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Developing Leadership

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DEVELOPING LEADERSHIP

Deborah L. Rhode*

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INTRODUCTION

It is ironic that the occupation most responsible for producing America's prominent leaders has done so little to educate them for that role. The legal profession has supplied a majority of American presidents, and in recent decades, almost half of Congress.¹ Lawyers occupy leadership roles as

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

governors, state legislators, judges, prosecutors, general counsel, law firm managing partners, and heads of corporate, government, and nonprofit organizations.² Almost none of these lawyers received academic training for their leadership responsibilities. Although leadership development is now a forty-five billion dollar industry, it is missing or marginal in legal education.³ This symposium is a welcome exception, and this Article takes advantage of the opportunity to focus on how lawyers might better prepare themselves for leadership roles.

To that end, the following discussion proceeds in five parts. It first describes the core competencies of leadership and then turns to the distinctive characteristics of lawyers and the challenges they face in leadership positions. The analysis then focuses on styles of leadership and the circumstances in which they are most and least effective. A concluding section explores strategies that can assist lawyers in addressing their own weaknesses and pursuing leadership objectives.

I. QUALITIES OF LEADERS

What exactly *is* leadership? We do not lack for answers; the problem lies in sorting through them. One overview identified over 1500 definitions and forty distinctive theories.⁴ From this vast literature, one key point deserves emphasis. Although popular usage equates leadership with power or position, experts generally view leadership in terms of traits, processes, skills, and relationships.⁵ Leaders need to be able to inspire, not simply compel, their followers. Moreover,

2. Approximately ten percent of the CEOs of Fortune 50 companies are lawyers. See Mark Curriden, *CEO, Esq.*, A.B.A. J., (May 1, 2010), http://www.abajournal.com/magazine/article/ceo_esq/.

3. For corporate expenditures, see Doris Gomez, *The Leader as Learner*, 2 INT'L J. LEADERSHIP STUD. 280, 281 (2007). For inadequate law school curricula, see Nitin Nohria & Rakesh Khurana, *Advancing Leadership Theory and Practice*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE 3 (Nitin Nohria & Rakesh Khurana eds., 2010). See also Hamilton, *supra* note 1, at 370.

4. BASS AND STOGDILL'S HANDBOOK OF LEADERSHIP: THEORY, RESEARCH, AND MANAGERIAL APPLICATIONS (3d ed. 1990); Gareth Edwards, *In Search of the Holy Grail: Leadership in Management* (Ross-on-Wye, United Kingdom, Leadership Trust Found., Working Paper No. LT-GE-00-15, 2000).

5. See JOHN W. GARDNER, ON LEADERSHIP 243–48 (1990); JOSEPH NYE, THE POWERS TO LEAD 18–21 (2008); DEBORAH L. RHODE & AMANDA K. PACKEL, LEADERSHIP: LAW POLICY AND MANAGEMENT 6 (2011).

those who wield the most influence often do so without the formal status that would convey their role. Paul Hoffman's *Lions in the Streets*, a celebrated profile of elite New York law firms in the 1970s, noted that the leaders were often "unknown to the outside world."⁶ A lawyer he interviewed put it this way: "The man who really runs the firm is the guy who tells the secretaries whether or not they have to work on Washington's Birthday."⁷

What enables leaders to exercise power has generated an equally rich literature. The traditional assumption was that these individuals shared certain traits and styles that were effective across varying situations. Recent research, however, suggests otherwise. Over the last half-century, some 1000 studies on leadership characteristics have failed to produce a clear profile of the ideal leader.⁸ Rather, successful leadership requires a match between what the circumstances demand and what an individual has to offer.⁹ For example, Ralph Nader was extraordinarily effective during the activism of the 1960s and 1970s in galvanizing a progressive consumer movement. But he was spectacularly ineffective decades later in running a presidential campaign on similar issues. The self-righteous iconoclasm that stood him well in one historical era worked against him as a third-party candidate in a different political climate.¹⁰

Even the much celebrated quality of "charisma" is not necessarily related to effective performance. Building on the insights of social theorist Max Weber, some commentators have stressed the importance of personal magnetism, which enables charismatic leaders to connect with a wide

6. PAUL HOFFMAN, *LIONS IN THE STREETS* 40 (1973).

7. *Id.*

8. NYE, *supra* note 5, at 121–22.

9. For early development of the theory, see FRED E. FIEDLER, *A THEORY OF LEADERSHIP EFFECTIVENESS* (1967); FRED E. FIEDLER, *Leadership: A New Model*, in *LEADERSHIP* 230–41 (Cecil Austin Gibb ed., 1969). For discussion of its contemporary applications, see Robert Goffee & Gareth Jones, *Why Should Anyone Be Led by You?*, 2000 HARV. BUS. REV., 63–64; Jay Lorsch, *A Contingency Theory of Leadership*, in *HANDBOOK OF LEADERSHIP THEORY AND PRACTICE*, 411–24 (2010).

10. See Cheryl Lavin, *Nader the Dragonslayer Still Breathing Fire*, CHI. TRIB., July 13, 1986, at C1; Tamara Straus, *From Hero to Pariah in One Documentary*, S.F. CHRON., Mar. 11, 2007, at PK–28 [hereinafter *An Unreasonable Man*] (reviewing the documentary, *An Unreasonable Man*).

audience.¹¹ Yet recent research casts doubts on such theories. Some studies find that the leaders of the most continuously profitable corporations tend to be self-effacing and uncharismatic.¹² Biographies of many successful lawyers reveal similar personalities. Burke Marshall, the Assistant Attorney General in charge of the Justice Department's Civil Rights Division in the Kennedy Administration, was "modest," "mild mannered," and "self deprecating;"¹³ Warren Christopher, Secretary of State under Clinton, was equally reserved and reluctant to self-promote;¹⁴ Archibald Cox, Solicitor General in the Kennedy Administration, was shy and lacking in a "natural, easy social sense;"¹⁵ Erwin Griswold, Solicitor General under the Johnson Administration and dean of Harvard Law School, was "shy, stiff, formal and sometimes gruff;"¹⁶ and John Doar, head of the civil rights division under Johnson, and counsel to the Watergate Committee that recommended Nixon's impeachment was "dry, methodical," and able to read the *Happy Hooker* aloud in a way that would "put you to sleep."¹⁷ Paul Cravath, architect of the modern system of law firm training, warned that "too much wit, too great cleverness, too facile fluency" were as "likely to impede success as to promote it."¹⁸ "[S]ound and steady" was his prescription for effectiveness.¹⁹

Even when a lawyer is widely viewed as charismatic, what exactly is meant by the term is not always clear or uncontested. Barack Obama is the most recent prominent

11. ROGER GILL, *THEORY AND PRACTICE OF LEADERSHIP*, 252–53 (2006); MAX WEBER, *The Sociology of Charismatic Authority*, in FROM MAX WEBER: ESSAYS IN SOCIOLOGY 245–46 (H.H. Gerth & C. Wright Mills eds., 2009). See generally RONALD E. RIGGIO, *THE CHARISMA QUOTIENT* (1987).

12. Jim Collins, *Level 5 Leadership: The Triumph of Humility and Fierce Resolve*, HARV. BUS. REV., Jan. 2001, 67, 73; GILL, *supra* note 11, at 253.

13. Nicholas deB. Katzenbach, *Burke Marshall*, in THE YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW 359, 359 (Roger K. Newman ed., 2009).

14. See Bill Clinton, *Bill Clinton on Former Sec'y of State Warren Christopher*, TIME, Mar. 24, 2011, at 26; Elaine Woo, *Warren Christopher Dies at 85*, L.A. TIMES, Mar. 20, 2011, at A1.

15. KEN GORMLEY, *ARCHIBALD COX CONSCIENCE OF A NATION* 153 (1997).

16. Roger K. Newman, *Erwin Griswold*, in THE YALE BIOGRAPHIC DICTIONARY OF AMERICAN LAW 239, 239–40 (Roger K. Newman ed., 2009).

17. Peter G. Fish, *John Doar*, in THE YALE BIOGRAPHIC DICTIONARY OF AMERICAN LAW 167, 167–68 (Roger K. Newman ed., 2009).

18. HOFFMAN, *supra* note 6, at 9 (quoting Cravath).

19. *Id.*

example. Observers often credit him with remarkable personal magnetism and an ability to connect with different constituencies; he can reportedly adjust his style to church basements, huge stadiums, backyard barbeques, and elite policy forums.²⁰ Yet other commentators fault him for being “aloof,” “detached,” “professorial,”²¹ “technocratic,” “tone deaf,”²² and susceptible to “policy-speak disaster.”²³ “Cannot emote” is a common assessment.²⁴ These descriptions of “‘no drama’ Obama” are, however, hard to reconcile with the candidate who gave us some of the most memorable rhetorical moments in recent political history with his messages on hope, change, and racial reconciliation.²⁵ Such varying views underscore the larger point that historian James McGregor Burns made about “charisma” as a leadership trait. As he put it, the term is “so ambiguously and inconsistently used . . . [that] it is impossible to restore the word to analytic duty.”²⁶ Often it seems to function as a conclusory label that fails to specify what exactly accounts for the appeal described.

Although the particular characteristics that constitute an ideal leader depend on context, and charisma is not an essential attribute, certain other qualities do appear effective in the vast array of leadership situations. The most well-documented characteristics largely cluster in five categories:

- (1) values (such as integrity, honesty, trust, an ethic of service);
- (2) personal skills (such as self-awareness, self-control, self-direction);

20. Frank Rich, *It's a Bird, It's a Plane, It's Obama!*, N.Y. TIMES, Apr. 4, 2010.

21. James Wolcott, *One Cool Cat*, VANITY FAIR, Sept. 2010, at 2–6.

22. George Packer, *Obama's Last Year*, THE NEW YORKER, Mar. 15, 2010, at 46, 49 (quoting aids and Barney Frank).

23. George Lakoff, *The Policy Speak Disaster for Health Care*, TRUTHOUT, Aug. 20, 2009.

24. Wolcott, *supra* note 21, at 211 (quoting Richard Cohen).

25. *Id.*

26. JAMES MCGREGOR BURNS, LEADERSHIP 244 (New York, Harper & Row 1978). Robert Solomon argues that “charisma doesn’t refer to any character trait or quality in particular, but is rather a general way of referring to a person who seems to be a dynamic and effective leader. And as a term of analysis in leadership studies . . . it is more a distraction than a point of understanding.” Robert C. Solomon, *Ethical Leadership, Emotion and Trust: Beyond “Charisma,”* in ETHICS, THE HEART OF LEADERSHIP 83, 93 (Joanne B. Ciulla ed., 2d. ed. 2004). See also GARDNER, *supra* note 5, at 35.

