Chapter 13

Reflections on Team Production

in Professional Schools and the Workplace

Robert J. Rhee

Leadership is a broad, amorphous topic, but it can be discussed in concrete terms. When I think about leadership, I do not view it in the romantic sense, a view of the leader who inspires others to follow through force of personality, brilliance, or authority.[1] My view is more functional and instrumental. In the world of Robinson Crusoe the concept of leadership is meaningless.[2] Leadership is only relevant in team production, and the first step toward a leader is having the ability to work effectively within a team environment. Let's stay with this minimum concept. There are two essential attributes: effectiveness and teamwork. It is unclear to me whether great leaders are born or made, but certainly the minimum attributes of better leadership can be taught and encouraged in a formal educational environment. In this chapter, I draw lessons from my past educational and professional experiences, and discuss ways in which law schools can better integrate the concepts of leadership and team production into the academic curriculum.

I am fortunate to have attended two fine professional schools, and to have put my training to the test in the workplace in two different professions. I trained to be a lawyer at George Washington University, and thereafter proved my mettle as a law clerk on the Third Circuit and a

---

[1] The dictionary definition of leadership emphasizes the qualities of guiding, directing, and taking charge. (Merriam-Webster 2008: 707).

[2] I borrow this turn of phrase from Harold Demsetz, who provides the correct frame of reference: "In the world of Robinson Crusoe property rights play no role." (Demsetz 1967: 347).

trial attorney at the U.S. Department of Justice. Intellectual curiosity then took me on a detour and I went back to professional school again. At the University of Pennsylvania, I studied finance, and thereafter spent several years working as an investment banker in London and New York. These educational and professional experiences inform much of my thoughts on professionalism, leadership, and educational pedagogy.

In a word, I associate my law school experience as *nondescript*. The study of law was a solitary pursuit. In the first year, every class except legal writing and moot court had one final exam worth the entire grade. Outside of moot court and my "study group" (friends who studied together more than an organized affair), the only opportunities for interaction with fellow students were the occasional social gatherings and school functions. In the second and third years, I took trial advocacy, which required a co-counsel, and I enjoyed the collaborative experience. For me, law school was a series of doctrinal courses with no rhyme or reason other than intellectual interest (and there were many) coupled with scheduling feasibility: so I took antitrust, immigration, corporations, law & economics, conflicts of law, and international law, just to name a few.[3] Truth be told, I acquired enough knowledge and skill after the second year to pass the bar exam. To this day, I still question whether law school *really* should require three years of school under the current pedagogical structure of classroom emphasis (Rhee 2007a).[4]

---

[3] I suspect that I'm not the only law student who chose courses in this manner. I did not particularly seek out opportunities in the clinic or externships. They were not mandatory or emphasized in any way, and my experience was that I didn't know what they were about and so let inertia (laziness) set in during course registration.

[4] The legal academy and the profession are increasingly alarmed by the cost of legal education and growing debt levels carried by students. See, for example, Henderson and Morriss 2008, Wilder 2007, McGill 2006, Wroth 2004, Romano 2004, Sebert 2002. Given the cost of legal education and the opportunity cost of not working for a year, the total cost of a third year of law is a rather large sum of money, perhaps as much as $100,000 in after-tax money. Rhee (2011a: 331). This raises a serious question for law schools and the American Bar Association: what is so compelling about a third year of law school that justifies such enormous

My comments here should not be construed as specific criticism of my alma mater for I suspect that my law school experience is not so unique.

In law school, each student individually pursues the quest for knowledge and achievement.[5] Of course, this is far from the reality after law school. In truth, the best trials are the product of collaborative effort. The intimacy of a judge's chamber requires an understanding of teamwork and collegiality. In-house counsels manage the business of outside lawyers as much as they practice law. And, sophisticated clients understand that the "best lawyer" is shorthand for the lawyer who can best leverage the human resources of the firm. More broadly, the labor market today is such that law school graduates frequently pursue business and other nonlegal professions. Success in any professional endeavor has as much to do with team production as with an individual's knowledge acquisition and dissemination. Yet, the law school experience diminishes the former, and emphasizes the latter. Most law students, even at the most elite institutions, do not go on to become judges and academics, but instead pursue careers in the marketplace, whether they practice law or not. We teach them sophisticated legal analytic skills—the ability to think like judges or law professors—but delegate the training of "soft" and "fuzzy" concepts like teamwork and leadership to the marketplace. Yet, the marketplace has

