



Annual Report - 2007  
Asian American Legal Defense and Education Fund

*Asian American Legal Defense and Education Fund (AALDEF)*  
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From Margaret Fung, Executive Director  
Asian American Legal Defense and Education Fund

Dear Friends:

The multi-ethnic Asian American community is the fastest growing and most diverse in country, numbering over 15 million and projected to reach 20 million by 2020. Despite unprecedented growth and a long history in the United States, Asian Americans still face an array of obstacles to full participation in our society.

Immigrant low-wage workers toil in sweatshops and suffer dangerous and illegal working conditions in the restaurant, retail, construction and personal service industries, to name a few. Expanded government policing powers after 9-11 strip individuals of their basic freedoms, and immigrant communities are targeted on the basis of ethnicity and religion, rather than evidence of crime. Asian American students face racial harassment, while one-half of the women and girls trafficked into the United States are from Asia and the Pacific Islands. Finally, Asian American citizens still lack a vibrant political voice because of discrimination and ongoing barriers to voting.

Since 1974, the Asian American Legal Defense and Education Fund (AALDEF) has protected and promoted the civil rights of Asian Americans. We litigate cases and comment on proposed legislation and government policies that have major impacts on the Asian American community. We act as a legal resource for community-based organizations, facilitate grass-roots organizing efforts, and educate the Asian American community about their legal rights and the American legal system. Reaching out in the community, AALDEF conducts free, multilingual legal advice clinics for recent immigrants and the working poor.

As we approach our 35<sup>th</sup> anniversary, the demand for AALDEF's services has grown and paralleled changes in the Asian American community. We hope that reading about our work will inspire you to join us in our ongoing efforts to secure racial and economic justice for all Americans.

## ANNUAL REPORT - 2007

### INTRODUCTION

The Asian American Legal Defense and Education Fund (AALDEF), founded in 1974, is a national organization that protects and promotes the civil rights of Asian Americans. by combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all. Current program priorities include economic justice for workers, immigrants' rights, voting rights, language access to services, affirmative action, youth rights and educational equity, and the elimination of anti-Asian violence, police misconduct and human trafficking.

### VOTING AND CIVIC PARTICIPATION

#### BARRIERS TO VOTING

One of AALDEF's top priorities is to increase fairness in the electoral process and invigorate the civic participation and political empowerment of Asian Americans. Asian American voters face the same hurdles as other voters across the country, but encounter added barriers, especially newly naturalized citizens and persons not yet fluent in English.

The federal Voting Rights Act requires some U.S. counties to provide language assistance--interpreters, translated ballots and other voter materials--but these mandates are often ignored. Asian Americans, and other voters of color, are more often asked to produce voter identification at the polls, even if it is not required, and not given provisional ballots, as mandated by the Help America Vote Act (HAVA). Moreover, there are overt incidents of racial discrimination and voter intimidation by poll workers and long-time voters hostile to newcomers.

#### VOTER ID REQUIREMENTS

The State of Indiana requires all eligible voters to present government-issued photo identification in order to vote. AALDEF and the Asian American groups that have monitored elections across the country over the last decade have found that voter ID requirements have discriminatory impacts on Asian American voters.

*It is clear that voter ID laws disenfranchise Asian Americans and prevent racial and language minorities from exercising their fundamental right to vote.*

Margaret Fung  
AALDEF Executive Director

For example, in New York, identification is not required to vote, but 23% of Asian American voters surveyed were asked to show ID. Of those, 69% were not required to do so under the Help America Vote Act, which requires only a limited group of first-time voters to present ID. In Manhattan's Chinatown, a police officer turned away all Asian American voters without photo IDs.

AALDEF filed an *amicus* "friend of the court" brief in the U.S. Supreme Court on behalf of twenty-five Asian American groups, challenging the constitutionality of Indiana's restrictive voter ID requirements in two cases, *Crawford v. Marion County Election Board* and *Indiana Democratic Party v. Todd Rokita*. (Co-counsel Orrick Herrington & Sutcliffe)

**PROFILE OF ASIAN AMERICAN VOTERS**

During the 2006 midterm elections, AALDEF mobilized over 600 volunteers and surveyed 4,726 Asian American voters at 68 poll sites in 23 cities across nine states in the largest nonpartisan survey of its kind in the nation. Responses to the exit poll illustrate critical needs of the Asian American community and provide a unique snapshot of Asian American voting patterns. Of those surveyed, nearly half said they were limited English proficient, and many utilized translated materials and interpreters when available.

