

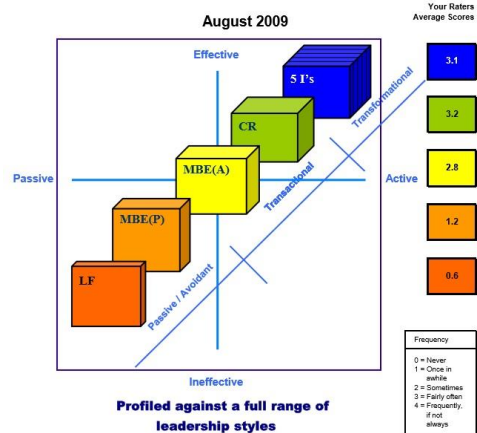
Stare Decisis. Lessons for Transformational Leaders.



Stare decisis is a legal term meaning “Application of the law by precedent.” It is a concept requiring cases to be judged according to decisions made earlier in a higher court of law. *Stare decisis* is not universally applied, and we will come to see why that is a good thing in some ways.

In many places, the practice of law has become evolutionary in nature. “Law is what the Justices say it is”, as has been said in the United States. The practice of law used to be based on universal, non-negotiable principles. Common law is akin to that. However, when legal practitioners say that law is “evolutionary”, then interpretation and application become subject to the Justices’ prevailing senses about what constitutes right and wrong. Do note that I said right and wrong, not legal or illegal. Something may be right morally, but still be classified as illegal in the eyes of the law. This is like an IFR¹-certified pilot trusting his own fallible senses more than what his flight instruments are telling him! Now, when *stare decisis* is applied in a ruling, it is not too bad if the previous ruling had been based on universal, non-negotiable principles. Even then, the previous ruling is an instance of *case law*, and can never fully represent the *spirit* of the law. Therefore, reliance on past rulings must needs be restricted to using them as examples of how to apply the law in the current case under consideration, and not be copied to the letter. *Stare decisis* is great if higher principles are called upon. It is devastating if it falls back upon fallible human interpretations.

What does this mean for Transformational Leaders? With “constant change” being a buzzword these days, Transformational Leadership would imply fundamental attitudinal and behavioural changes **away** from one state **towards** another, presumably better, state in a cyclic and continuous fashion. What is it, then, that we turn **away** from and turn **towards**? Knowing full well the effects of entropy and the fact that the human genome is actually degenerating towards our eventual extinction, is there such a thing as an “ideal state” of Transformational Leadership? Even if we were painfully aware that we would never reach such a state in this life, is it a goal worth journeying towards? As in *stare decisis*, if all judgments were to be aligned with universal, non-negotiable principles, then *stare decisis* would be very useful indeed, particularly as a guide for young Justices. If there were “ideal” Transformational Leadership attributes that we could aim for and align ourselves with, it would keep our enthusiasm for lifelong learning and development burning, and we would then have less of a tendency to fall into the “I have arrived” trap.



¹ Instrument Flight Rules.

One of the first things we need to do as Transformational Leaders is ascertain how often and to what degree we perceive ourselves, and how others perceive us, as manifesting Transformational Leadership attributes, Transactional Leadership attributes, and to what extent we fall into *laissez-faire* behaviours. In other words, where on the Full Range of Leadership scale do we usually live? As time passes, we ought to aspire to live more and more at the Transformational Leadership end of the scale and less and less toward the *laissez-faire* abyss. I say this even though some leadership experts have opined that there are instances when *laissez-faire* behavior is justified, as when encouraging followers to become more creative and exercise initiative with greater degrees of autonomy. To me, that is not a justifiable manifestation of *laissez-faire* behavior in leaders. Rather, it is one way of expressing Individualized Consideration!

One way of illustrating an “ideal” state of Transformational Leadership is to consider the fact of *homeostasis*. Homeostasis is simply the maintenance of the internal environment of a living creature. For humans, that means a body temperature of about 37 degrees Celsius and having a heart beating at a rate of about 60 – 100 beats per minute while at rest, amongst many other factors. The internal environment is maintained regardless of changes in the external environment. The human organism will of course act to either adapt to or ameliorate the effects of the external environment, such as in putting on more clothing when it gets colder, or mould the external environment to suit the maintenance of the internal environment, such as in going into either a heated or an air-conditioned building depending on what the external environmental conditions are. In sum, while there is always change, the change is tending towards an ideal environment, and the nature of the change becomes one of dynamic equilibrium whenever an organism is able to choose as such.



So, when we come across cases where *stare decisis* is invoked, let us remember that while change is constant, it expresses a reaching out to an ideal. That ideal does not change, but the manifestations and applications of that ideal do change. When we are able to recognize that, we put in place ideal conditions for Transformational Leadership development in ourselves and in those for whom we are responsible.