The New Legal Is Agile And It Has a New DNA

A New, Common Grounding to Thrive in Transformational Times

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Contents

1 A Chat with Jason ................................................................. 206
2 A Short Introduction to “Agile” ............................................. 207
3 Know Your Challenges ......................................................... 209
4 Why “Scrum” and Why “Kanban”? ....................................... 211
   4.1 The Power of “Kanban” ..................................................... 211
   4.2 Let’s Talk “Scrum” ............................................................ 213
   4.3 Our Final Set-Up .............................................................. 217
5 How We Got There: A Workshop Report ............................. 217
6 Agile: A Boost for Team-Culture—or Vice Versa? .................. 219
7 The New Legal Needs a New DNA ......................................... 221
   7.1 Collaboration Needs Transparency ...................................... 221
   7.2 Transparency Needs Trust ................................................ 222
   7.3 Trust Is Based on Authenticity .......................................... 223
   7.4 Authenticity Means Vulnerability ....................................... 224
   7.5 Vulnerability Must Be Accompanied by Empathy .................. 225
8 Conclusion ............................................................................. 226

Abstract

When you get ‘good grades’ from your clients, when your team executes the strategy really well, but when you, at the same time, anxiously look at a team that is on the edge, working long hours, powering on a high burn rate and actually being haunted by its own success—this is the moment you know that you are missing something. At that point in time, I came across Agile and embarked on what has proven to be the most fascinating journey of my career. And it is ongoing ever since. In this chapter I will share how the world of Agile opened
up for me and how it led me to truly understand the underlying challenges for legal teams, as they work in the massively and rapidly changing environment of today. I will then explain, why we identified Scrum and Kanban as being the best combination to change how we approach our work and how to adapt our modus operandi. Scrum to organize the communication within the team, and Kanban to organize the information flow around our work. This part will include a detailed overview of exactly how we adopted and adapted those two Agile methodologies as a legal inhouse team. Against the background of our journey, I will finally put a spotlight on the cultural aspects of Agile. On the one hand, it is proven that Agile has positive impact on team culture. On the other hand, however, I know from experience that Agile also requires a strong culture and ongoing cultural awareness to come to fruition. This specifically includes the positive challenge for legal leaders to rethink their role, their skills and their interaction with the team. Based on what I am about to share, I am convinced, just like Rowan Bunning, one of the first Agile Coaches in Australia, that “... the Agile movement in software is part of a larger movement towards more humane and dynamic workplaces in the 21st century.” (Stated in “Who is Agile – Volume 1”, by Yves Hanouolle, Andrea Chiou, Marcin Floryan, Peter Doomen, Guy Nachimson, and Amber Ankerholz).

1 A Chat with Jason 1

Even as an innovative and open-minded leader, you become a sceptic. As legal departments, law firms and other players in the legal services market gradually and ever more forcefully were pushed out of their respective traditional modus operandi, the legal tech wave came upon us. LegalTech was proclaimed to be everything at the same time: the challenger, the threat, the salvation and “the future”. Admittedly, many of the new tools work a lot better than our traditional “hammers” and “jigsaws”. Many new types of services that have been developed based on smart LegalTech solutions are a huge benefit for both, the legal professional and the client. And, last but not least, LegalTech was the brute force needed to pave the way towards new ways of providing legal services and towards new skills and job profiles in the legal ecosystem.

Yet, the legal community has started to realize that enormous efforts and investments in LegalTech rarely are the solution just by themselves. We obviously have plunged into the trough of disillusionment in terms of the “hype cycle”. 2 Today, any discussion about the big promise of LegalTech is being regularly

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1 I have described the nucleus of this initial part for the first time in my contribution to the compendium Digital Overload Management, edited by Arne Prieß, Freiburg, 2020 (German language).

2 Gartner Hypecycle, see https://www.gartner.com/en/research/methodologies/gartner-hype-cycle.
connotated with a bold asterix, pointing towards its limitations, its challenges and, above all, its dependency on a much broader change agenda.³

And it gets even more complicated than that. Even well down the road of hammering out and implementing a change agenda for my legal team, embedding it deeper into the business, repositioning it as a consultant and proactive risk-manager, plus using quite a bit of alternative legal service provisioning and LegalTech, we still ended up in what seemed to be a dead-end-street: stretched in terms of resources, too busy to add the next selection of change-related projects—and somewhat frustrated to realize that all of our efforts and success still did not do the trick for us, as a team and as individuals.

At this exact moment, when I was grinding, torturing my brain about how to solve the riddle, I ran into a colleague called Jason and we had a chat. After listening to the above, Jason asked: “What would you say, if your teams learned to self-organize. If they had the power and the empowerment to steer themselves and—if they could do all of that in real time, meaning in day-to-day production mode?”—I will get back to my second thought a little later, which was along the lines of “...errr... doesn’t that put a good chunk of the management chain, including me(!!), into question?”—However, my first thought and my answer were, of course: “Awesome! But, how on earth could you do that?!”

Jason’s answer was a little abstract, but clear enough to make me embark on one of the most exciting, enlightening and motivating projects in my career as a leader of legal teams: I would switch with my team of lawyers, that was spread over seven locations across Europe, plus with my Legal Shared Services Team, located in the USA, into Agile working mode, adopting “Scrum” and “Kanban”.

2 A Short Introduction to “Agile”

When I use the term “Agile” or “Agile working methods”, I refer to what goes back to the year 2001. Between February 11th and 13th, 2001, 17 software engineers met in Snowbird, Utah, to... well, to have a good time, I guess, but specifically also to put an end to the continuous odyssey that went on in software development. It was driven by the insurmountable belief that detailed, meticulously documented project plans extending over months or even years into the future were common, while in reality, such projects very often produced results that did not match—or no longer matched—the real customer needs.⁴

What was the issue? For those development projects that were conducted the traditional way, a large amount of resources had been deployed, based on an abstract

³Financial Times, October 23, 2019, see under https://www.ft.com/content/d9d475c2-d544-11e9-8d46-8def889b4137 (last loaded on December 6, 2019).

