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CHANGE LEADERSHIP AND THE LAW SCHOOL CURRICULUM

Joan MacLeod Heminway*

Change is ubiquitous, and lawyers, as trusted advisors to individuals and organizations, must acknowledge and address change. Moreover, as essential, everyday leaders in their many capacities (professional, community-related, and personal) they often find themselves leading change by design or by chance. Remarkably, however, lawyers have little awareness of or training in change leadership, long a mainstay in business management education and literature. Drawing from both this business academic and practice literature and the emergent literature on lawyer leadership, this article briefly makes a case for the purposeful teaching of change leadership across the law school curriculum.

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[U]seful change tends to be associated with a multistep process that creates power and motivation sufficient to overwhelm all the sources of inertia. . . . [T]his process is never employed effectively unless it is driven by high-quality leadership, not just excellent management. . . .¹

I. INTRODUCTION

Although it is a bit paradoxical, change is a relative constant.² Whether change is planned or unplanned—and as to the latter, whether it is foreseeable or unforeseeable—it is sure to happen. Leaders are well-advised to have tailored plans for addressing unplanned change that is foreseeable. Unplanned unforeseeable change is a significantly different leadership proposition, although effective advance planning of a general sort still may be possible. The bottom line: “Any successful organization or movement needs to adapt to social, political, economic, and technological developments. Any effective leader needs to create the conditions for such adaptation.”³

Change may have many different origins. Foreseeable change may result from, among other things, a risk commonly known to be attendant to a particular activity or behavior. Many key events in U.S. and world history over the last two decades have served as broad-based catalysts of unforeseeable change. These include the terrorist attacks of September 11, 2001, the 2008 financial crisis, and (more recently) the COVID-19

1. JOHN P. KOTTER, *LEADING CHANGE* 22 (refreshed ed. 2012) [hereinafter KOTTER, *LEADING CHANGE*].

2. See, e.g., JOHN P. KOTTER ET AL., *CHANGE: HOW ORGANIZATIONS ACHIEVE HARD-TO-IMAGINE RESULTS IN UNCERTAIN AND VOLATILE TIMES* 3 (2021) [hereinafter KOTTER ET AL., *CHANGE*] (“[T]he amount, complexity, and volatility of change going on around us has been in general expanding in waves since even before the start of the industrial revolution.”); DEBORAH L. RHODE, *LEADERSHIP FOR LAWYERS* 185 (3d ed. 2020) [hereinafter RHODE, *LEADERSHIP*] (“Change occurs on a continuum, ranging in speed and scope. At one end of the spectrum lies incremental evolution of norms and practices; at the other end lies sudden and dramatic progress.”); Michael Bradley et al., *The Purposes and Accountability of the Corporation in Contemporary Society: Corporate Governance at A Crossroads*, 62 *LAW & CONTEMP. PROBS.* 9, 10 (1999) (“Change is ubiquitous in contemporary society”). Change may be categorized as “adaptive” (a more “wrenching organizational transformation”) or “technical” (day-to-day, routine adaptations). See Ronald Heifetz & Marty Linsky, *A Survival Guide for Leaders*, *HARV. BUS. REV.*, June 2002, <https://hbr.org/2002/06/a-survival-guide-for-leaders> (distinguishing “adaptive change” from “technical change”). This article focuses most closely on adaptive change.

3. RHODE, *LEADERSHIP*, *supra* note 2; see also *id.* at 186 (noting that “[t]he most successful innovators often use a ‘triple path’” to create the conditions for adaptation to occur); DAN S. COHEN, *THE HEART OF CHANGE FIELD GUIDE: TOOLS AND TACTICS FOR LEADING CHANGE IN YOUR ORGANIZATION* 12 (2005) (“If you fail to create a climate for change, you are putting your transformation at risk.”).

pandemic, the highly publicized unjustified deaths of a seemingly unending series of Black and Brown people at the hands of law enforcement, and the political unrest culminating in the breach of the U.S. Capitol on January 6, 2021.

While leading through strategic or predictable change is undoubtedly different from leading through chaotic or unpredictable change, understanding how to lead through change is a valuable skill that can positively impact decision-making in a variety of contexts, including the lawyering enterprise. Professor Maureen Weston recently addressed the peril and promise of organizational lawyer change leadership in response to the COVID-19 pandemic:

Crisis requires immediate attention, careful management, and methodical strategic planning. Yet, as it has also been said, “crisis” can mean both danger and opportunity. The danger of the COVID-19 pandemic is tangible and certain; the *opportunity* to adapt, learn, plan and create, in light and despite thereof, is likewise possible.⁴

She specifically calls upon lawyers to focus attention on “working with clients and collaborating with counterparts as partners in joint problem-solving, innovative thinking, and developing creative options to help meet the parties’ mutual interests in safety, surviving, and perhaps even thriving, during and after, the pandemic.”⁵

Lawyers, as inherent and frequent leaders in professional, community, and personal environments,⁶ have a greater-than-average need for proficiency in change leadership. In these many settings, lawyers are charged with promoting, making, and addressing change.⁷ For example, one commentator observes that, “as stewards of the family justice system and leaders of change, family law attorneys have an

4. Maureen A. Weston, *Lawyering and Representing Organizational Clients in a Public Health Crisis*, 56 GONZ. L. REV. 259, 283 (2021).

5. *Id.*

6. See LEAH W. TEAGUE ET AL., FUNDAMENTALS OF LAWYER LEADERSHIP, at xxix (2021) (“Lawyers lead in every aspect of society . . .”).

