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LAWYERS AS LEADERS

*Deborah L. Rhode**

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It is especially fitting that this lecture should focus on leadership because its inspiration comes from a lawyer who exemplified its finest qualities. Our profession and our world need more individuals like Frank Kelly, whose career in public service inspires our deepest respect. I am honored to have the opportunity to honor him here.

It is fitting to focus on leadership for another reason as well. The topic is oddly neglected in most law school curricula. It is a curious omission, given that no occupation produces such a large proportion of leaders. The legal profession has supplied a majority of American presidents, and in recent decades, almost half of Congress, and ten percent of S&P 500 companies' CEOs.¹ Lawyers occupy leadership roles as governors, state legislators, judges, prosecutors, general counsel, law firm managing partners, and heads of government and nonprofit organizations. In advising influential clients, or chairing community and charitable boards, lawyers are also "leaders of leaders."² Even recent law school graduates and other members of the bar who do not land at the top of the pecking order frequently play leadership roles in teams, committees, campaigns, and other group efforts. Moreover, many of the decision making, organizational, interpersonal, and ethical skills that are critical for leadership positions are important for professionals at all levels. Yet most lawyers never receive formal education in such leadership skills. Nor do many of them find this problematic, which is of itself a problem.

As a former president of the Association of American Law Schools noted, schools are happy to take credit for launching the careers of their prominent graduates, but "have not generally focused attention on fostering leadership . . . curricula."³ Lawyers' leadership responsibilities are a dominant theme in extracurricular programs, commencement speeches, and alumni awards, but the topic is missing in action in day-to-day teaching.

* Ernest F. McFarland Professor of Law, Director of the Center on the Legal Profession, Stanford University. This lecture was given as the second annual Frank J. Kelly Lecture on Professional Ethics, on September 15, 2010. For related comments, see Deborah L. Rhode, *Lawyers and Leadership*, *The Professional Lawyer* (forthcoming, 2010).

1. Neil W. Hamilton, *Ethical Leadership in Professional Life*, 6 U. ST. THOMAS L.J. 358, 361, 362 (2009). For prominent corporate examples, see Mark Curriden, *CEO, Esq.*, A.B.A. J., May 2010, at 31.

2. HERB RUBENSTEIN, *LEADERSHIP FOR LAWYERS* 9 (2d ed. 2008).

3. Gregory H. Williams, *Teaching Leaders and Leadership, Presidents' Messages*, AALS (Apr. 1999), <http://www.aals.org/presidentsmessages/leaders.html>.

Although leadership development is now a forty-five billion dollar industry, the creation of leadership curricula and texts for legal education has lagged behind.⁴ Ironically, a survey of the mission statements available on law school websites found that thirty-eight schools included fostering leadership, but only two were actually offering a leadership course.⁵

What accounts for this omission is a question worth extended discussion, but for present purposes let me suggest two explanations. One is that the field has only recently emerged as a serious field, and its reputation has been somewhat tarnished by pop publications. “Leadership lite” includes classics such as *If Aristotle Ran General Motors* and *Leadership Secrets* from sources as varied as *Attila the Hun*, *The Toys You Loved as a Child*, and *Star Trek*.⁶ Moral leadership is a particular embarrassment, littered with homespun homilies and platitudinous exhortations:

- “Lead with your heart;”
- “Be true to your core values;” and
- “Create a climate of goodness.”⁷

It is hard to imagine that anyone finds much of actual use in these truisms, or in the stylized, self-serving examples that abound in leaders’ memoirs, where ethics always pay. But if virtue were always its own reward, we would expect to see more of it than has been on display recently.

A second obstacle to leadership education is the assumption, famously summarized by Peter Drucker, that leadership “cannot be taught or learned.”⁸ Yet contemporary research is to the contrary, as Drucker himself later acknowledged.⁹ Some studies suggest that about seventy percent of

4. 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.

