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The Civil Rights Act and the Transformation of Mexican American Identity and Politics

Nancy MacLean*

“Whether Mexicans are whites or people of color,” the veteran activist Bert Corona once observed, “has been a thorny issue for years.”¹ The issue was above all a political one: whether to form coalitions with African Americans, in particular, on the basis of non-white identity, or pursue a go-at-it-alone strategy to seek advancement through assimilation and respectability, as immigrants from Europe had. For more than two decades, scholars have explored the social and cultural construction of Mexican American identity in ways that have deepened our understandings of experience, consciousness, and collective action in the United States.² Building on this rich literature, some now urge relational analyses of racial formation and group interactions that can better explain the history of tension and of cooperation among Latinos, African Americans, and Asian Americans.³

One promising approach to understanding this history lies in exploring the political construction of identity. The U.S. has long defined various subordinate groups in different ways through law and public policy. Examining how it has done so can help us better understand both the strategies the groups adopted to seek justice and their relations with one another. For example, Ian F. Haney López and George Martínez have revealed the deep history of how the law constructed race consciousness among Mexican Americans from the Treaty of Guadalupe Hidalgo forward.⁴ David Gutiérrez and Mae M. Ngai have similarly analyzed the impact of immigration law and policy.⁵

This article argues that a focus on the political construction of identity is vital to comprehend how Mexican American activists understood and used

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1. MARIO T. GARCÍA, *MEMORIES OF CHICANO HISTORY: THE LIFE AND NARRATIVE OF BERT CORONA* 200 (1994).

2. The literature is large, but important contributions include: DAVID MONTEJANO, *ANGLOS AND MEXICANS IN THE MAKING OF TEXAS: 1836-1986* (1987); GEORGE J. SÁNCHEZ, *BECOMING MEXICAN AMERICAN: ETHNICITY, CULTURE, AND IDENTITY IN CHICANO LOS ANGELES: 1900-1945* (1993); VICKI L. RUIZ, *FROM OUT OF THE SHADOWS: MEXICAN WOMEN IN TWENTIETH-CENTURY AMERICA* (1998); NEIL FOLEY, *WHITE SCOURGE: MEXICANS, BLACKS, AND POOR WHITES IN TEXAS COTTON CULTURE* (1999); LINDA GORDON, *THE GREAT ARIZONA ORPHAN ABDUCTION* (1999).

3. For a pioneering relational approach to the role of the state in race-making, see MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* (1994).

4. IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (Revised ed. 1996); GEORGE A. MARTÍNEZ, *The Legal Construction of Race: Mexican Americans and Whiteness*, 2 HARV. LATINO L. REV. 321 (1997).

5. GEORGE A. MARTÍNEZ, *The Mexican American Mexican American Litigation Experience*, in *THE LATINO/A CONDITION: A CRITICAL READER* 355-58 (Richard Delgado & Jean Stefánic eds., 1998). On immigration law and policy, see DAVID G. GUTIÉRREZ, *WALLS AND MIRRORS: MEXICAN AMERICANS, MEXICAN IMMIGRANTS, AND THE POLITICS OF ETHNICITY* (1995); MAE M. NGAI, *IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA* (2004).

citizenship in changing ways. This article focuses on the political construction of identity to explain the transformations that occurred in Mexican Americans' strategy for achieving equal rights in the mid-1960s.⁶

The Civil Rights Act of 1964 provides a dramatic example of the legal and political construction of race. Some scholarship has portrayed Mexican Americans as simply objects of the new anti-discrimination legal regime inaugurated by the Civil Rights Act. John D. Skrentny, a political scientist, characterizes Latinos in general as inert beneficiaries of altered law and policy. He maintains that they "needed little lobbying to win minority rights," "made no consistent demands for affirmative action," and, all in all, "had a surprisingly easy time of it."⁷ Skrentny can only arrive at these dismissive conclusions by ignoring the archives of Mexican American civil rights organizations and the documentary evidence of their lobbying and demands, which is found in other parts of the presidential library records on which he relies heavily.⁸

Here, however, I am less concerned with debating the empirical record than with challenging the conceptualization of Mexican American activists that underlies such assertions. Rather than passive recipients of change, this article argues that Mexican Americans were shrewd agents of reform. Yet their ability to produce change as they did came from their appreciation of how the Civil Rights Act transformed the U.S. racial order. Mexican American activists and community leaders appreciated how the Civil Rights Act altered the terrain of the struggle for justice, and in short order appropriated the resources it offered to achieve longstanding goals. As this article will demonstrate, the new legal environment created by the Civil Rights Act encouraged the transformation of Mexican American activists' identity and political strategy and so deserves recognition as a historical watershed in the Mexican American quest for full citizenship.

