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PLANTING PEOPLE, GROWING JUSTICE: THE THREE PILLARS OF NEW SOCIAL JUSTICE LAWYERING

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PLANTING PEOPLE, GROWING JUSTICE: THE THREE PILLARS OF NEW SOCIAL JUSTICE LAWYERING

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Abstract: This article explores the tools that lawyers can employ to build and sustain social change. These tools add a new dimension to scholarly research in the field by focusing on the role of lawyers as leaders as they seek to influence processes of social change, transform systems, and empower others to lead. This Article draws upon principles of social justice lawyering, which acknowledge that lawyers have a fiduciary duty to create equal justice under the law. It combines these frameworks with leadership theoretical perspectives since there is a dearth of research available on the role of lawyers as leaders in the context of social change. Another framework that informs this new type of lawyering is public policy advocacy. The combination of social justice lawyering practices, leadership skills, and public policy advocacy is referenced in this Article as the three pillars of “new social justice lawyering.”

Keywords: social justice lawyering, collaborative lawyering, change-oriented lawyering, social engineering, rebellious lawyering, transformational leadership, servant leadership, community organizing, public policy advocacy

Lawyers play an integral role in the process of facilitating social change. The process of social change draws upon the strength of many individuals to build a strong collective, develop a shared vision, exercise the power required to necessitate change, and join forces in solidarity. Lawyers in particular are trained with the tools to needed to critically analyze law and policies,

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2 “A lawyer is the key to access to the legal system, and without such access few rights are granted and none is secure” Southern Minnesota Regional Legal Services, Why the Poor Need Lawyers (Sept. 15, 2012), http://www.smrls.org/RTF1.cfm?pagename=Need%20for%20Legal%20Services. The Preamble to the American Bar Association Model Rules of Professional Conduct suggests: “As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession.” MODEL RULES OF PROF’L CONDUCT (2010).
problem solve around complex social issues, and use writing as a form of advocacy. When employing these tools and working collaboratively in partnership with marginalized communities, social change can occur. This practice is the foundation of my theory of “new social justice lawyering.” This type of lawyering moves beyond the traditional notions of lawyering to a transformative paradigm which focuses on working collaboratively across professional sectors, geographical boundaries, and community borders to create change. It is this type of collaborative effort that is needed to address the social justice challenges of the 21st century.

Currently, there are over 46 million Americans living in poverty; this creates a barrier to accessing the legal system and to exercising political power. The poor are often marginalized, feel excluded from the rulemaking/public policy process, and lack the allies needed to facilitate change in political agendas and budgetary allocations that impact their social and legal needs. “Needed now are theories and practices that support liberty and opportunity for the poor and disenfranchised, in their contests with the rich and super-franchised[.]” Further, 80% of the civil needs of poor people are not being met because of “chronically and grossly” underfunded legal services and pro bono programs. Legal Services Corporation demonstrated an imminent need for lawyers to assume leadership in protecting “justice for all” through the development of

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3 Lawyering traditionally focuses on a system of technocracy by which the lawyer is an expert who offers technical services to a client.

4 This reporting of over 46 million people living in poverty is the highest rate of poverty recorded since the initial data collection 52 years ago. Peter Edelman, ‘So Rich, So Poor’: Why is Poverty in America So High?, RADIO BOSTON (Jun. 5, 2012), http://radioboston.wbur.org/2012/06/05/peter-edelman-poverty.


6 Id. at 311.

programs and initiatives that address this gap in much needed services. The legal needs of low-income persons are basic to their survival and ability to thrive. Fundamental legal rights need to be enforced as they relate to such basic necessities as nutrition, health, shelter, income, education, and protection from violent physical abuse, in order to uphold the foundational tenets of social justice.

In this Article, I will examine the role of lawyers in social change initiatives, by identifying their leadership characteristics and exploring the tools they use to build and sustain social change. This Article will also introduce a new theoretical framework of lawyering that combines social justice lawyering strategies with leadership skills and public policy advocacy techniques, which will be referred to as the three pillars of “new social justice lawyering.” These three pillars are: 1) social justice lawyering, 2) leadership, and 3) public policy advocacy. Application of principles of “new social justice lawyering” is integral to the future of social change as coalitions are formed to address some of the pressing social justice issues of our time in order to ensure justice, equity, and fairness. Part I of this Article will provide an overview of theoretical frameworks related to social justice lawyering. It will provide a comparison of

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8 Id.  
9 Southern Minnesota Regional Legal Services, supra note 2.  
10 I characterize new social justice lawyering as a method of lawyering that draws upon leadership principles, public policy advocacy strategies, and notions of social justice lawyering in order to work in partnership with communities to foster and support social change.  
11 Social justice lawyering is analogous to artistry since “art is not a mirror to reflect the world, but as a hammer with which to shape it” Ascanio Piomelli, Appreciating Collaborative Lawyering, 6 CLINICAL L. REV. 431 (2000). Within this capacity, the lawyer can then exercise one’s legal training as a tool for eradicating subordination and empowering individuals and communities. These efforts aid in furthering social justice initiatives through the promotion of the “goals of equality, of access, opportunity and outcome.” MARCIA BOK, CIVIL RIGHTS AND THE SOCIAL PROGRAMS OF THE 1960S: THE SOCIAL JUSTICE FUNCTIONS OF SOCIAL POLICY 15 (1992).  
12 Lawyers can play an active role in filling the void of the leadership crisis. By serving within this dimension, lawyers have the power to transform systems through the furtherance of social justice initiatives and cultivation of their leadership capacity.  
13 In most circumstances, a lawyer can only act within the parameters of traditional lawyering; however inherent in most social justice efforts is also a need for policy changes. This may require the lawyer to play an active role in policy reform and mobilizing community engagement.
traditional lawyering in contrast with notions of social justice lawyering (collaborative lawyering, change-oriented lawyering, rebellious lawyering, and social engineering). Part II of this Article will examine the role of lawyer as leader. It explores ways that lawyers can serve as transformational leaders and servant leaders. Part III of this Article will introduce three dimensions of public policy advocacy that can be employed in the furtherance of social justice initiatives. Part IV will conclude the findings of this Article.

**PART I. SOCIAL JUSTICE LAWYERING (Pillar One)**

Lawyers are called upon to serve as the gatekeepers of justice by upholding the rule of law, principles of democracy, and foundational tenets of justice. This role is fulfilled traditionally when a lawyer is called upon by a client to offer legal advice, provide access to the legal system, and aid in navigating the system.\(^{14}\) The client seeks a lawyer to address a legal issue and the lawyer crafts the legal arguments.\(^{15}\) Lopez has characterized this traditional model as “regnant lawyering” when a lawyer is viewed as the primary actor in addressing a client’s legal matter.\(^{16}\) The lawyer is called upon to address a legal issue and offer solutions based upon his or her legal expertise.

Within this role, lawyers have created a model of technocracy in which lawyers are the problem solvers and exercise their power based upon their professional credentials to resolve client legal matters.\(^{17}\) The lawyer acts within his or her knowledge base of the functioning of the legal system to achieve the client’s desired goals and objectives through the utilization of legal

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skills such as fact investigation, case strategy development, and analytical perspectives.\textsuperscript{18} Lawyers then translate a client’s claim into a legal framework through legal research and analysis. In essence, the lawyer serves as a technical expert who is paid to reach the most favorable outcome for his or her client. Within this framework, at least in the case of subordinate or non-legally savvy clients, the clients are perceived as helpless dependents in need of rescue from the expert lawyer.\textsuperscript{19}

\textbf{A. An Introduction to Social Justice Lawyering}

The traditional role of lawyering falls short in addressing the needs of subordinate and oppressed groups, and creating social reform, thus obstructing access to justice, fairness, and equity.\textsuperscript{20} Lawyers with a passion for social justice have expanded the traditional definition of “lawyering” by exploring the role of lawyers in social justice initiatives in pursuit of equal justice under the law. Social justice lawyering challenges lawyers to enlist in the furtherance of a particular social justice cause in partnership with the impacted community. This lawyering for a cause occurs when a lawyer advocates for social justice through a variety of channels such as: litigation, community organizing, public education/outreach, and legislative advocacy, in order “to advance a cause past its current legal limitations and boundaries[.]”\textsuperscript{21}

While engaging in social justice lawyering, the lawyer aids in empowering clients and promoting their self-reliance.\textsuperscript{22} Client-centeredness is also paramount with the goal in mind of facilitating client autonomy and empowering clients to engage in activism. This model focuses on giving voice to the voiceless, providing power to the powerless, and aiding in overcoming

\textsuperscript{18} Piomelli, \textit{supra} note 11.
\textsuperscript{19} Piomelli, \textit{supra} note 11.
\textsuperscript{20} Gerald P. Lopez, \textit{The Work We Know So Little About}, 42 STANFORD L. REV. 1, 13 (1989).
\textsuperscript{21} \textit{BLACK’S LAW DICTIONARY} 251 (9th ed. 2009).
subordination. For instance, it explores how procedural fairness is impacted by social factors, such as race, class, or gender and challenges disparate outcomes. Another example of this empowerment model is examining how certain policies result in systemic disparities that negatively impact certain communities. Furthermore, social justice lawyering also seeks to uphold the professional ethical aspirations of the legal bar. The American Bar Association Model Rules of Professional Conduct (2010) suggest: “As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession.”

