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The Challenge of Diverse Leadership in Legal Services

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[Editor's Note: David Hall, professor and former dean at Northeastern University School of Law and board member of the Legal Services Corporation, delivered this keynote address to the Massachusetts Legal Services Attorneys of Color on November 27, 2007, in commemoration of two fellowship programs, one of them recently instituted to promote leadership opportunities and advance racial justice.]

It is an honor to be asked to speak to you today. I thank each of you for the wonderful work you do each day to keep the hope of justice alive in this country. Words cannot express how deeply I appreciate what you do. Although many of you are not grantees of the Legal Services Corporation (LSC), you are still part of the family of lawyers who serve clients for whom you are the last resort. I bring you greetings from the board of LSC and, on their behalf, salute the work you do in this area.

But I am here to speak today to this special group on the challenges of diversity within the legal services community. A lot has been written and spoken about diversity in the legal profession. Yet very little of that intellectual energy has been devoted to the legal services community. Likewise, even less of the literature has focused on the special challenges of lawyers of color who dedicate their lives to serving the poor.

Some of this absence of attention is because we assume that lawyers of color should do this work. Since so many of the clients of legal services programs are people of color, it is assumed that lawyers of color should dedicate their careers to this work. Yet this assumption overlooks a major economic reality. Researchers have consistently demonstrated that there is still a major wealth disparity in this country along racial lines.

Despite years of progress, many persons of color are still trapped behind walls of income and wealth disparities.

For attorneys of color, their law degree serves as a vehicle to cross some of these barriers. There is even an expectation from parents and friends that the law degree will propel you into a different income bracket and way of life. So when lawyers of color purposely decide to give up this passport to higher incomes, greater wealth, and even financial security, it is a big deal and a major sacrifice. This is not to say that white attorneys do not make a similar sacrifice, for they do. Yet if the data in regard to wealth and income disparities are correct, then collectively the sacrifice for lawyers of color raises even deeper social and individual concerns.

I raise this not to remind you of the sacrifice or “vow of poverty” but to celebrate your contribution to a work that I deeply believe is sacred. I also raise it because it is a fact that legal services agencies and even LSC, which I am a part of, have to be more sensitive to this challenge as we strive to create diversity within the ranks. In addition to the financial and monetary sacrifice that lawyers of color make in doing this work, there are what I call the “cultural clashes” and “internal cultural struggles” that so many of you face every day while engaging in this sacred calling.

The cultural clashes occur because often the experience each of you has had as a person of color living in a racist society has altered the way in which you see the world and view legal issues and the legal system. The very thing that we want from you—a unique perspective and sensitivity—becomes the very thing that sometimes clashes with the dominant approach in your office or that of your supervisor. They may have a worldview that might not be consistent with yours, and the challenge is how do you get that person to see the world and your clients through your eyes without alienating or disrespecting the supervisor and jeopardizing your job? These are the subtle struggles that I’m sure you face each day. What is needed is for us to give voice to these struggles, to make them legitimate,

and to sensitize the leadership of legal services to these matters. Ultimately these are not your issues; these are the issues of your organization. For diversity cannot truly flourish, nor will we get the full benefits of it, if we use it only as window dressing. If we want diversity so that we can prove to the client that we are not racist, then that limits the power of this powerful concept. We should want it because it enriches the work we do. We should want it because it allows our offices to serve our clients better. We should want it because it is the right thing to do even if it’s not always the most politically popular thing to do.

But there are also those internal cultural wars that we engage in as people of color, especially when we serve our own people. We come to the work because of them. We come because so many of them look like our family members who are trapped in the maze that we fortunately escaped. For some of us, our clients are our family. Though not directly, we still have family members who have not escaped the traps of poverty and thus are eligible to be clients under our program guidelines.

There is a sensitivity and passion you bring to the process when you serve them, but there is also deep pain. You see the brokenness in their lives, and you see that what you do is so limited and often meaningless. You came to save them, but you realize that you are placing legal Band-Aids over cancerous social wounds. Where do we place this pain and frustration? Do others feel it as deeply as we do? When you look at them you are looking in the mirror. You see images that look like you, like your uncles and aunts, your fathers, nieces, and nephews. And yet your lives are still distant from theirs. Do you applaud that reality, feel guilty for it, or do you ignore it altogether? These are the internal psychic wars of the legal services lawyer of color.

Then there is the opposite clash. There are times when your colleagues appear to be pampering your people when you know they need a stern hand. You have grown up with the excuses, the denials, and the blame game, and you know how it can be a crutch. Yet you have to wonder

if you have become a part of the problem when you raise these types of concerns. Have you turned on the very people you came to serve? Has the legal system made your heart as hard as stone, or are you just serving up the tough love that someone served to you?

There are no easy answers to any of these questions, but they must be asked and answered. Our struggle in this society around depression, burnout, and frustration is not because we can't find the answers to our challenges and struggles but because we are not even willing to ask the questions. Silence becomes our way out, which leads to more internal wars that never get resolved. So part of our quest to create a diverse legal services community must be a sincere willingness to ask the difficult and sometimes unanswerable question—and to accept the reality that the answer may differ depending on who is asking it. All persons of color don't think, act, and speak alike. Yet our experiences can still be authentic and genuine.

