

Virtue, Emotion and Imagination in Law and Legal Reasoning

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Admiration, Exemplarity and Judicial Virtue

AMALIA AMAYA*

I. Introduction

A principal venue for the development of judicial virtue is the imitation of exemplars. Exemplary judges are those judges who have a large share of the judicial virtues.¹ This virtue-based view of exemplarity is importantly different from a highly influential view according to which admirability is the key to exemplarity. In this view, exemplary judges would be those who are most admirable. The concept of virtue is claimed to be derivative from the concept of admiration: it is a trait of character that we admire in an exemplar.² The thesis according to which judgements of exemplarity depend on judgements of admirability – articulated and most forcefully defended by Linda Zagzebski – faces serious problems. Most importantly, it seems to have things backwards: it is not that a judge is exemplary because we admire her, but rather, we admire her because she is exemplary. It is the possession and display of virtuous traits of character that grounds judgements of admirability, not the other way around.³ The rejection of the claim that admiration is the foundation upon which exemplarity rests does not, however, amount to denying the important role that admiration plays within an exemplarist theory. Admiration is pivotal in the process of emulation of exemplars that results in the acquisition of judicial virtue and it is also instrumental to the realisation of a number of social functions that exemplary judges are called to perform.

In this chapter, I shall discuss the central – albeit non-foundational – role that the emotion of admiration plays in a virtue-based theory of judicial exemplarity.

*I am very grateful to Maksymilian Del Mar for detailed and valuable comments on an earlier draft.

¹ I have developed a virtue-based approach to judicial exemplarity and given an account of the role that exemplary judges play in the development of judicial virtue in Amaya (2013) and (2018a).

² See Zagzebski (2017), 105.

³ I have developed in more detail this critique of Zagzebski's admiration-based exemplarist theory in Amaya (2013).

In the first section, I will examine the emotion of admiration, drawing on both philosophical approaches to the study of this emotion as well as work on the psychology of admiration. The second section examines the role that admiration plays in the process of emulation of exemplary judges that results in the acquisition of virtuous traits of character. I will also discuss a number of ways in which this process may go wrong, and which provide some additional reasons why it is advisable to refrain from identifying exemplarity with admirability. In the third section, I will examine a number of social benefits associated to admiration, which enable exemplars to perform important social functions within the judiciary. I will conclude the chapter by discussing some educational implications of vindicating the importance of the emotion of admiration for virtue exemplarism. Given the relevance of the emotion of admiration for the development of judicial virtue and the realisation of the social functions that may be plausibly attributed to exemplary judges, it seems critical that legal education should aim to cultivate virtuous admiration.

II. Admiration for Virtue

Admiration is an emotion and, as such, it has an intentional object, an affective component, and a characteristic motivational profile.⁴ Admiration involves an intentional object, that is to say, it is directed at something or someone. We may admire someone's acute sense of humour, an extraordinary ballet performance, a student who volunteers in his community, the elegance of a mathematical theorem, the exceptional skill of a craftsman, a loving and dedicated school teacher, the moral commitment of a political activist, a hero who risks his life to save others, the perseverance of a scientist, and a person who devotes his life to improving the life conditions of an indigenous community. Despite the diversity of objects of admiration (more on this later), admiration, like other emotions, is always directed at a particular person or act, rather than it being felt in general.⁵ It is also important to note that, in a way also similar to other emotions, the emotion of admiration may or may not fit its object, ie, just as what we fear may be harmless, what we admire may not be admirable.

The affective component of admiration is its characteristic feeling or distinctive physical sensation. It feels different admiring a person or a person's action than to love him, to envy him, or to be angry at him. Admiration combines feelings of surprise and wonder with feelings of approval and appreciation.⁶ According to research done by Haidt and collaborators, the phenomenology and physiology of

⁴ See Zagzebski (2017), 32–33.

⁵ See Wilson (2019). That the motivation to imitate an admirable model is triggered by its particularity is also argued by Compaijen (2017), 584.

⁶ See Archer (2019) and Schilder et al (2013), 87.

admiration vary depending on the object of admiration. Whereas chills are most characteristic of admiration for skill and talent, moral excellence elicits a warm feeling of dilation or opening in the chest as well as the feeling that one has been uplifted or elevated.⁷

Finally, admiration, like other emotions, is a motivating force. Most importantly, admiration moves us to emulate the person in the admired respect.⁸ Another significant motivational output of admiration is inspiration, which may or may not involve emulation of the exemplar.⁹ Yet other responses to admiration include a motivation to enhance the reputation of the person admired, to praise her and extol her virtues to others, and to promote the values admired in the object of admiration.¹⁰ These responses, as we will see later, are central for admiration to perform critical social functions. However, a desire to emulate remains central to the motivational profile of admiration.

Admiration is a 'positive' emotion. According to Frederickson, positive emotions 'broaden one's perspective and motivate one to do things that will build skills or resources for the future'.¹¹ In contrast, 'negative' emotions, 'narrow and focus one's attention on the matter at hand to solve a problem'.¹² Positive emotions may not lead to immediate changes in behaviour (unlike, for example, the 'fight or flight' that is triggered by the emotion of fear) but, according to Frederickson's 'broaden and build' proposal, they 'change people's cognitions and motivations in ways that make it easier for them to build relationships and skills'.¹³ Positive emotions thus have effects in the long run in one's behaviours mediated by fundamental changes at both the cognitive and the affective levels. There are different families within the group of the positive emotions, and there is some variation on the issue of how to best classify the emotion of admiration.¹⁴ On Algoe and Haidt's view, admiration belongs, together with elevation and gratitude, to the family of the 'other praising' emotions, which arise from witnessing other's exemplary actions.¹⁵

⁷ See Algoe and Haidt (2009), 124.