7. See, e.g., Demetrious Dimitriou, *The Individual Practitioner and Commercialism in the Profession: How Can the Individual Survive?*, 45 S.C. L. REV. 965, 980 (1994) (“As client needs change and lawyers respond to the changes, lawyers may have to rethink their role and expand it to meet the changing client needs”); James E. Moliterno, *The Lawyer As Catalyst of Social Change*, 77 FORDHAM L. REV. 1559, 1560 (2009) (“In common-law systems, even typical lawyers have a direct line to change through law making. Common-law lawyers correctly perceive themselves as potential agents of social change.”); Larry E. Ribstein, *Why Corporations?*, 1 BERKELEY BUS. L.J. 183, 225 (2004) (“Lawyers may . . . be the agents of change. . . . Indeed, lawyers stand to increase their business by advising on changes in the law.”).

ongoing responsibility to foster continuous system improvement.”⁸ Change is part of the fabric of lawyering, writ large. Change leadership, whether voluntarily assumed or involuntarily shouldered, is inherent in the lawyering task. Yet, change leadership—well known as a focus for attention in management settings and related academic literature⁹—is rarely called out for individual or focused attention in the traditional law school curriculum.¹⁰ This article presents a brief argument for the intentional and instrumental teaching of change leadership to law students.

II. THE NATURE OF CHANGE LEADERSHIP

People often talk about managing change. Indeed, successful change initiatives require competent management. But they require more. This is where change leadership fits in. One set of co-authors explains the relationship of workplace change management to change leadership in the following way:

For the most part, change management practitioners have attempted to provide solutions to two major problems—how to plan better for implementation and how to overcome employee resistance. However, these two necessary components of change have not produced adequate positive results, especially for transformational change. Why? Because attention to implementation and resistance is only the tip of the iceberg of what is required in transformation. It is now time to move beyond change management into conscious change leadership; time to develop the advanced change strategies that support this new type of change; time to move from managing resistance and implementation to co-creating a positive future through successful, well-run transformational change efforts.¹¹

Others articulate similar views about the connection between change management and change leadership, albeit with varied details; some see the two as independent processes that may not always co-exist in change initiatives.¹²

8. Natalie A. Knowlton, *The Family Law Bar: Stewards of the System, Leaders of Change*, 55 FAM. CT. REV. 12, 13 (2017) (characterizing this as one of “two fundamental realities for the family law bar”).

9. See, e.g., *infra* notes 16-29 and accompanying text (noting, incorporating, and describing management literature on change leadership).

10. Laurie Ristino, *Bringing It All Back Home for Professor Cheryl Hanna, 1966-2014*, 29 NAT. RESOURCES & ENV'T 2 (2015) (“Lawyers aren’t traditionally trained to be change management leaders.”).

11. DEAN ANDERSON & LINDA ACKERMAN ANDERSON, BEYOND CHANGE MANAGEMENT: HOW TO ACHIEVE BREAKTHROUGH RESULTS THROUGH CONSCIOUS CHANGE LEADERSHIP 2 (2d ed. 2010).

12. See, e.g., KOTTER ET AL., CHANGE, *supra* note 2, at 178; Erika Jacobi, *Change Leadership vs. Change Management - What Is The Difference And Why We Possibly Need*

As an independent concept, change leadership can be challenging to define and to distinguish from other leadership descriptors (which may, in fact, overlap with change leadership). At its core, change leadership involves the contextual application of leadership attributes and skills to inspire, sustain, and embed change in a situational group or populace—commonly, an organization or team.¹³ The extant literature most commonly references change leadership in the context of for-profit corporate change, but the elements of change leadership are more widely applicable.¹⁴ The bottom line of this work is that “[s]uccessful . . . change occurs when the change leaders have built support, gained trust,

Both, LC GLOBAL (Nov. 30, 2015), <https://www.lc-global-us.com/change-talk/change-leadership-vs-change-management-whats-the-difference-and-why-we-possibly-need-both> (“In change management, the members are seen as the subjects of change, whereas in change leadership, they become the drivers and agents of change.”); John Kotter, *Change Management vs. Change Leadership – What’s the Difference?*, FORBES (July 12, 2011, 1:53 PM), <https://www.forbes.com/sites/johnkotter/2011/07/12/change-management-vs-change-leadership-whats-the-difference/?sh=6b2cdcfe4cc6> (“Change management . . . refers to a set of basic tools or structures intended to keep any change effort under control. The goal is often to minimize the distractions and impacts of the change. Change leadership, on the other hand, concerns the driving forces, visions and processes that fuel large-scale transformation.”); Dave Root, *The Difference Between Change Management and Change Leadership*, EAGLE’S FLIGHT (Feb. 11, 2020), <https://www.eaglesflight.com/blog/difference-between-change-management-and-change-leadership> (“Change leadership is a proactive approach to change management, where change is seen as an opportunity for growth and improvement rather than a finite project. Change leaders create an inspiring vision, and advocate for that vision throughout the organization.”).

13. This definition may be seen as a tailored version of a more general definition of leadership forwarded by Dean Emeritus Don Polden. He conceptualizes leadership as “a process by which an individual or a group influences others to achieve positive and ethical change.” Donald J. Polden, *Leadership Matters: Lawyers’ Leadership Skills and Competencies*, 52 SANTA CLARA L. REV. 899, 902–03 (2012). He offers additional information about the derivation of this definition that also is instructive and applicable to the change leadership discussion in this article:

This definition of effective leadership by lawyers is built on the model of dynamic leadership articulated by Professors James Kouzes and Barry Posner in their important contribution to the literature on leadership development and training. Kouzes and Posner identify five practices of exemplary leadership: Leaders model the way for others, inspire a shared vision for change or movement, challenge the status-quo, encourage and enable others to act toward change or gain, and encourage the heart of those who follow them. These practices are the key manifestations of the relationship between leaders and their constituents and provide a coherent theory for how leaders lead.

Id. at 903 (footnotes omitted); *see also*, KOTTER ET AL., *CHANGE*, *supra* note 2, at 178 (contrasting leadership with management).

