

# LANGUAGE RIGHTS AND THE MEXICAN AMERICANS: MUCH ADO ABOUT NOTHING

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**A**lthough long beset by limited opportunities for meaningful participation in American society, Mexican Americans have realized some advances. The dignity of equal citizenship, however, has not yet been achieved. Those privileges of citizenship they enjoy are largely due to federal protections extended by the civil rights legislation of the 1960s and 1970s—the Voting Rights Act of 1965, the Bilingual Education Act of 1968, the Equal Employment Opportunity Act of 1972, and the Court Interpreters Act of 1978. These civil rights laws were specifically designed to ensure political, educational, employment, and legal access to traditionally powerless minority groups.

Unfortunately, because these acts identify language as a tool for promoting equal access, they have been misconstrued as “language rights” policies. Conflating access rights with “language rights” obscures the original intent and ultimate goal of this body of legislation, making it appear that Mexican Americans and other language minority groups possess something that they in fact do not have. The clarification of these terms is essential to the intelligent resolution of the language rights controversy. We argue, therefore, that the debate on “language rights” for Mexican Americans is much ado about nothing: Mexican Americans have no language rights. What they do have is the right of equal access to specific American institutions, rights now jeopardized by widespread acceptance of an argument founded on illogic.

This contention is most effectively advanced by illustrating:

- 1) the history of Mexican Americans as a socioeconomically oppressed territorial minority;
- 2) the continuing need to protect the rights of Mexican Americans through federal legislation;
- 3) the fundamental access orientation of civil rights law;
- 4) the difference between access legislation and "language rights"; and,
- 5) the threat of state and federal English Language Amendments (ELA).

In this article four major federal laws as they apply in particular to Mexican Americans are briefly discussed. For an extensive review of these and other statutes, see *Federal Recognition of the Rights of Minority Language Groups*.<sup>1</sup>

### *Historic Overview*

Historically relegated to second-class status in the United States, Mexican Americans are a classic example of a regional ethnolinguistic minority. Distinguishing features of this group are their native rather than immigrant history; their slower rate of assimilation; their unassimilatable physical features; and the low-stature of their primary language—Spanish.<sup>2</sup>

The subjugation of Mexican Americans dates back to the early nineteenth century when the United States, motivated by Manifest Destiny, sought to conquer new territory. Mexican citizens residing in Northern Mexico suddenly found themselves subject to violence and prejudice from the rapidly expanding Anglo empire.<sup>3</sup> As one Chicano historian observes, "Anglo-Americans arriving in the Southwest believed they were racially superior to the swarthy Mexicans, whom they considered a mongrel race of Indian halfbreeds."<sup>4</sup>

Escalating Anglo encroachment and rising intercultural hostilities in

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\* This discussion confines itself to the experiences of Mexican Americans. We recognize, of course, that the federal legislation protecting their rights was enacted because of the similar experiences, combined needs, and united lobbying efforts of differing Hispanic groups including Puerto Ricans and Cubans as well as Black, Asian, and American Indian ethnic groups.

the early 1800s led to the 1835 Texas Revolution. In 1848 Mexico signed the Treaty of Guadalupe Hidalgo ending the Mexican-American War and establishing the Rio Grande as the Texas border. The Treaty ceded more than 600,000 square miles of land that is now all or part of the states of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming. Mexican citizens within these boundaries were forced to decide if they would become citizens of the United States. Although 3,000 elected to leave, over 80,000 chose to remain in what they considered their homeland.<sup>5</sup>

Reluctant to abandon their former citizens to a country that exhibited great animosity toward them, Mexican officials incorporated religious, political, and proprietary rights in Articles VIII and IX of the Treaty of Guadalupe Hidalgo.<sup>6</sup> Inevitably, however, the “Mexican way of life was replaced by Anglo laws, administration, language, and values—all of which were alien to the conquered people.”<sup>7</sup>

After the 1854 ratification of the Gadsden Purchase, the United States acquired another 30,000 square miles of what is today southern Arizona and New Mexico. The Gadsden agreement reiterated the guarantees of the Treaty of Guadalupe Hidalgo. Although the “constitutional protections” mentioned in the Treaty have been popularly interpreted to include cultural and linguistic rights for the new citizens, the United States has never accepted this as a legal interpretation. This conflict over the provisions of the treaty continues to this day. In *Lopez Tijerina v. Henry*,<sup>8</sup> a New Mexico federal district court found that the Treaty of Guadalupe Hidalgo did not confer “any proprietary right to have the Spanish language and culture preserved and continued in the public schools at public expense.”

