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## What Lawyers Lack: Leadership

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## ARTICLE

# WHAT LAWYERS LACK: LEADERSHIP

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What is it that lawyers lack? This should be a subject of more than passing interest to legal educators, who bear at least some of the responsibility. Yet they share little agreement, and in many quarters, strikingly little concern, on matters related to the profession's performance. Answers to the question about what characteristics lawyers lack turn very much on the audience being asked. If it is the public, common responses tend to be honesty, ethical standards, and concern for others.<sup>1</sup> If it is lawyers themselves, much depends on their position in practice; frequent concerns involve time, money, jobs, and a chance for contributing to the "social good."<sup>2</sup> Yet an

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1. In the most recent Gallup poll, only seventeen percent of Americans rated lawyers high or very high in honesty and ethical standards. *Honesty/Ethics in Professions*, GALLUP (Nov. 19–21, 2010), <http://www.gallup.com/poll/1654/honesty-ethics-professions.aspx>. In an extensive survey commissioned by the ABA, fewer than one-in-five Americans felt that the phrase "caring and compassionate" describes lawyers. PETER D. HART RESEARCH ASSOCIATES, A SURVEY OF ATTITUDES NATIONWIDE TOWARD LAWYERS AND THE LEGAL SYSTEM (1993), summarized in Gary A. Hengstler, *Vox Populi: The Public Perception of Lawyers*, *ABA Poll*, 70 A.B.A. J. 60, 60, 62–63 (2003).

2. For findings that satisfaction varies by work setting, see RONIT DINOVTZER ET AL., AFTER THE JD II: SECOND RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS 48–49 (2009). For concerns about the availability of decently paying jobs for recent graduates, see David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 9, 2011, at B1. For concerns about time and money among the bar generally, see Martha Neil, *Bar Survey Says Half of Responding Lawyers Saw Pay Cut, Nearly 20% Are Mulling Career Changes*, ABAJOURNAL.COM (Feb. 28, 2011), [http://www.abajournal.com/news/article/bar\\_survey\\_says\\_half\\_of\\_responding\\_lawyers\\_saw\\_pay\\_cut\\_nearly\\_20\\_are\\_mullin](http://www.abajournal.com/news/article/bar_survey_says_half_of_responding_lawyers_saw_pay_cut_nearly_20_are_mullin); Steven Andersen, *Holding Pattern: Results from IC's Career Satisfaction Survey*, INSIDE COUNSEL, Mar. 2010, at 44, 44–51, available at <http://www.insidecounsel.com/2010/03/01/holding-pattern> (finding that only about a third said economy had not affected their job satisfaction and that over half saw decreases in compensation); Stephanie Francis Ward, *Pulse of the Legal Profession*, A.B.A. J., Oct. 2007, at 30, available at [http://www.abajournal.com/magazine/article/pulse\\_of\\_the\\_legal\\_profession](http://www.abajournal.com/magazine/article/pulse_of_the_legal_profession) (discussing concerns about money and time). For general findings on satisfaction, see the studies summarized in Deborah L. Rhode, *Foreword: Personal Satisfaction in Professional Practice*, 58 SYRACUSE L. REV. 217, 218–33 (2008). For a discussion of the American Bar Association's findings that young lawyers' greatest source of dissatisfaction is their lack of ability to contribute to the social good, see ABA YOUNG LAWYERS DIV., ABA YOUNG LAWYERS DIVISION SURVEY: CAREER SATISFACTION 19, 21 (2000), availa-

answer rarely forthcoming from either of these groups is one that deserves far more attention. The preparation and capacity for effective leadership is also something too many lawyers lack. Why it matters and what should be done about it is the subject of the discussion that follows.

The issue is important for all members of the profession, not only those who hold, or desire, positions of greatest power and prominence. Virtually all lawyers will, at some stage of their careers, occupy significant leadership roles in their workplaces and their communities. Often they will be leading from the middle: calling the shots in some capacities and following directions in others. Many skills are relevant at all levels: influence, decision making, responsive listening, conflict management, and others explored below. Legal educators are no exception. For better or worse, we lead in law schools and non-profit organizations; we head centers, committees, and boards; and we model leadership behavior for our students. We owe it to them and to our institutions to do it better, and to make preparation for leadership a more significant priority in legal education. This essay explores why, and then how, that should occur.

## I. THE LEADERSHIP PROBLEM

### A. *Defining the Problem*<sup>3</sup>

It is somewhat ironic that so little concern focuses on lawyers' leadership, given how many of them end up in positions of influence. The legal profession has supplied a majority of American presidents and, in recent decades, almost half of Congress.<sup>4</sup> Lawyers occupy leadership roles as governors, state legislators, judges, prosecutors, general counsel, law firm managing partners, and heads of corporate, government, and non-profit organizations.<sup>5</sup> How effectively lawyers perform in such roles is a question on which we have no systematic research. But the fragmentary information available suggests some cause for concern. On the rare occasions when the public is asked, it does not express high confidence in lawyers who occupy leadership positions. For example, only eleven percent of Americans have

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ble at [http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/satisfaction\\_800.doc](http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/satisfaction_800.doc). See also a joint study by the American Bar Foundation and the National Association of Law Placement, which found that new entrants rated pro bono opportunities second to last when asked to rank their satisfaction with sixteen areas of practice. RONIT DINOVTZER ET AL., *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* 49 (2004).

3. Discussion in this section draws on prior work including DEBORAH L. RHODE & AMANDA PACKEL, *LEADERSHIP: LAW, POLICY, AND MANAGEMENT* (2010); Deborah L. Rhode, *Lawyers as Leaders*, 2010 MICH. ST. L. REV. 413 (2010); and Deborah L. Rhode, *Developing Leadership*, 53 SANTA CLARA L. REV. (forthcoming 2012) [hereinafter Rhode, *Developing Leadership*].

4. Neil W. Hamilton, *Ethical Leadership in Professional Life*, 6 U. ST. THOMAS L.J. 358, 361 (2009).

5. About 10 percent of the CEOs of S&P 500 companies are lawyers. See Mark Curriden, *CEO, Esq.: Why Lawyers Are Being Asked to Lead Some of the Nation's Largest Corporations*, A.B.A. J., May 2010, at 31.

“a great deal of confidence . . . in people in charge of running law firms,” and almost a third has “hardly any.”<sup>6</sup> Confidence in Congress is running at thirteen percent, and only nine percent rate its members high in honesty and ethical standards.<sup>7</sup> Those perceptions in part reflect the sheer number of lawyer-leaders involved in political, financial, and sexual scandals, something which should, but oddly does not, seem to be a source of serious embarrassment to the bar.<sup>8</sup>

Other evidence of a leadership deficit comes from management experts who have looked at organizations run by attorneys. It is not a pretty picture. According to one consultant, the main reason many lawyers do so well financially is that they have to “compete only with other lawyers.”<sup>9</sup> Rarely do the leaders of legal organizations have any management training, and many are not even selected for management ability. One partner put it bluntly: “[T]he historical model for law firms is to put [people] in a leadership position . . . often not because of leadership skills but because of [rainmaking] . . . and hope they don’t drive into a ditch.”<sup>10</sup> This inattention to leadership development raises particular concern in light of a recent study finding that the most powerful predictor of large firm profitability is “the quality of partners’ leadership skills.”<sup>11</sup>

### B. Identifying Causes

Part of the problem lies with law schools. Although most claim credit for producing leaders, few actually offer any courses expressly designed to prepare graduates for the role.<sup>12</sup> Leadership development is a forty-five billion dollar industry and the focus of hundreds of academic programs or

6. *The Harris Poll Annual Confidence Index Rises 10 Points*, HARRIS POLL 2, Mar. 5, 2009, available at <http://www.businesswire.com/news/home/20090305005071/en/Harris-Poll%C2%AE-Annual-Confidence-Index-Rises-10>.

7. For honesty and integrity, see *Honesty/Ethics in Professions*, *supra* note 1; for confidence generally, see *Congressional Job Approval Ties Historic Low of 13%*, GALLUP (Aug. 16, 2011), <http://www.gallup.com/poll/149009/congressional-job-approval-ties-historic-low.aspx>. For a satirical interview questioning whether those who do have confidence even know what Congress is, see Jon Stewart, *The Daily Show* (Aug. 15, 2011), <http://www.thedailyshow.com/watch/mon-august-15-2011/the-congressional-approver>.

8. For representative recent illustrations, see the chapter on scandal in RHODE & PACKEL, *supra* note 3, at 303–62.

9. David Maister, *The Trouble with Lawyers*, AM. LAW., Apr. 2006, at 100.

10. Gina Passarella, *Leadership Programs Born from Lack of Born Leaders*, LEGAL INTELLIGENCER, Nov. 5, 2007, at 1 (quoting Jeffrey Lutsky, managing partner of Stradley Ronon Stevens and Young).

11. Laurie Bassi & Daniel McMurrer, *Leadership and Law Firm Success: A Statistical Analysis*, MCBASSI & COMPANY, 4 (Feb. 2008), available at <http://www.leadershipforattorneys.org/articles/WhitePaper-LeadershipAndLawFirmSuccess%20Feb%208.pdf>.

