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# CHARACTER AND FITNESS FOR LEADERSHIP: LEARNING INTERPERSONAL SKILLS

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# CHARACTER AND FITNESS FOR LEADERSHIP: LEARNING INTERPERSONAL SKILLS

By R. Lisle Baker\*

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## INTRODUCTION

“[A]ttempting 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.”<sup>1</sup>

Professor Deborah Rhode’s quotation raises a challenge for those of us involved in leadership instruction in law school. How does educating law students about leadership fit into the larger learning objectives of legal education? Moreover, assuming it does, how do we help students learn interpersonal skills which Professor Rhode argues are essential to that role?

This article suggests that “character and fitness” for practice can help provide a rationale for leadership learning. It also suggests, drawing

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1. Deborah L. Rhode, *Lawyers as Leaders*, 2010 MICH. ST. L. REV. 413, 422 (2010) (advocating for leadership instruction in three domains: seeking to set aside ambition to serve a greater good; being self-reflective to learn from experience, especially error; and “focusing more effectively on interpersonal skills.”). *Id.* at 418-21.

on my own Suffolk Law School leadership course, three ways of helping students learn interpersonal skills which I believe are essential for leadership—paying better attention to other people, being aware of their and others’ strengths, and both understanding and acknowledging concerns that they and others have for appreciation, affiliation, autonomy, status and a meaningful role.

### I. CHARACTER AND FITNESS FOR LEADERSHIP

Currently, learning about leadership is not a required educational outcome for legal education. The American Bar Association (ABA) sets the following standards for law school instruction:

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.<sup>2</sup>

An interpretation of this ABA standard clarifies that “other professional skills” include: “interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.”<sup>3</sup>

While perhaps some elements of these “other professional skills”—such as collaboration—might be considered leadership skills, leadership is not found as an educational objective itself.

Another source is a recent study involving 24,000 attorneys in all fifty states published by the Institute for the Advancement of the American Legal System (IAALS).<sup>4</sup> Its authors concluded:

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2. Standard 302, *ABA Standards and Rules of Procedure for Approval of Law Schools 2017-18*, ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR.

3. Interpretation 302-1, *ABA Standards and Rules of Procedure for Approval of Law Schools 2017-18*, ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR. Note that “self-evaluation” echoes Professor Rhode’s leadership skill of being self-reflective to learn from experience. See *supra* note 1.

4. See ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT, INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM 1 (2016), [http://iaals.du.edu/sites/default/files/reports/foundations\\_for\\_practice\\_whole\\_lawyer\\_character\\_quotient.pdf](http://iaals.du.edu/sites/default/files/reports/foundations_for_practice_whole_lawyer_character_quotient.pdf).

The lawyers we surveyed . . . were clear that characteristics (such as integrity and trustworthiness, conscientiousness, and common sense), as well as professional competencies (such as listening attentively, speaking and writing, and arriving on time), were *far more important* in brand new lawyers than legal skills (such as use of dispute resolution techniques to prevent or handle conflicts, drafting policies, preparing a case for trial, and conducting and defending depositions).<sup>5</sup>

The top characteristics identified in the survey have additional important elements beyond the ABA standards, such as listening attentively and treating others with respect.<sup>6</sup> These are more explicitly aligned with the interpersonal skills Professor Rhode argues for, though leadership is again not explicitly referenced.

A third place to look involves the requirements for admission to the Bar. Students are aware of the need to pass a state bar examination to be licensed to practice law. Until they graduate, and apply for admission, however, many are not as aware of the companion requirement that they demonstrate the requisite “character and fitness” to become a lawyer.<sup>7</sup>

The “character and fitness” requirement is designed to assure that a new lawyer can not only understand and apply the law, but also possesses qualities of character worthy of the public trust and the capacity to serve clients diligently and well. To determine that this threshold is met, Bar examiners ask for information and conduct investigations about those who seek a license to practice law.<sup>8</sup> For example, the application for admission to practice law in Massachusetts involves extensive inquiry as to past behavior.<sup>9</sup> In Massachusetts, the Character and Fitness Requirement also involves certain attributes such as diligence, clear communication, honesty and avoiding misconduct.<sup>10</sup>

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5. *Id.* at 3 (emphasis in original).

6. “Table 1 below presents the top individual foundations categorized as necessary in the short term by the largest proportions of respondents:

- 96.1% Keep information confidential
- 95.4% Arrive on time for meetings, appointments, and hearings
- 93.7% Honor commitments
- 92.3% Integrity and trustworthiness
- 91.9% Treat others with courtesy and respect
- 91.5% Listen attentively and respectfully
- 91.0% Promptly respond to inquiries and requests
- 88.4% Diligence” *Id.* at 26.

7. See generally COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2016, NAT. CONF. OF BAR EXAMINERS, ET AL., [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/ComprehensiveGuidetoBarAdmissions/2016\\_comp\\_guide.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/ComprehensiveGuidetoBarAdmissions/2016_comp_guide.authcheckdam.pdf).

8. See *Character and Fitness Investigations*, NAT’L CONF. OF BAR EXAMINERS, <http://www.ncbex.org/character-and-fitness>.

9. *Board of Bar Examiners Rule V: Character and Fitness Standards for Admission*, MASS. RULES OF PROF. CONDUCT, <https://www.mass.gov/professional-conduct-rules/board-of-bar-examiners-rule-v-character-and-fitness-standards-for>.

10. *Id.* For example, The Board of Bar Examiners considers the following attributes to be essential for all petitioners seeking admission to practice in Massachusetts.

