



# Outlook

ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

FALL 2006

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▼ Nation editor Katrina vanden Heuvel and actor Kal Penn join forces for an inspiring evening. Details on p. 5. (Photo by Lia Chang)



## PUTTING HUMAN RIGHTS AND WORKERS' RIGHTS FIRST IN THE IMMIGRATION DEBATE

After millions of immigrants and supporters marched in cities and towns this spring calling for a fair, sensible approach to immigration reform, lawmakers in the Senate promised to take the high road in their deliberations.

Immigrant rights took center stage as communities nationwide declared a new civil rights movement. But as the debate made proposals increasingly punitive, AALDEF urged lawmakers to honor basic human rights principles in any plan to overhaul the immigration system.

"This year, we have yet to see an immigration proposal that recognizes and fixes the errors of past policies," said AALDEF program director Stan Mark.

"Instead, as we suspected, the political climate of the debate made immigration reform a Trojan horse for anti-immigrant and undemocratic measures."

AALDEF partnered with groups including the national Break the Chains Alliance, Immigrant Communities in Action, and United for Peace & Justice to hold public speak-outs and briefings educating the public about the Senate immigration bill, which carried provisions for punitive enforcement, detention, and deportation policies along with guestworker plans that would permit only a fraction of the country's 12 million undocumented immigrants to adjust their

status from within the U.S.

The Senate recently passed an immigration bill (known as "Hagel-Martinez") that would only worsen the rifts in the U.S. labor market created by the nation's last



▲ More than 120,000 immigrants rallied along Broadway in New York City on April 10, one of a series of national actions demanding fair and just immigration reform directed at lawmakers in Congress. (Photo by Ken Lee)

major immigration bill—the 1986 Immigration Reform and Control Act. IRCA established "employer sanctions," the policy that effectively divided the U.S. workforce in two: documented workers above ground, and undocumented workers underground.

Last December, the House passed the draconian bill H.R. 4437, which would criminalize undocumented immigrants based on their status for the first time in history. When the Senate took

up immigration reform, AALDEF warned lawmakers and advocates that an enforcement-heavy approach would only undercut any adjustment of status programs for immigrants. 2005 Census figures estimate that Asian immigrants now make up about 13% of undocumented immigrants nationwide.

AALDEF joined nationwide marches on April 1, April 10, April 24, and May 1 that declared: "Legalize, Don't Criminalize," "No Guestworker Programs!" and "Today We March, Tomorrow We Vote." AALDEF also worked with multi-ethnic coalitions to draft a statement of ten principles circulated

Continued on Page 3



**Jury Awards  
\$226,000 to  
Domestic Worker**

In June 2006, a domestic worker from Nepal who worked five years for almost no pay was awarded \$206,000 in compensatory damages and \$20,000 in punitive damages by a jury.

She lived in the home of her employers, a New Jersey couple, and worked day and night taking care of the couple, their children, and their home, cleaning, cooking, and maintaining the lawn and pool. The couple subjected her to continual verbal abuse. Though they promised to pay her, the couple gave her only a few thousand dollars after five years.

Seeking the fair labor value for her work, AALDEF filed a quasi contract claim in 2003. AALDEF's co-counsel were ACLU, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Loeb & Loeb LLP, and local counsel Dwyer & Dunnigan LLC.

**JEWELRY FACTORY WORKER AWARDED  
\$70,000 IN BACK WAGES**

In December, a Manhattan federal judge awarded Doo Nam Yang, 50, a judgment of \$70,960.57 in back wages and overtime from his former employer, New York jewelry company ACBL Corp.

Yang, a Korean immigrant from Argentina, worked for ACBL over a span of seven years. The company required him to work more than 40 hours a week, and typically more than 90 hours a week, seven days a week, during the holidays. However,

Yang received only a fixed amount each week—usually in cash—no matter how many hours he worked. In federal court, the factory owner tried to undermine Mr. Yang's testimony by producing falsified timesheets, but the court found the owner's account "replete with contradictions."

After a two-day trial, Federal District Judge Leonard B. Sand found that ACBL violated federal and state labor laws and upheld Yang's right to additional "spread of hours" wages for his work over 10 hours a day.

