I

Lawyers as Leaders

IT IS IRONIC that the occupation most responsible for producing America's leaders has focused so little attention on that role. The legal profession has supplied a majority of American presidents, and in recent decades, almost half the members of Congress.[1] Many of our nation's most revered and most reviled public figures have been attorneys: Abraham Lincoln and Thurgood Marshall; Joseph McCarthy and Richard Nixon. Although they account for just 0.4 percent of the population, lawyers are well-represented at all levels of leadership, as governors, state legislators, judges, prosecutors, general counsel, law firm managing partners, and heads of corporate, government, and non-profit organizations.[2] Even when they do not occupy top positions in their workplaces, lawyers lead teams, committees, task forces, and charitable initiatives. Yet rarely have these lawyers received training for leadership responsibilities. Although leadership development is now a forty-five billion dollar industry, and an Amazon search reveals close to 88,000 leadership books in print, the topic is largely missing in legal education.[3]

This book is a step toward filling the gap. Its aim is to shed new light on why we trust lawyers with so much power and why we are so often disappointed in their performance. My central claim is that the legal profession attracts a large number of individuals with the ambition and analytic capabilities to be leaders, but frequently fails to develop other qualities that are essential to effectiveness. The focus of legal education and the reward structure of legal practice undervalues interpersonal capabilities and ethical commitments that are necessary for successful leadership. Drawing on a broad array of interdisciplinary research, as well as biographical and autobiographical profiles, the book explores leadership competencies that are too often missing in practice.

Discussion proceeds in three parts. The first section of the book offers an overview of leadership traits, styles, and development. This introductory

chapter focuses on the role of lawyers, and explores why they so frequently occupy positions of power even though the public has little faith in their qualifications for those positions. Chapter 2 looks at the nature of leadership more generally and identifies its defining characteristics and predominant styles. Chapter 3 surveys leadership development. It explores how lawyers learn to lead and the forces shaping their paths to leadership. Chapter 4 addresses core leadership capabilities: influence, decision making, innovation, conflict management, and communication.

A second section of the book addresses ethics in leadership. Chapter 5 focuses on the role of ethics, the influences on ethical conduct, the tensions between means and ends, and the strategies for fostering ethics in organizations. Chapter 6 explores scandals: the role of hypocrisy, the corrosion of judgments involving money and sex, and the dynamics of crisis management and corrective action.

A third section of the book views leadership in context. Chapter 7 addresses diversity: the nation's historical patterns of exclusion, the persistence of bias, the limits of law, the case for inclusiveness, and the most effective diversity-related strategies for leaders and those who aspire to leadership roles. Chapter 8 centers on leaders in law firms: their challenges, their successes, and their failures. Chapter 9 focuses on lawyers in social movements: the conditions of social change, and the leadership strategies that have been most and least effective in producing it. A final chapter looks at the legacy of leaders. Drawing together themes from the preceding chapters as well as empirical research on successful leadership, the book concludes with thoughts on what lawyers can do to advance their individual commitments and the public interest.

The Paradox of Trust

To put this exploration of leadership in context, it makes sense to begin with a paradox. According to a PEW public opinion poll, honesty is the most important leadership trait.[4] This is not a characteristic commonly associated with lawyers. The most recent Gallup poll finds that less than a fifth of Americans rated lawyers high or very high in honesty and ethical standards.[5] In another poll in which people were asked to volunteer what profession they trusted least, lawyers ranked highest (26 percent), with over twice as many votes as the next highest, members of Congress and sellers of used cars (11 percent).[6] Only 11 percent of Americans have "a great deal of confidence in people in charge of running law firms," while almost a third have "hardly any."[7]

Yet Americans place lawyers in leadership roles in much higher percentages than other countries. Only one nation (Colombia) has a higher proportion of lawyers in the national legislature.[8]

Part of the reason for this seeming mismatch in public attitudes and actions may stem from ambivalence in the public's views. Although they distrust lawyers as a group, Americans like their own lawyers. In one survey, over half of those questioned were very satisfied with the quality of legal services provided and another fifth were somewhat satisfied; only 12 percent were very or somewhat dissatisfied.[9] When the public is asked about lawyers' positive qualities, the characteristic most commonly chosen is that their "first priority is to their clients."[10] But that is also what the public dislikes in other people's lawyers. The most negative quality attributed to lawyers, by some three-quarters of Americans, is that attorneys are "more interested in winning than in seeing that justice is served."[11] In short, people want an advocate who will serve their own interests, but not the professional norms that result when everyone else wants the same.