⁸ See Zagzebski (2017), 33. See also Velleman (2002), 101. That there is a natural connection between admiration and emulation is a point that is widely accepted in both the philosophical and the psychological literature. Nonetheless, there are several complications (some of which will be discussed in section III) as several factors may interfere and prevent admiration from motivating emulation.

⁹ See Haidt and Seder (2009). Admirable others may inspire one to become like them (by emulating them) or they might inspire us to improve, and yet not trigger a motivation to emulate them if such emulation, given the distance between one's own capacities and those of the model, is likely to be ineffective. The inspiration that admiration gives rise to may also be decoupled from emulation when witnessing the excellence in others motivates improvement in domains other than the specific domain in which the model excels.

¹⁰ Archer has argued against what he calls 'the emulation view' according to which, in prototypical cases, admiration motivates one to emulate and has proposed replacing this view by a 'value promotion view', which states that admiration prototypically motivates one to promote the values admired in the object of admiration, with emulation being one way of promoting these values. See Archer (2019).

¹¹ See Algoe and Haidt (2009), 105 (discussing Frederickson (1998)).

¹² *Ibid.*

¹³ *Ibid.*, 123.

¹⁴ See Onu, Kessler and Smith (2016).

¹⁵ See Algoe and Haidt (2009), 105.

Smith includes admiration in the category of the ‘upward assimilative emotions’ like optimism and inspiration.¹⁶ Ortony and collaborators place admiration within the family of the ‘appreciation’ emotions, such as awe, appreciation, esteem and respect.¹⁷ The differences and similarities between admiration and other (more or less closely related emotions, depending on the taxonomy used) such as awe, adoration, gratitude and elevation have been the object of some studies, but more work is needed to further illuminate the distinctive psychology of admiration.¹⁸

Different kinds of admiration may be distinguished depending on the object of admiration. According to Zagzebski, a main division among objects of admiration is that between natural versus acquired excellences.¹⁹ There are three main differences between admiration for natural talent and admiration for acquired talent. First, they feel different, as Haidt’s research, mentioned above, has shown. Second, whereas I can imitate a person with an acquired talent, a natural talent cannot be the object of imitation – even if one might imitate the perseverance, determination, hard work and courage of the people who reach extraordinary levels of artistic, physical or intellectual excellence.²⁰ More moderately, one might say that exemplars of natural talent may not propel us to emulate, as such emulation is thought to be ineffective, even if they can still inspire us to improve.²¹ Third, whereas contempt is a fitting emotional response to an acquired defect, it is an inappropriate emotion to have toward a person who lacks an inborn talent.

Haidt makes a related distinction between admiration for non-moral excellence, ie admiration for skill and talent, and admiration for moral excellence, which he terms ‘elevation’, on the grounds that there are differences at the phenomenological level (chills vs warm feelings as mentioned earlier) and the behavioural level (whereas admiration energises people to work harder towards their own goals, elevation leads to emulation of the admired model).²² Two main differences between Zagzebski’s and Haidt’s study of admiration (or elevation, in his terminology) should, however, be noted. On Zagzebski’s account, acquired talents include both intellectual and moral virtues, which are admired in the same way; whereas Haidt’s research on elevation is restricted to moral virtue. In addition, Zagzebski and Haidt have different views on the kind of emotion that is opposed to admiration: contempt (or scorn and disdain) and disgust, respectively.²³

¹⁶ See Smith (2000).

¹⁷ See Ortony et al (1990).

¹⁸ See, among others, Algoe and Haidt (2009) (on admiration, gratitude and elevation); Keltner and Haidt (2003), Haidt and Seder (2009); Kristjánsson (2018) (on admiration and awe); and Schindler et al (2013) (on adoration and admiration).

¹⁹ Zagzebski (2017), 37.

²⁰ *Ibid.*

²¹ See Wilson (2019) (arguing that perceiving a model as unattainable may prevent people from developing a drive to emulate).

²² See Algoe and Haidt (2009).

²³ See Zagzebski (2017), 38, and Algoe and Haidt (2009), 106. Ben Ze’ev also opposes admiration to contempt. See Ben Ze’ev (2003), 118.

In what follows, I shall be concerned with admiration for virtue (both moral and intellectual), rather than skill or talent, and I will use the term ‘admiration’ instead of ‘elevation’. Using two different terms may overstate the differences that may obtain between admiring exceedingly competent people and exceptionally virtuous people as well as obscure the important similarities and connections that there are between both kinds of excellence. Indeed, the line between natural talent and acquired excellence (as well as that between moral excellence and non-moral excellence) is not easy to draw.²⁴ There are mixed excellences; natural talents may be necessary to excel at moral reasoning, and acquired excellences (like resilience or determination) are necessary to excel in non-moral domains. Thus, there does not seem to be sufficient reason to depart from common usage, which employs ‘admiration’ irrespective of the kind of excellence at stake. The emotion of admiration has been claimed to have consequences for the admirer, for relationships between individuals, as well as for intra and inter-group relationships.²⁵ In section III, I focus on the learning effects – via imitation – of admiration at the individual level; section IV examines its social effects at both the interpersonal and group level.²⁶

III. Admiration and Imitation

The emotion of admiration plays a pivotal role in the process of imitation that leads to virtue development. Admiration, as argued, motivates those who experience it to emulation, thereby developing the virtuous traits of character admired in the model. How may this imitative process be characterised? And how does it result in virtue acquisition? Imitation, far from being a matter of mindless copying, is a complex cognitive task that is linked to characteristically human capacities and that plays a pivotal role in moral development and cultural evolution.²⁷ Some features of this process are worth highlighting.²⁸ First, there is an important affective dimension to imitation.²⁹ Emulation is not merely a matter of imitating the external behaviour of models, but also their emotional response. The emotional dispositions that are constitutive of virtue include both a disposition to experience fitting emotions as well as to express them in an appropriate way.³⁰

²⁴ As Zagzebski acknowledges. See Zagzebski (2017), 39.