⁴Additional background around “Agile” and how it developed, see https://de.wikipedia.org/wiki/Agile_Softwareentwicklung und https://agilemanifesto.org/history.html (last loaded on November 4, 2019).
definition of “the product”, thereby creating a significant risk for misunderstanding and gaps. While working down the rigorous, long term plan, change requests were inevitably a threat to resources, cost and timeline and thus ideally avoided or at least reduced to a minimum. Therefore, and with a view of business environments that change at an ever-faster speed, the 17 developers came about with a radical new approach, which they captured in the “Agile Manifesto” (Fig. 1).

Well, makes sense for software development, one might say, but how is this relevant and adaptable for legal work? The nucleus that has paved the way for Agile being adopted far beyond software development and thereby making it useable for basically any part of an organization is the principles that underpin the Agile Manifesto. I would sum those principles up as follows:

1. **Focus on producing results**—to make the product tangible early and continuously.
2. **Embrace changing requirements**—to adapt to reality throughout the project.
3. **Interact with your (internal) client**—to constantly work as one team.
4. **Let the team self-organize**—to always find the best way to deliver the next set of results.
5. **Make sure the team self-reflects regularly**—to improve continuously.

Over the years, many methods and practices have been developed based on those principles or have been added under the umbrella of “Agile”, far too many to name them all here. Based on my practical experience and intensive exchange with experts, Agile coaches and Agile architects, I will focus on two practices that I have successfully adopted with my legal inhouse teams and that I have seen work with general and administration functions: “Scrum” and “Kanban”.

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Fig. 1 The principles of the Agile Manifesto (own graphic)

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5https://agilemanifesto.org/ (last loaded on November 4, 2019).

6A good overview can be found here https://www.haufe.de/personal/hr-management/agile-methoden-definition-und-ueberblick_80_428832.html (last loaded on November 4, 2019).
3 Know Your Challenges

Yet, before I could develop an understanding about what could potentially help us, I needed to work with my team to understand what exactly our challenges were. Was it simply too much work? Were the working tools inadequate? Were processes broken or missing? . . . or all of the above? . . . or something completely different?

So, the first step that I recommend any team to take before launching into adopting Agile practices, is a thorough analysis in order to gain a common understanding about three basic questions:

(i) **What is our specific context** we work in, i.e. where is our company going and where are our company’s markets going?
(ii) **What are the (disruptive) forces** that impact us, as a team of professionals, and that challenge our current working mode?
(iii) **What is our vision** for us, as a team, in this, and what is limiting us in achieving it?

The results will be—and must be—as diverse as the various teams, industries and areas of the legal profession are. For illustration purposes, I will offer what I had found with my former team, and I do think that some of this might be patterns that many professional legal teams will find:

(i) **The digitalization of legal work**, the digital transformation of the company and the emergence of radically new business models directly impacting the motions of the go to market which we support from a legal perspective.
(ii) **A push for transformation, adopting innovative ways of working** to become more effective and efficient. On the face of it, this is the infamous “do more with less”-challenge which actually is the delusion we need to overcome to get to the core of what true transformation requires.
(iii) **The repositioning of inhouse legal** as a proactive, holistic business partner that carries an innovation-DNA in the way we think and consult, in the way how we organize ourselves and our workbench, and in the way, we create and deliver our work products.

What becomes clear is, first, that this challenge carries a lot of positive connotation for the legal function. It points towards working smarter, to embrace new ways of getting the job done, e.g. automation, outsourcing, LegalTech. It creates laser focus towards re-focusing resources from lower to higher-level work. However, the second insight is that this comes with the challenge to innovate with no additional budget (maybe sometimes even less). We are facing a “re-invest”-challenge, meaning, that we must win back resources in one place in order to redeploy them elsewhere. Third, this comes with the huge opportunity to become the “new legal”, a function that has broken free from the ivory tower, that carries an innovation-DNA and that wears a business hat, being risk- and opportunity managers at the same time. A function that is wanted, much more than just needed.
and that flexibly gravitates to the areas of maximum positive impact for the company.

All great—we understand “why” we have to change and the framework in which we have to maneuver. But the pressing question remains: “How are we going to do this”? Well, from the above it is crystal clear that a few reflexes must be avoided, as they will not do the trick: The simple call for more resources, because it will neither be heard in a corporate reality, nor will it actually work, as it would be a linear reaction to an exponential challenge. The simple call for better technology and tools, because they are only the means and never the strategy. The approach to take a step back, to “wait and see” and adapt once things have clarified, as it would put the legal function on the backfoot very quickly, given that the expectations towards us are changing rapidly.

Therefore, when discussing our strategy within the team, we forced ourselves to radically focus on what is in our own circle of influence. With that compass, we identified six specific areas to tackle:

1. **We must become “liquid”**. We must be able to instantly identify overload, as well as available resources within the team and we must be capable to immediately connect the two.

2. As a team of specialists with clearly defined areas of expertise and focus on client groups, **we must create a much closer connection on both, the work level, and the personal level**.

3. **We must create utmost transparency within the team about our work**, in order to appreciate the full range of client priorities, as well as the priorities and the load level across the individual team members.

4. **We must know, what we collectively know**, i.e. a “live”-radar on our competencies, experiences and range of expertise so that we can instantly create the most effective match to a given task.

5. **We must get smarter and quicker in taking operational decisions as a team**, by creating continuous insights based on relevant and reliable data points that constantly influence our navigation.

6. **We must make team-happiness a top-priority!** It is a perfect “KPI” for our transformation influenced in three ways: (i) by improving our load-balancing, (ii) by our ability to work as one team based on trust and care for each other and (iii) by the trend regarding our job satisfaction as we transform.

Interestingly, while the team fully agreed throughout the strategy discussion, in our day-to-day practice we kept coming back to the same point, namely that our mode of working did not really get us to where we needed to be. A lot of my management time, 1-1-conversations and team-calls were allocated to find smarter ways of load-balancing and faster ways of synchronizing in the team... but, we felt that we kept missing the trick.

