

Lawyers as Leaders¹

Reviewed by Major Eldon W. Beck*

I. Introduction

Why are so many lawyers in leadership positions? Why does the profession that provides a majority of our nation's leaders do so little to train its people for leadership responsibilities? How can lawyers better prepare to lead? What does it really mean for a lawyer to lead? In her book *Lawyers as Leaders*, Deborah Rhode, a distinguished Stanford Law School professor,² aggressively analyzes these and many other compelling questions.³ Rhode's "central claim is that the legal profession attracts a large number of individuals with the ambition and analytic capabilities to be leaders, but frequently fails to develop other qualities that are essential to effectiveness."⁴

Using this book to fill the apparent gap in leadership training and education for lawyers,⁵ Rhode addresses leadership styles, traits, and development; leadership ethics; and the unusual leadership contexts applicable to lawyers.⁶ By infusing a lawyer-specific leadership discussion with myriad facts and anecdotes, thought-provoking academic rhetoric, and even some political advocacy, *Lawyers as Leaders* shows the tensions between competing leadership concepts, the challenge of ethical leadership in a climate of moral relativism, and the conflicting loyalties that lawyer-leaders have to clients, causes, and the public.

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¹ DEBORAH L. RHODE, *LAWYERS AS LEADERS* (2013).

² Deborah L. Rhode, Ernest W. McFarland Professor of Law, STAN. LAW SCH. DIR. (Aug. 30, 2014 10:00 AM), <http://www.law.stanford.edu/profile/deborah-l-rhode>. Rhode is the Ernest W. McFarland Professor of Law at Stanford Law School and the Director of Stanford's Center on the Legal Profession. Her areas of expertise are Antidiscrimination Law, Ethics and Professional Responsibility, and Sex and the Law. After graduating from Yale Law School and "clerking for Supreme Court Justice Thurgood Marshall, she joined the Stanford faculty." *Id.*

³ RHODE, *supra* note 1, at 1.

⁴ *Id.*

⁵ *Id.* ("Although leadership development is now a forty-five billion dollar industry, and an Amazon search reveals close to 80,000 leadership books in print, the topic is largely missing in legal education."). *But cf.* BARBARA KELLERMAN, *THE END OF LEADERSHIP* (2012) (emphasizing changing dynamics between leaders/followers and challenging a leadership industry which is growing rapidly while producing fewer effective leaders).

⁶ RHODE, *supra* note 1, at 1–2.

II. Overview

Lawyers as Leaders is an intricately structured, busy, and provocative book.⁷ Lawyers, all of whom are leaders of some sort, can benefit by critically analyzing and discussing this book, not because it presents a comprehensive or conclusive leadership guide (though it makes an attempt), but because it exposes several significant tensions between being a lawyer and a leader. Throughout the book, Rhode "[draws] on a broad array of interdisciplinary research, as well as biographical and autobiographical profiles" to "explore leadership competencies that are too often missing in practice."⁸

Rhode provides a succinct summary of her book on page one and sticks to her outline. First, she "offers an overview of leadership traits, styles, and development."⁹ Second, she addresses "ethics in leadership" with a focus on scandal.¹⁰ Finally, she focuses on lawyer leadership in context by addressing diversity, law firm leadership, social movements, and legacy development.¹¹

The critical reader should be aware of three detractors before choosing to read this book. First, Rhode openly displays her political preferences and personal loyalties in this book.¹² Readers who do not share her ideology may find this distracting or offensive. Second, the book at times has an anachronistic tone because Rhode illustrates many points using examples from the political and civil rights leaders of earlier decades.¹³ Readers looking for contemporary examples of good lawyer leadership will find this book lacking. Third, frequent typographical and grammatical errors provide an unexpected distraction which may, to some readers, diminish the credibility of the author.¹⁴ Despite the exhaustive research reflected in the

⁷ *See, e.g., id.* at 1–2, 203–07.

⁸ *Id.* at 1.

⁹ *Id.*

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *See, e.g., id.* at 102–04 (juxtaposing Obama's ethical inconsistency with Romney's unethical inconsistency as presidential candidates); 21, 32, 34, 62, 133, 189, 190, 208 (consistently praising Thurgood Marshall, for whom she clerked); 196–202 (providing effusive support of "The Gay Marriage Campaign").

¹³ *See, e.g., id.* at 14, 69, 83 (Joseph McCarthy); *id.* at 17, 35, 52, 179, 190–96 (Robert Kennedy); and *id.* at 36, 70, 73–74, 83, 98–99, 114, 126, 193 (Richard Nixon).

