CLINICAL ACADEMIC FREEDOM: OLD THREATS, NEW PROTECTIONS

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ABSTRACT

In 2025, law school clinics and their academic independence took major blows from all directions. Clinical faculty were investigated for their impact and entire programs' efforts were impeded. This clinical interference came after recent attacks on the legal profession by the Trump administration and the federal government at large. Whether a clinic's representation of particular clients came under Congressional question or their advocacy was hindered and censored by state governments, questions surrounding the scope of clinic academic freedom remain. This Essay seeks to survey and evaluate the current legal landscape of clinic independence in late 2025. Exploring the breadth of First Amendment law and its application to clinical work and administration, this Essay urges and encourages law schools and universities to protect and implement academic freedom protections. This Essay also seeks to support the development of legal theories grounded in the Fifth & Sixth Amendments and the right to counsel to further shield legal clinicians and their work from relentless attacks and undue pressure. As times go on, there will be no shortage of critical work and representation for our students and clinicians to embark on. The question is, how far will we go to protect the legal profession and the clients and clinics that ground it?

INTRODUCTION

Clinical legal academic freedom is under siege. In 2025, we witnessed three high-profile examples of clinical faculty and programs threatened for

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their work, advocacy, and research.[1] While such attacks have a distressingly long lineage in the history of clinical legal education,[2] these attacks have come from the highest levels of the federal government—a disturbing new twist on an old tale.[3]

Protecting the rights and responsibilities of clinical faculty to represent their clients and communities will remain critical in an era of rising authoritarianism and increasingly limited legal resources. Clinical independence shares some characteristics with other struggles to protect the right of attorneys to represent their clients—most notably, the lawsuits brought by multiple law firms targeted by President Trump's executive orders to enjoin them.[4] But clinical programs have unique characteristics as

1. *See* Karen Sloan, *U.S. House Probes Northwestern's Law Clinic Over Representation of Pro-Palestinian Protestors*, REUTERS (Apr. 1, 2025), https://www.reuters.com/legal/government/us-house-probes-northwesterns-law-clinic-over-representation-pro-palestine-2025-04-01/ [https://perma.cc/92V7-YK3Q]; Vimal Patel et al., *University Leaders Reject Republican Attacks on Campus Anti-Semitism*, N.Y. TIMES (July 15, 2025), https://www.nytimes.com/2025/07/15/us/politics/antisemitism-hearing-uc-berkeley-georgetown-cuny.html [https://perma.cc/9PYK-VZM5]; Terry L. Jones, *Tulane University Scientist Resigns Citing Environmental Censorship*, THE GUARDIAN (June 13, 2025), https://www.theguardian.com/us-news/2025/jun/13/tulane-university-scientist-resign [https://perma.cc/BW8Z-SG7L]. In early 2026, the University of Arkansas revoked a deanship offer it had finalized with Emily Suski, a tenured professor and clinician at the University of South Carolina; Professor Suski's sign-on to an Supreme Court amicus brief supporting trans rights supposedly irritated Arkansas legislators. *See* Stephanie Saul, *Arkansas Rescinds Choice of Law School Dean Over Transgender Stance*, N.Y. TIMES (Jan. 15, 2026), https://www.nytimes.com/2026/01/15/us/politics/university-of-arkansas-dean-emily-suski-transgender.html [https://perma.cc/P5TD-CR72]. Though the recission of Suski's signed offer did not relate to her clinical work, the political backlash to her perceived advocacy on behalf of a marginalized community fits within the larger pattern of clinical interference.

2. *See, e.g.*, Elizabeth M. Schneider, *Political Interference in Law School Clinical Programs: Reflections on Outside Interference and Academic Freedom*, 11 J.C. & U.L. 179, 180 (1984).

> Since the early years of clinical education, state legislators and private groups have attempted to interfere with the curriculum of law school clinical programs, particularly at state law schools. The goal has been clearly expressed: to stop law school 'live-case' clinics from involvement in public interest litigation. Recently there has been a resurgence of attacks on clinical programs through legislation, litigation, and public pressure, as part of a broader war on legal services and public interest legal groups spearheaded by the Reagan administration and supported by legislators, private right-wing groups, and corporations.

Id.

3. *See, e.g.*, Sara Weissman, *Congress Targets Northwestern Legal Clinics*, INSIDE HIGHER ED (Apr. 7, 2025), https://www.insidehighered.com/news/government/politics-elections/2025/04/07/northwesterns-legal-clinics-draw-scrutiny-congress [https://perma.cc/NM7B-C6KL] ("But while scrutiny of law clinics isn't new, the investigation into Northwestern is the first time policymakers at the federal level have interfered, as far as Kuehn knows.").

4. *See, e.g.*, Ryan Lucas, *A Fourth Judge Has Blocked a Trump Executive Order Targeting Elite Law Firms*, NPR (June 27, 2025), https://www.npr.org/2025/06/27/g-s1-70443/trump-law-firm-

legal organizations situated within public and private universities. Some legal and practical protections available to independent legal organizations remain unavailable (either practically or definitionally) to clinical programs. Clinical programs also benefit, to a degree, from academic freedom protections as both a practical and rhetorical matter. Our colleagues in non-academic legal practice generally cannot invoke those protections.

This Essay surveys the current landscape of clinical independence in late 2025. It explores the First Amendment doctrine maps on to legal representation and how those principles apply in the context of clinical work. It also explores the current dynamics of clinical academic freedom and how clinical programs, law schools, and universities should conceptualize and implement strong academic freedom protections. Finally, this Essay encourages the development of additional legal theories—centered on the Fifth and Sixth Amendments and right to counsel—to protect clinical programs and the legal profession as a whole. In an era of multifaceted, relentless pressures and attacks, clinical faculty will need to work creatively, with multiple lines of protection, to ensure the stability and flourishing of their work.

The Essay proceeds in three Parts. Part I describes the history of clinical interference and three examples from 2025 that highlight how clinical faculty and staff have experienced pressures from various sources, including government, industry, and their own universities. Part II compares these incidents to cases filed by law firms challenging President Trump's executive orders as unconstitutional infringements on their rights to represent clients. Part III explores how those cases resound in the clinical context and argues for both robust First Amendment and academic freedom protections for law school clinical faculty. It concludes with a discussion of how other rights frameworks could help support clinical work and lawyers more generally.

