

## Thinking Like a Lawyer and Thinking Like a Leader

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I want to offer some preliminary thoughts about the following question-- Is thinking like a lawyer similar to, or different from, thinking like a leader? There are several reasons why this is an important question:

- The relationship between lawyer thinking and leadership thinking can stimulate law students to relate to leadership thinking and to appreciate ways in which legal education has some natural, logical affinities with leadership education. I say this because it seems to me important at the outset of this project to establish a relationship between law and leadership if leadership education is to command any respect in a law school.
- Understanding the differences between law thinking and leader thinking can illuminate for lawyers the distinctive challenges leaders face. Talk to any managing partner of any size firm and you will hear stories of how organizationally challenged lawyers are—many lawyers just don't think in organizational terms. But I take it that thinking and acting in organizational terms to be the core of the leadership enterprise--regardless of whether it is small group or a large complex entity.
- Most of the huge literature on leadership focuses on particular skills or character traits needed by leaders—they don't focus on the thinking, the intellectual dimensions of organizational leadership. If lawyers come to understand the conceptual framework of leadership performance, they will, I think, have more respect for, and interest in, leadership.

So all I plan to do in my five minutes is to ruminate a little—not all that systematically-- on some similarities and differences between lawyer thinking and leadership thinking.

### Similarities

1. One of my favorite truisms from the leadership literature is from Max DuPree: “The first responsibility of a leader is to **define reality**.” One could say that this is also the first responsibility of a lawyer serving a client. How often does a law school class beginning with the question, “What are the facts of this case?” Appropriately

- characterizing “the facts” is a high art since both law and leadership are context-driven, situation-driven enterprises.
2. **Persuasion** is fundamental to success. Persuading clients, courts, regulators, legislators, and negotiators on the other side is fundamental to success in law. Persuading followers and outside forces like vendors, financing parties and various publics and constituencies is fundamental to success in leading any kind of organization.
  3. Both law and leadership are **results-oriented**. The lawyer interprets existing facts and circumstances and the law itself to obtain a result favorable to the client—or creates facts through negotiation or other actions to make success for the client more likely. This is process of constant adjustment to interpret or get facts and law into a favorable alignment. Leadership thinking typically involves the same kinds of adjustments as circumstances change.
  4. There is probably a lot of overlap between law and leadership in the **forms of reasoning** used to persuade people, but this deserves a lot more thought than I’ve given it. Lawyers use reasoning by reference to rules, analogy, policy, principle, and custom or practice. It is not clear to me that leaders argue all that much differently although the context, the organizational “client” so to speak, involves a much broader range of issues than what is applicable law.
  5. **Synthesis** is fundamental to both law and leadership. Lawyers synthesize different cases to arrive at a considered interpretation of what the law is. Leaders of organizations of any size synthesize or make sense of disparate elements like predictions of behavior of customers or target audiences, operational capacities to perform, resources, aspirations and ambitions—the idea being to arrive at a coherent synthesis that makes decision-making possible.

### Differences

1. The **focus** of law and leadership differs. Law is focused on identifying rights and duties of persons or entities within a given or created situation. In important respects it keys off of prediction of what a court or agency will do. For leaders, law is only one form of many elements of analysis, which can range from finances, to

operations, human resources, competitive environment, internal culture, political and regulatory environment, marketing, etc.

2. The **authority** structures that govern the lawyer-client relationship and the leader-organization relationship vary greatly. The client typically looks to the lawyer for specialized expertise that the client usually doesn't have. The lawyer is the agent of the client, serves the client and the client is fundamentally in charge, making decisions that the lawyer is obligated to pursue unless they trigger good reasons to terminate the relationship.

The leader's relationship with his or her followers is much more complicated—even though it might be insightful to conceive of an organizational leader as the agent of an entity or group that ultimately has the power, through revolt of the group or action of a governing board or group, to terminate the leader. Essentially, the leader's role is not defined by the formalized expertise, but rather by a combination of a higher governing authority's designation of the leader in a particular role and/or a process of building the trust of followers.

3. **Setting direction.** To vastly oversimplify, the lawyer's job is to identify more or less authoritative guidance in conversation with the client which leads to convergence on how to proceed between the client/principal and the lawyer/agent. A leader's situation is typically more challenging because building trust is essential to engaging people to follow in a certain direction. Trust includes, as mentioned earlier, persuading people of the reality of an organization's situation and future. David Maister talks about how revealing is the etymology of heading any organization: the word leader derives from the Anglo-Saxon meaning the person who finds the path; manager comes from the medieval French family of words like ménage and literally means the person who keeps the beasts; and administrator comes from Latin, meaning to minister to or serve. In my experience, in large or small organizations, if the head of the organization cannot perform or make sure surrogates serve or perform administration well, and cannot manage or have some capacity in place to manage relationships that keep the beasts well, he or she will not be able to build the

trust that authorizes the leader to find the right path or direction for the organization.

There is, no doubt, a lot, an awful lot, more that could be said on this topic, but I've laid down my bunt that I hope it will move the discussion forward.