Said Yang, "ACBL and its owner never paid me a cent of overtime wages for all that work. They fought me every step of the way, but I knew my rights and that we would win in the end."

AALDEF Skadden Fellow Steve Choi, who represented Yang, added, "The law is on the side of the workers, and employers who think they can exploit their workers without legal consequence will end up being brought to justice." ✿

▼ Doo Nam Yang (left) at a Korean Workers Project press conference with AALDEF staff attorney Steve Choi (center) and YKASEC program associate Kathy Chae. (Photo by YKASEC)



**TEENAGE LABOR TRAFFICKING SURVIVOR  
APPROVED FOR T VISA**



"Sara," a labor trafficking survivor from China, will be able to stay in the U.S., attend public school, be reunited with her family, and receive work authorization after a T Visa petition, filed on her behalf by AALDEF, was approved in April.

"Sara" was 14 when she was sent unaccompanied to the U.S. by her parents in 2002, in hopes that she could make a

better life for herself. After an arduous journey from Fujian, her traffickers demanded that she pay tens of thousands of dollars more, held her in a basement for weeks, beat her, and threatened physical harm to her and her family if she failed to pay off the debt.

When she contacted AALDEF Equal Justice Works Fellow Ivy Suriyopas last fall, "Sara" was working in restaurants six days a week, 14 hours a day, wiring nearly all her wages to China every month. ✿



# Stand Up for Immigration Reform

## PUTTING HUMAN RIGHTS AND WORKERS' RIGHTS FIRST IN THE IMMIGRATION DEBATE

*Continued from Page 1*

among immigrant communities and ethnic press.

"The upsurge in organizing among immigrant communities redefined the national debate, but it remains to be seen whether our elected officials will listen to our demands for just legalization policies," said Mark.

AALDEF attorneys also used the courts to protect immigrants against workplace exploitation and to halt the rollback in rights for immigrants and their families. In 2006, AALDEF brought cases on behalf of dozens of Asian immigrant workers and their colleagues facing nonpayment of wages, forced labor trafficking, and other abuses within the restaurant, construction, deli and nail salon industries—where labor standards such as minimum wage and overtime are least enforced (see sidebars, pp. 2, 3).

AALDEF has also maintained that anti-immigrant "interior enforcement" measures in the bills would have disastrous effects on all communities. In one instance, Waheed Saleh, a Palestinian immigrant from the Bronx, was reported to immigration authorities by the New York Police Department and put into deportation proceedings after he filed a formal complaint against a police officer who had racially harassed him. In February, AALDEF attorney Tushar Sheth filed a federal lawsuit on his behalf asserting that the First Amendment protects an immigrant's right to file a grievance against the government without facing retaliation—including having one's status reported to immigration authorities.

The current debate also continues to ignore the fluidity and complexity of immigration laws and their impact on



▲ AALDEF staff attorney Tushar Sheth, AALDEF legal intern Sujeet Rao, and AALDEF staff attorney Khin Mai Aung join hundreds of marchers at a 1,000-strong feeder march from Chinatown to Union Square organized by the Chinese Staff and Workers' Association and NMASS. (Photo by AALDEF)

families. Currently, about 1 in 10 families with children in the U.S. comprise a "mixed-status" family, in which one or more parents is a non-citizen and at least one child is a citizen.

Inhumane detention and deportation practices that would be expanded in the Senate bill led to tragedy in the case of ZhenXing Jiang, 34, a Chinese immigrant residing in Philadelphia. When she appeared for a supervisory immigration interview on February 7, federal Immigration and Customs Enforcement (ICE) officials noticed that she was pregnant and immediately forced her into a car bound for JFK airport for her deportation. ICE agents ignored Jiang's cries of pain, resulting in a miscarriage of her unborn twins en route.

In addition to calling for an investigation into ICE's practices, AALDEF is currently of counsel in her immigration case and is working with Asian Americans United in Philadelphia to ensure Jiang's family will not be divided by deportation.

