph Campbell's definition of a hero. According to Campbell (1949, p. 20), the hero is

the champion not of things become but of things becoming. ... The dragon to be slain by him is precisely the monster of the status quo. The hero's task always has been and always will be to bring new life to a dying culture.

If value is placed upon the role of lawyers as legal and social reformists, reconceptualising the status quo as the dragon and the lawyer as the dragon-slayer makes the journey towards becoming a lawyer that much more engaging and exciting.

Similarly, heroism science can transform the narrative around learning legal ethics. The learning of legal ethics is seen by many law students as little more than completion of yet another compulsory content requirement. Students learn about the professional conduct rules that apply to legal practitioners, and about the various ethical and moral frameworks that provide guidance to lawyers facing ethical dilemmas. If heroism science is used to reframe legal education as the creation of heroic lawyers, the learning of legal ethics becomes one element of the much wider process of learning about and developing the heroic virtues needed to become a heroic lawyer. This is, again, potentially much more motivational for law students and law teachers alike.

Elevating the narrative in this manner also has the potential to shift law student motivations from extrinsic to intrinsic. If a law student is motivated to study law not because they are genuinely interested in the study of law, but because they want to graduate into a lucrative career, because they are trying to meet the expectations of their family, or because they desire the status and prestige associated with being a lawyer, we say that they are motivated by *extrinsic* factors. However, if a law student is inspired to study law as part of their personal aspiration to use the law to help others and effect legal and social change, we say that they are motivated by *intrinsic* factors. While most law students are motivated by a combination of various extrinsic and intrinsic factors, there are good reasons to believe that law students who are motivated predominantly by extrinsic factors are more likely to experience stress, anxiety and depression than law students who are motivated predominantly by intrinsic factors (Sheldon & Krieger, 2004; Sheldon &

Krieger, 2007). Reframing legal education as a heroic journey thus has the potential to contribute to addressing the higher than average rates of psychological distress experienced by law students and legal practitioners (Kelk, Luscombe, Medlow & Hickie, 2009).

II. Civic virtue and heroic traits

If it is accepted that there is a correspondence between heroism and civic virtue, heroism science can offer law teachers a clearer understanding of the specific traits demonstrated by a lawyer with civic virtue.

Riches identifies two broad categories of heroes: 'open, loving, and risk taking' heroes, who are characterised by courage, perseverance, love, curiosity, humour, creativity and zest; and 'spiritual, socially responsible, and prudent' heroes, who are characterized by perseverance, honesty, bravery, social responsibility, spirituality, courage, humor, judgment, mindfulness and prudence (Riches, 2016, p. 11-12). An emphasis upon becoming the first type of hero may not be suitable for law students, who are usually trained to be risk averse or at least risk conscious, and who must be taught to comply with their duties to the law, to the court, to their client and to their colleagues rather than encouraged to engage in creative risk taking and rule breaking. Lawyers with civic virtue are more likely to fall within the second category, and the characteristics of this category as identified by Riches can assist a law teacher to identify appropriate learning outcomes when designing a law curriculum.

Similarly, Allison and Goethals (2013, p. 9 – 10) identify what they describe as the 'Great Eight Traits' of heroism:

1. Caring: compassionate, empathetic, kind
2. Charismatic: dedicated, eloquent, passionate
3. Inspiring: admirable, amazing, great, inspirational
4. Reliable: loyal, true
5. Resilient: accomplished, determined, persevering
6. Selfless: altruistic, honest, humble, moral
7. Smart: intelligent, wise
8. Strong: courageous, dominating, gallant, leader

Each of the Great Eight Traits is of relevance to virtuous lawyering. A lawyer with civic virtue will be *caring* towards those the lawyer seeks to help in order to best understand their interests and circumstances, and motivate them to trust the lawyer (Gallacher, 2012). They must be *charismatic* when engaging in advocacy on behalf of those they serve, especially when seeking to persuade a judge or legislator to interpret or reform the law in a particular manner (Rhode, 2013, p. 8). They must be *inspiring* if they are seeking to persuade others to join their cause in seeking to reform the law or strive for social justice. They must be *reliable* and loyal: to their client, to the court, to their colleagues and to the law itself (Rhode, 2013, p. 17). They must be *resilient*, especially in the face of the extraordinary stressors associated with the study and practice of law (Rhode, 2013, p. 30). They must be *selfless*, willing to give of their time freely to help those who are incapable of helping themselves (Abel & Lewis, 1995) or to engage in actions that benefit others even if the cost to themselves personally outweighs any personal benefits. They must certainly be *smart*: it does after all take at least four years of university study to qualify as a lawyer. And a lawyer with civic virtue must be *strong*: there will be times when their opponents will be well resourced and politically powerful, and a lawyer must be especially courageous when the cause they are advocating is unpopular or inconsistent with the preferences of the political status quo. If heroism is moral courage in the face of adversity and despite personal cost, this eighth and final virtue is particularly relevant for civically virtuous lawyers.

