

NOTES FROM THE FIELD: THE ROLE OF THE LAWYER IN GRASSROOTS POLICY ADVOCACY

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In the past decade, domestic workers have built a national, grassroots, worker-led movement to address the systemic exclusion of domestic workers from basic wage and hour laws. They have been widely successful in the last three years with the passage of a state domestic worker bill of rights in several states, the adoption by the International Labour Organization of the Convention and Recommendation Concerning Decent Work for Domestic Workers, and federal policy changes by the Department of Labor. Building visibility through worker leadership and broad-based coalitions, the domestic work campaigns have succeeded in gaining fairer treatment under the law. Behind the scenes, legal clinics have played an important role in the fight to expand legal rights for domestic workers. The Women's Employment Rights Clinic at Golden Gate University School of Law served as legal counsel to the California Domestic Worker Coalition, providing technical and legal advice on the campaign. This article is a reflection of the Clinic's work on the campaign, addressing the role of the legislative lawyer in grassroots advocacy, defining the client relationship and structuring client counseling in grassroots coalition, discussing how direct services can inform policy changes, and exploring ways to integrate students in a multi-year campaign.

INTRODUCTION

A group of seventy domestic workers, organizers and their allies crammed into the reception area of the California Governor's Office, waiting to be ushered into a private signing ceremony with Governor Jerry Brown. Many of them had just learned that the Governor was going to sign AB 241, the Domestic Worker Bill of Rights, into law. There was palpable excitement and disbelief that this was actually happening. Many of the workers and organizers were veterans of two failed attempts to expand coverage for domestic workers. After

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nearly eight years of mobilizing for change, it was happening. The Governor had very little to say as he signed the greatest expansion of overtime protection in California since the 1970s. The bill extends overtime to approximately 100,000 domestic workers who spend a significant amount of time caring for children, elderly and people with disabilities. As he tried to leave the ceremony, the workers whose lives will be directly impacted by this bill surrounded him with tears, hugs and heartfelt thanks. It was a moving tribute to our democracy – an excluded community freely and fully participating in the political process to demand and win fairer treatment under the law.

In the past decade, domestic workers have been widely successful in their organizing and legislative advocacy. With the creation of the National Domestic Worker Alliance (NDWA) in 2007, domestic workers have built a national, grassroots, worker-led movement for dignity and justice by addressing the systemic exclusion of domestic workers from basic wage and hour laws.¹ A handful of states including New York, Hawaii and now California have passed domestic worker bills of rights.² In 2011, the International Labour Organization (“ILO”) adopted the Convention and Recommendation Concerning Decent Work for Domestic Workers.³ In October 2013, the Department of Labor adopted new regulations that extended minimum wage and overtime for the first time to millions of home care workers.⁴

The success of the domestic worker campaign in California as well as nationally is a testament to the grassroots organizing efforts to build the leadership and visibility of this low-wage immigrant women workforce. At the forefront of their struggle for equality, domestic workers galvanized labor, social justice activists, faith-based organiza-

¹ Hina Shah & Marci Seville, *Domestic Workers Organizing: Building a Contemporary Movement for Dignity and Power*, 75 ALBANY L. REV. 413, 443 (2012).

² Assemb. B. 1470, 2009–2010 Leg., 232d Reg. Sess., (N.Y. 2010), available at http://assembly.state.ny.us/leg/?default_fld=&bn=A01470&term=2009&Text=Y; S. B. 535, 2013 Leg., Reg. Sess., (Haw. 2013), available at <http://legiscan.com/HI/text/SB535/id/799192>; Assemb. B. 241, 2013–2014 Leg., Reg. Sess., (Cal. 2013), available at http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB24.1.

³ Int’l Labour Org.[ILO], Text of the Convention Concerning Decent Work for Domestic Workers, 100th Sess., at 15A/2, PR No. 15A (June 16, 2011), available at http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_157836.pdf; ILO, Text of the Recommendation Concerning Decent Work for Domestic Workers, 100th Sess., at 15B/2, PR No. 15B (June 16, 2011), available at http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_157835.pdf.

⁴ Final Rule, Application of the Fair Labor Standards Act to Domestic Service, 78 Fed. Reg. 190 (Oct. 1, 2013). Challenges to the DOL rule were promptly filed and recently, a federal district court judge stayed the enforcement of the new rules and vacated the third-party employer provisions of the rule. See *Home Care Associations of America v. Weil*, Case No. 14-cv-967 (RL), available at https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2014cv0967-21.

tions, women's groups, and students to lend their support.⁵ They even became the darlings of Hollywood, as stars like Amy Poehler supported the campaign.⁶

Behind the scenes, the Women's Employment Rights Clinic of Golden Gate University School of Law ("Clinic"), where I teach, played a critical role in the fight to expand legal rights for domestic workers in California. The Clinic faculty and students served as legal counsel to the California Domestic Worker Coalition ("CDWC"), a statewide umbrella organization of eight grassroots immigrant-rights organizations. CDWC sponsored the Domestic Worker Bill of Rights and lobbied for its passage. The Clinic helped decipher the existing complex regulatory coverage for domestic workers, dug into the history of why a large majority of domestic workers were excluded from basic labor laws, and translated the wishes of the campaign into legislative language. The Clinic also provided guidance and counseling to the campaign as it made strategic decisions.

This article is a reflection of the role that lawyers and law students played in the legislative grassroots campaign. Part I provides an overview of the domestic work industry in a historical context and the unequal and exclusionary protection under the law. Part II documents the California Domestic Worker Campaign, from organizing to legislative victory. Part III discusses the role of the legal clinic in the California campaign, dissecting the necessary skill components needed. Part IV provides reflection on the role of the lawyer in grassroots advocacy campaigns, from understanding the structure of grassroots campaigns to client-centered legislative advocacy.

I. BACKGROUND ON DOMESTIC WORK

A. *The Industry*

Throughout history, domestic work has been the most prevalent form of employment for women. From 1870 until the 1940s, domestic service was the number one industry for women workers.⁷ At the turn of the twentieth century, the demand for domestic servants exceeded the supply as more working class women entered the factories.⁸ By 1939, domestic service employed as many workers as "the railroads,

⁵ Shah & Seville, *supra* note 1, at 413.

⁶ Sarah Medina, *Amy Poehler and Domestic Workers: Comedian Supports New State Bill of Rights*, THE HUFFINGTON POST (Oct. 27, 2012), http://www.huffingtonpost.com/2012/08/27/amy-poehler-domestic-workers_n_1834401.html.

⁷ DONNA VAN RAAPHORST, UNION MAIDS NOT WANTED: ORGANIZING DOMESTIC WORKERS 1870-1940 174 (1988); JANET HOOKS, U.S. DEP'T OF LABOR, WOMEN'S OCCUPATIONS THROUGH SEVEN DECADES 52 (1947).

⁸ Taunya Lovell Banks, *Towards a Global Critical Feminist Vision: Domestic Work and the Nanny Tax Debate*, 3 J. GENDER RACE & JUST. 1, 28 (1999).

coal mines, and automobile industries combined.”⁹ It remained the top leading occupation for women until the 1950s.¹⁰

In the 1980s, domestic service has seen a resurgence, reaching levels comparable to the early twentieth century. The ILO estimates that 52.6 million people, predominately women, currently labor as domestic workers around the world.¹¹ In the United States, domestic work is among the fastest growing occupations, especially home health aides and personal care aides.¹²

The ranks of domestic workers have been filled primarily by succeeding waves of newcomers or marginalized groups. In colonial America, domestic servants were either slaves or indentured servants.¹³ Before 1870, three-fourths of the servants outside the slave states were white.¹⁴ Influx of immigrants in 1840s from Ireland, Germany, Scandinavia and China filled the ranks of domestic servants, with the Irish in the East, the Germans in the Midwest, the Scandinavians in the North and Midwest and the Chinese on the Pacific Coast.¹⁵ Virtually every immigrant group managed to leave domestic service by the second generation in the early 1900s.¹⁶ During the Industrial Revolution, the number of native-born white women who worked in household service fell by more than two-thirds.¹⁷

Black women both before and after slavery were the largest pool of domestic labor.¹⁸ By the 1940s, one in every five wage-earning women worked as a domestic servant, with close to fifty-percent of

⁹ PHYLLIS PALMER, *DOMESTICITY AND DIRT: HOUSEWIVES AND DOMESTIC SERVANTS IN THE UNITED STATES, 1920-1945* 8 (1989) (quoting GEORGE J. STIGLER, *DOMESTIC SERVANTS IN THE UNITED STATES, 1900-1940* 2-3 (National Bureau of Economic Research 1946)).

¹⁰ VAN RAAPHORST, *supra* note 7 at Table 1.2.

¹¹ ILO, *Domestic Work Policy Brief, #4, Global and Regional Estimates on Domestic Work*, available at http://www.ilo.org/wcmsp5/groups/public/%40ed_protect/%40protrav/%40travail/documents/publication/wcms_155951.pdf.

¹² Paraprofessional Healthcare Institute, *Occupational Projections for Direct-Care Workers 2012-2022*, available at <http://phinational.org/sites/phinational.org/files/phi-fact-sheet14update-12052014.pdf>.

¹³ DANIEL E. SUTHERLAND, *AMERICANS AND THEIR SERVANTS: DOMESTIC SERVICE IN THE UNITED STATES FROM 1800 TO 1920* 4-5 (Louisiana State University Press 1981); ALICE KESSLER-HARRIS, *OUT TO WORK: A HISTORY OF WAGE-EARNING WOMEN IN THE UNITED STATES* 8 (1982). One-third to two-thirds of all white immigrants to the colonies came as indentured servants. *Id.*

¹⁴ SUTHERLAND, *supra* note 13, at 4-5.