And there we are, back to the exact moment when my conversation with Jason fundamentally changed my thinking and helped me break through the wall of what had seemed to be a dead-end street. “Agile” and the principles, that I have described
above, seemed to be the perfect match! However, which of the various Agile methods was the right one and how would we find our way into adopting them?

### 4 Why “Scrum” and Why “Kanban”?

One of my favorite analogies that Jason introduced to me early on, is that he keeps talking about Agile being like a supermarket. You enter it with the idea to prepare a nice dinner and it holds everything you need . . . for a 5-course menu, that would make a Michelin-Chef proud . . . or for a buffet for a family event . . . or for a yummy snack for a guys’ or girls’ night watching football or a movie. Agile working methods are just as multifaceted—but nobody needs everything! It is very important to take good time for considering what actually the goal is, what you need to achieve it, and how to best chose and use the ingredients for your specific purpose. If selected and applied well, your folks will happily engage in preparing food that matches the occasion . . . versus if you go out and shop randomly, you will miss the taste of the people and ultimately simply stuff them up, creating stomach ache all around.

From my experience around adopting Agile working methods, I firmly believe that there is no “right or wrong” way; the selection is as specific as is the adoption of a given method. When gradually moving into “Scrum” and “Kanban”, we had Jason (a certified Agile Coach) to guide us and, at the same time, he enabled us to develop our perfect version of the two methods. This has been an iterative process. We kept learning along the way and keep adapting today.

#### 4.1 The Power of “Kanban”

Kanban goes back to the “Toyota Production System”, which laid the foundation for Toyota’s lean production methodology in the 1940s. The basic idea was to switch from a model in which production volumes were based on long-term planning (“push model”) to a model that enabled just-in-time-production based on the real customer demand (“pull model”).

#### 4.1.1 The Basic Principles of Kanban

Again, to adopt and customize it for your individual context and needs, it makes sense to move away from the way it was done in the past and to analyze instead the basic principles of Kanban which can be summarized as follows:

- **Visualization** by making the work tangible;
- **Focus** by limiting the amount of active work packages;
- **Clarity** by explicitly laying down the rules;

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7For a good overview on Kanban, see https://kanbanize.com/de/kanban-ressourcen/kanban-erste-schritte/was-ist-kanban/ (last downloaded on November 4th, 2019).
• **Control** by actively managing the influx of additional work packages;
• **Adaptability** by implementing feedback loops;
• **Continuous improvement** by embracing joint, experimental development.

The term “Kanban” has its roots in the Japanese language and means “sign” or “visual signal”. In its most basic form, a Kanban-board visualizes the work packages in three columns: requested/ongoing/done. The fundamental idea is to create a trusted, common and central source of information that immediately shows if and where a bottleneck might develop (or exist) and—in an ideal world—even a pointer to why that happens.

### 4.1.2 Adopting Kanban: In Digital Mode

The easiest (and still the most frequent) way to realize a Kanban-board is to simply use a whiteboard—or even a wall—and post-it-notes, combined with color-coding to identify team-members/owners and icons and maybe color-dots to identify current priorities. While this might be a pragmatic way to get started and work your way into Kanban, I strongly recommend to ultimately aim for a digital Kanban-board. The main reasons for a digital solution are threefold:

1. To **support remote teams/flexible working mode**, as it can be accessed from anywhere;
2. To **avoid duplicative data entries** by the team, as it can be leveraged as a task-list;
3. To create an opportunity for **automated data analytics**, as it carries a wealth of metadata.\(^8\)

As to (1): Not every team has the luxury to be all in one place, which is why using an offline Kanban-board significantly restricts and even reduces its usability. Plus, in times of rapidly increasing flexibility in modern working environments (e.g. home office and work-from-anywhere) or in constraint situations like the COVID-19-lockdown, a solution that pushes towards physical meetings is simply outdated.

As to (2): A physical Kanban-board is inevitably presented as an add-on, another tool that will lead to duplicative capturing of data which already exists in task lists, matter management-tools etc., and would now have to be rewritten for the sake of being posted on the Kanban-board. This will create a hurdle of inefficiency and contradicts the motion to become more agile, effective and efficient.

As to (3): A digital Kanban-board automatically opens a whole new world of secondary data. Apart from the primary data, i.e. the data related to describing the work matters as such, a digital solution will provide a wealth of metadata around the work-items that enables the whole team, as well as the individuals, to gain a direct insight and understanding of trends, to develop KPIs etc.

\(^8\)“Metadata” meaning data about data.
But what does that mean in practice? A complex IT-project requiring a massive amount of budget and resources? Well, the good news is that there are plenty of options out there to create a digital Kanban-board. I recommend, however, that you make sure to choose as solution that has three traits: First, simple to implement (consider SaaS solutions here); second, easy to interface with other main working tools of the team, which typically are the Microsoft (MS) Office suite (check APIs here), but also contract management solutions and even CRM-solutions; and third, simple to use for the team (also consider scaling to a broader organization here; Azure Boards stands out in supporting this).

A Kanban-board is basic in its use case, so you should stay away from any programming effort that bears the risk to lock you in or to create potential barriers to automatic updates and upgrades and that thereby limits the options to adapt it to the specific working-mode in your team(s). In my personal experience, both in my operational teams, as well as in the Liquid Legal Institute, Azure DevOps is the most powerful avenue to take. A power-user (i.e. an Agile architect, who works closely with your Agile Coach) is all you need to get what you want. Plus, Azure DevOps very effectively interfaces with the MS Office 365 suite. If MS is the future road you/your company takes in terms of collaboration tools, MS Teams creates a perfect interface to Azure DevOps. Last but not least, you get a broad (and continuously growing) range of automated reporting options based on standard queries on the data which you generate just by using your Kanban-board.

From a change management perspective, it is very important to aim for a Kanban-board that will allow the team to let go of whatever the prior mode of capturing data has been. An Excel-based reporting-sheet? An online task-list? A weekly roll-up-report? If you trade a (typically disliked) “thing” of the past in turn for the team adopting the new mode of using the Kanban-board, you create an obvious net-neutral from the beginning. From a change management perspective, this is extremely helpful: You avoid the perception of “another new tool on top of everything else” and, at the same time, any of the benefits that will come with using the Kanban-board will be perceived as true and pure upside.