5. Hamilton, *supra* note 1, at 370.

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

7. BILL GEORGE, *AUTHENTIC LEADERSHIP: REDISCOVERING THE SECRETS TO CREATING LASTING VALUE* 17-23 (2003) (lead with your heart, be true to core values); see JOHN DALLA COSTA, *THE ETHICAL IMPERATIVE: WHY MORAL LEADERSHIP IS GOOD FOR BUSINESS* 155 (1998). For others, see Deborah L. Rhode, *Introduction: Where is the Leadership in Moral Leadership*, in *MORAL LEADERSHIP: THE THEORY AND PRACTICE OF POWER, JUDGMENT, AND POLICY* 8 (Deborah L. Rhode ed., 2006).

8. PETER F. DRUCKER, *THE PRACTICE OF MANAGEMENT* 158 (1954).

9. For contemporary research, see, for example, ROGER GILL, *THEORY AND PRACTICE OF LEADERSHIP* 271 (2006). For Drucker’s revised views, see Peter Drucker, *Foreword* to FRANCES HESSELBEIN, MARSHALL GOLDSMITH & RICHARD BECKHARD, *THE*

leadership skills are acquired, not genetically based, and decades of experience with leadership development indicates that its major capabilities can be learned.¹⁰ Although formal curricula are a modern development, informal learning has been common. Many lawyer leaders have sought guidance from history and experts in related fields. For example, President Barack Obama looked to historical accounts of Franklin Roosevelt's first 100 days as president.¹¹

Yet for many lawyers, informal education often falls short. Large law firms, in-house counsel offices, government agencies, and public interest organizations are run by individuals who generally have had no management training, and whose skills as lawyers do not necessarily meet the demands of leadership. As one managing partner summed it up: "The historical model for law firms is to put [people] in a leadership position . . . often not because of leadership skills but because of [rainmaking] . . . and hope they don't drive into a ditch."¹² This inattention to leadership development may be at least part of the reason why the public has such little respect for law firm leaders. In one recent survey, only eleven percent of Americans reported "a great deal of confidence" in people in charge of running law firms and almost a third have "hardly any."¹³

I. LEARNING LEADERSHIP

A. Defining Leadership

So what can we do to remedy these omissions? How can lawyers learn to lead? A threshold question is what exactly we mean by leadership, and what core competencies are central to its exercise. This issue has generated a cottage industry of commentary, and by some researchers' accounts, over

LEADER OF THE FUTURE, at xi (1997) (noting that "[l]eadership must be learned and can be learned").

10. For studies on leadership roles among twins, see Bruce Avolio, *Pursuing Authentic Leadership Development*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 4, at 739, 753; WARREN BENNIS & BURT NANUS, LEADERS: THE STRATEGIES FOR TAKING CHARGE 207 (2d ed. 1997); Richard D. Arvey, Maria Rotundo, Wendy Johnson, Zhen Zhang & Matt McGue, *The Determinants of Leadership Role Occupancy: Genetic and Personality Factors*, 17 THE LEADERSHIP Q. 1 (2006).

11. Jacob Heilbrunn, *Interim Report*, N.Y. TIMES BOOK REVIEW 12 (May 30, 2010) (book review).

12. Gina Passarella, *Leadership Programs Born from Lack of Born Leaders*, THE LEGAL INTELLIGENCER, Nov. 5, 2007 (quoting Jeffrey Lutsky, managing partner of Stradley Ronon Stevens & Young, LLP).

13. *The Harris Poll Annual Confidence Index Rises 10 Points*, HARRIS INTERACTIVE, (Mar. 5, 2009), <http://www.harrisinteractive.com/vault/Harris-Interactive-Poll-Research-Conf-Institutions-2009-03.pdf>.

