

SOCIAL SCIENCE Quarterly

JUNE 1984 VOLUME 65, NUMBER 2 ISSN 00038-4941

THE MEXICAN ORIGIN EXPERIENCE
IN THE UNITED STATES

A LEGAL VOICE FOR THE CHICANO COMMUNITY: THE ACTIVITIES OF THE MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND, 1968–82¹

Karen O'CONNOR, *Emory University*

Lee EPSTEIN, *Emory University*

The authors examine the history and activities of the Mexican American Legal Defense and Educational Fund (MALDEF), which litigates on behalf of Chicanos. Previous studies of interest group litigation are drawn upon to formulate hypotheses concerning interest group success in the judicial arena. These hypotheses are then tested through an examination of the litigation activities of MALDEF between 1968 and 1982. The findings indicate that the factors considered critical to interest group litigation success are helpful in explaining the evolution of MALDEF.

Litigation long has been recognized as an important political tool of disadvantaged groups (Cortner, 1968). In this paper, we discuss the utility of litigation on behalf of the Chicano² community by the Mexican American Legal Defense and Educational Fund (MALDEF). More specifically, after describing the historical circumstances surrounding the creation of MALDEF, we draw on previous studies of interest group litigation to formulate hypotheses concerning interest group success in the judicial arena. We then test these hypotheses through an examination of the litigation activities of MALDEF between 1968 and 1982.

¹ We would like to thank Nancy Rossman for her research assistance. We would also like to express our appreciation to Stephen Wasby and the anonymous reviewers for their very helpful comments and criticisms of an earlier draft of this manuscript. Portions of this research were funded by the Emory University Research Fund. Editor's note: Reviewers were Rodolfo Alvarez, Rodolfo de la Garza, F. Chris Garcia, and Ricardo Romo.

² Although the terms Mexican American and Chicano often are used interchangeably by scholars (see Garcia and de la Garza, 1977: 14; Grebler, Moore, and Guzman, 1970: 385–87), we use the term Chicano because it is the term most frequently used in the briefs of the Mexican American Legal Defense and Educational Fund.

Litigation as a Political Tool

Writing in 1959, Clement E. Vose was one of the first to document the importance of group use of the courts. His examination of the National Association for the Advancement of Colored People (NAACP) and its independent Legal Defense Fund's (LDF's) use of the courts to end restrictive covenants revealed that litigation was critical; as an organization litigating on behalf of a disadvantaged group, the NAACP realized that it could not attain its goals in the legislative sphere. But, as Vose's study clearly indicated, the NAACP's recognition of the utility of litigation did not automatically lead to success. In fact, Vose's examination of the NAACP's decades-long struggle to end restrictive covenants revealed that at least three factors were critical to its ultimate success: first, after realizing that the courts were the only potentially amenable forum for the advancement of minority rights, NAACP founders recruited attorneys well schooled in the intricacies of civil rights law (Vose, 1959). According to Vose, this task was facilitated by the concentration of black attorneys in several northeastern cities and by the fact that the vast majority of these lawyers had been educated at the Howard Law School in Washington, D.C. Thus, within a relatively short period of time, the NAACP was able to recruit well-trained attorneys as well as to establish a crucial network of cooperating attorneys sympathetic to its cause.

This network, coupled with the NAACP's maintenance of a national office in Washington, D.C., facilitated the development of a direct sponsorship strategy by keeping the organization abreast of potentially good test cases, a second factor noted as critical to its success by Vose. While soon after its creation in 1909 the NAACP filed an *amicus curiae* brief in *Guinn v. United States* (1915), a challenge to Louisiana's grandfather clause, its leaders shortly thereafter realized that direct sponsorship would be the most effective way to achieve its goals. In fact, as Vose has noted, control over the course of litigation at the trial court level where a record could be established for later appeal was particularly critical to the NAACP's ability to obtain judicial invalidation of restrictive covenants.³

A third factor noted as critical to the LDF's success was its ability to garner support from other litigators. The assistance and support of the U.S. government in court, for example, lent legitimacy to the NAACP's claims and led to an almost one-sided presentation of race cases, thereby increasing the likelihood of success. Thus, according to Vose, the NAACP's simple recognition of the utility of litigation was only the first step in achieving invalidation of restrictive covenants. Additionally, expert counsel, the use of a test case strategy, and cooperation with other litigators contributed to its ultimate success in *Shelley v. Kraemer* (1948).

