



FORUM



# Lawyers as Leaders

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[Ben W. Heineman, Jr.](#)

In this Essay, I argue that graduates of law schools should aspire not just to be wise counselors but wise leaders; not just to dispense “practical wisdom” but to be “practical visionaries”; not just to have positions where they advise, but where they decide. Put another way, I wish to re-define (or at least to re-emphasize) the concept of “lawyer” to include “lawyer as leader.” The profession and the law schools should more candidly recognize the importance of leadership and should more directly prepare and inspire young lawyers to seek roles of ultimate responsibility and accountability than they do today. Why do I advance this thesis? First, our society is suffering from a leadership deficit in public, private, and non-profit spheres. The core competencies of law are as good a foundation for broad leadership as other training. Second, the legal profession, by many accounts, is suffering from a crisis of morale, from a disconnect between personal values and professional life. Providing leadership can affirm—and test—our vision and core values. Third, other professional schools—business and public policy—have as their explicit mission the training of leaders for the public, private, and non-profit sectors. The graduates of our law schools are at least as talented as those who enter other professional and graduate schools. And law schools should have a similar vision to enhance the careers of their outstanding students, thus serving society and addressing the values crisis that affects portions of the profession. But today’s law schools are muted or ambivalent about leadership (Yale Law School has no mission statement on its web-site).

My view of leadership is broad. Leadership can be shown in strictly legal settings or in social, political, and economic organizations. It may be demonstrated in traditional institutions or in new ones, in policy or in politics. We need leaders who are insiders, using power for good ends but with inevitable compromises, or who are outsiders, speaking truth to power without the responsibility of institutional authority. A leader may be a person of action or a person of the mind who seeks to generate action from ideas. But leadership will, in most instances, build on the more traditional roles of astute lawyer and wise counselor.

Leadership demands important qualities of mind that go beyond the core competencies taught in law schools. We need lawyers who can create and build, not just criticize and deconstruct. Lawyers must be able to ask and answer “what ought to be” questions, not only “what is” questions—and in their answers they must respect the tensions between competing values that are inherent in most important decisions. Lawyers should consider ethics in addition to law when making recommendations or decisions; lawyers should learn inter-disciplinary risk assessment and how to take considered risks; and lawyers should work cooperatively and constructively on teams composed of members from other disciplines, vocations, and cultures.

Lawyers should be able to build and lead organizations. They should be able to develop

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the vision, the values, the priorities, the strategies, the people, the processes, the checks and balances, the resources, and the motivation. Team participation and team leadership are interconnected: leadership today is often not command and control but persuasion and motivation and empowerment of teams around a shared vision.

We also need lawyers who can understand the methods of thinking and analysis taught in business and public policy schools. Law, business, and public policy schools offer complementary perspectives from which to view public- and private-sector problems. Today's professionals, whatever their educational background, should know the intellectual angles of attack taught at the other two professional schools.

Lawyers need a sophisticated international perspective across a range of critical issues: for example, global security (for example, meeting the challenge of terrorist groups, state sponsors of terrorism, and WMD); global economic integration (for example, the future of the world trading system, deepening regional economic cooperation in North America, the EU and Asia, and economic development in failed, failing, fragile, and rising nations); international institution-building to address other critical global issues and trends (for example, energy and environment, demographic change, human rights, corruption and crime, transforming technology developments, poverty and health). Ultimately, we need lawyers who have a great leader's ability to define problems comprehensively and comprehensibly; to integrate different perspectives into solutions; and to forge agreement on a solution and then implement it in a way that makes a difference.

While some of these qualities of mind may seem distant from typical "lawyering" today, the lawyers of past generations have had them. Lawyers with vision and an ability to effect change have, of course, played central roles in major historic events: the adoption and establishment of the Constitution (e.g., Madison and Marshall); pre-Civil War abolitionism (e.g., Charles Sumner) and the anti-slavery movement (e.g., Lincoln); the post-Civil War Civil Rights Amendments (e.g., the lawyers who served on the congressional judiciary committees); the Progressive Era (e.g., Louis Brandeis); the New Deal (e.g., William Douglas, Thurman Arnold); post-World War II containment of the Soviet Union (e.g., Dean Acheson); the Civil Rights Movement (e.g., Thurgood Marshall). The lawyers of those generations were informed by broad, normative, multi-dimensional views of American or global society, and were not, ultimately, preoccupied with narrow rules and incremental legal change (even if, at times, major change had to proceed step by step). These generations of lawyers were expressing their personal values through their professional careers. They achieved convergence between who they were and what they did—in contrast to those today who find a disjunction between their personal values and professional actions. In arguing for increased attention to lawyers as leaders, I do not intend to diminish the fundamental legal role of providing services to the vast array of institutions and individuals who need them nor to say that the lawyer's personal values are superior the values of those needing legal services. But for many, at some stage in their career, the traditional legal roles of advocate or counselor may have an amorality that is ultimately unfulfilling.