12. Ironically, of the mission statements available on law school websites, thirty-eight include fostering leadership, but only two of these schools are actually offering a leadership course. Hamilton, *supra* note 4, at 370. Two-thirds of schools have no course in practice management. G. M. Filisko, *Getting the Business*, 96 A.B.A. J. 24, 24 (2010).

centers, but it is missing or marginal in legal education.<sup>13</sup> In commenting on the disjuncture between his training and his current job demands, one director of a prominent public interest organization wondered, “Why didn’t I go to business school?”<sup>14</sup> While a growing number of consulting organizations and a few universities have begun to sponsor leadership programs for practitioners, it is striking how little comparable effort is occurring in law school curricula.<sup>15</sup>

The problem would be less of a problem if legal education focused on skills essential for leaders. But in fact, there is a profound disconnect between what faculty teach and what leaders need. Law schools pride themselves on preparing students to “think like lawyers.” To that end, attention centers on analytic reasoning, substantive knowledge, and research and writing skills.<sup>16</sup> Yet these capabilities account for little of what makes for effective leadership. Empirical research finds that leaders’ most essential qualities largely cluster in five categories:

- Values (such as integrity, honesty, trust, an ethic of service);
- Personal skills (such as self-awareness, self-control, self-direction);
- Interpersonal skills (such as social awareness, empathy, persuasion, conflict management);
- Vision (such as forward-looking, inspirational);
- Technical competence (such as knowledge, preparation, judgment).<sup>17</sup>

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13. For corporate expenditures, see Doris Gomez, *The Leader as Learner*, 2 INT’L J. LEADERSHIP STUD. 280, 281 (2007). For academic programs, see RHODE & PACKEL, *supra* note 3, at 4. For inadequate law school curricula, see *id.*; Nitin Nohria & Rakesh Khurana, *Advancing Leadership Theory and Practice*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE 3 (Nitin Nohria & Rakesh Khurana eds., 2010); Hamilton, *supra* note 4, at 370.

14. Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 STAN. L. REV. 2027, 2046 (2011) (quoting Eric Cohen, executive director of the Immigrant Legal Resource Center).

15. For examples of leadership programs, see Elizabeth Chambliss, *New Sources of Managerial Authority in Large Law Firms*, 22 GEO. J. LEGAL ETHICS 63, 84 (2010). Harvard offers a summer leadership institute, Stanford is preparing to do so, and Wharton has partnered with a law firm to supply leadership training. *Id.* at 83–84.

16. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 186–94 (2007).

17. For values, see WARREN BENNIS, ON BECOMING A LEADER 32–33 (2d ed. 1994) (citing integrity, trust); MONTGOMERY VAN WART, DYNAMICS OF LEADERSHIP IN PUBLIC SERVICE: THEORY AND PRACTICE 16, 92–119 (2005) (citing integrity and an ethic of public service); JAMES M. KOUZES & BARRY Z. POSNER, THE LEADERSHIP CHALLENGE 21 (1995) (citing honesty). For personal skills, see DANIEL GOLEMAN, RICHARD BOYATZIS & ANNIE MCKEE, PRIMAL LEADERSHIP: REALIZING THE POWER OF EMOTIONAL INTELLIGENCE 253–56 (2002) (citing self-awareness, self-management); VAN WART, *supra*, at 16 (citing self-direction). For interpersonal skills, see GOLEMAN, BOYATZIS & MCKEE, *supra*, at 253–56 (citing social awareness, empathy, persuasion, conflict management). For vision, see BENNIS, *supra*, at 33 (citing vision); KOUZES & POSNER, *supra*, at 21 (citing forward-looking, inspiring). For competence, see *id.*; Lorsch, *A Contingency Theory*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 13, at 417. See gener-

Studies of professional service organizations (including those in law) similarly find that many qualities critical for leadership are not central in the core curricula of legal education: integrity, empathy, vision, and abilities to listen, to inspire, and influence.<sup>18</sup>

Nor are many of these leadership qualities characteristic of individuals who choose law as a career. Several decades of research find that attorneys' distinctive personality traits can pose challenges for lawyers as leaders, particularly when they are leading other lawyers.<sup>19</sup> For example, attorneys tend to be above average in skepticism, competitiveness, "urgency," autonomy, and achievement orientation.<sup>20</sup> Skepticism, the tendency to be argumentative, cynical, and judgmental, can get in the way of inspiration, vision, and training that focuses on "soft skills."<sup>21</sup> "Urgency," defined as the need to "get things done," can lead to impatience, intolerance, and inadequate listening.<sup>22</sup> Competitiveness and desires for autonomy and achievement can make lawyers overly self-absorbed, controlling, combative, and difficult to manage.<sup>23</sup> Lawyers also rank lower than the general population in sociability, interpersonal sensitivity, and "resilience" (the ability to respond constructively to criticism), all of which can be critical to leadership.<sup>24</sup>

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ally NOEL M. TICHY & WARREN G. BENNIS, *JUDGMENT: HOW WINNING LEADERS MAKE GREAT CALLS* (2007).

18. For example, one 2010 study found that the leadership qualities most often mentioned included: ability to influence and build coalitions (forty-two percent); inspiration and passion (thirty-four percent); vision (twenty-nine percent); listening (twenty-four percent); good communication (twenty-five percent); ability to attract followers (twenty-one percent); empathy (twenty-one percent); integrity (seventeen percent); courage (sixteen percent); humility (sixteen percent); respect for others (twelve percent). Only one quality, business understanding (twenty-one percent), involved technical, analytical skill. Maureen Broderick, *Leading Gently*, AM. LAW., Dec. 2010, at 63, 64. Another study identified charting a direction, gaining commitment to that direction, and setting a personal example. Thomas DeLong, John Gabarro & Robert J. Lees, *When Professionals Have to Lead*, excerpted in AM. LAW., Dec. 2007, at 125–29. Surveys of managing partners also stress emotional intelligence and interpersonal qualities. See Kenneth Van Winkle, Jr., *The Managing Partner in Today's World*, in *MANAGING A LAW FIRM* 46, 47 (Rich Meneghello et al. eds., 2010); Abraham C. Reich & Mark L. Silow, *Democracy, Transparency and Rotation: Keys to Running a Successful Law Firm*, in *MANAGING A LAW FIRM*, *supra*, at 71, 81.

19. For an overview of this mismatch between lawyers' and leaders' characteristics, see Rhode, *Developing Leadership*, *supra* note 3.

20. Larry Richard, *Herding Cats: The Lawyer Personality Revealed*, 29 REP. TO LEGAL MGMT. (Altman Weil), Aug. 2002, at 1, 3–4; Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Personality Characteristics Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1349, 1390–91 (1997).

21. See *supra* text accompanying note 20.

22. Richard, *supra* note 20, at 4.

23. *Id.* at 9; Daicoff, *supra* note 20, at 1422–24 (noting also the costs to professionalism of such attributes).

24. Richard, *supra* note 20, at 4, 9; Larry Richard & Lisa Rohrer, *A Breed Apart?*, AM. LAW., July/Aug. 2011, at 43, 44; Daicoff, *supra* note 20, at 1392–94. For the difficulties in responding to criticism, see Richard, *supra* note 20, at 9; Susan Daicoff, *Asking Leopards to Change Their Spots: Should Lawyers Change? A Critique of Solutions to Problems with Professionalism by Reference to Empirically-Derived Attorney Personality Attributes*, 11 GEO. J. LEGAL ETHICS 547,

Indeed, being the “smartest guy in the room,” the quintessential achievement in many law school and practice settings, is not always useful for leadership. According to recent research, the typical leader is only slightly more intelligent than the group he or she leads, and the most intelligent person is not the one most likely to become the group’s leader.<sup>25</sup> In general, people do not like to be led by those who seem very much smarter than themselves. Nor is intelligence a good predictor of power.<sup>26</sup> One reason is that individuals who are gifted in analytic abilities may be lacking in emotional intelligence, and it is interpersonal and political skills that are often critical to effectiveness.<sup>27</sup> Many of these highly intelligent individuals also have a “drive to overachievement” that leads to excessive focus on their own performance and a need to surpass not only competitors but subordinates.<sup>28</sup> These overachievers tend not to listen well to others; they soak up “all the oxygen in the room” by pushing their ideas and even sometimes answering their own questions.<sup>29</sup> Often such individuals are also what psychologists label “informational intimidators”; their barrage of knowledge, while useful in some legal settings, can ill-serve them as leaders because it often preempts innovation, engagement, and constructive opposition from others.<sup>30</sup> Moreover, when highly intelligent leaders lack strong ethical commitments, the results can be disastrous. Those responsible for some of this nation’s most costly policy misjudgments and financial scandals were, as the titles of books on Vietnam and Enron suggested, *The Best and the Brightest* and *The Smartest Guys in the Room*.<sup>31</sup>

One final explanation for the leadership deficit involves the disconnect between qualities that enable lawyers to achieve a leadership position and qualities that are necessary once they get there. What propels individuals toward leadership and makes them willing to accept the accompanying pressure, hours, and scrutiny? Often it is more than commitment to a cause, an organization, or a constituency. It is also an attraction to power, status, admiration, and financial reward. Yet successful leadership requires subor-

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588 (1997). As Daicoff notes, legal educators are themselves lawyers, with many of the problematic attributes. *Id.* at 589.

25. EDWIN P. HOLLANDER, *INCLUSIVE LEADERSHIP: THE ESSENTIAL LEADER-FOLLOWER RELATIONSHIP* 25 (2009).

26. JEFFREY PFEFFER, *POWER: WHY SOME HAVE IT—AND OTHERS DON’T* 55 (2010).

27. See GOLEMAN, BYATZIS & MCKEE, *supra* note 17, at 38–52; Jeffrey Pfeffer & John F. Veiga, *Putting People First for Organizational Success*, 13 *ACAD. OF MGMT. EXEC.* 37, 47 (1999).

28. See Scott W. Sprier, Mary H. Fontaine & Ruth L. Malloy, *Leadership Run Amok: The Destructive Potential of Overachievers*, *HARV. BUS. REV.*, June 2006, at 74–79.

29. LIZ WISEMAN & GREG MCKEOWN, *MULTIPLIERS: HOW THE BEST LEADERS MAKE EVERYONE SMARTER* 121–22 (2010).

30. Roderick M. Kramer, *The Great Intimidators*, *HARV. BUS. REV.*, Feb. 2006, at 88, 94.

31. DAVID HALBERSTAM, *THE BEST AND THE BRIGHTEST* (1972) (describing policies concerning the Vietnam War); BETHANY MCLEAN & PETER ELKIND, *THE SMARTEST GUYS IN THE ROOM* (2004) (describing Enron).

minating self-interests to a greater good.<sup>32</sup> The result is what is variously labeled the “leadership paradox” or the “paradox of power.”<sup>33</sup> Individuals reach top positions because of their high needs for personal achievement. Yet to perform effectively, they need to focus on creating the conditions for achievement by others. If left unchecked, the self-confidence and self-centeredness that account for lawyers’ ability to secure leadership positions can sabotage their performance.

