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A Black Woman Law Dean Speaks About the Precarity of Leadership

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A BLACK WOMAN LAW DEAN SPEAKS ABOUT THE PRECARIETY OF LEADERSHIP

Danielle M. Conway*

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I. INTRODUCTION

Unequal Profession is a triumphant work by Professor Meera Deo, in large part because of its data-driven analysis about the pervasiveness of raceXgender bias and discrimination within the legal academy, but also it is in great measure because of its timing.¹ In this most recent era of racial

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1. See MEERA E. DEO, *UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA passim* (2019).

reckoning, we are confronting law and the legal academy's complicity in scaffolding systemic inequity around what should be strong democratic structures.² The manner in which the legal academy has perpetuated a status quo that feeds for its existence off of raceXgender subordination is clearly demonstrated in *Unequal Profession* as both a real and pervasive phenomenon, weakening the legal academy as a democratic institution. What the legal academy does with the data and analysis that Professor Deo's work unmasks will determine whether and how committed lawyers and leaders will be to changing the structures of the academy and the legal profession from edifices of systemic inequity to institutions dedicated to transforming themselves and the society around them to those built on systemic equity.³

Transforming legal education, the legal academy, and the legal profession along the lines of systemic equity requires a commitment to inclusive leadership. Chapter five of *Unequal Profession*, titled "Leading the Charge," resonated strongly because it identified, albeit implicitly, the importance of leadership as one driving factor in administering a program of legal education, yet it clearly demonstrated that most women of color are

2. Cornel West, *Foreword* to CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT, at xi (Kimberlé Crenshaw et al. eds., 1995); see W.E.B. DU BOIS, BLACK RECONSTRUCTION IN AMERICA 1860-1880, ch. XVI, at 691 (The Free Press 1998) (1935) (alteration to original) ("It was thus that finance and the power of wealth accomplished through the Supreme Court [which deprived the 14th and 15th Amendments of their strength by neutering the congressional enforcement provisions in *United States v. Reese* and *United States v. Cruikshank*] what it had not been able to do successfully through Congress."); see also DERRICK BELL, SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM 11-13 (2004); ERIC FONER, THE SECOND FOUNDING: HOW THE CIVIL WAR AND RECONSTRUCTION REMADE THE CONSTITUTION, at xxiii, xxvi, 6-8 (2019); M. Kelly Tillery, *Complicity*, 82 PHILA. LAW., Summer 2019, at 24, 24 (referencing A. Leon Higginbotham, Jr.'s seminal work); A. LEON HIGGINBOTHAM, JR., IN THE MATTER OF COLOR: RACE AND THE AMERICAN LEGAL PROCESS: THE COLONIAL PERIOD, at vii-ix (1978) (reflecting on "how a legal system that proclaims 'equal justice for all' could simultaneously deny even a semblance of dignity to a 16-year-old boy who had committed no wrong" when asking for the opportunity to stay in a heated dormitory on the campus of Purdue University in 1944 while temperatures were close to zero. The author shares further: "I became intensely eager to acquaint myself with the part the legal process played, to learn the lessons of racial history, to ascertain to what extent the law itself had created the mores of racial repression. Did the law merely perpetuate old biases and prejudices? Or had it been an instrument first in establishing and only later in attacking injustices based on color?"); THOMAS D. MORRIS, SOUTHERN SLAVERY AND THE LAW, 1619-1860 (1996).

3. See Nancy E. Dowd et al., *Diversity Matters: Race, Gender and Ethnicity in Legal Education*, 15 U. FLA. J.L. & PUB. POL'Y 11, 12 (2003) ("Legal education has traditionally been a white male affair, to which women and people of color have only recently gained entry. For many years, white male dominance of legal education was maintained through admission policies consciously designed to exclude women, members of disfavored ethnic groups, and the economically disadvantaged.").

outside the sphere of those with decanal leadership, power, and status.⁴ With the rule of law under assault, leadership, particularly in the legal academy and the legal profession, is essential for leveraging power and influence to respond decisively to existential threats to our democratic institutions.

Despite both acute and chronic threats and crises bearing down on law schools and the legal academy, the move to incorporate leadership—whether transformative, adaptive, or servant—within our discipline has been slow and relatively inconsequential in disrupting a concretized status quo consistently favoring white men.⁵ I proffer that a major factor leading to the patriarchal state of affairs in the legal academy is its failure to: first, acknowledge the dearth of women of color—among other minoritized groups—in both the faculty ranks and in influential leadership ranks and, second, exercise the will to disrupt the systemic inequities that further perpetuate the exclusion of women of color from the centers of power.