1,500 definitions and forty distinctive theories.¹⁴ I will mercifully omit the details, but one point deserves emphasis. Although popular usage sometimes equates leadership with power or position, most experts draw a distinction. They view leadership in terms of traits, processes, skills, and relationships. John Gardner, founder of Common Cause, famously noted that heads of public and private organizations often mistakenly assume that their status “has given them a body of followers. And of course it has not. They have been given subordinates. Whether the subordinates become followers depends on whether the executives act like leaders.”¹⁵ Moreover, just as many high officials are not leaders, many leaders do not hold important formal offices. Mahatma Gandhi and Martin Luther King, Jr. led from the outside. In essence, “leadership requires a relationship, not simply a title. Leaders must be able to inspire, not just compel or direct their followers.”¹⁶

What enables leaders to inspire commitment? Do they share identifiable personal characteristics and styles that are effective across varying situations? Although the traditional assumption was that they did, most recent research suggests otherwise. Over the last half century, leadership scholars have conducted more than 1,000 studies in an attempt to determine such characteristics. Summarizing this work, a *Harvard Business Review* overview concludes that it has produced no clear profile of the ideal leader.¹⁷ Nor is the much celebrated quality of charisma necessarily related to effective performance. Indeed, some studies find that the leaders of the most continuously profitable corporations have tended to be self-effacing and lacking in the qualities commonly considered charismatic.¹⁸ In Drucker’s view, it is a mistake for organizations to look for some “boardroom Elvis Presley.”¹⁹ Genuine leadership, he argued, has little to do with charisma. It is “mundane . . . and boring. Its essence is performance.”²⁰

Building on such research, many contemporary experts stress the contingency of leadership. Its effectiveness lies in a match between what the circumstances demand and what an individual has to offer.²¹ But certain

14. See BERNARD M. BASS, BASS & STODGILL’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 Foundation, Working Paper LT-GE-00-15, 2000).

15. JOHN W. GARDNER, ON LEADERSHIP 3 (1990).

16. RHODE, *supra* note 7, at 4.

17. JOSEPH NYE, THE POWERS TO LEAD 21-22 (2008).

18. Jim Collins, *Level 5 Leadership: The Triumph of Humility and Fierce Resolve*, HARV. BUS. REV., Jan. 2001, at 66, 73; GILL, *supra* note 9, at 253.

19. Michael Hiltzik, *Relearning Some Old Lessons About Corporate Responsibility*, L.A. TIMES, Dec. 31, 2009, at B4.

20. *Id.*

21. For early development of the theory, see FRED E. FIEDLER, A THEORY OF LEADERSHIP EFFECTIVENESS (Keith Davis ed., 1967); Fred E. Fiedler, *Leadership: A New Model*, in LEADERSHIP 230-41 (Cecil Austin Gibb ed., 1969). For discussion of its contem-

attributes do consistently emerge as effective in the vast array of leadership situations. Most characteristics cluster in five categories:

- values (integrity, honesty, trust, an ethic of service);
- personal skills (self awareness, self-control, self-direction);
- interpersonal skills (social awareness, empathy, persuasion, conflict management);
- vision (forward looking, inspirational); and
- technical competence (knowledge, preparation, judgment).²²

B. Learning to Lead

Not all of these skills can be well taught in law school, but at a minimum, legal education can do more to help future lawyers learn to be learners. One threshold lesson our curricula can emphasize is the importance of being reflective about experience. As Mark Twain famously observed, a cat that sits on a hot stove will not sit on a hot stove again, but it won't sit on a cold one either. What distinguishes effective leaders is the ability to draw appropriate lessons from the successes and failures that they experience and observe. In an apt, if possibly apocryphal, exchange, a young lawyer asked a leader in his field how he came to acquire such a reputation. "People respect my judgment," was the response. "Why?" the associate wanted to know. "Well I guess I've made the right decisions." "How did you know what decisions were right?" the associate asked. "Experience," said the partner. The associate wouldn't give up; he was probably in training as a law professor. "What was the experience based on?" The answer: "Wrong decisions."²³

porary applications, see Robert Goffee & Gareth Jones, *Why Should Anyone Be Led by You?*, HARV. BUS. REV., Sept.-Oct. 2000, at 64; Jay Lorsch, *A Contingency Theory of Leadership*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 4, at 411-24.