Given the state of the judiciary and the reality that not every instance of clinical interference will give rise to a justiciable claim, clinicians and their allies must explore every option, even those that seem fanciful or difficult. Our work has always imagined a world beyond the horizon. Without that vision for justice, we could not fully represent our clients and our movements, which so often inhabit a world opposed to their existence. I

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susman-godfrey-ruling [https://perma.cc/VE4E-8UX8].

hope that this Essay contributes to the larger movement to create a better world for our clients, which requires us to create strong protections for the work we do in representing them.

I. CLINICAL INTERFERENCE: WHAT'S OLD IS NEW AGAIN

A. The History of Clinical Interference

The modern clinical education movement originated in the mid-20th century.[5] Unfortunately, the history of clinical interference dates nearly as long. Robert Kuehn, Peter Joy, and Bridget McCormack have written extensively on specific instances of clinical interference.[6] Their work highlights consistent themes across the episodes they describe.

Professor Kuehn and Professor Joy argue that attacks "appear to be motivated by a desire to protect the financial interests of clients, alumni, and university donors."[7] They also observe that public law schools have become "the predominant target" for interference[8]—unsurprisingly, given that such law schools receive funding from the state. Legislatures may use their power of the purse to pressure law schools; courts, in their view, have proven more protective of clinical independence.[9]

In a subsequent Article, Professor Kuehn and the Honorable Bridget McCormack set forth a classification system based on the type of interference, defining three categories: (1) case and client selection restrictions; (2) funding restrictions; (3) and practice restrictions.[10] Case and client restrictions target the ability of a clinic to represent an unpopular client. Funding restrictions threaten to withhold financial resources from the law school (or, in fact, *do* actually withhold funds). Practice restrictions impede the ability of clinical supervising attorneys to independently

5. *See, e.g.*, J.P. "Sandy" Ogilvy, *Celebrating CLEPR's 40th Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLINICAL L. REV. 1 (2009) (describing the origins of the modern iteration of clinical legal education).

6. *See generally* Robert R. Kuehn & Peter A. Joy, *An Ethics Critique of Interference in Law School Clinics*, 71 FORDHAM L. REV. 1971 (2003); Robert R. Kuehn & Bridget M. McCormack, *Lessons from Forty Years of Interference in Law School Clinics*, 24 GEO. J. LEGAL ETHICS 59 (2010); PETER A. JOY & ROBERT R. KUEHN, AN ANTHOLOGY OF INTERFERENCE IN LAW SCHOOL CLINICS (2025).

7. Kuehn & Joy, *supra* note 6, at 1990.

8. *Id.*

9. *Id.* at 1990–91 ("Courts, however, generally have been protective of law school clinics and their supervising attorneys.").

10. Kuehn & McCormack, *supra* note 6, at 60–61.

represent their clients.[11]

Professor Kuehn and the Honorable Bridget McCormack, having surveyed instances of clinical interference and surveyed clinical faculty, distill their findings to a few principles. Two of these principles seem particularly relevant to this Essay: first, that arguments invoking clinical academic freedom have failed to persuade skeptical audiences;[12] and second, that invocations of professional responsibility and ethical rules can prove effective in combating interference.[13]

In the years since Professor Kuehn, Professor Joy, and the Honorable Bridget McCormack published their Articles, the ABA has adopted Standard 208, which mandates that law schools must adopt academic freedom policies that apply to "all full-time and part-time faculty, as well as to all others teaching in law school courses."[14] Such policies apply to "exercising teaching responsibilities, including those related to client representation in clinical programs."[15] As a relatively new standard, it remains unclear how broad—and potentially unenforceable—language will effectively protect clinicians from interference in their clinical work, particularly given that such standards have little if anything to say about interference coming from *outside* the law school or university. However, even the very existence of Standard 208 helps support clinicians seeking to protect their clients and students.[16]

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11. *Id.* at 61–74.

12. *Id.* at 83 ("[A]ppeals to principles of academic freedom have not often been effective or respected, either outside or within the university setting.").

13. *Id.* at 85 ("[A]rguments based on legal ethics and professional responsibility are appropriate to deflect outside interference and can be successful.")

14. ABA STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS. § 208 (A.B.A. 2025) (for the 2025-2026 academic year).

15. *Id.*

16. The ABA and AALS have published guidance on how to protect academic freedom for law faculty pursuant to their standards and principles. *See, e.g.*, Memorandum from the A.B.A. Managing Director on Guidance Regarding § 208 (Apr. 2025), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/guidance-memos/2025/25-april-standard-208-guidance-memo.pdf) [https://perma.cc/WLY2-EEXK]; Press Release, Am. Ass'n of L. Schs., Statement of the Association of American Law Schools in Support of Academic Freedom for Clinical Faculty (Jan. 1, 2001), https://connect.aals.org/viewdocument/association-of-american-law-schools [https://perma.cc/H86D-DKEP].

B. Clinical Interference in 2025

Amid heightened political polarization;[17] attacks on higher education;[18] and trampling on the rights of those with the fewest resources;[19] the onslaught against clinical work seems both sadly predictable and a facet of larger threats to American democracy. In the wake of the United States's 2024 presidential election, the possibility for threats and intimidation against clinical faculty (among many others) seemed quite stark. The Association of American Law Schools (AALS) Section on Clinical Legal Education and the Clinical Legal Education Association (CLEA) convened to create the Joint Academic Freedom Committee (JAFC), which I currently chair. That committee continues the work of previous efforts to protect clinicians from external interference, including the Political Interference Group (PIG). One resource we have developed, a statement of principles, helps clinicians and law schools set forth how to conceptualize clinical work with a framework to insulate that work from political interference.[20]

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17. *See, e.g.*, Isaac Chotiner, *Where Political Violence Comes From*, NEW YORKER (Sept. 15, 2025), https://www.newyorker.com/news/q-and-a/where-political-violence-comes-from [https://perma.cc/GX79-QGQC] (discussing in an interview with political scientist Lilliana Mason, at Johns Hopkins, the connections between extreme partisanship and political polarization).

18. *See*, *e.g.*, Claudine Gay, *What Happened at Harvard is Bigger than Me*, N.Y. TIMES (Jan. 3, 2024), https://www.nytimes.com/2024/01/03/opinion/claudine-gay-harvard-president.html [https://perma.cc/6YBA-UZ2U].

> On Tuesday, I made the wrenching but necessary decision to resign as Harvard's president. For weeks, both I and the institution to which I've devoted my professional life have been under attack. . . . My hope is that by stepping down I will deny demagogues the opportunity to further weaponize my presidency in their campaign to undermine the ideals animating Harvard since its founding: excellence, openness, independence, truth.