- (3) interpersonal skills (such as social awareness, empathy, persuasion, conflict management);
- (4) vision (such as forward looking, inspirational); and
- (5) technical competence (such as knowledge, preparation, judgment).²⁷

A 2010 survey of leaders of professional service firms (including law firms) similarly found that the most important leadership qualities involved interpersonal skills and emotional intelligence, such as integrity, empathy, communication, and abilities to listen, inspire and influence.²⁸ Particularly in times of stress, a key capacity was the ability of leaders to engage colleagues around a vision that was emotionally compelling and attainable.²⁹ Such research is consistent with other surveys of law firm managers and professional service firms, which stress interpersonal qualities such as charting a direction, gaining commitment to that direction, and setting a personal example.³⁰

27. For values, see WARREN BENNIS, ON BECOMING A LEADER 40–41 (2d ed. 1994), concerning integrity, trust, and vision; JAMES M. KOUZES & BARRY Z. POSNER, THE LEADERSHIP CHALLENGE 21 (1995), concerning honesty, forward-looking, and inspiration; MONTGOMERY VAN WART, DYNAMICS OF LEADERSHIP IN PUBLIC SERVICE: THEORY AND PRACTICE 16, 92–119 (2005), concerning integrity and ethics of public service. For personal skills, see DANIEL GOLEMAN ET AL., PRIMAL LEADERSHIP: REALIZING THE POWER OF EMOTIONAL INTELLIGENCE 253–56 (2002), concerning self-awareness and self-management; Van Wart, *supra*, at 16, concerning self-direction. For interpersonal skills, see GOLEMAN ET AL., PRIMAL LEADERSHIP: REALIZING THE POWER OF EMOTIONAL INTELLIGENCE 253–56 (2002), concerning social awareness, empathy, persuasion, and conflict management. For vision and technical competence, see KOUZES & POSNER, *supra*; Lorsch, *supra* note 9, at 417. See generally NOEL M. TICHY & WARREN G. BENNIS, JUDGMENT: HOW WINNING LEADERS MAKE GREAT CALLS (2007), for technical competence and describing the importance of judgment.

28. These included ability to influence and build coalitions (42%); inspiration and passion (34%); vision (29%); listening (24%); good communication (25%); ability to attract followers (21%); empathy (21%); integrity (17%); courage (16%); humility (16%); respect for others (12%). Only one quality, business understanding (21%), involved technical and analytical skill. Maureen Broderick, *Leading Gently*, THE AMERICAN LAWYER, Dec. 2010, at 63, 64.

29. Broderick, *supra* note 28, at 63, 64.

30. For the listed qualities see Thomas DeLong et al., *Juggling Isn't the Same as Leading*, THE AMERICAN LAWYER, Dec. 2007, at 125–29. For views of managing partners, see Kenneth Van Winkle, Jr., *The Managing Partner's Role in Today's World*, in MANAGING A LAW FIRM 25, 46–47 (Aspatore Books 2010); Abraham C. Reich & Mark L. Silow, *Democracy, Transparency and Rotation: Keys to Running a Successful Law Firm*, in MANAGING A LAW FIRM 73, 81

II. CHARACTERISTICS OF LAWYERS

Not all of these leadership qualities are characteristic of lawyers. Several decades of research have found that attorneys' distinctive personality traits can pose challenges for lawyers 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.³¹ Skepticism, the tendency to be argumentative, cynical, and judgmental, can interfere with what George Walker Bush famously dismissed as the "vision thing."³² "Urgency," defined as the need to "get things done" can lead to impatience, intolerance, and inadequate listening.³³ Competitiveness and desires for autonomy and achievement can make lawyers overly self-absorbed, controlling, combative, and difficult to manage.³⁴ Lawyers also rank lower than the general population in sociability, interpersonal sensitivity, and resilience.³⁵ 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" signals difficulty in accepting criticism, and responding without defensiveness to feedback about performance.³⁶

The significance of such generalizations should not be

(Aspatore Books 2010).

31. Dr. Larry Richard, *Herding Cats: The Lawyer Personality Revealed*, 29 REPORT TO LEGAL MANAGEMENT 1, 4 (Altman Weil Aug. 2002); see Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1349, 1390–91 (1997) [hereinafter, Daicoff, *Attributes*].

32. Mark Milner, *Defining The Gift of a Far-Sighted Few*, THE GUARDIAN, June 9, 2000 (quoting Bush).

33. Richard, *supra* note 31, at 4.

34. See Daicoff, *Attributes*, *supra* note 31, at 1422–24 (noting also the costs to professionalism of such attributes); Richard, *supra* note 31, at 9.

35. Richard, *supra* note 31, at 4, 9; see Daicoff, *Attributes*, *supra* note 31, at 1392–94 (noting lawyers' orientation toward logical analysis rather than interpersonal concerns); Larry Richard & Lisa Rohrer, *A Breed Apart?*, THE AMERICAN LAWYER, July 2011, at 43–44.

36. 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, 588–89 (1998) [hereinafter Daicoff, *Leopards*] (noting that legal educators are themselves lawyers, with many of the problematic attributes); Richard, *supra* note 31, at 9.

overstated. Lawyers vary considerably, and occupational averages do not accurately predict individual behaviors. Differences along dimensions, such as gender, race, ethnicity, and age, may complicate analysis.³⁷ Moreover, some traits, such as skepticism and urgency, can be highly useful in many professional contexts, and their downsides can often be mitigated.³⁸ The point of the preceding summary is not to paint an overly bleak or simplistic portrait of the “lawyer personality,” but rather to identify some of the ways in which lawyers are not always ideally suited for leadership. A better understanding of that mismatch is essential in preparing lawyers to perform effectively in leadership roles.

III. CHALLENGES FOR LEADERS

Part of what can also prepare lawyers for leadership is an awareness of the situational challenges that stand in their way. Although the contexts in which lawyers lead vary considerably, most share some common features. Increases in competition, complexity, scale, pace, and diversity within the profession have all complicated the lives of leaders, and heightened longstanding tensions in the leadership role.

A. *Competition*

Over the last several decades, competitiveness has intensified within and across organizations. Leaders are judged by their ability to achieve short-term results, sometimes at the expense of more critical long-term goals. In law firms, partnership means less and is harder to attain, and attention has increasingly centered on bottom-line financial performance.³⁹ Internal rivalries have bred

37. See Richard & Roher, *supra* note 35, at 44 (noting that women score lower in ambition, and sociability than men, but higher on interpersonal sensitivity). It seems likely that other differences would emerge along lines such as race, class, and ethnicity, although they are not reported in the overviews cited above. *See id.*

38. For optimistic assessments of lawyers’ ability to manage their deficiencies, see Richard, *supra* note 31, at 4, 10. For skepticism, see research summarized in Daicoff, *Leopards*, *supra* note 36, at 589–90. As Daicoff notes, legal educators are themselves lawyers, with many of the problematic attributes. *Id.* at 589–90.

39. For an overview of such trends, see NANCY LEVIT & DOUGLAS O. LINDER, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* 53–73 (2010); DEBORAH L. RHODE, *IN THE INTERESTS OF JUSTICE* 24–38 (2000) [hereinafter

acrimony, defections, and sometimes dissolution.⁴⁰ According to one consultant, the result is a low-trust environment, in which more and more partners are behaving as “bands of warlords, each with his or her followers . . . acting in temporary alliance-until a better opportunity comes along.”⁴¹ In the public sector, competition for attention, support, and resources also has intensified, particularly during the recent economic downturn, and budgetary difficulties are a frequently debilitating fact of daily life.⁴² These pressures pose difficulties on an interpersonal as well as a financial level. As one commentator quips, all too often “competition brings out the best in products and the worst in people.”⁴³

B. Scale and Complexity

Other challenges arise from the growth in scale and complexity of professional, corporate, government, and nonprofit organizations, as well as the problems that they confront. Over the last half-century, the size of the fifty largest law firms has increased more than ten times and the staff of the most prominent public-interest legal organizations has more than doubled.⁴⁴ In the corporate sector, the number of in-house counsel has roughly doubled since 1970; general counsel offices have expanded to keep pace with the growth in size of their organizations.⁴⁵ Legal employers are operating in

RHODE, JUSTICE]; Ashby Jones, *Law Firm Life Doesn't Suit Some Associates*, WALL ST. J., May 2, 2006, at B6.

40. For the role of poor leadership and internal rivalries in accounting for law firm difficulties and failures, see William G. Johnson, *The Anatomy Law Firm Failures*, Mar. 2004, available at <http://hildebrandtblog.com/hildebrandt-institute/>. See e.g., RHODE & PACKEL, *supra* note 5, at 65–69.

41. David Maister, *The Trouble with Lawyers*, THE AMERICAN LAWYER, Apr. 2006, at 13, 20. See also Richard, *supra* note 31, at 1, 3.

42. For an overview for public interest organizations, see Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 STAN. L. REV. 2027 (2008) [hereinafter Rhode, *Public Interest Law*].

43. Van Wart, *supra* note 27, at 186 (quoting David Sarnoff).

44. For the growth in large firms, see Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 3, 34–36 (2004). For public interest organizations, see Rhode, *Public Interest Law*, *supra* note 42, at 2031. For a general review of the growth of large multi-office firms, see George P. Baker & Rachel Parkin, *The Changing Structure of the Legal Services Industry and the Careers of Lawyers*, 84 N.C. L. REV. 1635, 1643, 1648–50 (2006).