²⁵ For a useful survey of the literature on the consequences of admiration, see Onu, Kessler and Smith (2016).

²⁶ Del Mar (2020) (chapter twelve in this volume) also engages on a multi-level analysis, claiming that legal imagination plays important roles at the individual, the interactive and the collective levels.

²⁷ See Hurley and Chater (2005), 14. See also Gerrans (2013). See also Prinz (2005).

²⁸ A more detailed discussion of some of these characteristics may be found in Amaya (2018a).

²⁹ For a discussion of the emotional aspects of emulation, see Tan (2005), 420–23.

³⁰ Sherman has persuasively argued that to show the right emotions is part of the requirements of virtue. Moreover, emotional expression, argues Sherman, could bring about deeper motivational changes. See Sherman (2004).

Thus, successful imitation of models of virtue requires a full apprehension of the model's behaviours, feelings and emotional demeanour.

Second, imitation importantly involves imagination.³¹ Imagination is necessary to place oneself in the model's perspective with a view to understanding her motives, actions, attitudes and feelings in the particular circumstances she was responding to. In addition to this backward-looking aspect of imagination, a related, forward-looking aspect is also central to processes of imitation. On the basis of his understanding of the model's character, the agent needs to envision how the exemplar would respond to novel situations.³² Imagination may also contribute to the process of imitation that leads to virtue, insofar as imagining oneself as already having the admired features in the exemplar may lead to the acquisition of virtuous motivations.³³ Another way in which imagination may be useful for developing virtue through the emulation of exemplars is by prompting us to consider how these models would judge us if we were to behave in a certain way.³⁴

Third, the process of imitation that eventually leads to the acquisition of virtue may be both conscious and unconscious.³⁵ Imitation may be mediated unconsciously by the activation of personality traits and social stereotypes that elicit the assimilation of one's behaviour to the observed behaviour.³⁶ For instance, novices may acquire manners, attitudes, abilities, action patterns, styles, routines and emotional responses and demeanour by unreflectively imitating the experts. They may not be, to a large extent, aware of how these imitative influences impact on their behaviour. In addition to this kind of 'covert' imitation, virtue development may be also the product of 'overt' imitation.³⁷ Imitative influences may also be conscious, in that they result from a deliberate selection of models and a reflection on what makes those models admirable and worthy of emulation.

Finally, imitation results in a transformation of oneself, not in the replication of someone else's outlook.³⁸ The imitation of the exemplar – whether reflexive or sub-conscious – shapes one's character in important ways. It is not that by imitating (as opposed to mere copying) one assumes the exemplar's identity, ways of behaving, feeling and being. Rather, when one succeeds at imitating an exemplar, one

³¹ For an argument to the effect that imagination is central for successful imitation, see Tan (2005), 417–19.

³² Wilson suggests that knowledge about how an exemplar would act in a particular situation could be gained in advance by imagining exemplars in a variety of situations. This imaginative exercise may help us reduce the number of cases in which we are unable to work out how the exemplar would work. Such a deployment of imaginative capacities seems, however, too costly and, because of that, unlikely. See Wilson (2019).

³³ This is argued in Zagzebski (2017), 136.

³⁴ I thank Maksymilian Del Mar for raising this point.

³⁵ See Compaijen (2017), 569–70.

³⁶ See Dijksterhuis (2005). There is also evidence, however, of contrastive effects in automatic behaviour. See Dijksterhuis et al (1998).

³⁷ For the distinction between 'overt' and 'covert' imitation, see Hurley and Chater (2005), 37.

³⁸ On this point, see Tan (2005), 419.

develops in distinctive ways the traits of character admired in the exemplar, makes them one's own, and integrates them as stable features of one's unique personality.

Thus, the end result of this complex process of imitation, if successful, is the development of a virtuous character.³⁹ There are, however, several ways in which this process of emulation may go wrong. It is instructive to diagnose the sources for the potential failure of the path that goes from admiration to virtue, for such analysis helps illuminate key aspects of this process and has, as I will argue later, important educational implications.

A first problem that stands in the way of developing virtue by imitating exemplars has to do with the proper selection of the objects of imitation.⁴⁰ In cases of 'destructive mimicry', in which the model admired is not an exemplar of virtue but of vice, emulation fails to contribute to virtue development.⁴¹ In these cases, judgments of admirability do not track moral or epistemic value, which is an important reason why the enterprise of grounding moral theory on judgments of admirability seems suspect. In destructive mimicry – of which anti-social behaviour resulting from media violence is a glaring example – a negative exemplar is recognised as a model.⁴² Imitation in such cases can hardly result in virtue development, as much in law as in any other domain.⁴³ A student or judge in training who admires a callous judge for its purported impartiality and capacity to detach from the parties' plight, would fail to develop, via imitation, a loving gaze, a compassionate outlook, and empathetic understanding.⁴⁴ Similarly, a student clerking for a judge who is known to be stubborn, unyielding, unwilling to listen to alternative views, and reluctant to modify his own views in response to other people's arguments or novel evidence, may come to see those features as evidence of firmness and intellectual autonomy, rather than as a serious lack of open-mindedness, and may consequently recognise such a judge as a model.⁴⁵ Admiration would, in this case, lead to a corrupt rather than a virtuous intellectual character.

A second problem is posed by cases of 'misguided admiration', in which the object of admiration is properly selected, but for the wrong reasons.⁴⁶ In these cases, the agent imitates those who are arguably good exemplars of virtue, but does so for reasons unrelated to their possessing and displaying virtuous traits of

³⁹ Mediated by habitual performance that eventually leads to actual virtue possession. See Wilson (2019).

⁴⁰ A discussion of this problem may also be found in Wilson (2019).