Id.; *See also* Evan Mandery, *The First Casualty in the War Against Elite Universities*, POLITICO (June 2, 2025), https://www.politico.com/news/magazine/2025/06/02/liz-magill-college-antisemitism-university-pennsylvania-00338864 [https://perma.cc/C4SD-PWJT].

> Magill has been watching Trump's assault on universities with great interest and concern. Looking back, she wishes things had gone differently but remains committed to the core beliefs that animated her actions. "I defended higher education and constitutional principles under extraordinary pressure. If anything, one year later, those values seem more important than ever."

Id.

19. *See, e.g.*, Hilary Beaumont, *Los Angeles on Edge as Agents Threaten to "Flood the Zone" with Immigration Raids*, THE GUARDIAN (Sep. 14, 2025), https://www.theguardian.com/us-news/2025/sep/14/los-angeles-immigration-raids [https://perma.cc/Q42X-EJU8] (describing federal agents seeking to apprehend individuals without warrants based on skin color, accent, or employment).

20. *Statement of Principles*, AALS-CLEA JOINT ACAD. FREEDOM COMM.,

It did not take long for incidents of political interference to come to light. In late March 2025, the House Committee on Education and Workforce sent a letter to Northwestern University requesting information regarding the Law School's Bluhm Legal Clinic and a specific clinician, Sheila Bedi, who directs the Community Justice and Civil Rights Clinic.[21] That letter alleged that the Clinic's representation of pro-Palestinian activists "raises serious questions," claiming that doing so supported "illegal, antisemitic conduct."[22] More generally, the letter described the clinic as "us[ing] Northwestern's name and resources to engage in progressive-left political advocacy."[23] Chillingly, the letter claims "Northwestern's decision to fund left-wing advocacy with its institutional resources heightens significant concerns about the university's role as a steward of taxpayer dollars."[24]

The House Committee thus demanded Northwestern turn over a swath of documents, including:

> 1. All written policies, procedures, and guidance relating to the function of legal clinics at Northwestern Law, including any written guidance on what constitutes appropriate work, and direction on appropriate client representations;
> 2. A detailed budget for the Bluhm Legal Clinic, including detailed budgets for its more than 20 clinics and 12 centers.
> 3. A list of the sources of Bluhm Legal Clinic's funding, including the funding for each of its centers and clinics;
> 4. A list of all the Community Justice and Civil Rights Clinic's payments to people or groups not employed by

https://docs.google.com/document/d/1c7yrFZeel5MvCC5rEZtSvpKhtCSJ9BUTQHGB9vAgHiE/edit?usp=sharing [https://perma.cc/AC6U-MDJG] (last visited Feb. 16, 2026).

21. HOUSE COMM. ON EDUC. AND WORKFORCE, LETTER TO NORTHWESTERN UNIV. (2025), https://edworkforce.house.gov/uploadedfiles/ltr_to_northwestern_3.27.25.pdf [https://perma.cc/NR3A-BQDH].

22. *Id*. at 1. That characterization was not intended to be complimentary, as the letter also describes the clinic's work as "troubling." *Id.*

23. *Id*. at 2.

24. *Id*. at 3.

> Northwestern and any of its clinics and centers since 2020; and
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> 5. All hiring materials and performance reviews for Sheila A. Bedi.[25]

In response, Professor Bedi and a colleague, Lynn Cohn, filed suit against the House Committee arguing that the request violated their free speech and due process rights.[26] Professor Bedi and Professor Cohn's suit, along with a motion for a temporary restraining order,[27] argued that the government's actions infringed Professor Bedi's First, Fifth, and Sixth Amendment rights; these arguments shared, in part, with claims made by law firms targeted by the White House executive orders.[28] Just before the temporary restraining order hearing, the House Committee dropped its request.[29]

In Spring 2025, Kimberly Terrell, a staff scientist in Tulane's Environmental Law Clinic resigned in response to what she called a "gag order" mandated by Tulane and a perceived lack of academic freedom in her work.[30] That work had drawn negative attention from powerful interests in Louisiana; around the same time, Tulane initiated a review of the Law School's clinical program.[31] As pressure mounted, Tulane's dean required clinical faculty and staff to seek pre-approval from the dean before making external statements separate from client representation.[32]

Kimberly Terrell asserted that these requirements stemmed from her clinic's advocacy and claimed that pressure from the state government led to their creation.[33] The Environmental Law Clinic's advocacy had allegedly

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25. *Id.*

26. Complaint at 3, Bedi v. U.S. House of Reps. Comm. on Educ. & Workforce, No. 1:25-CV-03837 (N.D. Ill. Apr. 9, 2025). In the interest of disclosure, I served as part of Professor Bedi's legal team, though I did not directly work on the litigation.

27. *Id.*

28. *Infra*, Part II.

29. Karen Sloan, *U.S. House Drops Probe for Data from University Over Pro-Palestinian Protestor Cases*, REUTERS (Apr. 10, 2025), https://www.reuters.com/world/us/us-house-drops-probe-data-university-over-pro-palestinian-protestor-cases-2025-04-10/ [https://perma.cc/3TGZ-63ZU].

30. Kimberly Terrell, *Censored by My Own University*, THE CHRON. OF HIGHER EDUC., (Aug. 6, 2025), https://www.chronicle.com/article/censored-by-my-own-university [https://perma.cc/EKT9-9CAT].

31. *Id.*

32. *Id.*

33. *Id.*

irritated private industry, including powerful oil and gas interests, leading to the pressure on the clinic from both Tulane and the state government.[34] Both the university and Louisiana disputed those claims.[35]

In July 2025, during a House Committee on Education hearing, Representative Elise Stefanik questioned the Chancellor of the City University of New York regarding the legal work of Creating Law Enforcement Accountability & Responsibility (CLEAR), a CUNY Law clinic. Representative Stefanik argued that CLEAR's legal work on behalf of Mahmoud Khalil was suspect, and that CUNY Law Professor Ramzi Kassem, who leads CLEAR, should face some sort of discipline.[36] Observers asserted that Representative Stefanik seemed to imply that CUNY did something wrong—and potentially something antisemitic—by representing Mahmoud Khalil.[37] While CUNY does not seem to have pressured CLEAR in the aftermath of Representative Stefanik's attacks, Representative Stefanik's lack of justification and jawboning[38] on a specific attorney-client relationship highlights the willingness of some high-profile federal officials to pressure clinical work.