45. For the rise of in-house counsel, see Baker & Parkin, *supra* note 44, at 1654; Colin P. Marks, *The Anticipation Misconception*, 99 KY. L.J. 9, 57 (2011). For statistics indicating a 40% increase in businesses with over 500 employees in the last two decades, see United States Bureau of the Census, 1988–2006

more locations, and they have more alliances, subsidiaries and outsourcing arrangements requiring oversight. This growth in size, together with other social, economic, legal, and technological changes, has significantly complicated the landscape of leadership. Governments, markets, organizations, and professions are interacting in more complex ways, and leaders' decisions often play out on a larger social stage.⁴⁶ Technological advances have increased both the pace of decision making and the accessibility of decision makers. Leaders often face a barrage of information along with pressure to make complex decisions instantly.⁴⁷ As a former deputy attorney general noted, "if you don't like an issue before you, wait fifteen minutes . . . somebody will give you a new one."⁴⁸ Many lawyers remain tethered to their workplaces through electronic communication, and the personal costs can be substantial: stress, burnout, substance abuse, and related mental health difficulties.⁴⁹ Additional challenges arise from increased diversity within the legal workforce and client base. Although this trend has had many organizational payoffs, it has also complicated the lives of leaders. Among their responsibilities, ensuring that institutions deal productively with differences across race, ethnicity, class, gender, culture, sexual orientation, and similar factors in an increasingly interconnected world.

C. *The Role of Leaders*

The nature of the leadership role brings further complications. Although the extent and complexity of

SUSB Totals for United States, available at http://www2.census.gov/econ/susb/data/us_state_total_1988-2006.xls. The growth may have leveled off in the wake of the recession. For a summarization of *Corporate Counsel's* 2010 Law Department metrics Benchmarking Survey, see *Corporate Counsel Study Reports In-House Law Departments Continue to Shrink and Face Cut Budgets, While Workload Increases*, ALM PRESS ROOM, <http://www.alm.com/pressroom/2010/09/28/corporate-counsel-study-reports-in-house-law-departments-continue-to-shrink-and-face-cut-budgets-while-workload-increases/> (last visited Feb. 26, 2012).

46. BOB JOHANSEN, *LEADERS MAKE THE FUTURE* 11 (2009).

47. MICHAEL FULLAN, *LEADING IN A CULTURE OF CHANGE* 2 (2001).

48. ELIZABETH VRATO, *THE COUNSELORS* 51 (2002) (quoting Jamie Gorelick).

49. See LEVIT & LINDER, *supra* note 39, at 6–7; Daicoff, *Attributes*, *supra* note 31, at 1407–09; Deborah L. Rhode, *Foreward: Personal Satisfaction in Professional Practice*, 58 SYRACUSE L. REV. 217 (2008).

demands on contemporary leaders frequently argues for shared authority, many stakeholders retain a desire for a single heroic figure at the helm. As Harvard Professor Joseph Nye describes it, this “Mt. Rushmore syndrome” rests on a fundamental “leader attribution error”—a tendency to ascribe undue credit or blame for performance to the person at the top.⁵⁰ The dynamic is common in all sectors of the legal profession.

Although lawyers might want, or benefit from, the results of strong leadership, they may not like to be led, and may not welcome the changes and sacrifices that it demands. As noted earlier, attorneys tend to value independence and are well prepared to challenge authority when they disagree. By training and temperament, lawyers are experts at locating loopholes and are attached to precedent; leaders’ efforts at innovation are often met with skepticism and counterexamples.⁵¹ In public sector bureaucracies, rigid legal constraints, job protection for civil servants, insulation from market pressures, and potential political landmines can similarly foster resistance to change.⁵² Many policy settings also tend toward what experts describe as “organized anarchy.” No one is really in charge: power is dispersed across shifting coalitions and interest groups, which require considerable leadership skills to align in pursuit of societal goals.⁵³

D. *The Paradox of Power*

A final set of challenges arises from the disconnect between the qualities that often 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

50. NYE, *supra* note 5, at 2.

51. See Maister, *supra* note 41, at 13. For discussion of lawyers’ need for autonomy and the difficulties that poses for leadership, see Larry Richard & Susan Raridon Lambreth, *What Does It Take to Develop Effective Law Firm Leaders?*, LAW PRACTICE TODAY, Mar. 2006, available at <http://www.abanet.org/lpm/lpt/articles/pmqa03061.shtml>; *Leadership Partners or Managing Partners?*, LAW OFFICE MANAGEMENT AND ADMINISTRATION REPORT, Oct. 2010, at 5.

52. Van Wart, *supra* note 27, at 55–56.

53. BARBARA C. CROSBY & JOHN M. BRYSON, LEADERSHIP FOR THE COMMON GOOD 161–62 (2005).

come with the role? For many individuals, it is not only 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 subordinating these self-interests to a greater good. The result is what is variously labeled the “leadership paradox” or the “paradox of power.”⁵⁴ 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.

If left unchecked, the ambition, self-confidence, and self-centeredness that often propel lawyers to leadership roles may sabotage their subsequent performance. Research on personality and organizational effectiveness finds that narcissistic individuals are often 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.⁵⁵ Strong ego needs can also prevent leaders from letting go of their positions when an organization would benefit from change.⁵⁶ 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 individuals’ 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 sense that they are special and superior. Such environments risk reinforcing narcissism and entitlement; leaders may feel free

54. Jennifer A. Chatman & Jessica A. Kennedy, *Psychological Perspectives on Leadership*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, 169, 174 (Nitin Nohria & Rakesh Khurana eds., 2010).

55. JEFFREY PFEFFER, POWER: WHY SOME HAVE IT — AND OTHERS DON’T 199–200 (2010); Robert Hogan & Robert B. Kaiser, *What We Know About Leadership*, 9 REV. GEN. PSYCHOL. 169, 176 (2005).

56. PFEFFER, *supra* note 55, at 221–22. In the non-profit sector, the problem is sufficiently common with founders of organizations that experts have coined the label “founder’s syndrome.” LESLIE R. CRUTCHFELD & HEATHER MCLEOD GRANT, FORCES FOR GOOD: THE SIX PRACTICES OF HIGH IMPACT NONPROFITS 124, 140 (2008).

to disregard rules of ethics, or norms of courtesy and respect that are applicable to others.⁵⁷ How best to address these challenges and to develop the most productive styles of leadership demands closer analysis.

IV. STYLES OF LEADERSHIP

The mystery of what leaders can and ought to do in order to spark the best performance from their people is age-old. In recent years, that mystery has spawned an entire cottage industry: literally thousands of “leadership experts” have made careers of testing and coaching.

-Daniel Goleman⁵⁸

Harvard psychology professor Daniel Goleman is unusual among those experts in that his conclusions about effective leadership have a relatively solid empirical base. Drawing on a sample of almost 4,000 leaders worldwide, Goleman has identified six styles, each reflecting distinctive forms of “emotional intelligence.”⁵⁹ Effective leaders “do not rely on only one leadership style; they use most of them in a given week –seamlessly and in different measure–depending on the . . . situation.”⁶⁰ Goleman summarizes the approaches as follows:

Coercive leaders demand immediate compliance.

Authoritative leaders mobilize people toward a vision.

Affiliative leaders create emotional bonds and harmony.

Democratic leaders build consensus through participation.

Pace setting leaders expect excellence and self-direction.

And *coaching leaders* develop people for the future.⁶¹

57. George R. Goethals, et al., *The Uniqueness Bias: Studies of Constructive Social Comparison*, in SOCIAL COMPARISON: CONTEMPORARY THEORY AND RESEARCH 149, 153–55 (Jerry Suls & Thomas Ashby Wills eds., 1991); Manfred Kets de Vries & Elisabeth Engellau, *A Clinical Approach to the Dynamics of Leadership and Executive Transformation*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, 183, 195 (Nohria & Khurana eds., 2010); Terry L. Price, *Explaining Ethical Failures of Leadership*, in ETHICS, THE HEART OF LEADERSHIP 130–31 (Joanne B. Ciulla ed., 2d. ed. 2004); see also Roderick M. Kramer, *The Harder They Fall*, HARV. BUS. REV., Oct. 2003, at 61.

58. Daniel Goleman, *Leadership That Gets Results*, HARV. BUS. REV. Mar.–Apr., 2000, at 78 [hereinafter Goleman, *Leadership*].

59. *Id.* at 78. The sample of 3,871 executives was compiled by Hay McBer consulting firm from a database of approximately 20,000 executives.

60. *Id.* at 78–80.

61. *Id.* at 80.

All of these styles are readily recognizable among lawyer leaders, and other commentators have added variations that hold obvious relevance for professional development.

A. *The Coercive or Intimidating Style*

Coercion, the style most often associated with positions of power, is typically the least effective. Goleman suggests a number of reasons why, beginning with its impact on organizational climate. A leader's "extreme top-down decision making kills new ideas. People feel so disrespected that they . . . 'won't even bring . . . ideas up'" or they feel so "resentful they adopt the attitude, 'I'm not going to help this bastard.'"⁶² Because the leader has not conveyed a sense of shared mission, people can become "alienated from their own jobs, wondering, 'How does any of this matter?'"⁶³

That is not to suggest that coercive styles are always ineffective. They are generally useful in conditions of crisis or emergency, or with "'problem' employees with whom all else has failed."⁶⁴ Stanford business school professor, Roderick Kramer, also suggests that a certain form of coercion, practiced by "great intimidators," can yield impressive bottom-line results.⁶⁵ These leaders, while not above using a few "ceremonial hangings," are not your "typical bullies."⁶⁶ Their motivation does not involve "ego or gratuitous humiliation"; rather they are impatient with impediments, including human ones, and willing to use anger to achieve their ends.⁶⁷ One of Kramer's examples is Clarence Thomas, whose capacity for intimidation was on display during Senate confirmation hearings on his appointment to the Supreme Court. In response to questions about whether he had sexually harassed Anita Hill, Thomas accused Senate committee members of engaging in a "high tech lynching for uppity blacks."⁶⁸ The result was to silence critics and help secure his nomination. Moreover, according to Kramer,

62. *Id.* at 82.

63. *Id.*

64. *Id.* at 83.

