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# CHANGING OUR THINKING: EMPIRICAL RESEARCH ON LAW STUDENT WELLBEING, THINKING STYLES AND THE LAW CURRICULUM

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MOLLY TOWNES O'BRIEN, STEPHEN TANG AND  
KATH HALL\*

## I INTRODUCTION

News of the Brain and Mind Research Institute's ('BMRI') research on lawyer and law student depression hit Australian legal educators hard.<sup>1</sup> No longer could we shrug off law student distress as primarily an American problem.<sup>2</sup> The problem is ours too, facing us every day in our classrooms. We simply can not fail to respond to data showing that 35 per cent of Australian law students suffer from disabling symptoms of depression.<sup>3</sup>

On the other hand, when the BMRI research was published, the ANU College of Law had already implemented a first-year

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<sup>1</sup> The Brain and Mind Research Institute ('BMRI') report concluded that lawyers and law students generally exhibit higher levels of psychological distress and depression than their peers in the community: Norm Kelk et al, *Courting the Blues: Attitudes towards Depression in Australian Law Students and Legal Practitioners* (Brain and Mind Research Institute, 2009) 42.

<sup>2</sup> Three decades of research in the United States have documented that students enter law school with psychological wellbeing profiles similar to the general population, but exit with a greater tendency than their peers to experience anxiety, depression and alcoholism: see, eg, G Andrew Benjamin et al, 'The Role of Legal Education in Producing Psychological Distress among Law Students and Lawyers' (1986) 2 *American Bar Foundation Research Journal* 225; Susan Daicoff, 'Lawyer Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism' (1997) 46 *American University Law Review* 1337; Ruth Ann McKinney, 'Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?' (2002) 8 *Legal Writing: The Journal of the Legal Writing Institute* 229; B Shanfield and G A H Benjamin, 'Psychiatric Distress in Law Students' (1985) 35 *Journal of Legal Education* 65; K M Sheldon and L S Krieger, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-Being' (2004) 22 *Behavioural Sciences and the Law* 261.

<sup>3</sup> Kelk et al, above n 1, 12.

mentoring program; counselling was readily available in the University Counselling Services; our sub-dean was sensitive to issues of psychological distress; and our staff members were encouraged to refer students to seek help as needed. Was it possible that our law students might not exhibit the psychological symptoms of distress shown in the BMRI study? And, even if our students were distressed, what institutional response might be appropriate in light of the existing support for student wellbeing?

In 2009–10 we undertook to find out whether students at the ANU College of Law exhibited elevated indicators of psychological distress after one year of law school and, if so, whether particular aspects of the law school curriculum could be identified as impacting negatively on student wellbeing. Our goal was to examine and document the level of student distress and to begin to explore the relationship between student wellbeing and the legal curriculum.<sup>4</sup> We surveyed first-year students at the ANU College of Law on various measures of wellbeing, thinking styles and motivations for attending law school. In 2011, we followed up our surveys with a student–faculty dialogue retreat that sought to illuminate the causes of student distress and to engage both students and faculty in the process of generating ideas for curricular reform. The results of the surveys and the retreat confirm that, during the first year of law school, many students experience psychological struggles and changes in their thinking styles, self-concept and sense of wellbeing; and that these changes may be related to identifiable aspects of the law school experience. In this article, we report the results of the student surveys; include excerpts of some of the retreat participants’ reflections and stories; and articulate areas for further research. We also indicate areas of curricular reform that could have an immediate positive impact on student wellbeing.

## II THE SURVEYS

Our goals in surveying law students were three-fold. We sought to:

- (a) document the level of symptoms of psychological distress among first-year law students;
- (b) discover whether levels of student distress and/or thinking styles *changed* during the first year of law school; and
- (c) begin to illuminate the causes of distress.

<sup>4</sup> We use the term ‘curriculum’ broadly to include the official curriculum, the operational curriculum (the curriculum as it is implemented), the hidden curriculum (the unstated norms and values communicated to students), the null curriculum (what is not taught), and the extra-curriculum (including activities like team competitions): see Kathleen P Bennett and Margaret D LeCompte, *The Way Schools Work: A Sociological Analysis of Education* (Longman, 1990).

In documenting the level of student distress, this work also sought to complement the BMRI report, which surveyed law students, medical students and practising lawyers, and concluded that law students in Australia ‘exhibit higher levels of psychological distress and depression than do community members of a similar age and sex’.<sup>5</sup>

We did not expect to be able to identify or deal with every possible cause of distress. For example, law student distress may be attributable to characteristics of the law students themselves. Some scholars suggest that law students possess personality traits or demographic characteristics that make them vulnerable to depression.<sup>6</sup> In their recent work, Tani and Vines have shown that law students’ attitudes toward their studies may be a significant factor in producing susceptibility to depression.<sup>7</sup> We were particularly interested, however, in uncovering the role of legal education itself in creating distress. In other words, we wanted to shed light on the law school’s role (if any) in creating or augmenting student distress. To do this, we focused on changes in student wellbeing and thinking styles that might occur during law school.<sup>8</sup>

Studies conducted in the United States have suggested that students begin to suffer depressive illness within months of beginning law school.<sup>9</sup> Lawrence Krieger, whose work has catalysed the study of law student wellbeing, claims that ‘when students graduate and enter the profession they are significantly different people from those who arrived to begin law school: they are more depressed, less service-oriented, and more inclined towards undesirable, superficial goals and values’.<sup>10</sup> At least one scholar has suggested that law school “breaks” some people in certain ways and they never recover’.<sup>11</sup> We therefore chose to study first-year law students at the beginning and end of the first year of law study in order to obtain legal education’s ‘before’ and ‘after’ snapshots.

<sup>5</sup> Kelk et al, above n 1, 42.

<sup>6</sup> Daicoff, ‘Lawyer Know Thyself’, above n 2, 1349–81 (reviews studies of the personality traits and demographic characteristics of pre-law students, law students and lawyers).

<sup>7</sup> Massimiliano Tani and Prue Vines, ‘Law Students’ Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?’ (2009) 19 *Legal Education Review* 3 (law students were, for example, more likely than other university students to undertake law study for extrinsic reasons, were less likely to find law study intrinsically interesting, and were more likely to believe that their employers valued high marks above other graduate attributes: at 24–5).

<sup>8</sup> Although we collected data that could be used to examine student personality characteristics and attitudes, that data is not analysed here.

<sup>9</sup> G Andrew Benjamin et al, above n 2, 241.

<sup>10</sup> L S Krieger, ‘The Inseparability of Professionalism and Personal Satisfaction’ (2004) 11 *New York Law School Clinical Research Institute* 425, 434.

<sup>11</sup> Susan Daicoff, ‘Lawyer, Be Thyself: An Empirical Investigation of the Relationship between the Ethic of Care, the Feeling Decision-Making Preference and Lawyer Wellbeing’ (2008) 16 *Virginia Journal of Social Policy and the Law* 87, 96.

Our decision to focus on changes in students' thinking styles was arrived at after considering a variety of possibilities. Previous work had posited that student distress may be related to changes in values and motivation;<sup>12</sup> stress caused by the competitive nature of law school and fear of failure;<sup>13</sup> the loss of academic accolades, which most law students received in their previous studies;<sup>14</sup> decline in feelings of efficacy due to lack of feedback relating to mastery of the skills they are learning;<sup>15</sup> or stress and humiliation caused by a variety of typical law school pedagogical methods.<sup>16</sup> Another often-implicated potential culprit in undermining student wellbeing is a particular type of critical thinking that law teachers and lawyers refer to as 'thinking like a lawyer'.<sup>17</sup>

There has been a great deal of discussion about what it means to think like a lawyer.<sup>18</sup> For some, thinking like a lawyer requires a 'complex understanding of the moral dimensions of experience'.<sup>19</sup> To others, it is the 'ability to think precisely, to analyse coldly, to work within a body of materials that is given, to see, and see only, and manipulate, the machinery of law'.<sup>20</sup> Welch Wegner describes the concept as aggregating 'the process of reasoning, the nature of the law, and the role of lawyers'.<sup>21</sup> It has been described as a 'crucial focal point of professional identity'.<sup>22</sup> For our purposes, we did not think it was necessary (or indeed possible) to state precisely what it means to think like a lawyer. Neither did we believe that we would be

<sup>12</sup> Sheldon and Krieger, above n 2, 283.

<sup>13</sup> Nancy J Soonpaa, 'Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students' (2004) 36 *Connecticut Law Review* 353.

<sup>14</sup> *Ibid*; see also Lawrence Silver, 'Anxiety and the First Semester of Law School' (1968) 4 *Wisconsin Law Review* 1201, 1202.

<sup>15</sup> McKinney, above n 2.

<sup>16</sup> Robert P Schuwerk, 'The Law Professor as Fiduciary: What Duties Do We Owe to Our Students?' (2004) 45 *South Texas Law Review* 753, 766–80 (describes the effects on law students of using the Socratic method, marking on a curve, giving high-stakes final exams, etc).

<sup>17</sup> Lawrence S Krieger, 'Human Nature as a New Guiding Philosophy for Legal Education and the Profession' (2008) 47 *Washburn Law Journal* 247; Elizabeth Mertz, *The Language of Law School: Learning to 'Think Like a Lawyer'* (Oxford University Press, 2007); Soonpaa, above n 13.