These tendencies toward arrogance and narcissism too often go uncorrected in legal workplaces. Many subordinates are understandably unwilling to deliver uncomfortable messages. And the perks that accompany positions of power can inflate leaders’ self-confidence and sense of self-importance. Over time, these dynamics can further reinforce perceptions of entitlement and compromise the capacity to learn from mistakes.<sup>34</sup> How best to counter these tendencies and better prepare lawyers for leadership roles is a matter that demands more attention from the legal profession in general and legal educators in particular.

## II. PREPARATION FOR LEADERSHIP

### A. *The Learning Process*

Although a common assumption is that leadership cannot be taught, contemporary research suggests the contrary.<sup>35</sup> Most leadership characteristics are acquired, not inherited, and decades of experience with leadership development indicate that its major capabilities can be learned.<sup>36</sup> In effect, the “best leaders are the best learners.”<sup>37</sup> Individuals who demonstrate lead-

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32. I have made this point before. See Deborah L. Rhode, *Lawyers and Leadership*, 20 PROF. LAW 1, 14 (2010).

33. Jennifer A. Chatman & Jessica A. Kennedy, *Psychological Perspectives on Leadership*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 13, at 169, 174.

34. Robert Hogan & Robert B. Kaiser, *What We Know About Leadership*, 9 REV. OF GEN. PSYCHOL. 169, 176 (2005); PFEFFER, *supra* note 26, at 199–200.

35. For a classic expression of the traditional assumption, see PETER F. DRUCKER, *THE PRACTICE OF MANAGEMENT* 158–60 (1954). For contemporary variations, see Maureen Broderick, *Leadership: Characteristics, Grooming, Selection*, in PLI LAW FIRM LEADERSHIP & MANAGEMENT INSTITUTE 2010, at 7 (Practicing Law Inst. ed., 2010). For contemporary research, see, e.g., ROGER GILL, *THE THEORY AND PRACTICE OF LEADERSHIP* 271 (2006). For Drucker’s revised views, see Peter F. Drucker, *Foreward* to *THE LEADER OF THE FUTURE*, at xi (Frances Hesselbein et al. eds., 1996) (noting that “leadership must be learned and can be learned”).

36. Bruce Avolio, *Pursuing Authentic Leadership Development*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 13, at 739, 752; WARREN G. BENNIS & BERT NANUS, *LEADERSHIP: STRATEGIES FOR TAKING CHARGE* 207 (1997). For studies of twins suggesting that 70 percent of leadership traits are acquired, see Richard D. Arvey, Maria Rotundo, Wendy Johnson, Zhen Zhang & Matt McGue, *The Determinants of Leadership Role Occupancy: Genetic and Personality Factors*, 17 LEADERSHIP Q. 1, 15 (2006).

37. JAMES M. KOUZES & BARRY Z. POSNER, *THE TRUTH ABOUT LEADERSHIP* 119 (2010); see also CAROLL DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* 7 (2006) (noting that people who believe talent can be developed are best at confronting their mistakes and learning from them).



ership potential early in their careers tend to be particularly gifted learners; they are able to absorb ideas and criticisms and translate them into practical strategies.<sup>38</sup>

Yet how people learn to be learners varies considerably. What builds capabilities depends on the individual and the particular qualities at issue. Reading, discussion, observation, coaching, and group interaction can all be valuable techniques, and lawyers need to seek out the formal and informal learning structures that are best for them.<sup>39</sup> As a general matter, experience is the most common and effective teacher, but it can also be the most expensive. Virtually all managing partners say they learn their job while doing it, but some “drive into a ditch” in the process.<sup>40</sup> The costs of on-the-job learning are well illustrated by a famous story about Tom Watson, the founder of IBM. An up and coming employee involved the company in a risky venture that proved financially disastrous. When Watson called the man into his office, he offered his resignation. Watson reportedly responded, “You can’t be serious. We just spent \$10 million educating you.”<sup>41</sup>

Not all aspiring leaders are as fortunate, and the goal of leadership preparation is to help them avoid errors that can sabotage careers. Such learning is a lifelong process. Its foundations should be laid early and reinforced continuously both in legal education and legal workplaces along lines set forth below. Part of the learning process should involve aspiring leaders’ assessment of their own strengths as well as weaknesses, and the kinds of positions that will best match their talents and commitments. Many leadership development programs attempt to improve performance by focusing solely on deficiencies.<sup>42</sup> Feedback becomes a predominately negative experience, which discourages individuals from seeking it, and erodes self-confidence. Although constructive criticism is necessary for leadership, it is not sufficient. Most individuals develop best by capitalizing on their strengths, pursuing their most fundamental goals and values, and receiving positive recognition for their successes.<sup>43</sup> To that end, individuals need to

38. Douglas A. Ready, Jay A. Conger & Linda A. Hill, *Are You a High Potential?*, HARV. BUS. REV., June 2010, at 78, 82.

39. GILL, *supra* note 35, at 275; Peter F. Drucker, *Managing Oneself*, HARV. BUS. REV., Mar.–Apr. 1999, 68–69; DOUG LENNICK & FRED KIEHL, *MORAL INTELLIGENCE: ENHANCING BUSINESS PERFORMANCE AND LEADERSHIP SUCCESS* 239 (2008).

40. For the survey of managing partners, see *Leadership Partners or Managing Partners?*, L. OFF. MGMT. & ADMIN. REP., Oct. 2010, at 1, 6. For the role of leadership in contributing to law firm dissolution, see RHODE & PACKEL, *supra* note 3, at 63–69; and HILDEBRANDT INST., *THE ANATOMY OF LAW FIRM FAILURES* (2008). For the ditch metaphor, see *supra* text accompanying note 10.

41. BENNIS & NANUS, *supra* note 36, at 70, *quoted in* CAROL TAVRIS & ELLIOT ARONSON, *MISTAKES WERE MADE (BUT NOT BY ME)* 225 n.9 (2007).

42. LENNICK & KIEHL, *supra* note 39, at 245–48.

43. *Id.* For a discussion of research showing performance improvement when people receive praise and recognition, see THOMAS J. PETERS & ROBERT H. WATERMAN, JR., *IN SEARCH OF*

be self-aware and proactive in enhancing the capabilities necessary to realize their own aspirations. Developing these capacities bumps up against several obstacles.

### B. *Obstacles to Learning*

The first obstacle is the failure to acknowledge the need for continuous learning and to invite the criticism on which it depends. Leadership experts James Kouzes and Barry Posner put it bluntly: “[M]ost leaders don’t want honest feedback, don’t ask for honest feedback, and don’t get much of it unless it’s forced on them.”<sup>44</sup> In Kouzes and Posner’s survey of some 70,000 high-ranking individuals, the least frequent of some thirty leadership behaviors was a request by a leader “for feedback on how his/her actions affect others’ performance.”<sup>45</sup> Similar observations might be made about lawyers who lead. Indeed, as noted earlier, attorneys tend to be worse than average in responding to criticism.<sup>46</sup> This tendency towards self-protection is particularly problematic given the high proportion of legal workplaces that do not institutionalize feedback from subordinates. Only forty percent of law firms offer associates the opportunity to evaluate their supervisor, and of those who engage in the process, only five percent report a change for the better.<sup>47</sup>

Yet without feedback, leaders may fail to identify problems in their own performance. Various cognitive biases help shield individuals from uncomfortable insights. One common problem is the “self-serving bias”: people’s tendency to attribute success to factors such as competence and character, but to attribute failure to external circumstances.<sup>48</sup> A related difficulty stems from confirmation and assimilation biases. People tend to seek out evidence that confirms their preexisting, typically favorable vision of themselves, and to avoid evidence that contradicts it. They also assimilate information in ways that favor their preexisting beliefs and self-images.<sup>49</sup> In one random sample of adult men, seventy percent rated themselves in the

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EXCELLENCE: LESSONS FROM AMERICA’S BEST-RUN CORPORATIONS 58–59 (2004); DAVID DESTENO & PIERCARLO VALESOLO, *OUT OF CHARACTER* 114–16 (2011).

44. JAMES M. KOUZES & BARRY Z. POSNER, *A LEADER’S LEGACY* 28 (2006). *See also* Richard, *supra* note 20, at 3, 9 (noting that lawyers score low on resiliency, which means that they tend to be defensive and resistant to negative feedback).

45. KOUZES & POSNER, *supra* note 44, at 28.

46. *See* text accompanying note 24, *supra*.

47. PAULA A. PATTON, *HOW ASSOCIATE EVALUATIONS MEASURE UP: A NATIONAL STUDY OF ASSOCIATE PERFORMANCE ASSESSMENT* 74 (2006) (reporting data relating to law firms with over 1,000 attorneys worldwide).

48. Dale T. Miller & Michael Ross, *Self-Serving Biases in the Attribution of Causality: Fact or Fiction?* 82 *PSYCHOL. BULL.* 213, 213 (1975). For similar biases in the evaluation of others, *see* Lee Ross, *The Intuitive Psychologist and His Shortcomings: Distortions in the Attribution Process*, in 10 *ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY* 173–220 (Leonard Berkowitz ed., 1977).