¹⁴ The following pages of the text contain obvious typographical and/or grammatical errors: 6, 8, 15, 34, 35, 50, 87, 91 (x2), 107, 118 (x2), 125,

1,422 endnotes,¹⁵ the author's lack of attention to detail may lead a skeptical reader to doubt the overall legitimacy and reliability of the book's more substantive points.

Because *Lawyers as Leaders* moves from being relatively objective, empirical, and straightforward to being increasingly subjective, complex, and controversial, each of the book's three sections receives separate consideration below.

III. Part I: Lawyer Statistics and Leadership Traits, Styles, and Development

Lawyers as Leaders is premised on the "dual paradoxes" of trust and power.¹⁶ Lawyers are greatly trusted, yet severely distrusted.¹⁷ Similarly, lawyers frequently become prominent leaders, yet are often untrained and unprepared for leadership.¹⁸ A recurring theme throughout the book is that the skills that make excellent lawyers often create obstacles to effective leadership.¹⁹ Rhode uses a variety of research and theories to recommend many ways for lawyers to overcome the most common and critical obstacles to effective leadership.

Because "there are almost as many definitions of leadership as there are persons who have attempted to define the topic,"²⁰ Rhode never defines "leader" or "leadership."²¹ Rather, she illustrates the nature of these terms by presenting them in many different contexts. By the end of the book, Rhode has used "leader" in so many different ways that it can mean almost anything: politician, mentor, power seeker, position holder, honest example, scandal manager, and activist for social change, to note just a few.²² And that is

one of Rhode's many points: "Leadership is a process, not a position, a relationship, not [sic] a status."²³ Because lawyers are leaders in many settings, they need to think and learn about leadership so they can influence the people and institutions around them in a way that drives positive change.²⁴

Rhode displays extensive research and many different ideas as she presents a nearly inexhaustible laundry list of leadership lessons. For instance, while acknowledging that there is "no uniform profile of the ideal leader," Rhode nevertheless identifies six forms of "emotional intelligence" which are most required of leaders.²⁵ After showing the strengths and limitations of individual leadership styles, she proposes that the ideal leader is flexible enough to employ the various leadership styles in a contextual and sensitive way, with a sense of humor and humility.²⁶ Additionally, Rhode extensively analyzes five basic leadership capabilities which she claims are essential for successful leaders and, in the process, illustrates a variety of ways lawyers can improve themselves.²⁷ Recognizing that all developing leaders have different strengths, weaknesses, and opportunities to learn leadership,²⁸ Rhode calls on experienced lawyers to take the time and effort to mentor others.²⁹ Though she asserts that "honest and informed" advice and mentoring is an essential means of developing leadership, she also warns that lawyers must ultimately become more self-aware and learn when to disregard advice and follow their own moral compass.³⁰

Rhodes' initial discussion about leadership provides insightful conclusions that are extensively researched and compellingly presented. *Lawyers as Leaders*' intensive exploration of leadership traits, style, and development is likely to prompt critical introspection and inspire renewed commitment to personal leadership development.

130, 133 ("Assistant General" should be "Assistant Attorney General"), 135, 137, 141, 143, 147, 158, 164, 175 (x2), 188, and 192 (x2) ("Federal Bureau of Information") ("Herbert Hoover" should be "J. Edgar Hoover"). This does not include additional errors, inconsistencies, and incomplete citations in the endnotes.

¹⁵ *Id.* at 209–87.

¹⁶ *Id.* at 2–6.

¹⁷ *Id.* at 2–5.

¹⁸ *Id.* at 1–2, 5–6, 203.

¹⁹ *See, e.g., id.* at 5–6, 11–12, 28. *See also* Susan Daicoff, *Lawyer, Know Thyself: a Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1348, 1390–91 (1997) (finding that lawyers tend to be more aggressive, competitive, and achievement-oriented than other people and other professionals).

²⁰ BERNARD BASS, BASS AND STOGDILL'S HANDBOOK OF LEADERSHIP: THEORY, RESEARCH, AND MANAGERIAL APPLICATIONS 11 (3d ed. 1990).

²¹ *See* RHODE, *supra* note 1, at 7.

²² *See, e.g., id.* at 3 (politician); 151–52 (mentor); 5, 37 (power seeker and position holder); 83–84 (honest example); 109–10, 128 (scandal manager); 176, 202 (activist).

²³ *Id.* at 203. *But cf. id.* at 7 ("Although popular usage sometime equates leadership with power or position, most contemporary experts view it rather as a relationship.").

²⁴ *See id.* at 203–08.