Moreover, the body of research related to social justice lawyering has defined the role of the lawyer as a gatekeeper of justice; however this research has yet to explore the role of lawyer as leader or the full range of ways a lawyer can serve as a policy advocate. Yet, one’s legal training could serve as a vehicle for the effective exercise of leadership. Lawyers could exercise leadership by using writing as a form of advocacy, engaging in strategic planning, working with others to influence legal systems and policies, and serving as a zealous advocate for reform efforts. Presently, there is a dearth of research related to leadership development for lawyers and only a few key empirical studies available on this topic. For the development of the theory of “new social justice lawyering,” a research query was formulated that combined the word “lawyer” with the following key search terms: transformational leadership, servant leadership,
social engineering, social change lawyering, leadership, and social justice. The search yielded 22 law review articles, 4 newspaper articles, 10 dissertations, and 22 books.

B. Theoretical Frameworks: Social Justice Lawyering

Social justice in action requires the lawyer to act with and on behalf of those who are experiencing suffering caused by social neglect, social decisions, or social structures and institutions. The social justice lawyer is challenged to examine the root causes of injustice and their impacts on marginalized populations in order to effectuate change. This work is drawn together as a part of a collective effort with lawyers and impacted communities, groups, and individuals based upon solidarity, which “means together we search for a more just world and together we work for a more just world.”

The essence of justice recognizes the lawyer’s responsibility to contribute to the common good, create access to justice, and provide resources to the community in order to preserve the rights of the community. Collectively, lawyers and community members can work together to realize their vision of change in the landscape of America’s legal system.

A lawyer engaging in social justice lawyering critiques the laws by seeking out those whose voices are not traditionally heard, like the voices of children, women, migrant workers, communities of color, and the elderly, and provides an opportunity for their voices to be heard (Quigley, 2007). Quigley provided a framework for engaging in this process of critical reflection for lawyers. This framework requires social justice oriented lawyers to: (a) engage in active listening to understand the cause of injustice; (b) analyze the power structures and identify who

28 Id. at 21.
30 Id.
benefits from the injustice; (c) explore the evolution of the law; and (d) examine the structural challenges that impact those of a particular race, class, and gender.  

Through this process, relationships are built with people and organizations that are needed to challenge subordination and remedy injustices. Additionally, opportunities for establishing solidarity and engaging in community building emerge. Hence, the social justice lawyer carries out the role of knowing and interpreting the law and providing the means to protect the interests of the poor and marginalized.

Over time, legal scholars have developed and introduced specific genres of social justice oriented lawyering that challenge lawyers to reconstruct traditional norms related to the practice of law. These include: collaborative lawyering, change-oriented lawyering, rebellious lawyering, and social engineering. These genres of social justice lawyering aid lawyers in establishing a new vision of lawyering that focuses on transforming systems, promoting equity, and establishing partnerships between lawyers and communities. Each of these theories shares the common goal of lawyers working in partnership with key allies to challenge injustice and establish equitable outcomes. However, each theoretical framework provides its own specific guidance on how to achieve this goal through the utilization of a range of strategies which include building a shared vision of justice, engaging in mutual learning, and conducting qualitative research.

31 Id.
33 Piomelli, supra note 24.
34 White, supra note 15.
35 Lopez, supra note 16.
36 McNeil, supra note 24.
i. Collaborative lawyering.

The collaborative lawyering theoretical framework establishes the importance of collective engagement in building a shared vision of justice through reflection, problem solving, and mutual learning processes. Collaborative lawyering extends beyond the traditional notion of lawyering, which explores how to solve a legal dilemma and begins to examine the participatory and developmental democratic questions: “What shall we do together?” and “Who shall we become as a result?” It is a joint partnership with clients that can effectuate social change.

Collaborative lawyering promotes client autonomy, upholds respect, and fosters a sense of equality while furthering collaborative efforts.

Collectively, clients and lawyers work together to change the world with the ultimate goal of lawyering against subordination. Subordination, in this context, refers to being under the authority or control of another, which restricts one’s power to act. Both clients and lawyers recognize and unveil their power to act in partnership to solve current social justice problems faced by marginalized communities and populations. The underlying theme is that the realization of the power to act focuses on building leadership capacity within communities and collaborating to challenge systems/policies that restrict their power unjustly. This is a learning process that focuses on reciprocal efforts in which everyone learns and everyone teaches. All parties engage in active listening, challenge one another, and problem solve together. The lawyer’s role is not to merely work for an individual client, but to work with community partners to reach a shared outcome and vision of justice.

38 Piomelli, supra note 24; Piomelli, supra note 37.
39 Shdaimah, supra note 22.
40 Piomelli, supra note 11.
41 Id.; Piomelli, supra note 37.
42 Piomelli, supra note 11.
43 Id.
Both the collaborative lawyer and the community are learning from each other as they foster social change. On one hand, collaborative lawyers gain invaluable insights about the daily lives of community members, root causes of the issue, and how the issues impact individuals and communities. On the other hand, clients/communities share their problem solving approaches, practical wisdom, and insights. Clients are viewed as assets who provide key insights and have the capability to engage in reform efforts as activists for change.\textsuperscript{44} Interactions between clients and collaborative lawyers create a fertile ground for collective engagement. This process shares similarities with the qualitative methodology of ethnography since the lawyer plays a role similar to that of a participant observer.\textsuperscript{45}

Collaborative lawyers as participant observers seek to be immersed into the experiences of those surrounding them (community members, allies, opponents) and gain a deeper appreciation for their daily life experiences. The lawyer enters the community as a guest with the hopes of gaining knowledge through community engagement.\textsuperscript{46} The collaborative lawyer partners with clients to reach a shared vision of social change. The client does not simply hand over a legal problem to a lawyer; instead, the collaborative lawyer utilizes his/her legal training to establish a coalition of support for reform. Collaborative lawyers “aim to join with clients, communities, and any allies they can enlist in collective efforts to change the world and through the process each other.”\textsuperscript{47} Together, the collaborative lawyer and key stakeholders engage in problem solving to address long-standing injustices.\textsuperscript{48}

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\textsuperscript{44} Id. \\
\textsuperscript{45} ROBERT K. YIN, CASE STUDY RESEARCH: DESIGN AND METHODS (6th ed. 2009). \\
\textsuperscript{46} Cook, supra note 14. \\
\textsuperscript{47} Piomelli, supra note 37 at 559. \\
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Further, the collaborative lawyer is a co-equal and not a dominant decision maker.\textsuperscript{49} The collaborative lawyer and community work together to frame, strategize, and implement the community’s strategic plan.\textsuperscript{50} Both clients and collaborative lawyers can discover a sense of renewed hope due to the recognition of the community’s power to act. This recognizes the power of the ordinary citizens to influence social change by engaging in participatory democracy.

The collaborative lawyer understands that power must be exercised in order to reach desired outcomes and transform systems. He/she recognizes that each individual has the capacity to utilize power effectively and can serve as a change agent. Power is characterized as dynamic and ever changing. It can be influenced through relationships; in essence, power is a mechanism that can be employed to initiate the community’s collective action.\textsuperscript{51} French philosopher, Michel Foucault, theorized power as a mechanism that yields productivity that can produce change in actions, beliefs, perceptions, and rituals.\textsuperscript{52} The collaborative lawyer encourages others to identify their power sources and utilize this power to initiate the process of social action. “Collaborative work often is required to create enough ‘power with’ to challenge ‘power over’[.]”\textsuperscript{53} The calculated exercise of “power with” lays the foundation for the process of social change.

\textbf{ii. Change-oriented lawyering.}

Change-oriented lawyering builds upon themes of collaboration by offering guidance for lawyers and community members acting together in furtherance of social change. The purpose of

\begin{footnotesize}
\begin{enumerate}
\item Piomelli, \textit{supra} note 11.
\item Piomelli, \textit{supra} note 37.
\item Piomelli, \textit{supra} note 37.
\item Piomelli, \textit{supra} note 11; M. FOUCALUT AND C. GORDON, \textsc{power knowledge: selected interviews and other writings}, 1972-1977 (1980).
\item Marshall Ganz, \textit{leading change: leadership, organization, and social movements, in handbook of leadership theory and practice} 509, 535 (Nitin Nohria and Rakesh Khurana eds., 2010).
\end{enumerate}
\end{footnotesize}
change-oriented lawyering is to facilitate social change within a given community. The focus is to address the impact of disempowerment on social groups and seek ways to empower communities to lead. White characterizes this theoretical framework as “change-oriented lawyering” which seeks to change the dynamics of power and subordination by drawing upon the strengths of the community served. This differs from the traditional model of lawyering where the community would be expected to allow the lawyer to solve their problems. In that framework, litigation is viewed as the most effective and best solution to all of the community’s problems. However, the change-oriented lawyer works in partnership with the community to facilitate social change. The lawyer is sensitive to the needs of the community and seeks to empower the community. This process mirrors a shared-power model of leadership in which leaders are called upon to engage in joint problem solving and share responsibility to engage in activism.