49. For discussion of such biases, *see* PETERS & WATERMAN, *supra* note 43, at 58.

top quarter of the population in leadership capabilities; ninety-eight percent rated themselves above average.<sup>50</sup>

Other obstacles to learning arise from the specific circumstances of leadership positions. Often lawyers who achieve such positions have high needs for approval. For these individuals, as one consultant notes, “the intention to *look* good displaces the intention to *be* good”; the result is to undervalue concerns that do not translate into immediate recognition.<sup>51</sup> So too, the intense demands of many leadership positions can create a ready rationalization for not investing the effort necessary to change behavior; “I don’t have time” is a common response to opportunities for leadership programs or coaching.<sup>52</sup> Avoiding such opportunities permits lawyers to evade responsibility for performance problems and to stay within their comfort zones.<sup>53</sup>

A further barrier to learning is the assumption that leadership education is a “touchy feely process,” unworthy of attention from intellectually sophisticated individuals. Lawyers are particularly prone to this view. As noted earlier, by training and temperament, they tend toward skepticism and emphasis on analytic rather than interpersonal skills.<sup>54</sup> Yet precisely because of these tendencies, lawyers need to develop their “emotional intelligence.”<sup>55</sup> For many, “the soft stuff is the hard stuff.”<sup>56</sup>

Legal academics are no exception, and their skepticism toward leadership training builds on a long tradition of devaluing practical skills.<sup>57</sup> This skepticism is further fueled by dumbed-down, jazzed-up publications that litter the field of leadership studies: *If Aristotle Ran General Motors*, *Leadership Secrets of Attila the Hun*, and *Toy Box Leadership: Leadership Lessons from the Toys You Loved as a Child*.<sup>58</sup> But these variations of “leadership lite” do not define the discipline. Respected research, rich case

50. David G. Myers, *The Inflated Self: How Do I Love Me? Let Me Count the Ways*, PSYCHOL. TODAY, May 1980, at 16.

51. ROBERT HARGROVE, MASTERFUL COACHING 123–24 (2008) (emphasis added). See also Chris Argyris, *Teaching Smart People How to Learn*, HARV. BUS. REV., May–June 1991, at 99–109.

52. HARGROVE, *supra* note 51, at 124.

53. *Id.* at 123–24; Argyris, *supra* note 51, at 100.

54. Richard, *supra* note 20, at 4, 9; Richard & Rohrer, *supra* note 24, at 2; Daicoff, *supra* note 20, at 1392–94 (noting lawyers’ orientation toward logical analysis rather than interpersonal concerns).

55. For an overview, see GOLEMAN, BOYATZIS & MCKEE, *supra* note 17.

56. Richard J. Leider, *The Ultimate Leadership Task: Self-Leadership*, in THE LEADER OF THE FUTURE: NEW VISIONS, STRATEGIES, AND PRACTICES FOR THE NEXT ERA 189 (Frances Hesselbein et al. eds., 1996).

57. For an overview, see DEBORAH L. RHODE & DAVID LUBAN, LEGAL ETHICS 1044–45 (5th ed. 2009).

58. TOM MORRIS, IF ARISTOTLE RAN GENERAL MOTORS (1997); WESS ROBERTS, LEADERSHIP SECRETS OF ATTILA THE HUN (1989); WESS ROBERTS & BILL ROSS, MAKE IT SO: LEADERSHIP LESSONS FROM STAR TREK: THE NEXT GENERATION (1995); RON HUNTER, JR. & MICHAEL E. WADDELL, TOY BOX LEADERSHIP: LEADERSHIP LESSONS FROM THE TOYS YOU LOVED AS A CHILD (2008).

histories, and factually grounded, experiential exercises are readily available.<sup>59</sup>

### C. Learning Strategies

A more constructive approach to leadership development would include formal programs during and after law school as well as related workplace support structures. There are, of course, limits to what can effectively be taught in academic settings, particularly to students with limited work experience. But at a minimum, leadership programs can increase individuals' understanding of how to exercise influence and what cognitive biases, interpersonal responses, and organizational dynamics will sabotage effectiveness. Through exposure to leadership research, case studies, historical examples, role simulations, and guided analysis, individuals can discover models and prepare for dilemmas that they will face in practice.<sup>60</sup>

Even seemingly fixed traits are not entirely beyond influence. Law schools cannot directly teach integrity, but they can teach about it in ways likely to be useful to future leaders. A substantial body of research indicates that significant changes occur during early adulthood in peoples' basic strategies of moral reasoning and that well-designed curricula can assist the developmental process.<sup>61</sup> Case histories, problem solving, and media portrayals all can enhance skills in ethical analysis and build awareness of the situational pressures that skew judgment.<sup>62</sup> Moreover, the best ways of promoting ethical conduct are often through reforming regulatory standards and organizational reward structures, and legal education can equip future leaders for those reform efforts. Legal education can also do much more to

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59. See generally RHODE & PACKEL, *supra* note 3 (providing numerous experiential exercises).

60. JOSEPH NYE, *THE POWERS TO LEAD* 24 (2008); Jay A. Conger, *Leadership Development Interventions*, in *HANDBOOK OF LEADERSHIP THEORY AND PRACTICE*, *supra* note 13 at 709, 712–13; KOUZES & POSNER, *supra* note 37, at 120–211.

61. See MARCIA MENTKOWSKI & ASSOCIATES, *LEARNING THAT LASTS: INTEGRATING LEARNING, DEVELOPMENT, AND PERFORMANCE IN COLLEGE AND BEYOND* 120–24 (2000); Muriel J. Bebeau, *Promoting Ethical Development and Professionalism: Insights from Education Research in the Professions*, 5 U. ST. THOMAS L.J. 366, 384–85 (2008) (summarizing research); Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. LEGAL ED. 31, 46–47 (1992); WILLIAM M. SULLIVAN ET AL., *supra* note 16, at 135–36; M. Neil Browne et al., *The Purported Rigidity of an Attorney's Personality: Can Legal Ethics Be Acquired?*, 30 J. LEGAL PROF. 55, 70–78 (2006).

62. Steven Hartwell, *Promoting Moral Development Through Experiential Teaching*, 1 CLINICAL L. REV. 505 (1995); Neil W. Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism Through Mentoring*, 57 J. LEGAL EDUC. 102, 113–22 (2007); NAT'L RESEARCH COUNCIL, *HOW PEOPLE LEARN* 51–78 (John D. Bransford et al. eds., 2000). For the role of film, see RHODE & PACKEL, *supra* note 3, at 565–66. For the pressures that need to be addressed, see Deborah L. Rhode, *If Integrity Is the Answer, What Is the Question?*, 72 *FORDHAM L. REV.* 333, 341–44 (2003).

teach crucial leadership skills such as problem solving, teamwork, influence, organizational dynamics, and conflict management.<sup>63</sup>

#### D. *Learning from Failures*

Leaders and aspiring leaders also need safe spaces to explore mistakes and the rationalizations that often underlie them. Lawyers who are reluctant to take time out for intensive academic programs can explore “self-development” strategies, such as tailored on-the-job assignments, coaching, and mentoring.<sup>64</sup> Whatever the setting, the objective should be to ensure that lawyers have opportunities for guided reflection. That preparation can enable leaders to take risks with the understanding that “failure is as vital as it is inevitable.”<sup>65</sup> Indeed, as one general counsel notes, the “greatest risk to advancement can be in not taking risks at all.”<sup>66</sup> The key is generalizing constructive insights from misjudgments and responding accordingly. Lawyers need to “crash and learn,” not “crash and burn.”<sup>67</sup>

The mistakes of others can be equally instructive. Recent breakdowns of prominent firms can provide useful lessons concerning leadership challenges.<sup>68</sup> A Hildebrandt Institute study of some eighty failed firms found that about half had “fundamental flaws . . . [stemming] from a lack of clear strategies, of clearly articulated and compatible goals among their partners, and of strong leadership to achieve their mutually shared strategic visions.”<sup>69</sup>

One of the most common leadership deficiencies was the failure to supply or seek critical feedback on firm performance. To rally the troops, burnish their own image, and prevent defections of prominent partners, leaders were often prone to emphasize the positive. Without a culture and governance structure that demanded disclosure, divisive issues and discomfiting financial trends were buried. In many of the failed firms, leaders weren’t confronting tough questions and demanding corrective actions.<sup>70</sup> According to the consultant for Howrey, a prominent firm that disbanded in 2011, no one on the executive committee “ever put their foot down to ask for more and earlier information” about difficulties such as unrealistic fi-

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63. For examples of teaching materials, see RHODE & PACKEL, *supra* note 3; PAUL BREST & LINDA HAMILTON KREIGER, *PROBLEM SOLVING, DECISION MAKING, AND PROFESSIONAL JUDGMENT: A GUIDE FOR LAWYERS AND POLICYMAKERS* (2010).

64. Lisa A. Boyce et al., *Propensity for Self-Development of Leadership Attributes: Understanding, Predicting, and Supporting Performance of Leader Self-Development*, 21 *LEADERSHIP Q.* 159, 159 (2010).

65. BENNIS, *supra* note 17, at 93.

66. MICHELE COLEMAN MAYES & KARA SOPHIA BAYSINGER, *COURAGEOUS COUNSEL: CONVERSATIONS WITH WOMEN GENERAL COUNSEL IN THE FORTUNE 500*, at 64 (2011).

67. *Id.* at 122 (quoting Richard St. John).

68. For discussion of some of these failures see RHODE & PACKEL, *supra* note 3, at 65–69.

69. HILDEBRANDT INST., *supra* note 40, at 5.

70. *Id.* at 4; *infra* notes 71–73.

nancial projections, high risk cases, unproductive partners, and problematic billing practices.<sup>71</sup> In Jenkins and Gilchrest, which dissolved in the wake of liability for fraudulent tax shelters, too many firm leaders similarly “turned a blind eye” to problems posed by lucrative shelter proposals.<sup>72</sup> And Wolf Block, the prominent Philadelphia-based firm that imploded in 2009, suffered from a string of leadership failures involving lack of transparency and accountability. For a decade, the firm was chaired by a “Troika” that reportedly “ruled by fear” and secrecy.<sup>73</sup> Its approach led to hoarding of clients, defections of partners, and failures to diversify.<sup>74</sup> The chair who replaced the Troika was a talented attorney but an indecisive leader who was unwilling to make tough choices or pressure colleagues to do so.<sup>75</sup> His equivocation about his own plans when the firm faced financial difficulties was a final straw.<sup>76</sup> Such case histories offer cautionary tales about the need for effective leadership and the institutional structures that should demand it.