Data also showed that Asian Americans share common political interests despite their diverse backgrounds. In another finding, Asian Americans said that jobs and the economy are the most important issues that candidates should address in the 2008 Presidential Election.

AALDEF released a ground-breaking report on *The Asian American Vote in the 2006 Midterm Elections*, a unique snapshot of Asian American voting patterns.

Moreover, Asian Americans are largely Democratic voters, and party crossover voting significantly favors Democrats. Asian American voters supported the legalization of undocumented immigrants and reducing immigration backlogs as well as opposed making undocumented status a crime.

**2008 PRESIDENTIAL ELECTION**

In the upcoming 2008 Presidential Election, we will undertake a major election protection program by sending volunteer attorneys and law students to poll sites in twelve states. We will produce informational materials into eleven Asian languages and dialects and staff a multilingual telephone hotline to answer voter questions and monitor problems. We will also conduct another exit poll, with the goal of surveying 15,000 Asian Americans in ten states.

**ECONOMIC JUSTICE**

Many Asian immigrants work for long hours and low pay in the restaurant, garment, construction, hotel and domestic service industries. Hired by exploitative employers, they are often not paid minimum wage or overtime. Traditionally, Asian immigrant workers have not sought assistance from legal services because of their immigration status and inability to speak English.

**WIDESPREAD ABUSE IN THE RESTAURANT INDUSTRY**

The restaurant industry is highly competitive, leading several employers to violate labor laws. Asian immigrants, especially undocumented workers, toil in the lowest paying jobs of dishwashers, take-out delivery workers and line cooks in small restaurants. Waiters complain about the widespread practice of restaurant managers illegally taking a share of their tips.

In 2007 alone, AALDEF won more than \$2.6 million in unpaid wages for Asian immigrant workers.

*Ke v. Saigon Grill, Inc.* AALDEF filed suit against the Manhattan restaurant chain Saigon Grill, on behalf of 36 former take-out delivery employees. Saigon Grill paid

the workers less than minimum wage, failed to work them overtime, required them to maintain their own bikes and scooters, and forced them to pay “fines” of \$20 to \$200 from their tips for breaking restaurant rules, such as \$50 for slamming the restaurant door.

When the restaurant learned that the delivery workers were planning to file a lawsuit, the defendants asked them to sign a false statement saying they were paid proper minimum wage and overtime pay. When the workers refused, they were fired. The case went to trial in 2008. (Co-counsel Davis Polk & Wardwell)

*These delivery men were terribly exploited and mistreated by Saigon Grill. Restaurant management paid them a fixed amount each month, with most of the workers earning between \$1.70 and \$2.45 an hour—well below minimum wage.*

Ken Kimerling  
AALDEF Legal Director

The legal challenge against celebrity chef Daniel Boulud brought national attention to the ongoing discrimination against immigrant workers.

*Mamun v. Boulud.* Our discrimination suit on behalf of seven Bangladeshi and Latino restaurant workers against Restaurant Daniel, the Upper East Side French restaurant owned by celebrity chef Daniel Boulud, was favorably resolved. Boulud failed to promote the plaintiffs to higher-paying positions while simultaneously

advancing white workers with fewer skills and less experience. The settlement included an agreement for the management to provide 8% raises for these workers, racial sensitivity training for the managers, and a non-discriminatory promotions policy that will be monitored by the Equal Employment Opportunity Commission and the New York State Attorney General's office. (Co-counsel CUNY School of Law Immigrant and Refugee Rights Clinic; Beldock, Levine & Hoffman LLP)

*Wong v. Ming Dynasty Restaurant.* AALDEF filed a federal lawsuit that was later settled, resolving issues of the entitlement of waiters and buspersons to the gratuities provided by banquet patrons. The management took 25% of all banquet gratuities and failed to pay overtime. When two waiters complained about these practices, they were fired.

*Chang v. Evolution Cuisine.* AALDEF settled a two-year old lawsuit on behalf of sixteen Korean immigrant waiters, buspersons, cooks and other former workers at Seoul Plaza and Young Bin Kwan restaurant, which violated several federal and state wage and hour laws. This victory was widely publicized in the Korean-language media.