This is a community-initiated process and it begins when the community extends an invitation to the lawyer to become a part of the struggle for resistance. The lawyer aids the community in fostering their strengths and developing ideas together. Also, the lawyer engages in an interprofessional approach. In White’s case study of the Driefontein, South Africa, an interprofessional model is utilized by the lawyer in conjunction with the organizer. These professionals, along with community members, used their imaginations to further social change efforts. The organizer aided the community in carrying out their ideas through implementation

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54 White, supra note 15.
56 White, supra note 15.
phases, which included the development of a community health clinic and legal clinic. This was a holistic approach that sought to address the root causes of the community’s social problem.  

The change-oriented lawyer also seeks to empower the community in resisting oppression and subordination. White utilizes a three-tiered model to explore the multidimensional nature of subordination and offers possible legal responses. The first dimension is the traditional case-by-case litigation. The main focus at this level is to obtain favorable results through litigation. It acknowledges that the foundation of the law is acceptable but questions its application. The second dimension is law as a public conversation. Law is viewed as a public conversation; therefore it creates opportunities for public policy reform.

The third and final dimension focuses on “lawyering together toward change” which is referred to as change-oriented lawyering. It is a dialectic process of reflection, which leads to action and promotes mutual learning. Both community members and lawyers participate in social justice education within an informal setting.

The goal of social justice education is to enable people to develop the critical analytical tools necessary to understand oppression and their own socialization within oppressive systems, and to develop a sense of agency and capacity to interrupt and change oppressive patterns and behaviors in themselves and in the institutions and communities of which they are a part. This educational process serves as a mechanism of empowerment as communities and lawyers recognize the power within one’s hands to challenge subordination, exercise power, and create systemic change.

57 Id.
58 Id.
Within these three dimensions, power dynamics are at play. Professor Lani Gunier\textsuperscript{60} has identified three dimensions of this community-led exercise of power. The dimensions are metaphorically contrasted with participating in a game. Within the first dimension, the conflict is manifested while the rules of game are manipulated for one’s gain. The second dimension examines the intents and desires of the game designers and how they use their power to shape the rules.

Professor Gunier critiques that most social justice oriented lawyers operate within this second dimension by seeking to rewrite the rules of the game; however social change occurs in the third dimension.\textsuperscript{61} The third dimension seeks to understand the story of power, which explores why winners deserve to win and why losers continually lose. Within this dimension, the change-oriented lawyer deconstructs the power of those in authority. According to Foucault, this requires one to deconstruct how those in authority formulate the “subjugated knowledge” and control systems through the “regime of truth” which aids the change-oriented lawyer in increasing the capacity of community members to exercise their power in manifesting change.\textsuperscript{62}

Most importantly, within this third dimension of lawyering together toward change the community is empowered to develop innovative and sustainable solutions to their own legal problems.\textsuperscript{63} Myles Horton\textsuperscript{64}, a social reformer and co-founder of Highlander Folk School, encouraged community-based problem solving and collaborative processes when he stated: “Get the people together and trust that the solution will arise from them.”\textsuperscript{65} In the process of change-oriented lawyering, the people are drawn together to orchestrate change, engage in agenda

\textsuperscript{60} Ashly Hinmon, Achieving Justice Through Rebellious Lawyering: Restructuring Systems of Law and Power for Social Change, MODERN AMERICAN, 2010 vol. 6, at 15-16.
\textsuperscript{61} Id.
\textsuperscript{62} Foucault and Gordon, supra note 52.
\textsuperscript{63} White, supra note 15.
\textsuperscript{65} Id. at 98.
setting, and challenge inequitable policies. The people, with the assistance of lawyers (who are committed to lawyering together toward change) exercise their power to facilitate mutual learning, initiate the process of social action, and exercise the power necessary to create systemic change.  

White’s research links lawyering together toward change with community-building to create an image of community that is connected, restorative, and transformative. This sense of connectedness is representative of a circle. “The circle is a sacred symbol of life…individual parts within the circle connects with every other; and what happens to one, or what one part does, affects all within the circle.” It also recognizes the transformative power of the community since “[i]n every community there is work to be done. In every nation, there are wounds to heal. In every heart there is the power to do it.” The lawyer plays a vital role in community-building through the exercise of one’s legal skills to deconstruct current oppressive power structures and replace them with more just systems.

In essence, power is used to initiate social change and compel action. “Most powerful theory, in the end, may be our practice of deliberating together on our experience and our action.” The community then realizes that their strength lies with their capacity to deliberate together and take action.

iii. Houston’s social engineering.

Social engineering is a theory of social justice lawyering espoused by the late Dean Charles Hamilton Houston of Howard Law School. It represents the initiation of action and

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66 White, supra note 15. 
67 Id. 
70 White, supra note 15 at 769.
implemen
tation process required to foster social change efforts that sustain social justice
movements through legal action. Lawyers can use their legal training to serve as social
architects\textsuperscript{71} and engineers of social change.\textsuperscript{72} Houston characterized the role of the lawyer as a
social engineer; he believed that a lawyer was “either a social engineer or … a parasite on
society.”\textsuperscript{73} A lawyer as a social engineer is “the mouthpiece of the weak and a sentinel guarding
against wrong.”\textsuperscript{74} Houston’s personal commitment to becoming a social engineer was influenced
by his life experience in his adulthood, in particular serving in the military. Houston’s
experience of racism and discrimination in the military left a lasting impact. Following his
military service, he later vowed to gain power by speaking with fluency the language of the law
(i.e. the language of power). Houston’s commitment to wage a relentless battle against injustice
was manifested in these words:

[I vowed] that I would never get caught again without knowing something about
my rights; that if luck was with me, and I got through this war, I would study law
and use my time fighting for men who could not strike back.\textsuperscript{75}

Houston fulfilled his commitment and pursued a law degree with great vigor at Harvard Law
School.

Houston later paved the road of freedom through the Civil Rights Movement in an effort
to espouse his social justice mission to end racial injustice by burying Jim Crow. He was the

\textsuperscript{71} PETER G. NORTHHOUSE, INTRODUCTION TO LEADERSHIP CONCEPTS AND PRACTICE (5th ed. 2010).
\textsuperscript{72} McNeil, supra note 24; Michael Wilson Reed, The Contribution of Charles Hamilton Houston to American
\textsuperscript{73} McNeil, supra note 24 at 84.
\textsuperscript{74} Roger A. Fairfax, Wielding the Double-Edged Sword: Charles Hamilton Houston and Judicial Activism in the
\textsuperscript{75} RAWN JAMES JR., ROOT AND BRANCH: CHARLES HAMILTON HOUSTON, THURGOOD MARSHALL, AND THE
STRUGGLE TO END SEGREGATION 41 (2010).
first Black lawyer to win a case before the United States Supreme Court.\textsuperscript{76} He crafted a legal plan to end racial segregation nationwide in all public spaces (schools, buses, trains) nationwide.\textsuperscript{77} He begun this strategic plan by litigating cases related to equalization with an ultimate goal in mind of establishing precedent that separate could never be equal through the litigation of school integration cases.\textsuperscript{78} He commissioned black lawyers to join in the fight against segregation in schools by warning, “We need to break this up or perish”.\textsuperscript{79} Dr. King acknowledged Houston’s work in social engineering and the contributions of others doing the same type of work during a speech to the Bar Association of the city of New York, when he stated:

You should be aware, as indeed I am, that the \textit{road to freedom} is now a highway because lawyers throughout the land, yesterday and today, have helped clear obstructions, have helped eliminate roadblocks, by their selfless, courageous espousal of difficult and unpopular causes.\textsuperscript{80}

Houston also paved the “road to freedom” in his classroom. Houston demonstrated not only excellence in the practice of law, but also developed a teaching pedagogy of social engineering. As a law professor, he passionately trained law students to use the law as a tool to change systems and establish civic engagement. “He understood that if it were not for teachers and scholars, the law might never be more than precedent- judgments confirming the correctness of earlier judgments.”\textsuperscript{81} Houston trained his students to think outside the box. Instead of merely looking to the precedent and black letter of the law, Houston taught his students to critically

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\textsuperscript{77} James, \textit{supra} note 75.
\textsuperscript{78} Id.
\textsuperscript{79} McNeil, \textit{supra} note 24 at 138.
\textsuperscript{80} Id. at xv.
\textsuperscript{81} McNeil, \textit{supra} note 24 at 63.
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examine the spirit of the law and the very essence of justice. His teaching pedagogy went
beyond the traditional case analysis methodology, Langdell model, by training students to
engage in systems reform by overturning *Plessy v. Ferguson* and burying Jim Crow once and for
all.82