The Character and Fitness standard, however, is more of a floor than a ceiling; certainly not enough when we are asking lawyers to be leaders as well.

In reflecting on how best to educate law students to prepare for future leadership roles, I suggest that legal educators seize the opportunity that this standard provides to think of “character and fitness” as something more—an aspirational guide to professional leadership development that can help inform both the reason for and the nature of law school leadership instruction. While the scope of that aspirational guide will take time and thought to elaborate, a place to start involves teaching law students more about how they can develop their interpersonal skills so that they might be better future leaders. At the same time, they also need to learn the importance of using those skills for positive ends when they ask others to follow them.

Professor Deborah Rhode identified interpersonal skills as one of five categories of attributes that are imperative for leaders to possess.<sup>11</sup> Indeed, as quoted at the outset of this article, she put it even more forcefully: “[A]ttempting to train leaders without focusing more

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- The ability to reason, recall complex factual information and integrate that information with complex legal theories;
  - The ability to communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;
  - The ability to use good judgment on behalf of clients and in conducting one’s professional business;
  - The ability to conduct oneself with respect for—and in accordance with—the law;
  - The ability to avoid acts which exhibit disregard for the rights or welfare of others;
  - The ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes and any applicable order of a court or tribunal;
  - The ability to act diligently and reliably in fulfilling one’s obligations to clients, attorneys, courts, and others;
  - The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; and.
  - The ability to comply with deadlines and time constraints. *Id.*

11. Certain 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).

Rhode, *supra* note 1, at 417. While the interpersonal skills identified in this article are different, they still are complementary and to a certain degree overlapping ways of reaching the same end: successful interpersonal relationships between a lawyer who is acting as a leader and those who might follow him or her.

effectively on interpersonal skills is . . . like trying to teach geology without the rocks.”<sup>12</sup> The implication for educating law students for leadership is that when we are helping them acquire the necessary character and fitness for that role, a key element of that character and fitness involves helping them develop their interpersonal skills. If so, how might we help our law students do so?

## II. TEACHING INTERPERSONAL SKILLS IN A LEADERSHIP COURSE

In the same article arguing for teaching interpersonal skills for leadership, Professor Rhode offered an example of interpersonal skill education that did not succeed—a team building exercise in which her husband was involved.<sup>13</sup>

The workshop involved teambuilding 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.<sup>14</sup>

Professor Rhode, however, left unsaid what she felt might work better instead, leaving open some opportunity for development. This article is designed to respond to that challenge by describing three ways of helping students develop their interpersonal skills. They are drawn from the course called *Leadership and Character Strengths* that I co-teach at Suffolk University Law School in Boston.<sup>15</sup> The three ways are:

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12. *Id.* at 422.

13. “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 “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 . . . 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. For many professionals, “the soft stuff is the hard stuff.” Successful leadership requires more than analytic skills, and high achievers in intellectual domains may not have developed corresponding emotional intelligence. 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.” *Id.* at 421-22.

14. Rhode, *supra* note 1, at 422.

15. Here is the course description from the Suffolk University Law School catalog: “Many Suffolk law graduates achieve both formal and informal leadership roles during their legal careers. This course is designed to help lay a foundation for law students to achieve such roles more successfully. Since many leadership opportunities vary within given situations, the focus of the course is to help students be sufficiently self-aware in order to be able to respond to a leadership opportunity when it presents itself and continue learning, both when they succeed and when they

1. Learn how to pay better attention to the people being led;
2. Understand and build on their individual strengths of character; and,
3. Understand and honor their concerns for appreciation, affiliation, autonomy, status and a meaningful role.

Each of these ideas, elaborated below, is built on an idea best summarized by the late Dr. Christopher Peterson that “*Other people matter.*”<sup>16</sup>

### III. LEARN BETTER HOW TO PAY ATTENTION TO THE PEOPLE BEING LED

The legal education we receive does not often focus on interpersonal skills. (In the famous movie about a first-year class at Harvard Law School, the fictional Contracts Professor Kingsfield explains: “We do brain surgery here.”)<sup>17</sup> Beyond the focus of legal education is on the head more than the heart, some faculty members and students—myself included—occasionally suffer from a self-inflicted form of interpersonal attention deficit disorder, paying more attention to our phones than to each other. While acknowledging their great value for communication, these phones can also divert our attention, or worse, provide an inadequate substitute for high-quality interpersonal connection.<sup>18</sup>

If leadership instruction were simply a course in good manners or etiquette, that would be simple. The ways we behave, however, as Professor Rhode has written, are often as influenced by the situation as

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do not. A specific focus of the course will be to help students recognize, understand and develop their character strengths and how they might put them to use in the interest of greater justice in the wider community, as well as achieve greater resiliency when future leadership challenges arise. The course will include reading, research, positive and contemplative psychology practice, journal writing and other brief written assignments to be completed prior to and after formal classes. The course writing will not satisfy the Suffolk Law School legal writing requirement. There is no final examination, but a short final reflective paper will be required. There is no pre-requisite. The course will be graded on a pass/fail basis. Enrollment is limited.” *Course Descriptions: LAW-2984 Leadership and Character Strengths*, SUFFOLK U. L. SCHOOL, <http://www.suffolk.edu/law/academics/degrees/jd/23600.php?CourseID=634>.

As the description indicates, the course involves more aspects of leadership than those reported in this article, including personal leadership styles, and forms of leadership, but that is for another day.

16. CHRISTOPHER PETERSON, *A PRIMER IN POSITIVE PSYCHOLOGY* 249 (2006) (emphasis in the original).

17. See *THE PAPER CHASE* (20th Century Fox 1973). It is interesting to note that he could have chosen heart surgery as his metaphor, but he did not.