14. *See, e.g.*, Kunle Akingbola et al., *Organizational Change, in CHANGE MANAGEMENT IN NONPROFIT ORGANIZATIONS 1* (2019) (describing change leadership in the context of nonprofit organizational change); Tom Karp & Thomas I. T. Helgø, *From Change Management to Change Leadership: Embracing Chaotic Change in Public Service Organizations*, 8 J. CHANGE MGMT. 85 (2008) (addressing change leadership in public service organizations).

and influenced people not only to absorb the change, but to commit to it.”¹⁵

Research on organizational change offers insights into the nature of the change leadership process.¹⁶ As a result, the process of change leadership has been illuminated in many published works, including most prominently organizational management literature.¹⁷ Perhaps the most well-known of these works are those written by Harvard Business School Professor (now Emeritus) John P. Kotter.¹⁸ As among Professor Kotter’s works on change leadership, his 1996 book entitled *Leading Change*¹⁹ has a special place. In it, he outlines an eight-stage process for change leadership that has become iconic.²⁰ These eight stages include:

- “Establishing a Sense of Urgency”;²¹
- “Creating the Guiding Coalition”;²²
- “Developing a Vision and Strategy”;²³
- “Communicating the Change Vision”;²⁴
- “Empowering Broad-Based Action”;²⁵
- “Generating Short-Term Wins”;²⁶
- “Consolidating Gains and Producing More Change”;²⁷ and
- “Anchoring New Approaches in the Culture.”²⁸

15. IAIN FRASER & MADELEINE TAYLOR, *THE BUSINESS OF PEOPLE: LEADERSHIP FOR THE CHANGING WORLD* 117 (2020); *see also* RHODE, *LEADERSHIP*, *supra* note 2, at 185 (“[I]nnovation requires collective practices that produce change. Leadership behavior is a key driver of innovation.”).

16. JAMES W. SIPE & DON M. FRICK, *SEVEN PILLARS OF SERVANT LEADERSHIP: PRACTICING THE WISDOM OF LEADING BY SERVING* 149 (2015) (“[E]xperts have discovered a certain amount of predictability embedded in the change process.”).

17. *See, e.g.*, DEBORAH L. RHODE, *LAWYERS AS LEADERS* 57 (2013) [hereinafter RHODE, *LAWYERS*] (summarizing some of the literature).

18. *See, e.g.*, KOTTER ET AL., *CHANGE*, *supra* note 2, at x (describing the coauthors’ collective research project involving change leadership, noting that “[t]here has been a relentless focus on identifying the sequence of actions that drive successes and failures.”); KOTTER, *LEADING CHANGE*, *supra* note 1, at 22-23 (describing an eight-stage process for change leadership); JOHN P. KOTTER & DAN S. COHEN, *THE HEART OF CHANGE: REAL-LIFE STORIES OF HOW PEOPLE CHANGE THEIR ORGANIZATIONS* 2, 6 (2002) (illustrating and further illuminating the eight-stage change leadership process suggested in *Leading Change*).

19. KOTTER, *LEADING CHANGE*, *supra* note 1.

20. *Id.* at 22-23 (summarizing the eight-stage change leadership process).

21. *Id.* at 23; *see also id.* at 37-52.

22. *Id.* at 23; *see also id.* at 53-68.

23. *Id.* at 23; *see also id.* at 69-86.

24. *Id.* at 23; *see also id.* at 87-104.

25. KOTTER, *LEADING CHANGE*, *supra* note 1, at 23; *see also id.* at 105-20.

26. *Id.* at 23; *see also id.* at 121-36.

27. *Id.* at 23; *see also id.* at 137-52.

28. *Id.* at 23; *see also id.* at 153-67.

Professor Kotter observes that the sequencing of the stages is essential to the success of the change effort. However, he also acknowledges that some stages may overlap or, occasionally, be engaged out of order.²⁹

The late Professor Deborah L. Rhode, who authored a number of books and articles on leadership of and for lawyers, citing to Professor Kotter's work and the change leadership works of others, has outlined "three stages at which leaders can guide change."³⁰ They serve to synthesize and summarize the observations of Professor Kotter and other researchers and commentators. Professor Rhode's three stages comprise "overcoming inertia and creating a compelling vision for the future,"³¹ "develop[ing] a realistic strategy for moving forward and . . . enlist[ing] broad support in its behalf,"³² and "assess[ing] and consolidating change."³³ She offers guidance from the literature and her experience on the actions that may infuse each stage.

The work of professors Kotter and Rhode, among others, in outlining successful processes for leading change provides helpful counsel to lawyers as change leaders.³⁴ Yet, instructors in the law school setting may not have knowledge (or even awareness) of this work, or if they do, they may not make use of it in their teaching. If we desire to best prepare our law students for the challenges they will face as lawyer-leaders, this must change.

29. See *id.* at 25-26 ("Successful change of any magnitude goes through all eight stages, usually in the sequence shown Although one normally operates in multiple phases at once, skipping even a single step or getting too far ahead without a solid base almost always creates problems.").

30. RHODE, *LAWYERS*, *supra* note 17; RHODE, *LEADERSHIP*, *supra* note 2, at 186.

31. RHODE, *LAWYERS*, *supra* note 17; see also RHODE, *LEADERSHIP*, *supra* note 2, at 186.

32. RHODE, *LAWYERS*, *supra* note 17, at 58; see also RHODE, *LEADERSHIP*, *supra* note 2, at 187.

33. RHODE, *LAWYERS*, *supra* note 17, at 59; see also RHODE, *LEADERSHIP*, *supra* note 2, at 188.

34. *E.g.*, FRASER & TAYLOR, *supra* note 15, at 116 (articulating four objectives for change leaders that have commonalities with the staged processes forwarded by Professors Kotter and Rhode: active modeling and advocacy of change; supporting the "change objective" with "structures, processes and reward systems"; supporting people's understanding and appreciation of the change; and engaging in future-focused skill development); *id.* at 121 (citing to "change need," organizational "state of mind," and the "change leader's capability" as "three absolute focus areas" for prioritization by change leaders); Russell Eisenstat et al., *Why Change Programs Don't Produce Change*, HARV. BUS. REV., Nov.-Dec. 1990, <https://hbr.org/1990/11/why-change-programs-dont-produce-change> (offering a sequenced set of six steps in promoting effective change); SIPE & FRICK, *supra* note 16, at 148-50 (offering three dimensions of change leadership and describing the change leadership process, citing to Professor Kotter's work).

