Ethical Leadership in Professional Life
Article Summary
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<u>Introduction</u>

This essay starts by setting up the challenge: the legal profession controls one branch of government and dominates leadership positions in the other two branches, and second to MBA's, holds executive positions in the business sector. These leadership positions allow the legal profession to exert a great deal of influence in shaping the culture and direction of both individual organizations and society itself. However, even though both the profession's rhetoric and lawyers' responsibilities in government and private sector decision-making call for morally responsible leadership, virtually nothing happens in the law school curriculum to help students develop leadership skills.[1]

This essay argues: first, that lawyers clearly should and do play ethical leadership roles (1) in their relationships with both individual and organizational clients, (2) in the legal profession and (3) in society generally. Second, that legal education should prepare students for these roles.[2] Third, each law student should commit herself to the development over a career to serve her clients, her employer, her profession, and society as an ethical leader.

Part I

Part I of the essay establishes that lawyers are leaders both in the formal sense, when they exercise formal directing authority over a group, and in an informal sense, when they influence

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[1] Neil Hamilton, *Ethical Leadership in Professional Life,* 6 Univ. of St. Thomas Law Journal 359 (2009).
[2] Id. at 360.

clients through counseling.[3] In the formal sense, lawyers exercise "executive leadership." Jim

Collins describes this as leadership "in which the individual leader has enough concentrated

power to simply make the right decisions."[4] Lawyers hold this type of authority in positions in

the government, as CEO's of private for-profit and nonprofit organizations, and in private

practice in law firms as partners with directing authority.

In the informal sense, lawyers lead in counseling clients. This is a novel type of

leadership, "leadership without authority".[5] It involves helping others clarify their competing

purposes and values, face hard realities, understand the contradictions among purposes values,

and realities, and see new possibilities in solving problems.[6]

Part I also argues that lawyers have a professional fiduciary responsibility to lead

ethically, not just by following the rules of the profession, but by acting morally. There are

several reasons why the lawyers' leadership must be ethical. First, in the words of Mary Ann

Glendon, "For better or worse, it is lawyers who are stationed at all the pulse points and switches

of our vast legalistic republic."[7] Lawyers are officers of the legal system, and have a special

responsibility for the quality of justice. Second, the Model Rules of Professional Conduct and the

profession's social contract require an ethical type of leadership in counseling.[8]

Part II

Part II of the essay identifies gaps in legal education pertaining to the goal of making

lawyers into ethical leaders. "Overall, while legal education provides some skills useful for

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[3] Id. at 361.
[4] Id. at 361, JIM COLLINS, GOOD TO GREAT AND THE SOCIAL SECTORS 11 (2005).
[5] Id. at 364.
[6] Id.
[7] Mary Ann Glendon, *A Nation under Lawyers*, 283-84 (1994).
[8] See MODEL RULES OF PROF'L CONDUCT pmbl. ¶ 1 (2007). An "officer" is used here in the sense of one appointed to a position of trust and authority. Paragraph six of the Preamble explains that as a public citizen having special responsibilities for the quality of justice, "a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession." Id. ¶ 6.

leadership, it does not attend adequately to developing the foundation for both an ethical

professional identity and ethical leadership--*self knowledge*."[9] One reason law schools fail at

this task is because they fail to see the difference between leadership and management, and

management is viewed as a nonacademic subject and therefore not important to a legal

education.[10] According to John Kotter, difference between management and leadership is that

while management fundamentally aims to keep the current system functioning, leadership aims

instead to produce and cope with useful change.[11] Leadership thus envisions the future, the

challenges that this future will present, and the changes necessary to reach it.[12]

Part III

Part III weighs the pros and cons of 5 major leadership theories that do not incorporate

ethics as a basis, comparing them to leadership theories that do.

First, Trait Theory holds that great leaders are in large part born, and by observing them,

we can define the traits that led to their successful leadership.[13] The problem with Trait Theory

is that it's very inexact, and the research is not helpful in allowing others to become good

leaders. There is no ranking of traits, and the theory doesn't account for different personalities

and styles.[14]

Second, the behavioral theory of leadership looks at what behaviors effective leaders

exhibit and theorizes that leadership flows from definable, learnable behavior. This theory is

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[9] Neil Hamilton, *Ethical Leadership in Professional Life,* 6 Univ. of St. Thomas Law Journal 369 (2009), emphasis added.
[10] Id. at 370.
[11] Id. at 371.
[12] Id.
[13] Id. at 373.
[14] Id.

ineffective because it focuses too closely on the leader's capabilities and not enough on outside influences and factors.[15]