¹⁵ VAN RAAPHORST, *supra* note 7, at 23-24.

¹⁶ *Id.* at 33.

¹⁷ DAVID M. KATZMAN, *SEVEN DAYS A WEEK: WOMEN AND DOMESTIC SERVICE IN INDUSTRIALIZING AMERICA* 73 (Table A-11) (University of Illinois Press 1981). In 1890, forty-four percent of native-born whites worked as servants but by 1920 forty percent of African-American served as servants. *Id.*

¹⁸ PALMER, *supra* note 9, at 6; SUTHERLAND, *supra* note 13, at 5; *see also* Shah & Seville, *supra* note 1, at 416.

those jobs held by African-American women.¹⁹ With white women finding increasing work in factories, the decrease in immigration during the two world wars and the great migration of blacks to northern cities, black women dominated the domestic industry in the United States.²⁰ Black women “formed a servant and laundress class, as no white group had ever done before.”²¹

In the 1970s, as a result of expanding opportunities for African-Americans and the influx of new immigrants, domestic work became predominately the province of immigrant women.²² Currently, ninety-five percent of the domestic workforce is female, fifty-four percent are not white and forty-six percent are foreign born.²³

The work of domestic service has changed very little over the centuries. Mechanization has made housework easier but it has not changed the work of caring for others. Domestic workers continue to labor long hours for little pay.²⁴ Professor Alice Kessler-Harris has noted in her historical study of women workers, “Even among women workers, they [domestic workers] stood out as among the most poorly paid and hardest-working.”²⁵

Domestic workers earn the lowest wages in the economy, earning \$15,000 annually for full-time year-round employment.²⁶ In a 2012 report issued by the National Domestic Workers Alliance (NDWA), the median hourly wage for nannies was \$11, for caregivers²⁷ was \$10, and

¹⁹ KESSLER-HARRIS, *supra* note 13, at 270; GEORGE J. STIGLER, *DOMESTIC SERVANTS IN THE UNITED STATES 1900–1940* 6 (1946).

²⁰ VAN RAAPHORST, *supra* note 7 at 39-42.

²¹ *Id.* at 43.

²² DOMESTIC WORKERS UNITED & DATA CENTER, *HOME IS WHERE THE WORK IS: INSIDE NEW YORK’S DOMESTIC WORK INDUSTRY 2-3* (2006), available at <http://www.datacenter.org/reports/homeiswheretheworkis.pdf>. In 2006, domestic workers participated in designing and implementing an industry-wide survey in New York. *Id.* The survey provides the first in-depth look at current conditions of domestic workers. *Id.*; Shah & Seville, *supra* note 1, at 432. Laura Dresser, *Cleaning and Caring in the Home: Shared Problems? Shared Possibilities?*, 8, ALFRED P. SLOAN INDUSTRY STUDIES (2008), available at <http://web.mit.edu/is08/pdf/Dresser.PDF>. There is a resurgence of African-Americans in household work with three in every ten home-health care worker being black. *Id.*; IN THE GLOVES OFF ECONOMY: WORKPLACE STANDARDS AT THE BOTTOM OF AMERICA’S LABOR MARKET (Annette Bernhardt, et al. eds.) 111 (2008).

²³ NATIONAL DOMESTIC WORKERS ALLIANCE, ET AL., *HOME ECONOMICS: THE INVISIBLE AND UNREGULATED WORLD OF DOMESTIC WORK* 11 (2012), available at <http://www.domesticworkers.org/homeeconomics/>.

²⁴ DOMESTIC WORKERS UNITED & DATA CENTER, *supra* note 22, at 2-3; MUJERES UNIDAS Y ACTIVAS ET AL., *BEHIND CLOSED DOORS: WORKING CONDITIONS OF CALIFORNIA HOUSEHOLD WORKERS 4-5* (2007), available at <http://www.datacenter.org/wp-content/uploads/behindcloseddoors.pdf>.

²⁵ KESSLER-HARRIS, *supra* note 13.

²⁶ Dresser, *supra* note 22; IN THE GLOVES OFF ECONOMY: WORKPLACE STANDARDS AT THE BOTTOM OF AMERICA’S LABOR MARKET, *supra* note 22.

²⁷ Caregivers are those workers who provide care to the elderly or people with disabili-

for housecleaners was \$10.²⁸ Not surprisingly, the race and ethnicity of the domestic worker affected the wage earned, with whites earning \$1 more than other workers. Forty-eight percent of workers were paid an hourly wage at their primary job that was below the level needed to adequately support a family (using a conservative measure of income adequacy).²⁹

Low wages have resulted in material hardship for domestic workers. In the 2012 NDWA survey, thirty-seven percent of workers reported that in the twelve months prior to the survey they were forced to pay their rent or mortgage late and twenty percent reported that in the month prior to the survey there were times when there was no food to eat in their own homes because they had no resources to obtain it.³⁰

Domestic workers also experience verbal and physical abuse, due to the isolated nature of their jobs.³¹ In the most extreme cases, they are victims of human trafficking. Furthermore, domestic workers have little mobility to change occupations because of their limited skills, education level and immigration status. In one survey of domestic workers in New York, sixty-one percent of foreign-born workers had not done any other job in the United States aside from domestic work.³²

Live-in domestic workers are particularly vulnerable to abuse and exploitation. Wages paid to live-in domestic workers are often below the minimum wage.³³ Many workers are simply “on-call” for twenty-four hours per day.³⁴ Employers often exert complete control over the workers’ time. One survey respondent in New York said, “I was never allowed to go out or go anywhere by myself for 15 years.”³⁵ Furthermore, live-in workers are provided substandard housing and food, in many cases sleeping on the floor in the children’s room.³⁶

ties in the person’s home. It encompasses attendants, home health care aides, and companions.

²⁸ NATIONAL DOMESTIC WORKERS ALLIANCE, ET AL., *supra* note 23, at 18.

²⁹ *Id.* at 22.

³⁰ *Id.*

³¹ DOMESTIC WORKERS UNITED & DATA CENTER, *supra* note 22, at 19-20. One-third of all workers and forty-eight percent of live-in workers surveyed in New York experienced some type of abuse. *Id.*

³² *Id.* at 25.

³³ NATIONAL DOMESTIC WORKERS ALLIANCE, ET AL., *supra* note 23, at 19.

³⁴ DOMESTIC WORKERS UNITED & DATA CENTER, *supra* note 22, at 27; NATIONAL DOMESTIC WORKERS ALLIANCE, ET AL., *supra* note 23,

³⁵ DOMESTIC WORKERS UNITED & DATA CENTER, *supra* note 22, at 25.

³⁶ *Id.* at 28.

B. Devaluing Domestic Labor

Domestic service is one of the few professions that remain firmly caste in racial and gendered hierarchy, owing its origin to slavery and indentured servitude.³⁷ The intersection of race, gender, and class resulted in a devaluation of domestic labor that continues to reverberate today. While most other workers gained labor protection at the turn of the twentieth century, domestic workers were categorically excluded.³⁸

Domestic labor was and is seen as woman's work performed in the private sphere.³⁹ The sexual division of household labor resulted in devaluing domestic labor. Furthermore, within the home, there were divisions between women based on race or ethnicity and class. White women were associated with the spiritual and moral functioning of the household and minority, immigrant, and working class women were associated with the menial, strenuous and unpleasant housework.⁴⁰

The legacy of slavery also cast a long shadow on society's treatment of domestic labor. African-American women dominated the domestic services both before and after slavery.⁴¹ Domestic labor was derided as "nigger's work."⁴² The racial composition of the domestic workforce may have influenced Congress' exclusion of domestic labor from New Deal labor legislation. To secure the southern vote, domestic and agricultural workers were explicitly excluded from social security and collective bargaining laws.⁴³ Class and gender also played a role in devaluing domestic labor as "real work" and thus justifying its exclusion from government regulation.⁴⁴

C. Unequal and Exclusionary Labor Protections

They advertise for a housekeeper. They ought to word the ad

³⁷ For a summary on the historical devaluation of domestic work, see SUTHERLAND, *supra* note 13; PALMER, *supra* note 9; Peggie R. Smith, *Regulating Paid Household Work: Class, Gender, Race and Agendas of Reform*, 48 AM. U. L. REV. 851, 891 (1999); Donna Young, *Working Across Borders: Global Restructuring and Women's Work*, 2001 UTAH L. REV. 1, 4-6 (2001).

³⁸ DOMESTIC WORKERS UNITED & DATA CENTER, *supra* note 22, at 7 (discussing the exclusion of domestic workers from the law); *see also* Shah & Seville, *supra* note 1, at 423-27.

³⁹ Shah & Seville, *supra* note 1, at 416-17.

⁴⁰ Dorothy E. Roberts, *Spiritual and Menial Housework*, 9 YALE J. L. & FEMINISM 51, 51 (1997).

⁴¹ Shah & Seville, *supra* note 1, at 416-17.

⁴² SUTHERLAND, *supra* note 13, at 4 (footnote and internal quotation marks omitted).

⁴³ Adam J. Hiller & Leah E. Saxtein, *Falling Through the Cracks: The Plight of Domestic Workers and Their Continued Search for Legislative Protections*, 27 HOFSTRA LAB. & EMP. L.J. 233, 254-255 (2009).

⁴⁴ Shah & Seville, *supra* note 1, at 417.

“Wanted a salve who will give every second, minute, and hour of her life. . . .

—Letter from Domestic Worker, Atlanta, Georgia, 1933⁴⁵

At the turn of the twentieth century, domestic workers sought government labor protection yet they faced stiff opposition from household employers who resisted any government intrusion into the home.⁴⁶ While much of the opposition was couched in the public/private dichotomy of the family home, it is hard to ignore the racial and gendered makeup of the domestic workforce that was excluded from New Deal legislation.

