

LAW IN THE CULTIVATION OF HOPE

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Abstract

In recent years scholars have begun to question the longstanding dichotomization of (legal) reason and the passions, and have offered significant understanding of the connection of law and the emotions. Much of this work, however, has been done within a fairly narrow ambit. This Article seeks to broaden this scholarship in two ways. First, it points to an unexplored relation between law and the emotions: the role of law in cultivating the emergence of emotions. And second, it moves beyond the negative emotions, and directs attention to positive emotions and their interplay with the law outside the criminal context. Following these two new directions, the Article focuses on the role of law in the *cultivation of hope*. It suggests a role for law that has not been explored before: facilitating the emergence of positive emotions, and thus empowering law's beneficiaries.

The Article first uncovers the structure of hope as an emotion, and identifies the necessary qualities for developing individual hopes: the ability to imagine new possibilities not encompassed by one's present condition; a sense of agency sufficient to envision oneself pursuing distant objectives; and adequate resources that enable bringing such goals about. After characterizing individual hope, the Article turns to a less-discussed possibility: the active, external effort to cultivate hope in people whose deprivation prevents them from envisioning and pursuing alternative futures for themselves. A *profile* of a beneficial effort to cultivate hope in others is then developed, drawing on the narrative of the award-winning documentary film "*Born*

into Brothels". This original profile reflects five elements that are central to such an effort: communicating recognition and vision; introducing an activity that allows for individuation; providing resources; supporting agency; and fostering solidarity. However, given the systematic character of the social problems that give rise to despair, individual efforts at cultivation may not suffice and institutional interventions, including those secured by law, may be indispensable. This Part concludes by discussing the perils entailed in such an enterprise.

Finally the Article applies its analysis to the cultivation of hope through law. It explores the example of Project Head Start, which was enacted as a core component of the War on Poverty. For decades the Project has served to engage poor children and their families in new opportunities for personal and collective growth. Remarkably, this study finds many of the characteristics of a successful cultivation of hope in certain features of the Project that are required or facilitated by law: the involvement of parents in the operation of the Project's local centers, and the strong solidarity that has emerged among parents, and between parents and Project staff. It further illustrates how some of the predicted risks of cultivating hope have materialized in this context, while others have not. The Article concludes by calling for further investigation of the promising notion that, by drawing on its capacity to cultivate positive emotions, the law may play an empowering role in the lives of individuals and groups.