65. Roderick M. Kramer, *The Great Intimidators*, HARV. BUS. REV., Feb. 2006, at 88, 96.

66. *Id.* at 90.

67. *Id.*

68. *Id.* at 92 (quoting Thomas).

A calculated “loss of temper” does more than help intimidators prevail in the heat of the moment, though. It also serves as a chilling deterrent for potential challengers. While in some instances they are clearly putting on an act, intimidators aren’t always in full control of their emotions when they go off on tirades. But even then a loss of control can be useful.⁶⁹

The biographies of famous lawyers are laced with examples of coercion and intimidation. Wisconsin Senator Joseph McCarthy was one of the profession’s most infamous bullies. His abusive tactics ruined countless careers of suspected communist sympathizers until his cruelty in televised congressional hearings appalled the nation and eroded his political support.⁷⁰ More benign examples involve leaders whose desire for control sapped the morale and initiative of those around them. A profile of Paul Cravath, founder of Cravath Swaine and Moore, noted that “most of the young men who worked in his offices disliked him heartily” largely because of his insistence that “everything be done his way.”⁷¹ Washington insider Edward Bennett Williams, founder of Williams, Connelly, and Califano, could be similarly autocratic. He demanded “total control” over firm decision making, was notoriously “unforgiving of errors” by others, and could fly into a “rage on demand.”⁷² Jeff Kindler, the CEO of Pfizer, reportedly lost his position because of a combative, abusive micromanagement style.⁷³ Ralph Nader, another infamous “micromanager,” structured the public interest organizations that he founded so that “everything must pass through [him].”⁷⁴ Nader even opposed unionization in those organizations, a position hard to square with his progressive ideals. As one staffer put it, Nader just felt that the workplace was “his baby and he want[ed] to run

69. *Id.*

70. See generally FRED J. COOK, *THE ARMY-McCARTHY HEARINGS* (1971); ROBERT SHOGAN, *NO SENSE OF DECENCY* (2009). For McCarthy’s fall and censure, see generally ARTHUR V. WATKINS, *ENOUGH ROPE* (1954).

71. Amy Singer, *A Passion for Organization*, *THE AMERICAN LAWYER*, Dec. 1999, at 24–25.

72. EVAN THOMAS, *THE MAN TO SEE* 206 (1991).

73. Peter Elkind et al., *Inside Pfizer’s Palace Coup*, *FORTUNE*, Aug. 15, 2011, at 76.

74. CHARLES MCGARRY, *CITIZEN NADER* 208 (1972); John Maggs, *Boss Nader*, 36 *NAT’L J.* 1796, 1798 (2004).

things his way.”⁷⁵ “His way” included a ban on soft drinks in his flagship organization, the Center for the Study of Responsive Law.⁷⁶ On discovering a contraband coca cola can in the trash, Nader personally called the staffer responsible. “This is a breach of trust,” he explained to an incredulous reporter. “Soda is bad all the way around. It has no nutrition. It causes cavities. It is taste manipulation. Companies that make it should not be supported.”⁷⁷

Coercive and intimidating styles are somewhat less common in women leaders, perhaps in part because they are socialized differently and they are punished more severely for such “unfeminine” conduct.⁷⁸ What seems merely assertive in a man often seems abrasive in a woman.⁷⁹ “Attila the Hen” and “the Dragon Lady” have difficulty enlisting respect, support, and cooperation from coworkers.⁸⁰ Indeed, some leadership coaches have developed a market niche in rehabilitating “bully broads”—women who come across as insufficiently feminine.⁸¹ Still, the history of the legal profession has many examples of “unrehabilitated” female leaders who were highly successful despite, or perhaps in part

75. Maggs, *supra* note 74 (quoting employee).

76. Thomas Ferraro, *Nader at 50: The ‘White Knight’ is Still a Driven Man, Hot on the Trail of the Bad Guys*, CHI. TRIB., Jan. 4, 1985, at C1.

77. *Id.* (quoting Nader). For a first time offense, however, the likely sanction would not be termination. Among the options Nader contemplated was a prescribed regime of apple juice. *Id.*

78. See ALICE H. EAGLY & LINDA L. CARLI, THROUGH THE LABYRINTH: THE TRUTH ABOUT HOW WOMEN BECOME LEADERS 106 (2007); Deborah L. Rhode & Barbara Kellerman, *Women and Leadership: the State of Play*, in WOMEN AND LEADERSHIP: THE STATE OF PLAY AND STRATEGIES FOR CHANGE 1, 7 (Barbara Kellerman & Deborah L. Rhode eds., 2007); CECILIA RIDGEWAY, FRAMED BY GENDER: HOW GENDER INEQUALITY PERSISTS IN THE MODERN WORLD 115 (2011); JOAN WILLIAMS, RESHAPING THE WORK-FAMILY DEBATE 98 (2010); Deborah L. Rhode & Joan C. Williams, *Legal Perspectives on Employment Discrimination*, in SEX DISCRIMINATION IN THE WORKPLACE (Faye J. Crosby et al. eds., 2007).

79. See Rhode & Kellerman, *supra* note 78, at 7; Laurie A. Rudman & Peter Glick, *Prescriptive Gender Stereotypes and Backlash Toward Agentic Women*, 57 J. SOC. ISSUES 743 (2001).

80. LINDA BABCOCK & SARA LASCHEVER, WOMEN DON’T ASK 87–88 (2003); DAWN L. BROOKS & LYNN M. BROOKS, SEVEN SECRETS OF SUCCESSFUL WOMEN 195 (New York, McGraw Hill, 1997); Alice H. Eagly & Steven J. Karau, *Role Congruity Theory of Prejudice Toward Female Leaders*, 109 PSYCHOL. REV. 573, 576 (2002).

81. Neela Banerjee, *The Media Business: Some ‘Bullies’ Seek Ways to Soften Up: Toughness Has Risks for Women Executives*, N.Y. TIMES, Aug.10, 2001, at C1.

because of, their intimidating styles. Congresswoman Bella Abzug, a leader on many women's rights issues, was known as "rude," "cantankerous," "abusive" to her staff, and "not kind to stupid people."⁸² Her insensitivity to the needs of others exacted a heavy toll. She experienced constant turnover among employees, and was fired as chair of an influential Presidential Advisory Committee on Women because of her inability to "cooperate" with the administration, including President Carter himself.⁸³

Kramer claims that the "great intimidators" are not "typical bullies" because their motive is not humiliation. But it is by no means clear how much motive matters to those who are on the receiving end of abusive conduct. Most research suggests that likeability is correlated with effective leadership and that continued bullying impairs the performance of both leaders and their subordinates.⁸⁴ Approximately half the targets of such abuse leave their job as a result.⁸⁵

Another form of intimidating behavior involves the use of knowledge in ways that preempt competing views. "Informational intimidators," as Kramer terms them, always have an abundance of facts, and intentionally or unintentionally invoke them in ways that suppress opposition.⁸⁶ This, of course, can be a highly useful skill for

82. SUZANNE BRAUN LEVINE & MARY THOM, BELLA ABZUG 201 (2007) (quoting Brownie Ledbetter on Rosalynn Carter's assessment as "rude"); *id.* at XIII (citing "cantankerous"); *id.* at 19 (quoting Amy Swerdlow—"abusive" and "not kind"); *id.* at 150 (quoting Eileen Shanahan about being harsh to staff and having high levels of turnover).

83. In his presidential news conference announcing Abzug's departure as Chair, Carter noted that "there has not been good cooperation between the committee and the cabinet members, or my advisors or me, and I felt it was necessary to change the chairperson." *Id.* at 221 (quoting Carter).

84. For the importance of likeability, see TIM SANDERS, THE LIKEABILITY FACTOR: HOW TO BOOST YOUR L-FACTOR AND ACHIEVE YOUR LIFE'S DREAMS (2005); Steve Arneson, *How Much Does Likeability Influence How We View Leaders?*, LEADERSHIP EXAMINER (Mar. 1, 2009), <http://www.examiner.com/leadership-in-national/how-much-does-likeability-influence-how-we-view-leaders>. For the destructive effects of bullying on physical and mental health and job performance, see Pamela Lutgen-Sandvik et al., *Workplace Bullying: Causes Consequences, and Corrections*, in DESTRUCTIVE ORGANIZATIONAL COMMUNICATION 41, 46-47 (Pamela Lutgen-Sandvik & Beverly Davenport Sypher eds., 2009).

85. NYE, *supra* note 5, at 82.

86. Kramer, *supra* note 65, at 94.

lawyers, particularly in litigation. But in leadership contexts, where the goal is to understand and inspire others, this behavior can be counterproductive. It is especially damaging if done with insufficient concern for truth. In the short run, as Kramer notes, “[o]ften, it doesn’t even matter all that much whether the ‘facts’ are right. . . . Even the misleading or inaccurate factoid—when uttered with complete confidence and injected into a discussion with perfect timing and precision—can carry the day.”⁸⁷ But in the long run, that tactic can be costly, particularly if the errors are made in public and someone has sufficient incentive and ability to expose them. Given the importance that people attach to honesty among leaders, informational intimidators can suffer serious credibility costs if they take casual attitudes to truth.

A final variation of coercive tactics arises from what is sometimes labeled a drive to overachievement.⁸⁸ Leaders with this tendency focus too much on their own performance and attempt to surpass not only competitors but also subordinates. They do not truly listen to others; they soak up “all the oxygen in the room” by pushing their ideas and even answering their own questions.⁸⁹ Such an approach may yield some short-term advantages if the leader is gifted, but the ultimate result is likely to be disengagement and dependency among followers.

B. *The Authoritative Style*

Goleman’s research suggests that the authoritative style is generally the most effective.⁹⁰ This approach involves clarity about ends but flexibility about means.

The authoritative leader is a visionary; he motivates people by making clear to them how their work fits into a larger vision for the organization. People who work for such leaders understand that what they do matters and why. . . . An authoritative leader states the end but generally gives people plenty of leeway to devise their own means. Authoritative leaders give people the freedom to

87. *Id.*

88. See Scott W. Sprier et al., *Leadership Run Amok: The Destructive Potential of Overachievers*, HARV. BUS. REV., June 2006, at 72, 74–79.