What I mean by centers of power is moving beyond taking the position of law dean to sitting in proximity to power and being able to access meaningful support, leverage professional development opportunities, and engage networks to secure influence within law schools, universities, and boards. Professor Deo's work urges a critical look at leadership to address why it is essential for our work as faculty members, having the full range of responsibilities, to model leadership and then transfer leadership skills through our teaching, research, service, and community engagement while simultaneously growing our capacity and willingness to incorporate leadership through our ranks and across our curricula. Stated another way, we cannot, with integrity, think we will transform legal education with the rhetoric that we prepare lawyers to be the leaders our society needs if we do not apply inclusive leadership theory and practice within our own house to tackle one of the most intractable problems facing the legal academy and our democratic institutions today: systemic raceXgender inequity.

While there is an abundance of legal scholarship treating the topic of leadership, providing definitions or not, as the case may be, it is clear that leadership is a necessary predicate for moving progress forward through day-

4. See DEO, *supra* note 1, at 99-102.

5. See HELENA LIU, REDEEMING LEADERSHIP: AN ANTI-RACIST FEMINIST INTERVENTION (2020) (alteration to original) (“Organizational leaders—disproportionately highly privileged, white, elite class, cisgender heterosexual able-bodied men—overwhelmingly protect and preserve the oppressive social systems that grant them their privilege and power.” *Id.* at x. Thus, “[i]n our organizations and societies, leadership is overwhelmingly accorded to white, cis-gender, heterosexual, elite-class and able-bodied men.” *Id.* at 127. Importantly, “critiquing the dominance of white masculinity [as normative of leadership] is not about decrying individual white men, but rather, questioning how the underlying power systems of imperialism, white supremacy and patriarchy have come to shape the theorizing and practice of leadership” *Id.* at 23.).

to-day normalcy.⁶ Moreover, it is inclusive leadership that is vital in responding to crucible events as well as acute and chronic crises that are cascading through society and weakening our democratic institutions. If we are expecting the law students whom we train to get this right as the lawyers “who run our civilization,”⁷ it seems as though it is imperative to get leadership right first within our walls.⁸ Professor Deo’s work implicitly calls on us to address what is leadership in legal education, the legal academy, and the legal profession, and why it is imperative that leadership include the voices, the experiences, and the perspectives of women of color.⁹ An intentional and meaningful discussion about inclusive leadership is key to determining whether and to what extent legal education, the academy, the profession, and the larger society will be able to change from edifices of system inequity to institutions transformed by systemic equity.

Before responding to my own experiences as a Black woman law dean and the liminal space in which the precarity of leadership subsists, it is vital to define leadership:

Leadership is dimensional, situational, and positional. It is a concept that is both abstract and pliable. It is also forged by internal, liminal, and external forces that, when exerted, move an object or a scenario in either expected or unexpected ways. It is the trusting and understanding of the self, the knowledge of the surrounding landscape, the prescience to see and evaluate what lies ahead, the courage to vision toward a sustainable future, the capacity to develop colleagues committed to serving the vision and the mission, the wisdom to learn from past successes and failures, the fortitude to adapt to changing circumstances, and the resilience to navigate through

6. *See id.* at 100 n.1; *see also* Donald J. Polden, *Leadership Matters: Lawyers’ Leadership Skills and Competencies*, 52 SANTA CLARA L. REV. 899, 902-04 (2012); Garry W. Jenkins, *Educating Lawyer-Leaders: The Mechanics and Artistry of Case Study Teaching and Discussion Leadership*, 83 TENN. L. REV. 729, 731-32 (2016); Scott A. Westfahl & David B. Wilkins, *The Leadership Imperative: A Collaborative Approach to Professional Development in the Global Age of More for Less*, 69 STAN. L. REV. 1667, 1706-07 (2017); *see generally* Deborah L. Rhode, *Developing Leadership*, 52 SANTA CLARA L. REV. 689 (2012) (discussing the core competencies of leadership, distinctive characteristics of lawyers and the challenges they face in leadership positions, styles of leadership, effective leadership, and strategies for addressing deficiencies in leadership).

7. Susan Sturm, Commentary, *Law Schools, Leadership, and Change*, 127 HARV. L. REV. F. 49, 49 (2013) (quoting Professor Fred Rodell’s observation that “it is the lawyers who run our civilization for us—our governments, our business, our private lives.”).

8. *See* LIU, *supra* note 5, at 23 (explaining the need to focus on the systems as well as on representation in leadership).

9. *But see id.* at 39 (emphasis added) (“[R]eject[ing] the popular ‘body count’ approach to leadership diversity that calls for more women and leaders of colour *without* critically engaging with the problematic nature of leadership itself.”).

crucible experiences with humility that all work together to animate leadership.