<sup>18</sup> See generally Roger C Cramton, 'The Ordinary Religion of the Law School Classroom' (1978) 29 *Journal of Legal Education* 247; Jess M Krannich, James R Holbrook and Julie J McAdams, 'Beyond "Thinking Like a Lawyer" and the Traditional Legal Paradigm: Toward a Comprehensive View of Legal Education' (2009) 86 *University of Denver Law Review* 381; Robert J Morris, 'Not Thinking Like a Non-Lawyer: Implications of "Recognization" for Legal Education' (2003) 53 *Journal of Legal Education* 267; Peter R Teachout, 'Uneasy Burden: What it Really Means to Learn to Think Like a Lawyer' (1996) 47 *Mercer Law Review* 543.

<sup>19</sup> Teachout, above n 18, 551.

<sup>20</sup> Stephen Wizner, 'Is Learning to "Think Like a Lawyer" Enough?' (1998) 17 *Yale Law and Policy Review* 583, quoting Karl N Llewellyn, *The Bramble Bush: On Our Law and Its Study* (Oxford University Press, 1960) 116.

<sup>21</sup> Judith Welch Wegner, 'Reframing Legal Education's "Wicked Problems"' (2009) 61 *Rutgers Law Journal* 867, 894.

<sup>22</sup> Mertz, above n 17, 22.

able to measure the degree to which students achieve this particular type of thinking. We were interested, however, in the claim that legal education goes beyond imparting information or ideas to inculcating a new way to process and understand those ideas. Does law school have a measurable impact on the way students think? Would we be able to see measurable changes in thinking styles during the first year of law school?

Thinking styles were also particularly interesting to us because of the role of thoughts in psychological disorders. Contemporary models of psychopathology state that dysfunctional patterns of thinking can be acquired and reinforced over time.<sup>23</sup> These patterns can lead to vulnerabilities, which, when combined with stressful situations, can result in sustained maladaptive thoughts, feelings and behaviours. Cognitive theories stress that it is the interpretation of situations and the attributions which we ascribe to them which form the core of psychological disorders such as depression or anxiety disorders. Most evidence-based therapies concentrate on the teaching of healthier, more balanced thinking styles in order to enable a person to reassess their view of the world and develop protective patterns of thought to guard in future against unhelpful interpretations of events.<sup>24</sup>

There is also increasing evidence that metacognition (that is, thinking about one's own mental processes) has an important role to play in psychological wellbeing. For instance, a person's tendency to avoid thoughts and feelings is a common feature in psychopathology.<sup>25</sup> On the other hand, a person's ability to reflect on, narrate and make sense of her or his thoughts, feelings and experiences is associated with psychological flexibility and therefore wellbeing.<sup>26</sup> With these factors in mind, we decided to explore the role of thinking styles together with measures of wellbeing in our survey of first-year law students.

### A *The Legal Educational Context*

The ANU College of Law is one of the 'Group of Eight' Australian law schools. These law schools are situated in research-intensive universities that have strong national and international reputations. They are commonly thought of as the 'top tier' of Australian legal education, and entry is very competitive. A majority of students in the LLB program enter directly from secondary school and take

<sup>23</sup> Ian H Gotlib and Jutta Joormann, 'Cognition and Depression: Current Status and Future Directions' (2010) 27 *Annual Review of Clinical Psychology* 285.

<sup>24</sup> Aaron T Beck et al, *Cognitive Therapy of Depression* (Guilford Press, 1979).

<sup>25</sup> Neharika Chawla and Brian Ostafin, 'Experiential Avoidance as a Functional Dimensional Approach to Psychopathology: An Empirical Review' (2007) 63 *Journal of Clinical Psychology* 871.

<sup>26</sup> See, eg, Jack J Bauer, Dan P McAdams and Jennifer L Pals, 'Narrative Identity and Eudaimonic Well-Being' (2008) 9 *Journal of Happiness Studies* 81.

about five years to complete a combined degree program in law and another field (such as Commerce, Arts or Science).

At the ANU, first-year law classes do not typically employ a Socratic or even a modified-Socratic format. Students enrol in a combination of large lectures, with as many as 350 other students, and small group tutorial sessions with about 20 students. In their first semester, they take a course in torts and a course called ‘Foundations of Australian Law’. The Foundations course surveys the Australian legal system, legal history, sources of law, the doctrine of precedent and statutory interpretation, and provides students with instruction and assessment in legal writing and research. In their second semester, law students take a course in contracts and a course on ‘Lawyers, Justice and Ethics’, which considers the roles of lawyers in society, access to justice and the ethical duties of a legal practitioner.

### *B Methodology and Psychometric Measures*

In order to get a snapshot of student thinking styles and wellbeing, we conducted time-limited surveys of all students (subject to informed and voluntary participation) enrolled in a compulsory first year course. Our earliest survey, conducted in October 2009, involved students who were approaching the completion of their first year of law school (‘Cohort 1’). Two hundred and fourteen students completed the survey.

The second survey group provided us with an opportunity to get a ‘before’ and ‘after’ (one year of) legal education snapshot. This new cohort of 174 first-year students was surveyed in their second week of classes in February 2010 (‘Cohort 2a’). We surveyed these students again near the end of their first year of law school in September–October 2010, with 81 students participating (‘Cohort 2b’).

In all three surveys, students completed an anonymous online survey that included demographic information, questions relating to career preferences, reasons for attending law school, and their expectations of or actual experience of law school. Each survey also included three psychometric instruments: the Rational-Experiential Inventory (‘REI’); the 21-item version of the Depression Anxiety Stress Scale (‘DASS-21’); and the Satisfaction with Life Scale (‘SWLS’). These three measures are commonly used in psychological research across different populations and settings and demonstrate very good psychometric properties.<sup>27</sup>

<sup>27</sup> One measure of a psychometric scale’s reliability is known as Cronbach’s alpha. Higher alpha scores (which range from 0 to 1) indicate that items within a scale are more internally consistent and therefore more likely to be measuring the same construct. Cronbach’s alpha scores above .7 indicate an acceptable level of internal consistency and reliability for research purposes. Alphas were at least .83 for each of the (sub-)scales in each instrument.

The first of the three measures, the REI, is a 40-item questionnaire that asks participants to rate themselves on a series of items which relate to preferences for rational or experiential styles of thinking.<sup>28</sup> The REI was developed from Seymour Epstein's Cognitive-Experiential Self-Theory ('CEST'), a dual-process model of human personality and cognition which argues that there are two parallel but different ways of processing information.<sup>29</sup> According to CEST, the experiential system operates based on effortless intuition, whereas the rational system is conscious and deliberative. *Table 1* outlines the characteristics of these two systems of thinking.<sup>30</sup>

Table 1: Comparison of Experiential and Rational Processing Modes<sup>31</sup>

<b>Experiential system</b>	<b>Rational system</b>
Holistic	Analytic
Automatic	Intentional
Emotionally-oriented (what feels good)	Logical: reason-oriented (what is sensible)
More rapid processing	Slower processing
More outcome-oriented (what is pragmatic)	More process-oriented (rule-based)
Self-evidently valid: 'experiencing is believing'	Requires justification via logic and evidence
Behaviour mediated by 'vibes' from past events	Behaviour mediated by conscious appraisal of events
Encodes reality in concrete images, metaphors and narratives	Encodes reality in abstract symbols, words and numbers

It is important to point out that both the rational and experiential modes of thought are effective in different ways. The labels also refer to the process of thinking, rather than its outcomes. The quick and emotion-driven nature of the experiential system in no way makes it 'irrational' in the common meaning of the word; nor does the rational system imply that this is a way of thinking which always produces

<sup>28</sup> Rosemary Pacini and Seymour Epstein, 'The Relation of Rational and Experiential Information Processing Styles to Personality, Basic Beliefs, and the Ratio-Bias Phenomenon' (1999) 76 *Journal of Personality & Social Psychology* 972, 982-7.

<sup>29</sup> Seymour Epstein, 'Cognitive-Experiential Self-Theory of Personality' in T Millon and MJ Lerner (eds), *Comprehensive Handbook of Psychology: Personality and Social Psychology* (John Wiley, 2003) vol 5, 159-278.

<sup>30</sup> J Evans, 'Dual-Processing Accounts of Reasoning, Judgment, and Social Cognition' (2008) 59 *Annual Review of Psychology* 255.

<sup>31</sup> Epstein, above n 29.



the optimal (in classical economic terms) result after exhaustive calculations.<sup>32</sup>

The two modes operate simultaneously, although there are differences in a person's relative preference for one system over the other. The REI measures these differences as a relatively stable personality construct. The Rational Thinking scale in the REI measures an individual's overall ability and tendency to think logically and analytically, while the Experiential Thinking scale relates to a person's overall ability and preference to incorporate intuitive impressions and feelings into their thinking.<sup>33</sup>

The second measure we employed was the DASS-21, which contains three subscales designed to measure the number and severity of symptoms indicative of depression, anxiety (specifically physiological or subjective fear-related symptoms and situational anxiety) and stress (specifically tension, over-arousal and difficulty meeting taxing life demands).<sup>34</sup>

Although the DASS-21 is very useful for the purposes of clinical assessment, it was not used as a diagnostic instrument in our study. Instead, it was used based on its sensitivity to different levels and kinds of psychological distress (including symptoms of stress, anxiety and depression).<sup>35</sup> The DASS-21 was chosen over other brief measures (for example, the K10 screening instrument used in the BMRI study)<sup>36</sup> because it assesses specific symptoms of three common areas of psychological distress in one simple instrument, and it is also supported by strong normative data.<sup>37</sup>

The third measure, the SWLS, is a brief (five-question) but well-validated instrument that provides a global measure of subjective satisfaction with life.<sup>38</sup> The absence of distress (for example, in the form of depression, anxiety or stress) does not necessarily imply that

<sup>32</sup> Michel Tuan Pham, 'Emotion and Rationality: A Critical Review and Interpretation of Empirical Evidence' (2007) 11 *Review of General Psychology* 155; Paul Slovic, 'Rational Actors and Rational Fools: The Influence of Affect on Judgement and Decision-Making' (2000) 6 *Roger Williams University Law Review* 163; Pacini and Epstein, above n 28, 985.