²⁵ *Id.* at 12 (citing empirical research identifying six forms of "emotional intelligence" which underlie the primary "leadership styles": Coercive, Authoritative, Affiliative, Democratic, Pacesetter, and Coaching). *See* Daniel Goleman, *Leadership That Gets Results*, HARV. BUS. REV. Mar.-Apr. 2000, at 78–80.

²⁶ *See* RHODE, *supra* note 1, at 22–24.

²⁷ *Id.* at 40–81 (exploring the following leadership capabilities: decisionmaking, influence, fostering innovation and managing change, conflict management, and communication).

²⁸ *Id.* at 30–39 (citing differences in the following as factors that affect developing leaders: skills, understanding, cultural biases, family connections, self-awareness, and chance).

²⁹ *Id.* at 37–39.

³⁰ *Id.*

IV. Part II: Leadership Application to Lawyers

Rhode's leadership message becomes more complex as she focuses on lawyers by addressing leadership ethics and scandals. After warning that "a range of individual self-interests, cognitive biases, and organizational dynamics can often trump moral concerns,"³¹ she evaluates each of these three areas in depth and shows how difficult ethical decisionmaking is in large, complicated organizations with fragmented information.³² Rhode's realist discussion about ethical behavior leads to the rather Machiavellian conclusion that "a defining feature of moral leaders is that they never lose touch with the compromises that they have made and they constantly assess the price they have paid."³³ Rhode dissects the concept of ethics in several different ways, revealing questions and paradoxes that many lawyers have likely faced, but never thought about in ethical terms.³⁴ This may make some readers squirm. Though Rhode exposes the moral hazards of increasingly complicated organizations, where "fragmentation of information," complex issues, and "rule by Nobody" is becoming the norm,³⁵ she does not provide a coherent solution for this widespread problem, nor does she address the growing idea that organizations will need to become increasingly decentralized and adaptable to instability.³⁶ Instead, by concluding a complicated discussion about ethics with the claim that "[a]nother mark of ethical leadership is commitment to service pro bono publico,"³⁷ Rhode leaves the impression that lawyers can do whatever is expedient as long as they provide public service and present a positive public image. Rhode's perplexing attempt to reconcile institutional complexity with individual ethical behavior highlights the crux of the leadership challenge for the modern legal profession: ensuring ethical behavior and maintaining an ethical climate in an increasingly complex, dynamic, amorphous, and fast-paced operating environment that allows lawyers to more easily conceal or avoid responsibility for their unethical actions.

³¹ *Id.* at 84.

³² *Id.*

³³ *Id.* at 102 (paraphrasing Michael Walzer). See Michael Walzer, *Political Action: The Problem of Dirty Hands*, 2 PHIL. & PUB. AFF. 160 (1973). See also C. A. J. Coady, *The Problem of Dirty Hands*, THE STAN. ENCYCLOPEDIA OF PHIL. (Sep. 2, 2014, 4:30 PM), <http://plato.stanford.edu/archives/spr2014/entries/dirty-hands/> (analyzing the history and philosophy of the "Problem of Dirty Hands" in depth).

³⁴ See RHODE, *supra* note 1, at 82–108.

³⁵ *Id.* at 93.

³⁶ See, e.g., ORI BRAFMAN & ROD A. BECKSTROM, *THE STARFISH AND THE SPIDER: THE UNSTOPPABLE POWER OF LEADERLESS ORGANIZATIONS* (2008) (describing the power and recent growth of decentralized and leaderless organizations); JOSHUA COOPER RAMO, *THE AGE OF THE UNTHINKABLE: WHY THE NEW WORLD DISORDER CONSTANTLY SURPRISES US AND WHAT WE CAN DO ABOUT IT* (2010) (asserting that taking advantage of future opportunities will require adaptation to instability).

³⁷ See RHODE, *supra* note 1, at 105.

With an entire chapter dedicated to the nature and management of scandals, Rhode further reinforces the idea that ethics and morality are more about public image than they are about principle. Conceding that scandals are part of being a lawyer and a leader, Rhode instructs on how to manage scandal and minimize its impact.³⁸ She gives leaders guidance on how to address scandals publicly, to include specific strategies for making either denials or apologies more convincing.³⁹ Even while concluding that "[o]ne of the distinguishing characteristics of leaders is a willingness to assume some accountability for addressing misconduct by others,"⁴⁰ Rhode's carefully qualified description of a leader's responsibility sets a low standard that is geared more toward damage control than real personal accountability. True leaders who are committed to ethical and moral conduct consistently hold themselves and their subordinates accountable for misconduct.⁴¹

On the surface, Rhode's book describes the importance of ethics in leadership and explores the proper handling of scandals. However, beneath the surface, the structure, tone, and logical implications of Rhode's instruction cast ethical leadership in a subjective and situational light, making it largely a matter of perception and image management. Rhode's treatment of this subject creates a complicated, yet largely superficial image of the responsibilities inherent in leadership, leaving the reader with the unsettling impression that lawyer leadership has more to do with politics than principle.

