

# The Role of Law Schools and Law School Leadership in A Changing World On Being an “Outside Dean”

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## Introduction.

Within U.S. legal education, selecting law school leaders—deans and others—from *outside* the law school and even academia overall is a growing trend, just at a time when law schools are also finding that their deans must be more active in the external world beyond the law school. These related developments are the focus of this paper. Both trends may be more common in the U.S. than elsewhere, but as the world grows smaller, approaches to legal education borrow from each other. The U.S. experience may be relevant to law school deans from all countries as we face the future together.

To begin, what is an “outside dean?” The definition is capable of different interpretations and is a good starting point for this discussion.

A dean is an “outsider” if he or she comes from outside the law school faculty, whether from elsewhere in the university or the world of legal academia. More significantly, an “outside dean” may come from outside the academic world *altogether*. This was my situation upon joining the University of the Pacific McGeorge School of Law in 2002 as its eighth and first woman dean. My unusual background as a lawyer, without tenured law school teaching, prompted deep discussion by my future faculty about the merits of an “outside dean.” The University found the idea novel and delayed its decision for a year, to allow for a second year-long search. They were unsure that my background equipped me for this important University leadership role.<sup>[1]</sup>

The University was not alone in its puzzlement. Others in the legal academic world raised similar questions.<sup>[2]</sup> Why hire an outsider and not select a dean from the Faculty itself? How can an outsider lead a faculty effectively without having served as a tenured member of *any* law school faculty? And how will such an outside background impact the external world, both within and without legal academia, which increasingly all law schools must consider for fund raising and reputational purposes?

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<sup>[1]</sup> My eventual selection followed a day-long interview by the University president, whose academic background as a psychologist proved useful in reaching the conclusion that I would be a good “fit.”

<sup>[2]</sup> One member of the Law School’s ABA accreditation team commented at our first meeting, “We wondered how *this* would work—given your background.” They later reported, with apparent surprise, that the dean was “beloved” and they concluded that an outside dean had been a success in moving the Law School from a fourth tier ranking into the top 100 of American law schools in a two year period.

I shared these concerns.<sup>[3]</sup> While interviewing I asked why the faculty would consider a dean without experience in California, where my school is located, or in academia. Their answers inspire my thoughts today on any dean's role in the external world. Our subsequent experience together suggests that the best choice for such external responsibilities can sometimes be a dean who is an "outsider," in the broadest sense.

My faculty interviewers explained that they needed a dean to be the law school's ambassador, promoting its programs and strengths to a wider world and raising its profile among legal educators, alumni, judges, members of the bar, government officials and local leaders. This view resulted from work on a strategic plan which had caused them to think deeply about the law school and its future. The faculty was concerned at the law school's lack of reputation, the decline in student applicants, disinterest among alumni and problems graduates faced in finding employment. They saw these problems as interrelated and, as a private school, they knew that such problems were fundamental. Without serious attention, the law school could not thrive and might not even survive.

The faculty's response to the problems identified was courageous and bold.<sup>[4]</sup> They saw that the dean's job might require skills and experience different than those possessed by a faculty of superb teachers and scholars. They had the confidence to consider a candidate whose background, perspective and skills differed from theirs. They knew intellectually that the outside world was important to the law school's future and they thought that someone from the outside world would be better able to take advantage of what it offered. Even so, no one had the experience to understand exactly why an outside dean might, in fact, be the very best choice to reach out to the external world.

Over the last seven years, a relationship has developed between dean and faculty which shows why an outside dean may have an advantage in reaching out to the external world. First, an outside dean can bring new ideas, contacts and experience *into* the more protected world of legal academia. These serve as catalysts to activate faculty energies and talents. Second, an outside dean can *reach out*, introducing the law school and its faculty to the external world, building the engagement and recognition needed for reputation building and fund raising. This "two way" bridge between the academic world and the "real" world can have a powerful impact as different backgrounds interact; this positive power is evident in many respects, but the following may be the most significant.

1. Leadership, management, administration and governance;
2. Constituent Relations: Alumni, Donors, and Others.

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<sup>[3]</sup> Initially, I too did not see the position as a "fit," but the law school's search firm persuaded me to visit.

<sup>[4]</sup> Other faculties have confronted this dilemma and considered similar action. The prospect of selecting an outsider to fill so significant a leadership position, capable of profoundly impacting law school and faculty, is, however, often quite daunting. Many faculties intend to "do something different," but in the end are frightened into proceeding cautiously, selecting a dean from existing faculty. Such selections may be successful, but risk choosing the least offensive faculty member rather than a leader with energy and vision.

3. "Extra-academic" responsibilities (fundraising, law reform and other civil activities); and
4. Reputation enhancement and fund raising.