18. See Jane E. Dutton & Emily D. Heaphy, *The Power of High-Quality Connections*, in *POSITIVE ORGANIZATIONAL SCHOLARSHIP: FOUNDATIONS OF A NEW DISCIPLINE* 263, 263-64 (Kim S. Cameron et al. eds., 16th ed. 2011).

the person acting within it.<sup>19</sup> Therefore, as part of the Suffolk leadership class, it is important to shape the environment for interpersonal learning, which means asking students to turn off their electronic devices and to put them away, as research indicates that even a silent but visible cell phone degrades the quality of conversation.<sup>20</sup>

Yet even if we have a temporary digital free zone, but are still distracted by our thoughts, we cannot be fully present to the other person, as research indicates many of us are mentally somewhere else almost half the time.<sup>21</sup> That is an internal problem rather than an external one, but we can build engaged attention by regular mental exercise in concentration, just like we can build a muscle.<sup>22</sup> I therefore ask the students to learn how to pay better attention by conducting regular concentration practice. In this regard, the students are fortunate to have as my co-instructor John Churchill, PsyD. Dr. Churchill has studied contemplative practice extensively with my own instructor and co-author, Daniel P. Brown, Ph.D., an Associate Clinical Professor of Psychology at Harvard Medical School. Dr. Churchill helps lead the students through this concentration practice, and we ask the students to report their results periodically through written journals.<sup>23</sup> Students report that concentration practice enhances their capacity to pay attention to other people as well as their work.<sup>24</sup> This skill—mindful attention—is an important leadership skill because it is foundational to

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19. Rhode, *supra* note 1, at 420-21 (reporting study of divinity students who in rushing to give a talk ignored someone in difficulty on the way).

20. See Shalini Misra, Lulu Cheng, Jamie Genevie, & Miao Yuan, *The iPhone Effect: The Quality of In-Person Social Interactions in the Presence of Mobile Devices*, 48 ENV'T & BEHAV. 275 (2014); Bill Thornton, Alyson Faires, Maija Robbins, & Eric Rollins, *The Mere Presence of a Cell Phone May Be Distracting – Implications for Attention and Task Performance*, 45 SOC. PSYCHOL. 479 (2014).

21. See Matthew A. Killingsworth & Daniel T. Gilbert, *A Wandering Mind is Not a Happy Mind*, 330 SCIENCE 932 (2010) (survey of 2250 adults finding that their minds were wandering almost half the time).

22. R. Lisle Baker & Daniel P. Brown, *On Engagement: Learning to Pay Attention*, 36 U. ARK. LITTLE ROCK L. REV. 337 (2014) (discussing engaged attention and how it can be enhanced by regular concentration practice).

23. “The contemplative practices taught me the true value in being able to concentrate effectively; specifically, a good leader needs to be able to remain focused on the task at hand and not get distracted by things that are going on around them.” Nicole Martin, Final Paper (Apr. 2018) (on file with author); “One thing I feel much improved on was maintaining concentration while talking one on one with other people. Normally, I find myself looking around and focusing on everything except the person I am talking to. I was aware of it, but had trouble fixing it. I believe this concentration practice has helped me with focusing better in conversation.” Elizabeth K. McCullough, Journal 7(f) (Feb. 27, 2018) (on file with author).

24. Nicole Martin, Final Paper (Apr. 2018) (on file with author); Elizabeth K. McCullough, Journal 7(f) (Feb. 27, 2018) (on file with author).



being able to be both aware of ourselves and of others without distraction.<sup>25</sup>

#### IV. UNDERSTAND AND BUILD ON THE STRENGTHS OF THE PEOPLE BEING LED

Learning how to pay better attention to other people is necessary but not sufficient. We want our leaders to bring out the best in the people they lead. So much of our education as lawyers involves learning how to undertake critical analysis of a situation, however, that we can focus on what is going wrong that needs correcting, rather than focus on what is going well. The value of critical analysis—which can often help point out injustice—cannot be overstated, but if we overuse it we sometimes miss an opportunity. We applaud when our children take their first steps, not berate them when they fall back down. But adults, especially legally trained ones, including law professors like me, may be quick to point out what needs fixing rather than what does not, taking that somehow as simply given. For example, suppose a friend reports that they just won the lottery. Even if the friend is not a client, we might want to offer advice about minimizing tax liability or avoiding investment risk for the proceeds. This may be valuable information, but not good for building a positive relationship with that friend, especially when our friend is not a client seeking our advice. Habits formed at work can carry over into other situations and do not always serve us or those around us well. What appears to be much more helpful in building a positive relationship with others is first to rejoice with them in their good news, a process known as “active-constructive responding.”<sup>26</sup> That response, however, is not automatic. Consider alternative responses which can be either passive or destructive, or both. Indeed, the advice about tax liability or investment risk described above, while well-intentioned, can be perceived as demeaning the good news—useful for protecting a client, but maybe not so good for strengthening a friendship. Or we may be busy with our own thoughts and simply acknowledge the news in a more passive way. That is positive but not engaging. Or we can be reminded

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25. Scott A. Westfahl & David B. Wilkins, *The Leadership Imperative: A Collaborative Approach to Professional Development in the Global Age of More for Less*, 69 STAN. L. REV. 1667, 1713 (2017) (“All law students should also be trained in simple mindfulness practices that have been positively correlated with improved focus, decisionmaking, and physical health.”).