The importance of these factors was further substantiated in subsequent studies of the NAACP LDF's litigation activities. Both Jack Greenberg's (1974, 1977) and Richard Kluger's (1976) analyses of the LDF's role in the

³ This recognition, in fact, partially explains why the NAACP established an independent legal defense fund in 1939 solely to litigate on behalf of black interests (Vose, 1959).

school desegregation cases that culminated in *Brown v. Board of Education* (1954) note the importance of each of these factors. For example, LDF general counsel Thurgood Marshall's decision to initiate a series of cases at the trial court level to whittle away at adverse precedent was pointed to by both authors as critical to the LDF's success. This series of cases allowed the LDF to establish itself as an expert litigator in the area of school segregation. Additionally, during the course of this litigation campaign, the LDF facilitated creation of a receptive judicial environment through securing the publication of several law review articles authored by well-respected constitutional scholars and enlisting the assistance and support of the U.S. government as *amicus curiae*. According to Greenberg and Kluger, these factors helped to explain the LDF's landmark victory in 1954 (see also Hahn, 1973; Barker, 1967).

Not only is there agreement among those who have studied the NAACP LDF concerning factors critical to its success, but those who have analyzed other disadvantaged groups have reached the same conclusions. For example, Manwaring's (1962) study of the Jehovah's Witnesses found that frequent participation by committed attorneys in cooperation with the American Civil Liberties Union (ACLU) facilitated its efforts to persuade the Supreme Court to invalidate compulsory flag salute requirements.

Another disadvantaged group—women—also has relied heavily on litigation to attain greater rights. However, as O'Connor (1980) has noted, women's rights organizations, unlike the LDF and the Jehovah's Witnesses, have had but mixed success because of the absence of one organization to represent their interests in court. Instead, the involvement of several groups including the National Organization for Women (NOW), the Women's Rights Project of the ACLU, and the Women's Equity Action League has made use of a test case strategy difficult. Additionally, the large number of women's rights litigators has strained foundation funds, which has reduced the ability of many of the groups to afford the often high costs incurred through direct sponsorship of litigation. Thus, women's rights groups have been unable to pursue a truly coordinated test case strategy, a factor considered critical to success.

A Formulation and Test of a Hypothesis of Interest Group Litigation: An Examination of MALDEF's Activities

As the preceding discussion suggests, studies of the litigation activities of a variety of organizations representing disadvantaged groups provide the basis for theoretical generalizations concerning interest group use of the courts to achieve rights unavailable in other forums. The findings of these and other studies (Burke, 1981; Cortner, 1975; Rubin, 1982; Shattuck and Norgren, 1979; Sorauf, 1976; Stewart and Heck, 1982; Wasby, 1981), which have thoroughly examined groups that have succeeded or obtained only limited success in court, allow us to formulate the following hypothesis: If interest groups (1) recruit expert counsel, (2) use a test case strategy, and (3) cooperate with other groups, then they will maximize their chances of success, at least at the level of the U.S. Supreme Court.

To investigate the continuing importance of the elements enumerated in this hypothesis, we examine the activities of MALDEF, the major representative of Chicano interests in court. The significance of such an examination is twofold: first, Chicanos, like blacks, the Jehovah's Witnesses, and women, can be classified as a "disadvantaged group," but litigation efforts on their behalf never have been fully examined. Second, an analysis of this sort is timely because MALDEF's victories have just begun to make a major impact on the law. Thus, a study of its activities, like those conducted of other groups that have resorted to litigation, may help to explain not only the relevance of the factors perceived as critical to litigation success, but also to provide a fuller understanding of the evolution of an interest group litigator.