As the congressional debate continues, AALDEF will work to ensure that human rights and workers' rights will not be sidelined in the fight for meaningful immigration reform. ❁

### Voices from the Community



**Mr. Waheed Saleh, 35,** was inexplicably detained and put into deportation proceedings in 2004 after a police officer threatened to retaliate against him if he did not withdraw a harassment complaint he filed with the Civilian Complaint Review Board. "Someone trying to seek fairness and justice should not have a government agency silence him from complaining against someone who has crossed the line," said Mr. Saleh.



**Ms. ZhenXing Jiang** suffered a miscarriage while in Homeland Security custody in February. Her husband, **Mr. Tianxiao Zhang,** said, "Words cannot describe the sadness my wife and I feel. We have struggled to build a family and livelihood here. America is our home and we don't understand why the government is treating us this way. All we are asking for is justice and to be treated fairly and with respect."



## Online at [aaldef.org](http://aaldef.org): Korean Workers Project Resources

• A copy of the Korean Workers Project's "Forgotten Workers" survey is available at [http://www.aaldef.org/docs/KWP\\_2006WorkerSurvey\\_analysis.pdf](http://www.aaldef.org/docs/KWP_2006WorkerSurvey_analysis.pdf).

• Korean Workers Project brochures in Korean and English are available at <http://www.aaldef.org/about.html>.

• The first-ever Korean-language booklet on New York State unemployment insurance benefits, published by the Korean Workers Project, is available at [http://www.aaldef.org/docs/korean\\_unemployment\\_guide.pdf](http://www.aaldef.org/docs/korean_unemployment_guide.pdf).

## AALDEF RELEASES GROUNDBREAKING REPORT ON LOW-WAGE KOREAN WORKERS



"Mr. Lee," a Korean immigrant worker, regularly put in 13 hours a day, six to seven days a week at a New York-area nail salon without

ever receiving a cent of overtime.

Approximately three out of four Korean immigrant workers like "Mr. Lee" do not receive legally-mandated overtime pay even though they are entitled to it, according to survey results released in April.

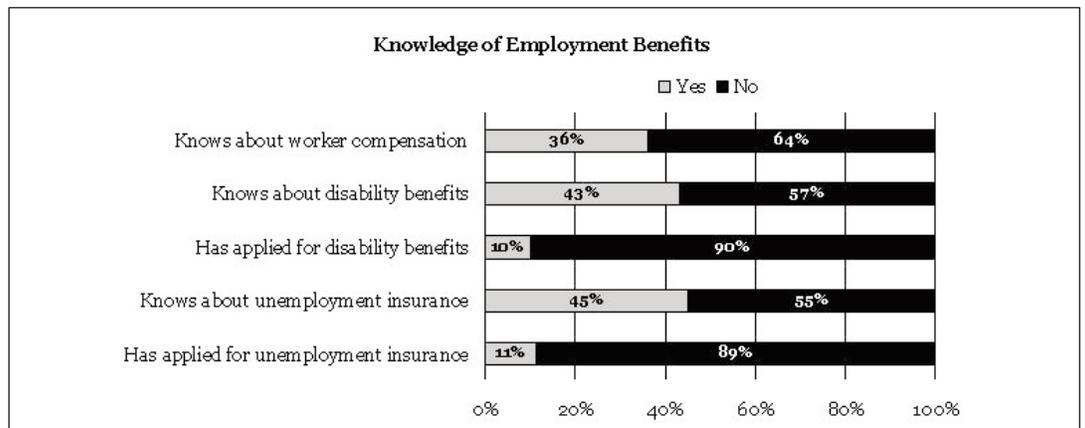
The study, entitled "Forgotten Workers," is a first-of-its-kind survey examining the conditions and challenges faced by low-wage, first-generation Korean immigrant workers in the greater metropolitan area. Census figures indicate that 22 % of Korean Americans in New York City live below the poverty level.

The survey examined the working conditions of 184 Korean immigrant workers employed in various industries, including restaurants, groceries and delis, dry cleaners, hair and nail salons, construction, and garment manufacturing. About 28 % of the respondents were undocumented workers.