89. LIZ WISEMAN WITH GREG MCKEOWN, MULTIPLIERS: HOW THE BEST LEADERS MAKE EVERYONE SMARTER 102 (2010).

90. Goleman, *Leadership*, *supra* note 58, at 83.

innovate, experiment, and take calculated risks.⁹¹

Yet as Goleman also notes, the authoritative style is not effective in every situation. It fails, for example, “when a leader is working with a team of experts or peers who are more experienced than he is; they may see the leader as pompous or out-of-touch. Another limitation [is that] if a manager trying to be authoritative becomes overbearing, he can undermine the egalitarian spirit of an effective team.”⁹² These circumstances are particularly common in law firms; many partners are reluctant to cede critical managerial powers to a single individual or unrepresentative committee.⁹³

So too, an authoritative manner in women bumps up against the gender stereotypes noted earlier. An overview of more than a hundred studies confirms that women are rated lower as leaders when they adopt authoritative, seemingly masculine styles, particularly when the evaluators are men, or when the role is one typically occupied by men.⁹⁴ This leaves female leaders caught in a double bind. They risk appearing too feminine or not feminine enough. Those with a soft-spoken approach may seem unable or unwilling to make the tough calls required in positions of greatest influence. Those who lean in the opposite direction are often viewed as strident, arrogant, or overly aggressive.⁹⁵ These persistent, often unconscious gender biases are part of the explanation for women lawyers’ continued underrepresentation in leadership roles.

91. *Id.* at 83–84.

92. *Id.* at 84.

93. For the “low trust” environment of many firms, see Maister, *supra*, note 41, at 13.

94. D. Anthony Butterfield & James P. Grinnell, “Re-Viewing” *Gender, Leadership, and Managerial Behavior: Do Three Decades of Research Tell Us Anything?*, in HANDBOOK OF GENDER AND WORK 223, 235 (Gary N. Powell ed., 1999); JEANETTE N. CLEVELAND ET AL., WOMEN AND MEN IN ORGANIZATIONS: SEX AND GENDER ISSUES AT WORK 106–07 (2000); Alice H. Eagly et al., *Gender and The Evaluation of Leaders*, 111 PSYCHOL. BULL. 17 (1992); Rochelle Sharpe, *As Leaders, Women Rule: New Studies Find that Female Managers Outshine Their Male Counterparts in Almost Every Measure*, BUSINESSWEEK ONLINE (Nov. 20, 2000), http://www.businessweek.com/2000/00_47/b3708145.htm.

95. See EAGLY & CARLI, *supra* note 78, at 187.

C. The Affiliative Style

The “affiliative” style of leadership puts people first. Its adherents focus on maintaining satisfaction and harmony among followers. They tend to be “natural relationship builders” who supply ample positive feedback and celebrate group accomplishment.⁹⁶ The result is a high level of trust, loyalty, communication, and innovation.

Many successful politicians and leaders of law firms and in-house counsel offices have been known for such relational skills. Robert Kennedy was a prominent example. Shortly after his appointment as Attorney General, he astonished Justice Department lawyers by walking into their offices announcing, “I’m Bob Kennedy” and then asking where they had gone to law school and what they were working on.⁹⁷ He got minor officials their first invitation to the White House, sent thank you notes to lawyers whom he saw working on holidays, and called or wrote staff with congratulations when they accomplished a difficult task.⁹⁸ As Victor Navasky summed it up, this leadership style “brought out the best in others and enlarged their sense of possibility.”⁹⁹ Hillary Clinton has earned similar praise in her position as Secretary of State. She is famously “big on feedback an intranet ‘Secretary’s Sounding Board’ is bringing the suggestion box into the modern age.”¹⁰⁰ She is also well liked by staff for following through on the ideas that they suggest to her. On learning that full benefits for domestic partners were not yet available, she ended the bureaucratic foot dragging with a simple directive: “Fix it!”¹⁰¹

Similar examples are common in the private sector. Michael Kelly’s *Lives of Lawyers Revisited* profiles a general counsel who made it a priority to sponsor social events and to meet individually with subordinates and find out what they would like changed.¹⁰² Larry Sonsini, one of the founders of the Silicon Valley legal establishment, including the law firm

96. Goleman, *Leadership*, *supra* note 58, at 84.

97. VICTOR NAVASKY, *KENNEDY JUSTICE* 359 (rev. ed. 2000).

98. *Id.* at 348, 355.

99. *Id.* at 444.

100. Jonathan Alter, *Woman of the World*, VANITY FAIR, June 2011, available at <http://www.vanityfair.com/politics/features/2011/06/hillary-clinton-201106>.

101. *Id.*

102. MICHAEL KELLY, *LIVES OF LAWYERS REVISITED* 100 (2007).

that bears his name, is legendary for “bridge build[ing]” and having “a [firm] grasp of what’s important to the person he is talking to.”¹⁰³ Louis Brandeis, who distinguished himself in many leadership positions on and off the bench, recognized the value of affiliative styles. In one letter to a young colleague, he advised knowing the affairs of others, including clients, “better than they do. . . . The ability to impress them grows from . . . confidence [that] can never come from books; it is gained by human intercourse.”¹⁰⁴

Used exclusively, however, the affiliative approach has its limitations. Too much praise and desire for harmony “can allow poor performance to go uncorrected” and internal conflicts to go unresolved.¹⁰⁵ Whatever its short-term advantages in minimizing stress and unpleasantness, experts suggest that conflict avoidance should be avoided.¹⁰⁶ Unaddressed problems generally fester, impair performance, and lead to more costly confrontations later on.

D. *The Democratic Style*

One way to handle conflicts, as well as other leadership challenges, is through democratic processes. By giving stakeholders a say in decisions that affect them, leaders can generate new ideas, encourage buy-in, and build morale, trust, respect, and commitment.¹⁰⁷ Many heads of public interest legal organizations employ this approach and rely heavily on legal staff to shape organizational priorities.¹⁰⁸

103. Joel Rosenblatt, *The Great Sonsini*, CALIFORNIA LAWYER, Oct. 2004, at 22, 28.

104. PHILIPPA STRUM, *BRANDEIS: BEYOND PROGRESSIVISM* 56 (1993) (letter to William Dunbar).

105. Goleman, *Leadership*, *supra* note 58, at 85.

106. See RHODE & PACKEL, *supra* note 5, at 166–68. Studies by the Leadership Development Institute and the Center for Creative Leadership estimate between 20–40% of leaders’ time is spent on conflicts. CRAIG E. RUNDE & TIM A. FLANAGAN, *BECOMING A CONFLICT COMPETENT LEADER* 12 (2007) (explaining the need to directly address conflict and an overview of strategies). See generally HO-WAN JOENG, *UNDERSTANDING CONFLICT AND CONFLICT ANALYSIS* (2008); BARBARA A. NAGLE LECHMAN, *CONFLICT AND RESOLUTION* (2008).

107. Goleman, *Leadership*, *supra* note 58, at 85.

108. See Rhode, *Public Interest Law*, *supra* note 42, at 2050 (all but five percent of leading organizations report extensive staff involvement). For a famous example, see JUAN WILLIAMS, *THURGOOD MARSHALL: AMERICAN REVOLUTIONARY* 287 (1998) (discussing Marshall’s change in decision regarding defense of civil rights protestors after a dialogue with staff and other civil rights

Ronald Heifitz, who teaches leadership at Harvard's Kennedy School of Government, gives a public sector example of William Ruckelshaus when he headed the U.S. Environmental Protection Agency [EPA] in the 1980s.¹⁰⁹ A highly controversial case under his leadership involved a copper plant near Tacoma, Washington, owned by the American Smelting and Refining Company (Asarco). The Asarco plant was the only plant in the nation to use copper ore with a high content of arsenic, which was known to cause cancer. Under the Clean Air Act of 1970, the EPA was responsible for determining whether the plant was operating with an "ample margin of safety" concerning public health. Instead of having the agency hold pro forma public hearings and then make the determination itself based on its risk assessment, Ruckelshaus decided not to make the ultimate decision. Rather, he wanted the relevant stakeholders to weigh in on the difficult tradeoffs at issue.

In essence, those tradeoffs were between jobs and safety. For a century, the plant had provided employment to residents. It was a mainstay of a local economy reeling from the effects of a recession. According to Asarco owners, any further efforts to control emissions would be so expensive as to force the plant's closure. Ruckelshaus decided to hold public workshops that would educate participants on the technical issues about carcinogens, and then solicit their views. In explaining that decision, he stated, "[f]or me to sit here in Washington and tell the people of Tacoma what is an acceptable risk would be at best arrogant and at worst inexcusable."¹¹⁰

At first, Heifitz notes, "few people reacted positively."¹¹¹ Industry and environmental groups were incensed, and EPA staffers and local citizens criticized the agency for "copping out."¹¹² In their view, "we elected people to run our government; we don't expect them to turn around and ask us to run it for them."¹¹³ Yet after the public workshops,

leaders).

109. RONALD A. HEIFITZ, *LEADERSHIP WITHOUT EASY ANSWERS* 88–95 (1994).

110. *Id.* at 91 (quoting Ruckelshaus).

111. *Id.*

112. *Id.* at 92.

113. *Id.*

opinions began to shift. Participants raised critical questions, proposed some useful ideas for inexpensive emission controls, and addressed the need to diversify the local economy.

A year later, while the EPA decision was still pending, Asarco announced plans to close the plant. Although the company blamed environmental regulation, most evidence pointed to falling prices for copper and shortages of ore.¹¹⁴ But whatever the reasons, the community was in a better position to cope with the closing because of economic development efforts sparked by democratic processes. Equally important, the EPA had learned valuable lessons about how to involve stakeholders in environmental decision making and to maintain public trust in the agency.¹¹⁵ Heifetz sees the Tacoma plant closing as an “adaptive challenge” and praises Ruckelshaus for not imposing a technical solution that would have left underlying economic issues for the company and community unaddressed.¹¹⁶

However, as Goleman notes, “the democratic style has its drawbacks,” which make it ill-suited for many leadership contexts.¹¹⁷ Most lawyers have had experience with the problems, such as “endless meetings where ideas are mulled over, consensus remains elusive, and the only visible result is scheduling more meetings.”¹¹⁸ Participatory processes can also defer decisions in ways that leave individuals “confused and leaderless.”¹¹⁹ Many accomplished leaders have paid a price for this approach. Observers of Hillary Clinton’s presidential campaign chronicled the byproducts of her refusal to resolve internal staff conflicts.¹²⁰ A year into her campaign, her advisors were still “squabbling over [the] message,” and, rather than establish clear lines of authority, Clinton allowed them to share power.¹²¹ The result was that “nobody knew who was in charge. Nobody wanted to be in charge.”¹²²

114. *Id.* at 94.