These ambivalent attitudes do not, however, fully account for why lawyers in the United States are so much more likely to occupy leadership roles than lawyers in other societies. Researchers have attributed the distinctive influence of American lawyers to several factors. First, the centrality of law in American culture has contributed to the centrality of the legal profession.[12] The country's longstanding tendency to frame questions of social policy and morality in legal terms has elevated lawyers to positions of authority. As de Tocqueville famously noted, "[i]n America, there are no nobles or literary men, and the people are apt to mistrust the wealthy; lawyers consequently form the highest political class and the most cultivated circle of society."[13] Because lawyers functioned, in de Tocqueville's phrase, as the "American aristocracy," upwardly mobile individuals who aspired to public influence often chose law as their career. Lawyers' ability to practice part-time reinforced that decision because many state legislatures were also part-time.[14] As law became associated with positions of influence, those who were interested in leadership increasingly saw it as the occupation of choice. Woodrow Wilson captured prevailing wisdom when he noted: "The profession I chose was politics; the profession I entered was the law. I entered one because I thought it would lead to the other.[15] The similarity in functions required in law and politics has pushed in similar directions. According to some researchers, these are convergent professions: skills in investigation, drafting, procedure, and oral advocacy all work to advantage lawyers who seek public office.[16]

Whatever the causes for the centrality of lawyers in leadership positions, there is reason to question whether they are well-qualified for their role. Almost two-thirds of Americans believe that the nation faces a leadership crisis, and only 15 percent have confidence in the national government, which is heavily staffed by lawyers.[17] Part of the problem may stem from the mismatch between the traits associated with leaders and those associated with lawyers.

Although, as chapter 2 notes, what constitutes effective leadership depends on context, certain qualities are rated as important across a vast array of leadership situations. The most well-documented characteristics cluster in five categories:

- values (such as integrity, honesty, trust, and an ethic of service);
- personal skills (such as self awareness, self-control, and self-direction);
- interpersonal skills (such as social awareness, empathy, persuasion, and conflict management);
- vision (such as a forward-looking and inspirational); and
- technical competence (such as knowledge, preparation, and judgment).[18]

A survey of leaders of professional service firms (including law firms) similarly found that the most important leadership qualities involved personal values and interpersonal skills, such as integrity; empathy; communication; and abilities to listen, inspire, and influence.[19] Particularly in times of stress, a key capacity is the ability of leaders to inspire others with a vision that is both emotionally compelling and attainable.[20] This research is consistent with other surveys of law firms and professional service firms, which stress interpersonal qualities such as the ability to chart a direction, gain commitment to that direction, and set a personal example.[21] A leader, in Napoleon's phrase, "is a dealer in hope."[22]

Not all of these leadership qualities are characteristic of lawyers. Several decades of research have found that attorneys' distinctive personality traits can pose a challenge for them as leaders, particularly when they are leading other lawyers. For example, attorneys tend to be above average in skepticism, competitiveness, "urgency," autonomy, and achievement orientation.[23] Skepticism, the tendency to be argumentative, cynical, and judgmental, can get in the way of what George Walker Bush famously dismissed as the "vision thing."[24] "Urgency," defined as the need to "get things done" can lead to impatience, intolerance, and a failure to listen.[25] Competitiveness and desires for autonomy and achievement can make lawyers self-absorbed, controlling, combative, and difficult to manage.[26] Lawyers also rank lower than the

general population in sociability, interpersonal sensitivity, and resilience.[27] They are less likely to be comfortable in initiating social interactions and participating in activities requiring emotional rather than analytic intelligence. Lawyers' relative lack of resilience or "ego strength" makes for difficulties in accepting criticism, and in responding without defensiveness to performance evaluations.[28] Lawyers lacking in "soft skills" tend to devalue their importance rather than address their absence.[29]

Of course, general tendencies do not accurately predict individual behavior, and lawyers who reach a leadership position may have profiles more suited to that role. The point is not to paint an overly bleak or simplistic portrait of the "lawyer personality." Rather, it is to identify some ways in which lawyers are not ideally suited for leadership, and to suggest that formal preparation is often essential for lawyers to perform effectively in that role.