Other key findings include:

- Nearly all (94 %) of the workers surveyed were limited English proficient.
- Close to half (47 %) of the workers worked 60 hours or more per week, and almost two-thirds (64 %) of workers work more than 50 hours per week. The average number of hours worked per week was more than 55 hours.
- 15 % reported that they had health problems or have gotten injured as a result of their job, but 64 % of all respondents did not know about their right to workers' compensation.
- 91 % of workers said they were not part of a union or any other organization to protect them.
- Nearly one-third (31 %) currently hold more than one job to support themselves.

After getting advice from the Korean Workers Project, "Mr. Lee," represented by AALDEF, filed a suit against the nail salon and finally received a \$17,500 back-wage settlement in January. ❄



▲ According to AALDEF and YKASEC's survey of low-income Korean immigrant workers, more than half of survey respondents (55%) did not know about unemployment insurance, and only 11% of workers had ever applied for it. Respondents' awareness of disability benefits for workers injured on the job was similarly low.

# AALDEF Lunar New Year Gala



## IVAN FONG, KATRINA VANDEN HEUVEL, AND CHARLES OGLETREE RECEIVE 2006 “JUSTICE IN ACTION” AWARDS



▲ (Front l to r) Judge Denny Chin, 2006 Justice in Action honorees: Ivan K. Fong, Charles J. Ogletree, Jr., and Katrina vanden Heuvel. (Back l to r) AALDEF executive director Margaret Fong and presenter Peter Kwong. (Photo by Lia Chang)

More than 850 guests joined AALDEF at Pier Sixty on Thursday, February 2 to congratulate AALDEF's 2006 "Justice in Action" Award honorees Ivan K. Fong, Executive Vice President and Chief Legal Officer of Cardinal Health; Charles J. Ogletree, Jr., Harvard Law School professor; and Katrina vanden Heuvel, editor and publisher of *The Nation*. WNBC-4 reporter Vivian Lee hosted the evening's festivities, and film actor Kal Penn presented a special message.

Fong expressed deep gratitude to those who inspired his advocacy in the public and private sectors on behalf of the Asian American community, urging the next generation not to be "overwhelmed" by cynicism, but to approach the work of justice as simply "having integrity: every day, everywhere, in everything that you do." He accepted his award from Manhattan Federal District Judge Denny Chin.

*Nation* editor vanden Heuvel regaled listeners with a story of how she stumbled upon AALDEF while an intern at the

magazine in 1980, researching Chinese immigrant waiters on strike at Silver Palace restaurant, and praised the dedication AALDEF staff demonstrated in seeing the case through to a \$500,000 settlement more than two decades later. She received her award from Hunter College professor Peter Kwong.

Professor Ogletree reminded guests that "Our struggles and our destinies are tied together," citing the contribution of Asian American hero Fred Korematsu to his work to secure reparations for Tulsa race riot survivors. Former New York City mayor David Dinkins presented Ogletree with his award.

"In these difficult times, our honorees have promoted a broad vision of civil rights in the law, media, and public policy," said AALDEF executive director Margaret Fong. "Their efforts truly reflect the spirit of AALDEF's mission: to advance human rights for all."

The evening raised more than \$600,000 to support AALDEF's civil rights work. ❁

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# 2006 Lunar New Year Gala

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## ACKNOWLEDGMENTS

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 Bingo, the musical  
 David Bouley  
 The Chamber Music Society of Lincoln Center  
 Lia Chang  
 Chelsea Piers Sports & Entertainment Complex  
 Denley Chew  
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 Citibank, N.A.  
 Con Edison  
 Crunch Fitness  
*The Daily Show with Jon Stewart*  
 Dell Inc.  
 Eastern Athletic/Shibumi Spa  
 Eleven Madison Park  
 Equinox Fitness Clubs  
 Equinox Fitness Spa at 63rd St.  
 Harpo  
 Gordon Hirabayashi



▲ Honoree Charles J. Ogletree, Jr., Peter Sherwood of Manatt, Phelps & Phillips, AALDEF executive director Margaret Fung, Judge Kristin Booth Glen and honoree Ivan Fong. (Photo by Corky Lee)