III. THE CASE FOR TEACHING CHANGE LEADERSHIP IN LAW SCHOOLS

Lawyers live with and must respond to change as a matter of professional responsibility. In the course of their practice, lawyers are required to act in accordance with a specified professional standard of conduct. That standard applies irrespective of change and requires reaction to change. Specifically, Rule 1.1 of the American Bar Association's Model Rules of Professional Conduct (the "Model Rules") requires lawyers to have and maintain competence—including the knowledge and skills attendant to their practice as it exists *over time*.³⁵ Comments to this model rule expressly counsel that, "[t]o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject."³⁶ Thus, lawyers are obligated to recognize and grapple with change when it presents itself.

And change has been presenting itself in novel and compelling ways. The blunt force of change was acutely felt by all in 2020. With the recognition that the COVID-19 pandemic was not a momentary, fleeting crisis, the instigation of a renewed and vibrant national movement for racial justice, and the palpable threats to our democratic form of government in the aftermath of the controversial November 2020 presidential election, substantial and ongoing change became the order of the day—every day.

Lawyers stepped up to the challenge in myriad ways.³⁷ They have had and continue to have major leadership roles in working with and responding to this period of seemingly relentless change. In response to the pandemic alone, lawyers have served in roles: guiding national and

35. See MODEL RULES OF PROF'L CONDUCT r. 1.1 (Am. Bar Ass'n 2021) ("A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.").

36. *Id.* r. 1.1 cmt. 8.

37. See, e.g., Danielle Braff, *Pandemic Pivot: The Coronavirus Has Forced Many Lawyers to Reinvent Themselves – and Some Have Become 'Covid-19 Attorneys'*, ABA J., Apr.-May 2021, at 26 ("[S]ome lawyers have switched focus entirely, becoming full-time 'COVID attorneys.'"); Benjamin P. Cooper, *Preliminary Thoughts on Access to Justice in the Age of COVID-19*, 56 GONZ. L. REV. 227, 236–37 (2021) ("Lawyers are . . . innovating in the face of this crisis. They are engaged in . . . measures such as developing online forms and providing information for individuals in need."); Dori Foster-Morales, *Our Extraordinary Pro Bono Lawyers: Following Their Lead in Difficult Times*, 95 FLA. B.J., Mar./Apr. 2021, at 4 ("Bar members . . . truly have gone above and beyond in terms of pro bono service despite the incredible challenges we have all faced this year."); Anne-Louise Wirthlin, *Access to Justice Commission Looks Back on 2020, Highlights What's to Come*, 57 TENN. B.J., Mar./Apr. 2021, at 31 ("The Commission assembled a team of more than 65 professionals and created online resources for volunteer attorneys and Tennesseans impacted by COVID-19 . . .").

state governmental regulation and policy, including the provision of advice on stay-at-home orders, capacity restrictions for public venues, and mask mandates; handling *force majeure* clause interpretations, impracticability and impossibility analyses, and other contract and transaction enforcement issues; working collaboratively with the judiciary in taking judicial proceedings and related processes online during court closures; addressing disruptions in the administration of bar examinations; and much, much more. A similar list could be created for lawyer leadership in addressing racial justice and political conflict. This leadership—necessity leadership³⁸—is critically important to the success of our system of justice. “Although we cannot always control change, we can control our eventual response to it.”³⁹

Notwithstanding their professional responsibility to appreciate and address change and their inevitable exposure to and engagement with immediate and emergent change, as a group, lawyers are notoriously uncomfortable with change.⁴⁰ This resistance to change may exist or persist even for lawyers who rise to positions of leadership.⁴¹ Historically, legal practice settings have not emphasized leadership training that prepares law practice leaders for change.⁴² Lawyer discomfort with change (and change leadership) may impede or impair the exercise of effective leadership in generating viable, lasting change: change that is meaningful, well-conceived, and properly founded; change that survives a crisis. To be effective leaders, lawyers must

38. The use of this label derives from a dichotomy (although perhaps an overly simplistic one) that differentiates necessity entrepreneurs (those for whom entrepreneurship is essential for financial welfare because of nonexistent or insufficient employment prospects) from opportunity entrepreneurs (those who choose entrepreneurship more freely). *See, e.g.,* Nick Williams & Colin C. Williams, *Beyond Necessity Versus Opportunity Entrepreneurship: Some Lessons from English Deprived Urban Neighbourhoods*, 10 INT’L ENTREPRENEURSHIP & MGMT. J. 23, 24 (2014) (“[T]he start of the 21st century has seen the emergence of . . . a dualistic depiction of entrepreneurs as either necessity-driven, pushed into entrepreneurship because all other options for work are absent or unsatisfactory, or opportunity-driven, pulled into this endeavour more out of choice to exploit some business opportunity.”). The leadership observed in immediate response to a crisis can be analogized to necessity entrepreneurship in that it is compelled by circumstance.

39. SIPE & FRICK, *supra* note 16, at 146.

40. *See* RHODE, LAWYERS, *supra* note 17, at 11-12 (indicating that lawyers, “[b]y training and temperament,” may push back against change).

41. *See id.* at 56 (“[L]awyers as a group tend to be particularly resistant to change, and those who reach leadership positions do not appear to be exceptions. In one . . . survey, fewer than 20 percent of firm leaders described their philosophy as embracing innovation and change.”).