Our positions as staff, faculty, and administrators in the legal academy and as attorneys in the legal profession are inherently ones requiring us to exercise leadership. Specifically, in the legal profession, the defining aspects of leadership are heightened by duty, accountability, and a sworn obligation to act equitably, transparently, and with integrity.¹⁰ This is what is required of leaders in the legal profession and in the legal academy under “normal” circumstances.¹¹

Yet, when facing issues—such as raceXgender bias and discrimination—prominently identified in Professor Deo’s work, inclusive leadership must be brought to bear to address, contest, and counter systemic inequity. Inclusive leadership requires action by those in proximity to power, influence, and status to reflect on their privilege, respond with acknowledgment of that privilege and the commensurate disadvantage shouldered by those with intersecting raceXgender identities, and collaborate as a collective to bring forward solutions that center accountability and corrective action to ameliorate well-documented harms.

That being said, few leaders will disagree that one approach to operationalizing inclusive leadership is to incorporate meaningful professional development into the functions of an organization or institution. In essence, effective and inclusive leaders know that upon assuming leadership, they must immediately invest significant time and attention to succession planning, meaning preparing future leaders for leadership roles and dedicating resources to building and sustaining the leadership muscle of these future leaders. Moreover, these leaders will also agree that crucible or crisis events press leaders, both the reluctant and the willing, into service; the success of these leaders depends, in part, on the degree to which they embrace inclusivity. And finally, those leaders who place service over self, who commit to mission and people first, and who remain accountable always will make lasting impressions on and contributions to the next generation of inclusive leaders.

II. PROFESSIONAL DEVELOPMENT AS A TOOL OF INCLUSION

Being responsible for your professional development and that of others requires action. This is probably the greatest fault line diagnosed by

10. See MODEL RULES OF PRO. CONDUCT: PREAMBLE AND SCOPE (AM. BAR ASS’N 1980).

11. See generally Danielle M. Conway et al., *Building an Antiracist Law School: Inclusivity in Admissions and Retention of Diverse Students – Leadership Determines DEI Success*, RUTGERS RACE & L. REV. (forthcoming 2022).

Professor Meera Deo in determining how new faculty—particularly women faculty of color—are onboarded into the legal academy.¹² From the barriers to entry and lack of community support up to and through promotion and tenure and then to taking leadership roles, women of color are put in the unenviable position of having to create their own patchwork of professional development experiences that may or may not align with their values and needs or their institution’s short- or long-term needs.

I identify professional development as a key feature of inclusive leadership because it is and will always be a central component of training effective leaders. I learned this fundamental tenet during my service in the military. A number of my colleagues in the academy know that I have to my credit twenty-seven years of active, reserve, and national guard service in the United States Army. What colleagues do not know is how I struggled mightily with the disconnect between the professional development I received in the military as a reserve officer and what I was not receiving in the legal academy as a tenure track professor. As a field grade officer, when performing annual training two weeks per year, reserve duty once per month, or drilling a few weekdays during the month, I received continuous feedback from staff officers and commanders. I was expected to be at meetings with senior command officers and senior executive service civilians. I was encouraged to give presentations, write memoranda, and advise the chain of command. I was also expected to provide similar growth opportunities to junior officers. Yet, when the uniform came off and I was back in the law school environment, my voice was muted in discussions about strategic planning, faculty recruitment, and staff and faculty development. These were the very activities I was thoroughly ensconced in as a military officer, but I was left on the periphery to essentially observe from the outside as a faculty member.

Eventually, I attributed the muting of my voice to the concretized patriarchy of place and position within the legal academy.¹³ Because I received the professional development I needed and deserved from both the military and the external legal community,¹⁴ I strengthened my leadership muscle and honed my authentic voice, both externally and internally. It was evident that the more productive and skilled I became at teaching and writing

12. See DEO, *supra* note 1, at 105-06.

13. See LIU, *supra* note 5, at 39 (alteration to original) (Leadership “built on the back of gender[, racial,] and colonial subjugation . . . has been instilled from the outset with idealizations of white men’s moral and intellectual superiority that granted them the birthright to govern.”).

14. In addition to military service, during my fifteen years as a tenure track and then tenured faculty member, I was also of counsel servicing clients and providing professional development to associates for two partners at two major law firms in Hawai’i.

through the lens of service to students, clients, and the community, the more my authentic voice was being heard internally, even if, at times, unwelcomed. The lack of commitment to professional development that led some colleagues to attempt to mute my voice was a striking and somber lesson in negative know-how. Yet, these lapses in effective mentorship fueled my desire to change the landscape for those coming after me.