The Establishment and Litigation Activities of MALDEF

Like many other disadvantaged groups, Chicanos early on recognized their inability to seek rights through traditional political avenues and thus sporadically resorted to litigation (Vigil, 1978:125). It was not until the 1960s, however, that the need for organized, sustained litigation activity on behalf of Chicanos became apparent. For example, in the course of litigating a common tort claim, Pete Tijerina, a League of United Latin American Citizens (LULAC) leader, was confronted with a jury panel of no Chicano surnamed individuals, but his client could not afford the high cost of a challenge to its discriminatory composition. Because Tijerina believed that this case symbolized the plight of Chicanos in court, he sent another LULAC member to attend a 1967 NAACP LDF conference to explore the possibility of establishing an organization to litigate on behalf of Chicanos. Tijerina's representative met with Jack Greenberg, the executive director of the NAACP LDF, who then set up a meeting between Tijerina and Ford Foundation representatives (Markham, 1983). Within a year of that meeting, MALDEF was incorporated with the assistance of a \$2.2 million start-up grant from the Ford Foundation (Teltsch, 1968).

In addition to Ford's financial support, MALDEF received practical information and guidance from the NAACP LDF. In fact, LDF attorney Vilma Martinez, who later was to become the executive director of MALDEF, had not only helped prepare the initial Ford grant application but also served as a liaison between the two organizations ("San Antonio Native," 1973). Additionally, Greenberg was named to its first board of directors.

Not only was MALDEF assisted by LDF staff members, it was specifically modeled after the LDF. In fact, in announcing the Ford grant, the foundation's president McGeorge Bundy drew the following parallel: "In terms of legal enforcement of civil rights, American citizens of Mexican descent are now where the Negro community was a quarter-century ago" (Teltsch, 1968:38). Thus, at least from Ford's perspective, MALDEF was to function for Chicanos in the same way that the LDF historically had assisted blacks.

To facilitate and to direct its initial efforts, MALDEF, like the LDF, quickly acted to draw upon the expertise of prominent Mexican American attorneys

to staff its headquarters in San Antonio and its Los Angeles affiliate office. Tijerina was installed as its first executive director, and Mario Obledo, a Texas assistant attorney general and former state director of LULAC, was hired as general counsel. MALDEF, however, quickly was confronted with a paucity of experienced litigators. In fact, in announcing Ford funding of MALDEF, Bundy had underscored the need for such an organization, noting that there were "not nearly enough Mexican American lawyers and most of them have neither the income or experience to do civil rights work" (Teltsch, 1968:38). To remedy this situation, the Ford grant included provisions for scholarships for 35 Mexican American law students with the goal of increasing the number of Chicano attorneys.⁴ Nevertheless, this was a long-term solution to a problem that immediately confronted MALDEF. Thus, four of the nine attorneys initially "hired" by MALDEF were non-Chicano VISTA volunteers (MALDEF, n.d.). Additionally, in establishing its own network of cooperating attorneys, MALDEF was forced to rely heavily on non-Chicano lawyers.

Thus, while MALDEF was modeled after the LDF, from the start it was faced with problems unlike those experienced by the LDF. It had difficulty in recruiting experienced Chicano attorneys and in dealing with the Mexican American community at large, which from some accounts misunderstood MALDEF's objectives. For example, immediately after MALDEF established its offices in San Antonio and Los Angeles, both were inundated with claims. Many of these claims, however, involved routine "legal aid" type cases that were best settled out of court and did not necessarily present issues upon which important constitutional cases could be made.

These sorts of problems, coupled with the militancy of some of MALDEF's personnel⁵ (Diehl, 1970), prompted the Ford Foundation to send in outside evaluators to examine MALDEF's day-to-day activities in 1970 ("Mexican Aid Fund," 1970:48). These evaluators made several "recommendations" that were aimed at increasing MALDEF's national presence and reputation in the LDF model. More specifically, according to Tijerina, Ford threatened to terminate MALDEF's funding if it did not move its headquarters out of Texas and relocate in a more "neutral" city such as Washington, D.C., or New York ("Ford Group," 1970). Cognizant of the importance of a presence in the West, however, MALDEF chose instead to relocate its headquarters to San Francisco while retaining its two other offices and only later opening up a D.C. office (Grover, 1970). MALDEF, however, followed other Ford suggestions; not only was Tijerina replaced as executive director as requested by Ford (Murphy, 1970), but MALDEF also combined the positions of executive director and general counsel, its board selecting Mario Obledo to fill this new position ("Mexican Aid Fund," 1970:48).