### **Leadership, Management, Administration and Governance.**

All organizations need the related skills of leadership, management, and administration. In contrast, unique local concerns--institutional culture and specific rules--determine academic governance. Both areas raise differing concerns for a dean. On the one hand, the academic world does not always differentiate between leadership, management, and administration and confusion may occur when a new dean's skills are considered. Should the law school seek a leader, a manager or administrator? What impact will this have on the dean's growing external role? On the other hand, how will a dean manage unique institutional matters of culture and governance?

To begin, the difference between leadership, management, and administration can be visualized as a pyramid, organized in declining importance to the organization from top to bottom: leadership at the top, management in the middle, and administration at the bottom. Leadership requires vision, the ability to inspire others and to think strategically. This is the dean's ideal role, particularly if external engagement is the goal. Management implements vision and is the place where those directly responsible for the academic and business functioning of the law school fit. Administration, at the pyramid's base, supports more routine day-to-day functioning of the law school and its programs.

For external success, the dean, as leader of the law school *and its community*, must forge a vision which both internal and external audiences will embrace. Under any circumstances, traditional academic independence makes creating a shared vision challenging. It is even more so when both the faculty and external constituencies must join in supporting a common vision for the law school.

Effective listening is the first step in creating such a shared vision, which must be built on the diverse strengths and interests of the law school, its faculty and external community. This vision can then be used to influence, persuade, and inspire faculty and others to move in specific directions which will re-enforce and eventually reward different individual goals and objectives. New directions can be inspired, but not ordered and so in a law school, there is a need to "lead indirectly," encouraging collaboration and responsibility through shared ownership of the ideas, values and goals which will guide the law school. The ultimate goal is to create a vision or narrative which is authentic, when judged against the combined strengths of the law school and faculty, but which will also be meaningful to the outside world, in order to obtain their commitment and the financial support needed for success. The dean must build a bridge of understanding, interpreting the law school's vision so that both those inside and outside embrace it equally. Adjusting a law school leadership, management, and administration's inside view to address the needs of the external world is a delicate matter of political persuasion and negotiation. The dean must lead collaboratively across multiple internal

and external constituencies, so that the interests and goals of each are included. Understanding the varying interests and needs of both internal and external constituencies will be critical.

In this work, an outside dean is likely to have three advantages: first, an understanding of the external world; second, if an experienced leader, understanding the collaborative leadership skills needed, and third, greater tolerance for the intense schedule required of successful deans.

An outside dean's background, should bring involvement and knowledge with the external world and awareness of how the law school is perceived and appreciated. Contacts with external leaders is a related valuable asset which the outside dean will bring. Outside deans are also likely to have greater management experience than their inside dean counterparts. Collaborative leadership is widely seen as the most effective approach to organizational leadership, certainly for one composed of professionals. Outside deans are likely to understand this, if they have been successful leaders in other contexts. In contrast, law school faculty are less likely to have been exposed to leadership opportunities and concepts. Their experience may be limited to committee assignments, teaching and writing, with none of the intense personal interaction, broad range of issues and incessant time demands that characterize a dean's responsibilities. They may fail to appreciate the importance of a collaborative approach altogether; others may find the patience required challenging and become dictatorial. Still, leadership skills can be learned and excellent training does exist. There is no guarantee that an outside dean will always be an accomplished leader while an inside dean will not.

The third advantage which outside deans, as a group, are likely to enjoy is a greater likelihood that they are experienced, or at least can tolerate, the highly transactional daily duties and large number of social and political interactions, which deans confront and which will only grow as their external role increases. Under such circumstances, the deep engagement with scholarly writing and teaching which most academics find so rewarding may become impossible to accommodate. This may prove frustrating to the inside dean, but most outside deans will have experienced the fast-paced, less reflective style of decision making of the outside world. Here again, they will be more prepared for the role of the modern dean.

Where an outside dean is at a disadvantage is in not knowing a law school's institutional culture, knowledge which will be essential before a dean can begin introducing bold leadership and governance initiatives. Like all human institutions, law schools are sensitive and dynamic organisms. Learning the ways of faculty and university, to avoid crossing important jurisdictional lines of responsibility and governance among dean, faculty and university is delicate, but necessary. In contrast, inside deans who have grown up in the law school's culture, will know its traditions and rules, written or not, as if second nature. This will allow them to avoid many of the pitfalls to which an outside dean may be prone. No matter whether a dean is selected from the inside or the outside, however, the demands on the modern dean

will simply increase as external obligations are added. “Deaning” will continue to be a challenge, whether for inside or outside candidates, as length of service statistics reveal.<sup>[5]</sup>

### **Constituent Relations: Alumni, Donors, and Others.**

Both the inside and outside dean face another important challenge in learning to know the large number of important constituencies critical to the successful operation of the law school. Here being an extravert, with a politician’s memory for faces, names and personal histories, is invaluable. Public speaking ability and stamina help too.