The transformation in identity and political strategy could be summarized as a shift from pursuing whiteness to claiming brownness—from seeking advancement on competitive terms within the racial hierarchy of Jim Crow America to seeking fairness as victims of discrimination alongside other victims of discrimination. The legal construction of race prior to the Civil Rights Act encouraged Mexican Americans to lay claim to whiteness in order to have any hope of escaping discrimination. The 1848 Treaty of Guadalupe Hidalgo had effectively made Mexicans in U.S. territory "white" by recognizing them as citizens at a time when the naturalization law made whiteness a prerequisite of citizenship.⁹ As a result, for over a century, Mexican Americans' main line of defense against being subject to the same abysmal treatment as African Americans was to hold the U.S. government

6. For a fuller version of the argument presented here, see NANCY MACLEAN, *FREEDOM IS NOT ENOUGH: THE OPENING OF THE AMERICAN WORKPLACE* (2006), esp. ch. 5, *Are Mexican Americans 'Whites' or 'People of Color?* 155-84. For the political construction of identity with a focus on housing policy, see CHARLOTTE BROOKS, *ALIEN NEIGHBORS, FOREIGN FRIENDS: ASIAN AMERICANS, HOUSING, AND THE TRANSFORMATION OF URBAN CALIFORNIA* (forthcoming, University of Chicago Press 2009).

7. JOHN D. SKRENTNY, *THE MINORITY RIGHTS REVOLUTION* 12, 17, 18 (2002) (see also the chapter on bilingual education and language rights, 179-229).

8. In the White House Central Files, Skrentny relies on the EX section, which contains in-house discussions within each presidential administration, and ignores the GEN section, which contains the most evidence of grassroots activism and organizational lobbying. *Id.*

9. Haney López, *supra* note 4, at 30-34.

accountable for treating them as “white,” sometimes with backing from the Mexican government. As long as discrimination against minorities was legal, this leverage was the only protection for Mexican Americans. The Civil Rights Act transformed the legal landscape by outlawing discrimination and by creating legal remedies to battle discrimination. The Act enabled Mexican Americans to pursue a strategy both more likely to win substantive results and more likely to lead to cooperation with other minorities. In so doing, it changed the ground on which Mexican American and African American political activists encountered each other, creating new possibilities for national as well as local alliances that advanced progressive politics generally.¹⁰

The shift toward coalition remained limited because important sources of tension and competition still remain. Four decades after the Act’s passage, contests over jobs in an ever more zero-sum economy and over the political power with which to affect the distribution of resources are still contentious issues. This generates painful public clashes, such as recent disputes over immigration reform for undocumented workers. Yet the ongoing friction notwithstanding, what stands out to a historian taking a long view of the last century is the new direction taken since the passage of the Civil Rights Act. This legislation made solidarity an option as never before.

Most scholars of Mexican American activism in the 1960s concur that the movement was marked by a sharp turn to the left. Yet there is little clarity over how to explain this change. Why was it that not only the young radicals of the Chicano movement, but also the most mainstream civil rights organizations in the Mexican American community, such as the League of United Latin American Citizens (“LULAC”) and the American GI Forum, shifted from laying claim to the benefits of whiteness (implicitly or explicitly seeking to avoid being grouped with blacks) to lining up beside blacks on the shared basis of minority standing?¹¹ The turn toward coalition should be of particular importance to legal scholars because, arguably, the form of coalition with the most long-term national impact was *amicus* filings in one another’s legal struggles. The mutual support provided by African American, Latino, Asian American, and feminist groups is a distinctive feature of the post-Civil Rights Act’s legal landscape, evident in landmark cases such as *Bakke*¹² and *Weber*,¹³ and a phenomenon whose significance has yet to be fully appreciated.¹⁴

10. My focus here is national level developments, but in racial politics as in so many other reform arenas, cities and states developed new approaches long before they reached the national level. For early California precedents on which later national coalitions could build, see SHANA BERNSTEIN, *FORGOTTEN COALITION: INTERRACIAL CIVIL RIGHTS ACTIVISM IN WORLD WAR II AND COLD WAR LOS ANGELES* (forthcoming, Oxford University Press 2009).