It has become very common for the legal services community to raise the banner of cultural competence as a standard for the effective delivery of legal services. This is an important milestone in this journey. Yet cultural competence is relevant in not only how we treat clients who are different from us but also how we treat those whom we work with, supervise, and employ. Our agencies must become culturally competent to the point that we systematically nurture and cultivate the diversity that exists within our offices and strive to enhance it.

Another major hurdle on the journey toward diversity is our inability to understand fully the difference between embracing diversity and institutionalizing it. If we are serious about making progress in this area, then we must view it in the same way we would view other aspects of institutional transformation. If we allow it to linger on the fringes, then we will never create the progress we seek. To institutionalize diversity means that every aspect of the organization's culture, values, policies, and practices must be examined through this lens. From re-

cruitment to hiring, from promotion to retention, from who's running the place to who's cleaning the place must be on the table. And we must develop a process for removing those barriers that are standing in the way of our progress.

Another diversity trap I want to mention is the phenomenon of how people of goodwill and good intentions create what I call the diversity abstraction. Through good intentions, and a little dose of political correctness, we have made our quest for diversity like a pledge of allegiance or a loyalty oath. It is something that we feel we have to do, but we end up going through the motions, performing the ritual, repeating the words, but not personally owning and internalizing the ideals. On an individual level, those especially in positions of authority have placed responsibility for achieving this goal in the hands of committees we rarely see, consultants, and soothsayers who continuously tell us why the diversity boulder is too heavy and the climb to the top is too steep.

This diversity abstraction is analogous to how some in society interface with our religious beliefs. We learn to perform the rituals, we recite the liturgy, we attend the temple, repeat the prayer, but yet the quality of our lives doesn't change. Our faiths are still abstract concepts, which we sincerely believe in, but we haven't been able to internalize fully the deeper meaning. Like religion, this diversity abstraction comes with a cost. We pay our tithes, make our offerings, not as a sign of our deep commitment to the mission and vision but as a form of absolution. By praying at the altar, we feel free and protected to operate in the marketplace. Likewise, by forming a committee, bringing in a speaker, or even having the topic discussed at a few meetings, leaders of organizations perform a ritual that permits them to wash their hands of any personal responsibility for changing the life and structure of their organizations. Certainly this is not the intended result. I do not ascribe malice or evil intent to any of us who have participated in this ritual of abstraction. Yet this pattern of abstraction is a very seductive trap for the weary, the overextended and the disingenuous.

Another aspect of the diversity abstraction is our belief that it should be easy, without risk, and free of contradictions. We believe in diversity until we are criticized for pursuing it. We believe in it until one of our diversity hires fails to win the approval of others in the organization. Diversity, like most challenging issues in life, shouldn't be undertaken because it is easy or free of contradiction. It is undertaken because it is the right thing to do and consistent with the values this profession and society embrace and live by.

We spend so much time trying to define, refine, and analyze diversity that we spend very little time personalizing our connection to it and our individual responsibility for bringing it into existence. We have to get to a place on this journey toward racial justice where our gatherings are more than an abstract intellectual discussion—an opportunity to engage in a simple but powerful process of setting goals and holding ourselves accountable for those goals.

There is a classic belief that many of the traps in our path to our destinations in life are creatures of our own making. We create them because we really aren't sure we want to go where we say we are headed. We create them because we have grown more comfortable and accustomed to failure than we truly believe in success. We create them because we intuitively know that success comes with a cost, and that cost is not just monetary but will often force us out of our comfort zones. To make genuine progress in the diversity arena challenges our comfort zones and demands that we dismantle some of these stumbling blocks we created.

In the consulting work I have done with firms and government agencies I have attempted to provide a framework for moving from rhetoric to action; moving from the abstract to the ideal; moving from embracing diversity to institutionalizing diversity. Although time will not permit me to go through this process in a detailed manner, I do want to outline the steps so that you can use it in your future work.

Based on a model of organizational transformation developed by Harvard Business School professor John Kotter, I offer eight steps to institutionalizing diversity:

1. Establishing a sense of urgency
2. Forming a powerful guiding coalition
3. Creating a vision
4. Communicating the vision
5. Empowering others to act on the vision
6. Creating short-term wins
7. Consolidating improvements and producing more change
8. Institutionalizing new approaches

These eight steps are not a panacea, but they are a guide to measure where we are in our organizations and to develop concrete steps and strategies that will move us forward.

I want to end where I began. A spiritual principle demands that we measure our lives, our country, our legal system by how we treat those in need—the least of these my brothers and sisters. When I look at my own life in this regard, I often wonder if the daily work I do meets this standard, and sometimes I feel I do and other times I feel I fall short. But when you look in the mirror each day, you should know that you are not only meeting that standard but also living out that mandate each day. Unlike those of us who talk a good game, you are in the fight for social justice every day, striving to serve those in need in a precious and sincere manner.

So I applaud you for your contribution. The struggles you engage in both internally and externally are well worth it because you are fulfilling this spiritual mandate of service. The color of your skin, the language you speak, the experiences you have had living in your own skin only allows you to fulfill this mission in a very meaningful and powerful way. So celebrate this journey that you are on, and know that some of us celebrate your sacrifice with pride and admiration.

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