Third and Fourth are the Contingency Theory and Situational Theory models of leadership. They focus on the context in which the leadership takes place, including motivations, expectations, and capabilities of followers, characteristics of the task, the amount of power the leader has, and the relationship the leader has with her followers.[16] Both theories reject the concept that there is a best leadership style that is appropriate in all situations. The problem with these theories is that they don't always make a clear case for what the correlation is between leadership styles and success.[17]

Fifth and last is transactional leadership, which focuses on what leaders and followers gain in exchange for cooperation. It emphasizes a contractual relationship between leader and subordinate, premised on the belief that people are motivated only be rewards and punishments. An effective leader outlines rewards and punishments in such a way as to effectively motivate the subordinate. The problem with Transactional leadership is that it dehumanizes subordinates.[18]

"All five of these leadership theories measure leadership success by prominence, authority, or influence at the goals of the group or organization. While all five theories claim to be value neutral in terms of purpose or ethics, the goals of prominence, authority, or influence do have ethical dimensions in terms of the positive or negative impact of the choices and conduct of the leader on others as the leader pursues prominence, authority and influence. If impact of

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[15] Id. at 374-5.
[16] Id. at 375-6.
[17] Id. at 377.
[18] Id. at 377-8.

conduct on others is not considered, this means that decision-making in these models devalues ethics."[19]

Part IV

Part IV weighs the pros and cons of leadership theories that do incorporate ethics as a basis.

First is the Transformational Theory, which holds that people will follow leaders who inspire them and infuse people with enthusiasm and energy towards a shared vision.[20] These leaders develop a vision that they completely believe in, which is meant to inspire followers. The problem with Transformational Leadership is that passion can become unhinged from ethics and integrity--both great things and great catastrophes come from charismatic leadership. Additionally, a Transformational Leader relies not only on learned skills but on personality traits, which are difficult to teach.[21]

Second is the theory of Adaptive Leadership, which is "the activity of persons engaged in the mobilization of people around them to make progress on the important challenges of their place and their time."[22] This can be done by multiple people at once, and consists of diminishing the gab between the values people stand for and the reality they face.   Adaptive Leadership is problematic because it doesn't require much self-knowledge, and because it does not do much to guide the adaptive leader to the values that should inform her leadership.[23] While Adaptive Leadership literature often references ethical principles that should guide the adaptive leader,

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[19] Id. at 378.
[20] Id.
[21] Id. at 380.
[22] SHARON DALOZ PARKS, LEADERSHIP CAN BE TAUGHT: A BOLD APPROACH FOR A COMPLEX WORLD 166 (2005); HEIFETZ, supra note 21, at 20.
[23] Neil Hamilton, *Ethical Leadership in Professional Life,* 6 Univ. of St. Thomas Law Journal 381 (2009).

very few specific ethical principles are identified.[24] Additionally, Adaptive Leadership literature

does not show how self-knowledge, reflection and feedback from others relate to ethical

principles of right and wrong conduct.[25]

The third theory, and the key to this article, is Servant Leadership. Servant Leadership

encourages leaders to serve others' highest priority needs, helping others to reach their potential-

-to be better selves, to be what they are capable of becoming. Servant leaders also keep in mind

serving the least privileged in society, and can be done even without a position with directing

authority. The foundation of servant leadership is self-knowledge and the growth of personal

conscience.

Servant leadership finds a perfect allegory in the New Testament, when Christ washes the

feet of his disciples.[26] Christ's words in this passage get at the core of servant leadership: "Now

that I, your Lord and Teacher, have washed your feet, you also should wash one another's feet. I

have set you an example that you should do as I have done for you."[27] This passage lays out

servant leadership as responsibility and service to others combined with necessary competencies

to serve well.

Over a lifetime, a servant leader develops toward self-knowledge and the development of

several key virtues. These are: stewardship, empathy, and commitment to the holistic growth of

other people, including helping others grow from the pain and difficulty of life.[28] Stewardship

means responsibility to care for and use wisely something held in trust for another; empathy is

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[24] Id. at 382.
[25] Id.
[26] John 13:1-17
[27] John 13:14-15
[28] Neil Hamilton, *Ethical Leadership in Professional Life,* 6 Univ. of St. Thomas Law Journal 384-5 (2009)

the imaginative projection of one's own consciousness to stand in the shoes of another human, through which the servant leader can strive to respect the dignity of each person.[29]