⁴ This program continues to be a high-priority MALDEF project.

⁵ One MALDEF staffer, for example, made widely reported "anti-gringo" statements causing the Ford Foundation to come under fire for its support of Chicano groups. Political activities on the part of employees of Ford funded operations even led the House Ways and Means Committee to hold hearings to seek ways to limit this sort of activity on the part of tax-exempt foundations (Diehl, 1970).

As executive director, Obledo immediately sought to increase MALDEF's national visibility as recommended by the Ford Foundation and to strengthen ties with other established civil rights groups. For example, during Obledo's tenure, MALDEF established a New Mexico branch office in conjunction with the New Mexico Law School, the New Mexico Legal Rights Project, and the Albuquerque Legal Aid Society. A Denver office also was opened under Obledo's leadership. Additionally, MALDEF moved to increase its national presence through association with the LDF and NOW, among others, to pressure the federal government for enforcement of fair employment practices legislation (Shanahan, 1972; Cowan, 1972).

Perhaps most important, however, aware of the problems of functioning as a quasi legal aid clinic, Obledo moved to have MALDEF bring more cases to the U.S. Supreme Court. Thus, as early as 1973, the Court handed down decisions in eight cases in which MALDEF had participated, five of which were amicus curiae briefs filed alone or in conjunction with other organizations. In the remaining three cases sponsored by MALDEF, only one, *White v. Regester* (1973), which involved the constitutionality of at-large election districts, resulted in a favorable decision. In contrast, in *Logue v. U.S.* (1973), MALDEF was unable to convince the Court that the U.S. government should be liable for the negligence of city jail employees. Far more devastating, however, was its loss in *San Antonio v. Rodriguez* (1973). In its first appearance before the Court,⁶ MALDEF (1972) argued that:

in Texas, the poor receive one type of education by every measure, while the affluent are afforded a quite different and superior educational opportunity. This Court should not allow Texas to impose upon a minority what is obviously unacceptable to the majority. (P. 56)

This argument, however, failed to convince the Court to find that education was a fundamental right protected by the Fourteenth Amendment. Instead, the justices held that Texas would not be required to subsidize poorer school districts, where there were often large concentrations of Chicanos. Thus, *San Antonio* resulted in a devastating loss, creating additional legal barriers instead of favorable precedent upon which MALDEF could build a test case strategy.

In sum, under Obledo's leadership, MALDEF attempted to implement the Ford Foundation's suggestions through a variety of different strategies. It successfully established new offices and attempted to build ties with other groups. But, as its loss in *San Antonio* revealed, MALDEF acted too quickly and did not sufficiently "prime" the Supreme Court either through frequent appearances as amicus curiae or the use of test cases. Thus, although by 1973 MALDEF had accomplished a number of its objectives, in the wake of its losses during 1973 Obledo resigned to return to private practice ("Vilma Martinez," 1973). In September 1973, Vilma Martinez was selected to replace Obledo after MALDEF's board considered several candidates

⁶In 1970, however, MALDEF unsuccessfully sought review from the Supreme Court in *Jimenez v. Naff*

including Juan Rocha, who had recently been hired to head the new MALDEF D.C. office ("San Antonio Native," 1973).