Four factors contributed to the growing disdain for Mexican American language and culture: (1) the hostile nature of the initial encounter, (2) the Anglos’ superior economic resources, (3) a racial association of Mexicans with Indians who were generally viewed as subhuman, and (4) the Mexican community’s traditional Catholic roots that were antithetical to the Anglo Protestant ethic.<sup>9</sup> Furthermore, the Spanish language was denigrated and Mexican American “children were discouraged from going to school . . . often segregated . . . [and if] overheard speaking Spanish on the school grounds [they were] detained, fined, reported, or in other ways punished. . . .”<sup>10</sup>

Economic exploitation of Mexican Americans became a matter of course, offering an easy solution to the problems of a growing industrial

society. Booming American mining, railroad, and agriculture industries aggressively encouraged Mexican immigration to the Southwest. By 1900 the Mexican American population was estimated to have been as high as 562,000. Between 1900 and 1930 more than 700,000 Mexicans immigrated to the United States. Legal migration was further augmented by the arrival of large numbers of undocumented workers.<sup>11</sup> The end of the Depression and the advent of World War II rekindled the demand for cheap labor, and the Bracero program of 1941 to 1947 offered 200,000 laborers short-term work. When Congress reestablished the program from 1951 to 1959, over three million more Mexicans entered the United States. Many of these laborers never left.

These workers became pawns in the debate on immigration policy. Employers who profited from underpaid labor supported unrestricted immigration. Those in opposition viewed Mexicans as "racially inferior, culturally wanton, socially undesirable, and potentially disloyal to America."<sup>12</sup> The United States government responded to this influx of undocumented workers by expelling over three million people in a five-year period. Many were American citizens of Mexican descent.<sup>13</sup>

By the 1960s, Mexican Americans were the second largest minority in the United States. With an increasing urban population—85 percent by 1970—came a concomitant increase in community and political activism. Many Mexican American organizations such as the Mexican American Legal Defense and Educational Fund (MALDEF), the Mexican American Youth Organization (MAYO), and the Mexican American Political Association (MAPA) encouraged political participation and advanced equal rights. In agriculture and mining industries, Mexican Americans sponsored successful strikes and union activities.<sup>14</sup> Most significantly, some gains were made in registering voters, electing Mexican Americans to political office, and establishing community development projects.

The progress made by Mexican Americans has come about slowly and with much effort. Delimiting further gains, however, is the enduring sentiment held by a number of Americans that Spanish speakers are "illiterate, impoverished, dirty, backward, criminally inclined, residually Roman Catholic, prone to Communist infiltration, dark-complexioned, and now pushing cocaine and marijuana north for all they are worth."<sup>15</sup> The following statistical profile attests to the persistent exclusion of Mexican Americans from the activities and institutions of the larger society.

### *Current Profile of the Mexican American Population*

Approximately 10.3 million Mexican Americans live in the United States and make up 60.6 percent of the Hispanic population.<sup>16</sup> Most Mexican Americans reside in one of five southwestern states: they represent 16 percent of the population in Arizona; 19 percent in California; 12 percent in Colorado; 32 percent in New Mexico; and 21 percent in Texas. About three-quarters of Mexican Americans are native born.

Mexican Americans are a very young population. Their median age is 23.3 years compared with 31.9 years for the total United States population; and more than a quarter (27.4 percent) of the entire Mexican American population is between the ages of five and 17. The average family-size for Mexican Americans is 4.15 whereas the average family in the United States is 3.23. They are under-represented at all levels of education, over-represented in the lowest income strata, heavily unemployed and faced with limited economic opportunities.

Because of its historic alienation from mainstream American society, and its geographic concentration and continuing immigration to the United States, the Mexican American population exhibits high levels of language loyalty to Spanish. According to the 1980 Census, eleven million persons reported speaking Spanish at home, although 76 percent reported they could also speak English. The 1978 Children's English and Services Study (CESS) indicated there were 1.7 million Spanish-language background children ages five to 14 who had limited-English proficiency. Moreover, states with the highest concentration of Mexican Americans—California, New Mexico, and Texas—were reported to have the largest percentages of limited-English proficient persons.