Domestic workers first tried to get the National Recovery Administration (“NRA”) to adopt a household workers code.⁴⁷ The NRA declined and responded to domestic workers and others who lobbied for the code that “[t]he homes of individual citizens cannot be made the subject of regulations or restrictions and even if this were feasible, the question of enforcement would be virtually impossible.”⁴⁸

Domestic workers fared no better in other New Deal legislation. Domestic workers were and remain excluded from the National Labor Relations Act, which guarantees workers the right to form unions and bargain collectively.⁴⁹ They also were originally excluded from the Social Security Act of 1935.⁵⁰

The Fair Labor Standards Act (FLSA) originally did not reach domestic labor because of questions of whether the work affected interstate commerce.⁵¹ It was not until 1974 that the FLSA extended minimum wage and overtime protections to domestic workers and even then it was to a limited subset. The Act excluded and still excludes babysitters employed on a casual basis and companions for the elderly or people with disabilities.⁵² Soon thereafter, the Department of Labor (“DOL”) enacted a regulation that not only broadly defined

⁴⁵ Letter from domestic worker to the federal government, as quoted in PALMER, *supra* note 9, at 72.

⁴⁶ Shah & Seville, *supra* note 1, at 423-24.

⁴⁷ PALMER, *supra* note 9, at 73, 120; Smith, *supra* note 37, at 887-88. The NRA was established in 1933 by the National Industrial Recovery Act to set prices, wages, work hours, and production for each industry. *Id.* at 887, n.226. Before the Act was found unconstitutional, the NRA adopted codes that covered ninety percent of all industrial workers. *Id.*

⁴⁸ PALMER, *supra* note 9, at 120 (quoting Letter from A.R. Forbush, Chief, Correspondence Division, National Recovery Administration, to Eva J. Bulkely (Jan. 31, 1934)).

⁴⁹ 29 U.S.C. § 152(3).

⁵⁰ Banks, *supra* note 8, at 11-14 (discussing domestic worker exclusion from the Social Security Act).

⁵¹ Patricia Mulkeen, *Private Household Workers and the Fair Labor Standards Act*, 5 CONN. L. REV. 623, 626 (1973).

⁵² 29 U.S.C. § 213(a)(15); *Long Island Care at Home Ltd. v. Coke*, 551 U.S. 158, 166-68 (2007); *see also* Shah & Seville, *supra* note 1, at 425.

the work of a “companion” but also extended the companionship exemption to cover companions hired by third party employers.⁵³ The FLSA also exempts live-in domestic workers (who are not otherwise exempt) from overtime regulation.⁵⁴ In October 2013, the Department of Labor adopted new regulations that limited the companionship exemption and eliminated any exemption for third-party employers.⁵⁵ However, a federal district court judge stayed the enforcement of the new rules and vacated the third-party employer provisions of the rule.⁵⁶

Numerous other labor protections also exclude domestic workers explicitly or indirectly. The federal Occupational Safety and Health Act explicitly excludes domestic workers from coverage.⁵⁷ Domestic workers are also de facto excluded under federal discrimination laws including Title VII of the Civil Rights Act and the Family Medical Leave Act because these laws cover larger employers with numerous employees.⁵⁸

II. THE CALIFORNIA DOMESTIC WORKER CAMPAIGN

A. Existing Legal Protections

Domestic workers fared no better in state wage and hour coverage. Domestic workers are excluded from minimum wage and overtime protections in about half of states across the country.⁵⁹

Even states that do provide coverage have often granted protections reluctantly and piecemeal. In California, most women workers gained the right to minimum wage and overtime protections at the turn of the twentieth century.⁶⁰ However, domestic workers were not

⁵³ *Id.* at 162.

⁵⁴ 29 U.S.C. § 213(b)(21).

⁵⁵ Final Rule, Application of the Fair Labor Standards Act to Domestic Service, 78 Fed. Reg. 190 (Oct. 1, 2013).

⁵⁶ *Home Care Associations of America v. Weil*, Case No. 14-cv-967 (RL) (Dec. 22, 2014), available at https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2014cv0967-21.

⁵⁷ 29 C.F.R. § 1975.6.

⁵⁸ 42 U.S.C. § 2000e (Title VII of the Civil Rights Act of 1964 covers employers with 15 or more employees); 42 U.S.C. § 12111(5)(a) (Americans with Disabilities Act covers employers with 15 or more employees); 29 U.S.C. § 630(b) (Age Discrimination in Employment Act covers employers with 20 or more employees); 29 U.S.C. § 2911 (Family Medical Leave Act covers employers with 50 or more employees).

⁵⁹ NATIONAL DOMESTIC WORKERS ALLIANCE AND NATIONAL EMPLOYMENT LAW PROJECT, WINNING DIGNITY AND RESPECT: A GUIDE TO THE DOMESTIC WORKERS’ BILL OF RIGHTS 2 (2013).

⁶⁰ CAL. DEP’T OF INDUS. RELATIONS, HISTORY OF CALIFORNIA MINIMUM WAGE, <http://www.dir.ca.gov/iwc/minimumwagehistory.htm> (last visited Jan. 26, 2015); Assem. B. 60, *Eight-Hour Day Restoration and Workplace Flexibility Act*, at sec. 2 (Cal. 1998) (approved by Governor, July 20, 1999), available at <https://www.dir.ca.gov/iwc/ab60.html> (California enacts first overtime law in 1911).

protected until 1976, when the Industrial Welfare Commission adopted the Household Occupations Wage Order 15.⁶¹ At that time, while domestic workers who cared for property such as housecleaners and gardeners were given full wage and hour protections, those who cared for human beings were not.⁶² The 1976 regulations excluded “personal attendants”—childcare providers and caregivers who spent a significant amount of time caring for children, the elderly or people with disabilities from any coverage or protection.⁶³ The IWC Wage Board recommended excluding these workers because they believed the workers were primarily young or elderly persons doing this work to supplement income received from their parents or social security benefits, respectively.⁶⁴ In 2001, personal attendants gained the right to minimum wage but remained excluded from all other provisions of Wage Order 15, including overtime and meal and rest breaks.⁶⁵

California also excludes domestic workers from the state’s health and safety protections. Domestic workers must work 52 hours or more and earn \$100 in the 90 days preceding the injury or last date of employment to be covered under workers compensation laws.⁶⁶

B. Organizing Domestic Workers

Domestic workers have been organizing since the nineteenth century to improve their working conditions. The strategies have ranged from forming unions to lobbying for government regulation.⁶⁷ Much of the earlier organizing efforts were not worker-led but were spearheaded by middle-class progressive women in organizations like the Young Women’s Christian Association.⁶⁸

As the domestic workforce changed from an African-American workforce to a predominately immigrant women workforce, new organizing strategies emerged. In California, the influx of immigrants from Latin America and Asia in the 1970s and 1980s had a critical impact on worker organizing. Many of these immigrants had positive experience in their home country with unions and left-wing political

⁶¹ California regulates wage and hour laws by statute as well as by regulations, called Wage Orders, promulgated by the Industrial Welfare Commission. Shah & Seville, *supra* note 1, at 426-27.

⁶² Shah & Seville, *supra* note 1, at 426-27.

⁶³ *Id.* If the worker spends more than twenty percent of her time on household work, she will not be considered a personal attendant and is entitled to full protection under Wage Order 15.

⁶⁴ *Id.*

⁶⁵ *Id.* at 427.

⁶⁶ Cal. Labor Code § 3351 (2013).

⁶⁷ Shah & Seville, *supra* note 1, at 410-28.

⁶⁸ *Id.*

action.⁶⁹ In America, they became active in union organizing drives and community organizing. In the 1990s, unions led several successful union drives among low-wage immigrant workers, especially in Southern California.⁷⁰ Service Employee International Union's "Justice for Janitors" campaign made key inroads into the immigrant community and was one of the largest private sector union victories.⁷¹ Furthermore, the growth of worker centers in immigrant communities as an alternative to union-based organizing engaged undocumented immigrants in civil and political participation.⁷²

Against this backdrop, immigrant rights organizations, which are grassroots and membership-based began organizing the predominately Latina and Filipina domestic workers in Northern and Southern California. In Northern California, Mujeres Unidas y Activas (MUA) was founded in 1990 as a membership organization for immigrant women.⁷³ Three years after it opened its doors, MUA launched Caring Hands, a project to provide training and work opportunities for Latina home health care aides.⁷⁴ In 2001, La Colectiva was formed at La Raza Centro Legal, as a worker-run collective to empower women and create work opportunities for housecleaners.⁷⁵ Pilipino Workers Center (PWC), founded in 1997 in Los Angeles, raised the visibility of Filipina domestic workers through its "COURAGE" Campaign—Caregivers Organizing for Unity, Respect, and Genuine Employment.⁷⁶ Since 1986, the Coalition for Humane Immigrant Rights Organization (CHIRLA) in Los Angeles has been at the forefront of immigrant and refugee rights, establishing the first day labor centers in the country and spearheading legislative advocacy on behalf of immigrants.⁷⁷

⁶⁹ Ruth Milkman, *Immigrant Organizing and the New Labor Movement in Los Angeles*, Crit. Sociology, vol. 26, no. 1-2, p. 59, 65 (2000), available at <http://crs.sagepub.com/content/26/1-2/59.full.pdfhtml>.

⁷⁰ *Id.* at 67-8.