⁴¹ The term is employed in Hurley and Chater (2005), 281.

⁴² See Huesmann et al (1997). For another example, see Jones (2011) (on drunken role models in sport).

⁴³ This is not to deny that negative exemplars have educational value, insofar as they exemplify character traits we hope to avoid (rather than emulate). See Amaya (2018a). Negative exemplars have also been shown to play important roles in professional development. Gibson (2003) has shown that middle and late-stage career individuals are more likely to see role models as sources of specific rather than general and negative rather than positive attributes. In addition, mix models (ie those who have both positive and negative attributes) have more enduring inspirational effects. See Moberg (2000), 682.

⁴⁴ Zipursky (2020)'s discussion of the attitudes of Justice Sonia Sotomayor vs Justice Clarence Thomas (chapter four in this volume) may illustrate this point.

⁴⁵ On the diversity of alternative descriptions of moral character and the possibilities of re-describing them, see van Domselaar (2020)'s Murdochian approach (chapter five in this volume).

⁴⁶ On this problem, see Irwin (2015).

character. In this case, admiration is directed at the proper object, but admiration for virtue is swamped with admiration for superiority, wealth, status and success.⁴⁷ An example that illustrates the point is a judge in training who admires a superior judge, who, as it turns out, does possess and exercise a large share of the judicial virtues and rightly deserves admiration, but the trainee is merely allured by the high status and social position that a successful career has brought for that judge. The reasons for admiration, and the motivation for emulation it triggers, are thus disconnected from the judge's virtuous character. As a result, the recognition of such a judge as an exemplar will be sterile from the point of view of virtue development.

A further way in which the admiration of a virtuous exemplar may fail to lead to virtue acquisition has to do with the attainability of the model. The effectiveness of a model is partly dependent on its attainability. If the model possesses an unusually large share of virtues (eg saints and sages) or possesses one virtue or a limited number of virtues to an exceedingly high degree (eg heroes), then admiration for the model may fail to move the agent to imitate.⁴⁸ Such models may be perceived to be so far above what we may achieve that they have a paralysing, rather than an energising effect, on us.⁴⁹ This effect may be bolstered if the exemplar's circumstances are too removed from one's own or the admirable traits are lacking in relevance for one's life, which reinforces the perception that any attempt to emulation is likely to be useless.⁵⁰ Admirable people who fall short of sainthood and perfection, and ordinary heroes, who perform worthwhile but less than glorious deeds, may be exempla with whom we may more easily identify and be moved to imitate. However, even if admiration for models that are clearly beyond reach may not result in emulation, still these exempla may be inspirational and move us to make progress and improve, to praise the values they embody, and to promote them in a variety of ways. Indeed, the imitation of an exemplar, without taking into account one's limitations, may be an utterly inappropriate response to admiration. Such imitation forces the agent to 'over-stretch' and may result in worse outcomes than those that would have been reached if one had more fitting goals in mind.⁵¹ In the context of judging, it may be better for judges early in their career to take steps, inspired by a role model, towards professional improvement that may allow them, eventually, to successfully imitate the model, rather than straightforwardly attempt

⁴⁷ The common tendency to so doing and the risks it involves are brilliantly discussed by Adam Smith. For a lucid discussion, see Irwin (2015), 235–39.

⁴⁸ For a comparison of the effectiveness of heroes and saints as tools for character education, see Croce and Vaccarezza (2017).

⁴⁹ See Kristjánsson (2017), 179.

⁵⁰ On the importance of attainability and relevance to the effectiveness of role-models, see, among others, Croce (2019); Wilson (2019); Vos (2018), 18–19; and Han et al (2017). Attainability is also a relevant criterion for assessing the effectiveness of role-modelling in professional contexts, see Moberg (2000).

⁵¹ On 'moral over-stretching', see Kristjánsson (2018), 179. Williams also warns against the risks of 'moral weightlifting', when failure to recognise one's own limitations compared to the moral exemplar may result in moral error. See Williams (1995), 190. For discussion, see Engelen et al (2018), 4.

to do as the model would, oblivious of the differences that there are between their own capacities and those of the exemplar.⁵²

Fetishism is another case in which admiration fails to trigger a process of imitation that is conducive to the development of virtue. The problem here lies not in the object of imitation, but rather in the way in which the agent relates to the exemplar. Those who reject – much in the spirit of our time – the idea that imitation is an important tool for personal development and endorse, on the contrary, a ‘be yourself’ slogan,⁵³ refusing to acknowledge the many ways in which personal identity and one’s achievements are partly the result of the influence and previous accomplishments of others, suffer not only from self-delusion but also from an excess of self-affirmation.⁵⁴ In cases of fetishism, the opposed case obtains. The agent lacks a sufficient degree of self-affirmation and, consequently, establishes a relation with the model that effaces her subjectivity.⁵⁵ In the limit, the follower aspires not to be like the model but to ‘be him’. This way of relating to the model evidences a lack of autonomy and proper self-esteem, which results in a degeneration of the process of imitation into worshipping.⁵⁶ In these cases, the model is apprehended as an idol and admiration gives way to emotions of awe and adoration. Attitudes of excessive deference and uncritical devotion towards models in professional and teaching legal contexts could, arguably, partake in some of the characteristics that are distinctive of fetishism.

Finally, the process of imitation that connects up admiration to virtue may be faulty for reasons that do not have to do either with the object of admiration, or the way in which the agent relates to the admired model, but rather with the process of imitation. The object may be a genuinely virtuous exemplar, who is admired in the admirable respect, who embodies an attainable ideal, and to whom the follower relates in ways that avoid fetishism, but imitation may be so shallow and superficial as to be unproductive from the point of view of virtue development. This would be the case when the admirer does not engage imaginatively and affectively with the admired model. Imitation, as argued before, is a complex process that is distinct from mere copying. It involves an imaginative projection of the model’s ways of feeling and acting into one’s circumstances. This requires a full grasp of the motives, patterns of reasoning, and emotions of the exemplary model. When the agent lacks a sufficient understanding of the exemplar’s character or has deficient powers of imagination, imitation may degenerate into the mere reproduction of

⁵² See Stepien (2012) (arguing for the appropriateness of different models of judicial decision-making to different stages of judicial self-development).