### E. Professional Development

To develop essential leadership capabilities, lawyers need to think strategically about their goals, talents, and needs.<sup>77</sup> They also need to act on their aspirations and to seek experiences, positions, and assignments that develop leadership skills.<sup>78</sup> In law school, students should look not just for relevant courses, but also for extracurricular pro bono and other organizational roles. Recent graduates should find both paid and unpaid opportunities to lead and to learn from their mistakes. Mid-career professionals may need to switch jobs or specialties, or to take on substantial pro bono commitments, in order to broaden skills and networks.<sup>79</sup> High levels of responsibility and pressure, coupled with mentoring and organizational support,

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71. Julie Triedman, *The Fall of Howrey*, LEGAL WK., June 30, 2011, at 20 (quoting outside management consultant Zeughauser).

72. *Firm Dissolution*, PARTNER'S REP. FOR L. FIRM OWNERS, June 2007, at 1. For a discussion of profit considerations that encouraged firm leaders to ignore potential tax shelter abuses, see Nathan Koppel, *Fatal Vision: How a Bid to Boost Profits Led to a Law Firm's Demise*, WALL ST. J., May 17, 2007, at A1.

73. Jason Fagone, *Wrongful Death*, PHILA. MAG., June 2009, at 1–11, available at [http://www.phillymag.com/articles/wrongful\\_death](http://www.phillymag.com/articles/wrongful_death).

74. See Gina Passarella, *No Easy Answers in Wolf Block's Demise*, LEGAL INTELLIGENCER, Mar. 25, 2009, at 1.

75. Fagone, *supra* note 73.

76. *Id.*

77. Boyce et al., *supra* note 64, at 161.

78. Ready et al., *supra* note 38, at 82; Linda Hill, *Developing the Star Performer*, in LEADER TO LEADER 287, 295–97 (Frances Hesselbein & Paul M. Cohen eds., 1999); David V. Day, *Leadership Development: A Review in Context*, 11 LEADERSHIP Q. 581, 583 (2001).

79. See WILLIAM A. COHEN, DRUCKER ON LEADERSHIP 139–40, 193 (2010); John P. Kotter, *What Leaders Really Do*, HARV. BUS. REV., May–June 1990, at 103; Sheri-Lynne Leskiw & Parbudyal Singh, *Leadership Development: Learning from Best Practices*, 28 LEADERSHIP & ORGANIZATIONAL DEV. J. 444, 450–54 (2007).

often provide the best learning experiences.<sup>80</sup> And once they reach positions of influence, lawyers should continue to seek guidance from peers, and leadership research and programs. Darwin Smith, the attorney who became a spectacularly successful CEO of Kimberly-Clark, put the point simply: “I never stopped trying to become qualified for the job.”<sup>81</sup>

### III. PATHS TO LEADERSHIP

An equally critical leadership strategy is learning from the careers of others. How have chance, mentoring, family constraints, cultural biases, and similar factors affected paths to power? How have lawyers effectively responded? In an effort to identify generalizable insights, the following discussion draws on my broader research project including biographies, autobiographies, interviews, and other published accounts of lawyers who have achieved positions of prominence.

Above all, what distinguishes these leaders is a strong sense of their goals, resilience in the face of constraints, and a capacity to learn from advice and experiences that have come their way. These lawyers’ adaptability to circumstances without compromising fundamental values holds broader lessons about foundations for achievement.

#### A. *Self-Awareness*

The first step on the path to leadership is self-knowledge. Lawyers must be reflective about what they want and what experiences and abilities will be necessary to achieve it.<sup>82</sup> Prospective leaders need a sense of their “ideal selves.” What are their aspirations, what qualities are they missing, and what is standing in their way?<sup>83</sup> In gauging their objectives, lawyers must be honest about their tolerance for risk, failure, conflict, competition, pressure, and extended hours. At every stage of their careers, they also need occasions to step back and think deeply about their talents and passions. If the position they hold is not a good fit, or at least a useful training ground, lawyers should find an alternative.<sup>84</sup>

That is, in essence, the career advice that young lawyers get from Margaret Marshall, the first woman Chief Judge of the Massachusetts Supreme Judicial Court, who also served as president of the Boston Bar Association

80. Morgan W. McCall, Jr., *The Experience Conundrum*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 13, at 679, 681–86. For the importance of mentoring, see RICHARD BOLDEN ET AL., EXPLORING LEADERSHIP 180–81 (2011).

81. Jim Collins, *Level 5 Leadership: The Triumph of Humility and Fierce Resolve*, HARV. BUS. REV., Jan. 2001, at 3 (quoting Smith).

82. JOHN W. GARDNER, ON LEADERSHIP 170, 174 (1990). For the importance of self-awareness, see JEAN B. LESLIE, CTR. FOR CREATIVE LEADERSHIP, THE LEADERSHIP GAP: WHAT YOU NEED, AND DON’T HAVE, WHEN IT COMES TO LEADERSHIP TALENT (2009); MAYES & BAYSINGER, *supra* note 66, at 92.

83. LENNICK & KIEL, *supra* note 39, at 240.

84. Leider, *supra* note 56, at 194.

and General Counsel for Harvard. “Ask yourself what do you genuinely enjoy doing every single day of your life. . . . Not enjoy doing. . . . Ignore the ‘shoulds’ of your life. . . . Have an honest dialogue with yourself about the role money will play in your life.”<sup>85</sup>

Other leaders also emphasize the importance of such self-scrutiny. Marian Wright Edelman, the leader of the Children’s Defense Fund, quotes entries from her journal as a civil rights organizer in the 1960s:

The time has come for you, Marian, to have a frank talk with yourself. Where are you headed? You are in the midst of a history-making epoch . . . and here you stand helpless. Get a hold of yourself and then forget yourself. What do you really want more than anything in life?<sup>86</sup>

She figured it out in short order, and a career in civil rights and children’s rights followed. Constance Baker Motley, the first black woman appointed to the federal courts, the first black borough president of New York City, and the first female attorney at the NAACP, found that “race, racism, and [their connection to] American law simply were not part of the course of study” at Columbia Law School in the 1940s.<sup>87</sup> So she began volunteering at the NAACP Legal Education and Defense Fund, which led to a permanent job after graduation.

Ralph Nader is another famously self-directed leader, who has wanted none of the perks and personal life that others value. In a *Chicago Tribune* interview, Nader characterized some of the country’s most prominent CEOs as “a little pathetic,” driven by desires for “money, success, and power.”<sup>88</sup> His own motivation, as he described it, was “trying to improve society. That’s the highest work of human beings on earth.”<sup>89</sup> That work has reportedly occupied him for twelve to fourteen hours a day, seven days a week. “[R]ebel without a life,” was one commentator’s description.<sup>90</sup> After Nader explained to the *Tribune* reporter his “no frills” schedule, which rarely included time for friends, family, books, or recreation of any sort, the *Tribune* reporter asked if he was happy. Nader responded, “What’s happy? Happiness is applying your ideals.”<sup>91</sup> But what about less lofty pursuits, the reporter wanted to know. “What do you do when you want to be good to

85. ELIZABETH VRATO, *THE COUNSELORS* 88–89 (2002) (quoting Marshall) (internal quotations omitted).

86. MARIAN WRIGHT EDELMAN, *LANTERNS: A MEMOIR OF MENTORS* 61 (1999).

87. CONSTANCE BAKER MOTLEY, *EQUAL JUSTICE UNDER LAW: AN AUTOBIOGRAPHY* 97 (1998).

88. Cheryl Lavin, *Nader the Dragonslayer Still Breathing Fire*, CHI. TRIB., July 13, 1986, at C1 (quoting Nader).

89. *Id.*; see also Thomas Ferraro, *Nader at 50: The ‘White Night’ is Still a Driven Man, Hot on the Trail of the Bad Guys*, CHI. TRIB., Jan. 4, 1985, at C1 (quoting Nader’s statement: “I enjoy achieving justice in society. That is my greatest satisfaction. . . .”).

90. Paul Farhi, *Miles to Go: In Ralph Nader’s Race for Reform, This is No Time to Slow Down*, WASH. POST, June 25, 2008, at C1 (quoting Paul Krugman).

91. Lavin, *supra* note 88 (quoting Nader).



yourself? Reward yourself?”<sup>92</sup> To which Nader responded, “I achieve goals. I set subgoals that are achievable. I want to get alar out of apples.”<sup>93</sup>

Some leaders come to self-knowledge relatively early. Ralph Nader grew up in a family of Lebanese immigrants, where social justice was a focus of children’s dinner table conversation. By his own account, at “four years of age . . . I used to say, ‘that was the wrong thing, what the mayor did.’”<sup>94</sup> Other leaders stumbled into legal careers from backgrounds far removed. Sandra Day O’Connor spent her formative years on an Arizona cattle ranch, where by age eight, she could brand a cow and drive a truck.<sup>95</sup> Many leaders bounced around in their initial years in practice. Thurgood Marshall tried to make a living as a solo practitioner and handled NAACP civil rights cases on a part time or pro bono basis before landing a full time position with the organization. Then he knew when to stay and when to leave.<sup>96</sup> Although his accomplishments as an NAACP litigator created opportunities to run for Congress or seek a state court appointment, he had no appetite for soliciting campaign contributions or for currying favor with certain political insiders, whose endorsements would be critical.<sup>97</sup> It was not until later in life that he sought an alternative. Then, a desire for greater economic security for his family and a discomfort with the militant turn in civil rights made a federal appellate court appointment attractive.<sup>98</sup>

### B. *Family Commitments and Cultural Biases*

Family commitments have affected the career path of most lawyers. What is instructive about leaders is the resilience with which they have responded to detours and constraints. Former Assistant Attorney General and Solicitor General Drew Days has described being en route to “fame and fortune” in a Chicago law firm practice when he fell in love with a woman about to enter the Peace Corps.<sup>99</sup> He ended up accompanying her to Honduras and organizing agricultural cooperatives for impoverished farmers. When his term ended, he was able to get a job with the NAACP Legal Defense Fund. That was the position he had wanted after graduating law school, but then he had lacked the practical experience that the organization required.<sup>100</sup>

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92. *Id.*

93. *Id.* (quoting Nader).