⁷¹ Ruth Milkman & Kent Wong, *Organizing Immigrant Workers*, available at [http://www.d.umn.edu/~epeters5/MAPL5111/5111%20Articles/Milkman%20and%20Wong%20—%20Organizing%20Immigrant%20Workers%20\(optimized\).pdf](http://www.d.umn.edu/~epeters5/MAPL5111/5111%20Articles/Milkman%20and%20Wong%20—%20Organizing%20Immigrant%20Workers%20(optimized).pdf).

⁷² Victor Narro, *Impacting Next Wave Organizing: Creative Campaign Strategies Of The Los Angeles Worker Centers*, 50 N. Y. L. SCH. L. REV. 465, 467 (2005-2006).

⁷³ *MUA's History*, MUJERES UNIDAS Y ACTIVAS (2007), http://www.mujeresunidas.net/english/history/history_04.html; *Manos Carinosas*, MUJERES UNIDAS Y ACTIVAS (2007), <http://www.mujeresunidas.net/spanish/caring.html>.

⁷⁴ *MUA's History*, MUJERES UNIDAS Y ACTIVAS (2007), <http://www.mujeresunidas.net/english/history/history.html>.

⁷⁵ *About Us*, LA COLECTIVA: ORGANIZED LABOR FOR AN ORGANIZED HOME,, <http://lacolectivasf.org/about.html> (last visited Jan. 30, 2015).

⁷⁶ *About Us*, PILIPINO WORKERS CENTER (last visited Jan. 30, 2015), <http://www.pwcsc.org/about-us>.

⁷⁷ See Victor Narro, *Impacting Next Wave Organizing: Creative Campaign Strategies Of The Los Angeles Worker Centers*, 50 N. Y. L. SCH. L. REV. 465 (2005-2006) (discussing

These organizations focused on worker leadership and economic self-sufficiency by creating job training programs, establishing worker collectives or referral agencies and providing a social and cultural space for personal and political empowerment.⁷⁸

C. *The California Domestic Worker Coalition*

In 2005, MUA, La Colectiva, PWC, and CHIRLA along with People Organized to Win Employment Rights (POWER) formed the California Household Worker Coalition.⁷⁹ Their statewide legislative priority was to remove the overtime exclusion for personal attendants as well as the recovery of liquidated damages in administrative proceedings.⁸⁰ Facing stiff opposition from home-health agencies and several disability-rights advocates, the bill was narrowed to extend only overtime to childcare providers.⁸¹ It passed the legislature in 2006 only to be vetoed by then Governor Arnold Schwarzenegger.⁸² The campaign galvanized many domestic workers to participate for the first time in the political process.

Bolstered by the strength of the domestic worker campaign in New York, the formation of the National Domestic Workers Alliance and efforts internationally to recognize the dignity of domestic work, the California organizations reconvened in 2010 as the California Domestic Workers Coalition, a statewide umbrella organization of eight groups: MUA, La Colectiva, PWC, CHIRLA, POWER, Filipino Advocates for Justice (“FAJ”), Centro Laboral de Graton, and Instituto de Educacion Popular del Sur de California (“IDEPSCA”).⁸³ The coalition created a steering committee composed of both organizers and domestic workers from each of the member organizations. All decisions about the legislation were vetted through the membership of each group. The members set their legislative priorities. To gear up for the legislative campaign, organizers from the member organizations trained at the Women’s Foundation of California’s Women’s Policy Institute fellowship program, teaching women activists how to navigate successfully the state legislative process.⁸⁴

CHIRLA and PWC’s organizing work).

⁷⁸ Shah & Seville, *supra* note 1, at 434.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Senate Rules Committee, Bill Analysis, Assemb. B. 2536, 2005–2006 Leg., Reg. Sess. (Cal. 2006), available at http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2501-2550/ab_2536_cfa_20060811_171007_sen_floor.html.

⁸² Assemb. B. 2536, 2005–2006 Leg., Reg. Sess. (Cal. 2006) (Governor Schwarzenegger’s veto message), available at http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2501-2550/ab_2536_vt_20060930.html.

⁸³ Shah & Seville, *supra* note 1, at 437.

⁸⁴ Organizers from MUA, PWC, CHIRLA, and La Colectiva were Women’s Policy In-

In 2010, CDWC laid the groundwork for a legislative bill by helping pass Assembly Concurrent Resolution 163, which recognized the vital role domestic workers play in California's economy.⁸⁵ To educate legislators, the Coalition issued "Voices from Behind Closed Doors," a one-page handout highlighting the need for greater protection of domestic workers through personal stories and photographs. In one issue, Anali, a caregiver for an elderly person, states, "Employers need to treat us with respect as people, as woman [sic], as workers."

In 2011, the CDWC sponsored AB 889, the California Domestic Worker Bill of Rights. Initially, the scope of the bill was far ranging, including provisions for paid vacation and sick leave and notice of termination. AB 889 passed the state Assembly and the Senate Labor Committee with many of the most critical provisions intact but stalled in the Senate Appropriations Committee. To move out of Appropriations, the Coalition had to agree to let the Committee strip all substantive provisions out of the bill and to delegate overtime and sleep issues to the Department of Industrial Relations to craft regulations.

The Legislature passed the amended bill but Governor Brown vetoed it. In his veto message, the governor had specific questions on how overtime would impact the industry and people with disabilities.⁸⁶ Not deterred, in the following year, the CDWC went back to Sacramento with AB 241. AB 241 was more limited in scope than the original AB 889. It focused on overtime, sleep and kitchen facilities as well as worker's compensation. The Coalition by now had defined its internal structure for decision-making and had fostered broad-based allies. The women leaders were now more familiar with lobbying in Sacramento and the CDWC was more adept at mobilizing statewide. More importantly, the CDWC had become more politically astute at identifying key individuals who could influence Governor Brown's understanding of the need for this bill. The CDWC dedicated most of its effort to win Brown's support in the last year of the campaign.

The CDWC got key meetings with Brown's staff. The CDWC utilized these meetings strategically to focus on overtime and the un-

stitute fellows in 2007–2008. *Women's Policy Institute 2007–2008*, THE WOMEN'S FOUNDATION OF CALIFORNIA, <http://www.womensfoundca.org/site/c.aqKGLROAIrH/b.5048969/apps/s/content.asp?ct=4455845> (last visited Jan. 26, 2012). Organizers from IDEPSCA, POWER, MUA, CHIRLA, and FAJ were 2010–2011 Fellows. *Domestic Workers Launch Campaign for Bill of Rights*, THE WOMEN'S FOUNDATION OF CALIFORNIA, <http://womensfoundationofcalifornia.com/2011/03/10/domestic-workers-launch-campaign-for-bill-of-rights/> (last visited Jan. 26, 2012).

⁸⁵ Assemb. Con. Res. 163, 2009–2010 Leg., Reg. Sess. (Cal. 2010), available at http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0151-0200/acr_163_bill_20100907_chaptered.pdf

⁸⁶ Assemb. B. 889, 2011–2012 Leg., Reg. Sess. (Cal 2012) (Governor Brown's veto message) available at http://gov.ca.gov/docs/AB_889_Veto_Message.pdf.

fair exclusion of personal attendants. Ultimately, AB 241 became an overtime bill for personal attendants and was passed into law, effective January 1, 2014. It is up for reauthorization in three years and the Governor will appoint a committee to study and report to the Governor on the impact of the bill.⁸⁷

III. THE CLINIC'S ROLE IN THE CAMPAIGN

Over twenty years ago, Golden Gate University School of Law established the Women's Employment Rights Clinic to serve as a training ground for the next generation of social justice advocates and to provide critical legal services to the community. The Clinic's mission embraced the binary goals of clinical legal education—skills acquisition and social justice.⁸⁸ The Clinic focuses on advocating for low-wage women workers, especially the most vulnerable, including garment factory workers, restaurant workers, domestic workers and caregivers. Most of these workers are women of color or immigrant women.

Through its case work, the Clinic identifies industries and issues that need a collective community response.⁸⁹ It targets industries with rampant labor violations for reform through an innovative combination of litigation and policy advocacy combined with community education. Working closely with grassroots community-based organizations, the Clinic blends individual representation cases with larger impact matters.⁹⁰

Within this social justice framework, students acquire lawyering skills such as interviewing, fact investigation, counseling, negotiations and trial skills and sharpen their oral and written advocacy. Law students staff an intake hotline providing advice and counseling on a va-

⁸⁷ To date, the Governor has not appointed a committee.

⁸⁸ There has been a robust debate within the clinical community about whether the purpose of clinical education is skills acquisition or social justice. But, this discussion presents a false dichotomy given that most live-client clinics teach lawyering skills within the context of representing poor people. See Juliet Brodie, *Post-Welfare Lawyering: Clinical Legal Education and A New Poverty Law Agenda*, 20 WASH. U. J. L. & POL'Y 201, 261 (2006).

⁸⁹ Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLIN. L. REV. 355, 390 (2008) (discussing the alternative model of clinical legal education "animated by collective mobilization").

⁹⁰ More clinics are embracing this combined advocacy model. Jayashri Srikantiah & Jennifer Lee Koh, *Teaching Individual Representation Alongside Institutional Advocacy: Pedagogical Implications of a Combined Advocacy Clinic*, 16 CLIN. L. REV. 451, 464 (Spring 2010) (describing the trend in legal education to combine individual and institutional advocacy); see also, Stephen Wizner & Robert Solomon, *Law as Politics: A Response to Adam Babich*, 11 CLIN. L. REV. 473, 474-76 (2005); Brodie, *supra* note 88, at 232 (describing the small scale service matters and larger impact matters of the Neighborhood Law Project (NLP) of the University of Wisconsin Law School.)

riety of employment-related matters including wage and hour violations, discrimination, workplace harassment, unemployment benefits, pregnancy and family/medical leave. The Clinic selects cases from the intake hotline for individual or class representation. In addition to administrative or court advocacy, the Clinic engages in worker education and public policy.