Houston instilled in his students a sense of determination and perseverance in fighting for
justice. His most notable slogan was “no tea for the feeble, no crepe for the dead”.83 Houston’s
power to transform minds in the classroom and train social engineers is demonstrated through the
success of students and protégés, like Spottswood Robinson III, Oliver Hill, William Bryant, and
Justice Thurgood Marshall, who effectively used the law to better society.84 The latter two
achieved historical stature as federal jurists. These lawyers were instrumental in transforming
the road to freedom into a highway of justice. It has been duly noted that Houston either taught
or mentored all of the black lawyers who participated in the Civil Rights Movement.85

Through his instructional pedagogy, Houston challenged law students to be leaders in
paving a road to freedom that could not be destroyed. Houston’s life journey demonstrates the
courage needed to use the leadership characteristics of a social engineer. Houston characterized
a social engineer as a “highly skilled, perceptive, sensitive lawyer who understood the
Constitution of the United States and knew how to explore its uses in the solving of problems of
local communities and in bettering conditions of the underprivileged citizens.”86 Social
engineering required the following social obligations for attorneys:

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82 JAMES, supra note 75; DIANA KLEBANOW & FRANKLIN L. JONAS, PEOPLE’S LAWYERS: CRUSADERS FOR JUSTICE IN
AMERICAN HISTORY (2003); McNeil, supra note 24.
83 KLEBANOW & JONAS, supra note 82.
84 JAMES, supra note 75; McNeil, supra note 24.
85 KLEBANOW & JONAS, supra note 82
1) to pioneer the cause of group advancement; 2) to advocate for those in need of assistance and protection against moral injustice; 3) to work as peacemaker in the pursuit of social change; 4) to exploit the flexibility within the American legal regime and to use law as an instrument for social change; and 5) to advance a litigation strategy that establishes firm precedent while simultaneously generating favorable public opinion and grass-roots support.\(^{87}\)

Houston’s process of social engineering provided a framework for building a social reform movement and initiating coalition-building. Houston aimed to strengthen and equip local communities to fight for their rights and derive model procedures from test cases that could be used in other jurisdictions.\(^{88}\) The test cases began with equalization of state-sponsored graduate schools since these institutions would aid in preparing the next generation of black professionals who would lead and advocate for the advancement of their people.\(^{89}\) Litigation related to equal pay for teachers was also a part of the series of test cases. These test cases were incremental steps in establishing the framework for \textit{Brown v. Board of Education}\(^{90}\) which overturned the doctrine of separate but equal outlined in \textit{Plessy v. Ferguson}.\(^{91}\) Thus, Justice Marshall stated, “The school case was really Charles’ victory. He just never got a chance to see it.”\(^{92}\) Moreover, Houston was able to engage in coalition-building since litigation attracted attention to the NAACP and aided in building notoriety which in turn attracted the masses to join the NAACP. Houston also awakened the consciousness of the general public through his publications, which served as a call to action. Examples include: \textit{The Need for Negro Lawyers} (1935), \textit{Don’t Shout

\(^{87}\) McNeil, \textit{supra} note 24 at 217.
\(^{88}\) JAMES, \textit{supra} note 75.
\(^{90}\) 347 U.S. 483 (1953).
\(^{91}\) 163 U.S. 537 (1896).
\(^{92}\) KLEBANOW & JONAS, \textit{supra} note 82.
too Soon (1936), Educational Inequalities Must Go (1935) and Cracking Closed University Doors (1935). These publications served as advocacy tools to ignite the passion of the masses to fight in the Civil Rights Movement. Houston was instrumental in establishing political power and civic engagement within the African American community. Through his legal advocacy in Smith v. Allwright, Houston aided in the creation of equal access to the ballot box.

iv. Rebellious lawyering.

Rebellious lawyering provides a theoretical framework for action research and fostering cooperative, collaborative processes. Rebellious lawyers are inspired by a vision of social justice since they must be proactive in effectuating social change by reflecting and “usher[ing] in the world we hope to create.” In envisioning changing the world as we know it, one’s imagination can be unleashed. The rebellious vision supports a concerted organized effort against subordination, based upon factors such as: race, gender, socioeconomic status, and age.

Rebellious lawyers work diligently to “dismantle those social structures that reinforce hierarchy and injustice.” This rebellious vision is “perceiving that the world we would like to see varies from the world as it is, we all find ourselves persistently trying to move the world in desired directions.” It recognizes the ability of the rebellious lawyer and clients/communities served

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93 Charles H. Houston, The Need for Negro Lawyers 4 J. NEGRO ED. 49 (1935); Charles H. Houston, Don’t Shut Too Soon, CRISIS (Mar. 1936); Charles H. Houston, Educational Inequalities Must Go, CRISIS (Oct. 1935); Charles H. Houston, Cracking Closed University Doors, CRISIS (Dec. 1935).
95 EVANS, supra note 76.
96 Lopez, supra note 16 at 382.
99 Hinmon, supra note 60 at 16.
100 Lopez, supra note 98 at 69.
to work together to realize a vision of equality and justice. This moves beyond working for a client to working collaboratively with a client and allies.  

The ideology of rebellious lawyering is based upon the premise of fostering cooperative and collaborative processes. Rebellious lawyers integrate themselves and their clients into “a large network of cooperating problem-solvers.” Traditionally, a lawyer is viewed as the sole problem solver who has the capacity and training to frame the issues and identify the legal problem. The lawyer serves as an expert who asks questions to confirm his/her course of action and maintain his/her power. To that end, lawyering is non-participatory and isolated given that lawyers envision themselves as “self-perceived visionaries who make decisions exclusively”. Within this model of lawyering, community members and clients play a very limited role by simply allowing the lawyer to solely formulate solutions.

Contrary to the traditional role of lawyers as experts, Lopez envisions rebellious lawyering as collaboration between co-eminent institutions and individuals where each learns from each other. Each participant in this process has the opportunity to learn and grow, in addition may offer a unique, diverse perspective in the problem solving process. The process of problem solving begins with storytelling since stories create a sense of a shared experience and enable us to live with a sense of solidarity. Stories are the framework for creating a social justice-oriented narrative since they aid in identifying the relevant audience, telling the story of a lived experience, and compelling others to act to bring forth the desired change.

101 Lopez, supra note 20.
102 Lopez, supra note 16 at 55.
103 Lopez, supra note 97.
104 Lopez, supra note 20 at 12.
105 Lopez, supra note 98; Lopez, supra note 97.
Through storytelling, the diverse experience of those experiencing subordination is shared to facilitate social change and create shared space for ongoing dialogue. By sharing these stories, the power of persuasion is manifested which allows the lawyer and community partners to challenge others to change the world to mirror the world that they desire to see.107

In this idea- what I call the rebellious idea of lawyering against subordination—lawyers must know how to work with (not just on behalf of) women, low-income people, people of color, gays and lesbians, the disabled, and the elderly. They must know how to collaborate with other professionals and lay allies rather than ignoring the help that these other problem-solvers may provide in a given situation. They must understand how to educate those with whom they work, particularly about law and professional lawyering, and, at the same time, they must open themselves up to being educated by all those with whom they come into contact, particularly about the traditions and experiences of life on the bottom and at the margins.108

This perspective acknowledges the role of lawyer as problem solver in partnership with communities to shape problem solving around the community’s experiences and build shared knowledge.109 It also recognizes the importance of working with other professionals to problem solve together and discover new ways for promoting social justice.

Additionally, rebellious lawyering initiates and compels action. Community members and the rebellious lawyer work together to realize their vision of social change. “That we all make those communities we call our own.”110 This demonstrates a shared responsibility to create

107 Id.
108 Lopez, supra note 16 at 37.
109 Lopez, supra note 98.
110 Lopez, supra note 20 at 13.
change and enact ownership over the change process. Each is “standing shoulder to shoulder” while engaging in problem solving and community-building.111

Overall, the rebellious lawyer learns how to aid in building and sustaining social justice coalitions, help imagine and orchestrate strategies for pursuing desired goals, understand the theoretical political frameworks that they challenge and make concrete, and pursue visions of social justice.112

Based upon the principles of rebellious lawyering, Lopez developed the Center for Community Problem Solving (“Center”) in 2003.113 The Center partners with marginalized populations (immigrant, low income of color communities) to problem solve around issues with political, economic, social, health, and legal elements. The goal is to foster participatory democracy and equal citizenship. The Center draws together the strengths of problem solvers from all walks of life- business owners, service providers, teachers, artists, policy officials, lawyers, and doctors to develop practical solutions for problems facing the communities. The Center has the following key fundamental values:

(a) The Center seeks to collaborate with those who live and work in low-income communities, communities of color, and immigrant communities in order to share knowledge of how to address present challenges, identify resources, and develop useful strategies for change.

(b) The Center connects those with problems with service providers who can help to address these problems.

(c) When problems remain unaddressed after making the requisite connections outlined above, the Center seeks additional resources to fill this void.

111 Lopez, supra note 97.
112 Lopez, supra note 20.
113 Lopez, supra note 97.
(d) The Center monitors and evaluates progress in the problem solving phase.