26. Shelly L. Gable, Gian C. Gonzaga & Amy Strachman, *Will You Be There for Me When Things Go Right? Supportive Responses to Positive Event Disclosures*, 91 J. OF PERSONALITY & SOC. PSYCHOL. 904 (2006). The authors outline four possible responses to good news shared. Of these four responses, enthusiastic appreciation best enhances the relationship. *Id.* at 904; see also Lisle Baker, *Designing a Positive Psychology Course for Lawyers*, 51 SUFFOLK L. REV. 207, 240 (2018).

of something else that is related to us, rather than the other person, which is essentially ignoring the good news.

The irony is that if a friend came to us with sadness about a loss, we would recognize the probable reaction if, instead of commiserating, we simply told the friend that was too bad and went back to work, or used their report as a springboard to tell of a loss we had had, or told them that their sadness was not legitimate.

The point is to help students be aware, as leaders need to be aware, of how what seems good to them may not seem good to the other person involved, and that while we are used to being empathetic when things go poorly, we are not nearly as sensitive to the other person when things go well. With that in mind, here is a chart of the different responses to the same good news.

<i>Listener responses to good news shared</i>	<i>Passive response</i>	<i>Active response</i>
<i>Constructive response</i>	“That’s nice.” (Understated support)	“Wow! That’s great! How do you plan to celebrate it?” (Enthusiastic appreciation)
<i>Destructive response</i>	“Did I ever tell you about the time I...” (Ignoring the event)	“What about the downside of...?” (Demeaning the event)

The point of a chart like this is simply to provide a shorthand way of reminding us of the importance of keeping the other person in mind. (It is humbling to note how many times I missed an opportunity to build a more positive relationship when hearing good news if I had only been more aware of what I was doing in response.)

Looking at the positive has an even more important dimension beyond a specific reported event. As lawyers, we may often be quick to criticize or point out other people’s lapses of behavior, as we perceive them. But, like looking for good news to celebrate, what if instead we looked at what they said or did as evidence of the strengths that they may have to offer? That does not mean we ignore bad behavior, but simply bring some balance to a relationship, especially with those we hope to lead.

Here, we can learn from some significant research. Most of us have heard of the Diagnostic and Statistical Manual of Mental Disorders (or “DSM” for short).<sup>27</sup> About a decade ago, psychologists Dr. Martin Seligman and Dr. Christopher Peterson wrote a handbook of character

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27. DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS: DSM-V, AM. PSYCHIATRIC ASS’N (5th ed. 2013).

strengths and virtues where they describe six virtues: wisdom, courage, humanity, justice, temperance, and transcendence, expressed in twenty-four specific character strengths, including leadership.<sup>28</sup> They saw this work as a counterpoint to the DSM in that instead of focusing on mental disorders this work would constitute a “manual of the sanities.”<sup>29</sup>

The strengths they catalogued are the following: for *wisdom* are: creativity, curiosity, open-mindedness, love of learning, and perspective; for *courage*: bravery, persistence, integrity, and vitality; for *humanity*: love, kindness, and social intelligence; for *justice*: citizenship, fairness, and leadership; for *temperance*: forgiveness, humility, prudence, and self-regulation; for *transcendence*: appreciation of beauty and excellence, gratitude, hope, humor, and spirituality.<sup>30</sup>

These twenty-four strengths are the subject of a well-validated questionnaire where anyone can respond to a series of 120 questions to say what they are like or unlike, and then the results are tabulated and available through the nonprofit VIA Institute on Character.<sup>31</sup> It is because of this research that our course is entitled *Leadership and Character Strengths*.<sup>32</sup>

Using this work, and the studies that have followed it, we have asked our students to become aware of their own character strengths, including by asking friends and family to share their sense of those strengths. Once the students gain that self-awareness, we ask them to use that learning to recognize the individual character strengths in those they may lead.<sup>33</sup> Specifically, understanding of complementary character strengths can aid teams of people to function more effectively.<sup>34</sup> Moreover, the idea of spotting strengths in other people

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28. CHRISTOPHER PETERSON AND MARTIN SELIGMAN, CHARACTER STRENGTHS AND VIRTUES: A HANDBOOK AND CLASSIFICATION (2004) 29-30.

29. *Id.* at 4.

30. *Id.* at 29-30.

31. VIA INSTITUTE ON CHARACTER, <http://www.viacharacter.org> (last visited May 6, 2018). The website has many resources to help explain these ideas. VIA is apparently shorthand for “values in action,” though that is not now used. *Id.*

32. *See supra* note 15.

33. For research indicating that character strengths, particularly bravery, can be important for resilience, see Maria Luisa Maertinez-Marti & Willibald Ruch, *Character Strengths Predict Resilience Over and Above Positive Affect, Self-Efficacy, Optimism, Social Support, Self-Esteem, and Life Satisfaction*, 12 J. POSITIVE PSYCHOL. 110 (2016).

34. *See* Willibald Ruch, Fabian Gander, Tracey Platt & Jennifer Hofmann, *Team Roles: Their Relationships to Character Strengths and Job Satisfaction*, 13 J. POSITIVE PSYCHOL. 190 (2016); *see also* Westfahl & Wilkins, *supra* note 25, at 1709 (“Law schools should develop assessments and exercises to help students both understand their particular strengths and also invest in those strengths more deliberately, not as an optional career services department offering but as a core part of team-based course offerings.”).

has been advocated for parenting,<sup>35</sup> and for couples,<sup>36</sup> so why not for leadership?<sup>37</sup>

The main point is that, as indicated earlier, law school is often a deficit-oriented environment, where we, of necessity, often ask “what is wrong with this picture?”<sup>38</sup> We seek justice by focusing on injustice and use the tool of critical analysis to sort out what to do. These skills are vital for legal work but do not always help in interpersonal communication. They are also not the same as looking for and learning from what works and works well in the people we lead, just as the absence of disease is not the same thing as vigorous good health. Seeking out their strengths can help both the leader and those led to succeed.