22. For values, see WARREN BENNIS, ON BECOMING A LEADER 34 (2d ed. 1994) (citing integrity, trust); JAMES M. KOUZES & BARRY POSNER, THE LEADERSHIP CHALLENGE 21 (1995) (citing honesty); MONTGOMERY VAN WART, DYNAMICS OF LEADERSHIP IN PUBLIC SERVICE: THEORY AND PRACTICE 16, 92-119 (2005) (citing integrity and an ethic of public service). For personal skills, see DANIEL GOLEMAN, RICHARD BOYATZIS & ANNIE MCKEE, PRIMAL LEADERSHIP: REALIZING THE POWER OF EMOTIONAL INTELLIGENCE 253-56 (2002) (citing self awareness, self management); VAN WART, *supra*, at 93 (citing self-direction). For interpersonal skills, see GOLEMAN, BOYATZIS & MCKEE, *supra*, at 253-56 (citing social awareness, empathy, persuasion, conflict management). For vision, see BENNIS, *supra*, at 34 (citing vision); KOUZES & POSNER, *supra*, at 21 (citing forward looking, inspiring). For competence, see *id.*; Lorsch, *supra* note 21, at 417; NOEL M. TICHY & WARREN G. BENNIS, JUDGMENT: HOW WINNING LEADERS MAKE GREAT CALLS (2007) (describing importance of judgment).

23. For a variation on this story, see TICHY & BENNIS, *supra* note 22, at 10.

That is, no doubt, how most lawyers acquire leadership skills. But other ways are available in legal education from multiple sources: interdisciplinary research and theory, case studies, role simulations, teamwork, extracurricular and pro bono activities, literature, and film.²⁴ Of the many key insights that can be drawn from such material, let me stress three.

The first is the disconnect between the qualities that often enable individuals to achieve leadership positions and the qualities that are necessary to perform effectively once they get there. What makes individuals willing to accept the pressure, hours, scrutiny, and risks that accompany leadership? For many lawyers, it is not only commitment to a cause, an organization, or a client. It is also power, prestige, and money. Yet successful leadership requires subordinating these personal interests to a greater good. The result is what some psychologists label the “leadership paradox.” Individuals reach top positions because of their high needs for personal achievement. But to perform effectively once there, they need to focus on creating the conditions for achievement by others, and to use leadership for the public good, not as a way station to personal status.²⁵

One mission of leadership education is to help future lawyers anticipate and avoid the consequences of unchecked ambition. Case histories of failed law firms and failed causes can illustrate how the self-centeredness that may propel individuals to leadership positions may sabotage their subsequent performance.²⁶ The risk is exacerbated by leaders’ reluctance to learn about their weaknesses. Two experts put it bluntly: “[M]ost leaders don’t want honest feedback, don’t ask for honest feedback, and don’t get much of it unless it’s forced on them.”²⁷ Only about forty percent of law firms offer associates opportunities to evaluate supervisors, and of those who engage in the process, only about five percent report changes for the better.²⁸

24. See Jay A. Conger, *Leadership Development Interventions*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 4, at 712, 716; GILL, *supra* note 9, at 275; NYE, *supra* note 17, at 24; see also Peter F. Drucker, *Managing Oneself*, HARV. BUS. REV., Mar.-Apr. 1999, at 68; DOUG LENNICK & FRED KIEL, MORAL INTELLIGENCE: ENHANCING BUSINESS PERFORMANCE AND LEADERSHIP SUCCESS 239 (2008).

25. Jennifer A. Chatman & Jessica A. Kennedy, *Psychological Perspectives on Leadership*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 4, at 169, 174.