Not surprisingly, Mexican Americans are educationally at risk. In the Western Interstate Commission on Higher Education's (WICHE) report, *From Minority to Majority: Education and the Future of the Southwest*,<sup>17</sup> limited employment opportunities and lack of economic advancement for Mexican Americans are attributed to their high educational attrition rate. Mexican American youth are more likely to be enrolled two or more years below grade-level than are other Hispanics. One of the most alarming statistics is that only 53.3 percent of all Mexican Americans, as compared with 85.7 percent of Anglo students, graduate from high school. Although a mere 2.2 percent of the Anglo population has less

than a fifth grade education, for Mexican Americans the figure is 17.1 percent.

The number of Mexican Americans who enroll in institutions of higher education and professional schools is dismal. As reported in 1984, of those eligible to do so only 2.8 percent of Mexican Americans ages 18 to 19 enrolled in colleges compared with 88.6 percent of all Anglos. For the academic year 1984-85, medical school enrollment was 1.7 percent for Mexican Americans; 84 percent for Anglos; and 5.9 percent for Blacks. Law school enrollment in 1985-86 was even lower for Mexican Americans—1.3 percent, while Black enrollment was 4.9 percent.<sup>18</sup>

If lack of education is the single best predictor of unemployment,<sup>19</sup> Mexican Americans should experience high unemployment rates—and they do—10.9 percent compared with 6.2 percent for Anglos. Accordingly, the economic status of Mexican Americans is equally grim. In 1984, 24 percent of Mexican American families lived below poverty level whereas only 11 percent of non-Hispanic families were similarly situated. In 1985, Hispanics had significantly lower median weekly earnings (\$250) than did Anglos (\$355) or Blacks (\$277). Furthermore, as the economy of the Southwest changes from manual to skilled labor, Mexican Americans are doomed to fall farther and farther behind in terms of economic and social equality.<sup>20</sup>

### *Federal Access Legislation*

After more than a century of socioeconomic disparity, Mexican Americans finally realized some relief through the small body of federal access legislation passed during the Civil Rights Era. The specific intention of these access laws is to remove the barriers that block minorities from major socioeconomic institutions. In this sense, these federal access measures are not “language rights” laws; nor are they “tolerance” or “promotional” language rights as conventionally defined by Heinz Kloss.<sup>21</sup> The United States has never created legislation that has recognized, upheld or enforced a right to language. According to Reynaldo Macías,<sup>22</sup> these federal statutes “do not provide for, nor guarantee, language choice or language rights, directly or explicitly.” The only “right to language” Mexican Americans have is the one vested in all Americans: the private right to association as guaranteed by the First Amendment.

The Voting Rights Act, the Bilingual Education Act, the Equal Employment Opportunity Act, and the Court Interpreters Act identify limited-English proficiency as an obstacle to equal access and mandate the use of native languages and bilingual materials as compensatory remedies. By bridging the linguistic gap between language handicapped persons and government agencies, these measures afford equal access. They do not supplant the primacy of English or promote the maintenance of Spanish or any other language. Four major access laws that have positively affected Mexican Americans are briefly described in the following section.

### *Political Access*

Participation in the electoral process is central to citizenship. The Voting Rights Act of 1965<sup>23</sup> protects the Fifteenth Amendment right to vote and the Fourteenth Amendment promise of due process and equal application of law. This Act specifically bans the use of English literacy tests that prevented the registration and suffrage of Black Americans. Justified under a new anti-racial discrimination rationale, the Act declared that a citizen's right to vote could not be denied or abridged because of race or color.