These examples serve as the most notorious in recent months, but likely not the only ones. Political interference takes many forms, from subtle to heavy-handed. Affected faculty and staff may choose to not speak publicly on such matters due to threats or fears of reprisal. The clinical community and legal academia cannot therefore ever know exactly how pervasive the problem of political interference has become. What does seem obvious—

34. *Id.*

35. *See* Jones, *supra* note 1.

36. *See* Patel et al., *supra* note 1.

> Representative Elise Stefanik of New York said that Ramzi Kassem, a CUNY law professor who runs a law clinic at the school known as CLEAR, should be disciplined or fired for serving as a lawyer for Mahmoud Khalil, a permanent resident who was detained by the Trump administration, which continues to seek to deport him.

Id.

37. *See, e.g.*, Luca Goldmansour, *CUNY's Repression of Pro-Palestine Students Continues in Front of Congress*, THE NATION (July 21, 2025), https://www.thenation.com/article/politics/cuny-house-republicans-hearing-repression/ [https://perma.cc/MX7P-LE5E].

38. Jawboning, in First Amendment parlance, refers to efforts of state actors to informally pressure private actors to do what the government cannot do formally; I discuss jawboning more fully *infra* Part II. For a further exploration of the complexities of jawboning, see generally Genevieve Lakier, *Enforcing the First Amendment in an Era of Jawboning*, 93 U. CHI. L. REV. (forthcoming 2026), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5162523 [https://perma.cc/XVN4-3B9K].

and different in this moment—is the brazenness of those seeking to pressure clinical faculty and staff. Even clinicians who have seen many instances of political interference cannot recall the federal government actively obstructing and intimidating clinical practice.[39]

While JAFC, AALS, CLEA, and other groups and individuals in the clinical movement work to protect the academic and professional freedoms of clinicians, definitionally we cannot devise defense strategies for every situation. Opponents of clinical work can inevitably find novel methods of intimidation. Threats may remain *sotto voce* or plausibly deniable. And not every situation gives rise to a legal solution—or even an obvious policy strategy. Crucially, some clinical faculty and staff may choose forbearance or compliance in the face of a threat to avoid even harsher consequences.

II. THE LAW FIRM EXECUTIVE ORDERS

Recent attacks on the legal profession from powerful interests and governmental actors have extended beyond clinical education. In its first few months, the Trump Administration issued multiple executive orders targeting law firms;[40] those orders proclaimed that each firm had misstepped for various reasons and limited their abilities to represent clients.[41]

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39. *See* Sloan, *supra* note 1 ("Robert Kuehn, a clinical professor at Washington University in St. Louis' law school, said he could not recall another instance when the federal government targeted a law school clinic, though clinics have previously come under scrutiny by state lawmakers for representing unpopular clients.").

40. *See, e.g.*, Eric Tucker, *Trump Reaches Deals with Five Law Firms, Allowing Them to Avoid Prospect of Punishing Executive Orders*, ASSOCIATED PRESS (Apr. 11, 2025), https://apnews.com/article/trump-law-firms-executive-order-fe8f38a61cf77c5bb6add1315f5f96f1 [https://perma.cc/8J7N-7MGH].

> The spate of executive orders directed at the legal community and top law firms over the last two months has been part of a broader effort by Trump to reshape civil society and to extract concessions from entities whose work he opposes. The orders have threatened to upend the day-to-day business of the firms by stripping their lawyers' security clearances, barring their employees from access to federal buildings and terminating federal contracts held by the firms or their clients.

Id.

41. *See, e.g.*, Michael S. Schmidt, *Law Firm Bends in Face of Trump Demands*, N.Y. TIMES (Mar. 20, 2025), https://www.nytimes.com/2025/03/20/us/politics/paul-weiss-deal-trump-executive-order-withdrawn.html [https://perma.cc/3FTM-6EFL].

> Mr. Trump said he was taking the action to punish [Paul, Weiss] for its ties to a lawyer who had pushed for him to be indicted and another who had brought a lawsuit against Jan. 6 rioters. The order barred the firm's lawyers from dealing with the federal government and raised the possibility that its clients would lose

While some firms settled with the White House, four firms—Perkins Coie, Jenner & Block, WilmerHale, and Susman Godfrey—filed lawsuits challenging the orders. Each firm prevailed in federal district court,[42] and the Trump Administration has responded with appeals in the U.S. Court of Appeals for the District of Columbia Circuit.[43] The American Bar Association filed a separate lawsuit in an attempt to prevent the Trump Administration from filing claims against less resourced firms.[44]

The law firms challenged various provisions of the executive orders on a number of grounds. The executive orders' language targeting the attorney-client relationships of the law firms to disfavored clients is particularly relevant to clinicians, as they relate to the attacks on clinical academic freedom. The law firms each argued, like Professor Bedi had, that the government had infringed their First, Fifth, and Sixth Amendment rights. Courts have generally agreed with the law firms' characterizations, as exemplified by the first decision, for Perkins Coie.[45] In her summary judgment opinion, Judge Beryl Howell held that, Perkins Coie "has amply demonstrated entitlement to summary judgment on its claims that EO 14230 violates the First, Fifth and Sixth Amendments."[46]

My colleague Brad Wendel noted, in analyzing the law firm decisions, that the First Amendment claims tended to provide much of the force supporting the prevailing rulings for the law firms. In Professor Wendel's

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their government contracts.

Id.

42. *See, e.g.*, Zach Montague, *Judge Strikes Down Trump Order Targeting Another Top Law Firm*, N.Y. TIMES (June 27, 2025), https://www.nytimes.com/2025/06/27/us/politics/trump-susan-godfrey-law-firm-order.html [https://perma.cc/488L-3K4R] ("[The decision] also completed a perfect record among those firms that risked fighting the administration in court, notching four decisive rulings from four separate judges, none of which the Trump administration has, so far, tried to appeal."). In the interest of disclosure, I signed on to amicus briefs supporting the law firms in some of these cases.

43. *See, e.g.*, David Thomas, *Trump Files Appeal to Revive Executive Order Against Law Firm Susman Godfrey*, REUTERS (Aug. 22, 2025), https://www.reuters.com/legal/government/trump-files-appeal-revive-executive-order-against-law-firm-susman-godfrey-2025-08-22/ [https://perma.cc/LAT2-96PK] (discussing the Trump Administration's appeal of the Susman Godfrey decision).

44. *See* Devlin Barrett, *American Bar Association Sues Trump Administration*, N.Y. TIMES (June 16, 2025), https://www.nytimes.com/2025/06/16/us/american-bar-association-sues-trump-administration.html [https://perma.cc/C384-B9Y9] ("While some firms are now protected by specific court orders, [the ABA president] said, 'there's thousands of lawyers who are not party to those cases and don't have the resources to withstand that intimidation, and we're standing up for them.'").