Four years ago, the Clinic made a strategic decision to concentrate its limited resources on representing domestic workers and caregivers in small residential facilities. These workers earn significantly less than most other workers.⁹¹ They toil in obscurity without legal protection or societal recognition. Where there are legal protections, employers routinely violate them. Furthermore, there was a gap in legal services because so few lawyers (whether in non-profits or private firms) represented these workers.

The Clinic also saw a unique opportunity for students to learn to be effective social justice advocates by having a focused, strategic vision for change. Students can conceptualize a multi-faceted advocacy agenda when they can simultaneously work on litigation and policy reform that are linked.⁹² Around the same time, the CDWC approached the Clinic to serve as its lawyers. Because the Clinic had been litigating cases on behalf of domestic workers and had collaborated with some of the member organizations, it was a natural fit for the Clinic to work on the policy reform. The Clinic essentially had two roles in the campaign: that of the legislative lawyer in Chai Feldblum's "Six Circles Theory of Effective Advocacy" model and as general counsel.⁹³

A. Legislative Lawyer

Chai Feldblum conceptualized the role of the legislative lawyer in her article, *The Art of Legislative Lawyering and the Six Circles Theory of Advocacy*.⁹⁴ Feldblum developed her model based on her own experience in passing the Americans with Disabilities Act. By her own account, the advocacy effort was mostly an "inside the Belt-way" enterprise, with high-level lobbyists from national organizations driving the agenda.⁹⁵ Feldblum articulated a top-down, hierarchical model staffed by sophisticated experts who are outsiders to the coali-

⁹¹ BUR. OF LABOR STATISTICS, U.S. DEP'T OF LABOR, *Occupational Outlook Handbook, 2014-15 Edition*, PERSONAL CARE AIDES (Jan 8, 2014), <http://www.bls.gov/ooh/healthcare/personal-care-aides.htm>.

⁹² Srikantiah & Lee Koh, *supra* note 88, at 464.

⁹³ Chai Rachel Feldblum, *The Art of Legislative Lawyering and the Six Circles Theory of Advocacy*, 34 MCGEORGE L. REV. 785, 805 (2003).

⁹⁴ *Id.*

⁹⁵ *Id.* at 789.

tion impacted by the advocacy.

This structure is antithetical to most grassroots campaigns, which are often democratic and consensus-based. To be sure, some campaigns are hierarchical and have the resources to hire experienced lobbyists, media firms and strategists. Generally, grassroots campaigns will have a range of legislative advocacy experience. Within the CDWC, some member organizations had little to no exposure to legislative advocacy, while some had paid lobbyists on staff.

Nonetheless, Feldblum's model provides a useful dissection of the specific skills necessary for an effective advocacy campaign.⁹⁶ It is particularly apt in articulating the skills and tasks of the legislative lawyer. The legislative lawyer a) assesses the problems/issue, b) researches the problem/issue, c) proposes solutions and approaches, d) drafts materials and e) engages in oral presentations and negotiations.⁹⁷ The legislative lawyer is versed both in the substantive law and policy issues as well as the political realities.⁹⁸

Typically in a grassroots campaign, the issue is identified by the coalition. When it approached the Clinic to be its legislative lawyer, the CDWC had already identified its policy goals and the desired outcome. It wanted legal expertise to translate those stated outcomes into bill language and to provide ongoing guidance and assistance to the coalition.

At the onset, the Clinic researched and analyzed the basis for the exclusion of personal attendants from California wage and hour law. The Clinic students spent countless hours combing through the disorganized archives of the Industrial Welfare Commission. The students had to be meticulous in reviewing thousands of documents to find and understand the bases for the personal attendant exclusion. They had a context for analyzing the archival materials because they had individual cases in which the personal attendant exclusion affected their clients' rights to recover overtime. The students discovered the original recommendations of the Industrial Welfare Commission's wage board proposing the exclusion of personal attendants. These materials were invaluable in helping legislators and the Governor understand the unfairness of the exclusion.

The next step for the Clinic was to inform and educate the CDWC regarding existing rights of domestic workers in California. The Clinic also provided comparison to the New York Domestic

⁹⁶ To launch a successful and effective legislative or regulatory campaign, Feldblum identified six skill sets that are necessary: strategist, lobbyists, legislative lawyer, policy researcher, outreach strategist, and communications director. *Id.* at 805.

⁹⁷ Feldblum, *supra* note 93.

⁹⁸ *Id.* at 797.

Worker Bill of Rights, which took effect in November 2010.⁹⁹ Because New York had a different regulatory structure for wages and hours and provided different protections for domestic workers, students had to first get a handle on the existing rights under the New York bill. Then, the students had to translate that information so that workers could understand it. They prepared a comparison chart of the New York bill and existing rights in California. At a statewide retreat, the students presented the information to the coalition as it discussed its priorities for the California bill of rights. Because the students on the project were fluent Spanish speakers, they presented in Spanish.

The Clinic's central role was to translate the CDWC's goals and suggestions into legislative text and to draft materials for the campaign. The CDWC had far-ranging issues it wanted covered in the bill. After assessing the political and legal landscape, a legislative lawyer most likely would not have proposed some of the changes the Clinic suggested. The Clinic's role, however, was not to override the CDWC's decisions but rather to provide information about the legal and political feasibility of the proposals so the coalition could make an informed decision. While the CDWC understood the limited success some of these measures would have, it wanted the provisions in the bill to highlight the working conditions of domestic workers.

The Clinic then drafted bill language and amendments. While the Clinic understood CDWC's broad goals and policy objectives, there were multitudes of smaller technical decisions involved. Should there be a penalty included for a particular violation? How should the sleep requirement be structured? Because CDWC ran a democratic organization in which most decisions were vetted by the domestic worker members, the Clinic drafted a questionnaire for the technical decisions that needed to be made. Each organization then met with its members to provide feedback. Before the bill was introduced in the legislature, the Clinic and CDWC convened an all-day statewide retreat to finalize provisions in the bill. The lawyers asked the members to weigh in on decisions, clarified the goals and objectives and answered questions. The process was time consuming but the end result was a bill that truly reflected the objectives of CDWC's members.

Because of time pressures and the legislative calendar, law students unfortunately were not available for initial drafting of the bill. The bill was introduced in January but most of the meetings and decisions were conducted in December, while students were away on winter break. However, at other times, to the extent possible, the Clinic engaged students in bill drafting. For example, compromises to over-

⁹⁹ See Assem. B. A1470B/S2311E, 2010 Leg., 2009-10 Sess. (N.Y. 2010), available at <http://assembly.state.ny.us/leg/?bn=A01470>.

time were contemplated early on in the campaign but the CDWC wanted to strategically hold off on offering an early compromise. The Clinic was tasked with providing potential alternatives for the CDWC to take back to its members. Each organization then vetted the potential compromises with its members and got consensus on the parameters of an overtime compromise. A group of Clinic students spearheaded the project, researching existing modifications of overtime rules in state law and drafting different overtime proposals for the CDWC to take back to its members.

In its role as the CDWC's legislative lawyer, the Clinic drew on its experience in representing domestic workers as well as other low-wage workers. While Feldblum saw the litigator as not understanding the political and policy arena,¹⁰⁰ the Clinic's litigation expertise was extremely helpful in informing the policy agenda. A legislative lawyer who has the substantive experience in the relevant policy area sees issues in implementation that are not as obvious to those who inhabit only the legislative arena. She may even have more credibility with some legislators. The Clinic, thus, helped the political players understand the legal landscape.

B. General Counsel

In a grassroots campaign, the lawyer has multiple roles. In addition to serving as the legislative lawyer, the lawyer often acts as organizational counsel to the coalition. It is akin to the role of a general counsel in a corporation. The general counsel role is multi-faceted and complex, with formal and informal functions. The general counsel acts as legal advisor, educator, advocate, investigator, manager, compliance and ethics officer, as well as planning advisor, and crisis manager.¹⁰¹

While not all of the "multiplicity of roles" a corporate counsel performs are applicable to grassroots organizations, the Clinic did function as the CDWC's general counsel. The Clinic performed a multitude of services that went beyond the tasks of the legislative lawyer. The general counsel is often described as the "Swiss army knife" of the legal profession.¹⁰² The Clinic was the legal advisor, educator and advocate for the coalition, and had a seat at the table during strategic discussions.¹⁰³ As direct service providers, the Clinic had exten-

¹⁰⁰ Feldblum, *supra* note 93, at 804-805.

¹⁰¹ Sarah Helene Duggin, *The Pivotal Role of the General Counsel in Promoting Corporate Integrity and Professional Responsibility*, 51 ST. LOUIS U LJ 989, 1002-1020 (2007).

¹⁰² Omari Scott Simmons, *The Under-Examination of In-House Counsel*, 11 TRANSACTIONS: TENN. J. BUS. L. 145, 146 (2009).

¹⁰³ Omari Scott Simmons & James D. Dinnage, *Innkeepers: A Unifying Theory of the In-House Counsel Role*, 41 SETON HALL L. REV. 77, 111-112 (2011) (describing the unique

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sive knowledge of the domestic work industry and the abuses workers face. It also had an in-depth understanding of California wage and hour law and its impact on low-wage workers. The Clinic shared this knowledge with the CDWC leadership through trainings and workshops as well as legal briefings on the weekly calls. The Clinic worked closely with CDWC to draft materials to distribute to media and the legislators, as well as talking points for legislative visits. The CDWC was facile in integrating the information into its messaging and elevating its legal literacy.