In all of the social interaction that will occur, the goal should be to engage a wider variety of diverse constituencies, to represent the law school’s interests successfully, and to build pride, confidence and trust in the direction in which the law school is moving. This the dean will do by learning about the law school, its faculty and alums, as well as its current activities and initiatives and historic traditions, and then weaving them into a convincing story of meaningful excellence. After all, increasingly in all U.S. law school, whether public or private, the need to have financial and other forms of support will be critical to a law school’s success, but this can only happen slowly, after confidence and trust in the dean and the law school’s leadership has been established. Alumni are key to attracting, supporting, and finally placing students in positions worthy of their preparation and investment. The financial support provided by alums, and others, means that the dean must learn about them and enjoy the process of getting to know them and to celebrate their accomplishments. Saying thank you repeatedly, both when it is appropriate and even more, when it is not, are also key skills, likely more familiar to the outside dean than to the faculty member who has not been widely exposed to dealing with the public.

In the U.S. context, there is one constituency that is of particular importance: the judiciary. Because so much of the legal system depends on them and yet they are precluded from defending themselves out of the need to preserve their independence and impartiality, law schools and their deans have a special role to defend and advocate for judges. This translates into significant time obligations to participate in judicial commissions and court processes.

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<sup>[5]</sup> Statistics about length of service by American law school deans do not indicate a difference between inside and outside deans. Many deans depart in the first two years of service, evidently finding the job not what they expected, but after this initial period, length of service for men averages between 4-5 years and for women 6.2 years. There is no dispute, however, that “deaning” is a difficult job. See Frank T. Read, *The Unique Role of the American Law School Dean: Academic Leader or Embattled Juggler?*, 31 U. TOL. L. REV. 715, 716 (2000) and Laura M. Padilla, *A Gendered Update on Women Law Deans: Who, Where, Why, and Why Not?*, 13:3 Journal of Gender, Social Policy & The Law, 443, 460 (2007).

### **Extra academic responsibilities--fundraising, law reform, other external activities.**

A dean's principal job in the U.S. legal academy is raising funds for new projects, buildings and faculty. It is therefore important to recognize just how much time a dean will spend on fund raising related activities. Almost 60% of a dean's time is estimated as dedicated to fundraising, but this will include a wide range of activities designed to maintain contact with alumni and others of significance to the law school. Other activities of significance to the community at large should also be considered, particularly those which are designed to improve legal education and the legal system. After all, law enjoys a special role in our society and its importance is what gives our graduates special recognition and value. A law school dean should take advantage of opportunities to contribute to the betterment of the legal system, while avoiding activities that are partisan or destructive of a fair and open process. Carefully chosen, supporting some such activities will build confidence in the law school itself and serve to raise its reputation.

In my own case, early in my deanship I realized that my law school and many others suffered from the inclusiveness needed to insure that all citizens, no matter their race, ethnicity or background, had ownership of the legal system and the ability to participate in it and expect fair results. Because this required graduating lawyers from diverse backgrounds, too few of whom were adequately prepared, the opportunity presented itself to reach out to younger students of non-traditional backgrounds and to support their interest in attending law school as well. Here our law school demonstrated its own institutional leadership, as well, hopefully, of the leadership of its law students.

### **Reputation enhancement.**

Ours is a competitive world and lacking objective means of assessing the quality of educational institutions, students, faculty, and the public have resorted to measures of quality based on arbitrarily created measures, such as those published annually by *US News and World Report*. Much time has been expended in strategizing how to gain the recognition needed to achieve the votes required to increase reputation in these rankings. Some law schools deluge their counterparts with costly promotional materials. Others seek to use faculty scholarship to foster reputation; to design programs that will bring attention to themselves; or to enable improving their performance by attention to measurable objective measures such as incoming qualifications of students, the rate of bar passage or employment at graduation. None of this is wrong in itself, but most of these initiatives dilute a law school's attention for the more important parts of its mission: fine education, meaningful scholarship and service initiatives which will benefit legal education and the legal profession as a whole. In the end it is likely that it is the quality of preparation and ability that a law school's graduates reflect which will be as significant to raising reputation as any other single activity. Beyond that, outreach in helping others to solve the common problems of legal education and the profession over all may offer the best overall name recognition strategy. Here again, the outside dean may have the advantage of understanding how the public perceives lawyers, the legal profession and our legal system. Addressing problems in that perception through a combination of teaching,

scholarship and service is likely to have the most lasting positive impact on the law school, its reputation and its future.