4.2 Let’s Talk “Scrum”

So far, so good. But how do we establish the Kanban-Board and ensure consistent adoption? What will be the process for entering data, keeping it up to date? And how do we train ourselves to make it the center-point of our communication?—And finally: How do we create comfort within the team and for every individual team member with regard to the transparency that comes with the Kanban-Board?

4.2.1 The Basic Principles of Scrum

“This is exactly what Scrum does!” was the simple answer I got from Jason. Indeed, the frontperson for establishing Scrum has been Ken Schwaber, one of the
signatories of the Agile Manifesto. And as we look back to the main principles spelled out in the Agile Manifesto, I think that it is not a coincidence that the very first one is:

**Individuals and interaction over processes and tools.**

Looking at the origin of the name “Scrum” already tells a story. It is an analogy to rugby. For the layman, the huddling and pushing is seemingly chaotic—but what is very noticeable is that the main force of organization, which works very effectively, is—to move forward together. The Agile method Scrum works in so-called “Sprints”, meaning short periods of time (typically 1–4 weeks) that define a meaningful progress regarding the overall product or outcome. In simple terms, Scrum thereby breaks the overarching goal into small chunks. This allows for effective progress control to be applied, for roadblocks to surface, for course correction to happen timely and also for change management to be continuously executed regarding the work product. At the same time, it also allows teams and organizations to continuously prioritize the work items in order to deliver the highest business value as soon as possible.

### 4.2.2 Roles in Scrum

In order to ensure overall progress, Scrum has three main roles that help organize the team and secure the overall flow: The **Product Owner**, the **Development Team** and the **Scrum Master**.

- The **Product Owner** is responsible for the specification of the product and its successful delivery. He or she should have the power to decide about product features, product changes and trade-offs/prioritization.—For my Legal team, I was filling that role.
- The **Development Team** is responsible for creating and delivering the product, as well as for meeting the agreed quality standards. This includes to capture and document the “Product Backlog Items (PBIs)”, i.e. the working packages which form part of getting to the product and which must be captured on the Kanban-Board. A Scrum Team should not be smaller than three and not be larger than seven persons.—In my case, I had organized my team into Scrum-Teams of four or five.
- The **Scrum Master’s** job is to ensure that the Scrum-mode is coming to life and is being executed effectively, efficiently and consistently. The Scrum Master focuses on effective communication in the Development Team (especially the respective Scrum Team) and is responsible for the information flow to the Product Owner. This inevitably puts the Scrum Master into the role of a “change agent”, who lobbies for and spreads the understanding of Scrum in the broader

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9For further information on the development of Scrum see [https://de.wikipedia.org/wiki/Scrum](https://de.wikipedia.org/wiki/Scrum) (last loaded on November 4th, 2019).
organization.—Thus, I have chosen team members for these roles, who embrace change, are curious and comfortable with jumping into uncertainty. Apart from that, I made sure to avoid “silent hierarchies”, i.e. choosing only the most senior people for the role. Diversity is pure upside, also in filling the roles of Scrum Masters!

4.2.3 Scrum Mode: And How to Adopt It for Legal

So far so good, but how does a team—I should say a Development Team—work when being organized in Scrum-Teams and when driving in Scrum-Mode? Let’s again take a look at the general theory and then I will share how we adapted it for my Legal team.

According to the Scrum framework, there are five recurring events:

1. **Sprint Planning**: the goal is to jointly define what will be achieved by the end of the next Sprint.

2. **Sprint Reviews**: the goal is to check whether the intended goals have been achieved and to fully capture what has changed or has been adapted along the way.

3. **Sprint Retrospectives**: the goal is to jointly review the current working mode and to discuss potential room for improvement and to agree on adjustments.

4. **Daily Scrums**: the goal is to constantly have a shared view on three things: (i) What has been achieved since the last Daily Scrum? (ii) What shall be achieved until the next Daily Scrum? (iii) What is getting in the way/is impeding the progress needed?

5. **Scrum-of-Scrums**: the goal is to ensure a daily closed loop with the Product Owner. To achieve that, the Scrum Masters will have a Daily Scrum Meeting with the Product Owner, using the same structure as in the Daily Scrums.

When adapting it to the daily work of my Legal team, the first important aspect was to be clear about the following questions: What are we using it for? Is it to run a project, or is it rather to organize the ongoing daily work? In my case, it was clearly the latter. Together with my team, I was looking for ways to improve our modus operandi in our day-to-day practice.

As to (1), (2) and (3): With that in mind, we get an effective handle on defining the duration of a Sprint and the rhythm for Sprint Planning, Sprint Reviews and Sprint Retrospectives. We decided that a quarterly planning cycle, with quarterly reviews would be adequate.—Referring to the supermarket-analogy, we took a conscious decision to go for a “light starter”, something simple, as we were not after a complex five-course-menu, but rather a robust family meal that fits into the daily family routine.

As to (4), the **Daily Scrums**: At the same time, being clear that we adopted Scrum predominantly for our daily practice helped us to adapt the Daily Scrums, as well. It became clear that these Daily Scrums would be the nucleus of it all and that they would be the new heartbeat of the team.
We defined our “3 things” that each person would share, to be:

i. **What’s “a good thing” that happened since the last Daily Scrum?**—Knowing that the rhythm of legal work might not produce a “closed item” every day, we decided to be broad here, so any major progress, breakthrough or “win” would fit.

ii. **What is my top-priority for the next 24 h?**—We decided that it is really good to know what the respective priorities are—to honor time crunches caused by that and to ensure that support requests associated with it must have priority, as well.

iii. **Where do I need help or what is good info for the team to have?**—We wanted to make sure that we constantly leverage the power, knowledge, experience and bandwidth of the team to support a team member. If that should not be needed on a given day, there might be a “nugget” to share with the team that might be remembered and be useful some other day.

- We made sure to be rigorous in prioritizing the Daily Scrums to happen and to attend them. Since they are the place to meet, share, get help, discuss and adapt priorities, we must honor their importance for us to be an effective team and to effectively deliver our service to and for our clients. Plus, to get that extra step closer as a team, to bond even stronger and benefit from that spirit of togetherness and thereby get more resilient and happier as a team, we must connect every day.