Working closely with the CDWC's lobbyist, the Clinic guided the CDWC in its risk assessments and exploration of alternatives. The CDWC drew on a host of experts to provide strategic guidance on the political and legislative landscape, whose advice at times conflicted. The Clinic, as an independent legal advisor, weighed in on these discussions, providing its perspective. For example, the Clinic alerted the CDWC when compromises would dilute protections for other low-wage workers or set a bad precedent for workers' rights. While the ultimate decision rested with the CDWC, the Clinic did influence the political strategy development when it provided candid advice and risk assessment.

The CDWC stated that the different perspectives helped them gain a fuller understanding of the complexity of the problem. By synthesizing information and presenting it in a clear manner, the Clinic facilitated the full participation of the CDWC worker members to make informed decisions.

Law students were not as integrated in the role as general counsel as they were in the role as legislative lawyer. The general counsel role required a certain level of expertise and judgment. In a one-semester clinic, it was difficult to get students up to speed on the law, the industry and the campaign where they could function at this higher level. Certainly, students who had previous policy experience or advanced students who were returning to the clinic for a second semester had more opportunities to participate in this role.

The general counsel role is a necessary component for a grassroots legislative campaign. While the legislative lawyer focuses on the nuts and bolts of the bill, the general counsel provides more comprehensive legal and practical advice to the campaign. The Clinic's general counsel role added value to the campaign by (1) maintaining a broader awareness of "big picture" implications, (2) managing an unfiltered flow of information throughout the coalition, (3) providing frank and candid counsel to the coalition leadership, and (4) espous-

attributes of the in-house counsel).

ing a risk assessments approach.¹⁰⁴

IV. REFLECTIONS ON THE ROLE OF THE LAWYER

Lawyers have grappled with how to make transformative social change that integrates and empowers communities affected by social, economic and political inequities. The Clinic has long embraced a community lawyering model, where the law is creatively used to advance the community's agenda. Law and legal work can be used strategically to complement broader community struggles. As Jennifer Gordon so aptly put it, a lawyer's job is to "put law in the service of building the movement's power."¹⁰⁵ In order to successfully participate in broader community campaigns, lawyers must understand and define their role in these campaigns. The Clinic, in its three years as legal counsel to the CDWC, learned some important lessons on how to structure its involvement in grassroots advocacy campaigns. And students in the project have learned some important lawyering lessons.

A. *Understanding Grassroots Campaigns*

The literature on law and organizing is rich.¹⁰⁶ But, within the context of grassroots legislative campaigns, very little has been written. Chai Feldblum's "*The Art of Legislative Lawyering and the Six Circles Theory of Advocacy*" is still the seminal article on legislative campaigns.¹⁰⁷ Yet, Feldblum's model does not describe grassroots advocacy efforts. While the skills identified by Feldblum are necessary for any successful campaign, the reliance on "experts" and a top-down hierarchy in Feldblum's model fail to capture the fluid, consensus, people-centered model of grassroots advocacy. The first step for lawyers working with grassroots advocacy is to understand the context, vision and goals of the campaign.

Community-based organizations, often small in size, are primarily at the forefront of grassroots advocacy efforts. Staff and resources are

¹⁰⁴ CONSTANCE E. BAGLEY, WINNING LEGALLY: HOW MANAGERS CAN USE THE LAW TO CREATE VALUE, MARSHAL RESOURCES, AND MANAGE RISK 232 (2005).

¹⁰⁵ Jennifer Gordon, Law, Lawyers, and Labor: The United Farm Workers' Legal Strategy in the 1960s and 1970s and the Role of Law in Union Organizing Today, 8 U. PENN. J. LAB. & EMPLOY. L. 1, 71 (2005).

¹⁰⁶ To name a few, see, Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443 (2001); Loretta Price & Melinda Davis, *Seeds of Change: A Bibliographic Introduction to Law and Organizing*, 26 REV. OF LAW & SOC. CHANGE 615 (2002); Jennifer Gordon, *The Lawyer is Not the Protagonist: Community Campaigns, Law, and Social Change*, 95 CAL. L. REV. 2133 (2007); Michael Grinthal, *Power With: Practice Models for Social Justice Lawyering*, 15 U. PA. J.L. & SOC. CHANGE 25 (2011).

¹⁰⁷ Feldblum, *supra* note 93.

limited because it is hard to secure funding. A 2005 report found that the largest U.S. philanthropic foundations provided only eleven percent (11%) of their grant dollars to support advocacy efforts.¹⁰⁸ Strapped for resources, grassroots advocacy campaigns lack the resources to hire high-level legislative players. Instead, existing staff are repositioned to lead the grassroots campaign. The expertise of the staff to lead legislative campaigns will invariably range. Legislative lawyers can be useful in training staff on the legislative process and the substantive issues. They can also help identify experts to provide pro bono assistance to the campaign in areas such as communications and research.

Grassroots campaigns have dual goals in their advocacy. Success is defined not just by the legislative victory but by the empowerment of their members to fully engage in the democratic processes. In addition to achieving a policy objective, the grassroots group seeks to maximize the democratic participation of its members. Saul Alinsky described the process of grassroots collective action in this way:

The substance of a democracy is its people and if that substance is good—if the people are healthy, interested, informed, participating, filled with faith in themselves and others—then the structure will inevitably reflect its substance. The very organization of a people so that they become active and aware of their potentialities and obligations is a tremendous program in itself.¹⁰⁹

Thus, leadership development is a vital goal of grassroots campaign. The key is to educate and empower the very people who are affected by the policy reform to be at the forefront of the campaign. The lawyer must understand her role in this binary system as facilitating the policy objective by maximizing grassroots participation.

Furthermore, strategic decision-making is vested in the larger group. In Feldblum's model, the strategist is at the top, directing the various key players, and the coalition is at the bottom. However, democratic process and consensus decision making is often the hallmark of grassroots coalitions. Many grassroots campaigns, like the CDWC, seek the input of the entire membership for key strategic decisions. The lawyer must respect this process in order to build trust. A lawyer who seeks to insert herself as the strategic decision maker or favors a small cadre of leadership harms the group dynamic and her role in the campaign. To be sure, the democratic process is time-consuming and messy. But the end result is to reach a decision through a process that honors the voices of the many.

¹⁰⁸ INDEPENDENT SECTOR AND THE FOUNDATION CENTER, SOCIAL JUSTICE GRANTMAKING: A REPORT ON FOUNDATION TRENDS 8 (2005).

¹⁰⁹ SAUL ALINSKY, REVILLE FOR RADICALS 80 (1946).

Relationships outside the coalition also are vital in grassroots campaigns. Allies provide a broad base of support for the campaign. In addition, some allies provide expertise in areas lacking within the coalition and/or access to political players. For example, the CDWC engaged an immigrant rights media firm and other communication experts to provide on-going trainings to organizers and worker leaders on messaging and speaking to the media. Allies who had political contacts helped lobby or organize meetings for the CDWC with key legislators and the Governor's staff.

Lawyers must appreciate the internal and external relationships between the players to provide effective guidance and assistance to the coalition. Recently, Jayashri Srikantiah and Janet Martinez advocated creating an all-party map when representing institutional clients.¹¹⁰ Drawing from negotiations pedagogy, the map captures the desired object or outcome and the people and organizations that are involved, interested or impacted.¹¹¹ An all-party map in grassroots campaigns is a useful tool for the lawyer as well as the coalition. The CDWC created a truncated all-party map of legislators and allies within the legislator's district. It tracked supporters and helped with sequencing—mobilizing targeted constituencies at different stages of the campaign.¹¹² A similar map of the internal players would have been very useful for the Clinic. Over the three years of the campaign, there were multiple staffing changes at the CDWC and at the Clinic, as key staff left the organizations or were out on maternity leave. The map would have provided easier transfer of information regarding key players and positions

Adhering to the fundamentals of democratic, bottom-up leadership, grassroots advocacy require lawyers to be open to the evolving nature of their relationships with the campaign. At the beginning, the lawyer's role may not be well articulated, but as the campaign develops, lawyers are tasked with additional responsibilities. To that end, the lawyer has to have a clear grasp of who the client is and the parameters of the services the lawyer will perform.

B. Defining the Group Client-Lawyer Relationship

The American legal system is primarily a tool for private individuals seeking to enforce or defend lawful private interests.¹¹³ The ad-

¹¹⁰ Jayashri Srikantiah & Janet Martinez, *Applying Negotiations Pedagogy To Clinical Teaching: Tools For Institutional Client Representation In Law School Clinics*, 21 CLIN. L. REV. 283, 304-305 (Fall 2014).

¹¹¹ *Id.* at 305.

¹¹² *Id.* at 315. ("sequencing is built on the premise that the order one seeks support from others matters").

¹¹³ Kristen A. Carpenter & Eli Wald, *Lawyering for Groups: The Case of American*

versarial nature of law fosters highly individualistic outcomes of winners and losers over collective well-being.¹¹⁴ The ethical rules are formulated to foster and protect individual autonomy.

Only one rule in the Model Rules of Professional Conduct addresses group representation. Rule 1.13—Organization as Client—is most applicable in the corporate context, even though it is intended to cover groups, generally.¹¹⁵ Yet, the rule fails to envision a non-hierarchical, consensus-based, democratic group. Nonetheless, the rule is flexible enough to provide guidance in grassroots legislative campaigns.¹¹⁶

Rule 1.13 explicates that the lawyer for an organization represents the organization and not its individual constituents. Grassroots campaigns are varied in their structures. Some campaigns are spearheaded by a single, well-defined entity, with legal status, paid professional staff and hierarchy for decision-making. Others are an amalgamation of loosely structured groups and individuals. Regardless of its configuration, grassroots campaigns have goals and purposes that define the group's mission. Even in loosely structured grassroots campaigns, there will emerge a group identity that will then formulate its vision and goals. When a group fails to identify its shared goals and purpose, it will disintegrate.