The heroism science literature provides law teachers with the insight and resources to more clearly enumerate the traits associated with civic virtue (Fain, 2003-2004), and to explicitly embed development of those traits within the law school curriculum. It even offers insight into the relevance of heroism to members of the millennial generation (Allison, 2017).

III. The heroic journey

Heroism science offers law teachers alternative models for conceptualising and facilitating the transformational development by law students of civic virtue. Specifically, the notion of the hero's journey is a powerful tool for reconceptualising the transformative learning and development process (Pascoe, 2016).¹⁰

The hero's journey is a rite of passage involving separation, initiation, and return, and features prominently in both ancient myth and modern fiction, including novels and films. Campbell (1949, p. 30) described the hero's journey as follows:

A hero ventures forth from the world of common day into a region of supernatural wonder; fabulous forces are there encountered and a decisive victory is won; the hero comes back from this mysterious adventure with the power to bestow boons on his fellow man.

The journey is simultaneously external and internal. As the hero physically travels from the known to the unknown and back again, they undergo a personal transformation. They choose or are forced to undergo a process of inner change, losing or abandoning their previous self, undergoing a metaphorical death and resurrection, and then rediscovering themselves in a manner that incorporates their realisation or transformation into a healthier and happier new self with a new set of priorities and a new commitment to helping others. The person who began the journey is not the same as the person who completes the final test (Williams, 2016).

The hero's journey features prominently in the work of many heroism science scholars and practitioners (Brown & Moffat, 1999; Smith, 2002; Lawson, 2005; Holmes, 2007). It is a powerful metaphor for the process of personal transformation and growth undertaken by those who become heroes. One of the advantages of using the hero's journey as a model for the learning process is the importance of tests and ordeals as part of the journey. Compare this conception of the learning process with the traditional conception of learning as a painless accumulation of knowledge. The learning process typically involves challenges and difficulty, and thus the hero's journey is more than merely inspirational, it presents a more accurate portrayal of the educational experience.

The metaphor of the hero's journey can be used by law teachers to help law students to make sense of the challenges they face in the clinical environment and inspire them to persevere despite those challenges. It can also be used to ensure law students appreciate the importance of developing not only their practical legal skills but also civic virtue and personal traits such as altruism and empathy, and to inspire them to use the 'magical talisman' they earn – their legal expertise – for the benefit of their community once they return 'home'. The hero's journey is a journey from egocentricity to sociocentricity (Allison, 2016), and it is this fundamental shift in personal orientation that is required to create a heroic lawyer with civic virtue. As Wendel (2003, p. 4) argues, a characteristic central to the notion of heroism for lawyers is *self-sacrifice*, and this applies to the lawyers who have sacrificed potentially lucrative careers to practice in legal aid or as public defenders, as well as to any lawyer willing to sacrifice personal rewards in favour of helping others. The renunciation of one's own self-interests as a stage in the heroic journey applies to, *inter alia*, the law students and lawyers who devote time and effort that could be spent studying or working for paying clients instead volunteering in pro bono clinics and community legal centres.

The utility of the hero's journey as a narrative framework for law student learning may well extend beyond the clinical experience. A law school might choose to adopt a whole-of-curriculum approach (Johnstone, 2011) to incorporating the hero's journey, introducing the notion in the first semester of the program and reinforcing it throughout the degree. If so, the school will have to

address the possibility of a significant difference regarding openness to personal transformation between students participating in compulsory learning experiences and students participating in elective learning experiences (such as law clinics). Exploring this intriguing possibility is unfortunately beyond the scope of the present article.

B *Enhancing pro bono law clinics*

In the previous section we identified three ways in which the nascent field of heroism science can enhance the teaching of law. Each of these three ways is of relevance to clinical legal education and the administration of pro bono law clinics. The clinical learning experience becomes more than something to include on the law student's resume or the opportunity to apply some of the skills learned in the classroom; it becomes an important step in the journey towards becoming a heroic lawyer. The heroic virtues identified by heroism science become specific learning outcomes for the clinical education program. And the difficult challenges faced by the law student in working with real lawyers and real clients for the first time become important steps in the hero's journey.

here are three specific ways in which heroism science can be drawn upon to enhance pro bono law clinics. These relate to the program learning outcomes, the program activities and the program evaluation.