45. *See, e.g.*, Perkins Coie v. U.S. Dep't of Just., 783 F. Supp. 3d 105, 149–177 (D.D.C. 2025) (discussing constitutional claims on various aspects of the Executive Order targeting Perkins Coie).

46. *Id.* at 177.

view, "First Amendment retaliation is the star of the show,"[47] and various opinions substantiate this reading. Much of the doctrinal work protecting the operations of the law firms and their choices of whom to represent rest upon "subsets of more general norms such as free speech, freedom of association, due process, and limitations on executive power."[48] In Professor Wendel's analysis, a specific constitutional basis protecting the right to counsel "is, perhaps surprisingly, underdeveloped outside the context of criminal defense representation. And the idea of the independence of the legal profession mostly shows up as a principle in the separation of legislative and judicial branch power to regulate the profession."[49]

The reliance upon the First Amendment to shoulder much of the burden of protecting the abilities of lawyers to practice from governmental interference may seem an odd fit, but it has a storied pedigree in constitutional law and for legal ethics scholars. The foundational case from 1963, *NAACP v. Button*,[50] concerned a challenge to a Virginia professional responsibility law which limited the National Association for the Advancement of Colored People's (NAACP) ability to advocate on behalf of its members. In 1956, Virginia enacted a statute, Chapter 33 of the Acts of Assembly, to limit the use of agents to solicit legal business in which an organization did not serve as a party.[51] The NAACP, which frequently relied upon local lawyers to help develop cases, knew that Chapter 33 could imperil its operations in Virginia; indeed, the law and other state legislation was designed precisely to stymie the NAACP's operations.[52]

The Supreme Court held that Chapter 33 infringed upon the First Amendment rights of the NAACP to associate with members and to express itself.[53] Justice Brennan observed that "although the petitioner has amply

47. Brad Wendel, *Law Firm Executive Orders: Endgame*, SUBSTACK: LEGAL ETHICS STUFF (July 8, 2025), https://bradwendel.substack.com/p/law-firm-executive-orders-endgame [https://perma.cc/RC6H-PADM].

48. *Id.*

49. *Id.*

50. *See generally* 371 U.S. 415 (1963).

51. *Id.* at 423–26.

52. *See* Noah A. Rosenblum, *Power-Conscious Professional Responsibility: Justice Black's Unpublished Dissent and a Lost Alternative Approach to the Ethics of Cause Lawyering*, 34 GEO. J. LEGAL ETHICS 125, 148–49 (2021) (discussing the historical origins of *NAACP v. Button*).

53. *Button*, 371 U.S. at 428–29.

> We hold that the activities of the NAACP, its affiliates and legal staff shown on

shown that its activities fall within the First Amendment's protections, the State has failed to advance any substantial regulatory interest, in the form of substantive evils flowing from petitioner's activities, which can justify the broad prohibitions which it has imposed."[54] In the Court's view, the work of the NAACP to represent clients constituted protected First Amendment activity that the state could not permissibly regulate. While states can regulate legal practice, the activities of the NAACP did not constitute improper solicitation (or the common law torts of barratry, champerty, or maintenance) that might justify regulation as excessive as Chapter 33.[55]

Two subsequent cases built upon *Button* in providing First Amendment protections for legal practice and against retaliation or indirect pressure. *Legal Services Corporation v. Velazquez* concerned a challenge to the Legal Services Corporation's (LSC) conditioning of funds to grantees and clients.[56] LSC's conditions prevented grantees from accepting "representations designed to change welfare laws, much less argue against the constitutionality or statutory validity of those laws."[57] If a constitutional or statutory issue arose during representation, the attorney would need to withdraw.[58]

> this record are modes of expression and association protected by the First and Fourteenth Amendments which Virginia may not prohibit, under its power to regulate the legal profession, as improper solicitation of legal business violative of Chapter 33 and the Canons of Professional Ethics.

Id.

54. *Id.* at 444.

55. *Id.* at 442–43. Part of the Court's reasoning rests on the NAACP's lack of a financial interests in pro bono litigation, and the lack of evidence of any conflicts of interests.

> There has been no showing of a serious danger here of professionally reprehensible conflicts of interest which rules against solicitation frequently seek to prevent. This is so partly because no monetary stakes are involved, and so there is no danger that the attorney will desert or subvert the paramount interests of his client to enrich himself or an outside sponsor. And the aims and interests of NAACP have not been shown to conflict with those of its members and nonmember Negro litigants.

Id. See generally Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 YALE L. J. 470 (1976) (documenting the diverging interests of NAACP attorneys and their clients in school desegregation cases, in which attorneys and clients had potentially conflicting goals).

56. *See generally* 531 U.S. 533 (2001).

57. *Id.* at 539.

58. *Id.*

The Court struck down these restrictions as a violation of attorneys' First Amendment rights. Though Congress had no obligation to establish the LSC, once it did, it could not impose viewpoint-discriminatory requirements upon the practice of law.[59] Justice Kennedy's majority opinion specifically notes that "[r]estricting LSC attorneys in advising their clients and in presenting arguments and analyses to the courts distorts the legal system by altering the traditional role of the attorneys."[60] Heidi Kitrosser describes this as the Court's burgeoning anti-distortion principle (operative in both this context and others), in which "the government may not impose conditions on subsidized speech that would distort the very nature of the type of speech at issue or the process through which it is created."[61] In the context of legal representation, the need to preserve core values of lawyering and functioning of the judiciary mandates the absence of government interference.[62]

Most recently, the Court unanimously held in *National Rifle Association of America v. Vullo* that, "Government officials cannot attempt to coerce private parties in order to punish or suppress views that the government disfavors."[63] *Vullo* concerns the "jawboning" phenomenon, in which government actors attempt to informally pressure private parties; the Court rejected that approach in the case as an improper end run around First Amendment requirements.[64] *Vullo* serves a critical role in the law firms' challenges to the executive orders; each of the four district court cases

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59. *Id.* at 548.

> The LSC and the United States, however, in effect ask us to permit Congress to define the scope of the litigation it funds to exclude certain vital theories and ideas. The attempted restriction is designed to insulate the Government's interpretation of the Constitution from judicial challenge. The Constitution does not permit the Government to confine litigants and their attorneys in this manner.

Id.

60. *Id.* at 544.