Martinez immediately set into motion a series of changes: first, having always been interested in fund raising (Markham, 1983) and in fact, having played a major role in MALDEF fund raising from the beginning, Martinez restaffed the D.C. office with the objectives of improving MALDEF's government relations, funding sources, and its national visibility. Second, MALDEF began to create specialized litigation and educational projects to meet its growing needs and to afford its attorneys an opportunity to develop greater expertise. For example, in 1974 a Chicana Rights Project was created to fight sex discrimination faced by Mexican American women. Other projects established by MALDEF handled education, employment, and voting rights. A year later, it also created a legal intern/extern program to help train and later assist Chicano attorneys to set up practices in local communities. Finally, and perhaps most important, MALDEF became more selective about its involvement in cases as Ford had earlier urged. Generally, it began to limit its participation to important test cases that were considered to have "broad implications" (MALDEF, n.d.:30). This selectivity allowed MALDEF, like the LDF, not only to maximize its resources but to avoid adverse precedent such as that established in *San Antonio*.

To accomplish this goal, MALDEF began to concentrate in a number of legal issue areas but continued to be particularly interested in education. In the wake of *San Antonio*, however, MALDEF's leaders reevaluated their strategy in that area. Building upon arguments set forth in the first article about undocumented aliens ever to appear in the *American Bar Journal* and written by a MALDEF attorney (Ortega, 1972), MALDEF lawyers began to devise a strategy to create favorable precedent by which to improve the legal status of all Chicanos. Thus, under the directorship of Peter Roos, who had previously worked at the Harvard Center for Law and Education and at the Western Center of Law and Poverty, MALDEF's Education Litigation Project filed several lawsuits challenging the constitutionality of actions of many school districts that refused to enroll the children of undocumented aliens, unless tuition was paid.

After several years of litigation, one of these cases, *Plyler v. Doe* (1982), resulted in a major, landmark ruling from the U.S. Supreme Court. MALDEF attorneys including Martinez and Roos had argued that the Texas code, which allowed school districts to exclude some children, violated the Fourteenth Amendment. According to MALDEF (1981):

When public schooling is available to all but the children of one excluded class, the members of that class are inexorably relegated to a low station in life, subject to exploitation and removed from the meaningful discourse of the day. As one is properly and regularly reminded, "A mind is a terrible thing to waste."

In adopting MALDEF's reasoning, the Supreme Court, for the first time, directly held that the children of undocumented, illegal aliens were protected by the equal protection clause. Writing for the Court, Justice Brennan noted that:

it is difficult to understand precisely what the State hopes to achieve by promoting the creation and perpetuation of a subclass of illiterates within our boundaries, surely adding to the problems and costs of unemployment, welfare and crime. . . . If the State is to deny a discrete group of innocent children the free public education that it offers to other children residing within its borders, that denial must be justified by a showing that it furthers some substantial state interest. No such showing was made here. (102 S. Ct. 2382, 2402)

Thus, *Plyler* provided MALDEF's "best victory" to date (MALDEF, 1982:4) and has presented MALDEF with a major precedent upon which to build.

Application of Hypothesis to MALDEF's Litigation Activities

Based on other studies of interest group litigation, we hypothesized that (1) the recruitment of expert counsel, (2) the use of a test case strategy, and (3) cooperation with other groups would maximize a group's chances of success.

From the preceding discussion of MALDEF's activities, we can now attempt to investigate the importance of the three factors commonly assumed to be critical to the success of interest group litigation.

Expert Attorneys. When MALDEF was established, its founders recognized the importance of recruiting highly skilled attorneys who would be sensitive to the pervasive discrimination suffered by Chicanos. Unlike the LDF, which could draw on a large number of black attorneys schooled in civil rights law, there were few Chicano attorneys experienced in civil rights litigation, which initially forced MALDEF to rely on non-Chicano attorneys to supplement its staff. Thus, many of the first programs initiated by MALDEF were designed to increase the number of Chicano attorneys, train them in civil rights law, and then help establish them in practice within the Chicano community and not necessarily toward developing legal expertise *within* MALDEF.