cost expenditure? To put this in perspective, after two years of business school and a few months of in-house training at UBS Warburg, I was ready to execute a £97 million corporate acquisition and to advise directly the senior management team of a major American corporation as a junior investment banker. In the medical field, medical school is four years, but only the first two years constitute classroom work and the last two years are reserved for clinical rotations. See, for example, http://dms.dartmouth.edu/ed_programs/mdprog.shtml (describing Dartmouth's M.D. academic program). One wonders whether the legal analysis or the bar exam are so inherently difficult that they require three full years of coursework to acquire a basic level of competency. See Butler (2006: 56), quoting Professor George Shepherd, Emory Law School: "Right now, we require everybody to get a sophisticated, expensive legal education—to buy the Lexus training, when most people would be content with a Corolla education."

[5] This aspect of legal education is famously embodied in the film *The Paper Chase* and Scott Turow's memoir *One-L.*

been increasingly critical of legal education and the ability of law school graduates to add value, and have increasingly bulked at subsidizing professional training at the client's dime (Rhee 2011a: 316–24). If professional training and effectiveness in the workplace are the goal, the ability to think about the law and policy to the *N*th dimension, or to make the connection to some other academic discipline, is overrated when compared to what lawyers actually do and the tools they will need. One wonders whether there is an overemphasis on the academic aspects of a student's legal study, [6] and if so whether it is a curricular exercise in self-indulgence on the part of the legal academy that is more disconnected from the profession than it should be. The curriculum should focus on professional training of law students that typically costs well over $100,000 in direct costs and perhaps an equal amount in opportunity cost as well. It is no exaggeration to suggest that the undertaking of legal education requires a financial commitment in savings and loans akin to the cash purchase of an average middle class house, and the typical twenty-something student leaves law school already saddled with an education mortgage. In this mandatory three-year program, law schools should deliver more than just teaching how to think like a judge or a law professor. With a command of technical legal analytic skills to read cases and statutes as a given, transactional and organizational awareness, problem solving skills, and teamwork are other important value-added skills in the workplace. Yet, with respect to

---

[6] I believe that research mission is a primary and necessary function of law schools which are a part of research universities (Rhee 2011a: 312). In this respect, laws schools should embrace highly theoretical research, and there is no reason why research should be "practical" in the sense that it caters to the needs of judges and clients (Rhee 2011a: 312). My quibble here is whether there is a perfect correlation between the law faculty's research efforts and the curriculum where most law students, including students from the most elite law schools, will end up practicing the profession. I have previously argued that some law schools may benefit from having a self-funding affiliated law firm as a part of the law school enterprise to better connect law schools to the practice of law. Rhee 2011b.

developing teamwork and leadership skills which coincide with a certain minimum level of maturity, law schools as collective enterprise have made too little effort to develop as yet.

Although culture in legal institutions change at a glacial pace, law schools have changed since I was a student. Experiential learning, such as externships and skills training, has taken greater prominence in the curriculum.[7] But legal education still lags in developing leadership and teamwork skills. There is a hole in the professional training of lawyers in the law school curriculum. My experience as a business school student, after graduating from law school, confirms this point.

If law school was nondescript, then in a word my business school experience was *balanced*. Like law school, the first year was a fixed curriculum of required courses in assigned sections. One would think that subject matter would have been the biggest difference between law and business schools: proximate cause versus portfolio theory, civil procedure versus financial modeling, due process versus arbitrage, etc. Not so, in my view. The subject matters used different academic languages, but they were equally interesting and rigorous. Instead, the most pronounced difference was the academic programming.

From the beginning, business was taught as a team endeavor. Every student was assigned to a "Learning Team," composed of four to five randomly assigned students.[8] During the entire first year, each Learning Team submitted assignments constituting a substantial portion of a

---

[7] A few law schools, most prominently Northeastern University, make this aspect a hallmark of their education. See http://www.slaw.neu.edu/coop/default.htm (describing its "Cooperative Legal Education Program"). Other schools, like Drexel University, have followed this example. See http://www.drexel.edu/law/coop-home.asp (describing its "Co-Op" program). The incorporation of externships and experiential learning into the core academic program is more the exception than the general practice.