⁵³ See Kaftanski, ‘Becoming oneself in a world of Kardashians: Imitation, Admiration, and the Power of Role Models’ <http://www.abc.net.au/religion/imitation-and-the-power-of-role-models/10343072>, accessed 12 October 2018.

⁵⁴ I will return to this point in section V.

⁵⁵ On self-forgetfulness as a characteristic that is inherent to admiration, but that needs to be overcome to actually recognise the other as an exemplar, see Compaijen (2017).

⁵⁶ ‘Hero-worshipping’ is Kristjánsson’s term. See Kristjánsson (2018), 179.

external behaviour.⁵⁷ Just copying does not transform one's moral and intellectual character in ways that contribute to one's personal and professional development.

In order to avoid the foregoing pitfalls in imitative reasoning, it is necessary to cultivate among law students and legal practitioners a virtuous disposition to admire.⁵⁸ It is critical that they select role models that are fit for them and worthy of being emulated and that they imitate them for the right reasons and in the right way. I will explore the educational implications of vindicating the relevance of admiration in character formation in section V. But before this, I shall examine the social functions that admiration may be claimed to perform within the judiciary. These functions provide additional support for the claim – to be argued later – that legal education should aim to develop the emotional dispositions, traits of character, and imaginative capacities required for admiration to put in motion a process of imitation that leads to the acquisition of judicial virtue.

IV. The Social Functions of Admiration

Admiration plays, as argued, a central role in character development in that it triggers a process of emulation that results in acquisition of virtue. As such, it is an extremely useful tool for professional development, in that it helps students and professionals to acquire the traits of character that are virtues in the context of the judicial role.⁵⁹ Further, the emotion of admiration also has important social functions at the interactive and group level.⁶⁰ These beneficial social effects are consequential, as I will argue, for the role, structure, organisational cohesion and self-image of the judiciary.

A. Social Learning and Cultural Transmission

Admiration facilitates social learning from those judges who excel in the profession. Social learning occurs when people learn vicariously of the results of their own actions, not by first-hand experience but by observing others.⁶¹ This social learning importantly leads to the cultural transmission of ways of reasoning,

⁵⁷ See Amaya (2018a). The point is also argued for in Wilson (2019).

⁵⁸ Another problem that may prevent the imitation of admirable others from delivering virtue, which I am not dealing with here, is the question of how to avoid the perverse outcomes that may result from herding, that is, from imitating others in a group. Here, I am only considering imitative relations between an agent and an admired person. For an extremely interesting study of herding, see Baddeley (2018).

⁵⁹ Interestingly, imitation remains an important tool for professional development through the whole professional career span. See Gibson (2003).

⁶⁰ On the social functions of emotions, see Keltner and Haidt (1999).

⁶¹ See Moberg (2000), 676.

behaving, feeling and relating to others in the context of the judicial role.⁶² The best expressions of legal culture – as we have currently inherited it – are passed down to next generations through the mechanisms of social learning that admiration enables. This, as Tomasello and others have argued, does not impede innovation and change; rather, the cultural matrix that is preserved through imitation provides a platform from which new ways of thinking and doing are generated.⁶³ Hence, the social learning and cultural transmission that admiration of exemplary judges allows is essential for both the stability of legal culture as well as its improvement and adaptation to novel challenges and new circumstances.

B. Authority Conferral

Admiration consecrates within the profession a subset of exemplary judges as worthy repositories of *auctoritas*.⁶⁴ In so doing, it helps establish a hierarchy within the judiciary based on prestige rather than dominance.⁶⁵ Within such a hierarchy, cultural reproduction is based not on fear or threat of force (in the form of disciplinary sanctions or lack of promotion opportunities), but rather on ‘freely conferred deference’, out of respect and esteem for a model that is worthy of admiration. The kind of judicial authority that is propelled through admiration for virtue does not sever technical expertise from moral competence, but is instead responsive to the important way in which judicial decision-making is of moral import and involves engaging in moral reasoning.⁶⁶ The associated prestige and influence of admired judges who enjoy *auctoritas* permeates through the different levels of the judiciary and, given the prominent societal place of judges, it arguably reaches beyond the confines of the judicial profession to shape legal and political culture in important ways.

C. Hierarchy Regulation

Admiration not only contributes to the formation of a prestige hierarchy within the judiciary, but it also plays an important role in regulating it.⁶⁷ There are

⁶² In Onu, Kessler and Smith’s model, admiration is claimed to be an emotion the central function of which is to facilitate social learning and contribute to the wider cultural transmission. See Onu, Kessler and Smith (2016).

⁶³ Through the so-called ‘ratchet effect’. See Tomasello (1999) and Tennie, Call and Tomasello (2009).

⁶⁴ I have explored in more detail the connection between exemplarity and judicial authority in Amaya (2018b).

⁶⁵ On the distinction between prestige and dominance hierarchies and the role of admiration in establishing the former, see Henrich and Gil-White (2001).

⁶⁶ For an extremely interesting argument to the effect that current notions of expertise are oblivious to the fact that competence in a domain requires the deployment of moral capacities, see Shapin (2004). A discussion of this argument in the legal context is provided in Amaya (2018b).