When reflecting on chapter five, “Leading the Charge,” this question rang out: “What makes leadership worthwhile, especially in the legal academy?” The drive to lead a law school as a Black woman with an authentic voice was and remains the opportunity to rewrite the narrative by visioning, problem-solving, collaborating, implementing, authorizing, positioning, and empowering those who are resolute about transforming the legal academy from the exclusive domain of white men to an inclusive community of diverse teachers and learners, writers, and service providers whose strengths are amplified and whose weaknesses have less of an impact on the community.¹⁵ Professor Meera Deo stands among those who know the legal academy can and must do better in dismantling raceXgender discrimination, bias, and caste in the legal academy.

We can start this work by assessing how the legal academy does or does not invest in the holistic development of its future leaders. My commitment to professional development draws from the training and experiences I received as a military officer who was, at times, mentored and, at other times, sponsored by superior officers, junior officers, non-commissioned officers as well as enlisted personnel. The lesson in being mentored or sponsored at all ranks within the military is the truism that your leadership training, specifically your professional development, is informed by everyone around you. I rely on this training, generally, as a dean of a law school and, particularly so, as a leader claiming an intersectional identity.

I have been in conversation with many colleagues about professional development, but one ongoing conversation stands out for me on this issue. In this conversation, I was reminded of the impact that my commitment to institutional professional development has had on junior faculty. As a tenure track faculty member, I was mentored and sponsored by a small collective of colleagues I would call friends. They promoted me, at times, and shielded me from harm when they could. I am forever grateful to them. But the care and concern from these individuals are not the same as institutional professional development, which I did not receive in the legal academy and which I take from the data in Professor Deo’s book is not occurring across

15. See LIU, *supra* note 5, at 132 (“[W]e can redefine what it means to lead.”).

the board for all faculty colleagues, specifically for women of color.¹⁶ In answering the question whether leadership is worthwhile, I conclude that most definitely it is, especially when one has the capacity to apply sound principles of professional development in sponsoring new and junior faculty. What can inclusive leadership look like? It can be a fundamental focus on institutional professional development for all new and junior faculty, including women of color. As inclusive leaders, we can act on shared governance obligations by establishing expectations about leadership and institutional citizenship from our senior colleagues. In addition, we can establish professional development workshops using Professor Deo's work as a guiding text to engage case studies aimed at exploring the how and the why of professional development and the outcomes for recruitment, retention, and productivity among our new and junior faculty colleagues.

Being placed on the sidelines and remaining there as our institutions move to meet and exceed their vision, mission, and goals is not an option if we expect to train the next group of leaders of the legal profession to be inclusive. If white patriarchy places women of color on the sidelines and, by virtue of such placement, if women of color recede into the sidelines, the lessons we convey to our students, the future leaders of our civilization, is that women of color belong on the sidelines. The foundations of my leadership began with exposure to institutional professional development in the military. I choose to act to transfer those professional development experiences from the military to map the trajectory of the growth and professional development of my colleagues within the legal academy.

I recognize that my emphasis on professional development creates almost immediate precarity for me in my role as a law school dean, in general, and as a Black woman, specifically, because it goes against the grain of the established status quo for new or junior faculty: to have them focus almost exclusively on scholarship. This is a narrative that is driven by the traditional patriarchy of the legal academy, but also by the slavish adherence to a singular measure of success in the academy, which is the production of scholarship. Moreover, this narrative is reinforced by the *U.S. News and World Report Rankings* (USNWR) law school rankings, which dominate the attention of the entire legal academy. Stated another way, professional development for new and junior faculty based solely on scholarly productivity must, by definition, ignore the importance of and obligation to perform the duties associated with effective leadership in accomplishing shared governance—which are teaching, scholarship, service, and the building of a community. Speaking as a Black woman law dean, leadership

16. See DEO, *supra* note 1, at 19-22.

becomes precarious when pressing forward on the notion that obligations go unmet when faculty are engaged almost exclusively in the production of scholarship, to the exclusion of teaching, shared governance, and service. Unfortunately, the status quo narrative to focus almost exclusively on scholarship is overwhelming, which in turn creates impediments to implementing institutional professional development opportunities that would inspire a trajectory of leadership among women of color faculty.

Another source of tension for the Black woman law dean is the precarious terrain of the ever-shifting market for legal education. In addition, and even more importantly, the traditional hierarchies that have been erected to scaffold the legal academy have become severely outmoded in relation to these market shifts, made visible by the comparison between the pre-2008 structure of legal education and the legal profession and the post-2008 structures. While it is clear to most that the narrative driven by the white patriarchy has little currency in the current market for legal education, the legal academy has not embraced fully the opportunity to exact disruptions of the status quo, allowing the status quo to continue to dampen innovation, perpetuate raceXgender bias and discrimination, and reinforce inequities.