11. See MACLEAN, *supra* note 6, at 157 (giving examples of efforts to claim and avoid association with African Americans; Thomas Guglielmo, *Fighting for Caucasian Rights: Mexicans, Mexican Americans, and the Transnational Struggle for Civil Rights in World War II Texas*, 92.4 J. AMER. HIST. 1212-37 (2006).

12. *Regents of the Univ. of Calif. v. Bakke*, 438 U.S. 265 (1978) (barring quota systems in college admissions but affirming the constitutionality of affirmative action programs giving equal access to minorities).

13. *United Steelworkers of America v. Weber*, 443 U.S. 193 (1979) (holding that Title VII’s prohibition against racial discrimination does not condemn all private, voluntary, race-conscious affirmative action plans implemented to remedy past or present discrimination).

14. Evidence of such legal coalitions exists in many archives. For the purposes of this article,

Observers have sought to make sense of Mexican American's shift to the left with allusions to the overall climate of the 1960s. Protest, it would seem, is simply contagious. That explanation seems plausible for the campus radicalism that yielded *Chicanismo*.¹⁵ But it does not suffice to explain the politics of older activists, among whom the social and political distance between Mexican Americans and African Americans was greater. To take just one example: in 1963, as the Birmingham black civil rights campaign was raging, the LULAC national convention voted down a proposal from Minnesota delegates to declare support for Dr. Martin Luther King and the other protesters in what Dr. King then called "the toughest fight of our civil rights careers."¹⁶ The majority of LULAC delegates voted against the call for solidarity, which they viewed as a distraction from "our own problems."¹⁷ LULAC's then-president, Paul Andow, went further, echoing the struggle's critics. He issued a position paper that scorned "the present craze" of "groups banded together to create chaos and confusion," and denied that the black movement was "acting for the general welfare."¹⁸ He elaborated, stating that "[w]hile we believe that every American citizen has a right to demand full and equal protection under the laws," "we also emphatically believe that these rights must be met with certain unavoidable responsibilities."¹⁹ Sounding much like conservative white opponents of the black movement, Andow intoned, "we believe that an individual must earn and merit" his rewards, not gain them through "mass hysteria."²⁰ For its part, the American GI Forum condemned civil disobedience, on which the black freedom movement depended.²¹ Clearly, then, the African American civil rights struggle did not, in and of itself, trigger the change just by modeling a new approach.

More recently, Ian Haney López has offered a fascinating argument claiming that the treatment of Mexican Americans by the police and courts in Los Angeles in the late 1960s convinced Mexican Americans they were non-white. He provides a rich and compelling analysis of the power of public performance in shaping identity and strategy.²² However, Los Angeles is just one city, albeit important. A local analysis of what happened there does little to explain changes in

see the Mexican American Legal Defense and Education Fund Records: 1967-1984 (on file with Special Collections, Stanford University).

15. See, e.g., CARLOS MUÑOZ, JR., *YOUTH, IDENTITY, POWER: THE CHICANO MOVEMENT* (1989); ARTURO ROSALES, *CHICANO! A HISTORY OF THE MEXICAN AMERICAN CIVIL RIGHTS MOVEMENT* (2d ed. 1997); ERNESTO CHÁVEZ, "MI RAZA PRIMERO!" (MY PEOPLE FIRST!): NATIONALISM, IDENTITY, AND INSURGENCY IN THE CHICANO MOVEMENT IN LOS ANGELES: 1966-1978 (2002).

16. Quoted in MACLEAN, *supra* note 6, at 51.

17. LULAC Convention Minutes (July 4-7, 1963), Paul Andow, National President Office Files: 1963-1964, box 1 (available at LULAC Collection, Nettie Lee Benson Latin American Collection, University of Texas at Austin) [hereinafter LULAC Collection]; Minutes of National Council Meeting (Nov. 30, 1963), box 1, LULAC Collection.

18. Paul Andow, Civil Rights 'Quid Pro Quo,' box 1, LULAC Collection.

19. *Id.*

20. *Id.*

21. IGNACIO M. GARCÍA, HECTOR P. GARCÍA: IN RELENTLESS PURSUIT OF JUSTICE 261 (2002).

22. IAN F. HANEY LÓPEZ, *RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE* (2003); see also EDWARD J. ESCOBAR, *RACE, POLICE, AND THE MAKING OF A POLITICAL IDENTITY: MEXICAN AMERICANS AND THE LOS ANGELES POLICE DEPARTMENT: 1900-1945* (1999).