<sup>33</sup> The REI further divides the Rational and Experiential scales into Ability and Engagement (or Favourability) subscales. However, for the purposes of this study, these subscale-level data were not used.

<sup>34</sup> S H Lovibond and P F Lovibond, *Manual for the Depression Anxiety Stress Scales* (2<sup>nd</sup> ed, Psychology Foundation, 1995) 32–4; Julie D Henry and John R Crawford, 'The Short-Form Version of the Depression Anxiety Stress Scales (DASS-21): Construct Validity and Normative Data in a Large Non-Clinical Sample' (2005) 44 *British Journal of Clinical Psychology* 227.

<sup>35</sup> See *Overview of the DASS and its Uses*, University of New South Wales <<http://www2.psy.unsw.edu.au/Groups/Dass/over.htm>>.

<sup>36</sup> R C Kessler et al, 'Short Screening Scales to Monitor Population Prevalences and Trends in Nonspecific Psychological Distress' (2002) 32 *Psychological Medicine* 959.

<sup>37</sup> 'Normative data' are data from other large studies of a similar population using the same scale/instrument that can be used for comparison.

<sup>38</sup> Edward Diener et al, 'The Satisfaction with Life Scale' (1985) 49 *Journal of Personality Assessment* 71.

the person is happy and has a life that is worth living. As a measure of wellbeing, rather than distress, the SWLS complements the DASS-21 by focusing on the positive end of the emotional spectrum.<sup>39</sup>

### C Participants

A total of 389 students from Cohorts 1 and 2 validly completed the online questionnaires.<sup>40</sup> Our demographic data showed that the vast majority (more than 80 per cent) of students in Cohorts 1 and 2a were between 18 and 19 years old. About 20 per cent still lived with their parents. Each Cohort had more females (Cohort 1: 59 per cent; Cohort 2a: 64 per cent; Cohort 2b: 57 per cent) than males. Around 80 per cent of students in all Cohorts were enrolled in double-degree programs, simultaneously pursuing an undergraduate degree in both law and another field (such as Commerce, International Relations, Science or Arts).

The second-semester survey of Cohort 2b yielded a lower response rate and somewhat higher rate of invalid responses. This was possibly due to concurrent assessment pressures at this busy time of the academic year.<sup>41</sup> Substantially incomplete or invalid responses were excluded and were not counted in the total number of participants in each survey group reported above.

### D Summary of Results

#### 1 DASS-21 Subscale

Table 2 shows the results of the DASS-21 subscales for each of the survey groups. There were no statistically significant differences on any of the measures between the two end-of-year survey groups (Cohort 1 and Cohort 2b).<sup>42</sup> As our methodology was non-

<sup>39</sup> William Pavot and Ed Diener, 'The Satisfaction with Life Scale and the Emerging Construct of Life Satisfaction' (2008) 3 *Journal of Positive Psychology* 137, 137.

<sup>40</sup> We assume that the participants of the Cohort 2b survey were a subset of the Cohort 2a survey.

<sup>41</sup> Other college and university offices asked students to complete several other surveys relating to teacher evaluations and their experience of university during the same time frame.

<sup>42</sup> In this section of the paper, we use 'significance' to refer to *statistical* significance. This refers to our confidence in the data, rather than being a comment about the importance of the results. We used a 5 per cent significance level in our analyses, correcting for multiple comparisons where appropriate. This means that we report a finding as significant when the probability that the reported difference (or a larger result) would have been found when there were actually *no* differences (that is, a false positive) is less than 5 per cent. In this case, there was at least a 15 per cent chance that the between-group differences on the DASS-21 subscale scores could have been obtained assuming that there were no differences between the groups. Because 15 per cent is greater than our 5 per cent threshold, we cannot rule out the possibility that the two groups have the same mean (average) score. This then allows us to combine the data. For the statistically inclined, the exact *p*-values, confidence intervals and effect sizes are available on request.

longitudinal, this allowed for the three surveys to be collapsed into two groups — a beginning-of-year group and an end-of-year group — for the purpose of further analyses below.<sup>43</sup> No significant gender or age differences were found in the DASS-21 subscale results.

Table 2: Means and Standard Deviations for Measures across Survey Groups

	Depression	Anxiety	Stress
<b>Cohort 1 (End of 2009)</b> <i>n</i> = 214	5.30 <i>4.73</i>	3.80 <i>4.27</i>	6.31 <i>4.66</i>
<b>Cohort 2a (Start of 2010)</b> <i>n</i> = 172	2.89 <i>3.93</i>	3.57 <i>4.00</i>	4.74 <i>4.38</i>
<b>Cohort 2b (End of 2010)</b> <i>n</i> = 81	4.42 <i>4.49</i>	3.57 <i>4.14</i>	7.00 <i>4.61</i>

Standard deviations are shown in *italics*. Each subscale has a possible range of scores from 0 to 21.

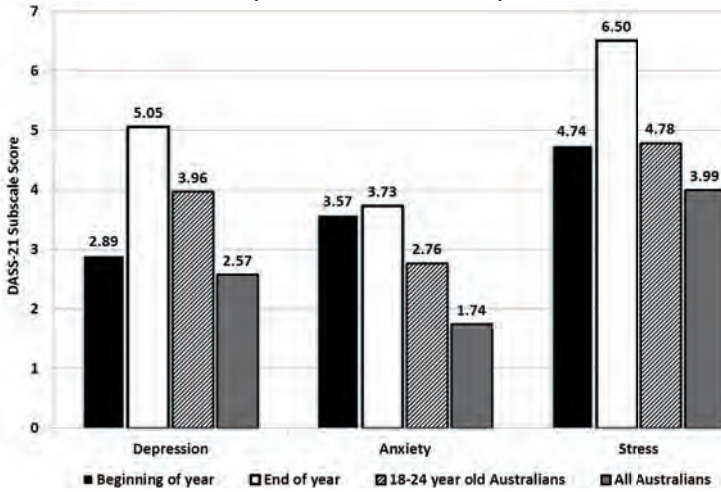
Figure 1 depicts the comparison between the beginning-of-year group and the end-of-year group, together with means from a recent Australian normative sample.<sup>44</sup> It shows that the normative DASS-21 scores for 18–24 year old Australians are higher than those for Australians across all ages. This is consistent with epidemiological data indicating that the prevalence of psychological disorders is higher in the younger adult population compared with the adult population generally.<sup>45</sup>

<sup>43</sup> The direction and statistical significance of the results reported below did not change when the analyses were run separately comparing the beginning-of-year group with either of the two end-of-year groups.

<sup>44</sup> John R Crawford et al, 'Percentile Norms and Accompanying Interval Estimates from an Australian General Adult Population Sample for Self-Report Mood Scales (BAI, BDI, CRS-D, CES-D, DASS, DASS-21, STAI-X, STAI-Y, SRDS, and SRAS)' (2011) 46 *Australian Psychologist* 3, 3–14.

<sup>45</sup> Australian Bureau of Statistics, *National Survey of Mental Health and Wellbeing: Summary of Results* (2007) <[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/6AE6DA447F985FC2CA2574EA00122BD6/\\$File/43260\\_2007.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/6AE6DA447F985FC2CA2574EA00122BD6/$File/43260_2007.pdf)>; Helen M Stallman, 'Psychological Distress in University Students: A Comparison with General Population Data' (2010) 45 *Australian Psychologist* 249.

Figure 1: DASS-21 Scores for the Beginning and End-of-Year Groups and Normative Samples



On the depression subscale, the beginning-of-year group had a mean score which was significantly *below* that of the normative sample (2.89 versus 3.96). This suggests that law students in their first week of study had very few symptoms, or a low intensity of symptoms, of depression. *Table 3* presents the results from the DASS-21 in another way. Rather than looking at the overall average (mean), the scores are shown as categorical distributions.<sup>46</sup> Just over 85 per cent of beginning-of-year students' scores fell within the 'normal' or 'mild' categories on the depression subscale.

The end-of-year group results, however, tell a different story. Scores on the depression subscale became substantially higher than the beginning-of-year group, as well as significantly higher than the normative group. That is, there seemed to have been a substantial jump from lower-than-average on depression symptoms to higher-than average. *Table 3* shows how the categorical distribution of scores changed. At the end of the academic year, almost one-third of students were scoring at a 'moderate', 'severe' or 'extremely severe' level on the subscale.<sup>47</sup> It would appear that the 'moderate' category

<sup>46</sup> The categories refer to the frequency and severity of *symptoms* associated with depression, anxiety or stress relative to the general population, rather than describing the severity of a diagnosed *disorder*.