Adhering to this status quo, while ignoring the structural shift in the market for legal education, places the legal academy in jeopardy. To understand the permanent structural shift in the market for legal education, it is necessary to understand the pre-recession market for legal services in the United States. The large law firm model emerged during the 1970s and 80s and predominated since then.¹⁷ “Under this model, law firms maintain[ed] a leveraged ratio of associates to partners, sometimes employing as many as five non-equity lawyers for every equity partner.”¹⁸ Typically, “one-third of the revenue from each non-equity lawyer’s billable hours translat[ed] into profit.”¹⁹ Firms using this model hired large numbers of new associates to replace attorneys at the bottom of the pyramid.²⁰ To feed this model, large firms would compete for students, with pay to new associates climbing to \$160,000 per year.²¹ It is important to note then and now the dearth of attorneys of color having access to these positions in the legal profession.²²

17. Daniel Thies, Note, *Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market*, 59 J. LEGAL EDUC. 598, 600 (2010).

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* at 603-04.

22. See ABA, PROFILE OF THE LEGAL PROFESSION 13 (2021), <https://www.americanbar.org/content/dam/aba/administrative/news/2021/0721/polp.pdf>.

This model had a profound influence on legal education, causing law schools to invest very little in experiential training. Employers scrambling to hire law students did not demand that their new hires possess training in practical skills. Throughout the 1980s and 90s, law schools were able to show applicants excellent job prospects even without offering applicants practical skills training. On the employer side of things, practical training was not required because the kind of work new associates did at the bottom of the pyramid did not require such training. According to the *MacCrate Report*, “law schools shaped their curricula to respond to the needs of the corporate practice of large law firms.”²³

In many respects, the pre-recession public perception of the role of a lawyer is what attracted over 100,000 applicants to law schools.²⁴ While the large law firm model predominated in many large urban areas of the country, the same did not hold true for the rest of the country. In smaller cities and rural areas, lawyers made a reasonable living wage. Unfortunately, the public perception of lawyers as large firm nomads earning annually \$160,000 eclipsed the reality of the average wage of lawyers nationally.

“The economic recession of 2008-2009 has placed unprecedented stress on the legal profession,” which experienced a sharp decline in demand for legal services in a number of important sectors.²⁵ The resulting downward pressure on law firm rates froze the fees upon which law firms relied. Consequently, law firms could not bring in “enough work and revenue to support their highly leveraged structure and inflated associate salaries.”²⁶ Many firms shifted work to contract attorneys, reduced staff, and reduced pay.²⁷ The economic downturn led to disruption in the legal market that permanently affected the traditional law firm model.

Now, law firms place a greater premium on graduates with practical skills training. Firms large and small require associates to perform more complex work from day one, resulting in less investment in on-the-job training. As salaries and rates skyrocketed, clients were unwilling to pay for associate training, including leadership training. Partners began to bill more themselves and bring in more clients, which meant that partners spent less

23. See ROBERT MACCRATE ET AL., TASK FORCE ON LAW SCHOOLS AND THE PROFESSION, ABA, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 87 (1992).

24. See Thies, *supra* note 17, at 609.

25. *Id.* at 599, 603.

26. *Id.* at 603.

27. *Id.*

time mentoring new attorneys and helping them shape their professional identities through, among other things, building the leadership muscle.²⁸

Large law firm decisions and practices have a trickle-down effect on the legal job market. Smaller firms, public interest employers, government agencies, and corporate legal departments now have more access to top attorneys in this new legal job market. Fewer attorneys going to large firms and more competition amongst attorneys, new and old, for non-law firm positions means that these employers can be more selective. This creates a hardship for new law school graduates.

The permanent structural shift in the legal profession and the market for legal services has a direct impact on law schools. The cost of legal education has been on the rise since 1980.²⁹ As an example, “law school tuition has consistently risen at a rate more than two times the rate of inflation.”³⁰ “Since 2002, tuition has continued to rise anywhere from five to fifteen percent a year. In 2007, the average tuition at a private law school was \$32,367, and at public law schools, \$15,455.”³¹ The cost of attendance pushed these figures to over \$50,000 or more.³² “As a result, many students graduate today with more than \$100,000 in law school debt, regardless of the rank of the school they attend.”³³ “In 2007, the median salary of new graduates was \$62,000,” with salaries on the decline.³⁴

Since 2010, the numbers of LSAT takers and “law school applications have declined precipitously.”³⁵ This shift in the market has made potential students more powerful. Competition amongst law schools for the smaller number of qualified applicants is ferocious. As well, USNWR of law schools are taking their toll. To maintain rankings, law schools are pressured to discount tuition while, at the same time, adjusting programs to be more attractive to students. Discussing these structural shifts is a necessary predicate to understanding the new legal education landscape and the full array of political, diplomatic, and collaborative skills as well as emotional

28. *Id.* at 605-06.

29. *Id.* at 608.