- We agreed that the Daily Scrums must not be longer than 15 min. This is the only way that everyone can make it a priority that trumps (almost) everything. It might take a bit of practice, supported by the Agile Coach, because folks will tend to go too broad or to deep. But in the small setting and with the common goal in mind, quick feedback and appreciation for the Scrum Master to step in will very quickly do the trick. It is about the “three things” described above—anything else will be a quick follow up after the daily sync between the respective team mates for which a deeper dive will be beneficial.

- Finally, we made the Kanban-Board the common ground. The Scrum-Master will pull it up, double-click and thereby visualize the work packages of the team. There should be no work item (be it an individual’s top-priority, the new thing or the achievement/closed item), that is not reflected as an item on the Kanban-Board. The direct and strong tie between the Daily Scrum and the Kanban Board will drive adoption of the Kanban Board by the team and it also creates a single point of reference and information among the team members. Of course, the same is true for the Scrum-of-Scrum Meetings. In these meetings, I would pull the Kanban-Board up and make sure we quickly had a visual of the state-of-nation overall, or a specific hot-spot in the team or a critical matter in particular.

Indeed, the combination of the two—Scrum and Kanban—turned out to be a perfect framework for what we needed: A constant, consistent and relevant information base, wrapped into a continuous, effective and efficient communication flow. And all of that was set up in a way that was logistically easy and that connected the team even closer.
4.3 Our Final Set-Up

Before we move on, here is a quick summary on where we came out after a couple of quarters of experience and adjusting:

We decided to run the Daily Scrums and the Scrum-of-Scrums (15 min respectively) Mondays through Wednesdays.

On Thursdays, we scheduled a 1-h “Watercooler-Meeting” with the full team. Here, the focus was on three things: (i) the Scrum-Masters to provide an update from their Scrum-Team, based on the three-question-system; (ii) two slots for knowledge-transfer or guest speakers and (iii) the product owner to present the roll-up regarding priorities and metrics and to discuss trends and findings with the team. It closely correlates with the sprint review in the Scrum framework.

On Fridays, the common agreement was for the Scrum Teams to run a combination of a Daily Scrum and a Retrospective to create room for reflecting on the week and celebrating what has been achieved during the week.

All of these meetings were based on the active use of our Kanban-Board—and obviously on the expectation that it is continuously updated, so that the full upside for every team member could materialize. Too many meetings, you might think. Again, this had been my concern going into Scrum, so let’s see where we came out (Fig. 2):

Between 1:45 h and 3:00 h per week to gain all the upside that has been described—who would not take that deal?

5 How We Got There: A Workshop Report

How complicated is it to adopt Scrum and Kanban, and how long might it take until we are in production mode and start to see the benefits?—To provide you with an indication and some insights around that crucial questions, I will offer our roadmap in time-lapse-mode, stretching over 8 months, soup to nuts:

July: My Initiation  This is the point in time, when I had the much-quoted chat with Jason. Two in depth sessions followed with him, so that I got a solid understanding
of the basics of Agile in general, and an initial understanding of Scrum and Kanban in particular.

**September: The Pilot** We established the pilot-team and I decided to make diversity the top-criteria for it. Based on that, the pilot team consisted of:

- “The Nerd”—a colleague that just loves technology, tools, process and structure
- “The Newbie”—a colleague that just had joined and carried no (internal) baggage
- “The Pragmatist”—an experienced and positive sceptic
- “The Manager”—me 😊
- “The Coach”—Jason, our Agile Coach/Architect

What really helped was to run the pilot in Scrum-mode. This helped us to learn Scrum, as we worked through the pilot-project of setting things up for the team.

**October: The Go/No-Go-Decision** After 6 weeks of weekly Sprints (as we were in project-mode, the Sprints were very short), we had achieved three things under Jason’s leadership:

1. **The pilot-team lived and breathed Scrum.** We had experienced 6 weeks of dailies and the feedback was 100% positive. The skepticism of “too many meetings” had transformed into positive energy of “this actually works!”

2. **The pilot team had developed the basic version of our Kanban-Board**, using Azure DevOps in combination with MS Teams. The basic notion was: We see the point and it is a net-neutral, as we have to capture our matters somewhere, anyhow.

3. **The pilot team had identified a set of “Objective and Key Results (OKR’s)”** and had agreed to test them in the first quarter after go-live. The OKR’s where purely based on data that would be captured automatically by the Kanban-Board—no manual effort!

   PLUS—the pilot team gave green light, well, the team (!) actually pushed for going live, given the common sense that this could be the road to resolve our challenges!—WOW!

**November: Go-Live** In two 3-h-workshops with the broader team, we introduced the “Why”, “How” and “What” around Agile and our adoption of it. The Workshops were co-facilitated by Jason and me, plus they also included a “live-demo” of a Daily Scrum conducted by the pilot team. At the end, the full team selected the three Scrum Masters—and the day after the second workshop, we went live!

**February: Feedback Loop** To prepare our first Sprint retrospective, we conducted a short, anonymous survey across the full team to get open feedback. Amongst many good ideas on how to improve things here and there, the main findings were:
• “I am proud to work in an innovative team” (supported by >90%)
• “All in all, Scrum and Kanban facilitate my day-to-day work”. (supported by >90%)
• “I now have a better view on the priorities across the team” (supported by >90%)
• “It became easier for me to get the support I need” (supported by >80%)

Given the stretch and deadlock we had been in, as a team, my expectation and hopes had been high—and I was surprised and overwhelmed by the results. However, what was even better was that the team has been by no means uncritical throughout the process or in the survey. A lot of constructive criticism to certain elements or features came up and formed the basis for the next round of development.10

6 Agile: A Boost for Team-Culture—or Vice Versa?

Reflecting on the principles of Agile, on its push for team empowerment, transparency and collaboration and on its focus on daily interaction between the team members, it seems very logical that Agile is indeed a boost for team culture.