Once a group has a clear identity and purpose, Rule 1.13 guides the lawyer in understanding and protecting the group autonomy. The lawyer serves the group. The group acts, however, through its officers, directors, employees, shareholders, and other constituents.¹¹⁷ Grassroots campaigns will have either a formal or an informal structure for decision-making and leadership. Rule 1.13 also allows for representation of the group's constituency, subject to the conflict of interest rules.¹¹⁸ This often arises in the grassroots context with a lawyer providing legal services to individual members. As long as the individual claims are aligned with the legislative reform agenda, the rule will allow for such representation.

A trickier issue is who speaks for the group, especially in loosely

Indian Tribal Attorneys, 81 *FORDHAM L. REV.* 3085, 3089 (2013); Abram Chayes, *The Role of the Judge in Public Law Litigation*, 86 *HARV. L. REV.* 1281, 1282 (1976).

¹¹⁴ MARK MILLER, *THE HIGH PRIESTS OF AMERICAN POLITICS: THE ROLE OF LAWYERS IN AMERICAN INSTITUTIONS* 26 (1995); Abram Chayes, *The Role of the Judge in Public Law Litigation*, 86 *HARV. L. REV.* 1281 (1976).

¹¹⁵ MODEL RULES OF PROF'L CONDUCT R. 1.13 (2013).

¹¹⁶ Others believe that Rule 1.13 is only applicable in the corporate context and loses much of its potency in non-hierarchical group settings. See Kristen A. Carpenter & Eli Wald, *Lawyering for Groups: The Case of American Indian Tribal Attorneys*, 81 *FORDHAM L. REV.* 3085, 3142-3143 (2013).

¹¹⁷ MODEL RULES OF PROF'L CONDUCT R. 1.13, cmt.1 (2013).

¹¹⁸ MODEL RULES OF PROF'L CONDUCT R. 1.13(g) (2013).

structured groups. As Paul Tremblay observed, “Just as powerless group members ought not to be dominated by the professional lawyers in suits, it is similarly true . . . that powerless group members ought not to be dominated by the more vocal and educated leaders within the community.”¹¹⁹ Yet, it is for the group and not the lawyer to identify and structure participation and decision-making that allows for full democratic participation. A lawyer may provide guidance and advice that ensures minority voices are heard but it is ultimately the group leadership that is the guardian of the democratic process.

The CDWC is “a single but multifaceted client.”¹²⁰ The CDWC’s clearly articulated goals and transparent decision-making made the Clinic’s job relatively easy in defining its group representation. In addition to defining the parameters of the group representation, the Clinic also needed to establish clear lines of communication. Who had the authority to communicate with the lawyers? Presumably, all members of the steering committee represented the coalition but it would be unwieldy to have such a large group interacting with the lawyers. It made sense for the CDWC to designate a few members to interface with the lawyers. When the CDWC hired a statewide campaign director, it was easy to designate the director to take charge of coordinating with the Clinic. Eventually, the Clinic decided to enter into a formal representation agreement with the CDWC, outlining the channels of communications, authority for decision-making and potential conflicts that might arise with community representation [Appendix A]. Negotiating the agreement helped both the Clinic and the CDWC articulate and crystalize the relationship between them.

C. *Client-Centeredness in Legislative Advocacy*

A client-centered approach to lawyering is typical in clinics that represent individuals or groups. The Clinic has taught students the fundamentals of client-centered advocacy in its individual case representation.¹²¹ Client-centered lawyering has its limits, especially if it is taught without a political and social justice context.¹²² However, in

¹¹⁹ Paul Tremblay, *Counseling Community Groups*, 17 CLIN. L. REV. 389, 421–54 (2010).

¹²⁰ Omari Scott Simmons & James D. Dinnage, *Innkeepers: A Unifying Theory of the In-House Counsel Role*, 41 SETON HALL L. REV. 77, 111 (2011).

¹²¹ DAVID A. BINDER & SUSAN C. PRICE, LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH (1977) (describing the client centered approach); DAVID A. BINDER, PAUL BERGMAN & SUSAN C. PRICE, LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH (1991) (same); see also Robert Dinerstein, *Client-Centered Counseling: Reappraisal and Refinement*, 32 ARIZ. L. REV. 501 (1990) (discussing the nuances of client-centered approach).

¹²² See Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLIN. L. REV. 355 (2008) (exclusive focus on individual client empowerment with lawyer-led litigation and law reform devoid of the political and social reality of poor people); Katherine Kruse,

the context of advancing social justice, client centered lawyering shifts power from the lawyer to the clients and empowers them to be the agents of change. In the legislative advocacy arena, principles of client-centered representation remain important but need some modification.

To foster client decision-making and autonomy in individual cases, the Clinic utilizes the following framework: A worker contacts the Clinic because her boss is not paying all of her wages. A student will interview her and review documents, including paystubs. Sometimes, the student will interview witnesses. Then, the student will identify the issues, conduct research and formulate an analysis of the client's problems. The student will meet with the client to provide an assessment of her legal rights. The student will focus on understanding what the client's goals and objectives are before presenting options to the client.¹²³ The student will present the options without showing a bias towards any one course of action. She will present the information honestly and provide candid assessment of the risks and benefits.¹²⁴ The client may have questions that the student will address. After some back and forth, the client will be ready to make an informed decision about what she wants to do about the problem. The client may ask the Clinic to draft a demand letter and to negotiate

Fortress In The Sand: The Plural Values Of Client-Centered Representation, 12 CLIN. L. REV. 369 (2006) (discussing the plurality of client-centered approaches); Michelle Jacobs, *People from the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345 (1997) (race-neutral client interviewing and counseling marginalizes clients of color).

¹²³ The student must create a "community of two" by showing the client that she "hears, understands, accepts and does not judge him." Stephen Ellmann, *Client-Centeredness Multiplied: Individual Autonomy and Collective Mobilization in Public Interest Lawyers' Representation of Groups*, 78 VA. L. REV. 1103, 1128-1129 (1992).

¹²⁴ This may seem contradictory at first. There is a nuanced way to present information that provides frank legal assessment without dictating to the client her decision. The best way to illustrate this is through example. The Clinic had been looking for an impact case to bring to court on a particular issue. A group of 7 workers contacted the clinic. After the students' initial interviews and research, the students and the professors assessed that this would be the ideal case for court litigation. The students prepared for the group counseling session. They presented the clients with their analysis of the legal violations and presented the option of pursuing the claim in court or in the administrative forum. They discussed the legal claims that could be brought in each forum, the costs and length of the proceedings, and their responsibility in each forum (demands of discovery v. no discovery). The students disclosed that the Clinic was looking for an impact case to take to court and would be willing to represent them. But the students also stressed that the Clinic would equally represent them in the administrative forum. Sensing some disunity within the group, the students allowed for group process and gave the clients time to meet separately to discuss. The clients decided to file their claims in the administrative arena, with the Clinic representing them. They told us that it was a hard decision for them but they weighed all of the information the students had provided and made a decision that they felt comfortable with.

with the employer. The client may instead choose to file a wage claim. The student will provide accurate information to the client so that she can make an informed decision. If litigation is pursued, the student will consult with the client on all substantive decisions, such as which claims to pursue, whether to file in court or with the administrative agency, at what stage of the litigation to pursue settlement discussions, and of course, weighing all settlement offers. The student will zealously advocate her client's position while maintaining client confidences and remaining within the ethical bounds of professional responsibility.

The Clinic sought to replicate a client-centered approach in its legislative advocacy. Some students commented that they never thought policy work could be client-centered. In fact, the Clinic's past legislative advocacy experience was lawyer-driven. Lawyers dominated the process and we were used to a structure where lawyers testified at hearings, lobbied legislators and drafted the legal and political strategies. However, in grassroots campaigns, the lawyer's role must be limited because the lawyer is not the protagonist in the community's struggle and campaign for reform.¹²⁵

To cede control over most aspects of the legislative process to the CDWC required the Clinic to be fully present and mindful of the lawyer's role. The lawyer provided technical expertise and general guidance and advice to support the broader objective of empowering the members of the coalition to be leaders in their own campaigns.

In reality, though, the line between technical legal expertise and influencing strategy decisions is blurred. Should we present our analysis on proposed bill amendments neutrally? Does our analysis influence the Coalition's decisions? Does our tone betray our preference for the strategy the Coalition should engage in? Respecting the CDWC's autonomy in the in the heat of the legislative campaign required constant vigilance and mindfulness.

As is not unusual with individual clients, the members of the CDWC had a healthy distrust of lawyers. The Clinic had prior relationships with some of the member groups but the Clinic lawyers and students needed to gain the trust of all the members of the CDWC. Some members feared that the lawyers would undermine the grassroots, democratic process by taking over strategic decision-making. The Clinic had to demonstrate early on that it respected the group autonomy of the CDWC and understood its role in the campaign.