30. *Id.*; Maimon Schwarzschild, *The Ethics and Economics of American Legal Education Today*, 17 J. CONTEMP. LEGAL ISSUES 3, 5 (2008).

31. Thies, *supra* note 17, at 608.

32. *Id.*

33. *Id.*; Schwarzschild, *supra* note 30, at 6.

34. Thies, *supra* note 17, at 609; Press Release, Nat'l Ass'n for L. Placement, Market for New Law Graduates Up — Topping 90% for First Time Since 2000 (July 25, 2007), <http://www.nalp.org/marketfornewlawgraduatesup>.

35. Terry Carter, *Reduction in Law School Applications Result in Favorable Upsides for Some*, ABA J. (Aug. 10, 2017, 10:08 AM), https://www.abajournal.com/news/article/reduction_in_law_school_admissions_favor_applicants_in_several_ways.

intelligence required to effectively lead law schools to respond to current challenges and threats.

Thus, for women of color to enter the leadership ranks in the legal academy now means reckoning with the structural shifts discussed above while acknowledging that “fewer white men [are] interested in navigating the current ‘time of crisis in legal education’[,]” resulting in women and women of color “deal[ing] with constant emergencies, running the risk of going over the glass cliff and taking the institution with them.”³⁶ Clearly identified by *Unequal Profession*, the very real risks of the potential feminization of the role of the law school dean including, but not limited to, a loss of status of the role among internal units within the university and the potential loss of status among external constituents belies the challenges facing the legal academy and legal education.³⁷

For both of these reasons and more, professional development is an essential component for the success of each faculty member, including women of color. First, professional development responds to the need to rebuild a law school culture that values service as interdependent with teaching and scholarship. Second, professional development is a key aspect of effective shared governance through committee and service work that is fairly distributed amongst faculty colleagues. Third, investments in professional development move a law school forward as an inclusive community of teachers, learners, and leaders by rotating participation of new and junior faculty on high-profile committee and university task force assignments, allowing them to showcase their strengths and address their weaknesses. And fourth, professional development signals to new and junior faculty that part of their contribution to the law school is to develop their leadership muscle across the organization and encourages them to take the view that they are obligated to show up for their students, their staff, and their faculty colleagues as institutional citizens. This type of professional development is made more possible when senior colleagues make themselves aware of the obligation to meet each new and junior faculty colleague where they are, especially in terms of professional development, whether that new colleague is a woman dean of color, a less senior woman of color, a woman, or a man of color.

36. DEO, *supra* note 1, at 114.

37. *See id.*

III. TAKING A LEADERSHIP ROLE AS AN EXERCISE OF SELF-DETERMINATION

Taking on a leadership role—whether reluctantly, willingly, or for purposes of problem-solving or visioning—requires action as well as recognition that such action is an exercise of self-determination.³⁸ Further, being selected for leadership may provide external validation of one's interest in the pursuit of status, but validation through selection does not necessarily produce the leader the organization needs. Instead, opportunities to lead are generated through the continuous practice of service to others. For those who practice inclusive leadership, titles, status, and attention are quite ancillary to the endeavor. And it must be stated clearly that those who perform service are our institution's leaders. Stepping into the breach to claim the title of a leader must be viewed as a matter of contestation, a necessary response to being unacknowledged, ignored, or muted by the traditional patriarchy. This contestation is not done in self-interest. Instead, it is done, first, as an act of self-determination and, second, as an act to meet the obligations owed to the students who deserve the education, the professional identity development, and the leadership training and skills-building that faculty have a duty to provide across the curriculum and the institution.

Self-determination—an ongoing process of choice of peoples to freely determine their political status and freely pursue their economic, social, and cultural development—is an indigenous perspective on the contestation of white patriarchy.³⁹ This term and its corresponding definition have a useful application for women of color, who have taken on institutional leadership roles on behalf of the law school collective. This statement about self-determination is not theoretical. To explain the precarity of this kind of leadership and the necessity of self-determined action as a response, I provide another example of my experience.

My first deanship was plagued from the beginning by organizational and leadership disarray, mismanagement, and an undercurrent of political and fiscal friction by and among higher university officials above the law school. Before even taking the leadership role, I was greeted in the negotiation for the position with an unacceptable salary and status offer, which signaled the contempt for prior law school leadership but also signaled university

38. See LIU, *supra* note 5, at 128 (alteration to original) (“The ones [who do not embody the gendered, sexualized, and racialized ideals of white, cis-gender, heterosexual, elite-class and able-bodied men] who did claim the mantle of ‘leadership’ understood that doing so was a political act . . .”).