[8] See http://www.wharton.upenn.edu/mba/academics/learnteam/index.cfm (describing the integration of "Learning Teams" into the core curriculum).

student's grade. This taught us that individual success was intertwined with group effort. Accordingly, teamwork and leadership development were stressed and woven into the fabric of the curriculum.[9] Importantly, I never heard a complaint concerning the fairness of group accountability or randomness of the process. To be sure, there were many complaints about such and such underperforming or difficult person, but never a complaint about the concept of group work. Indeed, since becoming a law professor, I have also taught corporate social responsibility at the University of Maryland Robert H. Smith School of Business. In these courses, a part of a student's final grade is allocated to group projects, and I have never had a complaint about this arrangement (group work is just understood as a part of the curriculum).

The curriculum sets the incentive structure. There were high performing groups as well as dysfunctional ones and everything in between. I suspect that success, failure and everything in between offered vital lessons in leadership and professionalism. My group worked hard to be efficient, spending time on assessing each other's strengths and weaknesses, developing personal bonds, delegating and monitoring assignments, and performing internal reviews of each other's performance. Some of this was mandated by the curriculum, including a facilitator-led 360 evaluation of each member, written critiques of team members, and regular evaluation meetings. Much of figuring things out was left to us: What did we do well? Who is strong in what? How should the work be assigned? In the end, we performed because we worked well together. Accountability, respect, and friendship bonded the group. We remained close friends after graduation, and we have become a critical support network during our careers.

Group work was not just limited to classroom assignments. Learning teams also had to integrate classroom and experiential learning. Groups were required to execute a real consulting

---

[9] See http://www.wharton.upenn.edu/mba/academics/leadership/index.cfm (describing how leadership training is an essential aspect of the education).

project done on a pro bono basis. Each team had to originate an idea, secure the assignment, and execute a consulting project. This required independent work by individuals and groups with very little guidance from the professor. In the end, we found a radio component manufacturer in Illinois. We pitched the idea of a pro bono project. The company flew us to its headquarters. We quickly learned the business, and provided a presentation to the senior management of our findings and recommendations. This complex task would have been impossible without strong teamwork and leadership by each member.

Business schools must teach effective team production because the profession of running a business requires teamwork.[10] Ultimately, such effectiveness is a core measurement of professional success. Although it is hardly "tested" in the traditional academic sense of an exam and a grade, the "soft" skills learned in the group meetings were as important as the "hard" knowledge learned in the lecture halls.

That business school emphasized teamwork and leadership in the core program did not make it any less intellectually rigorous than law school. I found the program at the University of Pennsylvania challenging and intellectually stimulating. The faculty was world-class in terms of scholarship and academic accomplishments, and there was no sense that there was any institutional inferiority complex in terms of its academic bona fide. Nevertheless, I never got the

---

[10] For example, the Wharton School's MBA program heavily emphasizes leadership and teamwork in its first year curriculum. See http://www.wharton.upenn.edu/mba/academics/core.cfm, The program requires two course in the area of "Leadership Essentials" as well as a pre-term Learning Team Retreat, which is described as two-day, off campus retreat designed to begin the process of team formation and to learn to lead in a peer environment. We can see that instituting leadership and teamwork skills into the curriculum is a significant commitment of resources on the part of the Wharton School. Other top business schools have similar commitment of resources to developing leadership and teamwork skills. The Harvard Business School requires courses in "Leadership and Organizational Behavior" and "Leadership and Corporate Accountability" as well as a program called "Field Immersion Experiences for Leadership Development." See http://www.hbs.edu/mba/academics/required.html.

sense that there was a disconnect between classroom learning and professional development. The chance of that occurring is probability reduced significantly by the fact that all students already being significant real world experience, which is a core requirement of the admission process, and their participation and feedback are a crucial part of the learning and academic experience.

In sum, the commonality in legal and business education was the intellectual rigor of the subject matters. But the educational experiences were starkly different. Business schools integrate a variety of pedagogical methods, including lecture, case study,[11] group work, and experiential learning. The traditional law school classroom experience is the Socratic method, by which I mean some form of a classroom dialogue between teacher and students. These differences in educational experiences are not attributable to different needs of the legal and business professions. Quite to the contrary, the professions were more alike than dissimilar.