V. Part III: Challenges for Lawyer Leaders

In the latter part of *Lawyers as Leaders*, Rhode gives some attention to leadership in law firms, but focuses more on the power lawyers have to change society.⁴² A chapter on "Leadership in Law Firms" provides historical background to firm leadership, explores contemporary challenges, recommends strategies for leaders, and draws a variety of useful lessons from some examples of leadership failure.⁴³ However, a corresponding section with examples of leadership successes is noticeably absent. As a result, the chapter that could be one of the most useful and practical for lawyers instead feels truncated and underdeveloped.

³⁸ *Id.* at 109–28.

³⁹ *Id.* at 124–28.

⁴⁰ *Id.* at 128 (emphasis added).

⁴¹ See, e.g., U. S. MARINE CORPS, MARINE CORPS WARFIGHTING PUB. 6-11, *LEADING MARINES 101* (27 Nov. 2002) (including the following within the definition of "Honor," one of the Marine Corps' three core values: "The quality of maturity, dedication, trust, and dependability that commits Marines to act responsibly; to be accountable for actions; to fulfill obligations; and to hold others accountable for their actions.").

⁴² See, e.g., RHODE, *supra* note 1, at 176–208.

⁴³ *Id.* at 154–75.

A more persistent theme through the latter part of the book is that lawyers need to aggressively pursue increased diversity and do whatever it takes to coordinate and advance social change and political causes.⁴⁴ By doing this, lawyers will build legacies consistent with their values.⁴⁵ To do otherwise, in her view, is irresponsible leadership.⁴⁶ In urging lawyers to promote social change, Rhode directly challenges the notion that controversial clients with politically unpopular causes deserve representation.⁴⁷ In contravention of recognized professional standards,⁴⁸ Rhode calls upon lawyers to make social and political causes paramount in their professional decisions, arguing that they essentially have a duty to not represent clients who will undermine social movements with their cases.⁴⁹ Similarly, she argues that responsible lawyer-leaders will coordinate the timing and strategy of their cases with movement leaders, regardless of the contrary needs, desires, or individual interests of their clients.⁵⁰

Rhode's points are salient and provocative given the complexity of law and politics today, but many readers will disagree with her prescribed courses of action. The later chapters of *Lawyers as Leaders* attempt to entice readers into accepting controversial leadership theories after they have been softened up by the more gentle persuasion, objective evidence, and palatable theories that started the book.

VI. Conclusion

Those seeking a clear or concise guide to leadership for lawyers will not find it in this book. However, those seeking to better understand the vast and varied leadership challenges and opportunities of lawyers will find *Lawyers as Leaders* to be a thought-provoking resource. Though the book is written for students and practitioners of the law, its extensive discussion on leadership and analysis of ethical issues may also be interesting or useful to non-lawyers. In this book, Deborah Rhode provides an exhaustively researched, robustly organized, and intensely presented set of information, issues, and ideas that teaches leadership fundamentals, applies leadership concepts to the unique moral and ethical problems of lawyers, and challenges conventional ideas about the nature and scope of leadership. As a result, *Lawyers as Leaders* informs, provokes, and inspires lawyers to learn about leadership, to view and manage ethical issues as both lawyers and leaders, and to thoughtfully nurture their leadership capacity to become people who can effectively fulfill increasingly complex leadership responsibilities.

⁴⁴ *Id.* at 129–53, 176–208.

⁴⁵ *Id.* at 205–08.

⁴⁶ *See, e.g., id.* at 202 (“In declining even to consult with gay leaders before filing suit [challenging the Defense of Marriage Act (DOMA)], Olson and Boies hardly set an example of responsible leadership.”).

⁴⁷ *Id.* at 162–64 (emphasizing the importance of firm leaders having buy-in from all firm members before committing to represent a controversial client whose cause may offend some firm members, thus avoiding the awkwardness of “withdrawing after pressure arises”).

⁴⁸ MODEL RULES OF PROF'L CONDUCT R. 1.2 cmt. (1983) (“[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.”).

⁴⁹ RHODE, *supra* note 1, at 162–64, 202.

⁵⁰ *Id.* at 196–202 (discussing external coordination and consistency with a case's larger political or social cause).