61. Heidi Kitrosser, *Distorting the Press*, KNIGHT FIRST AMEND. INST. AT COLUM. UNIV. (July 16, 2024), https://knightcolumbia.org/content/distorting-the-press [https://perma.cc/3S4U-WF2E].

62. *Velazquez*, 531 U.S. at 544 ("[The government] may not design a subsidy to effect this serious and fundamental restriction on advocacy of attorneys and the functioning of the judiciary.").

63. 602 U.S. 175, 180 (2024).

64. *Id.* at 197–98 ("The NRA's allegations, if true, highlight the constitutional concerns with the kind of intermediary strategy that Vullo purportedly adopted to target the NRA's advocacy. Such a strategy allows government officials to 'expand their regulatory jurisdiction to suppress the speech of organizations that they have no direct control over.'").

evaluating their challenges has cited it.[65] As Genevieve Lakier argues in a forthcoming Article, *Vullo* not only reaffirms the Supreme Court's precedent restricting jawboning, it eschews a formalistic approach to evaluating those claims.[66] Professor Lakier notes that,

> Recognizing the categorical nature of the rule against constitutional evasion is important for another reason as well: it suggests what other actors in the political system can and should be doing to protect the independence of the democratic public sphere from the exercise of informal power. The institutional incentives that make jawboning a powerful tactic of speech suppression also make it unlikely that all incidents of even strongly coercive informal

65. Susman Godfrey LLP v. Exec. Off. of the President, 789 F. Supp. 3d 15, 37 (D.D.C. 2025).

> The court agrees with Susman. As the Supreme Court made clear in *National Rifle Ass'n of America v. Vullo*, 602 U.S. 175 (2024), "[a] government official can share h[is] views freely and criticize particular beliefs, and [ ]he can do so forcefully in the hopes of persuading others to follow h[is] lead. What [ ]he cannot do, however, is use the power of the State to punish or suppress disfavored expression."

Id. (internal citations omitted); Wilmer Cutler Pickering Hale and Dorr LLP v. Exec. Off. of the President, 784 F. Supp. 3d 127, 153–54 (D.D.C. 2025) ("As the Supreme Court stated in *Vullo*, 'a government official cannot do indirectly what she is barred from doing directly: A government official cannot coerce a private party to punish or suppress disfavored speech on her behalf.'" (internal citations omitted)); Jenner & Block LLP v. U.S. Dep't of Just., 784 F. Supp. 3d 76, 108 (D.D.C. 2025).

> Like the defendants [in] *Bantam Books* and *Vullo*, the defendants here have identified a speaker they don't like; have threatened action against third parties unless the third parties disassociate from the speaker; and have tried to evade First Amendment scrutiny by recasting their actions not as speech suppression but as law enforcement. Like the Supreme Court in *Bantam Books* and *Vullo*, this Court will not allow the defendants to evade the procedural protections that would normally attend law enforcement by instituting "a scheme of state censorship effectuated by extralegal sanctions."

Id. (internal citations omitted); Perkins Coie LLP v. U.S. Dep't of Just., 783 F. Supp. 3d 105, 151 (D.D.C. 2025).

> [T]he government may not "use the power of the State to punish or suppress disfavored expression," nor use threats of "legal sanctions and other means of coercion . . . to achieve the suppression of disfavored speech," Retaliation and threats of retaliation to effectuate viewpoint discrimination "is uniquely harmful to a free and democratic society."

Id. (internal citations omitted).

66. *See* Genevieve Lakier, *Enforcing the First Amendment in an Era of Jawboning*, 93 U. CHI. L. REV. (unpublished manuscript at 2–5) (forthcoming 2026), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5162523 [https://perma.cc/27TY-DJEN].

> pressure will make their way into court. This means that it cannot only be up to courts to tackle the problem of constitutional evasion.[67]

In the context of the law firm executive orders and threats on clinical academic freedom, this observation emphasizes the strengths and shortcomings of First Amendment protections in the context of protection of lawyer-client relationships. Cases like *Button*, *Velazquez*, and *Vullo* can do necessary and powerful work to protect *some* lawyer-client relationships against *some* types of political interference (for both clinicians and lawyers more generally). But these cases cannot protect against the universe of potential interference, for a myriad of reasons. Most obviously, those who seek to stymie clinical work can read case law as well as anyone else to employ strategies that evade the First Amendment precedents that the law firms have successfully invoked.

In his re-examination of Justice Black's "lost dissent" in *Button*, Noah Rosenblum powerfully critiques the limits of the First Amendment approach to protect lawyer-client relationships.[68] As Professor Rosenblum explores, *Button* had a more winding journey than most lawyers or scholars realize; initially, in its incarnation as *NAACP v. Gray*, the case would have been decided in favor of Virginia, with Justices Brennan and Black in dissent.[69] However, prior to the issuance of the *Gray* decision, two Justices stepped down and the parties reargued the case.[70] Brennan maneuvered to persuade the two new Justices to join his side, and crafted a majority opinion that adopted a race-neutral argument grounded in egalitarian First Amendment principles, rather than the race- and power-conscious approach that Justice Black had employed in his draft *Gray* dissent.[71]

Professor Rosenblum laments the abandonment of Justice Black's power-conscious approach in favor of Justice Brennan's neutral invocation of First Amendment principles and argues in favor of Black's approach:

> Black's approach to policy litigation actualizes this democracy-forcing sensibility [articulated in Footnote 4 of

67. *Id.* at 5.
68. Rosenblum, *supra* note 52, at 184–85.
69. *Id.* at 167–69.
70. *Id.* at 169–70.
71. *Id.* at 177–80.

> *Carolene Products*]. Where a group or cause can assert itself through traditional democratic politics, the Court need not be particularly solicitous of its concerns. But where it suffers from the pathologies of democracy, the Court should relax its ordinary strictness. It is judicially relevant that a particular group or cause has been kept out of the ordinary means of making policy. Where its grievances are legitimate, and no other outlet is available for it but unrest, the Court should note this fact and make sure that the country's tribunals are open.[72]

I echo Professor Rosenblum's concerns and note their application in the clinical context. Adopting Justice Black's approach to the issues invoked by Virginia's Chapter 33 in *NAACP v. Button* would more fulsomely protect clinical work, as many—if not most—clinicians work on behalf of clients and communities that lack social and political power. Protecting the rights of those lawyers to represent clients outside of the First Amendment framework, with a more theoretically sound justification, might cover more activity than what *Button*'s reasoning safeguards.