Litigation and investment banking are different in subject matter, but they are remarkably similar in requiring a set of common skills. Beyond the capacity to analyze the problem and think through the solutions, the professional must also have "execution" skills. In a trial or a deal, the professional must turn desktop analysis into transaction execution. As a trial attorney,

---

[11] The case study is different from the case method of law schools. In business school, there are a number of case studies, written by business school professors, on actual business events and problems. The Harvard Business School has a large repository of case studies. See http://harvardbusinessonline.hbsp.harvard.edu/hbsp/case_studies.jsp. These case studies typically present complex, fact intensive, open-ended problems that form the basis of classroom discussion. On the other hand, the law school case method is centered on the study of appellate opinions. The facts and much of the history of the case have been sanitized in the opinion, which present only the material facts that are needed to decide the precise legal issue. Legal cases and transactions are not presented in such tidy packages. The focus on case opinions emphasizes the intellectual aspect of the rule of law, whereas frequently the far more difficult challenges in professional settings involve solving problems in whatever form and context they arise and leading or working within a team or organization. The case study method better trains a lawyer to think in terms of a complex set of facts or circumstances. I have suggested previously that law schools should incorporate more case study approach to augment the pedagogical methods used. Rhee 2011a; Rhee 2007b.

this meant managing the entire trial production: managing assistants and paralegals on research, filings, and exhibits; procuring experts and guiding their production; interfacing with opposing counsel and client; organizing and preparing documentation and schedules; communicating complex information to courts and attorneys; and managing organizational bureaucracy. As an investment banker, managing the deal required the following tasks: managing analysts on financial modeling; procuring accountants and lawyers and coordinating their workflow; interfacing with opposing banker and client; organizing and preparing information memoranda, offering circulars, financial models, fairness opinions, presentations to the board, and due diligence documents; communicating complex information to boards and management; and managing organizational bureaucracy. The nature of the transaction was different, but the job functions were very similar. In retrospect, my experience as a trial attorney served me well as an investment banker, and this should not be a surprise since each job is part of a highly educated and skilled profession.

The business school academic program better balanced desktop analysis and execution skills. The curriculum was more attuned to market needs, and graduates were better prepared for complex tasking in a professional setting. This is not the case with legal education. The study of law is typically a monastic, intellectual pursuit, and it does not emphasize enough a broad range of problem-solving skills. The concepts of leadership and team production are not incorporated into the curriculum. This is regrettable, for complex problems in the professional world typically require both desktop analysis and execution.

Young lawyers working on complex endeavors in institutional settings will confront several problems early in their careers. I have every confidence that they can research and analyze discrete legal issues and problems (after all, they just spent three years doing the same in

law school). It is no surprise that such projects constitute the bulk of a junior attorney's work. Instead, the problems they confront are of the "softer" kind. They may experience culture shock as a result of transition from the solitary pursuit of legal study to the professional world of team production. Without close supervision, they may have difficulties integrating their work product into a more complex endeavor. They may not appreciate the human and organizational dynamics of a professional enterprise. They may lack an understanding of "the bigger picture" of how business and legal transactions get done. They may lack the confidence to ask questions and understand their limitations. They may lack the understanding that in most settings the practice of law is a complex enterprise, requiring all the different set of skills necessary to successfully participate in a complex enterprise. These are real challenges of the workplace, and law schools should provide some training in this regard.

So, should law schools adopt the business school model? No. Although the idea is not without merit, there are practical impediments. First, the makeup of student bodies is different. Business schools draw older, more experienced students, who come to school already accepting the fact that professional advancement entails success in leadership and team production. Second, law faculties tend to be conservative in their approach to curricular changes, and this conservatism tends to avoid academic fads and to maintain a rigid emphasis on analytics. Lastly, one can argue that leadership skills are needed more immediately for the typical business school graduate than a law graduate, whose first task is to learn the application of theory to practice. Many business school graduates go immediately into leadership positions, or at least positions where the "train up" period is short.

With that said, there are ways to introduce concepts of teamwork and leadership into the law school curriculum without doing violence to it. Consider, for example, the following modest steps.

- In the introductory week of first year, assign incoming students into randomly assigned groups and give them a manageable project. For example, we can imagine an assignment that asks them to cull the relevant facts of a hypothetical case given a short package of case opinions, deposition testimonies, client interview notes, other documents and evidence.

- In the first year courses, assign a group midterm or project. For the teacher, this means additional grading, but only an incremental fraction of the regular grading load (e.g., 60 students divided into groups of 4 is an additional grading burden of 15 papers).

- In the first year writing courses, assign students into editing teams, each of whom are responsible for editing and critiquing the work of their team members. Assign partial accountability and responsibility for the work product of others.

- Provide opportunities for group projects in externships. Such projects would include personal journals and 360 evaluations of team members, and a portion of the evaluation would be a group review or grade.

- Provide a lecture series that emphasizes the importance of "soft" skills, with a mix of practitioner and academic perspectives.