When Martinez replaced Obledo, however, she immediately recognized this organizational deficiency, and she actively recruited several attorneys with strong civil rights backgrounds (Markham, 1983). For example, Morris J. Baller, who was made head of the Developmental Litigation Project, had formerly served, like Martinez, as an LDF staff attorney. And, Joel G. Contreras, who was hired to be the director of the Employment Litigation Project, had served in a similar capacity with the Lawyer's Committee for Civil Rights Under Law (LCCRUL). He also had previously worked at the EEOC. Both Martinez and the staff that she hired, therefore, interjected an increased level of expertise in civil rights litigation that neither Obledo nor Tijerina possessed. Interestingly, almost all of the attorneys added to MALDEF's staff were Chicanos,⁷ and in fact, some had been trained in the legal extern program or assisted by MALDEF scholarships.

⁷ In fact, one non-Chicano attorney, George Korbel, who had litigated *White v. Regester* and is an authority on Voting Rights Act violations ("Suit Challenges," 1972; Davidson and Korbel, 1981), was fired by Martinez and later sued to regain his position (Diehl, 1976; "MALDEF Attorney," 1976).

Thus, unlike the LDF, MALDEF faced initial difficulties because of the absence of Chicano attorneys trained in civil rights law. This problem, which translated into major legal defeats, losses of scarce time and resources, and some internal dissension, was substantially reduced through MALDEF's programs, specialized projects, and by Martinez's recruitment efforts.

Test Case Strategy. Until the Ford Foundation report, MALDEF largely functioned as a legal aid society, albeit one that met the particular needs of the Chicano community. After 1970, however, MALDEF initiated several diverse kinds of suits that ultimately reached the Supreme Court. But, in only one of the three cases it argued during the 1972 term was it victorious. Its victory in *White* can be largely attributed to its initial emphasis on voting rights and attention to the development of a strong record at the trial court level. Conversely, its losses in *Logue v. U.S.* and *San Antonio* may be explained by its pursuit of Supreme Court resolution of issues that the Court had not yet been "primed" to address; MALDEF's 1972 term appearances were its first before the Supreme Court. Thus, unlike many other groups, which generally file amicus curiae briefs prior to bringing test cases before the Court, in 1972 MALDEF did not have any of the advantages of traditional repeat players (Galanter, 1974). And, perhaps more important, MALDEF's failure to "test the waters" in the education area produced disastrous precedent that stood as an additional legal stumbling block for litigation of other claims.

Recognizing these problems, MALDEF, under the leadership of Martinez, actively sought to increase its visibility as an amicus curiae in the Supreme Court while simultaneously developing a litigation strategy to whittle away at the adverse precedent established in *San Antonio*, in particular, and against aliens, in general. To accomplish this latter task, MALDEF closely modeled its activities after those followed by the LDF prior to *Brown*. Recognizing that the plight of children denied access to education by the state presented facts to evoke the sympathy of the Court, MALDEF initiated a series of "test cases" that culminated in *Plyler*. While *Plyler*, like the LDF's victories prior to *Brown*, is a victory standing alone, it also provided MALDEF with a major precedent upon which to build. In fact, since *Plyler*, MALDEF has initiated a number of lawsuits challenging discrimination against undocumented aliens in a variety of areas (Markham, 1983).

But, its victory in *Plyler*, perhaps, places MALDEF at a critical juncture in its history both in terms of its litigation activities and organizational viability. Believing that she had accomplished her objectives (Markham, 1983), Vilma Martinez left MALDEF shortly before the Court's announcement of the *Plyler* decision. Whether her successor and MALDEF will take full advantage of the gains won at least in part because of her insistence upon the utilization of a test case strategy is a challenge that confronts MALDEF as it moves into the 1980s.

Cooperation. Since its creation, MALDEF has cooperated with numerous civil rights organizations. For example, from the beginning, MALDEF has

enjoyed strong ties with the NAACP LDF. Members of the LDF not only helped MALDEF secure Ford funding but also sat and continue to sit on its board. In fact, one of its first board members, Vilma Martinez, ultimately became its general counsel and brought several LDF staffers with her. Additionally, ties between the two groups also are evident in their support of each other's litigation efforts.