94. Thomas Whiteside, *A Countervailing Force II*, *NEW YORKER*, Oct. 15, 1973, at 62.

95. Justice Stephen G. Breyer, *Tribute to Sandra Day O’Connor*, 119 *HARV. L. REV.* 1242, 1242 (2006); SANDRA DAY O’CONNOR & ALAN DAY, *LAZYB: GROWING UP ON A CATTLE RANCH IN THE AMERICAN SOUTHWEST* 227 (2002); JOAN BISKUPIC, *SANDRA DAY O’CONNOR* 7–21 (2005).

96. JUAN WILLIAMS, *THURGOOD MARSHALL: AMERICAN REVOLUTIONARY* 62–63, 73, 76–77, 84–86 (2000).

97. *Id.* at 193, 272–74.

98. *Id.* at 274–76.

99. Drew Days, *Confessions of an Improbable Professor*, *YALE L. REP.*, Summer 2011, at 50, 51.

100. *Id.* at 51.

In more typical circumstances, however, the gender patterns have been reversed. Women lawyers often have followed their husbands, bumped up against bias, and charted unconventional paths to the top. In the nineteenth century, Clara Foltz, the first woman admitted to the California bar, became a lawyer after eloping with a soldier who later abandoned her and their five children.<sup>101</sup> Unable to support the family through conventional feminine occupations such as dressmaking, she began studying law.<sup>102</sup> Her considerable talents in both courtroom advocacy and self-promotion made her a leading figure in major reform movements of her times, including women's rights and criminal justice.<sup>103</sup>

A century later, Sandra Day O'Connor broke another gender barrier through a similarly unconventional route. Although graduating at the top of her Stanford Law School class, O'Connor found no law firm willing to hire her except as a secretary.<sup>104</sup> But she talked her way into creating a position in a county district attorney's office and then started a two-person firm in a shopping center. After giving birth to two sons and losing her babysitter, she decided to take time out. As she put it, "I stayed home myself for about five years and took care of [my family]."<sup>105</sup> In fact, a biographer observed, she "didn't really stay home."<sup>106</sup> She became more active in Republican politics and civic activities, which paved the way for positions with the state attorney general and election to the state legislature. That political involvement laid the groundwork for her appointment to the Supreme Court.<sup>107</sup> In later commenting on the impact of gender norms and family commitments on her career, O'Connor noted, "[I]t never occurred to my husband or me that he should assume a major childrearing role. Of course, as my husband was also fond of pointing out, things did turn out all right for me in the end."<sup>108</sup>

The kind of bias O'Connor experienced has been a persistent and pervasive feature of the leadership landscape. What bears emphasis here are effective coping strategies, which depend heavily on context. Until the last half century, the principal option was lumping it, although there were some notable exceptions. Supreme Court Justice Ruth Bader Ginsburg tied for first place in her 1959 Columbia Law School graduating class, but she received no offers from the dozen law firms with which she interviewed, and

101. BARBARA BABCOCK, *WOMAN LAWYER: THE TRIALS OF CLARA FOLTZ* 7–8 (2011).

102. *Id.* at 8.

103. *Id.* at 33. Foltz originated the concept of the public defender.

104. BISKUPIC, *supra* note 95, at 28.

105. *Id.* at 31 (quoting O'Connor).

106. *Id.* See also ANN CAREY McFEATHERS, *SANDRA DAY O'CONNOR: JUSTICE IN THE BALANCE* 46–47 (2005) (describing "staggering" list of volunteer activities).

107. BISKUPIC, *supra* note 95, at 72–78.

108. Sandra Day O'Connor, *Preface* to BARBARA KELLERMAN & DEBORAH L. RHODE, *WOMEN AND LEADERSHIP: THE STATE OF PLAY AND STRATEGIES FOR CHANGE*, at xiv (2007).

Justice Felix Frankfurter refused to consider her for a clerkship.<sup>109</sup> “I can’t stand girls in pants. Does she wear skirts?” he wanted to know.<sup>110</sup> She did, but in the end, he still felt uncomfortable with the prospect of hiring a woman. So did Learned Hand, who explained that he liked to swear in the office.<sup>111</sup> Ginsburg persevered and found another, less prominent clerkship. She also had the later satisfaction, as director of the ACLU Women’s Rights Project, of suing some of the New York firms that had refused to hire her or other women, or had relegated them to second-class status. The rationales for discrimination fueled her feminism: secretaries would not take orders from women; partners’ wives would object to their presence; no one would have lunch with them; or they were only suited for specialties like trusts and estates, which involved back office work for widows and orphans.<sup>112</sup>

Other civil rights leaders also brought landmark litigation, generally too late to help their own careers but critical to clearing leadership paths for others. Thurgood Marshall took the opportunity to sue Maryland Law School, which had denied him admission.<sup>113</sup> And Clara Foltz exulted in her victory over Hastings Law School, which had found the presence of women, particularly the rustling of their skirts, too bothersome for other students.<sup>114</sup> She also succeeded in removing the disqualification on female lawyers in Oregon, which she discovered while passing through the state on a lecture tour. On learning of a local woman’s rejection from the bar, she immediately “seated herself at her desk and drew up [a bill and announced], ‘There, I think that will cover our case.’”<sup>115</sup> She then lobbied the bill through the state legislature.<sup>116</sup>

But for most leaders most of the time, the common response was to look for ways around the obstacles, rather than to assault them directly.<sup>117</sup> Bella Abzug famously refused to learn to type so that she would not be given clerical tasks and began wearing showy hats and gloves so that she would not be mistaken for a secretary.<sup>118</sup> Thurgood Marshall put up with

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109. *Tribute: The Legacy of Ruth Bader Ginsburg and WRP Staff*, AM. CIVIL LIBERTIES UNION (Mar. 7, 2006), <http://www.aclu.org/womens-rights/tribute-legacy-ruth-bader-ginsburg-and-wrp-staff>; FRED STREBEIGH, *EQUAL: WOMEN RESHAPE AMERICAN LAW* 36 (2009).

110. STREBEIGH, *supra* note 109, at 36 (quoting Frankfurter).

111. *Id.* at 37.

112. *Id.* at 153, 149.

113. MICHAEL D. DAVIS & HUNTER R. CLARK, *THURGOOD MARSHALL: WARRIOR AT THE BAR, REBEL ON THE BENCH* 78–90 (1992).

114. BABCOCK, *supra* note 101, at 44–57. The victory did not help Foltz, because by the time the case was decided she could no longer afford to be a student.

115. Barbara Allen Babcock, *Feminist Lawyers*, 50 STAN. L. REV. 1689, 1694 (1998) (quoting Foltz).

116. *Id.*

117. For the costs of formal complaints, which still persist, see Deborah L. Rhode, *From Platitudes to Priorities: Diversity and Gender Equity in Law Firms*, 24 GEO. J. LEGAL ETHICS 1041, 1061 (2011).

118. SUZANNE BRAUN LEVINE & MARY THOM, *BELLA ABZUG* 27, 29 (2007).

many indignities of racism in the course of challenging it. When suing the University of Oklahoma's all-white law school, Marshall confronted the challenge of feeding his legal team. No restaurant in Norman would serve blacks, and the noon recess was not long enough to drive anywhere else. After discovering the problem on the first of day of trial, Marshall emptied his pocket change into a courthouse vending machine and bought peanuts for the group. He then told the plaintiff, "I'm going to put you in charge of baloney sandwiches" until a local restaurant could be persuaded to open a segregated section.<sup>119</sup>

As patterns of discrimination shifted, so too did leaders' responses. When changes in the legal, social, and political climate eroded overt forms of bias, formerly excluded groups faced challenges of a different order. With the rise of affirmative action, women and minorities had to prove that they "deserved" the positions at issue and were not simply the beneficiaries of preferential treatment.<sup>120</sup> Hard work, long hours, and exceptional competence were the strategies of choice, but a sense of humor could be useful as well. When asked how she felt about getting her job as assistant attorney general in the Carter administration because she was a woman, Barbara Babcock responded, "It's better than not getting your job because you're a woman."<sup>121</sup>

### C. *The Role of Chance*

The idiosyncratic nature of ostensibly merit-based processes has affected leadership opportunities for all lawyers, not just members of under-represented groups. Some potential leaders received positions for which they had no experience, largely because of political concerns or personal connections. Burke Marshall went from being an antitrust litigator at a large Washington, D.C. law firm to Assistant Attorney General for Civil Rights because Attorney General Robert Kennedy wanted "a first class lawyer" who would "do the job in a technically proficient way" and who had no record that would be off-putting to southerners.<sup>122</sup> When New York District Attorney Robert Morgenthau invited well-respected Wall Street lawyer Arthur Liman to run a special unit prosecuting securities fraud, Liman raised concerns that he "knew almost nothing about stocks, let alone stock fraud. He had never studied securities law at Yale nor even so much as read the

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119. WILLIAMS, *supra* note 96, at 178 (quoting Marshall).

120. *See VRATO, supra* note 85, at 157 (noting that Patricia Wald's receipt of a position as Assistant Attorney General owed much to President Carter's pledge to appoint women); Ruth Bader Ginsburg, *Women on the Bench*, 12 COLUM. J. GENDER & L., 361, 370 (2003) (describing speculation that her appointment at Columbia in 1972 was the result of affirmative action precipitated by pressure from the federal Office of Civil Rights).