(e) The Center shares information gathered from their program evaluation.

processes to aid in developing more effective strategies for exercising collective problem solving.\textsuperscript{114}

Lopez’s rebellious lawyering theoretical framework challenges lawyers to engage in problem solving and foster community connections.\textsuperscript{115} This will aid in remedying social problems facing the community.

PART II: LAWYERS AND THE EXERCISE OF LEADERSHIP (Pillar Two)

There is a natural synergy between social justice lawyering and leadership. The two principles are interconnected since leaders seek to motivate, inspire, and engage community members to bring the shared vision of social justice to fruition. Further, the community is empowered to assume leadership roles in the future, in order to address inequities and overcome subordination. I intend to explore the natural connection between social justice lawyering and leadership by adding a new dimension of scholarly research for demonstrating definition and adding clarity for the role of lawyer as facilitator in the process of social change.

A. Leadership in law

Due to the societal reliance on lawyers to serve in leadership roles, lawyers are relied upon to exhibit the qualities of public servants (servant leadership) and social engineers (transformational leadership).\textsuperscript{116} Over the years, lawyers have been called upon to serve a key role in creating access to justice and protecting the civil liberties of others and fostering a sense of community. Historically, lawyers have been influential in ensuring that the promise of justice is manifested. Notable examples of lawyers serving in a leadership role in furtherance of social

\textsuperscript{114} Lopez, \textit{supra} note 97.

\textsuperscript{115} Lopez, \textit{supra} note 16.

\textsuperscript{116} ROBERT K. GREENLEAF, \textsc{The Servant as Leader} (2d ed. 1991); McNeil, \textit{supra} note 24.
change include predecessors like Justice Thurgood Marshall (U.S. Supreme Court Justice) and Robert Sengstacke Abbott (Founder and Chief Editor of *The Chicago Defender*). Both men exemplified the moral courage, strength, and passion for social justice consistent with principles of servant leadership and transformational leadership. They used their legal training to create societal reform, to positively influence others, and to exercise power in resisting subordination and oppression. This characterization of a lawyer’s professional identity illustrates that inherently lawyers assume leadership roles.\(^{117}\) Therefore, it was necessary to explore other disciplines (outside the field of law) that provide insight into the nexus between lawyers and leadership.

**B. Theories from the field of leadership.**

Initially, leadership was viewed as an innate set of skills endowed to a limited few.\(^{118}\) However, subsequent research has demonstrated that effective leadership skills can be taught and developed.\(^{119}\) Presently, leadership is characterized as an influence process that occurs when a leader seeks to influence the goals of others and empower them to take action in order to reach their desired goals.\(^{120}\) “Leadership is the ability and courage to create a vision that inspires others, the ability to communicate that vision and to engage all the talent in the organization to focus on the same goal.”\(^{121}\) Therefore, leadership is a process or activity that draws upon the strengths of the leader and followers. The leader teaches by example how to exercise influence. Sullivan characterizes this as a process of mutual influence during which leaders and followers

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\(^{119}\) Richard Hughes, Robert Ginnett, & Gordon Curphy, *Leadership: Enhancing the Lessons of Experience* (4th ed. 2002) (supporting the notion that good leaders are made, not born).


combine their values, beliefs, and actions together to achieve a shared purpose. Further, one’s ability to excel is based upon the nature of the relationship and transaction process that occurs between leaders and followers. This is a process of dualism that impacts the learning, growth, and development of both leaders and followers. Hence, a key characteristic of leadership is relationship-building which contributes to an interactive process of collaboration.

During this transaction process, a leader intentionally exercises his/her power to influence. Influence is one’s ability to change or alter a situation based on one’s resources, talent, position and power. Dr. Martin Luther King described a leader’s influencing capability when he stated, “I refuse to accept the idea that man cannot influence the unfolding events that surround him.” In addition to an exercise of influence, leadership happens within a group context and gives attention to common goals. Leaders and followers have a mutual purpose and shared goal to reach. Groups are influenced by their leaders; accordingly, group involvement is paramount to leadership. This group effort can carry forward the vocation of justice. Leaders and followers should work together strategically to develop a plan of action and devise implementation processes. Thus, leadership combines a leader’s ability to influence others, encourage group participation, and develop shared goals.

There are a range of leadership theoretical frameworks and classifications that can aid in exploring the nature of leadership and an individual’s ability to influence and further a group’s shared vision within a leadership capacity. There are 65 classifications systems that have been

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122 DEBRA REN-ETTA SULLIVAN, LEARNING TO LEAD: EFFECTIVE LEADERSHIP SKILLS FOR TEACHERS OF YOUNG CHILDREN (2003).
123 NORTHOUSE, supra note 71.
126 (Nobelprize.org, 2011).
127 NORTHOUSE, supra note 71.
128 J. Windley-Daoust, supra note 29.
developed to define the multifaceted nature of leadership and over 100 definitions of leadership. The Encyclopedia of Leadership provides 38 leadership theories and identifies 17 leadership styles. Northouse has compiled these leadership themes into five categories: leadership as a trait, leadership as an ability, leadership as a skill, leadership as a behavior, and leadership as a relationship. Leadership combines components of each of these frameworks, classifications, and categories.

The themes of leadership as a behavior and exercised within relationships are evidenced in the theoretical perspectives of servant leadership and transformational leadership. More specifically, the theories of servant leadership and transformational leadership are representative of the organic leadership category where “the leader is part of a collective that through dialogue crafts a vision to challenge dominant ideologies, structures, and practices.” These theoretical frameworks share a commitment to furthering a moral imperative by seeking to promote common good and shared values.

i. Servant leadership

The premise of servant leadership emerged in response to a loss of community, human connections, and stagnation of one’s moral imagination. Servant leadership provides a theoretical framework of service that inspires each individual to serve and lead. “It begins with the natural feeling that one wants to serve, to serve first. Then conscious choice brings one to

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132 Northouse, supra note 124.
aspire to lead.”

It requires a leader to beckon to the call of servanthood. The leader’s primary purpose is to serve others and promote the common good. According to Adair, “Democracy needs experts, representatives, and leaders, but it needs them as servants and not as masters.” The servant leader utilizes his/her professional training as a tool to serve the needs of others.

The foundation of servant leadership is a shared vision that inspires followers and empowers others through a moral commitment to serve and aid fellow community members in reaching their full potential. According to Northouse, vision has five identifiers, which are “picture” (image of a better future), “change” (in the way of doing things), “embodiment” (in values), “map” (provides direction/purpose), and “challenge” (to create change). The servant leader is called upon to cultivate each of these key characteristics by supporting the community’s vision of the future.

A servant leader’s true motivation is to inspire others to lead and cultivate their leadership strengths. The servant leader recognizes that he/she is not a sole actor but must foster collective engagement to realize the common vision. During this process connectedness and interdependence is fostered while stronger communities are built. In essence, the progress of a servant leader is evaluated by raising the question “Do you grow the people you lead?”

Servant leadership, coined by Robert Greenleaf, is a facilitative approach that supports growth

135 Greenleaf, supra note 116 at 7.
138 Adair, supra note 118 at 124.
139 Autry, supra note 136; Hammargren, 2007)
140 Northouse, supra note 124.
141 McGee-Cooper &Looper, supra note 134.
142 Northouse, supra note 124.
143 (McGee-Cooper &Looper, supra note 134.)
and development during which the traditional roles of leader and followers are transcended.\textsuperscript{144} Servant leadership is manifested through the leader’s exercise of influence. Greenleaf warns of the importance of recognizing the impact of influence on one’s self and others since net effect (of an exercise of influence) can be beneficial, enriching, or depleting.\textsuperscript{145} This self-awareness reminds servant leaders that they have influence, thus they must be wise stewards of this influence. In the face of injustice, the servant leader is called upon to eradicate social injustices and facilitate social change.\textsuperscript{146} Servant leadership is community-focused as it seeks to shift leadership authority and power to each member of the community as they emerge from follower to leader. This process aids in the development of the leadership potential of every individual involved.