▲ *Namesake* film actor Kal Penn shares an anecdote with AALDEF honoree Katrina vanden Heuvel and her presenter, Professor Peter Kwong. (Photo by Lia Chang)



▲ Emcee Vivian Lee of WNBC-TV (center) with history-makers David Dinkins, the first African American mayor of New York City, and Mayor Jun Choi, the first Asian American mayor of Edison, NJ. (Photo by Lia Chang)



▲ Benefit Committee Co-Chair Brian Sun (center, front) and colleagues from Jones Day welcome in the Lunar New Year. (Photo by Lia Chang)



▲ (l to r) Merrill Lynch supporters Pao-Ling Yu, Benefit Committee Co-Chair Stephanie Yu, Ray Ying, Lisa Tsuei and Cynthia Yang enjoy the festivities. (Photo by AALDEF)



▲ *Law & Order* actor B.D. Wong and *People* magazine executive editor Jeannie Park catch up at the reception. (Photo by Lia Chang)

# Celebrating the "Year of the Dog"



▲ Kal Penn hangs backstage with Benefit Committee Co-Chair Raymond Lin of Latham & Watkins, Loyti Cheng of Davis Polk & Wardwell, and AALDEF assistant director Lillian Ling. (Photo by Lia Chang)



▲ AALDEF board member Gail Wright Sirmans & Benefit Committee Co-Chair Alphonse Fletcher, Jr. of Fletcher Asset Management, Inc. (Photo by AALDEF)



▲ Honoree Ivan Fong (center) receives congrats from National Asian Pacific American Bar Association leaders (l to r): Paul Lee, Wilson Chu, Amy Lin Meyerson, Bruce Ishimatsu, Jim Goh, and 2005 AALDEF honoree Don Liu. (Photo by Lia Chang)



▲ AALDEF supporters Kirkland & Ellis LLP with Benefit Committee Co-Chair Eunu Chun (center, back). (Photo by Corky Lee)



▲ 1921 Tulsa Race Riot survivor Olivia Hooker with AALDEF honoree Professor Charles Ogletree. (Photo by Lia Chang)



▲ Guests from Cadwalader, Wickersham and Taft are joined by Benefit Committee Co-Chair Kathy Hirata Chin (front, second from right) and Federal Magistrate Judge Kiyo Matsumoto (back, far right). (Photo by Lia Chang)

Hotel Palomar Washington DC -  
 A Kimpton Hotel  
 David Henry Hwang  
 Jivamukti Yoga Center NYC  
 Knitty City  
 Peggy Kuo  
*Late Night with Conan O'Brien*  
*Late Show with David Letterman*  
 Ang Lee  
 Jan Lee  
 Jeanette Lee  
 Leekan Designs  
 LG Electronics MobileComm  
 U.S.A. Inc.  
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 Ma-Yi Theater Company  
 Major League Baseball  
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 NAP, Inc.  
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 New York Giants  
 New York Philharmonic  
 New York Rangers  
 New York Theatre Ballet  
 The New York Times  
 New York Yankees  
 Dat and Becky Nguyen  
 Ohnmar Shin  
 Pan Asian Repertory Company  
 Pearl River Mart  
 Kal Penn  
*People Magazine*  
 Pfizer Inc.  
 Prudential Financial  
 The Public Theater  
 Salman Rushdie  
 Shiseido Cosmetics  
 (America) Ltd.  
 Shun Lee  
 Vijay Singh  
 Barbara H. Soong  
 Ichiro Suzuki  
 Ten Ren Tea & Ginseng Co.  
 Thomas/Martin Events  
 Tina Tang Studio  
 Tribeca Film Festival  
 Cecilia Tso  
 Vivienne Tam  
 Tom Wai-Shek  
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## Summertime Fun in the City

### Summer Party Event Committee

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 Sullivan & Cromwell LLP  
 Weil, Gotshal & Manges LLP  
 White & Case LLP