faraway places such as Texas, which had long featured oppressive treatment by police and courts and which did not see the same kinds of militant Chicano demonstrations that escalated the California conflicts. Moreover, unlike Texas, where more Mexican Americans lived then, California already had the multi-ethnic coalition built by the Community Service Organization, which helped elect Edward Roybal to Congress in 1962.²³

Neither the contagion-of-protest nor the legal racism model explains why there was such a national shift in identity and strategy, and why it occurred even in places as conservative as Texas. Nor do these frameworks make sense of why the change happened as quickly as it did. My archival research in Mexican American civil rights movement sources found that it was neither the inspiration of the black struggle alone nor simply common victimization by the police and courts that led to new ways of thinking about race and operating in pursuit of justice. Rather, what led Mexican American leaders to change their strategy was the Civil Rights Act won by the African American civil rights struggle. It enabled Mexican Americans to embrace non-white identity without assuming the risk involved when discrimination was legal. Title VII of the Act, in particular, promised unprecedented help in the fight to end employment discrimination and improve employment opportunities, two longstanding goals that had earlier been elusive.²⁴

By supplying new tools with which to achieve equality, the Civil Rights Act expanded the repertoire of political options from which Mexican Americans could choose. Previous government policy, by permitting discrimination against non-whites, steered Mexican Americans to define themselves publicly as white and seek gradual advance through assimilation to the white mainstream. The penalties for being non-white were especially severe in the Jim Crow Southwest, where most Mexican Americans then lived and organized.²⁵ The Act, in contrast, offered a powerful incentive to identify as people of color. With the Civil Rights Act as a resource, Mexican Americans no longer had to follow the European immigrant model of accommodation to the existing racial order, including differentiation from African Americans, in order to gain recognition as equal citizens.²⁶ By providing weapons with which to fight discrimination, such as the Equal Employment Opportunity Commission ("EEOC") complaint process and the Department of Justice's support for lawsuits, the Act enabled Mexican Americans to position themselves as the "brown" counterpart to blacks in a vigorous assertion of their rights. War on Poverty programs further promoted the new model of minority

23. On the California coalitions, see Brooks, *supra* note 6 and Bernstein, *supra* note 11.

24. My research focus was employment discrimination and affirmative action on the job. It is possible that education might yield a somewhat different timeline, thanks to earlier successful litigation on that front by both Mexican Americans and African Americans. The entire subject of how varied activists used the new legal resources gained in the Civil Rights Act cries out for more archival research. The rich resources that exist have barely been tapped, let alone for interactive and comparative study.

25. For stark illustration of the horrors Mexican Americans learned they could suffer as non-whites in apartheid-era Texas, see BENJAMIN HEBER JOHNSON, *REVOLUTION IN TEXAS: HOW A FORGOTTEN REBELLION AND ITS BLOODY SUPPRESSION TURNED MEXICANS INTO AMERICANS* (2003).

26. The literature on European immigrants and whiteness is now vast, but the most sophisticated analysis, which points to the decisive power of law and policy, is THOMAS A. GUGLIELMO, *WHITE ON ARRIVAL: ITALIANS, RACE, COLOR, AND POWER IN CHICAGO: 1890-1945* (2003).

empowerment by offering government contracts for community services such as job training and legal services to challenge unfair treatment.²⁷

The spring of 1966 proved to be a season of collective discovery, as Mexican Americans encountered the EEOC and realized how little interest it had in helping them. At a San Francisco regional EEOC conference, the agency's executive director, Herman Edelsberg, outraged the Mexican Americans present. Asked why the EEOC was doing "nothing" about their issues, Edelsberg glibly replied that Mexican Americans were "distrustful of agencies" and therefore failed to benefit. He even asserted that they had "no such proverb as 'the wheel that squeaks the loudest gets the grease.'" At that, one listener stood and shouted, "*El que no grita, Dios no lo oye*" (he who doesn't cry, God doesn't hear). Trapped in a binary black-white framework, Edelsberg failed to understand his audience. His boss did not do much better.