<sup>47</sup> A 'moderate' or higher score indicates that the student's score was higher than 81 per cent of persons in the community standardisation sample: Crawford et al, above n 44; Lovibond and Lovibond, above n 34, 26. While our survey was not designed to diagnose specific psychological disorders, it did ask students for permission to have a mental health clinician contact them individually if their survey scores demonstrated cause for concern. Following the surveys, all students who had given consent to be contacted and whose scores showed consistent symptoms of psychological distress in the 'severe' or 'extremely severe' ranges were contacted by an independent registered psychologist who provided information about a range of referral options. No other immediate interventions were employed.

alone (18.8 per cent) had absorbed many of the students who were previously in the ‘normal’ range, with some spillover into the other categories.

Table 3: Distribution of DASS-21 Scores as Symptom Frequency/Severity Categories

	Depression		Anxiety		Stress	
	Start of Year	End of Year	Start of Year	End of Year	Start of Year	End of Year
Normal	75.0%	54.9%	66.8%	61.5%	73.7%	67.1%
Mild	10.7%	13.6%	6.3%	8.0%	7.2%	12.7%
Moderate	6.7%	18.8%	12.6%	14.6%	10.4%	9.4%
Severe	3.2%	4.7%	2.8%	5.2%	6.8%	7.0%
Extremely Severe	4.4%	8.0%	11.5%	10.8%	2.0%	3.8%
Moderate and above	14.3%	31.5%	26.9%	30.6%	19.2%	20.2%

Although there is insufficient information to make direct comparisons, the results from the depression and stress subscales are generally consistent with the BMRI study, in which 35.2 per cent of law students showed ‘high’ or ‘very high’ distress levels on the K10 measure.<sup>48</sup> The results from the surveys reported here provide strong supporting evidence that students at the end of their first academic year were experiencing greater psychological distress compared with other young people in the community.

A similar pattern was found for the DASS-21 stress subscale. Beginning-of-year students had stress subscale scores which were not significantly different from the normative sample. However, the comparison of beginning- to end-of-year groups (*Figure 1*) reveals mean stress subscale scores that were significantly higher than both the beginning-of-year group and the normative sample (6.50 versus 4.74 and 4.78, respectively). Looking at how the distribution of scores changed (*Table 3*) suggests that this result can be explained largely by an incremental shift in stress symptoms for students who began the year at the lower end of the spectrum.

On the anxiety subscale, a more subtle pattern emerges. Although *Figure 1* shows that beginning-of-year students had higher mean scores than the normative sample, this difference was marginally outside the threshold for statistical significance. There was also virtually no change in the anxiety scores between the beginning- and

<sup>48</sup> Kelk et al, above n 1, 12.

end-of-year groups. Yet the end-of-year group's mean scores were significantly higher than the normative group. *Table 3* suggests that there may have been a 'clustering' of scores towards the middle of the range.

Analysis of the DASS-21 data leads to the following initial conclusions:

1. Law students in their first week of study had similar, or lower, levels of psychological distress compared with Australians aged 18–24.
2. Law students towards the end of their first year of study had more symptoms, or a greater intensity of symptoms, of depression and stress, compared with both beginning-of-year students and young Australian adults generally.
3. Beginning-of-year law students had slightly higher levels of anxiety compared with young Australians, with small increases in the intensity of, or number of, symptoms over the academic year.

## 2 SWLS

As expected, results on the SWLS (a wellbeing measure) were generally the reverse of the results on the DASS-21 (a measure of psychological distress/dysfunction). The vast majority of students had an average, high or very high score in both beginning and end-of-year surveys, indicating that, on average, students at both the beginning and end of their first year of law study were satisfied with their own lives. There was, however, a shift in scores over the course of the year that showed a relative decline in life satisfaction.

Comparing the student data to recent Australian adult community data (in which the mean score was 24.84, with a range of possible scores between 5 and 35) the beginning-of-year law students' life satisfaction ratings were higher, with a mean of 26.78. By the end of the year, however, there had been a decline in the student SWLS scores to a mean of 24.71, back to levels on par with the community average.<sup>49</sup> As such, the changes on the SWLS were relatively small. Nonetheless, the results do show that there was a sizeable increase in the proportion of students who were dissatisfied with their lives. The number of students who had a score in the 'extremely dissatisfied', 'dissatisfied', or 'slightly below average in life satisfaction' range had risen from 10 per cent in the beginning-of-the-year group to just over 20 per cent by the end of the year.

<sup>49</sup> Nicola Schutte et al, 'Experiential and Relational Processing Styles, Emotional Intelligence and Wellbeing' (2010) 62 *Australian Journal of Psychology* 14, 17. See also William Pavot and Ed Diener, 'Review of the Satisfaction with Life Scale' (1993) 5 *Psychological Assessment* 164, 164–72.

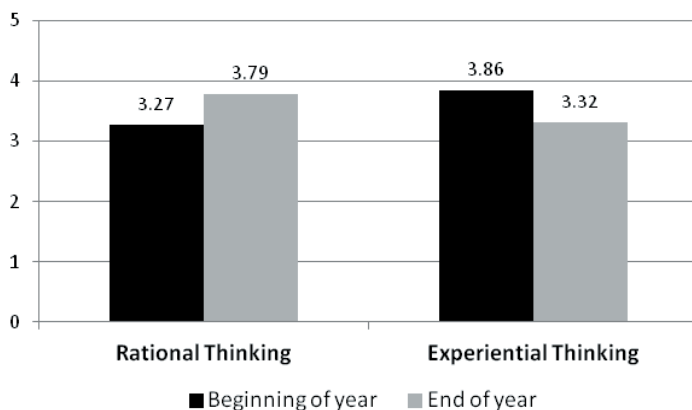
From this data, we conclude that:

1. Beginning-of-year students had higher levels of subjective life satisfaction than people in the Australian community generally.
2. End-of-year law students had lower levels of life satisfaction compared with beginning-of-year students, although the mean score was still at a level equivalent to the general community.

### 3 REI

Turning to the REI, there were also significant differences in the rational thinking and experiential thinking scores between the beginning- and end-of-year groups. Scores on the rational thinking scale were significantly higher in the end-of-year group than in the beginning-of-year group (mean = 3.79 versus mean = 3.27). The opposite finding was observed with the experiential thinking scale: scores were significantly lower on the end-of-year group compared with students beginning their law studies (mean = 3.32 versus mean = 3.86).

Figure 2: REI Rational and Experiential Thinking Scores across Groups



The results on the thinking styles inventory were examined in light of the student responses to survey questions about their expectations and experience of law school. A more rational mode of thinking was consistently associated with a positive *anticipated* experience of law school (for the beginning-of-year group) and with a positive *actual* experience of law school (for the end-of-year group) although the strength of the association was weaker in the end-of-year group. For instance, students scoring higher on the rationality scale were more likely to believe that they had made a good decision to attend law school, but the extent to which rational thinking was responsible for the variation between students' scores decreased from the beginning of the year to the end of the year. There was a much smaller unique

influence of experiential thinking on students' responses relating to anticipated and actual positive experience of law school.

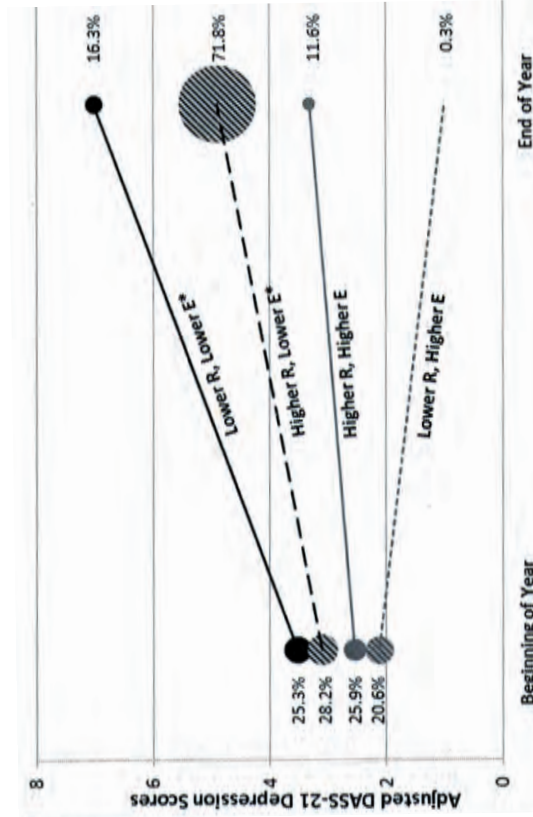
Finally, examining the relationship between the REI and DASS-21 depression subscale provides some insights into how thinking styles might be related to psychological wellbeing in the first year of law school. A linear regression showed that a combination of the survey time (beginning-of-year versus end-of-year), rational thinking and experiential thinking provided a good prediction model for depression scores. Experiential thinking was the strongest predictor within this model, suggesting that, on the whole, a higher propensity towards experiential thinking was associated with lower levels of depressive symptoms. However, this relationship is complex and must be considered with reference to the different groups.