- Provide a menu of 1-credit practicum courses revolving around problem-solving in various context: for example, in the area of business law (my field of teaching and research), setting up a business organization from beginning to a full draft of the operating or partnership agreement, or fully working through a corporation's capital needs and financing options within a team or organizational contexts. These courses would emphasize an integration of

desktop analysis and transaction execution and would develop teamwork and leadership skills.

These are modest proposals, superficial perhaps. But even minimal efforts to incorporate teamwork and socialization into the curriculum should have tangible impact on attitudes and culture. At the least, such efforts can plant the seeds of further reflection. What would a student take away if a group effort produced positive output? What would she learn from a negative experience? In my experience, at least, the best lessons come from failures and losses.[12]

Fortunately, there are laws schools that swim against this tide, and today legal education is increasingly changing to integrate new kinds of training (Rhee 2011b: 2). These are positive developments. My comments here stem from my experience as a student with the added perspective of an academic. Law schools have three years to train students—too much time *if* the goal is just to teach them to think like judges or professors, or to pass the bar exam. Two years, I think, would suffice to teach students how to competently read cases and statutes, particularly when one considers the enormous cost to the student associated with the third year.

We increasingly hear complaints from the marketplace that graduates are not "market ready" (Rhee 2011a). This criticism is directed in part at the perceived emphasis on abstract thinking without framing in concrete problems (Rhee 2007b). But I wish to note another aspect of the criticism. Law students graduate without the socialization and broader perspective on professional life that are necessary for long-term success. I question whether the "culture" of law

---

[12] Indeed, I typically include a group midterm in my first year Torts class. Like my business school experience, I assign the groups randomly and the project is graded. Without exception, I've always had some students tell me that they learned from their poor results. Indeed, I think that students who do poorly are the ones who learn the most. Some past student observations include (1) failure to take initiative, (2) failure to organize, (3) failure to listen to others, (4) failure to allocate assignment properly, (5) failure to manage personalities.

school is one that provides the best model of professional life, career development, and incentive structures, and whether we teach them the subtle skills of maximizing individual output through team production. In my experience as a student, law school was not so good at integrating aspects of socialization and culture while business school made them a core part of the curriculum. After the first few years of climbing the learning curve on "hard" skills, the knowledge and competence in a particular subject matter, the "soft" skills like leadership skills assume greater importance, and the rate of professional development may depend on how fast one acquires them. In the final analysis, law schools can import, modestly, some aspects of the business school model to provide a richer learning experience.

References

Butler, C.K. 2006. Rethinking Law School, *U.S. News and World Report*, 10 April, 54–57.

Demsetz, H. 1967. Towards a Theory of Property Rights, *American Economic Review* 57(2): 347–59.

Henderson, W.D. and Morriss, A.P. 2008. What Rankings Don't Say About Costly Choices, *National Law Journal*, 14 April, S1.

McGill, C. 2006. Educational Debt and Law Student Failure to Enter Public Service Careers: Bringing Empirical Data to Bear, *Law and Social Inquiry* 31(3): 677–710.

Merriam-Webster, Inc. 2008. *Webster's Collegiate Dictionary* 11th Edition. Springfield, MA: Merriam-Webster.

Rhee, R.J. 2007a. Follow the M.B.A. Model, *National Law Journal* 28 May 28, 22.

Rhee, R.J. 2007b. The Socratic Method and the Mathematical Heuristic of George Pólya, *St. John's Law Review* 81(4): 881–98.

Rhee, R.J. 2011a. On Legal Education and Reform: One View Formed from Diverse

      Perspectives, *Maryland Law Review* 70(2): 310–40.

Rhee, R.J. 2011b. The Law School Firm, *South Carolina Law Review* 63(1): 1–12.

Rhee, R.J. 2012. *Essential Concepts of Business for Lawyers* New York: Aspen Publishers.

Romano, R 2005. After the Revolution in Corporate Law, *Journal of Legal Education* 55(2):

      342–59.

Romano, V.A. 2003. Law School Debt Hampers Public Interest Employment, *Michigan Bar*

      Journal 82(11): 26–27.

Sebert, J.A. 2002. The Cost of Financing of Legal Education, *Journal of Legal Education* 52(4):

      516–27.

Wilder, G.Z. 2007. Law School Debt and the Urban Law School, *Southwestern University Law*

      Review 36(3):509–28.

Wroth, L.K. 2004. Access to Justice: The Problem of Law Student Debt, *Vermont Bar Journal*

      30(1): 28–29.