The Paradox of Power

Another paradox arises from the disconnect between the qualities that enable lawyers to achieve leadership positions and the qualities that are necessary for lawyers to succeed once they get there. What makes leaders willing to accept the pressure, hours, scrutiny, and risks that come with their role? For many individuals, it is not only commitment to a cause, an organization, or a constituency. It is also an attraction to money, power, status, and admiration. But successful leadership requires subordinating these self-interests to a greater good. The result is what is variously labeled the "leadership paradox" or the "paradox of power."[30] Individuals reach top positions because of their high needs for personal achievement. Yet to perform effectively in these positions, they need to focus on creating the conditions for achievement by others. As the philosopher Laotse famously put it, "A leader is best when people barely know he exists. When his work is done, his aim fulfilled, they will say: 'we did it ourselves.'"[31]

If left unchecked, the ambition, self-confidence, and self-centeredness that often propel lawyers to leadership roles may sabotage their performance in those roles. Research on personality and organizational effectiveness finds that narcissistic individuals are frequently selected for leadership positions because they project the confidence and charisma that makes a positive impression. Yet over time those characteristics can translate into a sense of entitlement, overconfidence, and an inability to learn from mistakes.[32] Strong ego needs can also prevent leaders from letting go of their positions when an organization would benefit from change.[33] These personal weaknesses are

compounded by the environments in which leaders function, which often fail to supply honest criticism. Subordinates may be understandably unwilling to deliver uncomfortable messages. And the perks that accompany leadership may inflate an individual's sense of self-importance and self-confidence. Being surrounded by those with less ability or less opportunity to display their ability encourages what psychologists label the "uniqueness bias:" people's belief that they are special and superior. Such environments reinforce narcissism and entitlement; leaders may feel free to disregard rules of ethics, or norms of courtesy and respect that apply to others.[34] As Abraham Lincoln reportedly put it, "nearly all men can stand adversity, but if you want to test a man's character, give him power."

The most effective leaders are those who can see past their own ambitions, and retain a capacity for critical reflection on their own performance. In Peter Drucker's phrase, successful leaders "think and say we."[35] Enduring legacies are left by those who advance collective purposes and transcend personal needs in pursuit of common values.

CONCLUSION

"We have all occasionally encountered top persons who couldn't lead a squad of seven year olds to the ice cream counter," noted John Gardiner.[1] This book has attempted to keep you from becoming one of those persons. In that spirit, we close with a review of key insights and thoughts on the legacy that your skills make possible.

A. THE NATURE OF LEADERSHIP

Our discussion began in Chapter 1 with the meaning of leadership and the importance of seeing it as a process, not a position, and as a relationship, not a status. A title may give someone subordinates, but not necessarily followers. To borrow Joseph Nye's metaphor, having a fishing license does not mean you will catch fish.[2] Leadership is earned.

The qualities and styles necessary to the task vary somewhat across circumstances. Yet although research reveals no uniform profile of the ideal leader, certain characteristics do appear effective for most leadership situations.[3] They cluster in five categories:

- values (such as integrity, honesty, trust, and an ethic of service);
- personal skills (such as self-awareness, self-control, and self-direction);
- interpersonal skills (such as social awareness, empathy, persuasion, and conflict management);
- vision (such as forward looking and inspirational);
- technical competence (such as knowledge, preparation, and judgment).[4]

The need for such qualities has never been greater. Contemporary leaders confront a landscape of increasing competition, complexity, scale, pace, and diversity. Many decisions play out on a wider stage, with less time for informed deliberation. What further complicates these challenges is the "leadership paradox": the frequent disconnect between the qualities that enable individuals to attain positions of power and the qualities that are necessary to perform effectively once they get there. Successful leadership requires subordinating interests in personal achievement to creating the conditions for achievement

by others. Empowering subordinates is generally the best way to maximize talent in the service of organizational objectives and public interests.

How then do leaders develop the necessary strategies and skills? Experience is critical, as is being reflective about experience — both their own and others'. Mark Twain made the point with his famous metaphor of a misguided cat who will not sit on a hot stove twice, but will not sit on a cold one either. Aspiring leaders need to seek opportunities for exercising influence, obtaining candid feedback, and learning from research and educational initiatives. Those who have obtained positions of power can assist the process by creating "learning organizations" that will effectively create, transfer, and incorporate knowledge, as well as develop new leaders.[5]