EEOC Chairman Franklin Delano Roosevelt, Jr. miscalculated the depth of Mexican American anger. When the agency put on a similar conference in Albuquerque a few weeks later, which fifty Mexican American leaders from across the Southwest paid their own way to attend, Roosevelt failed to attend. Instead, he sent Edelsberg, along with a commissioner whose ill-informed presentation appalled the delegates. They caucused until nearly 3 a.m. and devised a plan. The next day, after the agency's representative spoke, they stood and condemned the EEOC's "total lack of interest and understanding." They pointed out that not one of the agency's five commissioners was Mexican American and the agency's efforts all but ignored them. They demanded that President Johnson reorient the EEOC and institute "affirmative action" for Mexican Americans, and then they walked out as a body. After years of attempts to persuade government officials to little avail, confrontation proved exhilarating. "For once in this person's lifetime," one delegate marveled, "we Mexican Americans united and demonstrated that we can work on a national level."²⁸

The unity on display in Albuquerque was indeed new, and the Civil Rights Act had done much to promote it. Prior to the Act's passage, coordination had proved impossible because the situations of Mexican Americans varied so much by state, locale, and other factors such as whether they were middle-class or working-class, native-born or immigrant, documented or undocumented, temporary visitor or permanent resident, light-skinned or dark.²⁹ As Bert Corona reflected:

27. JULIE LEININGER PYCIOR, *LBJ AND MEXICAN AMERICANS* (1997); Marc S. Rodriguez, *Migrants and Citizens: Mexican American Migrant Workers and the War on Poverty in an American City*, in *REPOSITIONING NORTH AMERICAN MIGRATION HISTORY: NEW DIRECTIONS IN MODERN CONTINENTAL MIGRATION, CITIZENSHIP, AND COMMUNITY* (Marc S. Rodriguez ed., 2004). On SER/Jobs for Progress, see MACLEAN, *supra* note 6, at 171-72.

28. Quotes in paragraph from Elias R. Luevano, Remarks to MAPA California (Mar. 30 1966), Ernesto Galarza Papers: 1936-1984, box 14 (available at Special Collections, Stanford University) [hereinafter Galarza Papers]. Description of events also compiled from Elias R. Luevano, Albuquerque Declaration, Remarks to Lyndon B. Johnson, box 14, Galarza Papers; Joseph M. Montoya, Remarks to the President (Apr. 1, 1966), HU2-1, box 45 (available at White House Central Files, Subject Files, Lyndon Baines Johnson Presidential Library, Austin, Texas) [hereinafter WHC Files]; WHC Files & attached: Rowland Evans & Robert Novak, Inside Report, The Mexican Revolt, WASH. POST, Mar. 31, 1966; *Walkout in Albuquerque: The Chicano Movement Becomes Nationwide*, in *AZTLAN: AN ANTHOLOGY OF MEXICAN AMERICAN LITERATURE* 211-14 (Luis Valdez & Stan Steiner eds., 1972).

29. MANUEL G. GONZALES, *MEXICANOS: A HISTORY OF MEXICANS IN THE UNITED STATES*

In a way, I thought the [Equal Employment Opportunity] commission people had done us a favor by turning their backs on us since many Mexican American professional people and educators who had never before displayed their anger and disgust with the government were now coming out to protest. I had never seen some of these people from LULAC and the American GI Forum speak so militantly.³⁰

As the Albuquerque walkout signaled, the Civil Rights Act enabled Mexican American activists to experiment with new strategies. The new legal environment galvanized, in particular, a fight for better jobs among them as it did among feminists of all backgrounds. After 1964, both groups joined African American activists in seeking to open employment opportunities to all as the measure of full citizenship and the precondition for true self-determination.³¹ Having witnessed how African American activists won this potent new resource, Mexican Americans began to organize for fairness and equal treatment in new and bolder ways by unequivocally embracing “minority” status.

After Albuquerque, Mexican American organizations joined together as never before to demand economic inclusion using the promise of the Civil Rights Act as their lever. The newly convened Mexican American Ad Hoc Committee on Equal Employment Opportunity joined the American GI Forum, LULAC, the Mexican American Political Association (“MAPA”), and the Political Association of Spanish-Speaking Organizations (“PASO”) to demand that the government address the needs of Mexican Americans and charge the EEOC with employment discrimination against them.³² No longer politely requesting justice, they insisted upon it and even turned to direct action. In early 1967, for example, MAPA organized noontime picket lines at the Los Angeles Postal Service to protest discrimination against Mexican Americans, American Indians, and Filipinos. Soon the pickets spread to a dozen post offices. The struggle continued for a month, and yielded a unique affirmative action program that helped 800 people prepare for the postal hiring test, 640 of whom passed and got public sector jobs that had previously been denied to them.³³ The American GI Forum, for its part, used demands to enforce the law to pry open jobs in many areas, such as utility companies, telephone exchanges, insurance agencies, city halls, courthouses, and private companies. The GI Forum leader, Hector Perez García, whom a later biographer would call “the most successful organizer the Mexican American community ever produced, with the exception of César Chávez,” aimed a steady stream of complaints to the federal

186, 233 (1999); ROSALES, *supra* note 16, at 223; GUTIÉRREZ, *supra* note 5, at 204.