26. For examples, see DEBORAH L. RHODE & AMANDA K. PACKEL, LEADERSHIP: LAW, POLICY, AND MANAGEMENT (Aspen, forthcoming, 2011); *The Anatomy of Law Firm Failures*, HILDEBRANDT, Nov. 19, 2008, <http://www.hildebrandt.com/The-Anatomy-of-Law-Firm-Failures>; Jonathan Glater, *West Coast Law Firm Closing After Dot-Com Collapse*, N.Y. TIMES, Jan. 31, 2003, at C1; Susan Kostal, *The Brobeck Mutiny*, S.F. MAG. (July 2003), <http://www.sanfranmag.com/story/brobeck-mutiny>.

27. JAMES M. KOUZES & BARRY Z. POSNER, A LEADER’S LEGACY 28 (2006).

28. CYNTHIA L. SPANHEL & PAULA A. PATTON, NAT’L ASS’N FOR LAW PLACEMENT, HOW ASSOCIATE EVALUATIONS MEASURE UP, A NATIONAL STUDY OF ASSOCIATE PERFORMANCE ASSESSMENTS 74 (2006).

Of course, lawyers are scarcely unique in their avoidance of criticism. But the tendency is particularly problematic for leaders, because of both the power they hold and the understandable unwillingness of many subordinates to volunteer unwelcome messages. In one 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 people’s performance.”²⁹ Law school efforts, like this lecture, should encourage individuals to become the exception.

A second role for legal education is to make future lawyers aware of the cognitive biases that compromise not only performance but also learning from performance failures. One such bias is the “Fundamental Attribution Error”: a tendency to attribute personal successes to competence and character, and failures to external circumstances.³⁰ A related problem stems from confirmation bias. People tend to seek out evidence that confirms their preexisting, typically favorable vision of themselves, and to avoid evidence that contradicts it.³¹ This may help account for why, in one random sample, seventy percent of men rated themselves in the top quarter of the population in leadership capabilities; ninety-eight percent rated themselves above average.³²

The problem is compounded by the power and perks of position, which can inflate leaders’ sense of self-importance, self-confidence, superiority, and entitlement.³³ The result is that leaders are too often free to disregard legal or ethical rules and standards of respect that are applicable to others, to those “little people.”³⁴ Perceptions of entitlement concerning sex

29. KOUZES & POSNER, *supra* note 27.

30. See Paul Brest & Linda Hamilton Krieger, PROBLEM SOLVING, DECISION MAKING, AND PROFESSIONAL JUDGMENT: A GUIDE FOR LAWYERS AND POLICYMAKERS 332, 620-21 (2010); Lee Ross, *The Intuitive Psychologist and His Shortcomings: Distortions in the Attribution Process*, in 10 ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY 173 (Leonard Berkowitz ed., 1977).

31. Brest & Krieger, *supra* note 30, at 618-19, 636; Raymond S. Nickerson, *Confirmation Bias: A Ubiquitous Phenomenon in Many Guises*, 2 REV. GEN. PSYCHOL. 175 (1998); Jean R. Sternlight & Jennifer Robbenolt, *Good Lawyers Should Be Good Psychologists: Insights for Interviewing and Counseling Clients*, 23 OHIO ST. J. ON DISP. RESOL. 437, 454 (2008).

32. David G. Myers, *Stream of Consciousness: How Do I Love Me? Let Me Count the Ways*, PSYCHOL. TODAY, May 1980, at 16.

33. TERRY L. PRICE, LEADERSHIP ETHICS: AN INTRODUCTION 110-12 (2008); George R. Goethals, David W. Messick & Scott T. Allison, *The Uniqueness Bias: Studies of Constructive Social Comparison*, in SOCIAL COMPARISON: CONTEMPORARY THEORY AND RESEARCH, 149, 153-55 (Jerry M. Suls & Thomas Ashby Wills eds., 1991).