115. *Id.* at 97.

116. *Id.* at 95.

117. Goleman, *Leadership*, *supra* note 58, at 85.

118. *Id.*

119. *Id.*

120. “Hillary hated personal conflict [and] avoided it like the plague.” JOHN HEILEMANN & MARK HALPERIN, *GAME CHANGE* 188 (2010).

121. *Id.* at 194.

122. *Id.* at 196.

The broader lesson from such examples is that democratic processes work best when leaders are themselves uncertain about the best direction to take, and need ideas and commitment from stakeholders. Alternatively, even when leaders have a strong vision of what needs to change, democratic styles can generate constructive strategies for making that change happen, and buy-in from those most affected.¹²³ But there are also contexts when leaders simply have to decide; time is scarce and the problems with democracy can be similar to those of socialism, which in a classic phrase, “takes too many evenings.”¹²⁴

E. The Pacesetting Style

A fifth leadership style emerging from large-scale research involves pacesetting. A leader employing this approach

sets extremely high performance standards and exemplifies them himself. He is obsessive about doing things better and faster, and he asks the same of everyone around him. He quickly pinpoints poor performers and demands more from them. If they don't rise to the occasion, he replaces them with people who can.¹²⁵

This is a readily recognizable strategy among prominent lawyers. A textbook example comes from the William Kuntsler's autobiography, *My Life as a Radical Lawyer*.¹²⁶ He describes his first meeting with a law student intern who had just started working for the firm. Kuntsler handed him a motion to file immediately and added, with little more by way of instruction, “If you screw this up, don't come back.”¹²⁷ In explaining his strategy, Kuntsler noted,

clearly I had no time to babysit law students if they couldn't do the work. . . . My goal for anyone who works with me is, simply, to get the job done. . . . I expect a lot from people . . . [and] I don't want to hear . . . [their] complaints or problems. I often yell when someone makes

123. Goleman, *Leadership*, *supra* note 58, at 85.

124. The quote has variously been attributed to Oscar Wilde, George Orwell, and George Bernard Shaw. See *The Problem with Google is Similar: Too Many Results*, ASK METAFILTER (Jan. 28, 2007), <http://ask.metafilter.com/55890/The-problem-with-Google-is-similar-too-many-results>.

125. Goleman, *Leadership*, *supra* note 58, at 86.

126. WILLIAM M. KUNTSLER WITH SHEILA ISENBERG, *MY LIFE AS A RADICAL LAWYER* (1994).

127. *Id.* at 395.

a mistake, which, I admit, is not pleasant, but that's how I function."¹²⁸

And if subordinates can't handle it, Kuntsler added, "I let them quit."¹²⁹ Ralph Nader was another pace-setter. He created an entire consumer movement by recruiting students and recent law graduates. "I'm not interested in the Lone Ranger effect," he famously insisted.¹³⁰ "The function of leaders is to produce more leaders."¹³¹ To that end, he looked for staff members who were "highly self directed as well as highly motivated" and viewed "advice-giving as a luxury he [did not] have much time for."¹³² "Don't ask me questions," he told his staff. "Just go get at them."¹³³

This style has much in common with the coercive/intimidation approach noted earlier, and has many of the same downsides. According to Goleman,

Many employees feel overwhelmed by the pacesetter's demands for excellence, and their morale drops. Guidelines for working may be clear in the leader's head, but she does not state them clearly; she expects people to know what to do and even thinks, "[i]f I have to tell you, you're the wrong person for the job." Work becomes not a matter of doing one's best along a clear course so much as second-guessing what the leader wants. At the same time, people often feel that the pacesetter doesn't trust them to work in their own way or to take initiative.¹³⁴

Of course, as Goleman notes, "the pacesetting style isn't always a disaster. The approach works well when all employees are self-motivated, highly competent, and need little direction or coordination."¹³⁵ Given a talented team, "pacesetting does exactly that: [it] gets work done on time or even ahead of schedule."¹³⁶ Ralph Nader was revered by many staff for being "the best teacher in the world, . . . partly

128. *Id.* at 396.

129. *Id.*

130. CHARLES MCCARRY, CITIZEN NADER 183 (1972).

131. *Id.*

132. Thomas Whiteside, *Profiles: A Countervailing Force ~ II*, THE NEW YORKER, Oct. 15, 1973, at 52, 56.

133. *Id.* at 56.

134. Goleman, *Leadership*, *supra* note 58, at 86.

135. *Id.*

136. *Id.*

because he doesn't teach you."¹³⁷ He gave junior lawyers major policy, press, and political organizing responsibilities and enabled them to rise to the occasion. Their efforts laid foundations for major consumer, environmental, and occupational safety regulations, and many of those lawyers went on to lead other public interest initiatives.¹³⁸ Yet not all "Nader's Raiders" were up for the pressure and the "hundred hour work week" that Nader thought was "perfect;" "flameout" was a significant problem.¹³⁹ The lesson is that pacesetting, like other styles, requires discretion. Leaders need to exercise judgment about when those on the receiving end are up to the task.

F. *The Coaching Style*

A final style involves coaching. Leaders taking this approach

help employees identify their unique strengths and weaknesses and tie them to their personal and career aspirations. . . . They make agreements with their employees about their role and responsibilities in enacting development plans, and they give plentiful instruction and feedback. Coaching leaders excel at delegating; they give employees challenging assignments, even if that means the tasks won't be accomplished quickly. In other words, these leaders are willing to put up with short-term failure if it furthers long-term learning.¹⁴⁰

Leaders who have made coaching a priority have been responsible for some of the profession's greatest achievements. Charles Houston, the Dean of Howard University Law School and head of the NAACP legal office in the 1930s and 1940s, nurtured the careers of many civil rights leaders, including Thurgood Marshall, who in turn, did

137. Whiteside, *supra* note 132, at 52 (quoting Robert Fellmeth).

138. *Id.* at 60 (describing responsibilities given to staff); Juan Williams, *Return from the Nadir*, WASH. POST, May 23, 1982, at 6 (describing Nadir's ability to enlist a million supporters in campus Public Interest Research Groups and to launch careers of major public figures). For overviews of his legacy, see PATRICIA CRONIN MARCELLO, RALPH NADER: A BIOGRAPHY 1 (2004); *see also An Unreasonable Man*, *supra* note 10. Among his most famous protégés was Joan Claybrook, who left the Nader organization, Congress Watch, to head the National Highway Safety Administration and later, Public Citizen. *See* Kirk Victor, *Asleep at the Switch*, THE NATIONAL JOURNAL, Jan. 16, 1993, at 131.

139. Whiteside, *supra* note 132, at 55 (quoting Reuben Robinson).

140. Goleman, *Leadership*, *supra* note 58, at 87.

the same for others.¹⁴¹ Former Secretary of State Warren Christopher was revered for supporting junior lawyers; one of his mentees recounted thirty years of assistance, ranging from recruitment to Stanford law school, to critical support and advice concerning his appointment as an Associate Attorney General and judge on the Ninth Circuit Court of Appeals.¹⁴² In legal education, founding mothers, such as Barbara Babcock and Herma Hill Kay, not only served in leadership roles themselves, but also launched the careers of innumerable women's rights advocates and prominent public servants.¹⁴³

Yet despite its frequent effectiveness, the coaching style is the least common leadership approach that Goleman's research identified. The reason, according to interviewed leaders, is that they "don't have the time in this high-pressure economy for the slow and tedious work of teaching people and helping them grow."¹⁴⁴ Other explanations involve interpersonal obstacles to candid feedback, such as leaders' desires to be liked or to avoid conflict, and concerns about damaging relationships and reducing chances of retention.¹⁴⁵ Particularly in large organizations with high turnover rates, leaders often see little reason to invest in subordinates who are likely to leave.¹⁴⁶ As a consequence, many legal organizations lack adequate mentoring and leadership

141. WILLIAMS, *supra* note 108, at 53–57, 94; Genna Rae McNeil, *Charles Hamilton Houston: 1895-1950*, 32 HOW. L. REV. 469, 472–73 (1989). For Marshall's mentoring, see Constance Baker Motley, *My Personal Debt to Thurgood Marshall*, 101 YALE L.J. 19, 22 (1991).

142. See e.g., Raymond C. Fisher, *Warren M. Christopher '49*, STANFORD LAWYER, Spring 2011, at 13, 81–85.

143. Babcock served as Assistant Attorney General for the Civil Division under the Carter administration, and Kaye served as Dean of the Boalt Hall School of Law at Berkeley and the President of the Association of American Law Schools. I am personally a major beneficiary of the mentorship provided by both individuals.