42. *See* Polden, *supra* note 13, at 909 (“[M]any organizations systematically do not encourage or insist upon their leaders developing the skills and abilities necessary to more effectively lead change or action in the organization, and this is true for law firms and law practice organizations.”).

embrace, manage, and make change rather than run from it. They must learn how to lead change that is sustainable and enduring.

Helpfully, a common element of the change leadership processes evidenced in the relevant literature (including without limitation those highlighted in Part II of this article) is overcoming resistance to change. In general, the guidance provided by these processes encourages integrating change into existing operational and cultural frameworks—anchoring change to bedrock values and foundational practices and objectives. “Research shows that when people are resistant to change, it helps to reinforce what will stay the same. Visions for change are more compelling when they include visions of continuity. Although our strategy might evolve, our identity will endure.”⁴³ Advice of this kind may be critical to the generation of effective, viable change. This example—one among many that could be selected from the books and articles that have been written—highlights a significant way in which change leadership processes (and illustrative examples of their implementation) may be particularly valuable to the formation of effective lawyer-leaders—emergent leaders from a change-resistant population.

Law school is the logical place to begin the process of educating lawyers about change leadership. We are encouraged by our rules of professional conduct to pursue improvements in the law school curriculum.⁴⁴ Teaching change leadership in law school makes great sense, especially—but not exclusively—as we continue to battle a global pandemic, social injustice, and political schisms.

Law schools have begun to address the need for leadership education through professional leadership courses and curricular programs.⁴⁵ Important foundational training in an increasing number of law schools focuses on leadership competencies, traits, and types—the nature and scope of leadership and the roles of leaders in context.⁴⁶ Professor Rhode’s groundbreaking text, *Lawyers as Leaders*, was published eight years ago and has motivated the creation of, and been incorporated into, law school courses focusing on leadership. Professor Tony Thompson’s 2018 book, *Dangerous Leaders: How & Why Lawyers Must Be Taught to Lead*, adds to the momentum behind teaching lawyer leadership by providing cogent, compelling,

43. ADAM GRANT, THINK AGAIN 31 (2021).

44. MODEL RULES OF PROF’L CONDUCT pmbl. ¶ 6 (Am. Bar Ass’n 2021) (“As a member of a learned profession, a lawyer should . . . work to strengthen legal education.”).

45. See TEAGUE ET AL., *supra* note 6, at xxx (“[F]ormal courses and programs on leadership development are new to legal education.”).

46. See Polden, *supra* note 13, at 906-10 (describing, generally, leadership competencies, traits, and types).

fundamental arguments for teaching leadership—specifically intersectional leadership—in law schools.⁴⁷ This article endorses and is designed to build on this work and those arguments.

Legal education and training on leadership *processes*, however, may be a missing piece of the puzzle that is essential to the lawyer leadership proposition.⁴⁸ Professor Thompson alludes to the value of process-oriented leadership education when he offers that “helping lawyer-leaders see the roles that they can play as intersectional leaders in strategy execution or innovation could prove helpful—and profitable”⁴⁹ Change leadership is a process that is inspired and inspiring. It arises from the desire or need to create lasting difference. When paired with a knowledge of legal doctrine, related policy and theory, and other lawyering skills, change leadership enables law students and lawyers to flourish in their work.

IV. CHALLENGES AFFECTING THE INTRODUCTION OF CHANGE LEADERSHIP IN LAW SCHOOLS

Although it may be advantageous for law schools to introduce students to change leadership, the task of persuading law school administrators and faculty to engage in this teaching faces several apparent challenges. Many of these challenges come in the form of resource constraints. Faculty are overburdened as they address the ongoing pandemic, racial injustice, and an entrenched political divide in their classrooms, scholarship, and service—as well as their lives outside the law school. Law schools may be subject to hiring freezes in the current environment. Even if no hiring freeze exists in an institution, however, a law school’s budget may not permit new hiring now or in the near future. The law school curriculum is already quite full as it is. Bar passage concerns may compel law schools to focus on investments in core doctrinal and experiential curriculum and academic support rather than specialty academic offerings and innovative curricular initiatives. As a result, law schools have rejected (and may continue to reject) faculty-led initiatives to introduce professional leadership courses and programs.

47. ANTHONY C. THOMPSON, *DANGEROUS LEADERS: HOW & WHY LEADERS MUST BE TAUGHT TO LEAD* (2018).

48. Joan MacLeod Heminway, *The Role of Process in Leadership*, LEADING AS LAW (Aug. 27, 2019), <https://leadingaslawyers.blog/2019/08/27/the-role-of-process-in-leadership/> (“Process, properly engaged, can signal, foster, and strengthen leadership. And process poorly engaged can hinder, stymie, or weaken leadership. There is an important reason for this: process and trust are linked, and trust is at the core of leadership. Trust builds followers.”).

49. THOMPSON, *supra* note 47, at 160.

Resource scarcity should not, however, prevent the teaching of change leadership in the law school setting. Faculty need not depend on a specific course or curriculum to educate their students about change leadership. To introduce change leadership to students, law faculty merely need a leverage point—a case, a transaction, a simulation, a writing assignment, a clinic client matter, or the like—that provides a context in which a lawyer is faced with leading change. Any of these regular teaching contexts and moments can be used to motivate discussions that can be expertly guided by the instructor to address both the lawyer’s role in leading change and effective processes that may be used by lawyers in change leadership. Lessons on change leadership can permeate discussions and overall problem-solving across the law school curriculum in traditional doctrinal and experiential settings.

Notable here is Professor Carol Parker’s seminal work on writing across the curriculum.⁵⁰ In that article, she asserts that

every law school course can teach students ways to use writing to help them analyze legal authorities and organize analysis, can expose students to various kinds of professional documents, and can encourage students to use writing to explore the nuances of law and fact and reflect on the social policies underlying legal issues. This education thereby socializes students into the discourse community of lawyers. In addition, opportunities exist throughout the law school curriculum to use writing to help students understand the creative and critical processes by which they generate and refine analysis of legal problems.⁵¹

Repeated, ongoing attention to the development of legal writing skills over the course of the law school experience pays dividends.