**SYSTEMIC VIOLATIONS IN THE CONSTRUCTION INDUSTRY**

In New York City alone, there are an estimated 100,000 construction jobs in private residential and large public sector projects. Immigrant workers and day laborers find jobs through contractors and subcontractors, but this unregulated segment of the industry is fraught with dangerous working conditions and systemic violations of wage and hour laws. Many day laborers are Bangladeshi, Sikh immigrants from India and Chinese immigrants with construction experience in Asia.

AALDEF resolved a large civil RICO (Racketeer Influenced and Corrupt Organizations Act) lawsuit on behalf of 19 Chinese construction workers who did not receive the prevailing wage required for New York State and New York City construction projects.

The workers, who were entitled to union scale wages averaging \$50 or \$60 per hour, received a significant amount in back wages from the defendant construction company.

**OTHER VICTORIES FOR WORKERS**

As a parking attendant for an upscale beauty spa in New Jersey, a Korean immigrant worked 75 hours per week, five days a week, according to an agreed upon base wage of \$350 per week. However, the agreement did not account for overtime, which is a violation of federal and state labor laws. The worker found about our **New Jersey Asian American Legal Project** through a Korean-language newspaper, and we assisted him in securing payment for a year's overtime and liquidated damages.

In cooperation with the Southern Poverty Law Center, ACLU, Stroock & Stroock & Lavan and the New Orleans Workers' Center for Racial Justice, AALDEF is representing 100-150 guest workers from India who were hired by Signal International to do shipyard work in the Gulf Coast region post-Katrina. The workers claim that Signal promised to sponsor them for green cards and accepted payment from the workers for this benefit. Upon their arrival, many of the workers were fired and others received salaries well below the promised rate. Five workers were imprisoned by the company when they complained. A lawsuit was filed in New Orleans federal court in 2008.

**ANTI-TRAFFICKING INITIATIVE**

An alarming number of Asian women and girls are trafficked by force or fraud into the United States through organized crime networks and employment agencies, forced to work in the sex industry, restaurants, garment factories and as domestic workers. New York City is a major trafficking destination due to its large, concentrated Asian American communities that can hide trafficked persons and industries that support their forced labor.

Of the estimated 18,000 immigrant women and girls trafficked into the United States each year, one-half are from Asia and the Pacific Islands.

Domestic workers are among the most isolated and exploited of immigrant workers. Primarily Filipina, Indian and Bangladeshi women, domestic workers often live in a family's home and are responsible around the clock for cooking, cleaning, child care and shopping. These women are often paid below minimum wage with no benefits or vacation and have their passports confiscated by their employees.

In addition to providing free legal representation to several trafficked women and youth, AALDEF developed outreach materials in twelve languages and worked with community-based organizations across the country to raise awareness about the legal avenues available to trafficking survivors subjected to forced labor, domestic servitude or prostitution.

**WOMEN AND GIRLS OUT OF THE SHADOWS**

A young Asian woman responded to an ad for a domestic worker in a Bangla-language newspaper. She was subjected later to a great deal of violence, humiliation and intimidation until the woman was able to escape with the help of Good Samaritans. Through the Urban Justice Center, she is in the process of suing her former trafficker for wage and hour claims. AALDEF is assisting her as a victim advocate as she cooperates with authorities –a prerequisite to applying for immigration relief through the Trafficking Violence and Protection Act.

We are also serving as a victim advocate in a “mail-order bride”/servile marriage case. A woman came to the United States with her new husband from India only to be sent to another family’s house shortly upon her arrival. She later discovered that her husband received payment from the family in exchange for bringing her to the States to marry another man. The woman was beaten, repeatedly raped, and the wages she earned from her work were taken away. Two of the men from the family were arrested. AALDEF is advocating for the arrest and prosecution of her husband, and guiding her as she cooperates with local law enforcement authorities.

A young girl was trafficked from China at the age of 13 to perform full-time with an acrobatic troupe at public schools throughout the United States. The girl traveled and performed at 2 to 4 schools daily, lived out of motels, ate only two meals a day usually of vegetables to keep her weight down, and was not allowed to move unaccompanied. She was compensated only \$100 monthly and received no formal education. The girl finally escaped with the assistance of a Good Samaritan. AALDEF assisted her with an application for Special Immigrant Juvenile Status.