But is this effect on team culture an automatism, quasi a collateral gain, plus maybe a matter of luck depending on having the right people on board?—There are not yet a lot of studies out there on how Agile impacts culture. But, based on what I have seen, what I hear from colleagues (across functions) and looking at what is available does create a consistent picture: “… {A}gile seems to have a positive influence on many human aspects, especially sociological team aspects like trust, honor and empowerment in and of the team.”11

Taking the results of the Swiss Agile Study, the trendline clearly matches what my team and I have experienced (Fig. 3).

Just selecting the statements that have a ratio of more than 80% agreement, you get confirmation that the team feels empowered to take decisions on how to do their work, to take initiative more often and that it feels good to work in an environment that is honest and trusting and allows for mistakes.

Adding the statements that still get more than 75% agreement confirms, that individuals feel more committed or dedicated to both, their team and their work, and that the team has developed a culture of mutual respect.12

10Who is Jason?—He is a wonderful person and incredibly competent, a “new breed” combining the skills of an Agile Coach and the expertise as an architect in Agile collaboration tools. Find him under info@polderon.com and more information at www.polderon.com.
11MyAgile: Sociological and Cultural Effects of Agile on Teams and their Members, R. Biddle/A. Maier/M. Kropp/C. Anslow; Gothenburg 2018, https://www.researchgate.net/publication/326071824 (last loaded on November 4th, 2019), p. 4.
12R. Biddle/A. Maier/M. Kropp/C. Anslow; MyAgile: p. 4.
Fig. 3 MyAgile: Sociological and Cultural Effects of Agile on Teams and their Members, R. Biddle/A. Maier/M. Kropp/C. Anslow; Gothenburg 2018

| Statement                                                                 | Completely disagree | disagree | agree | Completely agree |
|---------------------------------------------------------------------------|---------------------|----------|-------|------------------|
| the team is encouraged to be creative and to experiment with new ideas   | 5%                  | 25%      | 47%   | 23%              |
| we have a team environment which allows for mistakes                     | 0%                  | 16%      | 65%   | 19%              |
| we have a culture of servant leadership                                  | 5%                  | 25%      | 60%   | 10%              |
| the team has been empowered to make decisions about how to do their work | 1%                  | 19%      | 62%   | 19%              |
| team members take the initiative to accomplish tasks more often          | 0%                  | 16%      | 68%   | 16%              |
| we have a team environment which is honest and trusting                 | 0%                  | 11%      | 73%   | 16%              |
| I think my work is more valued                                          | 2%                  | 35%      | 53%   | 10%              |
| I have more fun at work                                                  | 1%                  | 26%      | 51%   | 22%              |
| I feel much more committed/dedicated to the team and to the work         | 1%                  | 24%      | 59%   | 16%              |
| we have developed a culture of mutual respect                            | 3%                  | 20%      | 66%   | 11%              |
| release is not a nightmare anymore                                       | 1%                  | 21%      | 48%   | 30%              |
| my work life balance has improved                                        | 1%                  | 46%      | 51%   | 2%               |
| I pay more attention to technical excellence                              | 2%                  | 23%      | 57%   | 17%              |
All of these topics also came up as positive impact when I asked my team for anonymous feedback via the survey. It also matches my subjective view. The bonding amongst the team members—including me as a leader—has never been stronger. There is more trust on a personal level and more comfort to bring up constructive criticism immediately. There is sharing of hits and misses and there is the joy to feel, on a daily basis, that we are one team, regardless of how often we actually meet in person. There is stronger mutual care for each other because, due to the live visualization of work, colleagues will watch out for other team members’ load levels and how they could help in a given matter, and team members will readily offer up time when there is less traffic on their turf, for a moment.

Great—so Agile even fixes the team culture!—Done! . . . Or is it the other way around? Is a positive and healthy culture within a team rather the precondition for successfully implementing and getting the benefits out of Agile practices? This is indeed what the 13th State of Agile Report reveals: While the focus is on the traditional home of Agile, i.e. software development, according to the study the top response cited as a barrier to successfully adopt Agile practices is that the organizational culture is at odds with Agile values.13

So, I would be at remiss, if I stopped here, seemingly suggesting to adopt Agile practices along the lines of what has been described so far, and then to expect to casually harvest the fruits of a more effective, empowered and self-organizing team that develops a great culture along the way. To get to this point, we must consider the foundation on which Agile stands. We must answer the question: What drives a culture that allows for Agile to work, to become engrained into a team and for its positive effects to come to fruition? And we must honestly ask ourselves where we stand on the path of adopting a culture that promotes Agile.14

7 The New Legal Needs a New DNA

7.1 Collaboration Needs Transparency

We live in an era of collaboration.

I chose that as the tagline for my LinkedIn-profile for three main reasons: First, I truly believe that the transformation in the Legal industry is too fundamental and too broad for each and every one of us to grapple with it on our own. Second, these fundamental changes require a wide range of skills which are new for legal professionals, because they are not part of any curriculum, yet (e.g. Agile, Legal Design Thinking, Legal Operations, Legal Engineering / implementing Legal Tech, 13th annual State of Agile Report, p. 12, https://www.stateofagile.com/#ufh-c-473508-state-of-agile-report (last loaded on November 4th, 2019).

14See the recent study “Future Organization Report 2019” by the University of St. Gallen that provides further insights into this question for Austria, Germany and Switzerland which can be obtained at http://www.future-organization.com/ (last loaded on December 6, 2019).
Data Analytics etc.). Closely collaborating with bearers of such skills will be key to our future success. Third, collaborating simply is much more fun! It is personally rewarding and it creates all the positive aspects that a trusted community is all about.

The Liquid Legal Institute is a living proof of the positive effect of collaboration. Not a single one of our projects would have come to life and gotten anywhere if our members had not met in the spirit of collaboration. And the Common Legal Platform, driven by the LLI, is the overarching manifestation of the power of collaboration. What we are basically talking about here, is Agile enabling a common legal platform within a corporation.

Collaboration depends on people being willing to open up, to become transparent about what they know—and what they do not know; about their skills—and their skill gaps; about their ideas, maybe even dreams—and their fears and stressors. As we demand a team to work in Agile mode, we fundamentally ask the team to collaborate much more deeply and to be transparent on a daily basis about these aspects.