In 1975, Amendments to the Act<sup>24</sup> extended the same protections to minority language groups, stating that "it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices." Fulfilling the Act's intent requires the use of bilingual materials that enable non-English speakers to comprehend the electoral process and cast an effective ballot. Furthermore, the "term 'language minority' or 'language minority group' is . . . defined *racially* [emphasis supplied] in accordance with the Bureau of the Census . . . [as] 'persons who are American Indian, Asian American, Alaska natives, or of Spanish heritage.'"<sup>25</sup>

The five southwestern states containing the majority of Mexican Americans were obliged to comply with the 1975 federal amendments. As a result, a forty-four percent increase in Hispanic registration in the Southwest was reported from 1976 to 1980.<sup>26</sup> At present, only California, New Mexico, and Texas provide for either minority voting rights or multilingual voting materials by state law.<sup>27</sup> Arizona and Colorado have state regulations mandating voting assistance for non-English speakers only by virtue of federal law.<sup>28</sup>

### *Educational Access*

The systematic failure of limited-English-speaking children in American schools triggered demands for equal educational opportunities.<sup>29</sup> In response, the Bilingual Education Act of 1968<sup>30</sup> provided for the unique educational needs of children (1) of limited-English-speaking ability and (2) from homes with incomes below \$3,000 per year. In 1974, amendments eliminated the low-income prerequisite and broadened protections to all children of "limited-English-speaking ability." The bill was further modified in 1978, permitting limited-English-proficient students to continue in bilingual education programs until they attained full English proficiency.

The intention of the 1968 Act and its Amendments was to surmount the language barrier by purposefully emphasizing "the importance of mastery of English-language skills."<sup>31</sup> It is also evident that American bilingual education programs, as intended and implemented in the Southwest, do not maintain the child's native language.<sup>32</sup> In truth, the transition to English is swift and unequivocal, and the Bilingual Education Act of 1968 would be better designated as the "American Assimilation through Education Act." Provision for bilingual education through statute varies substantially from state to state. Arizona, Colorado, and New Mexico have statutes which "permit" bilingual education while California and Texas "mandate" it.<sup>33</sup>

### *Employment Access*

Title VII of the Civil Rights Act of 1964<sup>34</sup> was enacted by Congress to prohibit private employment discrimination. As amended by the 1972 Equal Employment Opportunity Act (EEOA), Title VII offers protection to all state and local government and educational institution employees. Employment discrimination based upon sex, race, color, religion, or national origin is proscribed. Employers may not discriminate against employees by unfair compensation, terms and conditions, or privileges of employment.

The EEOC is enforced through *Federal Labor Regulations*.<sup>35</sup> Included in these rules is Speak-English-Only, § 1606.7, a regulation that specifically prohibits employers from discriminating against non-native English speakers. Since many Mexican Americans speak Spanish, a large number of Equal Employment Opportunity Commission (EEOC)



challenges involving Mexican Americans cite this regulation. Employers may, however, discriminate with respect to language if they can prove a bona fide occupational qualification exemption. For example, to achieve certification, federal court interpreters must demonstrate college-level proficiency in English and Spanish.

Therefore, Title VII allows Mexican Americans access to employment opportunities by prohibiting exclusionary acts in the workplace. Although anti-discrimination employment laws have been passed in most states, they are not uniform. A further limitation for individuals is that they must exhaust state remedies before filing a Title VII claim.<sup>36</sup>

### *Legal Access*

The federal Court Interpreters Act of 1978<sup>37</sup> upholds four constitutional guarantees of citizenship: the Fifth Amendment right not to be deprived of life, liberty, or property without due process of law; and the rights of the Sixth Amendment to confront witnesses, have assistance of counsel, and understand the nature of the charges and proceedings brought by the government. The Act<sup>38</sup> mandates the use of interpreters in any criminal or civil action initiated by the United States where a defendant or witness “speaks only or primarily a language other than the English language . . . so as to inhibit such party’s comprehension of the proceedings or communication with counsel or the presiding judicial officer or so as to inhibit such witness’ comprehension of questions and the presentation of such testimony.”

As is evidenced in other civil rights areas discussed here, access to the judicial system is not uniformly protected at the state level. Except for California, New Jersey, New Mexico and the state of Washington, none of the other states with a heavy concentration of Mexican Americans offers certification programs for interpreters.<sup>39</sup>

Legal access also includes the provision of bilingual personnel to meet the needs of non-English speakers. Although access to all government services has not been guaranteed at the federal level, some statutes do allow for the use of foreign language personnel in federally funded programs such as migrant and community health centers.<sup>40</sup> The only legal measure in the Southwest that provides for system-wide bilingual personnel is California’s Dymally-Alatorre Bilingual Public Services Act.<sup>41</sup>

In sum, federal legislation has provided equal access for Mexican Americans. Lamentably, these rights have not been uniformly guarded at the state level. This condition may exist because of unabated discrimination or the assumption that the preservation of constitutional rights is the domain of the federal government. Since there is a lack of parallel protections in the states, it is clear that federal support for Mexican Americans in the form of access legislation must be sustained.