*Figure 3* shows a 'snapshot' of adjusted DASS-21 depression scores at the beginning and end of the year, with participants' scores on each of the two REI scales split into higher-than-average and lower-than-average categories. While this oversimplifies the data somewhat, the grouping of scores illustrates the complex relationship between thinking styles, psychological distress and the law school experience. We can see that participants who were lower than average in both rational and experiential thinking tendencies had the steepest rise in depression scores over the year. There are two equally plausible ways of interpreting this: students who had a more disengaged style of thinking (that is, they were unable or disinclined to engage in rational and experiential thinking) might have found the law school environment overwhelming or incompatible with their personality or learning style, leading to an increase in depressive symptoms. Alternatively, students who had symptoms of depression (for whatever reason) may possibly have had a more disengaged style of thinking. This latter interpretation is consistent with the cognitive component of depressive disorders, which often includes a diminished ability to think or concentrate, as well as diminished interest or pleasure in most or all activities.<sup>50</sup>

<sup>50</sup> American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR)* (4<sup>th</sup> revised ed, 2000) 356.



Figure 3: Adjusted DASS-21 Depression Scores at Lower and Higher Rational and Experiential Thinking Scores



The size of the circles and the adjacent percentages refer to the number of students in that category. Lines marked with an asterisk (\*) indicate that there was a statistically significant difference ( $p < .05$ ) between the beginning-of-year and end-of-year DASS-21 Depression scale scores. A lower score on the DASS-21 depression scale indicates lower levels of symptoms of depression.

The second line in *Figure 3* (the dark, dashed line) shows that students who were higher than average in rational thinking but lower than average in experiential thinking also showed a significant increase in depressive symptoms over the year. In contrast, students who were adept at *both* rational and experiential thinking — indicated by the light grey, solid line — did not show any significant change in their depression scores over the year. Finally, the bottom line appears to show a decrease in depression scores for participants who were lower in rational thinking scores and higher in experiential thinking scores by the end of the year. However, this result is based on the score of a single student who fell into this category in the end-of-year group. No inferences should be made from this finding in the absence of more data. Nonetheless, from the data relating to the majority of participants, we can see a clear association between higher levels of experiential thinking and lower levels of depressive symptoms at the end of the year. Or, to look at it differently, our findings show that students who were lower than average in experiential thinking had more depressive symptoms at the end of their first year of law school.

The main findings of our surveys in relation to the REI and its implications for wellbeing can be summarised as follows:

1. End-of-year law students showed a greater propensity towards rational thinking than beginning-of-year students.
2. End-of-year law students were less oriented towards experiential thinking than beginning-of-year students.
3. A rational thinking style was a better predictor, than an experiential thinking style, of student reports of positive anticipated and actual law school experience.
4. However, a propensity towards experiential thinking is a stronger overall predictor of lower levels of depressive symptoms. Less experiential-thinking students showed a statistically significant heightened level of depressive symptoms in the end-of-year group.

## E Discussion

On the DASS-21 subscales, our results found that the depression scale showed the most significant change between the beginning and the end of the year. This was reflected not only in changes in the mean subscale score but also in the different patterns in the distribution along the severity spectrum. We infer that it is likely that, over the first year of law school, a sizeable proportion of students who started off with a normal level of depressive symptoms ended the year with symptoms in the moderate or higher range.

A person with DASS-21 depression scores at or above the moderate range is likely to be experiencing symptoms which have some impact on their daily activities, even if the person does not yet

meet all the criteria for a clinical diagnosis of a major depressive episode. As we embrace a dimensional, rather than a dichotomous, approach to psychological distress, we deliberately do not make any inferences about the incidence or prevalence of depression in our sample of law students. Nevertheless, the increase in symptoms of depression in the end-of-year group is both significant and disturbing.

Despite a statistically significant decline in satisfaction with life during the course of the first year of law study, and changes in levels of stress, depression and thinking styles, scores on the SWLS remained fairly high. This may have been because the items in the SWLS are positive, general and identity-relevant statements which may tap into (rationalised) *beliefs* about wellbeing rather than the *experience* of wellbeing in the present moment.<sup>51</sup> This can be contrasted with the discrete, symptom–experience-related items in the DASS-21, for which there is not necessarily a socially desirable answer. This mild asymmetry between the DASS-21 and the SWLS is also consistent with a theme which emerged from the retreat, described in Part III below, in which participants described the law school experience as simultaneously and paradoxically bringing about an increase in both self-confidence and insecurity/distress. Further research is needed to see whether the kinds of identities encouraged by law school, coupled with a more rational mode of thinking, may affect perceptions of life satisfaction (or affect willingness to report dissatisfaction) even in the face of increased psychological distress.

Perhaps the most remarkable result of our surveys was the relationship between thinking styles and increased symptoms of depression. In our surveys, the less-experiential thinking students reported higher levels of depressive symptoms at the end of the year, while more experiential-thinking students had similar levels compared with beginning-of-year students. This result is surprising, in part, because rational thinking — not experiential thinking — is generally considered to be protective against depression.<sup>52</sup> Nevertheless, our results indicate that the level of rational thinking in our end-of-year cohorts was not a strong predictor of the level of depressive symptoms. Rather, it was a high level of experiential thinking that seemed to have some protective effect on the end-of-year cohorts. Our data is consistent with Norris and Epstein's work which highlights the favourable qualities of experiential thinking and its important role in everyday life — through attributes such as

<sup>51</sup> See generally Michael D Robinson and Gerald L Clore, 'Belief and Feeling: Evidence for an Accessibility Model of Emotional Self-Report' (2002) 128 *Psychological Bulletin* 934.

<sup>52</sup> Paul Norris and Seymour Epstein, 'An Experiential Thinking Style: Its Facets and Relations with Objective and Subjective Criterion Measures' (2011) *Journal of Personality* 1043, 1064.

creativity, humour, empathy and aesthetic judgement.<sup>53</sup> Our findings also suggest that further probing into the impact of legal education on thinking styles may yield important insights into how to address student distress.

At the same time, our REI results show that thinking styles appear to change over the first year of law school. Between the two groups, there was a decrease in experiential thinking which was almost perfectly mirrored by a corresponding increase in rational thinking. While we cannot conclude that the first year of law school *caused* these changes in thinking styles, the changes raise important questions. Is the analytical, rational world of law school particularly adverse to those students who do not arrive at law school with robust experiential abilities as a buffer? Or, does legal education alienate some students from the more holistic, emotional, automatic and outcome-oriented ways of thinking that characterise experiential thinking, thus making them more vulnerable to depression?

We suggest that the answer to both questions may be 'yes'. Students who enter law school with a greater tendency towards a thinking style that is emotionally- and outcome-oriented, and more accommodating to automatic and holistic approaches, may be less susceptible to the particular pressures that legal education places on them. For example, a strong tendency toward experiential thinking may assist students in the struggle to accommodate new values and identities and help them avoid cognitive dissonance and distress.<sup>54</sup> High levels of experiential thinking may also sustain these students' ability to maintain the empathy, humour and social connections that are critical to psychological wellbeing while undertaking a highly competitive and rigorous academic program.<sup>55</sup>

More challengingly, however, is the possibility that students who enter law school with a tendency toward experiential thinking may experience changes in their thinking styles. Legal education promotes a particular type of rationality — and it is not surprising that the data shows higher rational thinking scores at the end of the year than at the beginning. It is somewhat more surprising, however, that there appears to be a trade-off in thinking styles. Higher rational thinking scores were mirrored by the lower experiential thinking scores in our data. This suggests that for some students the legal educational process leads to an undervaluation or under-use of previously favoured experiential modes of thinking. In other words, students may trade one mode of thinking for another, rather than using both

<sup>53</sup> Ibid.

<sup>54</sup> Kath Hall, 'Do We Really Want To Know? Recognising the Importance of Wellbeing in Australian Law Schools' (2009) 9 *Queensland University of Technology Law and Justice Journal* 1.

<sup>55</sup> Kath Hall, Molly Townes O'Brien and Stephen Tang, 'Developing a Professional Identity in Law School: A View from Australia' (2010) 4 *Phoenix Law Review* 19, 46–50.

simultaneously or tending toward one mode or another as appropriate for specific situations. This trade-off in thinking modes may detract from the students' ability to cope with the particular challenges of law school, especially given that both systems are complementary and necessary for healthy functioning in a complex world.

Of course, we have to be cautious about our results, even on top of our caveats about causation and correlation. Although we were, on the whole, satisfied with the representativeness of our sample, there was some decrease in participation rates over time. For instance, there were only 81 students in the Cohort 2b survey, compared with 214 and 172 students in the previous surveys. Also, while the end-of-year time period was sampled twice, there was only one group of beginning-of-year students. Nonetheless, because the end-of-year Cohort 1 and Cohort 2b results were not significantly different on any of the key measures, and remained consistent with the results of the BMRI study and other studies on law student wellbeing, we suggest with some confidence that our results reflect a systematic pattern of changes.<sup>56</sup> Further research is needed to understand how the law school environment interacts with students' thinking styles.

Our data strongly suggest that we cannot rule out the hypothesis that law study has a negative impact on wellbeing that begins in the first year. By the end of the first year of study, law students had significantly more symptoms of depression and stress and were more rational and less experiential in their thinking than students at the beginning of their law studies. Further follow-up research is needed to explore how law school contributes to these changes. The emergence and presence of these patterns of change cannot be ignored.