▲ Summer Party Event Committee: (Front from l to r) AALDEF assistant director Lillian Ling, Jean Lam MacInnes of Dewey Ballantine LLP, Anjna R. Kapoor of Kelley Drye & Warren LLP, Yue-Han Chow of Arnold & Porter LLP. (Back from l to r) AALDEF staffer Jennifer Weng, Vincent J. Roldan of DLA Piper Rudnick Gray Cary US LLP, Andrew J. Yoon of Weil, Gotshal & Manges LLP, Lauren U. Y. Lee of Cadwalader, Wickersham & Taft LLP, Tomasita L. Sherer of Milberg Weiss Bershad & Schulman LLP, and AALDEF executive director Margaret Fung. (Photo by AALDEF)

AALDEF's 2006 Summer Cocktail Party, held in Manhattan on June 7 at AER Lounge in the Meatpacking District, was a spectacular success. Over 400 guests attended. Special thanks to the members of our Summer Party Event Committee!



▲ (l-r) Summer Event Committee member Andrew J. Yoon of Weil, Gotshal & Manges LLP with guests Sey-Ho Lee and Jeanne Cho of Chadbourne & Parke LLP.



▲ (l-r) Amit K. Trehan and Ajay Mago of Mayer, Brown, Rowe & Maw LLP along with AALDEF staff attorney Tushar Sheth.



▲ Summer Event Committee member Stephanie Sun Hinderks of Cleary Gottlieb Steen & Hamilton LLP with guests Grace Kang (left) and Cleary Summer Associate Youngro Lee (right).



# Promoting Civic Participation

## AALDEF BRINGS LANGUAGE ASSISTANCE SUIT TO PROTECT MINORITY VOTING RIGHTS

When Congress debated legislation to renew the Voting Rights Act (VRA) this spring, a suit AALDEF filed against the City of New York presented a clear case for the continuing need for VRA protections. In February, AALDEF sued the New York City Board of Elections alleging that—in the city with the nation’s largest Asian American population—the Board of Elections violated the VRA’s language assistance provisions.

Section 203 of the VRA requires the translation of election-related materials, voter notices and publicity, and interpreters at poll sites. The VRA has required language assistance for limited English proficient Chinese American voters in New York, Kings, and Queens counties since 1992, and for Korean American voters in Queens since 2002.

According to the suit, Asian Americans in New York City have faced more than a decade of Election Day obstacles, including: faulty translations of candidates’ names on ballots; interpreter shortages that led to voters being turned away; poll workers blocking interpreters from assisting voters or making disparaging or racist remarks about language assistance and Asian Americans; poor and ineffective notices of poll site changes that led to voter confusion; and voters unable to find their correct poll site locations because hotlines did not provide assistance in both dialects



▲ Fun Mae Chin Eng (right), a 73-year-old Chinatown garment worker and a plaintiff in the AALDEF suit, told reporters that without VRA-required language assistance, “[W]hen I got into the machine it was like I was blind.” Eng said translated ballots and instructions are needed to ensure that voters can vote for the candidates they really want. (Photo by AALDEF)

of Chinese (Mandarin and Cantonese) or in Korean.

AALDEF filed suit on behalf of four organizations—the Chinatown Voter Education Alliance, Young Korean American Service and Education Center, Inc. (YKASEC), Korean American Voters’ Council, and Chinese American Voters Association—and five limited English proficient Asian American voters. Weil, Gotshal & Manges LLP is pro bono co-counsel in the suit.

According to AALDEF’s 2004 exit poll of 7,247 Asian Americans in New York City, 46 % of Asian Americans said that they were limited English proficient. Among Chinese American voters, 56 % were limited English proficient and 37 % needed language assistance to vote. Among Korean American voters, 65 % were limited English proficient and 42 % needed language assistance to vote. ❁

## Congress Renews the Voting Rights Act of 1965

In July, Congress voted overwhelmingly to extend key minority voter protections for another 25 years, through 2032.

Although legislation to renew the Voting Rights Act had bipartisan support, its path to passage this year became muddled when, in May, a group of House conservatives sought to remove two vital provisions: language assistance and translated ballots in communities with large numbers of voters not yet fluent in English, and the requirement for jurisdictions with a history of discrimination to obtain federal “preclearance” for any new voting plans.

