

## Case 36

# Social Movements and Civil Rights Litigation

*Ford Foundation, 1967*

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*Background.* The Ford Foundation, one of the more widely noted sources of foundation funding for the civil rights movement, was only one of many financial sources for the many civil rights organizations active in the 1960s and 1970s. Other foundations and other sources of private funding provided money for a variety of specific causes in the broader movement. In choosing their strategies, these other sources largely steered clear of funding litigation. Some funders may have thought that funding litigation would be too controversial, but in large part, their decisions stemmed from the widespread popular belief that any plaintiff, if injured, had complete access to the justice process to bring grievances to court.

The Ford Foundation, however, understood that many plaintiffs suffering from discrimination were too poor or too unfamiliar with the judicial system to know how they might bring a suit. Further, in the late 1960s, whether private foundations would even be permitted to fund litigation activity, in light of tax and spending regulations on private foundations, was unclear.<sup>561</sup>

*Strategy.* Prior to 1967, the Ford Foundation had spent very little money supporting the civil rights movement. That year, the Foundation elevated support for disadvantaged minorities to one of its top priorities. By 1970, grants in support of disadvantaged minorities constituted about 40 percent of Ford's annual giving.<sup>562</sup> Community development and civil rights advocacy efforts received the bulk of this funding. Other foundations were also funding community development and civil rights advocacy, but few were providing funding for the litigation strategy.<sup>563</sup>

From the late 1960s through the 1970s, however, the Ford Foundation would expand into the arena of civil rights litigation, appropriating about \$18 million to civil rights litigation groups. In adopting this strategy, the Foundation included among its primary objectives the promotion of equal opportunity and fair treatment by the government. The first grants in civil rights litigation, appropriated in 1967, went to the NAACP Legal Defense and Education Fund (an independent organizational entity from the NAACP) and the Lawyers' Committee for Civil Rights Under Law.<sup>564</sup>

Seven additional organizations received crucial funding from the Ford Foundation, funding that helped these organizations get off the ground and that brought legitimacy to their efforts. Four of those organizations focused on the protection of civil rights for four disadvantaged subpopulations. These groups included the Mexican-American Legal Defense and Education Fund (MALDEF), the Native American Rights Fund (NARF), the Puerto Rican Legal Defense and Education Fund (PRLDEF), and the Women's Law Fund.<sup>565</sup>

While groups such as the NAACP Legal Defense and Education Fund were relatively well established at the time the Foundation began funding the group, the Foundation's support of MALDEF and NARF was critical to the creation, survival, and operation of those organizations.<sup>566</sup> In 1969, the Ford Foundation's \$2.2 million grant established the Mexican-American Legal Defense and Education Fund.<sup>567</sup> By 1973, the Foundation's portion of MALDEF's budget had declined to a little less than 50 percent of the total.<sup>568</sup>

Similarly, in 1970, the foundation made a grant of \$155,000 to California Indian Legal Services to start a national pilot project to bring litigation to protect Indian rights.<sup>569</sup> Shortly thereafter, the project was spun off to become the Native American Rights Fund, and the Foundation granted \$95,000 to the new agency in 1971 followed by a three-year, \$1.2 million grant in 1972.<sup>570</sup> The initial eighteen-month grant from the Foundation facilitated the development of a litigation organization on the model of the NAACP Legal Defense and Education Fund in advocating for civil rights and pursuing

crucial test cases to combat systemic violations of civil rights with respect to specific populations.<sup>571</sup> Subsequently, the Puerto Rican Legal Defense and Education Fund—modeled after the NAACP Legal Defense Fund, MALDEF, and NARF—was formed in 1972 with the support of numerous donors, foundations and corporations alike, including early grants from the Foundation of \$60,000 in 1973 and \$150,000 in 1974.<sup>572</sup>

*Impact.* The litigation brought by these organizations is remarkable in the impact some of the cases have had on the rights of disadvantaged minority groups.<sup>573</sup> For example, NARF counts among its achievements securing the rights of Alaskan Indians to tax oil operations on their land, obtaining federal recognition for a tribe that the government had refused to recognize, and preventing the destruction of Pyramid Lake on behalf of the Paiute Indians.<sup>574</sup>

PRLDEF has long been fighting for Latino rights, expanding from its original focus on Puerto Ricans to address the legal needs of all Hispanic populations. It filed lawsuits making New York City schools and the City University of New York more accessible to Hispanic students, and its education division has also helped assist Hispanic students in pursuit of legal careers.<sup>575</sup>

Perhaps more importantly, the Ford grantees in civil rights litigation have become important facilitators of community action and advocacy on behalf of sub-populations whose members have little understanding of the justice and political systems. Ford's grantees have opened the courtroom doors to individuals who might not otherwise have understood that their rights could be vindicated.

## Notes

561. Richard Magat, *The Ford Foundation at Work: Philanthropic Choices, Methods, and Styles* (New York: Plenum Press, 1979), 154.
562. *Ibid.*
563. *Ibid.*, 155.
564. *Ibid.*
565. *Ibid.*
566. *Ibid.*, 156.
567. Ford Foundation, *Annual Report*, 1968 (New York: Ford Foundation, 1968), 6.
568. Robert B. McKay, *Nine for Equality Under Law: Civil Rights Litigation* (New York: Ford Foundation, 1977) 17.
569. Ford Foundation, *Annual Report*, 1970 (New York: Ford Foundation, 1970), 16, 18.
570. Ford Foundation, *Annual Report*, 1971 (New York: Ford Foundation, 1971), 22, 26; Ford Foundation, *Annual Report*, 1968 (New York: Ford Foundation, 1972), 21.
571. A. James Lee and Burton A. Weisbrod, "Public Interest Law Activities in Education," *Public Interest Law: An Economic and Institutional Analysis*, Burton A. Weisbrod, ed. (Berkeley: University of California Press, 1978), 317.
572. Ford Foundation, *Annual Report*, 1973 (New York: Ford Foundation, 1973), 40; Ford Foundation, *Annual Report*, 1974 (New York: Ford Foundation, 1974), 7.
573. McKay, *Nine for Equality Under Law*, 33.
574. McKay, *Nine for Equality Under Law*, 22.
575. Gary M. Stern, "Can the Puerto Rican Legal Defense and Education Fund Be Saved?" *The Hispanic Outlook in Higher Education*, Vol. 14, No. 9 (2/9/2004), 22.