Moreover, cramming the attorney-client relationship into the First Amendment clown car has always registered oddly. While Brennan in *Button* rightfully described the relationship between NAACP attorneys and their clients as associational, and thus protected by the First Amendment, the need for functioning legal systems invokes broader constitutional interests than merely the First Amendment. Moreover, describing the First Amendment as the primary home for protection of lawyer-client relationships would likely cause some head scratching from lawyers and clients who may see their independence as worth protecting not merely as a matter of speech interests but as necessary to uphold the rule of law dynamics central to a functional constitutional democracy.

And while the law firms raised Fifth and Sixth Amendment arguments in their cases against the executive orders, the courts largely did not rely upon those arguments.[73] As Part III discusses, developing a more robust set of protections—echoing the arguments of Professor Wendel, Professor

72. *Id.* at 186.

73. *See* Wendel, *supra* note 47 ("As I see it, the most surprising development in the litigation over the EOs was the relative unimportance of the asserted right to counsel as the core constitutional right that was threatened by the EOs.").

Lakier, and Professor Rosenblum—remains necessary to address the challenges of contemporary political interference of lawyer-client relations, for both clinical faculty and the legal profession more generally.

III. MUTUALLY REINFORCING RIGHTS

How, then, can we take together the recent incidents of clinical interference and the successful (so far) strategies of law firms challenging the Trump Administration's executive orders? The precedents that the law firm cases establish may help in some instances of clinical interference. But given the multifaceted dynamics of clinical practice, faculty will need a variety of defense strategies to ensure their independence.

The law firm cases help clinical faculty most obviously in battles involving explicit and direct government action. The law firm cases each involved an executive order targeting the firm with specific restrictions on that law firm's practice. One can imagine similar governmental action targeting clinical practice; for example, an administrative agency or board of professional responsibility limiting the ability of clinical students to practice law. Peter Joy describes a well-known example of this in Louisiana, in which the Louisiana Supreme Court modified the student practice rule, seemingly in response to public pressure from the Louisiana governor and his administration.[74] In evaluating the changes, not all members of the Louisiana Supreme Court agreed with all the provisions of the practice rules, with some arguing that the changes were inconsistent with Supreme Court precedent (including *NAACP v. Button*).[75] One would hope that, if litigated in the present, such changes to student practice rules would receive skeptical treatment from the courts.[76]

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74. Peter A. Joy, *Political Interference with Clinical Legal Education: Denying Access to Justice*, 74 TULANE L. REV. 235, 243–47 (1999).

75. *Id.* at 261.

> In his dissent from this broad solicitation ban, Justice Lemmon argues that the Louisiana Supreme Court could not prohibit the solicitation directly under prevailing United States Supreme Court precedent. He is apparently referencing the Court's cases that have invalidated both rules prohibiting lawyers from sending truthful direct mail solicitations to potential clients and rules prohibiting lawyers from in-person solicitation of clients where the solicitation is not done for pecuniary gain.

Id.

76. This would differ from the treatment that the federal courts gave to the challengers of the rule change. The district court dismissed a First Amendment lawsuit filed in the Eastern District of Louisiana;

The recent record of interference with legal practice, couched in 'neutral' regulation, should inspire judges to take a more skeptical view of such regulations. For a strategy that relies upon arguments from the law firm litigation, *Vullo* and *Button* likely foreclose the claim that changing the rules of legal practice cannot raise a First Amendment issue. The throughline remains that the state cannot censor through indirect means, including through the regulation of the legal practice. Yet, given the intense politicization of some clinical work, we cannot assume that the arguments opposing interference would prevail.

The strength of *Vullo* in rebutting some political pressure remains formidable. As Professor Lakier observes,

> [T]he core principle that *Vullo* articulates—namely, that it is *never permissible* for government officials to attempt to "do indirectly what [they are] barred from doing directly"—has all kinds of doctrinal implications for the vexed factual questions that the jawboning cases raise. Specifically, it suggests that courts should recognize a much wide array of kinds of threats and jawboning campaigns to potentially violate the First Amendment prohibition against informal prior restraints than they have recognized before.[77]

Assuming Professor Lakier's perspective prevails, it will more generally benefit the clinicians and lawyers that face governmental threats. But some clinical faculty may find it difficult to establish a retaliation claim under *Vullo*; the actions of the government may not sufficiently resemble retaliation in a way that would give rise to First Amendment protection.

Consider the revisions to the Louisiana student practice codes discussed by Professor Joy. Could those changes have facilitated a claim under *Vullo*? Potentially, but any adjudication of the case—even on a preliminary injunction motion—would have taken time and extensive resources, and may have faced a skeptical audience in the courts. Moreover, pressure from university leaders or business interests may not give rise to a *Vullo* claim at all, though the former might violate Section 208 of the ABA standards. If

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the U.S. Court of Appeals for the Fifth Circuit upheld the dismissal. *Id.* at 241–42. *See generally* S. Christian Leadership Conf. v. Sup. Ct. of La., 252 F.3d 781 (5th Cir. 2001).

77. Lakier, *supra* note 38, at *57.

forces opposed to clinical practice couch their endeavors outside of formal government interference, clinicians likely cannot rely upon First Amendment doctrines to protect their work. Furthermore, certain pressure campaigns may create standing and causation issues, styming efforts to assert clinicians' rights through litigation depending on which parties choose to litigate a case.[78]

The most effective way to protect clinical practice from political interference is to develop and employ multiple overlapping protective doctrines. The First Amendment can do some of that work, but it cannot function as a silver bullet; not all political interference will give rise to a First Amendment claim. Some intereference may prove too attenuated, or stem from private actors (such as donors), and thus fail to implicate First Amendment interests.

Academic freedom protections can also help protect clinical work, as set forth in ABA Standard 208 and the AALS-CLEA Joint Academic Freedom Committee's Statement of Principles. But such principles only have force insofar as academic institutions affirmatively committing to them. While a law school in violation of ABA Standard 208 might face sanctions, probation, or loss of accreditation, any negative consequences from violating a clinician's academic freedom may take significant time to adjudicate, and any potential remedies may not help that individual clinician. Moreover, the scope of academic freedom remains hazy at its outer limits; for example, questions persist concerning the protection of extramural speech, which may elicit different treatment from universities than speech made in the context of academic instruction.[79]

Because the Supreme Court has not developed a robust academic freedom doctrine, the placement of clinical work within a constitutionalized academic freedom framework remains legally uncertain. In my opinion clinical practice fits within the scope of academic freedom proctections, which as the United States Court of Appeals for the Sixth Circuit held in a recent decision, covers "core academic functions, such as teaching and

78. *See* Am. Ass'n of Univ. Professors v. U.S. Dept. of Just., 2025 WL 1685817 at *11–15 (S.D.N.Y. 2025) (declining to grant standing to two organizations seeking to vindicate faculty member rights because a non-party, Columbia University, had the actual stake in the litigation).