During Congressional hearings, lawmakers heard ample evidence of ongoing barriers faced by minority voters while exercising their right to vote. After testifying before the House Judiciary Committee in November 2005, AALDEF was invited again to testify before the Senate Judiciary Committee in June.

The Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Reauthorization and Amendments Act of 2006 passed the House on July 13, and the Senate on July 20. AALDEF executive director Margaret Fung attended the signing ceremony on the South Lawn of the White House on July 27.

### AALDEF Issues In-Depth Voting Rights Act Report

In May, AALDEF released a new report entitled *Asian Americans and the Voting Rights Act: The Case for Reauthorization*. AALDEF submitted the report to the Senate Judiciary Committee, providing extensive evidence of the continuing need for Section 203 language assistance under the Voting Rights Act and also federal oversight of voting changes in jurisdictions with a history of discrimination. The 47-page report is a comprehensive analysis of data from AALDEF’s multilingual exit polls and election monitoring results that date back to 1988. A copy is available for download at: <http://www.aaldef.org/docs/AALDEF-VRAReauthorization-2006.pdf>.



*AALDEF Addresses Gathering of Nation's Educators*



On May 6, AALDEF staff attorney Khin Mai Aung was the keynote speaker at the National Education Association (NEA) Board of Directors meeting in Washington, DC, attended by over 220 members.

Aung, who directs AALDEF's Educational Equity and Youth Rights Project, was invited to discuss emerging legal issues and the role of Asian Americans in advancing social justice in public education. Current challenges Aung highlighted included the persistence of the "model minority myth" in complicating assessments of Asian American students' needs with respect to bilingual programs and schools' responses to experiences of bias.

Aung also described her ongoing work with Cambodian students in Lowell and Lynn, MA, where they have faced school push-out policies and ethnic profiling by police, and the responsibility of administrators to reject post-9.11 profiling of South Asian, Arab, and Muslim students.

**LOWELL TEACHERS ORDERED REINSTATED AFTER UNCONSTITUTIONAL DISMISSAL**

Three school teachers in Lowell, Massachusetts were ordered reinstated by the American Arbitration Association on March 29, after it found that Lowell school administrators discriminated against them and did not have just cause for dismissing them. The reinstatement decision included full back pay, seniority, pension, and health benefits since their 2003 dismissal.

AALDEF represented teachers Vandy Duch, 43, and Vong Oung, 39, and Pedro Espada, 62, after administrators had singled out non-native English speaking instructors to take English fluency tests, and then dismissed them for allegedly failing the tests. At the arbitration hearings, AALDEF showed that the two fluency tests have never been shown to measure proficiency in English, and that one was not even authorized by the Massachusetts Department of Education.

Said Khin Mai Aung, AALDEF staff attorney, "School officials operated under flawed assumptions based on these teachers' backgrounds, and in doing so, stripped their employees of their constitutional rights and failed even to consider the best evidence of fluency."

In November 2002, Massachusetts passed Question 2, which required that nearly all classes in public schools be taught in English by teachers who were both fluent and literate in English. Question 2 did not define "fluency," nor state that only non-native English speakers had to demonstrate English fluency or literacy. Other school

districts made the so-called fluency determinations based on classroom observation, interviews, or an assessment of the teacher's educational credentials and teaching track record.

"All my friends in the community know that I had been teaching for many, many years, and my co-workers were upset when they first heard about our firing. This

decision is a victory for Lowell," said Duch. Duch had fled Cambodia's Khmer Rouge regime to a United Nations refugee camp in Thailand in 1979, where he studied English through a U.N. program.

Oung, also a refugee from Cambodia, had coached Bartlett Middle School's volleyball team in Lowell. "After almost three years, it was exciting to hear the news and to know that there is also justice in the classroom. I miss my

work and look forward to going back and teaching," he said.

"[The dismissal] was devastating for my family, because everything had suddenly become closed to us. My son was planning to attend a university," said Espada. "With this decision we are finally getting back what we deserve—respect and dignity."

Originally from Puerto Rico, Espada is a decorated veteran of the Vietnam War, where he had served in a war-zone military communications post.