V. HONOR THE CORE CONCERNS OF THE PEOPLE BEING LED FOR APPRECIATION, AFFILIATION, AUTONOMY, STATUS AND A MEANINGFUL ROLE AND PROVIDE POSITIVE EXEMPLARS TO EMULATE

Many of us have encountered people whose example inspires us, either through religion, history, biography, literature, or encountering them in our own lives. When we were children we often took on the persona of someone we admired and often tried to imitate. When we attend funerals, and hear stories of the deceased, it often prompts us to look at our own lives and reflect on how we ourselves might go and do likewise. One of the phrases we hear about leadership: we need to lead by example. The phrase implies that leaders demonstrate themselves the behaviors they want their followers to emulate. An example of precedent is also a powerful guide to what should be done today based on a similar case from the past. In short, lawyers are attuned to the power of the past example because of the persuasive power it holds for deciding what is appropriate future conduct. That may invite us to see if there is learning we can gain through observing how others behave.<sup>39</sup> While the

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35. LEA WATERS, *THE STRENGTH SWITCH: HOW THE NEW SCIENCE OF STRENGTH-BASED PARENTING CAN HELP YOUR CHILD AND YOUR TEEN TO FLOURISH* (2017).

36. SUZANN PILEGGI PAWELSKI AND JAMES O. PAWELSKI, *HAPPY TOGETHER: USING THE SCIENCE OF POSITIVE PSYCHOLOGY TO BUILD LOVE THAT LASTS* (2018).

37. For a valuable resource but one that builds on a proprietary instrument rather than the free VIA Character Strengths Inventory, see Tom Rath and Barry Conchie, *STRENGTHS BASED LEADERSHIP: GREAT LEADERS, TEAMS, AND WHY PEOPLE FOLLOW* (2009) (building on 34 themes such as “empathy” and “harmony” as well as terms of art such as “intellection” and “relator”).

38. Readers of my generation may remember this cartoon from the magazine *The Saturday Evening Post*.

39. Also, it may be helpful to recall that formal legal education arose because the form of informal education—apprenticeship—was deemed inadequate to the task of professional education. See Susan Katcher, *Legal Training in the United States: A Brief History*, 24 WIS. INT’L. L.J. 335, 347-48 (2006).

apprenticeship model may have been inadequate as too narrow and idiosyncratic in its results as a means of legal education, the shift to classroom-based, and even clinical instruction, has diluted the power of example of seeing a skilled practitioner at work.<sup>40</sup> This is an opportunity that many young lawyers used to have through joining a law firm as an associate and working with partners they admired, as I was fortunate enough to do.<sup>41</sup> Apprenticeship still has value, however, in that it is recognized in seven states as a complementary or fully alternative way to become a practicing lawyer aside from attending law school.<sup>42</sup>

Leadership, however, is not a profession with mentors and apprentices, though many of us have benefited from senior lawyers whose advice and example we found helpful, myself included.<sup>43</sup> Such advice, however, is not assured. In other situations, like sports, we can find exemplars that we can learn from and emulate; why not in our leaders?

Therefore, if the interpersonal skills of leadership are to be developed through example and emulation, how can that occur in a classroom setting? In the Suffolk Law School leadership course, each student is initially asked to pick someone they admire as a leader and report on the person in a journal entry. Later in the course the students are asked to report and explain a more public exemplar and the rationale for wanting to emulate that individual. Those situations tend to have a personal dimension, as they should. To help the students find a more common vocabulary of leadership success, at least interpersonally, my own suggestion is to consider offering the students a lens through which to view interpersonal leadership and then offer them some examples which the lens helps them see more clearly. I have found such a lens in the work of Harvard Law School professor Roger Fisher and psychologist Daniel Shapiro, Ph.D., in their book *Beyond Reason: Using*

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40. “[F]or a fee, the lawyer to-be hung around an office, read Blackstone . . . and copied legal documents. If he was lucky, he benefited from watching the lawyer do his work, and do it well. If he was very lucky, the lawyer actually tried to teach him something.” LAWRENCE M. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 238 (3d ed. 2005).

41. After law school, I joined the Boston firm of Hill & Barlow, which no longer exists, but which had a strong ethic of public service. Indeed, four Massachusetts Governors practiced with the firm over its history: Endicott Peabody, Michael Dukakis, William Weld and Deval Patrick.

42. See LIKE LINCOLN, SUSTAINABLE ECONOMIES LAW CENTER, <http://likelincoln.org/>.

43. I have been elected eighteen times to serve as the Ward Councilor for my part of Newton, MA, on its City Council, and now am in my thirty-fifth year of service. That opportunity arose, however, in part because I was advised by then Secretary of State, later Boston Mayor, Kevin White, at a Williams College career forum to seek a profession before politics so that holding elected office was not my only livelihood. He said that it was important to be able to leave public service, rather than do something in office that might be regretted simply because there was no other meaningful professional role available.

*Emotions as You Negotiate*.<sup>44</sup> While written for negotiators, I suggest that it offers useful guidance for helping educate law students about interpersonal leadership skills.