144. Goleman, *Leadership*, *supra* note 58, at 87.

145. RHODE & PACKEL, *supra* note 5, at 56, 166; Deborah L. Rhode, *From Platitudes to Priorities: Diversity and Gender Equity in Law Firms*, 24 GEO. J. LEGAL ETHICS 1041, 1067 (2011) [hereinafter Rhode, *Platitudes*]. The concerns about retention are particularly great with lawyers of color, who are sometimes shielded from the candid feedback necessary to professional development. See *id.*

146. Rhode, *Platitudes*, *supra* note 145, at 1054; A.B.A. COMM'N ON WOMEN IN THE PROF., *VISIBLE INVISIBILITY WOMEN OF COLOR IN LAW FIRMS* 15–16 (2006) [hereinafter COMM'N ON WOMEN].

development.¹⁴⁷ The problem is compounded by some leaders' lack of skills and comfort in coaching those who are different along lines of race, ethnicity, or gender.¹⁴⁸ Although an increasing number of legal workplaces have responded by creating formal mentoring programs, these initiatives often lack effective monitoring and reward structures, and a clear path to positions of power.¹⁴⁹ Only a quarter of surveyed firms have leadership succession plans.¹⁵⁰

Of course, like other leadership styles, extensive coaching is not appropriate in all circumstances. The employee needs to be capable and motivated, and the effort should be proportional to the circumstances. I can still recall my first exposure to intensive mentoring when I was about the age of Kuntsler's intern, and it was not a happy experience. After my second year in law school, I spent the summer at a prominent Washington law firm. One of my assignments involved a client who owned a chicken ranch. He was suing the Department of Agriculture because it had condemned his diseased chickens and provided what he felt was inadequate compensation. I invested a week reading condemnation cases in search of possible precedents and lines of appeal. The senior associate who reviewed my research memo treated it like a draft for a Supreme Court decision or a tenure article in a leading law review. Every paragraph was redlined with

147. For the inadequacy of mentoring, see Rhode, *Platitudes*, *supra* note 145, at 1071. For the inadequacy of leadership succession programs, see Ida Abbott, *Management Solutions: Taking the Lead*, Ida Abbott Consulting, <http://www.idaabbott.com/sites/default/files/news-archive/news21.html> (last visited Mar. 25, 2012).

148. For the absence of skills, see Goleman, *Leadership*, *supra* note 58. For the problems experienced by women and minorities, see COMM'N ON WOMEN, *supra* note 146, at 15–21; Rhode & Kellerman, *supra* note 78, at 10–11, 22; Leigh Jones, *Mentoring Plans Failing Associates*, THE NAT'L L.J., Sept. 18, 2006, at 1; Rhode, *Platitudes*, *supra* note 145, at 1072. Senior men often report discomfort or inadequacy discussing "women's issues," and minorities express reluctance to raise diversity related concerns with those who lack experience or empathy. IDA ABBOTT & RITA BOAGS, MINORITY CORPORATE COUNSEL ASSOCIATION, MENTORING ACROSS DIFFERENCES: A GUIDE TO CROSS-GENDER AND CROSS-RACE MENTORING (2004); Jones, *supra*.

149. MINN. ST. BAR ASS'N, BEST PRACTICES GUIDE, DIVERSITY AND GENDER EQUITY IN THE LEGAL PROFESSION 70–71, 77–79 (2008) (noting the lack of goals, evaluations, and requirements, and the reliance on "call me if you need anything" approaches that create too much of a burden on junior lawyers); Jones, *supra* note 148; Rhode, *Platitudes*, *supra* note 145, at 1072.

150. ABBOTT & BOAGS, *supra* note 148.

stylistic and substantive revisions, along with long digressions based on the associate's own rhetorical peeves and preferences. I was astonished. We were, after all, not writing for the ages here. This was just a memo about dead chickens. I tried to imagine an explanation. Did the associate not have enough other work and needed to run up hours at the client's expense? Did he not have enough other opportunities to exercise power and control, and I was an available target? Or was he so taken with his craft that every work product had to reach a state of polished perfection regardless of the stakes or the client's preferences? Whatever the explanation, if this is what the firm meant by letting associates "sink or swim," I wanted out of the water.

In the contemporary law firm, however, such micro-mentoring is rare. Not-so-benign neglect is far more common, and it exacts a substantial price.¹⁵¹ Retention of talented junior lawyers is a major problem in many legal workplaces, and high attrition rates of women and minorities are of particular concern. A major contributing factor to premature departures is lack of guidance and professional development opportunities.¹⁵² In one American Bar Association study, two-thirds of women of color and over half of white women and men of color would have liked better mentoring.¹⁵³ The failure to develop subordinates has been identified as one of the "fatal flaws" of unsuccessful leaders.¹⁵⁴ In today's increasingly competitive climate, organizations need those who occupy positions of power to support and model effective mentoring. Indeed, Goleman puts the point directly;

151. See e.g., David Wilkins, *On Being Good and Black*, 112 HARV. L. REV. 1924, 1927 (1999) (reviewing PAUL M. BARRETT, *THE GOOD BLACK: A TRUE STORY OF RACE IN AMERICAN* (1999)) (discussing Katten Mungen's failure to effectively support and mentor a black associate who later sued the firm for race discrimination and noting commentator's characterization of the problem as "business as usual mismanagement").

152. See generally NATIONAL ASSOCIATION OF LAW PLACEMENT [NALP], *KEEPING THE KEEPERS: STRATEGIES FOR ASSOCIATE RETENTION IN TIMES OF ATTRITION* (Jan. 1998).

153. Jill Schachner Chanen, *Early Exits*, A.B.A. J., Aug. 2006, at 33, 36, available at <http://www.abanet.org/women/woc/EarlyExits.pdf>.

154. Jack Zenger & Joseph Folkman, *Ten Fatal Flaws That Derail Leaders*, HARV. BUS. REV., June 2009, at 18 (referring to research on leaders who have been fired or rated least effective, one damning characteristic is a tendency to "focus on themselves to the exclusion of developing subordinates, causing individuals and teams to disengage").

“[a]lthough the coaching style may not scream ‘bottom-line results,’” it delivers them.¹⁵⁵

G. *A Repertoire of Styles*

As this overview makes clear, no single leadership style is effective in all contexts, although some are more likely to be effective than others. Leaders need multiple approaches and an understanding of when each is most appropriate. The best leaders are “exquisitely sensitive to the impact they are having on others,” and able to adjust their styles accordingly.¹⁵⁶ The question then becomes how to prepare leaders for the task, and what strategies they may find most useful in addressing leadership challenges.

V. LEADERSHIP STRATEGIES

In adapting their styles to meet leadership demands, lawyers need strategies along two dimensions. First, they need ways of identifying their own weaknesses, and concrete plans for addressing them. Second, they need ways of developing key leadership objectives and the most effective means of promoting them. Although this is not the occasion for a comprehensive review of all such strategies, it may help to close with some representative examples.

A. *Promoting Self-Awareness*

Although it seems self-evident that leaders’ first priority should be to know themselves, many appear surprisingly uninterested in doing so. Leadership experts James Kouzes and Barry Posner put it bluntly: “most 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.”¹⁵⁷ Of course, leaders are scarcely unique in this respect. But their understandable human tendency towards self-protection is particularly problematic, because of the power leaders hold and the reluctance of subordinates to volunteer criticism. In Kouzes

155. Goleman, *Leadership*, *supra* note 58, at 87.

156. *Id.*

157. JAMES M. KOUZES & BARRY Z. POSNER, A LEADER’S LEGACY 28 (2006). *See also* Richard, *supra* note 31, at 3 (noting that lawyers score low on resiliency, which means that they tend to be defensive and resistant to negative feedback).

and Posner's survey of some 70,000 individuals, the statement that ranked the lowest in a list of thirty leadership behaviors was that the leader "asks for feedback on how his/her actions affect others' performance."¹⁵⁸ In another survey analyzing the leaders who were viewed as least effective out of a pool of some 11,000 subjects, the poorest performers were often unaware of their problems. Indeed, those rated most negatively by others rated themselves substantially more positively.¹⁵⁹ No evidence suggests that lawyer leaders are exceptions to this pattern, particularly since many are in organizations that fail to provide "bottom up" performance appraisals. Only 40% of law firms offer associates the opportunity to evaluate their supervisor, and of those who engage in the process, only 5% report a change for the better.¹⁶⁰

Yet leaders have many ways to become more self-aware and self-critical. The most obvious is to solicit feedback through formal performance evaluations and informal inquiries. Seeking mentors from outside their organizations, or hiring leadership coaches can also be helpful.¹⁶¹ When such assistance identifies concrete problems, leaders need specific remedial plans. For example, they can develop techniques for effective coaching, active listening, and anger and conflict management.¹⁶² Women can often bypass problems associated with authoritative styles by being

158. KOUZES & POSNER, *supra* note 157.

159. Zenger & Folkman, *supra* note 154, at 18.

160. NATIONAL ASSOCIATION FOR LAW PLACEMENT FOUNDATION [NALPF], HOW ASSOCIATE EVALUATIONS MEASURE UP: A NATIONAL STUDY OF ASSOCIATE PERFORMANCE ASSESSMENTS 74 (2006).

161. See RHODE & PACKEL, *supra* note 5, at 74; V.D. Day, *Leadership Development: A Review in Context*, 11 LEADERSHIP Q. 581 (2001); Gomez, *supra* note 3, at 282.

162. For coaching and active listening, see RHODE & PACKEL, *supra* note 5, at 166; ROBERT E. QUINNET AL., BECOMING A MASTER MANAGER 62 (5th ed. 2011); DOUGLAS STONE ET. AL., DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST (1998); Cynthia M. Phoel, *Feedback that Works*, 11 HARV. MGMT. UPDATE 3 (2006). For anger and conflict management, see RHODE & PACKEL, *supra* note 5, at 166–71; CRAIG E. RUNDE & TIM A. FLANAGAN, BECOMING A CONFLICT COMPETENT LEADER (2007); Robert S. Adler et al., *Emotions in Negotiation: How to Manage Fear and Anger*, 142 NEGOTIATION J. 161 (1998); see also MARK GERZON, LEADING THROUGH CONFLICT (2006); KENNETH R. MELCHIN & CHERYL A. PICARD, TRANSFORMING CONFLICT THROUGH INSIGHT 79 (2008).