### *Access Rights versus Language Rights*

Confusing access legislation with “language rights” threatens the future prospects for advancement of the nation’s largest language minority group. Merely adopting a new perspective on a set of laws does not change the original rights granted by their enactment. To underscore the differences between access rights and language rights, it is necessary to examine the federal Court Interpreters Act of 1978.

Table 1 contrasts this Act with a hypothetical language rights version. Under the access law one person is added to the judicial system: an interpreter as mediator. Conversely, the “language rights” version accommodates a non-English speaker by providing proceedings in the native language, thus requiring bilingual court personnel in all positions.

The Court Interpreters Act narrowly defines the access rights of Mexican Americans by providing an interpreter. It does not advance in any way the right of defendants to speak their own language. The Act simply provides a linguistic tool to overcome a “language handicap.” This model legislation was a long overdue remedy for the inequitable treatment of Mexican Americans in the federal criminal justice system.

**TABLE 1: Access Rights versus Language Rights**

<b>Existing Access Rights</b>	<b>Hypothetical Language Rights*</b>
Grants defendant right to interpreter (adds mediator to legal process)	Grants defendant right to choice of language during proceedings (adds bilingual judges, attorneys, clerks, etc.)
Grants defendant right to participate in own defense through interpreter	Grants defendant right to participate in own defense directly in native language

**Existing Access Rights**

Grants defendant right to comprehend trial through interpreter

Grants defendant right to understand the charges brought by the state through interpreter

Grants defendant right to transcript in English

Upholds statute requiring court record to be in English

**Hypothetical Language Rights**

Grants defendant right to comprehend trial directly in native language

Grants defendant right to understand the charges brought by the state directly in native language

Grants defendant right to transcript in native language

Grants right to establish the courtroom record in both English and defendant's native language

The 1970 Report of the United States Commission on Civil Rights, *Mexican Americans and the Administration of Justice in the Southwest*,<sup>42</sup> identifies "the inability to communicate between Spanish-speaking American citizens and English-speaking officials, . . . poor interpretation, and the lack of a systematized approach to the provision of interpreter services" as reasons behind the denial of due process and equal protection under the law for Mexican Americans. Case law reflects the inertia of the courts to recognize and attend equitably to the needs of limited- or non-English speaking persons.<sup>43</sup> In *Arizona v. Natividad*,<sup>44</sup>

\* This hypothetical example is similar to a language rights oriented bill proposed in 1973. See United States Senate (1974). Hearings on S.B. 1724, The Bilingual Courts Act, 10 October 1973 and 5 February 1974 (Committee on the Judiciary). Washington, DC: U.S. Government Printing Office. This Act would have allowed Puerto Rican defendants to choose English or Spanish as the language of the proceedings. It died in committee after heated debate.

Judge Lockwood provided an enlightened view of the access issue:

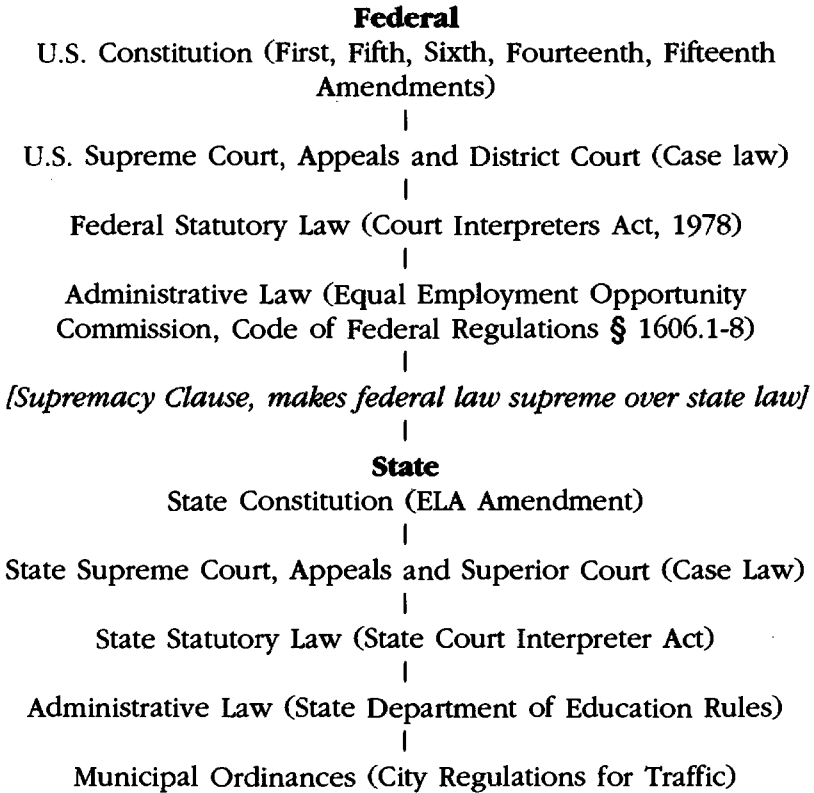
The inability of a defendant to understand the proceedings would be not only fundamentally unfair but particularly unjust in a state where a significant minority of the population is burdened with the handicap of being unable to effectively communicate in our national language.

### *Consequences of the Language Rights Debate*

By renaming access rights as “language rights,” the English Language Amendment (ELA) movement has capitalized on the fears of many Americans that the United States is becoming a “Tower of Babel.” ELA proponents claim that federal access laws advance the maintenance of non-English native languages at government expense. Unfortunately, many ELA opponents and language policy scholars accept both these faulty analyses without scrutiny.<sup>45</sup> For this reason, those who oppose the ELA must insist on clarifying the differences between these two disparate types of legislation. Failure to do so will invite passage of the ELA and bring into question the constitutionality of federal access law.

### *The ELA Movement*

For a constitutional English Language Amendment to pass, three-quarters of the states must ratify it. As of June, 1990, eighteen states have passed state-level ELA legislation. This shows increasing support for a similar federal amendment.<sup>46</sup> State constitutional amendments, however, pose no threat to federally enacted access laws.<sup>47</sup> This is true primarily because the Supremacy Clause of the United States Constitution declares “that all laws made in pursuance of the Constitution . . . under the authority of the United States . . . shall enjoy legal superiority over any conflicting provision of a State constitution or law” [emphasis supplied].<sup>48</sup> Figure A illustrates this concept through a simplified hierarchy of federal and state law.

**FIGURE A: Hierarchy of Federal and State Laws with Examples**

A 1988, ninth circuit federal district court case, *Gutierrez v. Municipal Court of Los Angeles*,<sup>49</sup> upholds this supremacy analysis. In *Gutierrez* a Hispanic-American hired as a bilingual employee challenged her employer's English-only personnel rules that restricted her from speaking in Spanish during breaks and working hours. Under a Title VII, Equal Employment Opportunity Act anti-discrimination analysis the court found that "prohibiting the use of the employees' native tongue may contribute to racial tension."<sup>50</sup>

The court, relying on federal access law, ruled in favor of *Gutierrez* because of the "legal insufficiency" of the employer's arguments. The state constitution and employer's rules were subordinate to the federal law. The court further held that:

While Section 6 [California's constitutional ELA] may conceivably have some concrete application to official government communications, if and when the measure is appropriately implemented by the state legislature, it appears otherwise to be primarily a symbolic statement about the importance of preserving, protecting, and strengthening the English language.<sup>51</sup>

Just as this case demonstrates the dominion of federal law and the relative impotence of a state-level constitutional ELA, it also hints at the circumstances under which such an amendment might foster virulent anti-Hispanic attitudes. For now, states must adhere to practicable federal law.

Although some analysts underestimate the potential for passage of a national ELA, the current social climate suggests otherwise. Historically, three conditions have promoted widespread support for past ELA movements: (1) war or national crisis;<sup>52</sup> (2) massive immigration;<sup>53</sup> and (3) economic recession.<sup>54</sup> It is sobering to realize that all three conditions currently exist.