Professor Fisher and Dr. Shapiro have looked across the spectrum of human emotions and examined how important they can be in negotiation. The problem is that simply cataloging emotions can be a challenge as they are so numerous, much less deciding how to respond to them. Instead the authors looked at what might trigger either positive or negative emotions, and distilled many of them down to five core concerns: appreciation, autonomy, affiliation, status and role.<sup>45</sup> In their book, they outline how these core concerns can be both a lens for evaluating interactions with other people and a “lever” for moving situation forward.<sup>46</sup> The book is worth reading in its entirety, but here is a summary adapted from information that Dr. Daniel Shapiro was kind enough to share with me:

**Appreciation:** We do not like to feel unappreciated, that is, not understood, devalued, or unheard. There are three elements to appreciate someone: understand the other’s point of view; find merit in what they think, feel or do; and communicate your understanding.

**Autonomy:** The freedom to make decisions without imposition from others. (Advice: Always Consult Before Deciding).

**Affiliation:** The emotional connection between you and another; sometimes you can turn an adversary into a colleague: build structural connections; reduce the personal distance with “Safe” conversation: weather, traffic; or “Affiliation” conversation: family, opinions, requests for advice.

**Status:** Your standing in relation to another.

**Role:** We play established roles; how can I make my role or theirs more fulfilling?

In summary, use the core concerns to express appreciation, respect autonomy, build affiliation, acknowledge status, and shape a fulfilling role.

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In the Suffolk Law leadership course, the students are asked to look at their own experience for examples of when these core concerns were either honored or not and write a journal entry about them to help ground their understanding.<sup>47</sup> At the beginning of the course, I also ask them to

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44. ROGER FISHER & DANIEL SHAPIRO, *BEYOND REASON: USING EMOTIONS AS YOU NEGOTIATE* (2005).

45. *Id.* at 15-21.

46. *Id.* at 20.

47. *See infra* Appendix. In response to this assignment, one student wrote: “I found affiliation made a difference when I discussed part of my background with another person I

interview and introduce a classmate they do not know and find three things in common that are not obvious, like being a Boston Red Sox fan. Then, when we get to the discussion of the core concerns, I remind them of how that sense of affiliation helped them feel more at ease with that classmate, as many students can attend law school classes without having any idea about who sits next to them.

Mindful of Professor Rhode's caution about team exercises, I have found an additional useful method to help students understand the core concerns: demonstrating a core concern without words. I form the students into small groups and ask them to devise a brief pantomime exercise which, like charades, they can demonstrate a core concern to the class without explanation. As a demonstration, I put three chairs together, ask two students to sit next to me. Then I reach across them to pull down an imaginary window on an airliner. Almost everyone recognizes that I have interfered with the autonomy of the imaginary window seat occupant who has no legal right to control the window, but also feels offended in not being asked. The demonstration makes the point that the core concern of autonomy can become relevant in many situations, and the students respond with some ingenious demonstrations, which help make the core concerns more understandable for the class as a whole.

Having that understanding of the five core concerns in mind, they are then asked to view some famous examples of leadership with this enhanced perspective. In teaching the class, the power of this construct can be best illustrated by three examples, one real and two fictional, though none were written with these core concerns explicitly in mind.

First, consider the Declaration of Independence; a foundational document of the Republic but more often referenced than read.<sup>48</sup> A careful reading, however, will indicate the degree to which violations of the five core concerns are marbled throughout the document, with the foremost, of course, being autonomy. The grievances expressed in the Declaration are an example of core concerns not being met, in effect a failure of leadership by King George. But the law school classes are

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was working with . . . I was discussing a matter with a banker who disagreed with what I was saying. I told this person that "when I was a banker I had to deal with a similar issue, and this is how I did it. The bank I was talking to didn't know that I used to be in the same role/position, and I could immediately sense a change in the tone of the conversation . . . We brought the matter to a quick resolution, and I think a big part of that was our connection as bankers." Kevin O'Connor (unpublished journal entry) (Feb. 27, 2018) (on file with author).

48. *Declaration of Independence: A Transcription*, NAT'L ARCHIVES, <https://www.archives.gov/founding-docs/declaration-transcript>. The author grew up in Louisville, Kentucky where on Independence Day the Declaration was printed on the editorial page of *The Courier-Journal*. When I settled in Newton, MA, near Boston, after law school, I suggested to the then Editorial page Editor of *The Boston Globe* that he do the same. The *Globe* has printed the Declaration each July Fourth since.

filled with bad examples in the form of contracts broken, torts or crimes committed, or property rights violated. What can we learn from success?

For example, consider the famous St. Crispin's Day speech before the battle of Agincourt, where a much smaller English force defeated the French, made by King Henry V as recounted by William Shakespeare.<sup>49</sup> In this speech, reproduced from a recent movie version, King Henry responds to the core concerns of those he leads. Listen, for example, for the positive use of all five core concerns in just a few short sentences, their impact enhanced when the speech is shown on film. (Below I note some of the core concerns being honored. In the class, I ask the students to look for them individually as we watch the film clip and then we discuss what they saw.)