“relentlessly pleasant” without backing down.¹⁶³ Researchers propose frequently smiling, expressing appreciation and concern, invoking common interests, focusing on others’ goals as well as their own, and taking a problem-solving rather than critical stance.¹⁶⁴ In assessing Sandra Day O’Connor’s prospects for success in the Arizona state legislature, one political commentator offered similar advice: “Sandy . . . is a sharp gal” with a “steel-trap mind . . . and a large measure of common sense. . . . She [also] has a lovely smile and should use it often.”¹⁶⁵

Whatever strategies they choose, leaders should build in opportunities for continuing evaluation. Learning to become lifelong learners is one of leaders’ most critical skills.¹⁶⁶

B. Promoting Leadership Objectives

A second set of strategies involves identifying key leadership objectives and a path to achieving them. Some research suggests that a threshold step in that process involves selecting the right individuals to participate in such decisions. Jim Collin’s work, on the highest performing organizations over a sustained period, found that the most effective leaders started with that focus. They got “the right people on the bus, [moved] the wrong people off the bus, and the right people to the right seats. . . . [and then they figured out] where to drive the bus.”¹⁶⁷

Establishing that destination requires approaches that expand information and reduce cognitive biases. Leaders, no less than other decision makers, are prone to unrealistic optimism about the future and about their ability to avoid errors or risks.¹⁶⁸ Such biases have been common contributing factors in law firm failures; leaders embarked on overly ambitious projects and underestimated the need for greater financial stability and collegial support.¹⁶⁹ Related

163. LINDA BABCOCK & SARA LASCHEVER, *ASK FOR IT* 252–55 (2008).

164. *Id.* at 253–66.

165. JOAN BISKUPIC, *SANDRA DAY O’CONNOR* 56 (2005) (quoting Bernie Wynn).

166. See RHODE & PACKEL, *supra* note 5, at 71–75, 80–81.

167. Jim Collins, *Good to Great*, *FAST COMPANY* (Sept. 30, 2001), <http://www.fastcompany.com/magazine/51/goodtogreat.html>.

168. David M. Messick & Max H. Bazerman, *Ethical Leadership and the Psychology of Decision Making*, 37 *SLOAN MGMT. REV.* 1, 4 (1996).

169. RHODE & PACKEL, *supra* note 5; Johnson, *supra* note 40.

errors of judgment can also arise in collective decision making. Dynamics of “group think” can readily silence useful dissenting views.¹⁷⁰ Such cognitive constraints help account for massive failures by regulators in contexts such as offshore drilling and financial institutions’ lending practices.¹⁷¹

To counteract such tendencies, leaders can employ multiple strategies. They can consult widely, invite diverse and dissonant views, assign a devil’s advocate, and adopt a disinterested outsider’s perspective.¹⁷² Abraham Lincoln famously constructed a “team of rivals” in his cabinet, which included his most formidable political opponents.¹⁷³ Bill Clinton accomplished similar goals by bringing conservative consultant Dick Morris into his inner circle.¹⁷⁴ In defending that decision, which was widely unpopular with White House officials, Hillary Clinton noted the risks of having advisors whose “temperaments and views are always in sync. The meetings might run on schedule, but easy consensus can lead over time to poor decisions.”¹⁷⁵ In recognition of that risk, Barack Obama also assembled a diverse national security team, which included his main rival, Hillary Clinton. As he told reporters,

I am a strong believer in strong personalities and strong opinions. I think this is how the best decisions are made. One of the dangers in [the] White House . . . is that you get wrapped up in group think and everybody agrees with everything and there is no dissenting view. So I am going

170. See PAUL BREST & LINDA HAMILTON KRIEGER, PROBLEM SOLVING, DECISION MAKING, AND PROFESSIONAL JUDGMENT 595–618 (2010); IRVING L. JANIS, GROUPTHINK: PSYCHOLOGICAL STUDIES OF POLICY DECISIONS AND FIASCOS (1983).

171. RHODE & PACKEL, *supra* note 5, at 99–100, 114–15. For errors leading to the BP oil spill debacle, see National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (Washington, D.C., Government Printing Office 2011), available at <http://www.oilspillcommission.gov/>. For the role of “contagious wishful thinking” in regulation of the financial markets, see Roland Bénabou, *Groupthink: Collective Delusions in Organizations and Markets* (Nat’l Bureau of Econ. Research, Working Paper No. 14764, Mar. 2009); David Leonhardt, *If Fed Missed Bubble, How Will It See New One?*, N. Y. TIMES, Jan. 6, 2010, at A1.

172. BREST & KRIEGER, *supra* note 170, at 621–25; Katherine L. Milkman et al., *How Can Decision Making Be Improved?*, 4 PERSPECTIVES ON PSYCHOL. SCI. 379, 389–91 (2009).

173. DORIS KEARNS GOODWIN, TEAM OF RIVALS (2005).

174. HILLARY RODHAM CLINTON, LIVING HISTORY 289 (2003).

175. *Id.*

to be welcoming a vigorous debate inside the White House.¹⁷⁶

Ensuring an informed debate is, of course, only the first step in achieving significant progress. The harder tasks require the leadership qualities noted earlier: developing a compelling view of the path forward and inspiring others to follow.¹⁷⁷ As former General Electric General Counsel Ben Heineman notes, “leadership [in law] today is often not command and control but persuasion, motivation, and empowerment of teams around a shared vision.”¹⁷⁸ Leaders who are most effective in advancing their vision do not simply appeal to self-interest. Those who are truly “transformative” inspire followers to transcend their immediate concerns and to seek the greater good of the organization or the society.¹⁷⁹ To that end, leaders must serve as role models themselves. Particularly in moments of crisis, they need to exemplify the trust and self-sacrifice that they are trying to inspire.¹⁸⁰ The dissolution of some prominent law firms brings this point home; the law firm’s demise occurs when a leader not only failed to prevent defections by powerful colleagues, but was also equivocal about his own intentions to stay.¹⁸¹

Not only do leaders need to model concern for others, they also need to institutionalize incentives that will encourage followers to do the same. All too often, the dysfunctional aspects of legal workplaces, such as too much rivalry and too little mentoring, reflect internal reward structures. Leaders concerned with their long-term legacy should look for ways to reinforce colleagues’ commitment to the common good in practice as well as principle.

176. WISEMAN WITH MCKEOWN, *supra* note 89, at 138.

177. See *supra* notes 22 and 23 and accompanying text.

178. Ben W. Heineman, Jr., *Lawyers as Leaders*, 116 YALE L.J. 266–67 (Pocket Part 2007).

179. The term originated with JAMES MCGREGOR BURNS, *LEADERSHIP* (1979). For an overview, see RHODE & PACKEL, *supra* note 5, at 10–11.

180. See *supra* note 26 and accompanying text.

181. An example was Wolf Block, where the chair was reportedly a pleasant and talented attorney, but unwilling to make tough choices and unable to convince colleagues that their partners would not defect. His equivocation about his own plans was the “final straw.” Jason Fagone, *Wrongful Death*, PHILADELPHIA MAG. (June 2009), at 2, 4, 6, available at http://www.phillymag.com/articles/wrongful_death/. See also Gina Passarella, *No Easy Answers in Wolf Block’s Demise*, LEGAL INTELLIGENCER, Mar. 25, 2009.

One final strategy, curiously missing in research on leadership, but common in profiles of lawyer leaders, involves the use of humor.¹⁸² A capacity for irony and self-deprecating wit is not only appealing in itself, but is also a sign of deeper emotional intelligence. One of the best examples of these qualities was Thurgood Marshall. He was legendary among colleagues, clerks, and even opponents for his spontaneous humor and telling anecdotes. He used that strategy to build relationships, attract donors, relieve tensions, and ridicule injustice; his stories managed not only to “evoke a laugh [but also to] . . . make a point.”¹⁸³ He was equally able to “chew the fat” with a white sheriff during a racial protest, and to spar with royalty during a trip abroad.¹⁸⁴ While working in London on a constitution for the newly created state of Kenya, Marshall had an opportunity to meet with Prince Philip. When the Prince inquired if Marshall would “care to hear my opinion of lawyers,” Marshall responded in kind: “Only if you care to hear my opinion of Princes.”¹⁸⁵

A more pointed example arose during Marshall’s 1950 efforts in Japan, where the NAACP sought to challenge the racial discrimination pervasive under General MacArthur’s command.¹⁸⁶ The task was complicated by MacArthur’s refusal to acknowledge the problem, despite ample evidence of racially disparate treatment in job assignments, promotions, and court-martials. When Marshall pointed out the absence of blacks on the entire headquarter’s staff and the General’s personal guard, MacArthur insisted that no blacks were qualified for such positions. Marshall then pointed out that the base’s military band also had no blacks, and added “[n]ow General, just between you and me, goddammit, don’t you tell me that there is no Negro that can play a horn.”¹⁸⁷

182. The trait is occasionally mentioned. See N. Edward Wesemann et al., *The Special Traits of Law Firm Leaders*, LAW PRACTICE MGMT, Oct. 2003, at 28.

183. Kevin T. Baine, *Wit, Wisdom and Compassion In Memoriam: Justice Thurgood Marshall*, 20 HASTINGS CONST. L.Q. 497, 499 (1993). See also Susan Low Block et al., *Remembering Justice Thurgood Marshall: Thoughts From His Clerks*, 1 GEO. J. ON POVERTY L. AND POL’Y 8, 9 (1993) (comments of Susan Low Bloch).

184. WILLIAMS, *supra* note 108, at 207.

185. *Id.* at 286.

186. *Id.* at 171–72.

187. *Id.* at 172 (quoting Marshall).

There are, to be sure, downsides to this strategy, when humor is used to deflect attention from serious and personally inconvenient issues. But for leaders like Marshall, who was never afraid to face tough questions, the wit was part of his greatness. My own favorite Marshall anecdote is a story he told during my clerkship about his initial appointment to the bench. He was one of the first African-Americans to sit on a federal appellate court, and shortly after his term began, he and his colleagues were scheduled for a group photograph to mark his new membership. Marshall arrived a bit late, just after the photographer had blown a fuse and everyone was milling around in semidarkness. As he entered the chambers, the Chief Judge's secretary, who had not yet met him, announced with evident relief, "thank God, the electrician's arrived."¹⁸⁸ To which Marshall reportedly responded, "Ma'am, you'd have to be crazy to think they'd let me in that union." Today, of course, they would, and part of the reason is Marshall's own leadership.

It seems somewhat ironic to close a law review article with a plea for irony. Legal scholarship is not a genre known for understated humor. But neither is it known for its attention to leadership. That needs to change. For better or worse, law schools are where vast numbers of American leaders get their professional education. They deserve more effective preparation.

188. See Deborah L. Rhode, *Letting the Law Catch Up*, 44 STAN. L. REV. 1259, 1267 (1992).