### III THE STUDENT–FACULTY DIALOGUE RETREAT

To follow up on the results of our surveys, we conducted a student–faculty dialogue retreat. The retreat aimed to provide a forum to explore law student wellbeing in a more contextualised and qualitative way than was possible in surveys. While the survey results highlighted changes in student wellbeing and thinking styles, they could not capture the myriad factors or pressures on law students that might contribute to those changes. We hoped to discover more about the student and faculty perceptions of those changes and impressions about their causes. A dialogue retreat provided a forum for students and faculty members to identify what they perceived to be the factors in the curriculum, pedagogy, ethos and atmosphere of the law school that might contribute to student distress and changes in thinking styles.

<sup>56</sup> See Kelk et al, above n 1; see also the studies mentioned above in n 2.

More importantly, however, the dialogue was designed to provide an opportunity for students and faculty members to collaborate and to articulate ideas for curricular reform. We decided that a dialogue involving both students and faculty members would hold promise not only for generating specific recommendations for curricular reform but also for gaining vital support for those reforms in the faculty. We chose an off-campus location to minimise the sense of division or hierarchy that could exist between students and faculty. We also organised a one-day, two-night stay at no expense to participants to allow time for both structured and informal interactions.

### *A Methodology*

Dialogue is a flexible format for deliberation and discussion that can be adapted in a variety of ways to provide an integrative understanding of real-world problems and/or provide a process for finding and implementing solutions. It is well-suited to situations where it may be important to synthesise knowledge from a variety of sources or disciplines and build a comprehensive understanding of a complex problem.<sup>57</sup> It is also adaptable to provide a collaborative platform for multi-constituent problem-solving or conflict resolution.<sup>58</sup>

Dialogue is focused conversation, engaged in intentionally with the goal of increasing understanding, addressing problems, and questioning thoughts or actions. It engages the heart as well as the mind. It is different from ordinary, everyday conversation, in that dialogue has a focus and a purpose. Dialogue is different from debate, which offers two points of view with the goal of proving the legitimacy or correctness of one of the viewpoints over the other. Dialogue, unlike debate or even discussion, is as interested in the relationship(s) between the participants as it is in the topic or theme being explored. Ultimately, real dialogue presupposes an openness to modify deeply held convictions.<sup>59</sup>

We chose a dialogue methodology for several reasons. Because of the sensitivity of the topic, we wanted to create a forum that would not only shed light on the wellbeing of law students generally but also contribute in a positive way to the wellbeing of the participating students and the faculty. A dialogue has the potential to build relationships, to empower students, and to create a platform for further student–faculty interaction.

<sup>57</sup> David McDonald, Gabriele Bammer and Peter Deane, *Research Integration Using Dialogue Methods* (ANU E Press, 2009) 1–3.

<sup>58</sup> Geoffrey Cowan and Amelia Arsenault, 'Moving from Monologue to Dialogue to Collaboration: The Three Layers of Public Diplomacy' (2008) 616 *Annals of the American Academy of Political and Social Science* 10.

<sup>59</sup> Patricia Romney, 'The Art of Dialogue' in Pam Korza, Barbara Schaffer Bacon and Andrea Assaf (eds), *Civic Dialogue, Arts & Culture* (Americans for the Arts, 2005) 57.

Dialogue can be empowering because it can be designed to allow the participants to express their experience through stories.<sup>60</sup> Further, the dialogue format can provide a forum for the participants to become authors and creators of new stories.<sup>61</sup> We also chose dialogue as a buffer against the adversarial and ‘debate’-style discussions that are stereotypical of law school discourse.<sup>62</sup> Dialogue was intentionally chosen to model a different way of relating and communicating, allowing participants to embrace new ideas and acknowledge differences of opinions without having to be ‘right’.

Our process engaged 18 students and 10 faculty members in a dialogue that began on a Friday evening, 11 March 2011, and concluded on Sunday morning, 13 March 2011. The participants were student volunteers, who responded to flyers that were posted around the law school, and faculty volunteers who were recruited by the researchers.<sup>63</sup> We aimed to have about twice as many students as faculty members. A total of 24 students responded that they would like to attend. Six students dropped out for various reasons in the week before the retreat. The resulting group included 18 students, 8 of them female (44 per cent), with a median age of 20 (and a range from 18 to 31). Just over 60 per cent were in their second year of study and were in the classes that were surveyed in 2010. The remaining students were later year students, who were in years 3 through 5. Two students were recent graduates. Just under 25 per cent were international students. There were seven faculty participants (excluding the three researchers), four female and three male. The median age of faculty participants was 50 (with a range from 31 to 53). Three of the faculty members were relatively new (at ANU for two or three years) and three had a longer history at ANU (10 or 11 years). All students and faculty members gave their informed consent to participate in the retreat and for their de-identified responses to be used for this research project.

We anticipated that the process of self-selection was likely to yield a group of students who were not suffering from high levels of psychological distress at the time of the retreat. We did not expect the participants to have an identical profile to the survey cohorts and did not repeat the surveys with the participant groups.

<sup>60</sup> Richard A Krueger, ‘Using Stories in Evaluation’ in Joseph S Wholey, Harry P Hatry and Kathryn E Newcomer (eds), *Handbook of Practical Program Evaluation* (Jossey-Bass, 2004) 404.

<sup>61</sup> John J Osborn, ‘Bleak House: Narratives in Literature and Law School’ (2007–2008) 52 *New York Law School Law Review* 339.

<sup>62</sup> Molly Townes O’Brien, ‘Facing Down the Gladiators: Addressing the Law School’s Hidden Adversarial Curriculum’ (forthcoming) *Monash Law Review*.

<sup>63</sup> It is worth noting that invitations to participate were sent only to 15 faculty members. In response, all 15 expressed an interest and willingness to attend, although 5 had conflicting commitments. Faculty interest in and commitment to the retreat process was very strong.

The dialogue was held at the ANU's Kioloa Coastal Campus, a 348-hectare field station extending from the high tide mark into bushland on the southeast coast. The field station has fairly simple dormitory-style accommodation, a large kitchen and meeting room. This choice of location provided a relaxed, vacation-like atmosphere. It also provided actual and mental distance from the activities of the law school, which permitted the participants to focus on and to engage fully in the retreat activities.

Our dialogue program was multi-staged, beginning with time to allow the participants to get to know each other and to establish the right tone or ethos for the program. After a pizza dinner, participants were paired off for five minutes to chat before introducing each other to the group. Each participant introduced a colleague in an informal way, providing interesting or humorous details about the person they introduced. This ice-breaking session was followed by a walk on the beach and a star tour, led by a friendly ANU astronomer.<sup>64</sup> The purpose of these events was to begin to break down the faculty–student hierarchy and to put everyone on the same footing. Because equality of participants is an important aspect of dialogue, these activities were an essential starting point. After the star tour, the participants retired to dormitory-style accommodations for the night.

In the morning, after breakfast, the program began with an introduction to the dialogue method and an explanation of the spirit of the endeavour. Specifically, participants were told that they would be invited to share their experiences, tell their stories, engage in reflection and make suggestions on a range of topics related to the law school experience and student wellbeing. All sessions would involve an invitation — rather than a compulsion — to speak and participate. Engagement in the dialogue was to be undertaken in a positive spirit of caring for each other and the law school community. A metaphorical ‘cone of confidentiality and caring for each other’ was placed over the dialogue process. We explained the difference between dialogue and ‘debate’ and encouraged each participant to engage in the process with an open mind and an open heart. We noted that the sessions would be digitally audio recorded. Each participant was also given a folder and a set of ‘response sheets’ to write ideas, reflections or further thoughts about each session.

Following this introduction to the process, we presented a background briefing to provide participants with basic information about law student wellbeing and the studies that prompted the dialogue (reviewed in Part II above).

Throughout all of the sessions, the researchers were not only moderators/facilitators but also participants — taking part in small group sessions and sharing our own experiences where relevant

<sup>64</sup> Many thanks to Dr Charley Lineweaver.



(but being cautious not to dominate or take away from the voices of others).

## B Results

Following the dialogue, the researchers met to compare notes and to review the participants' written comments, the photographs of the whiteboard lists and the posters that were created during the retreat.<sup>65</sup> Written comments were coded and highlighted with different coloured markers to bring out the most prominent themes.<sup>66</sup> Audio tapes were reviewed, but no transcripts were created. No attempt was made to count, quantify or attribute particular statements to individual participants. Instead, the researchers sought to construct a comprehensive narrative account of the retreat to capture the essence of a dynamic dialogue.

### 1 *The First Session: Telling Their Stories*<sup>67</sup>

The first dialogue session broke the participants into groups of four to five and asked each group to (1) allow some thinking time first; (2) allow each participant (both faculty and students) to tell a story from their own law school experience; and (3) construct a group narrative putting together all of the stories, using paper, pens, crayons, cut and paste, and so on. These visual depictions of the group narratives were then shared in a large group session.

There was some brief hesitation when participants were asked to engage in a narrative/dialogue task in small groups: it was a structure that was unfamiliar to law students, but quickly became natural as participants realised that similar stories emerged from other participants very different from themselves, or that differences in experience and perceptions could be integrated into a coherent bigger story. The large group sharing session was lively — we noticed that the participants embraced the dialogue method and did not seem to feel a need to dispute or debate.

The stories that emerged from this session were primarily transformation narratives, with themes that centred on the process of change; the impact of law school on identity and self-concept; the difference in the nature of the work from what they had done previously; and changed social circumstances.

Two of the four group narratives depicted a journey. One journey was drawn as a very rough road from the certainty of secondary school to a questionable law school future, where 'togetherness',

<sup>65</sup> Photographs were taken of each visual aid or illustration that was created during the dialogue. These photographs are on file with the authors.