. . . [I]f we are mark'd to die, we are enough to do our country loss; and if to live, the fewer men, the greater share of honor. God's will! I pray thee, wish not one man more. [*appreciation; affiliation; role*]. Rather proclaim it, Westmoreland, through my host, that he which hath no stomach to this fight, let him depart; his passport shall be made and crowns for convoy put into his purse. [*autonomy*]. We would not die in that man's company that fears his fellowship to die with us. [*affiliation*]. This day is called the feast of Crispian. He that outlives this day, and comes safe home, will stand a tip-toe when this day is named, and rouse him at the name of Crispian. [*status*]. He that shall see this day, and live old age, will yearly on the vigil feast his neighbors, and say 'To-morrow is Saint Crispian's.' Then will he strip his sleeve and show his scars, and say 'These wounds I had on Crispin's day.' Old men forget: yet all shall be forgot, but he'll remember with advantages what feats he did that day: then shall our names familiar in their mouths as household words: Harry the king, Bedford and Exeter, Warwick and Talbot, Salisbury and Gloucester, be in their flowing cups freshly remember'd. [*appreciation*]. This story shall a good man teach his sons; and Crispin Crispian shall ne'er go by, from this day to the ending of the world, but we in it shall be remember'd; we few, we happy few, we band of brothers [*affiliation*]; for he to-day that sheds his blood with me shall be my brother; be he ne'er so vile, this day shall gentle his condition; and gentlemen in England now a-bed shall think themselves accursed they were not here, and hold their manhoods cheap whiles any speaks that fought with us upon Saint Crispin's day. [*affiliation; appreciation; status and role*].<sup>50</sup>

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49. I am grateful to Dan Shapiro, Ph.D. for pointing me to this passage. You can also watch it at <http://www.youtube.com/watch?v=A-yZNMWFqvM>; (Note the text is edited from the original Shakespeare text slightly for the movie. The text above is from the movie transcript.) HENRY V (Renaissance Films 1983).

50. *Id.*



Another positive example is drawn from the movie, *Gettysburg* in which the movie recounts the events leading up to and including the battle which turned the tide of the American Civil War.<sup>51</sup> Pivotal to Union success was the occupation and defense of a strategic hill known as Little Round Top.<sup>52</sup> While the defense of that hill by Union forces might seem the obvious focus for a discussion of leadership, what is even more illuminating is how preparations shown the day before illustrated the value of interpersonal relationships aided by these core concerns, specifically in a speech to soldiers who had mutinied by the Union commander, Col. Joshua Chamberlain.

Here is how the movie tells the story. The defense of the end of the Union line at Little Round Top was entrusted to a regiment drawn from the state of Maine and commanded by Col. Chamberlain, a former professor of Rhetoric (a law professor in his day) at Bowdoin College.<sup>53</sup> Col. Chamberlain ultimately earned the Medal of Honor for his role in this engagement, and later became Governor of Maine.<sup>54</sup> He and his regiment repelled multiple advances of seasoned Confederate troops, and when their ammunition was exhausted, he ordered a bayonet charge that broke the rebel advance.<sup>55</sup> While the valor of those defenders is portrayed in the film, what makes the movie so useful for teaching leadership is to demonstrate what led up to the battle itself, when Col. Chamberlain was ordered to take over 100 mutineers into custody.<sup>56</sup> These were Union soldiers, also from Maine, who had thought they had enlisted for two years, instead of three, and refused to fight.<sup>57</sup>

In the movie, Chamberlain was authorized to shoot them if he felt it useful.<sup>58</sup> Instead he persuaded over ninety percent of them to join his ranks and return to battle.<sup>59</sup> We do not have access to the exact words he said, but it is apparent that without their added strength, his line would not have held, the Rebel army would have taken little Round Top, flanked the Union lines, and Gettysburg, and perhaps the Civil War, would have had a very different outcome. What is significant for leadership education, however, is how the speech that Chamberlain gives to the mutineers offers a helpful window on the core concerns once

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51. GETTYSBURG (Turner Pictures 1993) [Hereinafter "Gettysburg"].

52. *Id.*

53. See generally ALICE RAINS TRULOCK, INTO THE HANDS OF PROVIDENCE: JOSHUA L. CHAMBERLAIN AND THE AMERICAN CIVIL WAR (1992).

54. *Id.*

55. *Id.*

56. See *id.*

57. *Gettysburg*, *supra* note 51.

58. *Id.*

59. *Id.* The author is indebted to Professor Michael Wheeler, Harvard Business School, for introducing him to Chamberlain.

again.<sup>60</sup> Again, it is most effective when shown to students to hear for themselves, though again I have noted a few core concerns for readers:

Here's the situation. The whole Reb army is up that road a few miles waiting for us so this is no time for an argument like this. We could surely use you fellows. We're now well below half strength. [*appreciation*]. Whether you fight or not, that's up to you, whether or not you come along . . . well you're coming. [*autonomy*]. You know who we are what we've been fighting for, but if you come along there's a few things I want you to know. This regiment was formed last summer. There were 1000 of us then, there are less than 300 of us now. All of us volunteered to fight for the union just as you did. [*affiliation*]. Some came, mainly because we were bored at home and it looked like this might be fun. Some came because we were ashamed not to, some because it was the right thing to do. All of us have seen men die. [*affiliation*]. This is a different kind of army. It you look back through history, you will see men fighting for pay, for women or some other kind of loot. [pause]. They fight for land, power; because a king leads them or just because they like killing. But we are here for something new. [*role*]. This has not happened much in the history of the world. But we are an army out to set other men free. The country should be free, proud, all of it, all the way to the Pacific Ocean, not divided to slave states or free. No man has to bow, no man born to royalty. Here we judge you by what you do, not by who your father was. [*status*]. Here you can be something. Here is the place to build a home. [*role*]. But it's not the land, there is always more land. It's the idea, that we all have value. [*appreciation*]. You and me, what we're fighting for in the end, we're fighting for each other. [*affiliation*]. Sorry, didn't mean to preach. You go ahead, you talk for a while. If you chose to join us, you can have your muskets back, nothing more will be said by anyone. If you chose not to join us, you can come along under guard and when this is all over, I will do my best to see that you get a fair treatment. [*autonomy*]. But for now we're moving out. Gentlemen, I think if we lose this fight we will lose the war, so if you chose to join us. I'll be personally very grateful. [*appreciation*]<sup>61</sup>