Servant leaders also recognize that service is paramount to community-building and deems service as a moral imperative. Through serving, everyone can contribute to the growth and development of a strong community. Dr. King described the significance of service in his speech entitled “The Drum Major Instinct.”\textsuperscript{147} The drum major instinct refers to one’s innate desire to seek recognition and promote self-indulgence. On the contrary, he draws upon themes of servant leadership by challenging his audience to become drum majors for justice by seeking to promote the common good, justice, and servanthood. In this speech, given exactly two months before King’s assassination, he deconstructed the notion of individualism and self-centeredness within communities, while offering an alternative paradigm of service and interrelatedness. This new paradigm empowers each individual to become a servant leader. He stated: “If you want to be important-wonderful. If you want to be recognized-wonderful. If you

\textsuperscript{144} BROOKFIELD & PRESKILL, supra note 133.
\textsuperscript{145} MCGEE-COOPER & LOOPER, supra note 134.
\textsuperscript{147} Dr. Martin Luther King, Jr., The Drum Major Instinct (Feb. 4, 1968).
want to be great-wonderful. But recognize that he who is greatest among you shall be your servant. That’s the new definition of greatness.”148 He concludes the speech with a vision for his own eulogy in which he requested to be remembered as one who “tried to give his life serving others”.149

King’s definition of greatness is portrayed in Greenleaf’s scholarly research through the characterization of Leo.150 The character of Leo is drawn from Herman Hesse’s Journey to the East.151 Leo accompanies a group of men on a mythical journey as the servant who performs routine menial tasks. Leo remains on the journey as a servant while uplifting the men and guiding the journey. One day, Leo disappears and is found by one of the men many years later. It is then discovered that Leo is also a great leader and a noble guiding spirit, in addition to being an indispensable resource to the group of men. Leo’s inner strengths as a motivator and giver empowered him to serve in a merged role as both a servant and a leader. Greenleaf characterizes Leo’s servant leadership qualities as “the real person, not bestowed, not assumed, and not to be taken away.”152 This serves as an example of a servant leader’s ability to uplift and motivate others through random acts of kindness.

Servanthood is also a moral imperative that compels one to serve others as an exercise of ethical leadership. Service has been characterized as “the rent we pay to be living. It is the very purpose of life and not something that you do in your spare time.”153 This is recognition that service is a part of the essence of living and being a part of the human family. Each has the power and capacity to serve in a leadership capacity and make a difference. The endowment of

148 Id.
149 Id.
150 GREENLEAF, supra note 116.
151 HERMAN HESSE, THE JOURNEY TO THE EAST (1956).
152 GREENLEAF, supra note 116 at 9.
this capacity creates a responsibility for each individual to act in creating a shared vision of social change.

The key qualities embodied by a servant leader are effective listening, perceptiveness, creativity, and empathy.\(^\text{154}\) As a reflective listener, a servant leader is always searching, listening, and expecting that there are ways to foster change. For instance, the leader is listening to understand how to serve the community better or how to motivate the next generations of leaders. Servant leaders listen to gain a deeper understanding of the experiences of others. They exemplify the eagerness to maintain a relational perspective which is highlighted in the Saint Francis prayer: “Lord grant that I may not seek so much to be understood as to understand”.\(^\text{155}\)

A servant leader is perceptive and remains in tune with the rhythm of the community that they are serving. The servant leader is required to have a wide span of awareness in order to see the full picture of one’s surroundings. Further, servant leaders are attentive to the needs of the community since they are followed because they are trusted. The servant leader is “[…] closer to the ground- he hears things, sees things, and his intuitive insight is exceptional.”\(^\text{156}\)

Additionally, the servant leader works collaboratively with others in the community to promote the furtherance of social justice initiatives. Greenleaf contrasts this collaborative process metaphorically to a dove, which offers a gentle stirring of life and hope that inspires others to serve in the community and work together to transform society.\(^\text{157}\)

In addition, the servant leader exhibits the quality of creativity, which aids in creative problem solving techniques and bridges the gap of intuition. Further, the servant leader is empathetic and demonstrates a strong sense of compassion for others. The servant leader

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\(^\text{155}\) \textit{Greenleaf, supra} note 116 at 10.

\(^\text{156}\) \textit{Id.} at 32.

\(^\text{157}\) \textit{Greenleaf, supra} note 116.
focuses primarily on the needs and goals of others. Researchers have also identified additional characteristics of servant leaders that include: calling, healing, persuasion, conceptualization, foresight, stewardship, growth, and community-building. The culmination of these characteristics provides the servant leader with the skills to think critically and act ethically. “A leader is at any moment a historian, contemporary analyst, and prophet” who combines knowledge of how the past and present influence the unfolding events of the future. These skills enable the servant leader to demonstrate foresight and adaptability when challenges arise.

There are key steps required for fostering a commitment to servant leadership within a community, which requires one to: listen without judgment/practice reflective listening, exhibit authenticity, build community, and share power. Further, Autry posits that a servant leader is authentic, vulnerable, accepting, present, and useful. Each of these steps aligns with demonstrating qualities consistent with the ethic of caring, which builds community connections and supports collaboration.

If lawyers engage in these steps, they will cultivate their own leadership skills and empower others in the community to fight for justice “that those alone may be servants of the law who labor with learning, courage, and devotion to preserve liberty and promote justice.” This differs from the traditional model of lawyering, which focuses on exerting power through the utilization of one’s legal training. A lawyer who practices principles of servant leadership begins by serving first and then leading by exercising reflective listening, fostering a sense of connectedness, empowering others, and establishing rapport.

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158 SULLIVAN, supra note 122.
159 BARBUTO & WHEELER, supra note 154.
160 GREENLEAF, supra note 116 at 17.
161 MCGEE-COOPER & LOOPER, supra note 134.
162 AUTRY, supra note 136.
ii. **Transformational leadership.**

In addition to servant leadership, transformational leadership also provides a theoretical perspective that focuses on motivating and influencing followers to realize a common social justice vision. Three decades ago, the concept of transformational leadership was first explored by Downton.\(^{164}\) It materialized as a theoretical framework through the research of James MacGregor Burns, who coined the term “transforming leadership”.\(^{165}\) Burns introduced the transformational leadership model, which was characterized as an ongoing process of reciprocity that linked leadership to followership.\(^{166}\) Burns distinguishes between “transactional leadership” and “transformational leadership.”\(^{167}\) Transactional leadership focuses primarily on the interactions between leaders and followers. The leader “transacts” with the followers to complete a specified goal and to reward successful completion, therefore satisfying the self-interest of both parties.\(^{168}\) Contrarily, transformational leadership focuses on the process of engagement that occurs between leaders and followers, which aids in raising standards of morality and upholding collective values.

During the process of transformational leadership, “leaders and followers raise one another to higher levels of morality and motivation.”\(^{169}\) The motivation derived provides a reciprocal process for mutual learning and empowerment.\(^{170}\) Burns hypothesized that this process would raise the awareness of followers and challenge them

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166 *JAMES MACGREGOR BURNS, LEADERSHIP* (1978).
167 *Id.*
168 *GOETHALS, SORENSON, & BURNS, supra* note 131.
169 *BURNS, supra* note 166 at 20.
170 *CROSBY & BRYSON, supra* note 55.
to reach a higher level of motivation and morality.\textsuperscript{171} He envisioned that leaders could mobilize groups, parties, public policy, and legislative processes. Burns saw leaders at the center of the catalyst for social change that could transform the very nature of social conditions.

Transformational leaders exhibit the qualities of charisma and persuasion that compel others to lead and seek social change. Charisma is defined as a special, innate gift attributed to certain persons that have the ability to do extraordinary things and win the devotion of others.\textsuperscript{172} Other characteristics of transformational leadership include the 4 I’s: idealized influence charisma, inspirational motivation, intellectual stimulation, and individualized consideration.\textsuperscript{173}

Through the exercise of the leader’s “idealized influence charisma,” followers are motivated by the inspiration of transformational leaders due to their vision and passion. This is a moral vision that challenges injustices and seeks to promote equity and justice. Transformational leader Myles Horton characterized this moral vision when he stated, “you have to do the best you can in an unjust society. Sometimes that means that the laws you go by are moral laws instead of book laws.”\textsuperscript{174} Transformational leaders challenge followers to reach a higher moral standard of a collective vision of change. Also, their charisma tends to be transmissible since it inspires others to serve as change agents. Charisma emerges as “a result of a social crisis and charismatic leaders are those with extraordinary appeal who emerge with radically new visions that provide a solution to a crisis, attracting followers, who strongly identify with them.”\textsuperscript{175} Transformational leaders also embody strong values and ideals. They promote the intellectual stimulation of

\textsuperscript{171} \textsc{Goethals, Sorenson,} & \textsc{Burns, supra note 131; Trawally supra note 165.}
\textsuperscript{172} \textsc{American Heritage Dictionary, supra note 125 at 260; Hughes, Ginnett,} & \textsc{Curphy, supra note 119; Northouse, supra note 71).}
\textsuperscript{173} \textsc{Northouse, supra note 71.}
\textsuperscript{174} Miles Horton & Paolo Freire, \textit{We Make the Road by Walking: Conversations on Education and Social Change} 7 (Brenda Bell & John Gaventa, eds., 1990).
\textsuperscript{175} \textsc{Peter G. Northouse, Introduction to Leadership Concepts and Practice} 137 (2d ed. 2001).
followers and encourage creativity. Overall, this promotes opportunities to develop new approaches and engage in creative problem solving.

“Inspirational leadership” is communicated by transformational leaders as they promote shared values and advance a shared vision. The transformational leader focuses on creating and communicating this shared vision in a range of forums. Transformational leaders also promote “intellectual stimulation.” Followers are encouraged to be creative and innovative. This is a process of thinking outside the box and engaging in creative problem solving processes. The follower is encouraged to explore and challenge their personal beliefs and values while also critically examining the leader’s moral compass. Transformational leadership also provides “individualized consideration” by listening to the needs of followers and aiding in the process of self-actualization. The key aspect of self-actualization is recognition of each follower’s unique leadership capacity. According to Bass, the transformational leader must gain an understanding of the desires, strengths, and aspirations of followers. In developing this understanding, the transformational leader discovers ways to motivate the followers to maximize their leadership potential.