34. Manfred Kets de Vries & Elisabet Engellau, *A Clinical Approach to the Dynamics of Leadership and Executive Transformation*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, *supra* note 4, at 183, 195. For the statement about “little people,” see KOUZES & POSNER, *supra* note 27, at 128. For general discussion of the problem, see Roderick Kramer, *The Harder They Fall*, HARV. BUS. REV., Oct. 2003, at 61.

and money have marred the careers of many prominent lawyer leaders. Students can benefit from exploring these cautionary tales.³⁵

They can also learn case histories of the way that cognitive bias, situational pressures, and organizational dynamics can interact to undermine effective leadership. Let me offer just one example—the 2006 pretexting scandal at Hewlett-Packard Company.³⁶ In order to identify the source of leaks from the corporation's board of directors, the company's CEO, board chair, general counsel, and outside law firm all agreed to authorize deceptive tactics by private investigators. When a disgruntled board member brought the tactics to light, it triggered congressional hearings and criminal proceedings, as well as the resignations of the board chair and general counsel.

What caused so many smart people to make such disastrous decisions? Research on decision-making suggests that part of the problem was inadequate framing of the problem. HP's leaders leaped immediately to the desired solution—stopping the leak—without adequately exploring the board dysfunction that was responsible. A second problem involved another cognitive failure: what experts describe as an “escalation of commitment” or, more colloquially, the “boiled frog problem.”³⁷ A frog thrown into boiling water will jump out, but a frog placed in tepid water with gradually increasing temperatures will calmly boil to death.³⁸ In the case of Hewlett-Packard, when accepted investigative techniques initially failed to identify the leak, leaders authorized ever more intrusive and deceptive tactics.

Situational pressures such as time constraints also played a role. A desire to stop the leak immediately led to inadequate analysis of the ethical and legal implications of the techniques at issue. The pervasiveness of this dynamic can be brought home by broader research, such as the famous experiment by psychologists John Darley and Daniel Batson. There, seminary students en route from a lecture on the Good Samaritan failed to behave like

35. Among the prominent recent examples are John Edwards, Eliot Spitzer, Bill Clinton, Gary Hart, Mark Dreier, and Kwame Kilpatrick.

36. The following discussion is drawn from DEBORAH L. RHODE & DAVID LUBAN, LEGAL ETHICS 431-33 (2009) and Deborah L. Rhode, *Flying Blind*, THE AM. LAW., June 2010, at 55-56. Among the best treatments are Lawrence Hurley, *Congress Asks HP: Where Were the Lawyers?*, S.F. DAILY J., Sept. 29, 2006, at 1, 9; Sue Reisinger, *Saw No Evil*, CORP. COUNS., Jan. 2007, at 68; James B. Stewart, *The Kona Files: Hewlett-Packard's Surveillance Scandal*, THE NEW YORKER, Feb. 19 & 26, 2007, at 152; and Peter Waldman & Don Clark, *Probing the Pretexters: Congress Grills Hewlett-Packard Executives Over 'Sleaze' Investigative Tactics*, WALL ST. J., Sept. 29, 2006, at B1.

37. RHODE & LUBAN, *supra* note 36, at 431-33.

38. Rhode, *supra* note 7, at 29. For discussion of this dynamic in legal contexts, see John R. Kroger, *Enron, Fraud and Securities Reform: An Enron Prosecutor's Perspective*, 76 U. COLO. L. REV. 57, 93 (2005).

one if they were late for their next appointment; they would virtually step over an individual lying by the road in obvious pain.³⁹

A final contributing factor to the HP debacle involved diffusion and displacement of responsibility. The company's CEO did not read the memo on the legality of the investigation; he deferred to the advice of the board chair.⁴⁰ She, in turn, relied on the general counsel, who delegated the issue to an employment lawyer who was in charge of ethical compliance.⁴¹ That lawyer did a cursory one-hour web search and deferred to the private investigator.⁴² The investigator depended on an outside law firm, whose partner relied on memos by a summer associate and a paralegal.⁴³ None of this research apparently included obvious sources, such as position statements by the Federal Communications Commission or Federal Trade Commission.⁴⁴ The lesson should be obvious: Particularly on sensitive matters, leaders cannot afford such outsourcing of legal and ethical analysis.