The servant leader fosters a series of skills through which they can foster these virtues. These are: solicitation of feedback skills, reflection skills, listening skills, conceptualization skills, persuasion skills, community-building skills, and counseling skills. The skills of reflection and solicitation feedback are vital to servant leadership because self-knowledge grows through a cycle of reflection, feedback, further reflection on feedback, action, and then reflection once more.[30] Next is listening skills, which requires the servant leader to use active listening to truly understand where the person(s) served is and should consider going.[31] The skill of conceptualization is the leader's ability to help synthesize a dream or vision of the individual's or group's potential that they feel represents their vision.[32] Persuasion skills refer to the leader's ability to rely on persuasion as an alternative to coercion to gain the support of those served. If possible, the leaders should foster a consensus within groups and correlate each group member's goals with the leader's and the groups' vision and goals. Through the practice of community-building skills, the servant leader should encourage supportive relationships and collaborative work. Lastly, counseling skills allow the leader to stand in the shoes of those served and help him or her understand his or her best interest and best options under the circumstances.[33]

At its core, servant leadership is aimed at helping others to reach their full potential, to serve the other first, in order to realize the mission and goals of the organization.[34] The servant

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[29] Id. at 385.
[30] Id.
[31] Id.
[32] Id.
[33] Id. at 386.
[34] Id.

leader will try to help each person, but will ultimately take the necessary steps to achieve the mission of the organization.[35]

Part V

Part V concludes that servant leadership is the most effective leadership model for lawyers.

Only adaptive leadership and servant leadership apply to the lawyers' role as a counselor or a member of a firm in a non-management role. Servant leadership is the clearest of the three theories from Part IV on the ethical purpose and principles and skills that guide both the leader's growth towards self-knowledge and personal conscience, as well as the use of leadership skills.[36] Servant Leadership also fits best with the counseling role of the lawyer by helping the client think through the client's best interest from both her perspective and level of development as a person or organization.[37] The servant leader also reflects and helps the client reflect on the impact their choices will have on the least members of society.

Next, Part V focuses on how Servant Leadership applies to the lawyer's role in positions with formal directing authority, and then in positions exercising influence.

Part VI

Part VI gives readers a path to follow in order to grow into servant leadership.

The first step is simply for a person to decide that servant leadership is an aspiration in his or her life. This will lead the lawyer or student to focus on fostering the virtues, attitudes, and

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[35] Id.
[36] Id. at 387.
[37] Id. at 388.

skills of servant leadership.[38] Growing into servant leadership is a career-long process. This growth occurs primarily through a feedback loop in which the lawyer who aspires to be a servant leader focuses on a few virtues, qualities or skills at a time, practicing them, getting feedback on them, and reflecting on the feedback.[39]

In the context of law schools, firms, or departments, students and young attorneys can learn servant leadership through mentor relationships with servant leaders in the profession. Orientations, forums, retreats and written and oral communications from the law school or firm are also occasions to introduce and reinforce servant leadership qualities and virtues.[40]

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[38] Id. at 393.
[39] Id.
[40] Id. at 394.

SOME REFLECTIONS ON SERVANT LEADERSHIP

"Part of the human dilemma is that the meaning of 'to serve' in practical terms is never clear. The one who would be a servant leader is a life-long seeker, groping for light, but never finding ultimate clarity. One constantly **probes** and **listens**, both to the promptings from one's own inner resources and to the communications of those who are also seeking.

Then one cautiously experiments, questions, and **listens** again…. No matter what the stature a person reaches as a servant, there is always room for improvement."

Robert Greenleaf, quoted in Anne Frankel & Larry Spears, SEEKER AND SERVANT 108, 201 (1996) and Larry Spears, INSIGHT ON LEADERSHIP 12 (1997).

Note that this process is essentially internalizing the habit of always actively seeking **f**eedback, **d**ialogue on the tough judgment calls, and **r**eflection (the FDR habit).

"Before you can lead others, you must learn to lead yourself."

- Stephen Covey
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"Personal leadership is the ongoing process of keeping your vision and values before you and aligning your life to be congruent with these most important things."
- Stephen Covey

"Leadership is the result of a life-long process of self-discovery. Leaders develop through reflection on their life experience and their crucibles in particular, emerging ever stronger to take on the responsibilities of leadership. Leadership is founded on character …. It has to do with who we are as human beings. The process of becoming a leader is much the same as the process of becoming an integrated human being."

- Warren Bennis (Professor at USC Business School)

"Leadership is not something that we do. It is about who we are. How we lead is an expression of our character. It is a reflection of our deepest values, principles, and beliefs and also our ethical standards, integrity and authenticity. We commonly think about leadership in the context of leading others. But before you can lead others effectively, you must lead yourself effectively."

- Bernard Desmidt (author of INSIDE-OUT LEADERSHIP (2013)

"You must discover the interests of those you wish to lead, and then make it clear that you are serving their interests." The key skills are listening, seeing the situation from the eyes of those you are trying to lead, framing the goals in the terms that reflect the interests of those you are leading, and respecting their autonomy to purse the goals to the degree possible.

- Joseph Salacuse (author of LEADING LEADERS (2006).

"The deepest need of each person is to be understood."
- Stephen Covey