I. *Program learning outcomes*

Giddings (2008) states that while the 'practice based context of clinical legal education has the potential to offer a very rich learning environment', these benefits can be lost in an environment without the necessary supervision or control. Clinical programs, like all educational programs, must have clearly enumerated objectives setting out the learning outcomes student participants are expected to achieve upon completion of the program. A clinical program should have learning outcomes describing the knowledge students are expected to acquire and the skills students are expected to develop. They should also include a description of the personal traits students are expected to develop as a result of participating in the program. Lists and explanations of heroic traits such as the Great Eight Traits described earlier can be drawn upon to create such descriptions. The clinical program learning outcomes might include:

1. an understanding of the philosophical foundations of heroism and how heroic traits relate to the law clinic experience;
2. the capacity to demonstrate heroic traits such as altruism, empathy and selflessness, as well as wisdom, resilience, reliability, loyalty, compassion and kindness; and
3. an appreciation of the importance of heroic traits to the legal profession and an understanding of the value of demonstrating these traits in practice.

The clinic program could be structured in such a way that these learning outcomes are explicitly emphasised in all program activities.

These learning outcomes can also be used to develop appropriate assessment tasks for the students. Many pro bono clinics are extra curricular, and students will not necessarily be obliged to complete summative assessment tasks, but it is pedagogically sound to encourage them to engage in formative assessment tasks such as reflective learning exercises. The best practices for clinical legal education identified by Evans et al (2012) include practical reflective learning practice. Evans et al (2008, p.21) propose that reflection can be achieved through the use of some or all of the following activities:

- debriefing sessions with supervisors, whether individually or in a group;
- debriefing with clinical academics;
- debriefing with clinic peers;
- keeping a reflective journal or blogging;

- writing an essay or paper; and
- delivering presentations critiquing their clinical experiences.

The learning outcomes described above can inform these reflective activities.

II. Program activities

Participation in the clinic is for many students the first time that they apply the skills they have learned in the classroom in a realistic context, working with real lawyers helping real clients to address real legal problems. For many students this is a stressful experience, not least because the students often discover that they lack the ability to perform the relevant task competently, at least at first. In order to be successful the students must be willing to admit the full extent of their ignorance and inexperience, and rely upon the guidance of their lawyer mentors. The metaphor of the hero's journey provides the students – as well as the academics and the practitioners – with a narrative structure that explains and justifies both the challenges and the need for assistance.

The relevance of the hero's journey to the clinical experience can be made explicit at the outset, during the induction phase of the clinical program. During the induction phase, clinical students are usually schooled in clinic procedures and policies. The introduction of the hero's journey at this stage of the program will elevate the experience to a more aspirational level, and promote awareness of the heroic traits attainable through participation in the clinic. Students can be encouraged to draw their own parallels between the hero's journey, their own experience participating in the clinic, and their overall experience at law school.

The notion of the hero's journey, and the emphasis upon heroism generally, will need to be introduced to students with care and tact. Some students may be initially alienated by the notion of the hero's journey (Brown & Moffat, 1999), or there may be a perception that the concept of 'hero' is plagued by gender bias (Eagly & Becker, 2005; Rankin & Eagly, 2008). However, these are challenges that have been addressed in the scholarly literature, and can be overcome.

As explained in the previous section, it is important that the students be encouraged to engage in reflection as they progress through the clinic experience. Regular debriefing sessions with their supervisors, clinical academics and clinical peers provide valuable opportunities for reflection (Evans, 2008), and the hero's journey, with its emphasis upon the important role played by guides and mentors, can be used as a justification these sessions.

The success of adopting the hero's journey as a framework for the clinic experience will largely depend upon the students being periodically reminded to reflect upon the ways in which their experiences correspond with the stages in the hero's journey. A weekly reflective journal, together with a short reflective essay at the conclusion of the experience, may be appropriate (Evans et al, 2008). This would allow the students to reflect not only upon their understanding of civic virtue in an abstract sense but also upon the extent to which they are in fact demonstrating civic virtue and becoming heroic.

III. Program Evaluation

In administering any educational program, it is essential that the program be periodically evaluated to ascertain the success or otherwise of the program, and to identify ways in which the program can be improved. If the objectives of a program include the inculcation within students of civic virtue, it is important that the program be evaluated to determine whether or not this objective has been achieved. The heroic traits developed as a result of participating in the program should be traits that the students continue to demonstrate after completion of the program. McCrimmon (2003, p. 54) has cautioned against assuming that pro bono experience in law school will necessarily inculcate a desire to do pro bono work once the student leaves university and enters the legal profession.