Finally, transparency also relates to our work: What is the composition of the workload? Does it create a focus that is in line with the company goals? Where does our work originate from? What are lead and cycle times?, etc. In most legal departments there are no metrics about this. This means that we are ‘flying by sight’. A digital Kanban board will create a wealth of metrics automatically, simply because we organize our work digitally.

How do we create comfort within the team for that type of transparency?

7.2  Transparency Needs Trust

“I simply don’t know what to do; I need help!”
“I am not sure that I am enough of an expert to deal with that.”
“I actually don’t have enough to do at the moment.”
“Is all of this reporting just for management to decide on the next cuts in headcount and budget?”

While, as leaders, we might not like it and might even think that it is different within our teams, reactions like the ones illustrated in the anonymous quotes above will be present in all teams and will be on the minds of our team mates, as we push for transparency. It simply is human nature to go into groups with the defense up, specifically when we are talking about competitive groups that we typically find in working environments.

As described above, Agile is all about genuine transparency. Kanban does not work if people feel the urge to artificially put stuff on the board to appear “busy”, as this would fog the system and create artificial, irrelevant interaction. Scrum does not work, if the Scrum Team feels not safe to bring up what really matters, where they need help and where they are ready to help, e.g. because they have some time to spare. Our teams will not embrace the wealth of metrics that come with a digital
Agile environment if they do not trust legal leadership. Until then, a team might feel the impetus to “play the system” or to undermine a metrics-led discussion. This is when a clear contract with the team will help, a contract that could be as follows: Metrics are never the answer—they are always (just) the beginning of a good, fact-based conversation that we will have as a team.

To lower our defense and to thereby engage into genuinely open conversations requires a solid environment of trust. As Agile is fundamentally based on transparency, a safe and trusted team environment is indispensable for Agile to work. Am I saying that adopting Agile automatically means to conduct yet another project related to team culture? Yes—but I would phrase it differently: Agile must come with a strong level of trust within the team. Therefore, Agile is a perfect starting point to build, renew or strengthen the trust within the team and between team and leadership. You will learn the answer on the question where you are within your team, within your leadership team and with your legal organization, as a whole.

7.3 Trust Is Based on Authenticity

First, we meet as human beings; and then, we work together.

It is hardly possible to truly trust someone you do not know. It is impossible to truly get to know someone who does not reveal her or his personality. Encouraging authenticity is the key to unlock that space for a team. If team members bring more than just their legal skills to work, magic will happen.

First and foremost, working time becomes lifetime. We spend far too much time ‘on the job’ to disconnect that piece of time from our personal self. If we make it meaningful and also personally relevant, it becomes lifetime well spent. Of course, this does not mean that all of us peers at work must become friends. What it does mean, however, is that we should know each other well enough to interact effectively as human beings.

Second, based on authenticity we can become complementary as a team. If my strength, passion or skill matches your weakness, stressor or skill gap, I can step up while I put you at ease. We both feel better and the team gets a job done that, if left to one of us, might have been done worse, far less efficient or at a very high stress level.

Third, authenticity will enable people to also display non-traditional (i.e. non-legal) skills. We all agree that the digitalization and transformation of the legal profession brings about a wealth of new challenges and opportunities which require a completely new set of skills. While many initiatives are underway, universities and law schools overall have yet to catch up, curricula have yet to be updated on a broad scale. So, we must find such new talent and the new skills in our existing teams. What a great development opportunity that is! Your ‘hobby IT-nerd’ might run your LegalTech-project. Your ‘hidden COO’ might develop and implement the reporting. Your ‘introvert, process-driven expert lawyer’ might lead the charge to the first fully automated self-service offering.

If team members feel safe to reveal their true selves, what other skills they can bring to work and where their professional passion lies in that huge new playing field
for the legal profession of the future, then your team members will see each other much clearer and will lean on each other much more effectively. Plus, people will trust that—as a diverse team—you will be able to achieve what seems like an insurmountable challenge of change for each individual on her or his own.

7.4 Authenticity Means Vulnerability

A decision does not get better, just because I take it.

I use this sentence a lot with my teams. On the face of it, I want to encourage my teams to feel empowered to decide for themselves, if and as long as they feel comfortable. I trust the team and I believe that the lawyer closest to the matter typically is best equipped to weigh all aspects underlying the decision. I thereby know that the team will turn to me only for a clear reason, e.g. because I can be a sparring partner given my expertise and experience; because I can effectively help with getting something done due to my network to senior ranks in the company; or because the risk is particularly high and we therefore need to create broader transparency within the company before we take it.

However, the underlying theme is that I let go of the traditional ‘raison d’être’ for a manager. I feel comfortable, because I believe that, as a manager, my role is to be a good housekeeper for the team—which is very important but not really the main reason for my paycheck. The much more important part is that, as a leader, my role is to bring the full power of me and my whole team to fruition for the benefit of the company. This can only be done by all of us acting as effective risk managers and service providers without artificial silos and without useless approval processes within our team or the broader legal organization.

Letting go of the traditional way of interpreting the role of a legal manager creates vulnerability. In Agile working mode, we trade hierarchical power with team empowerment; we replace importance by job title with effectiveness in supporting the team and each individual member. We admit, that it is not only for our teams to learn the new skills, but also for us as leaders. As much as we have to create a safe environment for our teams to share how they are challenged—maybe even afraid—of what is ahead, we should embrace that space ourselves and admit that we have yet to learn what the new legal leader is.

Agile, as many other new approaches and skills, has yet to be fully understood, transferred and adapted in the legal profession. However, it is also comforting to embark on the journey with the joint open understanding within the full team that none of us really knows exactly where we will come out in 3, 5, 10 years’ time, but

\footnote{For more detail of the direct correlation between authenticity and vulnerability, I recommend the works of Brené Brown, wonderfully summarized in her breathtaking Ted Talk “The Power of Vulnerability” see https://www.ted.com/talks/brene_brown_the_power_of_vulnerability (last loaded on December 6, 2019).}
that we will work as one team to make the journey worthwhile—for us individually, for us as a group and ultimately for the success of the company.