Should an amendment declaring English the official language of the United States pass, two conditions must obtain for it to be effective: access rights must be redefined as "language rights," and that new definition must be widely embraced. Furthermore, the newly defined term must be formally accepted and acted upon by policymakers, thus acquiring legal significance. For example, recategorizing the Court Interpreters Act as a language rights law creates a domino effect. When the Act is misconstrued as promoting the maintenance of native languages, it conflicts with the ELA and exposes it to the danger of nullification. Inevitably, this jeopardizes the constitutional protections that Mexican Americans have just begun to exercise.

At the very least, passage of a federal ELA would force the United States Supreme Court to decide which competing constitutional doctrine has precedence, i.e., the right of the defendant to a court interpreter versus English as the official language of the government. If an anti-language rights agenda is adopted by an ultra-conservative court, then a full-scale assault on current access privileges could ensue.

### *New Directions*

On May 11, 1988, the United States Senate Committee on the

Constitution initiated a series of hearings on the merits of the proposed constitutional amendment proclaiming English the official language.<sup>55</sup> This development highlights the immediacy of the threat to the fundamental civil rights of Mexican Americans and other language minorities. It also points out the urgency of finding an answer to the language rights question.

Clarifying the issues is the first step to a judicious solution to the language rights argument. Once the differences between access and language rights are understood, the controversy can be treated logically. Obviously, full access to education, government, employment, and justice is a notably different goal from that of preserving language and culture. After this distinction is made, two divergent paths become evident: one leads to social equality through the perpetuation of current access rights, and the other to language rights through the initiation of new legislation that protects and preserves native languages and cultures.

Once a language rights agenda has been set, proponents can introduce legislation similar to LULAC's English Plus proposal,<sup>56</sup> which proposes the teaching of English while also preserving cultural heritage. They also could lobby for the ratification of international agreements for human rights such as Resolution 2200, Article 27 of the International Covenant on Civil and Political Rights, adopted by the United Nations in 1966.<sup>57</sup> Finally, they may introduce federal and state amendments and laws that overtly propagate language rights.

Above all, a sound argument will shield the basic civil rights of Mexican Americans from the ill-founded attacks of ELA proponents. Mexican Americans must continue to have basic access to important social institutions. And to ensure access, federal laws must be sustained until minority groups achieve equality with the majority. If Mexican Americans lose their opportunity for access in the states, then the local majorities could use government to deny them their constitutional rights. As Kenneth Karst has so eloquently pointed out in "Paths to Belonging: The Constitution and Cultural Identity,"<sup>58</sup> we must understand that becoming a "good citizen" is not predicated on speaking English as ELA proponents advocate. Rather, to be an "American" one must adhere to and participate in our national civil culture. Without exception, everyone must be granted the right to vote, to be educated, to be employed, and to claim justice.

### Conclusions

Because state laws inadequately guarantee constitutional protections, the future progress of Mexican Americans as a group depends on the continuance of federal access legislation. The extensive confusion of terms and labels, goals and rights, and legislation and linguistic ideology in the language rights debate clears the way for passage of a federal ELA. The consequence of such a declaration is potentially disastrous. Dismembering federal legislation would nullify the basic civil rights of Mexican Americans and other non-English speakers. Strictly defining existing laws as access rights underscores the fact that Mexican Americans have no language rights. However, it does not preclude proponents of such rights from developing a separate body of legislation to promote those goals.