B. LEADERSHIP SKILLS

What are the key skills that leaders need to learn? One involves decision making. Leaders are deciders, and those who are most effective have developed the habit of practicing conscious deliberation before and after they act. Rather than simply reacting to events, successful leaders consider what they most want to achieve, and they anticipate what might stand in the way. After they act, these leaders reflect on what worked and what did not, and what they might do differently in the future.[6] Skilled decision makers also recognize that even the most thoughtful processes are subject to biases in perception, memory, and problem solving. Sound judgment depends on recognizing bounded rationality and building in appropriate correctives. Information that is vivid or consistent with stereotypes and self-interest will be disproportionately "available" to skew decision making unless leaders make conscious adjustments. In cost-benefit calculations, psychic numbing, and the salience of individual victims and immediate consequences can lead to overinvestment in short-term remedial responses and underinvestment in long-term preventative strategies. Groupthink and related dynamics can also sabotage effective policy making and risk management. Creating processes that will ensure independent and diverse points of view is an essential leadership skill.

Mastering strategies of influence is equally critical. Power comes in multiple currencies, and often the most obvious rewards and sanctions are less available or effective than other persuasive approaches, such as reciprocity, peer pressure, or association. These techniques are essential in building relationships in a world in which boundaries separating leaders and followers are increasingly blurred. Most managers, professionals, and policy makers "lead from the middle," and encouraging responsible behavior among subordinates is a key part of ensuring responsible behavior among superiors. Leaders also need strategies for innovation and conflict management. They need to overcome inertia, chart a path for change, and create environments that will sustain it. In dealing with conflict, avoidance is generally to be avoided. In most cases, the preferable approach is collaborative problem solving, in which parties build on shared concerns and respect in search of mutual gain. Leaders

can facilitate the process, not only by assisting individual dispute resolution, but also by creating "conflict competent" organizations that can do the same.

Finally, leaders need effective communication skills. That requires knowing their objectives, their audience, their occasion, and their substance. To create messages "made to stick," speakers should look for material that is succinct, unexpected, credible, emotional, and that tells a story. They should avoid the curse of knowledge; less is often more, and visual images may be the most powerful persuasive strategy.

C. VALUES IN LEADERSHIP

Effective leadership depends not only on skills but also on values. Challenges often arise because values are in conflict, or because ethical commitments are in tension with situational pressures. Leaders face trade-offs between immoral means and moral ends, and difficulties in institutionalizing principles that come at a cost.

Dilemmas of "dirty hands" are particularly common in political life, and those that Machiavelli described five centuries ago play out in similar forms in contemporary settings. Although many of these dilemmas lack clear answers, leaders need to be accountable for their responses, and their choices need to serve public, not just personal interests. In law, business, and policy contexts, it is also critical to find ways of reinforcing moral behavior. That, in turn, requires addressing the peer pressures, cognitive biases, structures of authority, and diffusion of responsibility that compromise moral judgment. Ethical conduct is highly situational, and research on the banality of evil makes clear how readily minor missteps or mindless conformity can entrap individuals in major misconduct. To maintain their moral compass, leaders as well as followers should consult widely, enlist allies, observe bright-line rules, and cultivate self-doubt. Those in leadership positions can also foster ethical conduct by setting the tone at the top, establishing appropriate reward structures, and strengthening regulatory oversight.

. Leaders also need private lives that are consistent with public and organizational responsibilities. Power both imposes special obligations and creates special temptations. Leaders not only have more than the customary opportunities for abuse, they are surrounded by subordinates reluctant to challenge it. Self-serving biases can further reinforce leaders' sense of entitlement and invulnerability. The result is a steady stream of scandal, fed by media eager to fill a continuous news cycle, and equipped with technological resources to make it possible. In this climate, crisis management has become a critical part of the leadership tool kit, and the art of apology is an essential skill. So too is the capacity to use disasters as catalysts for necessary corrective action. Market meltdowns, environmental disasters, or product defects can supply the urgency for organizational and regulatory reform. Where personal conduct is at issue, leaders need to be attentive to even the appearance of impropriety. In an era of increasing transparency and instant notoriety, those in positions of

power need to consider how private conduct would play in public settings, before it is too late to change.

D. LEADERSHIP CHALLENGES

Contemporary leaders face a host of challenges, and diversity is high among them. Appropriate responses require understanding how characteristics such as race, ethnicity, and gender matter in the selection and performance of leaders. Despite considerable progress over the last half century, women and minorities are significantly underrepresented in positions of influence. Unconscious stereotypes, in-group biases, and inflexible workplace structures remain substantial obstacles. There are strong reasons to address them. Women and minorities constitute an increasing share of today's talent, and effective performance in an increasingly multicultural environment demands an equal playing field. When well managed, diversity also can enhance the quality and legitimacy of decision making. To that end, leadership strategies should proceed on three levels: helping women and minorities enhance their qualifications, promoting diversity-related legal and policy initiatives that address bias and barriers, and increasing transparency and stakeholder pressure.