Additionally, transformational leaders are visionaries and exercise foresight which motivates others to follow their vision. They support a vision of transformation of social systems and foster social change. This vision implies change and challenges followers to move social change initiatives forward. Transformational leaders are able to link this vision with the values and beliefs of followers to create a shared vision of how the world should be and identify the role of each individual in bringing this vision to fruition.

176 CROSBY & BRYSON, supra note 55.
179 SULLIVAN, supra note 122.
180 NORTHOUSE, supra note 124.
Followers are encouraged to think strategically, act wisely, reach self-actualization, and strengthen their individual leadership capacity. They are challenged to question authority, analyze cultural influences, and become politically engaged; they in turn discover their identity as transformational leaders. One such example of the development of the leadership capacity of future transformation leaders is the work of prominent civil rights leaders like Dr. Martin Luther King, Jr., Fannie Lou Hamer, Rosa Parks, and Septima Clark, who inspired masses of followers to take a leadership role in the struggle for justice. These leaders were empowered to take action in their communities and train others to lead by guiding the “praxis” (informed actions) by the “phronesis” (the disposition to act truly and rightly).

Kouzes and Posner offer further considerations of leadership qualities from a transformational leadership perspective. After interviewing more than 1,300 managers (at the mid and senior level) in private and public sectors, Kouzes and Posner identified the five leadership qualities that enable leaders to achieve extraordinary success. These practices are modeling the way, inspiring a shared vision, challenging the process, enabling others to act, and encouraging the heart. Further, a transformational leader is an authentic leader who leads change, upholds values, builds relationships, practices discipline, and leads with his/her heart. Finally, the transformational leader exhibits enthusiasm due to the overall satisfaction in discovering the essence of one’s calling.

PART THREE: Facilitating Social Change through Public Policy Advocacy (Pillar Three)

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182 Id.
183 KOUZES & POSNER, supra note 178.
184 Id.
185 GEORGE, supra note 137.
Social change movements influence the process of systemic change since change begins with dismantling systems that create marginalization and subordination. Active engagement in policy reform and advocacy is an indispensable tool utilized by lawyers in this process. This focuses on engaging in agenda setting and establishing community partnerships. This new type of lawyering also requires advocacy to work in partnership with community. The lawyer within this role engages in citizen professionalism, which is characterized by working collaboratively with others to engage in creative problem solving and discover common ground.186

**A. Kingdon’s policy entrepreneurship.**

Inherently, lawyers serve as political actors either in an active capacity (confronting oppression) or passive capacity (supporting oppression).187 Lawyers engage in an active capacity by initiating policy reform efforts and obtaining a working knowledge of how to navigate the terrain of policy change. Kingdon provides a framework for influencing public policy and engaging in agenda setting.188 Policy is the result of (a) setting the agenda, (b) specifying alternatives, and (c) making an authoritative choice among alternatives.189 Issues (social, political, and economic) are addressed when agenda setting occurs. The agenda setting process is influenced by emerging issues impacting policy makers.

**i. Engaging in agenda setting.**

The policy entrepreneur understands how to operate the levers that lead to policy reform and create social change. This process begins by engaging in agenda setting. According to

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186 Boyte, *supra* note 17.
189 Id.
Kingdon, issues influence agenda setting in three ways, first by pressing on the system due to a crisis, prominent event, or alternative, a change in a widely respected value.  

Second, increase in knowledge may impact agenda setting. Within the context of cultivating the transformative power of lawyers, new knowledge emerges. Third, in order for policy issues to be addressed, “streams” must align. These streams can be characterized as pressing social problem that creates a “window of opportunity” to bring forth new ideas, support consensus-building, and create solutions.

ii. Opening of the window of opportunity.

Kingdon characterizes change as occurring as the result of action. The way change happens is that there is an actor that he refers to as the “policy entrepreneur.” He/she is continually engaging in a preparation process by mobilizing and educating community members to address a given social justice issue. Throughout this process, the policy entrepreneur stands ready to take action. They prepare for a window of opportunity to open in order to engage in reform efforts. When this window of opportunity is open, policy entrepreneurs are able to offer solutions for challenges presented. This moment of opportunity occurs when policy entrepreneurs can bring their research and passion for a particular issue to the forefront. These solutions can be proposed when the next window of opportunity opens. This gives policy makers a chance to act in social reform and policy entrepreneurs the opportunity to offer possible solutions.

The policy entrepreneur recognizes the limitations of the law in effectuating social change. He/she recognizes that the adoption of equitable policies can be used to promote social

\[190\] Id.
\[191\] Id.
\[192\] Id.
\[193\] Id.
\[194\] Id.
justice. When serving in the capacity of policy entrepreneur, the lawyer develops an understanding of how agenda setting occurs. The lawyer is skilled enough to know how to operate the levers of agenda setting by re-framing emerging social justice issues. The lawyer as policy entrepreneur also is prepared for the opening of the window of opportunity by offering practical solutions for public policy reform. Hence, policy entrepreneurship serves as a key tool for advancing social justice by influencing agenda setting and transforming systems.

**B. Stewart’s coalition-building framework.**

Stewart focused on policy streams and the significant role of community centric advocacy coalitions.\(^{195}\) The framework’s central themes are (a) changes in policy are the product of individuals acting rationally and strategically within an organization and (b) changes occur as a result of competing coalitions that share belief systems acting together.\(^ {196}\) Stewart’s analysis is explored through a historical case study of the desegregation laws, which sought to create equal educational opportunities. Throughout this case study, Stewart evaluates the effectiveness of these methods used by advocacy groups and offers a variety of policy solutions.\(^ {197}\)

Stewart utilizes the case of *Brown v. Board of Education* to teach public policy lessons and demonstrate the significant role of coalition-building in addressing the root causes of a social problem.\(^ {198}\) The first lesson learned from the pursuit of equal educational opportunities was not to limit the definition of the policy problem because this also limited the ability to create effective solutions. When the education problem was defined as racial segregation in schools, ending segregation quickly became the solution. This rationale was problematic since it was a


\(^{196}\) *Id.*

\(^{197}\) *Id.*

\(^{198}\) *Id.*
short-term fix to a larger systemic problem. In this context, the larger systemic challenges included institutionalized racism and the doctrine of White Supremacy. This narrow definition could only lead to temporary remedies. “Subsequent experience shows dramatically that segregated schools were just the symptom, not the disease.”

Stewart outlines policy lessons that can be learned from policy advocacy coalitions like the NAACP National Defense and Educational Fund Inc. ("Inc. Fund"). The Inc. Fund was created to collectively draw together resources that would maximize the likelihood of producing favorable policy changes in civil rights. The Inc. Fund used litigation as a tool for social change since it was viewed as a way to test strategies and influence public opinion. The Inc. Fund focused on using courts as an alternative to legislative advocacy during their civil rights mobilization efforts. Similarly, the pursuit of a social justice-related cause of action impacting marginalized populations (i.e. police misconduct/brutality, inequitable educational opportunities, and racial disparities in the criminal/juvenile justice systems) offered the opportunity to change public policy and empower marginalized communities.

A key to the success of the Inc. Fund was the skill of the lawyers and active engagement of community members. The lawyers used the courts to shape public opinion related to civil rights in furtherance of social engineering to implement a comprehensive strategy for obtaining favorable court rulings and decisions. “These cases addressed the need for racial equity in every area of life, which included civic engagement, education, and economic spheres. Lawyers like Charles Hamilton Houston, Oliver Hill, and Justice Thurgood Marshall developed their expertise in civil rights law and appellate advocacy. As a result, these lawyers emerged as transformational leaders and they used their legal expertise as a tool to manifest their personal

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199 Id.
200 Id. at 169.
201 Id.
passions and professional ambitions with the hopes of advancing their vision of social justice.\textsuperscript{202} Once again, the public opinion can be shaped to focus on removing the barriers to access to justice, which are obstructed based upon class, race, and gender.

i. \textbf{New stories and new public narratives.}

Stewart’s philosophy related to shaping public opinion can be implemented at the macro-level by sharing new stories and establishing new public narratives. This is a process of community organizing and community mobilization efforts around common goals. During the process of shaping public opinion, a “new story” is told. This story is the foundation of a “public narrative” that uplifts values, compels action, and initiates purposeful action.\textsuperscript{203} “Through public narrative, social movement leaders and participants can move to action by mobilizing sources of motivation, constructing new shared individual and collective identities, and finding the courage to act.”\textsuperscript{204}

During the Civil Rights Movement, the force needed for political and societal changes through community engagement and mobilization was established due to the work of policy advocacy groups. Community mobilization became a powerful tool for influencing public policy since Congresspersons seek to avoid electoral sanctions. The judicial branch was also impacted by Inc. Fund’s advocacy efforts. The precedent set forth by the United States Supreme Court (following Inc. Fund’s advocacy) led to the construction of a new definition of equality and equitable policies. Additionally, community engagement is essential for a paradigm shift in the justice systems. Policy advocacy groups should educate community members on current social justice issues and prepare them to engage in legislative advocacy. Hence, following the example of the Inc. Fund, policy advocacy groups (consisting of lawyers working in partnership with

\textsuperscript{202} Stewart, \textit{supra} note 195.
\textsuperscript{203} Ganz, \textit{supra} note 53.
\textsuperscript{204} Ganz, \textit{supra} note 53 at 527.
impacted communities) have the power to construct a new vision of justice through collective efforts and community engagement.