⁶⁷ On the idea that emotions contribute to the maintenance, formation and change of social hierarchies, see Kelter and Haidt (1999), 307.

important behavioural consequences of admiration that help maintain social hierarchy. Most importantly, admiration is associated with a tendency to help and cooperate with those who are admired; it engenders deferential behaviour towards the admired person; and it inhibits political action aimed at dislodging the admired person's position of (legitimate) power and status.⁶⁸ Admiration for virtue in the judicial context is thus likely to have a system-maintaining effect, which is arguably essential to the stability of the institution. However, and critically, admiration also serves to challenge social hierarchy in cases in which the object of admiration is a subversive exemplar. In these cases, admiration may engender insubordination rather than deference, engender political action that challenges the status-quo, and inhibit behaviour that would maintain it.⁶⁹ Admiration for exemplary judges who subvert the accepted legal and social order – Justice Ruth Ginsburg and Justice Michael Kirby, known as the ‘Great Disenter’, are vivid examples – importantly contributes to bringing about radical legal and political change.

D. Social Relationships

Admiration for virtue significantly impacts the quality of social relationships. To begin with, it motivates people to behave in ways that create or strengthen their relationship with models.⁷⁰ The admirer seeks proximity with the admired person as well as her cooperation – interestingly, evolutionary pressures account for this, as greater interaction and cooperation lead to better learning environments.⁷¹ There is also evidence that suggests that group-based admiration is associated with willingness to receive help from the admired outgroup.⁷² Admiration also has beneficial effects on social relationships beyond the dyadic relation admirer-admired model, as it promotes prosocial and affiliative behaviour.⁷³ Thus, admiration towards exemplary judges not only contributes to establishing close bonds between these judges and those who admire them, but it also helps generate a kind and cooperative working environment as well as high levels of organisational commitment within the judiciary.

E. Identity Formation

Admiration plays an important role in identity formation.⁷⁴ Who we admire shapes who we are, both individually and collectively. Role models define in critical

⁶⁸ See Henrich and Gil-White (2001).

⁶⁹ For a defence of the claim that admiration engenders behaviour that challenges social hierarchy, see Sweetman et al (2012). For a statement of this claim in the context of the professions, see Moberg (2000), 686.

⁷⁰ See Algoe and Haidt (2009), 123.

⁷¹ See Henrich and Gil-White (2001).

⁷² See Onu, Kessler and Smith (2016).

⁷³ As argued in Haidt and Algoe (2009), 117, 122 and 124.

⁷⁴ See Schindler et al (2013) and Bucher (1998).

ways our self-image as well as our values and commitments as a community. Furthermore, admiration contributes to shaping who we want to be and what kind of community we want to foster. Public figures have a critical impact on younger generations' self-concept and ambitions. The visible role that admiration plays in identity formation in popular culture fully applies to legal and political culture. Erasmus wrote: 'Turn the pages of history and you will always find the morality of an age reflecting the life of its prince.'⁷⁵ Those who are the leading figures in legal and political culture signal who we are and who we aspire to be. Similarly, admiration for exemplary judges helps define how to conceive the role of a judge in current societal conditions, what sort of jurist one aims at becoming, and what are the core values that the legal community adheres to and hopes to realise and advance.⁷⁶ Admiration thus importantly contributes to developing judges' self-concept as well as to forming a collective identity within the judiciary.

V. Cultivating Admiration in Legal Education

As argued above, the emotion of admiration leads to virtue development and has a number of important social effects. Admiration for exemplary judges (or other relevant legal actors) is a critical pathway to professional development and has significant social benefits for interactive relations between members of the legal community, group dynamics in the legal profession, and legal culture. Given the learning and social effects of admiration, it is critical that legal education should aim at cultivating a virtuous disposition to admire. Those who have such a disposition will be capable of avoiding the problems concerning imitative reasoning that have been described above and will, therefore, be in a position to benefit from the ways in which the emulation of admired exemplars enriches personal and social life.⁷⁷ A virtuous disposition to admire has the following features:

- (a) It is directed at a proper object of admiration, ie it leads one to pick the right models to admire and to admire them in the admirable respect.
- (b) It hits the right mean, therefore avoiding the vice of obsequiousness, which results from an excessive disposition to admire, and the vice of arrogance, which results from a defective disposition to admire.⁷⁸

⁷⁵ Erasmus (1516) (1997).

⁷⁶ On the role of admiration in shaping professional identity, see Gibson (2003) and Ibarra (1999).

⁷⁷ See Algoe and Haidt (2009), 125.

⁷⁸ Over-reaction and under-reaction would be cases of moral errors (ie defects of character). See Kristjánsson (2018), 19. In the case of admiration, Kristjánsson describes the extreme vices as resulting from 'an inferiority complex (*qua* excess) and too little will to improve (*qua* deficiency)'. See Kristjánsson (2006), 45. Rather, as I will argue below, admiration may be best understood as a mean between affirming self-debasement and self-aggrandising. In this view, the belief that there is little room for improvement would thus follow from the assertion of one's superiority, rather than it being a vice *qua* deficiency.

- (c) It has the right motivation, ie displays of admiration are done for the right reason, namely, as an emotional response to excellent others, rather than, for instance, to climb the social and career ladder.
- (d) It does lead to admiration when admiration is called for – therefore averting other possible emotions that might arise when witnessing other persons' excellence, such as resentment or envy.⁷⁹
- (e) It involves a reflexion about whether emulation – given one's capacities as compared to those of the model – is the appropriate response to admiration, thereby eschewing problems of moral over-stretching.
- (f) When imitation is the appropriate response, it motivates the agent to imitate in ways that engage one's affective, critical and imaginative capacities thereby warding off blind copying and fetishism.

There are a number of educational strategies that could be incorporated in legal education and professional legal training with a view to cultivating a virtuous disposition to admire.