While MALDEF has regularly worked with the LDF and other like-minded groups, full cooperation has been difficult at times because MALDEF represents a class whose best interests are not always served by non-Chicano organizations. For example, in *Keyes v. Denver School District* (1973), the NAACP LDF argued that the court-ordered Denver school desegregation plan should be upheld. MALDEF, however, which was forced to participate to assure the representation of Chicano interests, urged the Court to reconsider sections of the lower court order because it did not consider minority schools to be those that contained large populations of both Chicano and black children.

MALDEF, to some extent, has also attempted to work with the federal and state governments. Many of its attorneys had government experience prior to coming to MALDEF; others, including Obledo, have continued to speak on behalf of MALDEF from their government positions.⁸ Additionally, MALDEF's litigation efforts have been facilitated by government supported VISTA volunteers and outright grants from the U.S. government. In fact, during fiscal years 1981 and 1982, MALDEF received nearly \$1.3 million dollars from the federal government (a figure derived from MALDEF, 1982:13). Thus, unlike the other factors considered critical to litigation success, MALDEF, since its establishment, has attempted to cooperate with other groups and governments. In certain types of issue areas, however, cooperation has often been difficult because of MALDEF's unique focus.

Conclusion

As the preceding analysis indicates, the factors considered critical to interest group litigation success are helpful in explaining the evolution of MALDEF. In general, our discussion indicates that until 1973 MALDEF functioned more as a legal aid society than as an interest group litigator. While the Ford Foundation tried to put MALDEF on course, it was not until under Martinez's leadership that MALDEF was reorganized and reoriented to pursue the kinds of activities for which it was originally created. *Plyler v. Doe*, which was (1) initiated by a specialized MALDEF Project, (2) begun as a test case, and (3) supported by amicus curiae briefs from several other groups, is illustrative of the potential impact MALDEF can have on the Supreme Court if litigation is properly pursued.

Thus, this analysis has not only reaffirmed the importance of all three factors to litigation success, but also of the utility of litigation for disadvan-

⁸ For example, after Obledo became California's Secretary of Health and Welfare, he continued to file briefs on MALDEF's behalf. Similarly, Ed Idar, who formerly was associated with the San Antonio office, has participated on behalf of MALDEF since becoming an assistant attorney general in Texas.

tagged groups. As MALDEF moves into the 1980s, it, as other representatives of disadvantaged groups have done in the past, can continue to build upon important precedents that it helped to create. **SSQ**

REFERENCES

- Barker, Lucius. 1967. "Third Parties in Litigation: A Systematic View of Judicial Function," *Journal of Politics*, 29 (February):41-69.
- Burke, Susan Olson. 1981. "The Political Evolution of Interest Group Litigation," in Richard A. L. Gambetta et al., eds., *Governing through Courts* (Beverly Hills, Calif.: Sage).
- Cortner, Richard. 1968. "Strategies and Tactics of Litigants in Constitutional Cases," *Journal of Public Law*, 17:287-307.
- . 1975. *The Supreme Court and Civil Liberties Policy* (Palo Alto, Calif.: Mayfield).
- Cowan, Edward. 1972. "FPC Urged to Bar Bias in Gas, Electric Utilities," *New York Times*, 23 June.
- Davidson, Chandler, and George Korbel. 1981. "At Large Elections and Minority-Group Representation: A Re-Examination of Historical and Contemporary Evidence," *Journal of Politics*, 43 (November):982-1005.
- Diehl, Kemper. 1970. "HBG Denies Role in MALD Center Move Plan," *San Antonio News*, 18 March.
- . 1976. "Fired Lawyer Sues MALDEF," *San Antonio News*, 4 March.
- "Ford Group Denies Fund Cut Threat." 1970. *San Antonio News*, 19 March.
- Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead: Speculation on the Limits of Legal Change," *Law and Society Review*, 9 (Fall):95-160.
- Garcia, F. Chris, and Rudolph O. de la Garza. 1977. *The Chicano Political Experience. Three Perspectives* (North Scituate, Mass.: Duxbury Press).
- Grebler, Leo, Joan W. Moore, and Ralph C. Guzman. 1970. *The Mexican American People* (New York: Free Press).
- Greenberg, Jack. 1974. "Litigation for Social Change: Methods, Limits, and Role in Democracy," *Records of the New York City Bar Association*, 29:9-63.
- . 1977. *Judicial Process and Social Change: Constitutional Litigation* (St. Paul, Minn.: West).
- Grover, Nell Fenner. 1970. "MALDEF Moving to San Francisco," *San Antonio Express*, 26 June.
- Hahn, Jeanne. 1973. "The NAACP Legal Defense and Education Fund: Its Judicial Strategy and Tactics," in Stephen L. Wasby, ed., *American Government and Politics* (New York: Scribner).
- Kluger, Richard. 1976. *Simple Justice: The History of Brown v. Board of Education and Black Americans Struggle for Equality* (New York: Knopf).
- MALDEF N.d. *Diez Anos*.
- . 1972. Brief for Appellees submitted in *San Antonio Independent School District v. Rodriguez*, No. 71-1332.
- . 1981. Motion to Dismiss or Affirm submitted in *Plyler v. Doe*, No. 80-1538.