Breadth of mind is needed more than ever today because many young lawyers will have more careers than their predecessors, often as part of multi-disciplinary teams. Such change may, in part, be an attempt to escape the hyper-specialization that is one cause of the profession's crisis of values. Career change has great value: taking risk, learning new organizations and cultures, and, most importantly, developing different perspectives on problems by having different institutional roles. In addition to traditional legal positions of advocate, counselor, and judge, young lawyers should consider positions in non-legal governmental jobs (at local, state, and federal levels in institutions like the Treasury or Defense Departments); in multi-lateral, international organizations (like the World Bank, NATO or the OECD); in non-profit organizations that are not strictly legal (addressing issues like the environment, human rights, or poverty); and in non-legal jobs in the private sector. Each of these spheres of activity provides opportunities for leadership. There are numerous implications for law

schools from this emphasis on leadership, broader qualities of mind, the importance of personal values, and the potential for broader and more varied careers. Some of those ideas follow below (and, I should note, some law schools, like Stanford, have adopted, or are considering, such changes).

Law schools should require students to create, not just critique. Law school courses should ask students to produce a new law or regulation, to write a memorandum of understanding or a technology transfer agreement, to develop a strategic agenda for a key agency or an NGO. This new focus would be aided by use of broader, more complex, interdisciplinary cases like those used in business or public policy schools. In those cases, students are put in a variety of different roles (beyond the appellate judge) and an array of problems is illuminated by broader settings, considerations, dynamics, and dilemmas. Further, these cases, and the courses of which they are a part, should have true cross-disciplinary team teaching (law, business, public policy, social sciences), where professors present together (not sequentially) and debate and illuminate the issues in real time.

To prepare for contemporary leadership, one set of courses would be the study of organizational theory and behavior, of moral and ethical (not just legal) reasoning in an institutional context, and leadership styles and methods. Another example would be broader interdisciplinary courses on key international issues: global security, global economic integration, and global institution-building. Such courses could be complemented by developing for-credit semesters at law schools abroad (Beijing, Heidelberg, London, Paris).

More ambitiously, we should bust the barriers between law, business, and public policy schools and offer truly integrated joint degree programs in three, not four, years. Such three year JD-MBA or JD-MPP programs would be based on the premise, well understood but not publicly acknowledged, that the second and third years of law school are progressively more repetitive and less valuable to students.

Finally, law schools should involve the profession more frequently and more intensely in their intellectual life (for example, practicing lawyers are today on the cutting edge of many global issues). Indeed, it may be time for a candid discussion of whether the faculty at law schools looks down on the profession—and on teaching broader skills for those who would become leaders—and exploration of what this implies for a professional school.

In sum, law schools should, of course, continue to teach core legal competencies, but they should more systematically teach, in tandem with others, the “complementary competencies” required for students who today will likely have diverse careers and hopefully achieve positions of leadership and responsibility. These students need “general professional education”—a “major” in law, business, or public policy, with “minors” in the other two professional disciplines (or in relevant social sciences). An emphasis on leadership ultimately requires a re-think not just of legal education but of the necessary interrelationship between law, business, and public policy schools.

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More than ten years ago, Tony Kronman’s book, *The Lost Lawyer*, sought to refocus the legal profession on leadership, with a “back-to-the-future” revival of the “lawyer-statesman ideal,” a concept with origins in the nineteenth century. Kronman deserves credit for raising the leadership issue. But my perspective is different. He focuses on character traits (civic-mindedness, deliberation, detachment); I focus on methods of thinking. He nods towards political leadership but spends much time on the concept of lawyer as “wise counselor”; I focus, instead, on lawyer as accountable leader. He critiques the bar, the bench, and the academy; I focus on a wide range of old and new institutions where, based on my own careers in law, government, and business, I believe leadership is possible.

Ultimately, Kronman is a pessimist: “I have reached a gloomy conclusion. I do not

think the lawyer statesman can be revived, at least at an institutional level.” I am an optimist and I believe that the lawyer as leader is an ideal that can be realized. At the least, the quest can be a key to a fulfilled professional life, to a life that merges who we are and what we do. Today is a wonderful time to be blessed with legal training and to be able to go out and take on the enormous challenges of a difficult world—with an aspiration to lead tempered by humility at the complexity, difficulty, discipline, and self-sacrifice inherent in the task.

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