First, it is important to ensure that in both legal education and legal training law students and professionals are exposed to admirable models. There are several ways in which this could be done. Conventional educational materials include most prominently textbooks as well as case-books. It seems convenient to complement these materials with biographies of leading jurists and recover what was, until the end of the eighteenth century, a fundamental pedagogical tool, namely the book of *exempla*, the objective of which was to provide with models of virtue for students to imitate. It is important that in selecting the examples to which students and professionals are to be exposed, consideration of relevance and attainability is taken into account. Even if, as argued above, extreme models may still play an important inspirational role, exposing students and professionals to admirable models that they may easily relate to and attain is more likely to have an impact in virtue development.⁸⁰ In addition, given that, as studies in role-modelling have shown, persons from social proximity are the most frequent models,⁸¹ it would be convenient to structure legal education and professional training so as to create ample opportunities for concrete interaction and learning from judges and other relevant legal actors who may provide models that students and early-stage professionals may admire and emulate.⁸² Finally, a familiarity among students and professionals with key figures of the legal tradition may also be gained through strategies of visibility as well as by generating spaces for social

⁷⁹ On the relations between admiration, resentment and envy as possible emotions toward others' excellences, see Zagzebski (2017), 50–59; Ben Ze'ev (2003); and Smith (2000).

⁸⁰ See Croce and Vaccarezza (2017).

⁸¹ See Bucher (1998).

⁸² This may provide yet another argument to promote diversity within the judiciary and, more broadly, in the legal professions.

interaction and exchange between students, early-stage professionals and senior legal professionals.⁸³

The experience of students and professionals with exemplars is likely to be an important way in which the role modelling that admiration promotes may have educational benefits. Exposure to admirable jurists is, moreover, particularly relevant if, as argued, emulation may work sometimes in less than conscious ways. Nonetheless, beyond mere exposure, reflexion on exemplary models is also an essential tool for cultivating a virtuous disposition to admire.⁸⁴ Experience with exemplars is to be combined with explicit discussion about the exposed models, why they are admirable, what their emotional reactions were, how they reasoned, the choices they made, and why they acted the way they did. Giving so-called ‘meta-comments’⁸⁵ and engaging students and professionals in a critical reflexion about the admired *exempla* may enhance the positive educational effects of admiration and prevent role-modelling from degenerating into copycatting. Such explicit instruction may thus help agents to achieve a genuine self-transformation through the process of emulation.

In addition, the education of the emotions and the imagination is a substantive part of the cultivation of a virtuous disposition to admire given that, as argued above, for admiration to lead to virtue, emulation has to engage distinctive emotional and imaginative capacities. Thus, in order to benefit from admiration and the role-modelling it propels, legal education should be oriented towards the development of imaginative abilities as well as include sentimental education.⁸⁶ An important strategy for the education of the emotions as well as the imagination that aligns itself particularly well with the cultivation of a virtuous disposition to admire is the use of the arts, especially literature and film.⁸⁷ Narratives of exemplary characters (historical, fictional or contemporary) have the richness necessary to be recognised as models of admirable legal professionals that students and early-stage professionals may identify with, despite their not being from their social nearness. These narratives critically enlarge the set of admirable jurists they may hope to emulate and learn from (as well as the collection of negative examples they may strive to avoid) beyond those within their direct experience.

⁸³ Visibility strategies include, eg, the naming of events, chairs and spaces after outstanding jurists or the profiling of virtuous jurists in newsletter articles and webpages. On the positive effects of strategies of visibility for virtue education through role modelling in organisations, see Moberg (2000), 690.

⁸⁴ On the need to combine exposure with explicit discussion, see Sanderese (2013) and Kristjánsson (2006). For a critique, see Wilson (2019).

⁸⁵ Sanderese (2013), 38.

⁸⁶ On the education of legal imagination, see Del Mar (2018). An important tool for emotion education is the explicit instruction on the emotions. See Kristjánsson (2018) 179. Hence, explicit instruction on admiration and the ways in which it could lead us astray may also be a helpful tool for cultivating a virtuous disposition to admire.

⁸⁷ Kristjánsson lists the arts as one of the main strategies for educating the emotions (2018), 180. Although a key theme of the law and literature movement has been the importance of literature and film for emotional education, this body of scholarship has not focused on its potential for developing a virtuous disposition to admire. Indeed, there are the interesting connections between the law and literature movement and legal exemplarism, which would be worth further exploring.

Not only are emotional and imaginative capacities necessary for successful emulation, but some degree of virtue is already necessary if admiration is to lead to virtue acquisition. This is not a vicious circle; rather, it shows the way in which virtue and emotion are interlocked in character development. To begin with, some measure of virtue is required in order to be attracted by and recognise models of virtue in the first place. In addition, such models may only guide one's behaviour if one already possesses a certain degree of virtue, for only if one shares to some extent the characteristic sensibility that is distinctive of those who are worthy of admiration, is it possible to determine how the model would feel and act in the circumstances at stake and to draw the relevant analogies (and disanalogies) between the situation faced by the model and one's own experiences.⁸⁸ Thus, virtue education is pivotal in the cultivation of a virtuous disposition to admire.

The development of certain virtuous traits of character seem to be particularly needed for the process of emulation that connects up admiration with virtue to succeed. A certain degree of moral and intellectual autonomy is pivotal to engage critically in a process of emulation rather than mindlessly copycatting the exemplar. Indeed, in successful emulation, one develops the features of character that are admirable in the model, including the capacity to form one's views autonomously and act accordingly. Another virtue that is particularly important if emulation is to be a useful tool for character development is the intellectual virtue of perseverance and resilience. Witnessing the excellence of others may be inspirational, but it may also generate depressive feelings when one compares the model's achievements with one's more modest ones.⁸⁹ Negative emotions are more likely to occur when those achievements are seen as unattainable given one's career stage and capacities.⁹⁰ A drive to persist in the face of failure is central if excellent others are to help us visualise better 'possible selves'⁹¹ and motivate us to work harder to become the sort of person and professional one aims at being.