39. Austl. Hum. Rts. Comm'n, *Right to Self Determination*, <https://humanrights.gov.au/our-work/rights-and-freedoms/right-self-determination> (last visited Oct. 24, 2021).

officials' perception of the lack of value in the law school and in me. Insisting on a course correction early with respect to salary and status was crucial in my being taken seriously as a leader. It also signaled my seriousness of purpose in advocating not only for the law school but for the many communities that relied on the law school as a democratic institution responsible for graduating formidable lawyer leaders. For me, then and now, self-determination, as opposed to self-interest, means intentionally communicating the value of the collective that I have a duty to represent and whose interest I have a duty to protect.

The challenges and the threats did not end with attempts to undercut the law school, my salary, and my status. They persisted as attempts to undermine the law school's program of legal education through fiscal starvation, ad hominem insults about the legal profession, scurrilous attacks on me, and mounting unmet obligations to enrolled students. What kept me focused during the sojourn through these political, fiscal, and interpersonal perils was my resolute belief in the historic and modern contributions of the law school to the state, my law school colleagues and the enormous value they brought to their internal and external constituents, and my duty and obligation to the rule of law and all the people and communities it serves. I was also supported by internal and external constituents who quickly understood and internalized my message, which was and remains: (1) to defend the United States Constitution; (2) to promote the rule of law; and (3) to protect the most vulnerable among us.

I also did not take the leadership role to demonstrate the value of Black women in the legal academy. I know the value of our genealogy because of my very existence. I took leadership because of the vision I had and that I intend to realize, not just for any one law school, but for the entire legal academy. But I do know I had to prove my *bona fides* as a Black woman law dean to people who were not accustomed to seeing someone like me in such a visible role. It also became painfully obvious that I had to navigate university officials who were out of their depth as leaders, especially when facing crucible events. Even more disappointing, these same officials resorted to racist and sexist tropes as a means of eliding their own flaws, faults, and failures.

Let me be clear: there is no shame in failing. But there is disgrace in not leading with integrity, humility, and equity. While there are a number of examples of the precarity of my position as a Black woman law dean,⁴⁰ one stands out as deserving extended discussion. Over three years into my first

40. See Megan Gray, *Maine's Only Law School Enters a Period of Transition*, PORTLAND PRESS HERALD (May 27, 2019), <https://www.pressherald.com/2019/05/27/a-moment-of-transition-for-maines-only-law-school/>.

law school deanship, I was forced to mobilize the law school's alumni and friends advisory board to respond to the organizational and fiscal challenges presented by a flawed reporting structure and an unsustainable budget model. During a confidential board meeting, staff members made professional presentations about the organizational and budget structures that imperiled the law school's program of legal education. Less than two hours after the meeting, I received a call from the university official to whom I reported castigating me for making the presentation. In response, I inquired about and retrieved from this official the name of the board member who conveyed a clearly distorted representation of the presentations and discussions.

Upon receiving the name of the individual, I waited several days before visiting this person at his office to address his breach of board confidence. The individual was impenitent and admitted that he divulged the distortion to the official and asked me if I wanted his resignation. Of course, I replied yes. We parted without fanfare. Days later, a board member whom I considered a colleague and a friend called me to chastise me for removing the individual from the board. I will admit I was not surprised by yet another distortion from the individual who asked me if I wanted his resignation.

It speaks volumes that it was the accusation from someone I believed to be a friend and colleague—as opposed to the university official or the relieved board member—that spoke to me as a betrayal as well as an illustration of the precarity of leadership. Maybe it was because—in this “parade-of-horribles”—this colleague and I previously cemented our friendship over our joint interests in corporate compliance, ethics, and governance or because we spent time together with and among our families. But I directly confronted my colleague and friend with the fact that he assumed the veracity of the story told by the individual who breached board confidence and determined, before ever asking me what happened in the exchange, that I had to be at fault. This episode, among the cascade of numerous others, demonstrated the pervasive and powerful allegiance that people have to white patriarchy.

While reliving this story through this writing is difficult, I am fortified by the work that was accomplished at that law school that won them a new organizational reporting line and new investments in the institution. I had a colleague—the late Professor Chris Kando Iijima—who was fond of saying “there is a right person, in the right place, at the right time” to stand for the right thing. I reflected on Professor Iijima's words and my military training when I was going through these crucible events during my first deanship. They both were sources of strength and affirmation.