79. *See, e.g.*, Keith Whittington, *What Can Professors Say in Public? Extramural Speech and the First Amendment*, 73 CASE W. L. REV. 1121 (2023) (discussing contemporary dynamics surrounding extramural speech).

scholarship" for public university faculty.[80] That holding corresponds to the views of other circuits.[81] Such decisions demonstrate that clinical work, because they occur as part of academic instruction and a faculty member's official duties, comes under academic freedom protections. But undoubtedly, government actors would argue that point.

In the law firm litigation and Professor Bedi and Professor Cohn's case against the House Committee on Education and Workforce, the plaintiffs all raised claims resting on Fifth and Sixth Amendment rights (in addition to the First Amendment arguments). Those claims have not served as the *ratio decidendi* for the courts' holdings; rather, judges have evaluated them only in limited ways. More robust protections for the rights of lawyers to operate free of government intrusion would best protect clinical academic freedom and the profession writ large.

Those protections can stem from the language of the Fifth and Sixth Amendments, which provide guarantees of due process and the right to counsel in criminal cases. Courts should develop a right of lawyers to practice without interference as necessarily constitutive to the rule of law, as Professor Wendel has argued in his analysis of the law firm executive orders.[82] One can hardly imagine a stable democratic society without an independent judiciary and an independent legal profession.[83]

The Supreme Court has largely declined to develop new individual rights,[84] with the exception of recent Second Amendment jurisprudence.[85] But the severity of the current moment warrants arguing for stronger rights protections even if the quest remains quixotic. A constitutional right to lawyers operating without interference would better support the functioning of American democracy, much like other institutions (such as educational institutions and the press) which currently lack fully actualized

80. Meriwether v. Hartop, 992 F.3d 492, 505 (6th Cir. 2021).

81. *See, e.g.*, Adams v. Trs. of the Univ. of North Carolina-Wilmington, 640 F.3d 550 (4th Cir. 2011); Buchanan v. Alexander, 919 F.3d 847 (5th Cir. 2019); Demers v. Austin, 746 F.3d 402 (9th Cir. 2014) (each construing academic freedom protections for public university faculty).

82. *See* Brad Wendel, *Another One Bites the Dust*, SUBSTACK: LEGAL ETHICS STUFF (May 28, 2025), https://bradwendel.substack.com/p/another-one-bites-the-dust [https://perma.cc/9HNF-S53K].

83. The Supreme Court observed this in dicta in *Velazquez*, in a phrase quoted in all four law firm Executive Order opinions: "An informed, independent judiciary presumes an informed, independent bar." Legal Servs. Corp. v. Velazquez, 531 U.S. 533, 545 (2001).

84. *See* Washington v. Glucksberg, 521 U.S. 702 (1997).

85. *See* District of Columbia v. Heller, 554 U.S. 570, 592 (2008) ("[W]e find that [the clauses of the Second Amendment] guarantee the individual right to possess and carry weapons in case of confrontation.").

constitutional protections.[86] As constitutional rights do not operate without limits, the existing system of law governing lawyers (largely comprised of Rules of Professional Conduct) could remain compatible with an individual right as a comprehensive government system designed to further democratic goals.[87]

Sketching the contours of such a right remains beyond the scope of this Essay. I raise the possibility of a more robust right to lawyer independence to both elaborate on the claims made in recent litigation regarding government threats against lawyers and to demonstrate the need to develop multiple systems of protection. Threats to lawyer independence and clinical academic freedom are unlikely to subside in the coming years. Creative approaches to protect those values remains critical in the face of increasingly inventive threats.

A more robust right of lawyer independence could, like the First Amendment, operate beyond its formal legal contours. Much as the Court can invoke First Amendment values in cases not turning on First Amendment doctrine, so too might a more robust right for lawyers to practice without interference help individual lawyers beyond the litigation context.[88] Because interference in clinical practice can operate outside the realm of constitutional litigation, developing a legal framework that explicitly protects legal practice can concurrently develop a culture that allows clinicians to invoke the spirit of such rights in scenarios unlikely to support formal legal challenges.

Allowing clinical faculty—and the legal profession as a whole—to more persuasively invoke these rights as promoting rule of law values would strengthen democratic structures desperately in need of reinforcement. For clinical faculty, a lawyer independence right, alongside academic freedom and the First Amendment, could help craft a more substantial (though still imperfect) shield against improper interference. No

86. I thank my colleague Mike Dorf for elucidating this point.

87. *See, e.g.*, Sorrell v. IMS Health, 564 U.S. 552, 573 (2011) (implying that a more robust regulatory regime like HIPAA would fare better under First Amendment scrutiny than the isolated Vermont law at issue in *Sorrell*). The Model Rules already instruct lawyers to exercise independent judgment and render candid advice. *See* MODEL RULES OF PRO. CONDUCT r. 2.1 (A.B.A. 2018). This reinforces the potential for a more robust "right to lawyer" and remains compatible with what the provisions of such a right might protect. I thank Peter Joy for this insight.

88. *See, e.g.*, Georgia v. Public.Resource.Org, Inc., 590 U.S. 255, 275–76 (2020) (discussing access to law in the context of copyright while referring to First Amendment dynamics).

set of protections can wholly protect us. But at the very least, developing forms of resistance can provide more reassurance than clinicians currently have.

CONCLUSION

No one expects threats against clinical independence to subside in the near term. Clinicians, unfortunately, have limited tools to resist interference, particularly given the unique context in which they operate. Recent events, though unsettling, have helped develop frameworks for protecting legal practice and strategies of resistance necessary to preserve the core of lawyer-client relationships.

The development of new strategies—learning from lawyers outside the clinical context, ensuring that academic freedom covers clinical work in policy and as a First Amendment matter, and crafting novel arguments in efforts to protect our work, particularly in litigation that may arise—may seem daunting or even impossible in the face of a Supreme Court skeptical of most rights frameworks, and a politics of cruelty targeting our clients and communities. But clinicians, their clients, and their students know all too well that no one ever promised that this work would be easy. Amid forces opposed to clinical practice employing increasingly aggressive tactics, clinical faculty, students, and clients will need to think ever more creatively, radically, and with hope. To do anything else would fail to fulfill the promise of a better world that so many of us work to create.