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60. For instructors who are interested in using this speech, here is a guide I made for myself: 1. Open with Chapter 2, which sets the stage with a map and movement of the armies. 2. Go to Chapter 29, where Chamberlain sets his flank to protect Little Round Top. Set stage of the war going badly for the Union up to then. 3. Go to Chapter 34, where they are out of ammunition and then rely on a bayonet charge: when you run out of ammunition, do something unexpected. 4. Go to Chapter 5-8 where Chamberlain receives the prisoners and has to enlist them. In that clip, note that he establishes his authority. Then he orders them to do something they want to do anyway: eat. Then he pulls away the spokesman, and treats him with respect, listening. Then he makes his speech.

61. Col. Joshua Chamberlain to mutineers from Maine in his Regiment's custody the day before the beginning of the Battle of Gettysburg where his unit was entrusted. Gettysburg, *supra* note 51.

The point of showing the students these positive examples is that interpersonal relationships matter when in leadership. I tell my students that I hope that they, as lawyers, never have to save the Republic, but that they need to be prepared to do so. We assume Col. Chamberlain did not know his speech would do it, but without the additional men, his unit probably would not have held Little Round Top, and the Union would have lost the battle and perhaps the War. Shelby Foote, the historian, said that before the Civil War, we said that “the United States are”; after the War, we said “the United States *is*.”<sup>62</sup> This is the consequence of leadership.

While interpersonal skills may enhance law student capacity for leadership, the Chamberlain speech also highlights a key attribute Professor Rhode articulated in her article: a willingness to serve a higher purpose than oneself.<sup>63</sup> In the movie Col. Chamberlain said: “This is a different kind of army . . . we are here for something new . . . . We are an army out to set other men free.”<sup>64</sup> After all, if we help our law students learn the capacity to lead others better, but they put that new capacity to selfish ends, we have simply enabled bad behavior. Good leadership intentions without skill may be ineffective, but leadership skill without good intentions is dangerous. This awareness brings us full circle to the importance of focusing on “character and fitness.” We want our lawyers, and our lawyer leaders, to bring out not only the best in each of us individually, but the best in us collectively. That is why leadership education is important, and why interpersonal skills are necessary, but still not sufficient.

#### CONCLUSION

The determination of “character and fitness” ensures that our lawyers possess qualities of character worthy of the public trust and the capacity to serve clients diligently and well. But when we ask those lawyers also to exercise leadership roles, we should help them aspire to use their character strengths and that of others, enhanced by interpersonal awareness, to serve positive goals greater than themselves. It is only a start, but the three ways of helping students develop their leadership capacities described here create a foundation of attention, awareness of self and others, combined with good intentions, that can not only enhance their work as lawyers, but also help them provide leadership when they need to do so.

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62. KEN BURNS: THE CIVIL WAR (PBS, 1990).

63. Rhode, *supra* note 1, at 418.

64. Gettysburg, *supra* note 51.

## APPENDIX

**Journal on the core concerns: Understanding them in your own life.**

As a leader, it is important to understand yourself and those who you will lead. Our positive emotions can be a great source of cooperation and can help us to achieve successful results; on the other hand, negative emotions can lead to the deterioration of relationships and productivity. Fisher & Shapiro, pages 15-18 (Five Core Concerns Stimulate Many Emotions) introduce you to the powerful impact which various kinds of emotions can have on any particular relationship. You have already become familiar with the five core concerns: appreciation, affiliation, autonomy, status, and role through working with the speech from Henry V.

Your task is to become familiar enough with them to recognize the core concerns in your own life and in the lives of those with whom you will be involved as a leader. This set of journal entries and exercises is designed to help you in that effort. In doing them, you may find it helpful to reference the outline below which corresponds to each individual concern. (Note that while these pages are helpful reminders, the book as a whole explores them much more.)

**Appreciation:** Page 51: Summary

**Affiliation:** Pages 53-54: The Power of Affiliation. Page 71: Summary

**Autonomy:** Page 87-88, 93: Summary

**Status:** Page 114: Summary [“Particular Status” is briefly referenced in the summary. Pages 99-100 will help you better understand this concept.]

**Role:** Page 140: Summary; Pages 120-22: Shape Your Role to Include Fulfilling Activities [Only cover the first two subsections: (1) Every role has a job and set of activities; (2) Expand your role to include meaningful activities.]

Using and citing the reading, write a journal entry documenting a situation in which you noted the impact of each of the five core concerns being addressed in you, or in which you used them to stimulate positive emotions in others. (The idea is to have you provide positive examples from your own experience that helps illustrate your understanding of the core concerns.) For example:

**Core concerns journal (submitted [date]):**

**a:** My sense of **autonomy** was positively affected when my roommate redecorated our living room—but only after first consulting me.

**b:** I used my understanding of the importance of **appreciation** by trying to appreciate the political views of a friend of mine, which are very different from my own—and to do so without creating a conflict. I just listened and tried to find merit in his view. It was not easy, and I was not persuaded by his view, but I saw how he sees things, and I let him know. I now have a much better sense of where he is coming from and he is more open to listening to my views.<sup>65</sup>

**c:** I found **affiliation** made a difference when I . . . [*continue with this and other concerns*].

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65. These examples are adapted from Daniel L. Shapiro, *Teaching Students to Use Emotions as They Negotiate*, NEGOT. J. 105 (2006).