Shortly after arriving to Penn State Dickinson Law, I was fortunate to be in communication with Professor Richard Chen, who was also a former

colleague from the institution where I concluded my first deanship. With a serendipitous sense of connection not being lost on me, Professor Chen echoed the wisdom first imparted to me by Professor Iijima. Professor Chen wrote:

I saw the Press Herald^[41] story about the changes to the law school and just wanted to say I hope you feel vindicated and proud that you left this important lasting legacy. I know the programs and vision you put in place will have an important impact as well, but I recall you saw the reorganization as the single most significant change that was needed. Of course it's sad that it took your leaving to accomplish it.⁴²

The programs to which Professor Chen refers include, but are not limited to, a rural lawyer program, a diversity pipeline program, 3+3 programs, and a compliance program, among other programs.⁴³ But the centerpiece of my vision was a change to the reporting structure so that the dean of the law school would report directly to the chancellor of the system. I shared this vision with two prior deans who served consecutive 10-year terms at the same institution. Thus, on behalf of that law school, I was able to accomplish the ultimate end goal in four years. The lesson for anyone in leadership is that service above self requires, if not demands, that while leaders are in coalition to build or remake their institutions, they are also obligated to deconstruct those parts of the scaffolding that are inimical to the service owed to the profession, to the academy, to our colleagues, to our students, and to the larger society.⁴⁴

I previously asked the question: What makes leadership worthwhile? In an email exchange a year later, Professor Chen answered that question when he wrote:

I came across the attached passage in [Professor] Meera Deo's *Unequal Profession*, and it helped me understand the larger context of your experience [at our former law school]. I had not considered the idea that women of color only recently began getting leadership opportunities in part because traditional candidates are not interested in serving during times of crisis. The other main point, about how the power of the role has been shrinking as these new deans take over, definitely rings true with what I saw from my limited vantage point.

All of [this] makes me appreciate that much more what you were able to accomplish against such odds. But maybe even more than that, I am in awe

41. *See id.*

42. E-mail from Richard Chen, Assoc. Professor of L., William S. Richardson Sch. of L., to Danielle Conway, Dean of L., Dick. L. (Sept. 17, 2019, 06:28 PM) (on file with author).

43. *See Gray, supra* note 40.

44. *See supra* note 9 and accompanying text.

of what you were willing to sacrifice and endure so that you could be the best possible leader for the students and communities that need you.⁴⁵

If we are embracing our obligations as leaders in the legal academy, then we will actually see that our roles as institutional citizens and inclusive leaders are not shrinking. Rather, our roles are expanding as we prepare to meet and respond to the challenges and threats that will always imperil our institutions. Professor Deo's work provides a window into the opportunities for women of color to take leadership roles, on the one hand, and for white colleagues to acknowledge women of color for their leadership, reward them with institutional professional development opportunities, and elevate them to positions within proximity of and deservedly at the center of power and influence.

From my experience with leading at two law schools, I am convinced that both engaged shared governance among faculty and administration and engaged interdependent leadership between and among deans and their leadership teams and community represent the work that should have been ongoing, at the very least, since the mid-1960s but especially during the past 30 years in light of the changing landscape and market for legal education. Moreover, the question that should have been animating discussion then and that remains relevant now is the degree to which our vision for our law schools and the legal academy are serving the educational needs of law students. We must assess the adequacy and the value we are providing to our students. Additionally, we must partner with members of the profession to disrupt a status quo that is not aligned with what new lawyers will face in their impending roles as the future leaders of the profession. Without meeting and exceeding our obligations to our students—and one of these obligations includes taking leadership—we are not fully serving the interests of our students, our academy, our profession, and our society.

IV. CONCLUSION

There is a continuum of leadership that applies to our positions as women of color in the legal academy. On one side of that continuum, as evidenced in Professor Deo's work, women of color faculty are placed on the sidelines of institutional leadership. The next point of the continuum is where women of color experience the precarity of leadership when they take on leadership roles within the white patriarchy of the legal academy. Still further along the continuum is a point called leadership where white men are centered as the exemplar of the competent and confident leader. And finally,

45. E-mail from Richard Chen, Assoc. Professor of L., William S. Richardson Sch. Of L., to Danielle Conway, Dean of L., Dick. L. (Aug. 9, 2020, 04:26 PM) (on file with author).

at the other end of the continuum is the point where inclusive leaders reside. Leaders and inclusive leaders have the privilege of proximity to power and influence. They have the capacity to be part of a collective to join with women of color to facilitate women of color traversing the continuum as they go from being outside the sphere of leadership to sharing space as inclusive leaders. What is needed now is the will to both (1) transform the status quo narrative of the role of faculty from siloed scholar to institutional citizen and (2) invest in implementing institutional professional development aimed at filling our ranks with inclusive leaders.

Unequal Profession is a dynamic and incisive book that provides a baseline for understanding and then responding to raceXgender bias and discrimination. In this way, I envision an environment where investment in professional development, as a function of leadership, creates opportunities for all faculty—including women of color—to engage shared governance from the perspective of growth toward institutional citizenship and inclusive leadership. Developing a sense of shared duty and obligation to promote inclusive leadership across the law school has the potential to create shared understandings of the challenges and opportunities facing the institution and allows faculty and administrative leaders to work in collaboration to advance the vision, mission, and goals of our democratic institutions.