121. DEBORAH L. RHODE, *SPEAKING OF SEX: THE DENIAL OF GENDER INEQUALITY* 169 (1997) (quoting Barbara Babcock).

122. VICTOR NAVASKY, *KENNEDY JUSTICE* 162 (2000) (quoting Byron White).

federal securities statutes.”<sup>123</sup> Morgenthau did not care. “Arthur,” he pointed out, “neither have the crooks.”<sup>124</sup>

Warren Christopher received his first international position as a negotiator for textile trade agreements not because he had any background in diplomacy or textiles, but because he had “no public record” of “free trade” sympathies that would cause opposition.<sup>125</sup> Later, despite a distinguished record as Assistant Secretary of State, he was passed over for Secretary of State, primarily on political grounds. As Christopher noted without resentment in his memoirs, Bill Clinton needed to “bolster his stature on Capitol Hill in a presidential election season,” and Christopher was not the right candidate for that task.<sup>126</sup> But the result turned out to be fortuitous. It gave Christopher the central role in high-stakes negotiations over return of Iranian-held American hostages. In commenting on the opportunity, Christopher later wrote:

Washington is a place of political, not merit-driven decision making. . . . The lesson I drew from this chapter of my life is simple and a little ironic; the chance of a lifetime is not necessarily the next rung up the ladder. It may be the one on which you already stand.<sup>127</sup>

Louise Parent, the General Counsel of American Express, similarly points out that a position “does not necessarily have to be a promotion to be valuable to your career.”<sup>128</sup> She took some steps down and “sidewise” to gain the experience that would later equip her for a leadership role.<sup>129</sup>

Many other leaders have received key positions because of largely fortuitous events. Harvard Professor Archibald Cox was appointed Solicitor General when his colleague Paul Freund opted to stick with scholarship and recommended Cox instead.<sup>130</sup> Sandra Day O’Connor lacked the typical pedigree for a Supreme Court appointment and later acknowledged that her “experience on Arizona’s courts, as nice as it had been, had [not] prepared me for the appointment.”<sup>131</sup> The American Bar Association agreed and rated her only “qualified,” not “very qualified,” for the position.<sup>132</sup> Ronald Reagan, however, had made a campaign promise to appoint a woman and found O’Connor’s legislative experience and ranching background to have

123. ARTHUR L. LIMAN, *LAWYER: A LIFE OF COUNSEL AND CONTROVERSY* 35 (1998).

124. *Id.*

125. WARREN CHRISTOPHER, *CHANCES OF A LIFETIME* 35 (2001).

126. *Id.* at 123.

127. *Id.* at 105, 123.

128. MAYES & BAYSINGER, *supra* note 66, at 70 (quoting Parent).

129. *Id.*

130. KEN GORMLY, *ARCHIBALD COX: CONSCIENCE OF A NATION* 141 (1999).

131. BISKUPIC, *supra* note 95, at 80 (quoting O’Connor).

132. *Id.* at 83. Other commentators were harsher. According to the magazine *The Nation*, “Judge O’Connor’s record is not even close to Supreme Court quality. She was not an exceptional lawyer or legal scholar; nor is she an outstanding judge.” *Id.* (quoting *The Nation*).

appealing parallels with his own background.<sup>133</sup> It also helped that other possible choices turned out to have “oversized skeletons” in their closets.<sup>134</sup> So too, Janet Reno became Bill Clinton’s Attorney General only after other candidates had to withdraw for failing to pay social security taxes for their domestic help.<sup>135</sup> When asked about the issue, Reno sometimes quipped that she benefitted from having a dirty house, something not typically seen as a virtue in women.

Similar dynamics occur in the private sector. Many law firm leaders stumbled into their positions. Some “just got lucky. There was a void in the firm and it needed to be filled.”<sup>136</sup> Others stepped in during a crisis, “played a significant role,” and ended up as managing partner.<sup>137</sup> Lawyers interested in acquiring a “new skill set” and facing new challenges have taken advantage of responsibilities that came their way.<sup>138</sup> Oracle General Counsel Dorian Day notes, “I never really had a plan. It was more a matter of trying new things and learning as much as I possibly could as often as I could.”<sup>139</sup> By contrast, other highly talented attorneys have remained trapped in positions that fell short of expectations because a “draft movement” on their behalf never materialized, and they did not take steps to create one.<sup>140</sup>

The broader lesson from all these examples is that leaders need to acknowledge the role of chance but refuse also to be bound by it. Realizing that “stuff happens,” without regard to merit, can free lawyers from attempting to map every career move and obsessing over every opportunity lost. As one General Counsel notes, it is a mistake to try and evaluate each experience “in terms of where it will lead you, because honestly, you don’t always know.”<sup>141</sup> But simply waiting for fate to take its course is not a path to success. Aspiring leaders need to behave as if hard work and outstanding performance will pay off, and to be proactive when they do not. Finding new ways to develop and demonstrate capabilities is essential to achievement at the highest levels. The Justice Department official who investigated O’Connor’s background noted that “she was always looking for the next

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133. *Id.* at 71–72, 76–77.

134. *Id.* at 75.

135. VRATO, *supra* note 85, at 128.

136. H. Edward Wesemann et al., *The Edge Roundtable: Developing Law Firm Leaders*, 29 L. PRAC. MGMT. SEC. 7, 27, 30 (2003) (quoting Nancy J. Geenan).

137. *Id.* (quoting Ronald E. Ruma).

138. *Id.* (quoting Wendy Tice-Wallner).

139. MAYES & BAYSINGER, *supra* note 66, at 96 (quoting Daley).

140. Elliott Richardson declared his willingness to run for president if there was an “organized . . . well-financed, massive draft movement [on] my behalf.” Harry Whitten, *Richardson Still Has Foot in the Political Door*, HONOLULU STAR-BULLETIN, Dec. 12, 1978, at A15 (quoting Richardson). After a distinguished career in public service, Richardson spent his final years in private practice that never lived up to expectations. See James Abourezk, *Oh Congress, My Congress*, WASH. POST, June 16, 1980, at B8 (describing Richardson as “bored with private life to the point that he cares about little else but public service”).

141. MAYES & BAYSINGER, *supra* note 66, at 78 (quoting Susan Lichtenstein, General Counsel of Ameritech).

opportunity to assume a leadership role.”<sup>142</sup> Despite many gender barriers, she managed to find one. From similar stories, aviator Elinor Smith drew an apt conclusion: “It has come to my attention that people of accomplishment . . . rarely [stayed] back and let things happen to them. They went out and happened to things.”<sup>143</sup>

#### D. *Mentoring and Advice*

One other crucial leadership skill is finding honest and informed advice, but also knowing when to disregard it. Experts note that the “more elevated [a person’s] position, the more important it is to solicit [candid criticism]” because it is unlikely to be volunteered by subordinates.<sup>144</sup> The feedback can come in varying forms: objective measures of behavior, observations by others, bottom-up evaluations, and mentoring.<sup>145</sup> Leaders need to know who and what to ask, but also to know themselves well enough to weigh competing values and to steer their own course.

Many lawyers from unprivileged backgrounds were discouraged from choosing law as a career. Constance Baker Motley recalled that “no one thought that [becoming a lawyer] was a good idea.”<sup>146</sup> Her mother believed that she should be a hairdresser, and her first employer after graduating from college, a female government aid worker, told her that going to law school would be a “complete waste of time” because “women don’t get anywhere in the law.”<sup>147</sup> Antonia Hernandez, who worked in the fields as a child and later headed the Mexican American Legal Defense Fund, was told that despite her excellent grades, she was not “college material” and that law was out of the question because “You’re a girl.”<sup>148</sup>

By contrast, others succeeded through the support of family and mentors. As Stanford Professor Barbara Allen Babcock noted in her review of early women lawyers, “male allies” were essential to female leaders; many were “encouraged and aided at every turn” by husbands, brothers, and advisors.<sup>149</sup> Finding trusted and more supportive advisors at early career stages is particularly important because aspiring leaders lack the life experience to know what opportunities are most likely to pay long term dividends. Michele Mayes, one of the nation’s few African American women to serve as General Counsel for a Fortune 500 corporation, recalls that early during her career in house, a trusted female mentor suggested that she think about a

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142. BISKUPIC, *supra* note 95, at 75 (quoting F. Henry Habicht).

143. *The Pioneers: Elinor Smith*, MONASH UNIV., [http://www.ctie.monash.edu.au/hargrave/smith\\_e.html](http://www.ctie.monash.edu.au/hargrave/smith_e.html) (last updated Feb. 5, 2011).

144. LENNICK & KIEHL, *supra* note 39, at 97.

145. GILL, *supra* note 35, at 275–77; Day, *supra* note 78, at 594.

146. MOTLEY, *supra* note 87, at 41, 56 (1998).

147. *Id.*

148. VRATO, *supra* note 85, at 166, 169 (quoting Hernandez).

149. BABCOCK, *supra* note 101, at 1705. Motley herself received funds for her college and law school education from a male philanthropist. MOTLEY, *supra* note 87, at 45.

leadership position. She then approached the General Counsel of the company where she worked and “told him I wanted a job like his.”<sup>150</sup> Although initially somewhat startled, he drew up a list of experiences and skills that she would need and then helped her achieve them. Elliot Richardson, who ultimately held a series of high-level national positions, credited mentoring that he received from Archibald Cox at a critical turning point. After a Supreme Court clerkship, Richardson received a job offer in the State Department under Dean Acheson. Although attracted by the prospect, Richardson had political ambitions and worried that “if I stayed in Washington, I might end up . . . a government hack.”<sup>151</sup> He sought advice from Cox, his former labor law professor at Harvard. Recalling wisdom he had received from presidential advisor Harold Ickes, Cox responded, “When I was in Washington, I always thought it important to come *from* somewhere.”<sup>152</sup> Richardson took the advice, became a U.S. attorney and Lieutenant Governor from Massachusetts, and then returned to the capitol as Attorney General.