To balance the CDWC's autonomy and decision-making structure with our expertise, the Clinic developed a group client-centered

¹²⁵ Gordon, *supra* note 105.

model that forged an alliance between the CDWC and the Clinic. The components of this model included:

- *Acknowledge individual member's experiences.* Each member of the CDWC brought varying skills to the coalition. All of the CDWC constituents were women of color, many of them immigrants and non-English speakers. A large percentage of the CDWC members were domestic workers. Just like in individual client representation, it was important to strip away assumptions about people based on our own class, gender, immigration and race backgrounds. It was important to see the constituents of the CDWC with an anti-essentialist perspective—as individuals, with their own unique experiences and autonomy from the group.¹²⁶
- *Respect collective process.* Grassroots advocacy requires numerous meetings and lengthy processes to arrive at decisions. The Clinic had to be fully engaged in that process, attending meetings, listening deeply and understanding the group dynamics. While the legal team was not always necessary at every meeting, the Clinic attended most of them to better understand and respect the collective process. In these meetings, the lawyers' role was to listen, clarify information and answer questions and to not interfere in decision-making. The simplest way for lawyers to respect collective process is to listen and not talk.
- *Educate.* Just as with individual clients, group clients cannot make decisions without having the requisite knowledge. One of our main tasks was to educate the CDWC on existing rights of domestic workers, the rights of other workers in California, the range of compromise options, and how compromises would affect or change the legal landscape. California's regulatory framework is confusing. Throughout the campaign, the Clinic's main task was to decipher the information for the CDWC in plain English so that its constituents could make informed decisions.
- *Foster Client Decision Making.* The CDWC sought full participation from all member organizations. To the extent possible, all decisions had to be vetted from the steering committee back to the full membership of each organization. The Clinic created

¹²⁶ SUSAN BRYANT, ELLIOT S MILSTEIN, & ANN C. SHALLECK, TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY 388 (2014).

handouts that laid out the issues and the decisions that needed to be made in a simple survey format. The decision-making process was time-consuming but the outcome was much richer because the workers made the campaign's strategic decisions.

- *Support the Client's Narrative.* The campaign was an opportunity for the CDWC to bring to public light the domestic workers' experiences. Equally important as passing the bill, it was important for the CDWC to tell its members' narratives to legislators, allies and the media. The Clinic's role was to support the telling of that narrative when it reviewed worker testimony or materials the coalition drafted in support of the bill. If the materials or testimony was accurate about the law, then it was not the lawyer's prerogative to wordsmith it.

Lawyers played a critical role in the campaign but it was important for us to understand the limits of our expertise. The client-centered structure helped ensure that workers were at the forefront of the grassroots legislative advocacy.

*D. Transformative Learning*¹²⁷

A multi-year policy campaign in a one-semester live-client clinical setting presented unique opportunities for transformative learning as well as a host of challenges. The integrated clinic design illuminated for students the varied roles of attorneys and the contribution they can make to a broader movement for social change.

The Clinic invited the Coalition leadership to come at the beginning of each semester to give the students an overview of the campaign. Through these briefings, students gained a historic perspective on the domestic worker struggle for equal treatment. The briefings helped situate the intersectionality of gender, race and class with the lack of workplace protections. Students were able to connect the struggles of the Latina and Filipina domestic workers to the struggles of African-American domestics in the 1950s and 1960s. An African-American student who attended a mobilization for the bill reflected that, as she marched, she thought of her great grandmother who was a domestic worker.

The legislative campaign also elevated the social justice framework within which the Clinic operated. In the Clinic's casework, students often questioned the exclusion of some domestic workers from basic protections and found it frustrating to have to tell clients that

¹²⁷ Student reflections, especially direct quotes from student journals, are used with permission from the students.

they had no recourse. Issues of justice, equality and fairness have always been central to the Clinic's pedagogy. Applying the law as it is, however, left many students dismayed at the barriers low-wage workers faced within the legal system. The campaign energized and gave hope to students as they saw a vulnerable group of workers shift the cultural dialogue around the value of their work and collectively mobilize to change the law. Students were excited to be "small part of a change that is long overdue."

Among the Clinic's students, those who had previous social justice work experience or policy experience had an even more profound critique of the structural barriers that exploit and limit opportunity for low-wage workers. As the campaign dragged on and the governor vetoed an earlier bill, students felt pessimistic about the bill's prospects, how it would be enforced and whether workers would see real change in their day-to-day lives. In case rounds, students explored these issues and began to grasp the transformative process of the campaign on domestic workers. "The passing of this legislation appears to be only the beginning of a movement that, more than anything, will have to focus on educating, training, and empowering domestic workers," one student's journal reflected.

As the CDWC contemplated making compromises on overtime, students began to critique the economics of cheap and exploitable labor. Reflecting on the opposition to the bill by some disability rights organizations, one student reflected in her journal that home care was not a viable alternative to institutions if "the alternative was based on the subordination and abuse of another marginalized class." The campaign provided a vehicle for these larger discussions of subordination, exploitation and power.

More personally, many students reflected on their own class and race privilege, especially if they had domestic workers clean their homes or care for their loved ones. As students worked closely with CDWC worker leaders, they became aware of the degrees of separation and connection they had with the group.¹²⁸ White students who saw themselves as social justice advocates experienced guilt at their privilege. They struggled with the gap between their desire for solidarity with the workers and their own privilege and power that shielded them from the day-to-day struggles the workers faced. Through conversations and reflections, students grappled with acknowledging and coming to terms with their privilege. The Clinic was a safe space to have these conversations.

¹²⁸ BRYANT, MILSTEIN, & SHALLECK, *supra* note 127, at 393.

CONCLUSION

The Clinic played an important role in the fight to expand legal rights for domestic workers in California. By establishing overtime rights for personal attendants, AB 241 is a first step in valuing domestic labor as real work, and recognizing the dignity of those who care for our loved ones. Expanding our live-client model to include innovative, grassroots legislative advocacy created wonderful opportunities to teach our students the role of the lawyer in grassroots policy advocacy. While there were challenges in integrating students into a large-scale policy project, the Clinic had an opportunity to model the role that lawyers can play in a movement to transform the rights of a marginalized community.

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APPENDIX A
REPRESENTATION AGREEMENT

This agreement is between the Client, the _____ Coalition (“Client”), and the Lawyers, _____ (“Lawyers”).

1. Scope of Representation

The Lawyers will provide the following services to the Client in connection with the legislative campaign for the domestic worker bill of rights:

- Draft bill language and amendments
- Provide legal analysis of materials from opponents, allies, and legislative offices and engage in discussions with these parties
- Assist in strategy discussions
- Work with legislative staff and legislators
- Provide testimony at legislative hearings and other proceedings
- Provide explanations to the membership about the bill
- Review documents as requested by the coalition
- Be available to assist with preparation of member testimony for hearings

This agreement does not cover any other services, including but not limited to any representation of individual workers, unless the Client and the Lawyers sign a separate representation agreement for those services.

2. Client Communication with LAWYER & Decision Making Process

(a) For purposes of this representation, Client agrees that (*names of Coalition representatives*), or their designees are responsible for receiving all communications from LAWYER on behalf of Client and for transmitting all communications from Client to LAWYER. Client agrees that LAWYER may rely on the representations of these individuals as accurate statements of Client’s position and wishes. LAWYER agrees to keep such representatives fully informed concerning all significant developments regarding this representation.

(b) Client has a Steering Committee that is comprised of at least one member of each of the organizations that has entered into this agreement.

(c) Lawyers understand that the decision making process for amending the domestic worker bill of rights involves presenting information to the Steering Committee which will, in turn, seek advice from the membership. Client understands that there may be times when there is not sufficient time for a vote of the membership, in which case the Steering Committee or the representatives described in section will provide direction to the Lawyers about whether or not amendments are acceptable. In no circumstance will

the legal team agree to any amendments or changes to the Bill of Rights without the approval of the steering committee representatives described in section 2(a).

3. Representation by Law Students

Client understands that LAWYER is part of the teaching program at _____ University School of Law. Client also understands and agrees that the Client may receive legal counseling and services from law students enrolled in the program under the supervision of Professors _____ or other supervising attorneys of the Clinic.

Client gives consent to allow these students to perform tasks within the scope of representation, described above, under the general supervision of their supervising attorney, who will review their work in advance.

4. Client's Right to Confidentiality

The law students and their supervisors will keep confidential all communications regarding legislative strategy and will follow the rules governing confidentiality that apply to attorneys. By signing this agreement, the Client permits all law students in the _____ Clinic, Clinic faculty, and any attorneys consulted on matters pertaining to this representation agreement to exchange information among themselves.

5. Conflict of Interest – Acknowledgement and Written Waiver

Each of the organizational representatives signing below has been informed that the Rules of Professional Conduct of the State Bar of California require informed written consent in order for LAWYER to concurrently represent two or more clients with an interest in the same subject matter.

LAWYER has explained the possibility of a conflict of interest among the member organizations of the _____ Coalition. This means that the interests and objectives of one organization related to BILL NUMBER or any other domestic worker bill of rights could become inconsistent with the interests and objectives of another organization.

Our representation of clients with multiple interests has significant implications. If two or more of the organizations in the Coalition became involved in a material dispute regarding BILL NUMBER or any other domestic worker bill of rights and it cannot be resolved, LAWYER will not be able to continue representing the Coalition.

Your signature below indicates agreement that (1) LAWYER has fully informed each organization of the potential conflicts of interest that may arise with this representation; (2) your organization consents to LAWYER's representation of multiple organizations in the Coalition, and (3) your

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organization wishes to continue with LAWYER as the representative, with full knowledge that potential conflicts could arise and the implications of any conflict.

6. What the Client Will Do

The Client agrees to keep the Lawyers informed about new information or materials affecting BILL NUMBER, to promptly respond to telephone calls, letters, e-mails, or text messages, and to promptly advise Lawyers of any conflicts that may arise among the organizations in the Coalition.

7. Fees and Expenses

The Lawyers will provide services at no charge to the Client.

8. Signatures

All signatories agree to the above terms.

_____	_____
Date	LAWERS' NAMES
_____	_____
Date	Name Organization A
_____	_____
Date	Name Organization B
_____	_____
Date	Name Organization C
_____	_____
Date	Name Organization D

(list all organizations and signatory)

Attach applicable Conflict Rules from State Bar