Another set of challenges involves corporate responsibility and human rights in an increasingly interdependent world. The growing power of multinational corporations has fueled growing efforts to hold them accountable. The result has been to strengthen the "business case" for responsible business practices. Reputation matters to a substantial number of customers, employees, investors, and organized interest groups. Adoption of voluntary standards can help enhance a corporation's image, reduce the risks of legal liability, preempt more intrusive regulation, and prevent a race to the bottom among competitors. Although such standards can also help address chronic human rights abuses, they can sometimes bring unintended consequences. Leadership dilemmas arise when adherence to principle imposes costs on people who are powerless to address them. Restrictions on child labor can increase poverty or force children into even more dangerous but less well-regulated occupations. Refusal to cooperate with abusive regimes can mean denial of aid or restriction of Internet access for their subjects. Humanitarian organizations face agonizing trade-offs when their intervention risks provoking backlash or prolonging conflict. The absence of external structures of accountability imposes a special obligation on leaders to think deeply and consult widely about the trade-offs that intervention poses.

Similar points can be made about those who spearhead movements for social change. Leaders play a pivotal role in creating or capitalizing on conditions for progress. Their ability to inspire hope, enlist allies, attract public support, and reinforce shared identities can provide the foundations for social transformation. However, the best path forward is seldom self-evident. Conflicts often arise about timing or strategies, such as when to litigate, which cases to bring, and who should decide. One distinguishing feature of great

leaders is the ability to mediate such disputes and build a coherent unifying strategy in pursuit of social justice.

E. THE LEGACY OF LEADERSHIP

Leadership not only poses special challenges and special obligations, it can also bring exceptional rewards. Those that are most fulfilling are generally not, however, the extrinsic perks that accompany positions of power. A wide array of psychological research suggests that satisfaction with work depends on feeling effective, exercising strengths and virtues, and contributing to socially valued ends that bring meaning and purpose.[7] As one British military leader put it, "You make a living by what you get; you make a life by what you give."[8] Individuals who are motivated by "intrinsic aspirations" such as personal growth and assisting others tend to be more satisfied than those motivated primarily by extrinsic aspirations, such as wealth or fame.[9] Part of the reason is that desires, expectations, and standards of comparison tend to increase as rapidly as they are satisfied. Leaders can become trapped on a "hedonic treadmill": the more they have the more they need to have.[10] So too, money and status are positional goods; individuals' satisfaction depends on how they compare relative to others, and increases in wealth or position are readily offset by changes in reference groups.[11] The recent arms race in executive compensation reflects this dynamic. Leaders who look hard enough can always find someone getting more.

How then can individuals with high needs for achievement and recognition find greatest fulfillment? Laura Nash and Howard Stevenson of the Harvard Business School studied leaders who by conventional standards had achieved "success that lasts."

> Our research uncovered four irreducible components of enduring success: happiness (feelings of pleasure and contentment); achievement (accomplishments that compare favorably against similar goals others have strived for); significance (the sense that you've made a positive impact on people you care about); and legacy (a way to establish your values or accomplishments so as to help others find future success).[12]

The challenge for leaders is how to set priorities that strike a balance among all four domains.

What constitutes "legacy" is often the hardest measure of accomplishment to assess. The philosopher William James insisted that the greatest use of life is to spend it on something that outlasts it. Leadership expert J. Patrick Dobel agrees but warns against confusing fame with legacy.[13] As Chapter 1 noted, a focus on ensuring recognition of one's legacy can get in the way of achieving it; leaders can be tempted to hoard power, status, and credit. Dobel underscores the distinction between "making a difference" and "making 'my' difference and making sure everyone knows it."[14] Leaders can never control how others will ultimately interpret their contributions; pigeons may nest on their monuments. Thinking about legacy is helpful only if it directs attention to ultimate goals and values, not if it diverts energy into futile quests for lasting glory.

When asked how he wished to be remembered, Supreme Court Justice Thurgood Marshall responded: "He did what he could with what he had."[15] Leaders have many ways to leave a legacy. For most, it is less through grand triumphs and historical events than through smaller cumulative acts that improve the lives and institutions that surround them. Our hope is that this book will aid your leadership, and prompt deeper reflection about what your own legacy will be.

END NOTES

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