Similar points could be made about other corporate scandals, like Enron et al., in which lawyers remained willfully ignorant of moral meltdowns. When "[t]he [s]martest [g]uys in the room" aren't acting like leaders, lawyers should be prepared to respond.⁴⁵

In many instances, that will require greater regulation, both internal and external. As legislators, policymakers, and in-house or outside counsel, lawyers can help create the checks and balances that promote ethical leadership. Rules and codes are part of the solution, but not if they become window-dressing without oversight to back them up. "Good optics" was how one manager discussed Enron's ethical code, and shortly after the company's collapse, copies of the document were selling on eBay, advertised as "never been read."⁴⁶

A third function of legal education on leadership is to flag the importance of interpersonal skills. Most of legal education is focused on analytic capabilities, divorced from real people with real problems. The assumption is that education in interpersonal dynamics and conflict management is a

39. John M. Darley & Donald Batson, *From Jerusalem to Jericho: A Study of Situational and Dispositional Variables in Helping Behavior*, 27 J. PERSONALITY & SOC. PSYCHOL. 100 (1973).

40. Waldman & Clark, *supra* note 36, at B1.

41. *Id.*; Reisinger, *supra* note 36, at 72-73.

42. Reisinger, *supra* note 36, at 73.

43. *Id.* at 73-75.

44. *Id.* at 74-75.

45. BETHANY MCLEAN, *THE SMARTEST GUYS IN THE ROOM: THE AMAZING RISE AND SCANDALOUS FALL OF ENRON* (2003).

46. PETER S. COHAN, *VALUE LEADERSHIP: THE 7 PRINCIPLES THAT DRIVE CORPORATE VALUE IN ANY ECONOMY 2* (2003) ("good optics"); LYNN SHARP PAINE, *VALUE SHIFT: WHY COMPANIES MUST MERGE SOCIAL AND FINANCIAL IMPERATIVES TO ACHIEVE SUPERIOR PERFORMANCE 36* (2003) ("never been read"); RHODE, *supra* note 7, at 35 (discussing rules and codes as window-dressing).

“touchy feely process,” unworthy of attention from intellectually sophisticated individuals. This view is reinforced by the inadequacies of leadership training programs like the one that my husband, a public-interest environmental lawyer, was recently forced to attend. The workshop involved team-building exercises in which each team had to design a team logo, pick a team song, and then actually sing the song. My husband’s team chose a honey pot logo and “Bridge over Troubled Water.” Not all members willingly joined the sing along. If his reaction is any guide, such programs are likely to be part of the problem rather than the solution. Yet attempting to train leaders without focusing more effectively on interpersonal skills is, to borrow a colleague’s metaphor, like trying to teach geology without the rocks.⁴⁷ For many professionals, “the soft stuff is the hard stuff.”⁴⁸ Successful leadership requires more than analytic skills, and high achievers in intellectual domains may not have developed corresponding emotional intelligence.⁴⁹

Law schools pride themselves on teaching future practitioners to think like lawyers. But the experience does little to teach them to think like leaders. Legal education owes it to our students, our profession, and our world, to do better.

47. Lawrence Friedman uses the same metaphor to describe legal education’s focus on appellate doctrine to the exclusion of the people who make it. LAWRENCE FRIEDMAN, *A HISTORY OF AMERICAN LAW* 617 (2d ed. 1985).

48. Richard J. Leider, *The Ultimate Leadership Task: Self-Leadership, in THE LEADER OF THE FUTURE*, *supra* note 9, at 189.

49. For an overview, see DANIEL GOLEMAN, *EMOTIONAL INTELLIGENCE* (1995); GOLEMAN, BOYATZIS & MCKEE, *supra* note 22; CHRIS ARGYRIS, *Teaching Smart People How to Learn*, *HARV. BUS. REV.*, May 1, 1991, at 99.