Other leaders, however, were warned off local politics, often with equally good reason. When Edward Bennett Williams toyed with the idea of running for senator, friends who knew him well did their best to discourage the idea. Williams did not like to compromise, cede control, or engage in cocktail party chitchat.<sup>153</sup> His law partner Brendon Sullivan suggested that before Williams threw his hat in a senatorial race, he should go to the local Safeway and “spend thirty minutes shaking hands.”<sup>154</sup> Then he should ask himself: “You want to do that for two years?”<sup>155</sup>

Williams, for his part, provided some astute advice to others about the downside of non-elective political office. When Arthur Liman received an offer to head the Iran-Contra investigation, Williams counseled against taking it. According to Liman, Williams described Washington as a:

Puritan Salem; they burned a new witch each month. He warned me that I’d become one. It would be impossible, he said, to convince every faction in Washington that the investigation was fair. . . . Unless we brought down the President, the media would criticize me as blind and incompetent . . . no matter what we turned up by way of evidence.<sup>156</sup>

Other Washington insiders, including Cyrus Vance, took a different view and urged Liman to accept. In the end, Liman knew himself well enough to know whether to assume the risks. This was, in his view, a “challenge of historic proportions.”<sup>157</sup> And Liman loved a challenge.

150. MAYES & BAYSINGER, *supra* note 66, at 82.

151. GORMLEY, *supra* note 130, at 86 (quoting Elliot Richardson).

152. *Id.* at 87 (Elliot Richardson quoting Archibald Cox).

153. EVAN THOMAS, *THE MAN TO SEE* 330, 331–32 (1992).

154. *Id.* at 330.

155. *Id.*

156. LIMAN, *supra* note 124, at 303.

157. *Id.*



So did Barack Obama, and advice during the run-up to the 2008 election helped convince him to enter the race. He had begun his Senate career publicly insisting that “there’s no way that I’m running—I have two small children and I’m not that presumptuous.”<sup>158</sup> Privately, he appeared to be keeping his options open and consulting political advisors and mentors.<sup>159</sup> When Senate majority leader Harry Reid advised Obama to declare his candidacy and other senators concurred, Obama was inclined to agree.<sup>160</sup> He had a window of opportunity that might not open again for a decade. As his strategist David Axelrod put it, “usually the politician chooses the moment, [but] sometimes the moment chooses the politician.”<sup>161</sup> By all accounts, however, the decisive advice for Obama came from his wife. Michelle had “veto power,” and as she later put it, she had to be confident that “our family would stay grounded and stable through the process.”<sup>162</sup>

### E. *The Role of Values*

As that last example suggests, leadership often exacts a substantial personal price, but also brings enormous rewards. Those rewards that are most fulfilling, however, are generally not the obvious perks and status that accompany positions of power. Psychological research suggests that professional satisfaction depends on feeling effective, exercising strengths and virtues, and contributing to socially valued ends that bring meaning and purpose.<sup>163</sup> By contrast, material success holds less enduring appeal because desires for money and recognition 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.<sup>164</sup> Income and status are posi-

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158. JOHN HEILEMANN & MARK HALPERIN, *GAME CHANGE: OBAMA AND THE CLINTONS, MCCAIN AND PALIN, AND THE RACE OF A LIFETIME* 28 (2010) (quoting Obama’s 2005 statement to his Senate chief of staff, Pete Rouse).

159. *Id.*; see also *All Things Considered* (NPR radio broadcast Nov. 19, 2007) (describing Obama’s consultations with former federal judge and congressman Abner Mikva, campaign manager Dan Shomon, and strategist David Axelrod).

160. HEILEMANN & HALPERIN, *supra* note 158, at 34, 36–37.

161. David Remnick, *The Joshua Generation: Race and the Campaign of Barack Obama*, *NEW YORKER*, Nov. 17, 2008, at 68 (quoting Axelrod).

162. *All Things Considered*, *supra* note 159 (comments of Michelle Obama). See also HEILEMANN & HALPERIN, *supra* note 158, at 72–73.

163. DAVID G. MYERS, *THE PURSUIT OF HAPPINESS: WHO IS HAPPY—AND WHY* 32–38 (1992); David G. Myers & Ed Diener, *Who Is Happy?*, 6 *PSYCHOL. SCI.* 10, 17 (1995); CHRISTOPHER PETERSON & MARTIN E. P. SELIGMAN, *CHARACTER STRENGTHS AND VIRTUES: A HANDBOOK AND CLASSIFICATION* 533 (2004); WILLIAM C. COMPTON, *INTRODUCTION TO POSITIVE PSYCHOLOGY* 48–49, 53–54 (2005); Ed Diener et al., *Subjective Well-Being: Three Decades of Progress*, 125 *PSYCHOL. BULL.* 276, 278–86 (1999).

164. MARTIN E. P. SELIGMAN, *AUTHENTIC HAPPINESS: USING THE NEW POSITIVE PSYCHOLOGY TO REALIZE YOUR POTENTIAL FOR LASTING FULFILLMENT* 49 (2002); Ed Diener et al., *Beyond the Hedonic Treadmill: Revising the Adaptation Theory of Well-Being*, 61 *AM. PSYCHOL.* 305, 305 (2006); Christopher P. Niemiec et al., *The Path Taken: Consequences of Attaining Intrinsic and Extrinsic Aspirations in Post-College Life*, 43 *J. RES. PERSONALITY* 291, 305 (2009) (finding that individuals who are motivated primarily by intrinsic aspirations such as personal growth and as-

tional goods. Individuals' satisfaction depends on how they compare relative to others, and increases in wealth or power are readily offset by changes in reference groups.<sup>165</sup> This dynamic is readily apparent in the recent arms race in compensation for partners at large law firms. 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? Two Harvard Business School researchers studied leaders who by conventional standards had achieved "success that lasts." What they found was:

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).<sup>166</sup>

The challenge for leaders is setting priorities that strike a balance among all four goals.

"Legacy" is often the hardest accomplishment to assess. The philosopher William James is credited with the observation that "the greatest use of life is to spend it for something that will outlast it," but what that "something" is depends on personal values.<sup>167</sup> Lawyers need to think deeply about that question and to avoid confusing fame with legacy. As leadership experts also note, a preoccupation with recognition can get in the way of achieving it; leaders can be tempted to hoard power, status, and credit.<sup>168</sup> There is an important distinction between "making a difference" and "making 'my' difference and making sure everyone knows it."<sup>169</sup> Leaders can never control how others will ultimately interpret their contributions and they should recognize the possibility of "pigeons on [their] monuments. . . . Insisting on credit [for achievements] invites disappointment and distortion of personal energy and aspirations."<sup>170</sup>

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sisting others are more satisfied than those motivated primarily by extrinsic aspirations such as wealth and fame).

165. Robert H. Frank, *How Not to Buy Happiness*, 133 *DAEDLUS* 69, 69–73 (2004); MYERS, *supra* note 163, at 39.

166. Laura Nash & Howard Stevenson, *Success That Lasts*, *HARV. BUS. REV.*, Feb. 2004, at 102, 104.

167. An exhaustive search reveals many attributions of the quote to James but no verifiable published source.

168. J. Patrick Dobel, *Managerial Leadership and the Ethical Importance of Legacy*, in 14 *PUBLIC ETHICS AND GOVERNANCE: STANDARDS AND PRACTICES IN COMPARATIVE PERSPECTIVE RESEARCH IN PUBLIC POLICY ANALYSIS AND MANAGEMENT* 179, 200–03 (Denis Saint-Martin & Fred Thompson eds., 2006).

169. *Id.* at 201.

170. *Id.*

In essence, thinking about legacy is helpful when it directs attention to ultimate goals and values, but not when it diverts energy into futile quests for enduring glory. A concern with values, experts emphasize, should “begin sooner rather than later. A person’s legacy unfolds every day,” and priorities and relationships formed early in a career create the foundations for later achievements.<sup>171</sup>

One paradox of power is that leaders who are most effective in building a positive legacy are those least interested in exercising power for its own sake and attempting to control how history will judge them. Attorney General Janet Reno kept on her a wall a quotation from Abraham Lincoln:

I do the very best I know how—the very best I can; and I mean to keep doing so ‘til the end. If the end brings me out all right, what is said against me won’t amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference.<sup>172</sup>

People cannot fully determine their legacies, but they can be conscious of how their daily interactions and priorities affect other individuals and institutions.<sup>173</sup> Unless leaders’ values include supporting the careers of subordinates as well as their own, their contribution is likely to be limited. Noel Tichy, a former director of executive development notes that “the ultimate test of a leader is not whether he or she makes smart decisions . . . but whether he or she teaches others to be leaders and builds an organization that can sustain its success even when he or she is not around.”<sup>174</sup>

## CONCLUSION

When asked how he wished to be remembered, Thurgood Marshall responded: “[H]e did what he could with what he had.”<sup>175</sup> Lawyers have many ways to do just that. For most, it is less through grand triumphs and historical achievements than through smaller cumulative acts that improve the lives and institutions that surround them. Law schools have many ways to assist potential leaders in the process, and occasions like this should remind us of that responsibility.

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171. *Id.*

172. VRATO, *supra* note 85, at 129.

173. Dobel, *supra* note 168, at 202.

174. Ray Blunt, *Leaders Growing Leaders: Preparing the Next Generation of Public Service Executives*, PRICEWATERHOUSECOOPERS ENDOWMENT FOR BUS. GOV’T: REVITALIZING PUB. SERVICE SERIES, May 2000, at 1, 8–18, reprinted as *How Leaders Are Grown: The Lessons of Example and Experience*, in THE JOSSEY-BASS READER ON NON-PROFIT AND PUBLIC LEADERSHIP 38, 41 (James L. Pery ed., 2010) (quoting Noel Tichy).

175. Ruth Marcus, *Plain-Spoken Marshall Spars with Reporters*, WASH. POST, June 29, 1991, at A1, A10 (quoting Marshall).