<sup>66</sup> Written comments and reflection sheets were sorted according to the session in which they were created and are on file with the authors.

<sup>67</sup> Written comments cited in this section are stored in a folder titled 'Session 1' on file with the authors.

'challenges' and 'competition' stand in tension with each other. The second group also drew the transformation from secondary school to law school, but depicted the journey as a culture shock. The journey to law school required some members of this group to travel far from home and learn a new language. This group drew the journey as one characterised by fear, self-doubt and unanswered questions. 'Why do it?' this group asked. In this group, no one had a 'burning desire' to become a lawyer. They wondered whether they might not become lawyers after all — and become scientists, artists or something else instead.

Central to the law school journey were the changes not only in surroundings but also in the kind of knowledge they were acquiring. In written response to this session, one participant commented on 'not knowing what to do' and feeling worried and stressed by 'vague subjects without clearly defined boundaries'. Another participant told of feeling 'lost and overwhelmed' by the first assignment. The work seemed disconnected from the participant's past experiences. One participant wrote:

[Law] didn't engage in the personal. It was what it was. I found it boring, tedious, remote from my lived experience.

Another participant wrote that law study was:

Initially exciting, with a slowly growing oppressiveness intruding on/distracting from the actual life I was living and experiences I was having.

In one group's narrative poster, secondary school study was fondly remembered and represented by a sketch of the structural formula of citric acid, labelled as 'memories of high school'. These memories were placed next to a large question mark pointing to a law paper labelled with a passing mark, which was compared (with horror) to the 'A++' that the participants received in secondary school.

Every group narrative commented in some way on the law school assessment regime and its impact on self-concept. Lower assessment scores were seen as based on factors that were 'subjective, arbitrary and idiosyncratic' and negative feedback produced self-doubt and sometimes despair:

Marking policies of the college have led to deep debilitating periods of depression and despondency. I question the value of such experiences

...

In written comments, the struggle with self-doubt appears to go beyond issues of assessment. For example, one participant wrote:

It was confronting and intimidating to be in a room full of high achievers.

Another group narrative depicted the transformation from being a big fish in a small pond to a small fish in a larger pond. This image was placed next to a broken heart. A bubble labelled 'constant negative feedback' appeared near the centre of one group's poster. Lower marks were drawn as leading to self-doubt, confusion and a sense of uncertainty. For these groups, the law school experience appears as an ordeal without a resolution.

On the other hand, two of the group narratives related a transformation with a heroic outcome. One poster portrayed the story that was told during the large group session:

I got a 58% on an assessment and I was really upset. But when I went to see a certain lecturer — who shall remain nameless — he told me a 58% was good. He said, 'You actually are amazing.' It changed my whole perception of what the mark meant about me.

Another participant put a large star on the group narrative to represent the feeling of being good at something. Another group drew the progress from the middle of the first year, when their marks were low, to the end of the first year when they were achieving distinctions. These narratives of the law school experience contain the essence of an archetypal 'hero's journey'.<sup>68</sup> The hero begins the tale facing a difficult challenge and experiences fear; but as the hero proceeds, he meets a mentor and reaches out for sources of experience and wisdom. Following more ordeals and difficulties, the hero emerges transformed, with increased power to 'transform the world as the hero has been transformed'.<sup>69</sup>

Three participants commented in written feedback on the importance of a mentor or social network in learning to cope with the stresses of law school.

Depression, frustration anger and anxiety were the forms of mental problems that I encountered when I first came to Australia and studied in law school. Nonetheless, as time passed, the mental distress eventually disappears/fades due to the encouragement and assistance that I have received from my friends, peers, coursemates and lecturers.

In other comments, a 'good social network' was described as making coping easier:

I have not received the mentoring that has subsequently been rolled out in the college, but have supplemented this by creating my own mentor networks, getting to know well members of the college, and relying on family members and friends who have gone through similar experiences.

<sup>68</sup> See Joseph Campbell, *The Hero with a Thousand Faces* (Princeton University Press, 2<sup>nd</sup> ed, 1972).

<sup>69</sup> Christopher Vogler, *The Hero's Journey*, Storytech Literary Consulting <<http://www.thewritersjourney.com>>.

One group narrative summarised which factors impacted their sense of wellbeing. They wrote, 'I feel good when [I experience] ownership, certainty, guidance, achievement; I feel bad when [I experience] uncertainty, frustration, helplessness, isolation.'

## 2 *Session Two: Rewriting the Narrative*<sup>70</sup>

After morning tea, the participants were encouraged to think about the story they had told in the first session — and to think about how they might like to rewrite it. The second session dialogue was a large group dialogue dedicated to re-telling and re-imagining the law school experience the way the participant would have liked it to be. This session also asked each participant to name the *one* thing they would most like to have changed. In responding to this question, participants not only reflected on their own stories but began generating reform ideas.

In rewriting their law school narratives, several participants began by reimagining themselves. 'If I could change one thing, I would be more engaged, centred, and grounded on day one.' Another participant echoed this theme in written comments:

I should have known more about the world than I did. I should have seen the bigger picture sooner. I should have known more about other disciplines, other ways of thinking, other values.

In another written comment, a participant critiqued his/her own self-doubt:

[I should have been] focused on my personal and academic development without continual comparisons to others and the cut throat competitive environment that otherwise exists.

Most participants, however, did not focus on how they could have been different, but on reimagining the law school. Their ideal law school experience would have had more feedback, transparency about expectations, and guidance and encouragement. The re-imagined law school experience would have been more connected — to mentors, to other students and to the real-world impact of law. It would also have been a place where group endeavours, collaborative projects and more active engagement would have been common.

In contrast to the first-session narratives, which focused primarily on individual transformation journeys, this dialogue session quickly became focused on the law school community and the law school classroom. With regard to classroom climate, the re-imagined law school would have 'more open, free discussion, more dialogue and less emphasis on saying the right thing'. The ideal class would provide 'permission to make mistakes'. Classes would be more

<sup>70</sup> Written comments cited in this section are stored in a folder titled 'Session 2' on file with the authors.

intellectually exciting and ‘all learning’ would be encouraged. The law classroom would ‘generate interesting discussion’ and ‘provide an open environment where people feel confident to talk about things’. It would have improved ‘relationships with peers and teachers, which allow a sense of community, a possibility for conversation, discussion and exploration.’ Once again, assessment was of central concern, with a strong consensus emerging that law courses should be more transparent about expectations and give students clearer guidance and more positive feedback.

With regard to the content (as opposed to classroom climate or assessment regimes), there was a consensus that law study could be made more interesting and contextual. One participant remarked about the cases that were assigned, ‘[t]he vast majority of cases are not interesting at all. They are merely complex and confusing.’ There was, however, some disagreement about how to remedy that problem. Some participants yearned for more independent course selection while others liked the existing structure of required courses. Some participants re-imagined the law school as a place that would do more to engage with the political and practical side of law. Would it be possible to do research that is ‘real and that might be used by someone?’

Another participant expressed how confronting and disheartening it was to watch real court proceedings, which led to a discussion of how the law school should address or manage ‘the harsh reality of law’. Some participants expressed a view that course content should include an examination of the impact of the work on the lawyer/law student and public. ‘It should ask the question, “How does it feel?”’ Other participants pushed that question even further, asking, ‘[a]s emerging lawyers, do we have an opportunity to change things?’

Interestingly, other participants did not necessarily want to focus on challenging ‘the way things are’ or dealing with feelings. One participant indicated that ‘any law student has to learn to deal with the harsh reality of law’. Another indicated unwillingness to challenge ‘the way things are’ because ‘lecturers do not want us to challenge the way things are’.

Meanwhile, throughout this session of the dialogue, it was apparent that student participants were interested and sometimes surprised to discover that faculty participants generally shared their vision of an ideal law school and were open to, or already understood, the students’ perspectives.

### 3 *Session Three: Personal Impact of Law Study*<sup>71</sup>

The third session included both small-group and full-group dialogue/discussion allowing students and faculty members to think

<sup>71</sup> Written comments cited in this section can be found in a folder titled ‘Session 3’ on file with the authors.

broadly and to raise any concerns they had about the law school experience. In this session, we asked the groups specifically to tell us what kind of person their legal education encouraged them to become. We asked them to tell us what impact law school had on them.

Most prominently, participants described law school as making them more rational, objectifying, analytical and logical. This was seen positively as providing a structure for problem-solving. One participant noted that the ability to think like a lawyer made them more open-minded and more relativist. On the other hand, this kind of thinking was also portrayed negatively as inviting them to 'look at every issue as a legal issue', 'forget the human beings involved', and 'look for loopholes and negatives'. One participant told how everyday conflicts with their friends or family (for example, who would take out the garbage) were now addressed as legal arguments. Participants also pointed to 'artificial rationality' as one of the worst aspects of law school's impact. As one participant noted, '[l]aw school teaches that we should be able to answer any question in 20 minutes. We take that into the real world.' As another participant wrote, '[t]o a hammer, the whole world is a nail!'