This power derived from community-led action laid the foundation for social movements, similar to the Civil Rights Movement. Social movements are a vehicle for furthering social change initiatives. Coalition-building is essential for sustaining and building social change which can be manifested in a collective social movement. Social movements have been seen throughout U.S. history, ranging from establishment of voting rights for women to the abolishment of slavery, and have left a lasting impact on law and policies. Within the movement, community members have varying levels of commitment and engagement that is deeply rooted in moral values. Community members who are actively engaged in the social movement hold dearly the hope of asserting new shared values, creating new relationships rooted in those values, and mobilizing political action. These movements can be characterized as collective, strategic, dynamic, participatory, and organized.

The power of the people is essential for engaging in reform these efforts. This power is derived from alliances built with organizations, community members, and other interested individuals, collectively creating a united front on the fight for justice. Together they can address the interrelatedness of social justice issues like earning a livable wage, obtaining quality education, and protecting the self-worth of each individual. “These issues create a formidable knot of many tightly wound strands. Only when the knot itself is undone will the threads come free.” A strong coalition of advocacy groups and community members can undo this “knot”


206 Id.

207 Ganz, supra note 53.

208 Ganz, supra note 53.

209 Jean Anyon, Radical Possibilities 175 (2005).
and prevent future knotting by exercising their political power and influencing public policy reform.

C. Alinsky’s community organizing approach.

Community organizing serves as an essential tool for this process by helping ordinary people to have their voices heard.\textsuperscript{210} Alinsky \textit{Rules for Radicals} provides guidance on how to “fertilize social change” by organizing the masses and building mass power.\textsuperscript{211} This text is a guidebook that provides instruction based upon Alinsky’s personal philosophy, which is driven by optimism. He writes: “It must be, for optimism brings with it hope, a future with a purpose, and therefore, a will to fight for a better world.”\textsuperscript{212} The community organizer is guided by this sense of optimism of creating a better world by promoting the common good in partnership with the people.

The community organizer is committed to protecting the dignity of the individual. This protection respects the community’s autonomy and guards their fundamental democratic right to fully participate in creating solutions to their own problems.\textsuperscript{213} Additionally, the community organizer believes that communication is essential for moving forward with progress. The art of communication aids the organizer in understanding what the community is trying to communicate and listening attentively to their needs since communication is a two-way process. Further, the community organizer is also an imaginative creator. Unlike leaders who traditionally desire to hold power, the community organizer seeks to create new ways to maximize power in order to bring forth social change. The community organizer’s work is informed by the exercise of moral imagination in skillfully creating tactics. He/she focuses on

\begin{footnotes}
\item[210] NICHOLAS VON HOFFMAN, A PORTRAIT OF SAUL ALINSKY: RADICAL (2010).
\item[211] SAUL D. ALINSKY, RULES FOR RADICALS: A PRAGMATIC PRIMER FOR REALISTIC RADICALS 7 (1971).
\item[212] \textit{Id.} at 21.
\item[213] \textit{Id.}
\end{footnotes}
creating a mass ego in which to motivate and inspire others to take action. “The organizer finds his goal in creation of power for others to use.”\textsuperscript{214} They seek to not merely serve as organizers but reorganizers of social systems.\textsuperscript{215} Alinsky characterizes this work as a radical, revolutionary movement; hence the job of the organizer is “to fan the embers of hopelessness into a flame to fight.”\textsuperscript{216}

The community organizer begins by organizing the unorganized. Organization starts with mobilizing the community which is characterized as “an organized, communal life; people living in an organized fashion[].”\textsuperscript{217} It moves beyond the notion of neighborhood or community shared by common physical space to the idea of a community of interests. People are organized first by their self-interest and then are connected with others to establish a community of interests. These interests inform the strategy of the community organizer and the development of a plan of action. The experiences of the community inform the strategy by providing the context and starting point of analysis by acknowledging “this is the world as it is. This is where you start.”\textsuperscript{218} This is the vision that inspires the work of the organizer and motivates community members to get involved in building social change.

The vision is then coupled with the power to create change and the metaphor of an army begins to emerge. Alinsky recognized the transformative nature of power. “Power is an essential life force always in operation, either changing the world or opposing change. Power, or organized energy, may be man-killing explosive or life-saving drug.”\textsuperscript{219} When utilized as the latter, the community can reach its desired goals and create lasting social change. The

\textsuperscript{214} Id. at 80. 
\textsuperscript{215} Hoffman, supra note 211 at 157. 
\textsuperscript{216} Alinsky, supra note 212 at 194. 
\textsuperscript{217} Id. at 116. 
\textsuperscript{218} Id. at 14. 
\textsuperscript{219} Id. at 51.
momentum built through organizing continues to grow over time. “Once a people are organized they will keep moving from issue to issue. People power is the real objective [...]”  
Organized people gain power by developing a unified voice of the collective whole and taking action. Alinsky shared the potential of this power with new organizers when he stated if two percent of the population were organized, their collective power could be used to overthrow the government.  
This demonstrates the magnitude of “people power.”

The result of these organized efforts lays the foundation for building and sustaining social change. It is recognition of the fact that change comes through revolutionary action. A careful analysis of history demonstrates this point since significant changes in history have occurred as a result of revolutions. Revolutions require social action and a commitment to the greater good. “The price of democracy is the ongoing pursuit of the common good by all of the people.” Each person plays an integral role in this pursuit by becoming a part of the social change movement.

Further, community organizing approaches offer guidance for sustaining social change. According to Alinsky, movement requires developing a “stable, disciplined, mass-based power organization.” The movement is initiated by empowering the people. This process of empowerment enhances each individual’s capacity to change the systems that impacts their daily lives by becoming involved in the political processes and decision-making. Alinsky recognized the need for empowerment and characterizes the lack thereof as a tragedy. Alinsky writes: “[…] there can be no darker or more devastating tragedy than the death of man’s faith in himself and
in his power to direct his future.”  Community organizing approaches can breathe life into the community and the people. The community organizer is a facilitator in this process and the community is the driving force. “An organizer doesn’t have an actual set of responsibilities save that of putting responsibility of self-determination where it belongs, on the people themselves.” The people should lead the process of social change by initiating their power to act and own their shared destinies.

Alinsky offers a critique of the Civil Rights Movement that illustrates his premise of the need for building a mass-based power organization. Although the Civil Rights Movement claimed many victories, Alinsky posited that the movement lacked a powerful organizational base. Alinsky notes that the victories were won primarily based on external world political pressures and centralized around the efforts of a charismatic leader. He warned: “but the truth is that the civil-rights organizations have always been minuscule in actual size and power. Periodic mass euphoria around a charismatic leader is not an organization.” According to Alinsky, without an organization and mass power, social change can begin but may fall short in transforming systems and its overall sustainability is threatened.

**PART IV: CONCLUSION**

The social justice challenges of our time create a need to apply innovative and creative approaches to the practice of lawyering. This moves beyond traditional notions of lawyering to the promotion of community empowerment. The introduction of the theory of “new social justice lawyering” provided a framework for lawyers to play an active role in the process of social change. It combined three theoretical frameworks, social justice lawyering, leadership, and

224 *Id.* at xxvi.
225 HOFFMAN, *supra* note 211 at 22.
226 *Id.* at 72.
227 ALINSKY, *supra* note 212.
public policy advocacy, to inform the work of lawyers who seek to build and sustain social change. The alignment of these theories or three pillars of “new social justice lawyering” provide practical tools for effectuating social change. The first pillar, social justice lawyering, focuses on using the law as a tool to dismantle systems of oppression and create equal access to justice. The second pillar challenges lawyers to develop their leadership skills and strengthen the leadership capacity of others. Within the leadership capacity, lawyers can aid in empowering others. This moves beyond serving a particular client to acknowledging that each person can serve as an invaluable contributor in the process of social change. Lawyers are challenged to explore the question: “do you grow the people that you lead?” Finally, the third pillar is the foundation of systems change and policy reform. Public policy advocacy focuses on working with communities to organize and mobilize around social justice issues impacting their daily lives. This type of advocacy cultivates the transformational power of collective engagement with the goal in mind of fostering equitable policies. Through the application of principles of “new social justice lawyering,” lawyers can work in collaboration with marginalized communities to realize a vision of justice and equity.