Weil, Gotshal and Manges LLP served as co-counsel. The Lowell School Committee is appealing the decision. ❁



▲ Clockwise from top: AALDEF clients Vandy Duch, who taught at Daley Middle School; Pedro Espada, who taught at Robinson Middle School, and Vong Oung, who taught at Bartlett Middle School. (Photos from personal archives)



## RESIDENTS AND WORKERS AFFECTED BY TOXIC 9.11 FALLOUT DEMAND ACTION BY AGENCIES

Nearly five years after the 9.11 attacks, there is still no federal program to treat and track the long-term illnesses of low-income residents and workers from Lower Manhattan.

AALDEF, a member of Beyond Ground Zero (BGZ) Network, has targeted outreach to the newly-appointed federal “9.11 health czar” Dr. John Howard, Congressional staff, and City health officials about the environmental health impacts of 9.11 on Chinatown and the Lower East Side residents burdened by persistent respiratory illnesses, rashes, stomach ailments, and mental health problems, such as depression.

BGZ established a pilot clinic at Bellevue Hospital in 2004 without funding, and last summer expanded its 9.11 Community Health Initiative by establishing a clinical treatment center with hospital staff through a Red Cross grant. More than 1,200 residents and workers are being treated, while several hundred are waiting for appointments.

Meanwhile, Environmental Protection Agency officials, disregarding a growing body of health impact data, announced in November they would disband its Expert Technical Review Panel and pursue a “final test and clean plan” that ignored key advice from its panelists. Panel experts, joined by AALDEF, argued at a public hearing in December that the EPA’s latest plan is scientifically flawed and only proposed to test a limited area. Ignoring 9.11 health impact data, the EPA plan excluded neighborhoods in the Lower East Side, Chinatown, and Brooklyn where residents were exposed to WTC dust, asbestos, lead, mercury, dioxin, and smoke from the fires that burned for several months at Ground Zero.

Said AALDEF program director Stan Mark, “The urgency for underserved communities has only grown since 9.11—our government must fully treat residents and workers and study the impacts the fallout has had on them.” ❁

## AALDEF JOINS *AMICUS* BRIEF CHALLENGING NSA DOMESTIC SPYING PROGRAM

In light of the abuses Asian American communities have suffered whenever executive power has gone unchecked, AALDEF joined an *amicus* brief in April to support the ACLU’s legal challenge to the government’s warrantless domestic surveillance program (*American Civil Liberties Union v. National Security Agency*).

In 2002, President Bush signed an executive order that allowed the National Security Agency to monitor the telephone and e-mail communications of potentially thousands of Americans without necessary judicial review or oversight.

Said AALDEF executive director Margaret Fung, “The wartime internment of Japanese Americans was followed by the anti-communist witchhunts of the McCarthy era, resulting in the FBI surveillance and harassment of thousands of Chinese Americans suspected of ‘dual loyalties.’ The secret wiretapping program will only lead to a greater distrust of government in the Asian American community, which has already experienced the devastating effects of post-September 11 racial and ethnic profiling.” ❁

## Awards & Honors

AALDEF executive director Margaret Fung was honored at the New York County Lawyers’ Association at its 91st Annual Dinner on December 16 at the Waldorf Astoria, in celebration of the work of jurists and attorneys of color. On May 12, Fung received an award for excellence in advocacy from the New York Women’s Chamber of Commerce at Tavern on the Green.

On April 6, the Asian American Lawyers Association of Massachusetts honored AALDEF staff attorney Glenn Magpantay (below, far left), Weil Gotshal and Manges LLP and Greater Boston Legal Services with a Community Service Award for their efforts to ensure that the City of Boston complied with the Voting Rights Act.



On May 4, the Chinese American Voters Association recognized AALDEF for its civil rights work on behalf of Asian Americans at its 2006 annual dinner.

On June 21, the Korean American League for Civic Action honored AALDEF with a Community Service Award for its “exemplary leadership” in initiatives “to protect and empower Asian American communities.”



# Outlook

OUTLOOK is a publication of the Asian American Legal Defense and Education Fund. Founded in 1974, AALDEF protects and promotes the civil rights of Asian Americans through litigation, advocacy, and community education.

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