Much the same can be said about teaching professional leadership, including change leadership. This article is but a sketch as compared to Professor Parker’s deep curricular and pedagogical arguments for teaching and engaging legal writing across the curriculum. Nevertheless, what I advocate in this article is an outcome analogous to that proposed by Professor Parker: legal education infused with an instrumental focus that enhances student understanding of the law, legal process, and lawyering. By introducing change leadership as part of a greater curricular value, restrictions on resources may be overcome or otherwise addressed.

50. Carol McCrehan Parker, *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 NEB. L. REV. 561 (1997).

51. *Id.* at 565.

Having said this, faculty buy-in may be a barrier to teaching change leadership in the law school setting.⁵² Although a growing group of faculty are champions of professional leadership education in law schools, many faculty may be relatively lacking in their knowledge of professional leadership, leadership education, and change leadership.⁵³ Luckily, change leadership is not rocket science. Faculty can easily learn basic principles from professors Kotter and Rhode's stage-based reflections⁵⁴ and from other accessible academic and non-academic resources.⁵⁵

Faculty motivation also may be an issue, especially in the current environment in which faculty are juggling personal and professional affairs in new, ever-evolving ways to respond to the effects of the COVID-19 pandemic, racial injustice, political division, and other challenges affecting their communities, their institutions, and their families. Faculty, including law faculty, have been asked to shoulder additional administrative and teaching burdens—many of them unwelcomed and unappealing (to say the least)—since the onset of the pandemic in the spring of 2020.⁵⁶ For some academics, scholarly activity has been handicapped and will need to recommence or receive more focus and time as the pandemic recedes.⁵⁷ Negative effects on

52. See Leah Witcher Jackson Teague, *Training Lawyers for Leadership: Vitally Important Mission for the Future Success (and Maybe Survival) of the Legal Profession and Our Democracy*, 58 SANTA CLARA L. REV. 633, 652 (2018) (presenting highlights from a discussion group convened at the 2017 annual meeting of the Association of American Law Schools, including the shared observation that “teaching and developing ‘soft skills’ (as leadership development is often described) is met with resistance from faculty, administrators and students.”).

53. See *id.* (presenting highlights from a discussion group convened at the 2017 annual meeting of the Association of American Law Schools, including the shared observation that “[f]ew faculty and staff believe themselves to be equipped to teach leadership skills.”).

54. See *supra* notes 18-33 and accompanying text.

55. See, e.g., sources cited *supra* note 34; John Hope Bryant, *Andrew Young: Partner in Servant Leadership to Martin Luther King*, in *SERVANT LEADERSHIP IN ACTION*, at 152-55 (Ken Blanchard & Renee Broadwell eds., 2018) (offering, as an illustration, the story of Andrew Young's change leadership journey with Dr. Martin Luther King Jr. in the South during the civil rights movement); COHEN, *supra* note 3 (providing practical guidance in applying Kotter's eight-stage process); KOTTER & COHEN, *supra* note 18 (providing a series of different change stories involving change leadership).

56. See, e.g., Gregory W. Bowman, *Law School in the Age of COVID-19*, W. VA. LAW., Summer 2020, at 10 (describing pandemic-related changes at West Virginia University College of Law); Virginia Gewin, *Pandemic burnout is rampant in academia*, NATURE (Mar. 15, 2021), <https://www.nature.com/articles/d41586-021-00663-2> (describing stressors on faculty created or exacerbated by the pandemic); Christian Sundquist, *The Future of Law Schools: COVID-19, Technology, and Social Justice*, 53 CONN. L. REV. ONLINE 1, 5 (2020) (“The disruption to law schools caused by the COVID-19 pandemic has been massive.”).

57. See, e.g., Audrey Mengwasser Shillington et al., *Commentary, COVID-19 and Long-Term Impacts on Tenure-Line Careers*, 11 J. SOC'Y FOR SOC. WORK & RES. 499 (2020) (presenting information about the effects of the pandemic on the scholarship of untenured social work faculty); Joya Misra et al., *Keeping COVID-19 From Sidelining Equity*, INSIDE

productivity may be particularly felt by women.⁵⁸ Law faculty scholarly productivity has likely been disrupted by COVID-19.

Moreover, as a general matter, law faculty may need to be convinced or stimulated to take on this (and other) additional work. We tend to be an independent lot and approach teaching from a number of different perspectives based on our education and experience, including our backgrounds in law practice. Faculty members do not typically like to be told what to do or how to do it. Yet, if a significant number of law faculty can be convinced of the value of teaching change leadership to their students (perhaps by highlighting the ways in which lawyers are change leaders in their professional and personal lives), the individuality and diversity of the law professoriate can be harnessed to produce unique and compelling teaching in the area of change leadership.

It seems significant to note at this juncture that those who want to take on the task of convincing law school administration and faculty to teach change leadership are themselves change leaders who would be well advised to engage frameworks for successful change leadership in undertaking that task. Regardless, if this article even generates conversation among law faculty about change leadership's relevance to legal education, law practice, and living life as a lawyer—perhaps at a faculty teaching workshop or forum—it will have amply served its purpose. Assuming existing faculty develop confidence and passion for the idea of introducing change leadership to their students, no new hiring is required to accomplish the goal of teaching change leadership across the law curriculum.

V. TEACHING CHANGE LEADERSHIP IN LAW SCHOOLS

How might confident and passionate law faculty address change leadership (in or outside the classroom) with their students? To answer that question, it may be advantageous to introduce ways in which change leadership may find its way into a law school course or conversation. I will offer two examples that help illustrate simple change leadership

HIGHER ED (Feb. 10, 2021), <https://www.insidehighered.com/views/2021/02/10/without-intentional-interventions-pandemic-will-make-higher-education-less-diverse> (describing differential effects of the pandemic on faculty research and scholarship).