———. 1982. Annual Report.

"MALDEF Attorney Sues to Keep His Job." 1976. *San Antonio Express*, 5 March.

Manwaring, David. 1962. *Render unto Caesar: The Flag Salute Controversy* (University of Chicago Press).

Markham, Roseanne. 1983. Interview with Lee Epstein at MALDEF Washington, D.C., office, 13 January.

"Mexican Aid Fund Getting New Look." 1970. *New York Times*, 5 April, p. 48.

Murphy, Alice. 1970. "Pete Tijerna Firing Requested by Ford," *San Antonio Express*, 21 March.

O'Connor, Karen. 1980. *Women's Organizations' Use of the Courts* (Lexington, Mass.: Lexington Books).

Ortega, Joe C. 1972. "The Plight of the Mexican American Alien," *American Bar Association Journal*, 58 (March):211.

Rubin, Eva R. 1982. *Abortion, Politics, and the Courts* (Westport, Conn.: Greenwood).

"San Antonio Native to Head MALDEF." 1973. *San Antonio Express*, 25 October.

Shanahan, Eileen. 1972. "One U.S. Agency Challenges Another on Antibias Accord," *New York Times*, 30 September.

Shattuck, Petra T., and Jill Norgren. 1979. "Political Use of the Legal Process by Blacks and American Indian Minorities," *Howard Law Journal*, 22:1.

Sorauf, Frank J. 1976. *The Wall of Separation: Constitutional Politics of Church and State* (Princeton, N.J.: Princeton University Press).

"Suit Challenges Precinct Boundaries." 1972. *San Antonio Express*, 24 August.

Stewart, Joseph, Jr., and Edward Heck. 1982. "Ensuring Access to Justice: The Role of Interest Group Lawyers in the 60s Campaign for Civil Rights," *Judicature*, 66 (August):84-95.

Teltsch, Kathleen. 1968. "Grant Aids Latins in the Southwest," *New York Times*, 2 May, p. 38.

Vigil, Maurillio. 1978. *Chicano Politics* (Washington, D.C.: University Press of America).

"Vitma Martinez Gets Top MALDEF Post." 1973. *San Antonio News*, 25 October.

Vose, Clement E. 1959. *Caucasians Only* (Berkeley, Calif.: University of California Press).

Wasby, Stephen L. 1981. "Interest Group Litigation in an Age of Complexity." Paper presented at the annual meeting of the Midwest Political Science Association, Cincinnati, Ohio.

Cases Cited

Brown v. Board of Education, 347 U.S. 483 (1954).

Guinn v. United States, 238 U.S. 347 (1915).

Jimenez v. Naff, 397 U.S. 1005 (1970).

Keyes v. Denver School District #1, 413 U.S. 189 (1973).

Logue v. U.S., 412 U.S. 521 (1973).

Plyler v. Doe, 102 S.Ct. 2382 (1982).

San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

Shelley v. Kraemer, 334 U.S. 1 (1948).

White v. Regester, 412 U.S. 755 (1973).