7.5 Vulnerability Must Be Accompanied by Empathy

Let me go back to my conversation with Jason, specifically to the moment when I was working with a team that lived the vision of our department, that was embedded in the business, that was highly recognized and very effective—and that was still working at a very high burn rate.

Individuals were at very different spots in terms of how they dealt with the workload, the stress levels and the vague outlook as to when and how things would get better. On top of that, every person on the team—including me as the leader of the team—had and has their individual level of resilience, which is largely influenced by elements outside the professional work. Personal circumstances, health condition and many other things will drive that as much as the personality, in the first place.

Putting this personal reality into the context of the disruptive transformation of our industry and the sometimes brutal force of change that this translates into for our respective organization, we must realize that there is a very real risk to frustrate, intimidate or even burn out an individual. This is specifically true if we are blind to what else is going on in that person’s life and ultimately to where her or his limits of resilience are.

But if we ask people to open up, to work and interact in transparency and to become vulnerable by bringing their true personality as well as their limits and challenges to work, we must act with empathy. Again, Agile points to that and even creates space and opportunity to prioritize the human aspect. Scrum teams—I actually prefer the term ‘squads’—will become a trusted core group within a wider team and organization. Roughly five people that interact on a daily basis and that are all focused on understanding priorities, blockers and opportunities to resolve them by activating the right connection within the organization—this comes very close to a ‘work family’ (to cite a term someone on my team has used to describe it). Plus, empowered teams that drive day-to-day work create the opportunity for leaders to use 1-1-time with team members for coaching, mentoring and making sure that we stay in touch as human beings—rather than catching up on work stuff.

All of this is continuous work. It is an ongoing process that will inevitably be volatile, because it ultimately reflects the dynamic interaction of human beings. But how do we know where we are in a given moment? This is when the “Happiness Index” that I introduced earlier is a perfect indicator, which we even used as part of our objective and key results.16 Whenever we fell below the 70%-line, we would talk

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16Objective and Key results are getting more common for modern organizational performance management, as the concepts combines a qualitative dimension (objective) directly with a
as a team about why and what needed to be done. This procedure makes sense, because team culture is something we all own.

8 Conclusion

Linking our role as lawyers much more directly to business outcomes, pushing ourselves to being both, risk managers and proactive consultants who are embedded into the business, makes sense and it is fulfilling. However, as we embrace this new “Why” and adapt our “What”, i.e. the work product, we must also focus on a the new “How” we work in order to avoid burning out ourselves and our teams.

The rapid success of Agile in software development and now also in other business functions is directly linked to moments when “How” the job was done does not produce the required outcomes anymore. Kanban was needed to visualize the work and its flow in order to understand where bottlenecks occurred and how to eliminate them. Scrum was needed to transform software development from meticulous planning and long development cycles to rapid release cycles and constant adaptability to a fast-changing reality.

Mapping this into the challenges that the legal profession faces today, the digitalization of our work, the emergence of innovative ways of getting our work done and the push to reposition us as a function in the business context, it becomes clear that Agile is a very effective mode to approach working in tomorrow’s reality.

By making the teams’ transformation to Agile the first project conducted in Agile mode, we learned by doing and that was our road to success. It was a fascinating experience to see new and different skills—partly hidden until then—of team members come to the forefront and becoming a visible success factor in what we were trying to achieve. With an experienced Agile coach and Agile architect, you can move and adapt fast and you will stay on track whenever misperceptions (e.g. ‘too many meetings’) or traditional beliefs of how ‘Legal is different’ creep in the way.

Agile is also about a new culture. The positive effects of Agile on team culture has been proven. However, it is crucial to understand that, in order for it to work and to blossom, Agile also needs a strong cultural foundation in the first place. Agile methodologies create transparency which in turn requires trust, i.e. a safe environment for the team members. Therefore, we must create comfort to meet as human beings, to be our authentic selves, including our skills and strengths, our individual levels of resilience and our vulnerability. In the future, team members, as well as leaders, must be held accountable for their ability to create and uphold such an environment.

quantitative dimension (key results); for more see https://en.wikipedia.org/wiki/OKR (last loaded on December 6, 2019).

17See the very insightful presentation published by Rowan Bunning about how various cultural environments react to Agile, at https://de.slideshare.net/rowanb/how-your-culture-is-shaping-your-agile-82962589 (last loaded on December 6, 2019).
In order for a field or discipline to progress and mature, it needs to reach a point where it can thoughtfully reflect on its origins, seek out a diverse set of perspectives on those reflections, and place that synthesis into a context that is useful for how the community pictures the future.\footnote{John Allspaw in his foreword to “The Three Ways”, as reprinted in “The Phoenix Project”, p. 363.}

Next to the many benefits that I have described, Agile will effectively create a common legal platform as a modus operandi within a legal department. The insight into the power of open communication, of continuous collaboration and into the upside of striving jointly to find ways to facilitate our work, will create the DNA that also carries the broad vision of a Common Legal Platform.
10) The New Legal is Agile – and it has a New DNA.
Dierk Schindler, Robert Bosch GmbH.

10.1) This chapter has helped us to get behind the buzzword “agile” and get specific about the tremendous upside of adopting Scrum and a digital Kanban-board. So, should Agile be a methodology that is part of the “The New School of Law” presented by Stephan? And can it contribute to the vision of contracting automation advocated by Ingrid and Roger in their article “Contract Is Code – How to Make Contracting Smart”?

10.2) Dierk makes a strong case for the fundamental importance of culture for Agile to work – and for the stabilizing force that Agile has on culture, in turn. Kai builds on the very same foundation in his thought-provoking chapter on “Commoning and Tribes of Competence”.

10.3) Agile, its cultural foundation and the change in mind-set that comes with it – are those the step-stones towards a Common Legal Platform? For sure they directly support the network effects among innovators that Zoe underlines in the following chapter on: “The Common Legal Platform Revolution”.

Liquid Legal Waves to other articles.
Written by Dierk, Roger and Kai.
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