58. See THE CHRONICLE OF HIGHER EDUC., “ON THE VERGE OF BURNOUT” 6 (2020), https://connect.chronicle.com/rs/931-EKA-218/images/Covid%26FacultyCareerPaths_Fidelity_ResearchBrief_v3%20%281%29.pdf (“Many months into the pandemic, faculty members at all levels, from tenured professors to adjuncts, say their workloads are higher, their morale is lower, and their worklife balance is almost nonexistent.”); Karen Sloan, *The Pandemic Could Set Women Law Professors Back Years. These Academics Want to Find Solutions*, LAW.COM (Jan. 13, 2021, 12:56 PM), <https://www.law.com/2021/01/13/the-pandemic-could-set-women-law-professors-back-years-these-academics-want-to-find-solutions/> (describing general impacts of COVID-19 on female law faculty productivity).

lessons. The first example stems from an incident that could occur in any course in a variety of ways (and is likely to be a circumstance familiar to any law school instructor with more than a few years of full-time teaching experience). The second involves a specific question raised in one of my courses recently that may have broader application.

Many law instructors have suffered through a difficult circumstance involving an inappropriate comment made in class or on a course management system discussion board. The most difficult inappropriate comments for many instructors are those that marginalize, belittle, or even threaten individuals or classes of individuals represented in the classroom or in the broader educational community. The commentator may be an instructor, a student, or a guest. Comments of this kind may violate classroom or institutional policies (and, given that fact, will be addressed by the instructor or others under those policies). But even if inappropriate comments do not violate applicable rules of conduct, the maintenance of an inclusive, welcoming learning environment demands that a situation of that kind be addressed.

Remarks that constitute inappropriate social or professional commentary (including insults, bullying, and incivility), microaggressions, biases, discrimination, or the like signal the need for a social or cultural change in (and sometimes beyond) the classroom. Changing society and culture is a common task for lawyers.⁵⁹ Indeed, some lawyers focus their practices substantially or wholly on making social and cultural change.⁶⁰ More than ten years ago, a wise law student noted that “[m]any examples throughout history illustrate instances when lawyers have made momentous changes in the social construct without stepping outside of their traditional legal roles.”⁶¹ Yet, social change lawyering is not the only way in which lawyers find themselves engaged in making social change.

A circumstance involving inappropriate verbal or written expressions in an instructional setting, as uncomfortable as it is for most

59. See, e.g., Ahsaki Anokye, *America in Lawyers' Hands: Lawyers As Social Actors*, 23 GEO. J. LEGAL ETHICS 455, 469 (2010) (“[A]ttorneys are . . . social change agents by the nature of their work”); Raymond H. Brescia, *Creative Lawyering for Social Change*, 35 GA. ST. U. L. REV. 529, 529 (2019) (“Lawyers have long played an integral part in efforts to bring about social change.”); Moliterno, *supra* note 7, at 1559 (“[A]s challengers to perceived injustice, as catalysts of social change, lawyers may have a special role advantage. Undoubtedly, it seems, this is one of the lawyer’s roles in a modern democratic society, be it a well-established one or an emerging one.”).

60. Brescia, *supra* note 59, at 540 (“[T]he social-change lawyer is generally working to change the legal infrastructure affecting her client’s life.”).

61. Ahsaki Anokye, *America in Lawyers' Hands: Lawyers as Social Actors*, 23 GEO. J. LEGAL ETHICS 455, 460–61 (2010); see also Brescia, *supra* note 59, at 529 (noting three examples: “the effort to abolish slavery, the campaign to end Jim Crow segregation, and the movement for marriage equality”).

of us who teach, represents an opportunity for an instructor to exercise, model, and teach change leadership. The process of leadership in this context involves engaging the class, and possibly the broader educational community, in effectuating the desired change. Reflecting on Professor Kotter's eight-stage process,⁶² an instructor may engage in the following activities:

- Establish a sense of urgency by identifying the incident as an inflection point and encouraging a discussion of the incident and the reason for addressing it in a meaningful way to make change;
- Inspire the class to work together as a team to tackle the change process;
- Work with the class to develop a vision to guide the change process and a strategy to execute on that vision;
- Communicate the change vision consistently through words and action;
- Empower broad-based action by clearing the path to achievement of the envisioned change by, for example, changing subsequent course assignments, class plans, or teaching methods or requesting and incorporating or otherwise implementing ideas from the class relating to curricular and extra-curricular activities;
- Generate short-term victories by establishing near-term objectives with the class and rewarding or celebrating the achievement of those objectives;
- Encourage continued change momentum (solidify change and generate more change) through ongoing progress reviews and the addition of new endeavors, ideas, and people to the change process; and
- Anchor new approaches in the culture by articulating positive effects of the change process and instilling leadership in class members to continue the change initiatives and innovate them over time.

Alternatively, an instructor could turn to Professor Rhode's three stages of change leadership guidance as a simpler rubric.⁶³ Details regarding the engagement of change leadership processes in this setting will be determined or guided by the specific circumstances, including (among other things) the nature of the inappropriate comment, the type of course in which the comment is made, the learning objectives for the course, the point in the trajectory of the semester at which the comment is made,

62. *See supra* notes 21-28 and accompanying text.

63. *See supra* notes 30-33 and accompanying text.

and the instructor's background (academic and professional or experiential).