The next most common theme was that law school made them more competitive, adversarial, arrogant and elitist. There was a sense that students were encouraged to think that legal study is more difficult and important than other fields, leading them to disrespect or undervalue other fields or their other studies. They felt encouraged to be verbose or to express themselves using technical jargon. Participants noticed the lack of opportunities for collaboration and cooperation with other students and felt pushed to focus on work that would yield more competitive marks rather than on interesting cases or legal issues. Law school taught them to be 'tenacious, adversarial, elitist — to fight first, ask questions later.' While most participants viewed these changes as negative, some valued the law school's encouragement of their ability to be tenacious and to compete in a difficult environment. One participant expressed the view that the 'fight first, ask questions later' approach would be exactly what they would need when working at the 'coal face of legal practice'.

The third theme that emerged was that law school engendered feelings of isolation, disconnection and intolerance. Feelings of self-doubt, lack of certainty about the material and the assessments, and humiliation in class led these participants to express their view that law school had made them more insecure. Several expressed feelings of helplessness and failure. One participant said, 'I feel like a fraud — it's as if everyone else knew what they were doing and I didn't.' Participants worried over whether they would ever get a job, over the fact that they were 'always feeling behind'. One participant noted that law school meant 'being around people who are not happy and

are not enjoying what they do.’ For one participant, these negative feelings of self-doubt were so strong that they made him ‘question the whole experience’.

A few participants commented that their law school experience had, on the whole, caused them to become more encouraging, sympathetic and mature. Their own journey in law school had taught them how to cope with competition and stress, giving them a sense of empowerment and confidence.

#### 4 *Session Four: Generating Reform Proposals*<sup>72</sup>

The final session of the day was focused on presenting ideas for specific curricular reforms. For this session, we moved into a new space with a large whiteboard. Each participant was given a sheet of paper and asked to write down three specific reform proposals. Reform proposals were then presented one at a time to the full group, until all of the proposals were exhausted.

The vast majority of proposals for reform fell into two categories: (1) relating to guidance, feedback and transparency; and (2) relating to community connection. A smaller number of reform proposals addressed student autonomy.

The most prominent theme among the proposals related to improved guidance, feedback and transparency. We group these three ideas together because we view them all as impacting on student self-concept and sense of efficacy. In this set of proposals, participants suggested more:

- clarity and transparency in assessment;
- take-home tests and redeemable assignments;<sup>73</sup>
- examples of high-quality completed assignments;
- guidelines for study; and
- formative feedback.

Some of the proposed reforms would scuttle the law school’s existing assessment regime and move to a system of pass/fail assessment, to a system of narrative assessment, or to a system in which first-year marks are not made public and do not affect final grade-point averages.

Participants also proposed that greater guidance and transparency be implemented outside the assessment realm. One participant proposed that all students should have a compulsory meeting with an academic advisor early in their law school career. Another participant suggested a legal research and writing course in year one. There was

<sup>72</sup> Written comments cited in this section can be found in a folder titled ‘Session 4’ on file with the authors.

<sup>73</sup> A ‘redeemable’ assignment is one that can be dropped from the calculation of the final mark in the course, at the student’s option. If a student is unhappy with a mark on the redeemable assessment, that mark is dropped and any other assessment tasks are then more heavily weighted in the calculation of the final mark.

also strong support for continuing and extending existing mentoring programs and coordinating them with first-year subjects.

The second most prominent theme in the proposals related to students' connections with each other and the community. These proposals included an injunction to '[s]top enforcing elitism!' and to provide more opportunities for collaborative and group work. Proposals included lowering class sizes to allow more time for discussion; and/or lengthening tutorial times for the same purpose.

Both staff and student participants expressed a desire for greater staff–student interaction or connection. Proposals to improve these connections included:

- opportunities for staff–student discussion;
- conference opportunities (with staff);
- opportunities for social interaction with staff; and
- opportunities for students to become involved in staff members' legal work.

Proposals in this category addressed the desire for greater connection, not only among students and between staff and students, but also with the community and real work. Participants suggested law interest groups, engagement with diverse areas of the profession and opportunities to engage in real legal work.

A third category of proposals related to student autonomy. Proposals suggested allowing student participation in course design and abolishing the 'Priestley 11' required curriculum.<sup>74</sup>

### *5 Informal Time: Time for Fellowship, Discussion and Reflection*

The retreat then broke for a late afternoon beach walk and dinner. Some students and faculty waded or took a swim. Discussion continued informally over dinner and around a campfire that evening. There were toasted marshmallows, songs, jokes and stories around the fire. This time allowed participants to get to know each other better and to reflect on the ideas that had come up during the day.

### *6 The Final Session: Feedback and Next Steps<sup>75</sup>*

In the morning, a final session provided feedback to the participants and allowed for final thoughts and input. The participants were encouraged to continue to reflect on the ideas that had emerged during the program and to send further thoughts by email to the researchers. Each participant also spoke briefly, giving final thoughts and expressing appreciation. Particularly notable was the student

<sup>74</sup> See Consultative Committee of State and Territorial Law Admitting Authorities, *Uniform Admission Requirements: Discussion Paper and Recommendations* (1992).

<sup>75</sup> Additional written comments received following this session are maintained in a folder titled 'Open Responses' on file with the authors.



appreciation of having an opportunity to get to know some of the staff members. 'I used to see you as robots who just showed up and lectured,' one student remarked. 'It's nice to know you as people.' Another student wrote this comment following the retreat:

I feel now that, even if none of the ideas we discussed eventuate, I have nevertheless benefited enormously from the experience. I have renewed appreciation for the efforts put in by teachers, and I now feel I can approach staff and understand better what goes on in the law school, so the weekend has had significant benefit for my own education if nothing else.<sup>76</sup>

### *C Discussion/Outcomes*

The results of the dialogue session generally reinforce the findings of our surveys. According to student accounts, law school study pushes them to become more rational, adversarial, competitive and isolated. While most students did not necessarily find their new-found or increased rationality problematic, they noticed the tendency to use legal analytic skills inappropriately. They were also disturbed by the sense of isolation and alienation from their former selves, from their new student colleagues, and from staff. Students confirmed that (at least initially) the law school experience also had a powerful undermining effect on their self-confidence and self-concept. Many students exhibited excellent coping strategies — their own hero stories — describing their law school experience as a kind of ordeal that made them more mature, thoughtful, tolerant and powerful. Others, however, questioned the need for the ordeal and continued to struggle with the negative aspects of its impact on them.

Our dialogue results are also consonant with the hypothesis that higher levels of experiential thinking may assist to navigate the transformations and stresses of law school successfully. To the extent that experiential thinkers are more likely to use empathy and humour, and to engage in emotional processing, experiential thinkers may be more likely to find the mentors, friendships and social connections that our participants see as vital to completing the law school journey.

The dialogue also brought to the forefront another important aspect of student wellbeing that was not fully explored in our surveys. For many participants, law school lowered self-opinion and sense of efficacy. Students attributed their greater sense of insecurity to a number of factors, including being away from home, being part of a cohort of high achievers, lacking guidance, receiving negative

<sup>76</sup> Copy of email received is found in 'Open Responses' file folder on file with authors.

feedback, and competing in a perceived adversarial context that made it more difficult for them to relate to other students.

#### IV CONCLUSION

Our work confirms that, even in a law school where formal mentoring programs are in place and where resources for student counselling are readily available, law students suffer symptoms of psychological distress at levels higher than their peers in the general public. By the end of the first year of law study, students are more depressed and dissatisfied with their lives than they were when they began. We have also demonstrated that these changes were, in our sample, accompanied by changes in thinking styles; particularly, increased rational thinking and lower experiential thinking. In our sample, lower levels of experiential thinking were associated with increased symptoms of psychological distress by the end of the first year of law study. Students with a higher propensity toward experiential thinking showed little change in depressive symptoms from the beginning to the end of the year of law study. This work highlights the need for further research into the relationship between thinking styles and student wellbeing. It also suggests the need for further research into the impact of legal education on students' thinking styles.

The dialogue retreat highlighted our participants' sense that law school changed them in important ways, making them more rational, analytical, competitive and adversarial. Law school also promoted feelings of insecurity, inefficacy and isolation. These feelings may be intimately connected with the increased symptoms of depression and stress that students experience by the end of the first year of law school. The salience of these feelings is reflected in the proposals for reform. For example, reform proposals for greater transparency, clarity and guidance probably stem from students' desire to have a greater sense of control or power to affect their course outcomes. Proposals for more positive feedback, formative feedback and redeemable assessments reflect students' needs to overcome insecurity. Finally, proposals for more collaborative and more social/intellectual engagement among students and with staff may assist in combating the sense of isolation. In summary, many of the proposals emerging from the retreat appear well-calibrated to address problems that may contribute to student psychological distress.

Finally, we suggest that legal educators must do more research to understand the multi-faceted impact of law study and must engage in a thorough examination of their programs. There are a wide variety of ways in which law schools may reform their programs to address students' psychological needs. It is apparent, however, that formal mentoring programs and student counselling are not enough. Reform

must go further. It must go into the classroom, the assessment regime, the curriculum, and the social milieu. It must consider the impact of legal study on student thinking styles; it must account for the impact of its competitive and adversarial ethos on student social interactions and self-concept. Law school is necessarily, to some extent, a difficult journey. There are very real challenges inherent in the rigorous academic process required to prepare students for a learned profession. It is not acceptable, however, for law school to graduate 'broken' individuals — insecure, isolated and psychologically distressed. Legal educators must reform their programs in ways that allow each student's journey to be a 'hero's journey' — that is, one that empowers the hero to 'transform the world as the hero has been transformed'.<sup>77</sup>

<sup>77</sup> Vogler, above n 69.