The administrators of a pro bono law clinic should make contact with students who have participated in the clinic in the past and interview them about the extent to which participation in the clinic developed the civic virtue and heroic traits identified as objectives of the program and, more importantly, the extent to which the students continue to possess and demonstrate those traits today. In-depth face-to-face interviews with graduates should form the nucleus of the research in order to provide rich qualitative data (Denzin & Lincoln, 2005, p. 12), and semi-structured, open-ended interviews using an interview guide (rather than set questions) will produce the most useful feedback. There is of course a danger that graduates may not be able to assess their own civic virtue objectively: there may be an inclination to exaggerate or understate their own heroic traits, depending on the personality of the graduate. It would be important to include in the evaluation measurable activities such as pro bono hours served annually, or other volunteering activities undertaken, in addition to the participants' personal perspectives.

Evidence that the heroic traits cultivated during participation in the pro bono clinic have been retained by the students when they transitioned into legal practice would motivate the law school to continue to use clinics to teach civic virtue to law students. And evidence that they have not would inspire critical reflection upon how law schools might do better.

6. Conclusion

Law schools have an obligation to not only provide law students with a professional education in legal doctrine and skills, but also to inspire them to be lawyers committed to the public good. In this article we have identified some of the ways in which the emergent field of heroism science can be drawn upon to cultivate civic virtue in students participating in pro bono law clinics, and how the notion of the 'hero's journey' can be used to frame the transformational development of heroic traits in law students.

It is generally understood and accepted that pro bono law clinics offer significant immediate benefits, including immediate pedagogical benefits for the students themselves, and immediate benefits for the wider community through the provision of pro bono legal services. The less immediate benefit of pro bono teaching clinics in cultivating civic virtue in law students to maximise the potential for lawyers generally to contribute to the public good through heroic service and heroic striving for reform is less well understood and less clearly conceptualised. Heroism science can do much to assist law schools in this regard.

We have identified three ways in which the nascent field of heroism science can enhance efforts by law schools to cultivate civic virtue in law students. Firstly, by reconceptualising the teaching of law as an endeavour leading to the creation of heroic lawyers, heroism science has the potential to elevate the legal education narrative beyond the accumulation of knowledge and acquisition of practical skills, and thereby better inspire and motivate both law teachers and law students. Secondly, heroism science offers law teachers a clearer understanding of the nature of civic virtue for lawyers and of the specific traits associated with civic virtue. And thirdly, heroism science offers law teachers alternative models for conceptualising and facilitating the transformational development by law students of civic virtue. These three benefits have been used to develop a series of proposals to improve the effectiveness of pro bono law clinics in inculcating civic virtue in law students, with a focus on developing sustainable learning outcomes, suitable program activities and an appropriate evaluation of the program. Heroism science thus provides an innovative framework for the deliberate cultivation within law students of civic virtue, a responsibility of law schools that has for far too long been underemphasised.

¹ At the time of writing the Prime Minister of Australia, the President of the United States, the Premier of China, the Prime Minister of Russia, and the President of India are all law school graduates

² An emphasis upon cultivating civic virtue is not aligned with any particular category of ethical theories. The obligation to demonstrate civic virtue may be a universal rule

- (deontologicalism), an outcome of consequentialist reasoning (utilitarianism) or a trait of a virtuous person (virtue ethics).
- ³ The often limited emphasis upon ethics within the typical law degree has been widely criticized (Nicolae, 2015).
 - ⁴ 'Graduates of the Bachelor of Laws will demonstrate: (a) an understanding of approaches to ethical decision-making; (b) an ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts; (c) an ability to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and service to the community; and (d) a developing ability to exercise professional judgement.'
 - ⁵ Former President of the Law Council of Australia, John North (2005), identified the core elements of professionalism as 'the attainment of high levels of skill and judgment, as well as standards of work, ethics and professional conduct'.
 - ⁶ The 11 areas of knowledge are contract law, tort law, real and personal property law, equity (including trusts), criminal law and procedure, civil procedure, evidence, professional conduct, administrative law, federal and state constitutional law, and company law: Law Admissions Consultative Committee, Uniform Admission Rules 2008 Schedule 1 (pp. 5–11) 'Prescribed Areas of Knowledge'.
 - ⁷ According to National Pro Bono Resource Centre (2004, p. 8) 'clinical legal education programs are available at 23 of the 28 law schools (82%)'.
 - ⁸ However, a USA study has found no relationship between a schools' clinical offerings ('measured by the number of positions available in faculty supervised law clinic courses . . . as a percent of total JD enrolment') and student employment outcomes (Yackee, 2015, p. 606 – 607).
 - ⁹ A heuristic is a 'rule of thumb' or a mental shortcut that allows a person to solve problems and make decisions quickly and efficiently. The person uses experience or intuition to make the decision rather than careful rationalising or logic.
 - ¹⁰ Brown and Moffat (1999) describe how the metaphor of the hero's journey can be used for a variety of purposes in educational contexts, including curriculum design. (It can also be used to inspire teachers to become heroic teachers).

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