To effectively teach change leadership, the process engaged in responding to the inappropriate comment must be transparent to the students in the course.⁶⁴ That level of transparency may be achieved in part by introducing students to Professor Kotter's eight stages or Professor Rhode's three stages at any point in applying the change leadership process. For example, having called attention to the inappropriate comment and worked with the class to identify the resulting need for change, the instructor may ask the class to offer suggestions on how to address the matter to achieve the desired change. The process of change leadership can then be introduced as a response to the suggested process or as guidance on moving forward at an appropriate juncture. Different pedagogies will dictate different approaches. The key factor is to introduce and integrate the role of process and the elements of a successful change leadership process at some point along the way.

This same transparency is at the heart of the specific example I offer from my own teaching. I recently asked students in my Advanced Business Associations course to offer a short presentation to the class as a capstone to the principal instructional unit in the course: a deep dive into management and control in different forms of business entity. A significant percentage of the students in the course chose to present on an aspect of corporate board diversity. Although diversity questions have loomed large in social justice discussions over the past year and corporate board diversity is a specific area in which I research and write (indeed, one of the students found and used my work in their class presentation), I did not anticipate the high level of interest in this specific issue. Each presentation was unique, picking up a different thread from our management and control discussions.

At the conclusion of the presentations, I led a discussion reflecting on the topics and execution. Near the end of the class session, one of the students asked a provocative question that deserved more time than we had. I will break the question down into two parts for our purposes here.

- What can a junior lawyer—or any lawyer—do if they come to the view that a client would benefit from a more diverse board of directors?

64. See, e.g., McKay Cunningham, *Freshman Professor: The First Year; The First Semester; The First Day*, 3 PHX. L. REV. 389, 398-99 (2010) (advocating transparency in law teaching); Alistair E. Newbern & Emily F. Suski, *Translating the Values of Clinical Pedagogy Across Generations*, 20 CLINICAL L. REV. 181, 208 (2013) (“Transparency calls for teachers to explain both why they are doing what they are doing and its relevance for the student learner.”).

- How, if at all, can this issue be raised with the client by legal counsel?

I suggested that we defer a discussion on the issue until the beginning of the next class meeting. I told the students that I had an idea about how to motivate and guide that discussion.

When we reconvened at our next class meeting, I began by reminding the class of the unanswered question and anchored it to our discussions on the presentations from the preceding class session. I then noted that a way to think about a possible response might be to view the lawyer as a change leader and informed the class of the existence of the body of literature on change leaders and change leadership. I then introduced Professor Kotter's eight-stage change leadership process. We applied the process to the circumstances and shared ideas about its potential utility in context. While we did not find that Professor Kotter's model provided simple guidance in fashioning the lawyer's response, we did identify some creative ideas and an order of employing them that reflected (among other things) Professor Kotter's overall observations and Professor Rhode's synthesis.

Specifically, after initially acknowledging the relative lack of power and influence of an attorney who wants to suggest a governance change to a client that is not clearly rooted in a legal prescription or basis, we were able to use Professor Kotter's eight stages to identify leverage points, strategies, and tactics for approaching the client to suggest the change. On reflection, it may have been more useful and efficient to employ Professor Rhode's three-stage synthesis of the change leadership process as the basis for our discussion (and use Professor Kotter's for illustrations of the unfolding of each stage). Nevertheless, the students were introduced to the concept that a lawyer-leader may benefit from the use of a specific change leadership process grounded in applied academic research—research originating outside the legal academy.

VI. CONCLUSION

“If law schools seriously intend to prepare the next generation of leaders,” Professor Thompson avers, “they must recognize and embrace the duty to start this process of learning by exposing law students to leadership concepts and lessons through their pedagogy and substantive discussions.”⁶⁵ Overall, we can do a great service to our students by introducing them to change leadership (and other common leadership processes) as well as leadership capacity, attributes, and styles. This article advocates providing law students with that introduction.

65. THOMPSON, *supra* note 47, at 149.

Change may be necessitated by external circumstances or it may be driven by internal goals or values. It may be initiated on a “clear day” or borne of crisis. Regardless, it is ubiquitous. “[T]here is a need for change leaders continuously”⁶⁶ As a result, lawyers must engage with change and change leadership in the ordinary course. Their professional responsibilities, as well as their practical reality, make this clear. Yet, lawyers may reject or question change in situations that demand or imply that they lead change for the benefit of a client or the public interest. Moreover, they may undertake to lead change—voluntarily or involuntarily—in the wake of a crisis, only to find that they may not know how to sustain and solidify the change they have enabled. Challenges abound.

Nevertheless, teaching change leadership in law school can lay an important foundation for an effective, ethical law practice and life in service to the community that incorporates, accepts, and values change. After graduation, the bar must take up the mantle and ensure that the leadership education process started in the law school setting continues into law practice.⁶⁷ The required maintenance of competence necessitates continued engagement with change and, thus, change leadership.⁶⁸ Perhaps that is fodder for a subsequent article

With the advent of the pandemic, the awakening of a strident racial justice movement, and the degenerative progression of a contentious presidential election cycle, 2020 will not soon be forgotten as a year of visible and wide-ranging change. Lawyers have been guiding much of that change and are critical to the path forward.⁶⁹ It seems wise to reflect on how to better educate and train lawyers to exercise their leadership capacity in times of change. Well-trained lawyer-leaders can make a difference by inspiring transformations in law and society that are designed to work over the long haul. This essay argues for teaching change leadership in law school as a formative step in that lawyer-as-leader education and training process.

66. LIZA-MARIA NORLIN, *THE COURAGE TO LEAD THROUGH VALUES* 73 (2020).

67. *See id.* at 150 (“Ideally, leadership for lawyers ought to be conceived as an ongoing continuum of lessons and practices that begins in law school and continues throughout the lawyer-leader’s career.”).

68. *See supra* notes 35 & 36 and accompanying text.

69. *See* Weston, *supra* note 4, at 283 (“In our roles as advocates, problem-solvers, counselors and members of the profession for justice, this crisis provides an opportunity, and necessity, to offer our skills and compassion to have parties come together, innovate, and repair.”).