### NOTES

- <sup>1</sup> Leibowitz, A. (1982). *Federal recognition of the rights of minority language groups*. Rosslyn, VA: National Clearinghouse for Bilingual Education.
- <sup>2</sup> See Connor, W. (Ed.). (1985). *Mexican-Americans in comparative perspective*. Washington, DC: Urban Institute Press; Dolbeare, K., & Edelman, M. (1977). *American politics: Policies, power and change*. Lexington, MA: D. C. Heath and Co.; Jacobs, P., & Landau, S. (1971). *To serve the Devil: Native and slaves* (vol. 1). New York: Vintage Books; McLemore, S., & Romo, R. (1985). The origins and development of the Mexican American people. In R. de la Garza, F. Bean, C. Bonjean, R. Romo, & R. Alvarez (Eds.), *The Mexican American experience: An interdisciplinary anthology* (pp. 3-32). Austin: University of Texas Press; and Sanchez, R. (1983). *Chicano discourse: Socio-historic perspectives*. Rowley, MA: Newbury.
- <sup>3</sup> See Alvarez, R. (1985). The psycho-historical and socioeconomic development of the Chicano community in the United States. In R. O. De La Garza, F. D. Bean, C. M. Bonjean, R. Romo, & R. Alvarez (Eds.), *The Mexican American experience: An interdisciplinary anthology* (pp. 33-56). Austin: University of Texas Press; and Meinig, D. (1971). *Southwest: Three peoples in geographical change 1600-1970*. New York: Oxford University Press.
- <sup>4</sup> Acuña, R. (1972). *Occupied America: The Chicano's struggle toward liberation* (p. 7). San Francisco: Canfield Press.
- <sup>5</sup> Cortés, C. (1980). Mexicans. In S. Thernstrom (Ed.), *The Harvard encyclopedia of American ethnic groups*. Cambridge: Harvard University Press.



- <sup>6</sup> *Treaty of Guadalupe Hidalgo*, Mexico, signed 2 Feb., 1848. Treaties and Other International Acts (TIAS 207).
- <sup>7</sup> Acuña, R. (1972). *Occupied America: The Chicano's struggle toward liberation*, pp. 35-36. San Francisco, Canfield Press.
- <sup>8</sup> *Lopez Tijerina v. Henry*, 48 F.R.D. 274 at 279, D.N.M. (1969), appeal dismissed, 398 U.S. 922, 90 S. Ct. 1718, 26 L.Ed. 2d 86 (1970).
- <sup>9</sup> Ruíz, R. (1988). Bilingualism and bilingual education in the United States. In C. Paulston (Ed.), *International handbook of bilingual education* (pp. 539-560). New York: Greenwood Press.
- <sup>10</sup> Ruíz, R. (1988). Bilingualism and bilingual education in the United States. In C. Paulston (Ed.), *International handbook of bilingual education* (pp. 539-560, at p. 545). New York: Greenwood Press.
- <sup>11</sup> Cortés, C. (1980). Mexicans. In S. Thernstrom (Ed.), *The Harvard encyclopedia of American ethnic groups*. Cambridge: Harvard University Press.
- <sup>12</sup> San Miguel, G. (1986). *One country, one language: A historical sketch of English language movements in the United States*, at p. 2. (Available from the Tomas Rivera Center, 710 North College Avenue, Claremont, CA 91711).
- <sup>13</sup> See Galarza, E. (1964). *Merchants of labor: The Mexican Bracero Program*. Charlotte, NC: McNally and Loftin; and Steiner, S. (1969). *La Raza: The Mexican Americans*. New York: Harper & Row.
- <sup>14</sup> See de la Garza, R. (1985). As American as tamale pie: Mexican-American political mobilization and the loyalty question. In W. Connor (Ed.), *Mexican-Americans in comparative perspective* (pp. 227-244). Washington, DC: Urban Institute Press; and Grebler, L., Moore, J., & Guzman, R. (Eds.). (1970). *The Mexican-American people: The nation's second largest minority*. New York: The Free Press.
- <sup>15</sup> McArthur, T. (1986). Comment: Worried about something else. *International Journal of Sociology of Language*, 60, 87-91, at 91.
- <sup>16</sup> Unless otherwise cited, the statistics in this section can be found in the National Council of La Raza. (1986). *The Education of Hispanics: Status and Implications*. Office of Research, Advocacy and Legislation. Washington, DC: Author.
- <sup>17</sup> WICHE, Western Interstate Commission for Higher Education. (1987a, September). *From minority to majority: Education and the future of the Southwest* (Report No. 2A170), at p. 6. Boulder, CO: Author.
- <sup>18</sup> WICHE, Western Interstate Commission for Higher Education. (1987b, October). *Shaping the future of the Southwest: Background materials on minorities in education and the economy of the Southwest* (Report No. 2A172), at p. 51. Boulder, CO: Author.

- <sup>19</sup> *Ibid.*, at p. 4.
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