Humility also seems to be, I would argue, a central virtue which should be possessed and exercised in order to have a virtuous disposition to admire. Self-abasement leads an agent to admire too much and to mistake models for idols. Self-aggrandising favours an attitude of reluctance to admire, or outright rejection of admiration, even when admiration is clearly called for. In fact, there is psychological evidence that supports the view that an excessive self-esteem undermines inspiration by outstanding models.⁹² Humility is a trait of character that disposes those who have it to wholeheartedly adhere to a commitment to relate with

⁸⁸ Amaya (2018a).

⁸⁹ For a useful taxonomy of the emotions involved in social comparison, see Smith (2000).

⁹⁰ See Lockwood and Kunda (1997) (showing that relevant stars provoke self-deflation when their success seems unattainable in that the agent had already missed the chance of achieving a comparable success or thought that his abilities are unlikely to improve over time).

⁹¹ 'Possible selves' are the individual's views about who they might become. See Markus and Nurius (1986) cited in Ibarra (1999), 765.

⁹² See Lockwood and Kunda (1999).

others on an egalitarian basis.⁹³ The virtue of humility signals a mean between the extremes of excess (ie, self-aggrandisement or arrogance, in which one asserts one's superiority) and defect (ie, servility or self-abasement, in which one asserts one's inferiority).⁹⁴ Hence, humility will carry with it a disposition to properly admire and avoid the vicious extremes of excessive deference and defective recognition of admirable others.

Finally, the appreciation of the importance of admiration and role-modelling in legal education brings to light the significant pedagogical dimension of the role of a judge (and other legal professionals).⁹⁵ Judges serve important educational functions within the judiciary – as much as other senior legal professionals do for junior colleagues and law students in traineeship. In order to maximise the educational benefits of admiration, it seems critical to prepare judges (and other legal actors) for the educational aspects of their role. Legal professionals within the judiciary, as well as within other legal institutions and organisations, should be made aware of their pedagogical function and professional training should include the development of traits of character, skills and techniques that may help them be more effective pedagogical models.⁹⁶

VI. Conclusion

In this chapter, I have argued that admiration plays an important role within a virtue-based approach to legal exemplarity. Admiration is a positive emotion that is related to, but distinct from, other positive emotions such as gratitude, awe, adoration, esteem and respect. It is variously opposed to contempt and disgust. Admiration may be felt towards diverse forms of excellence – natural and acquired. My focus has been on the kind of admiration that is felt towards models of moral and epistemic virtue. Its motivational output is complex, including inspiration, a disposition to promote the values exemplified in the object of admiration, to praise and enhance the reputation of the admired model, and critically, to imitate it. The imitation that is triggered by admiration is a central tool, I have argued, for the acquisition of judicial virtue. In addition, it has important social effects within the judiciary: it contributes to the transmission of legal culture, to attributing authority, to creating and regulating hierarchy, to generating a cooperative social environment, and to shaping the self-image of the judicial profession.

These learning and social benefits provide important reasons for making efforts towards developing a virtuous disposition to admire among law students

⁹³ For an egalitarian conception of humility, see Ben Ze'ev (1993) and Statman (1992).

⁹⁴ I have developed an egalitarian account of the virtue of judicial humility in Amaya (2018c).

⁹⁵ I thank Guillermo Hurtado for drawing my attention to this point.

⁹⁶ Sanderese has argued for the need to help teachers be aware of their role as models and improve their skills so as to be more effective role models in Sanderese (2013), 38.

and legal professionals, especially, judges. Those who possess a virtuous disposition to admire, I have argued, experience that emotion (rather than envy or resentment) in the face of excellent others; their admiration fits its object (ie they do not experience admiration towards negative exemplars); they admire exempla for the right reasons (out of admiration that is directed at the admirable aspects of the model); they admire in the right way (thereby avoiding the extremes of obsequiousness and arrogance); the experience of admiration motivates them to emulate in ways that properly acknowledge the distance that there is between the model and themselves (averting moral over-stretching), that engages one's critical capacities (resisting fetishism), and that is responsive to the imaginative and affective dimensions of emulation (skewing copycatting).

Finally, I have suggested some educational strategies that may help inculcate a virtuous disposition to admire in the context of the legal professions, namely, exposure to exempla, explicit discussion of exemplary models, cultivation of emotional and imaginative skills, virtue education (with a focus on moral and intellectual autonomy, perseverance and resilience, and moral and intellectual humility) and training oriented towards increasing awareness of the pedagogical dimensions of the legal professions and improving their effectiveness as role models. Thus, it would be desirable to rethink and revise legal education (and, as argued, educational materials, so as to include books of exempla and historical texts, as well as literary and filmic resources) with a view to fostering virtuous admiration among law students and professionals.

In addition to cultivating a virtuous disposition to admire through educational reform, an interesting issue – which I have not addressed in this chapter – is how the structure and organisation of the judiciary (and other legal institutions) may facilitate a productive emulation of admirable models within the profession. Nudging strategies are useful ways to bring about institutional environments that facilitate the acquisition and display of virtue.⁹⁷ Legal institutional structures have also been claimed to have a significantly impact on the emotions of individuals and groups.⁹⁸ Similarly, one could design legal institutions and legal professional organisations with a view to nurturing a virtuous disposition to admire. Nudging, in combination with education, could provide a sure-footed path to promote a virtuous disposition to admire in juridical contexts.⁹⁹ I hope that the arguments I have given in support of the relevance of admiration for the development of judicial virtue as well as its broader social effects within the judiciary have, at least, succeed in showing that its implications for legal education and institutional design may be worth further exploring.

⁹⁷ On fostering virtue through institutional design, see Anderson (2012).

⁹⁸ See Abrams and Keren (2010).

⁹⁹ On combining imitation of exemplars and nudges as two strategies for education, see Engelen et al (2018).

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