### **YOUTH RIGHTS AND EDUCATIONAL EQUITY**

Asian American youth are often portrayed as a "model minority" who pull themselves up by their bootstraps, thrive in school and achieve unparalleled academic success. Unlike other racial minorities, Asian American youth are viewed as free from systemic racism, discrimination or other barriers to achievement. Unfortunately, this prevailing myth has been detrimental to the youth it portrays.

Asian American public school students confront many challenges: Southeast Asians (Cambodian, Laotian and Vietnamese) face school dropout and “pushout” challenges; South Asians (Indian, Pakistani and Bangladeshi) are subjected to post 9-11 profiling; English Language Learners are denied access to bilingual education and translation services; and Asian students of all backgrounds are plagued by racial discrimination and harassment.

Through its ***Asian American Educational Equity and Youth Rights Project***, AALDEF examines and addresses issues affecting the daily lives of Asian American youth. In confronting these challenges, AALDEF uses a multi-pronged approach, including direct representation and impact litigation, policy advocacy, community education training, support of youth and parent organizing, and research and data collection.

### **RACIAL HARASSMENT**

Racial harassment of Asian American students, particularly recent immigrants, is a growing problem across the country.

A Sikh high school student in Queens was cornered in the bathroom, forced to remove his turban, and had his hair cut by another student. As the attacker was a Muslim South Asian student, the media portrayed the story as one of religious tensions in schools. AALDEF reframed the issue to focus on the New York City Department of Education’s failure to protect the student who has endured continued abuse, and its overall failure to respond to school harassment incidents until a serious incident occurs. AALDEF worked with several community-based groups to advocate for stronger anti-harassment

measures in New York City public schools, including implementation of the Dignity for All Students Act.

AALDEF is working with the United Chinese Association of Brooklyn to advocate for a Brooklyn middle school student who was severely beaten by two classmates, resulting in 90 percent hearing loss in one ear. The attackers hurled racial slurs at him during the incident. We met with school officials to ensure safety measures, services to accommodate his new hearing disability and followed up with police to press charges.

AALDEF met with Chancellor Joel Klein of the NYC Department of Education to advocate for specific policy changes and AALDEF staff attorney, Khin Mai Aung co-authored an Op-Ed piece in the New York Times with Sikh Coalition's Neha Singh, entitled *A Free Ride for Bullies*.

#### **BILINGUAL EDUCATION AND LANGUAGE ACCESS**

Despite research showing that it takes four to seven years for English Language Learners (ELLs) to develop academic proficiency in English, school districts across the country are moving away from bilingual education toward mainstreaming and English immersion. As a result, limited English proficient students and parents experience difficulty asserting their legal rights to interpretation and translation services.

AALDEF is working with several organizations in the Boston area to educate advocates on parental and student rights under federal law. We created and continue to distribute fact sheets on these rights, including the presence of an interpreter in Individual Education Program team meetings for special education students and the right to translated written notices to parents.

We continue to work with the Cambodian Association of Greater Philadelphia to follow up a joint advocacy letter we sent in December 2006 documenting the mistreatment of ELLs in Philadelphia's public schools. We are pursuing a Freedom of Information Act request to get data on enrollment of Asian American students and Khmer speaking ELLs in Philadelphia, and the number of Khmer-speaking staff.

#### **SCHOOL INTEGRATION AND ASIAN AMERICANS**

AALDEF, Chinese for Affirmative Action and 14 other Asian American community based organizations nationwide filed an *amicus* brief in the U.S. Supreme Court in the Seattle and Louisville school integration cases—*Meredith v. Jefferson County Board of Education, et al.* and *Parents Involved in Community Schools v. Seattle School District No. 1*. (Co-counsel Wachtell, Lipton, Rosen & Katz)

### **CONCLUSION**

In the coming year, AALDEF will continue to work with Asian American communities to address the most pressing social issues affecting all Americans. With your assistance, we can move forward together to build a strong and vibrant social justice agenda for the future.

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## FINANCIAL STATEMENT

### Condensed Statement of Income and Expenses for the Year Ended June 30, 2007

SUPPORT AND REVENUE:		\$1,555,782
Contributions	125,798	
Grants	765,085	
Legal Fee Awards	71,212	
Events	564,445	
Other	29,242	
EXPENDITURES:		\$1,445,554
Program Services	1,230,675	
Management & General	152,191	
Fundraising	62,688	
CHANGE IN NET ASSETS		\$ 110,228
NET ASSETS, BEGINNING OF YEAR		\$1,151,585
NET ASSETS, END OF YEAR		\$1,261,813