30. GARCÍA, *supra* note 1, at 224; George I. Sánchez Memo To the Participants who ‘walked out’ of the Equal Employment Opportunity Commission conference at Albuquerque on March 28, 1966, n.d. box 108 (available at Dr. Hector P. García Papers, Special Collections & Archives, Bell Library, Texas A & M University-Corpus Christi) [hereinafter García Papers].

31. For a more elaborate discussion of the process, see MACLEAN, *supra* note 6, at chs. 2-5.

32. Rudy L. Ramos, Address to the U.S. Civil Service Commission (Apr. 22, 1966), box 59, García Papers; PYCIOR, *supra* note 28, at 167.

33. Bert Corona, Press Release (Mar. 8, 1967), box 11, Harry McPherson Office Files (available at Lyndon Baines Johnson Presidential Library, Austin, Texas); see also Robert E. Gonzales to the President (Mar. 13, 1967), box 45, HU 2-1, WHC Files.

government insisting that it compel employers and unions to treat Mexican American workers fairly.³⁴

This newly active struggle garnered more attention from government than the old approach. By mid-1967, it had persuaded President Johnson's cabinet that "there is no more fundamental problem facing the Mexican American community today than the need for good jobs and job training."³⁵ Johnson appointed Vicente T. Ximenes, who was a past president of the American GI Forum, as one of the five commissioners of the EEOC. Also in answer to broadening protest, President Johnson set up a cabinet-level Inter-Agency Committee on Mexican American Affairs ("IACMAA"), headed by Ximenes, to coordinate federal efforts. In October, the committee held public hearings in El Paso, Texas that provided a platform for a long suppressed population to speak in its own name and be heard by powerful Anglos, in the process performing a public respect for Mexican American citizenship never before seen in American politics.³⁶ For the first time, national leaders listened to Mexican Americans as they explained their problems and proposed solutions, among them affirmative action, manpower programs, and farm labor projects.³⁷

As the Civil Rights Act altered the costs and benefits of different strategic orientations, affinities changed. No longer driven by the state toward an assimilation-seeking strategy, Mexican Americans could more freely embrace a pride in Mexicanness that they had long felt but hesitated to express politically because the risks were too great.³⁸ Civil rights legislation enabled, for example, a new push for bilingual education and services.³⁹ More generally, instead of trying to advance in isolation from other minorities, Mexican American leaders could find new practical—not simply moral—advantages to coalition. The new context did not automatically yield alliances among people of color. Quite the contrary, competition and mistrust remained. But the law made solidarity a potentially rewarding option to consider in at least some situations in a way it simply never was before. The result was a significant change in the algebra of American politics.

34. *Quoted in* GARCÍA, *supra* note 1, at xxxvi. Events recounted in Cris Aldrete, History of the American GI Forum 2 (1966), box 55, Bertrand M. Harding Personal Papers: 1958-1969 (available at Office of Economic Opportunity, Lyndon Baines Johnson Presidential Library, Austin, Texas); Letter from Dr. Hector P. Garcia to Hobart Taylor (June 28, 1965), box 112, Garcia Papers; copies of charges filed with EEOC, box 62 & 64, Garcia Papers.

35. Letter from Joseph A. Califano, Jr. to W. Willard Wirtz, with enclosure (June 7, 1967), box 381, EX FG 655, WHC Files.

36. *Viva Ximenes*, WASH. POST, May 10, 1971, box 28, Department of Civil Rights Records, AFL-CIO (available at George Meany Memorial Archives, Silver Spring, MD); Vicente Ximenes, Remarks to the President (Sept. 7, 1967), EX LA 2, box 8, WHC Files; Press Release, Statement of the President (Feb. 23, 1968), EX PU 1/FG 687, box 21, WHC Files; Video documentary of the El Paso Cabinet Committee hearings (provided to the author by Dr. Vincente Ximenes).

37. Video documentary of the El Paso Cabinet Committee hearings (provided to the author by Dr. Vincente Ximenes).

38. One exception came in the wake of the New Deal, when left-wing radicals offered a strategy that fused militant, labor-based struggle with cultural pride, but wartime mobilization diffused the first effort and postwar anti-communism extinguished its revival in the late 1940s. See ZARAGOSA VARGAS, LABOR RIGHTS ARE CIVIL RIGHTS: MEXICAN AMERICAN WORKERS IN TWENTIETH-CENTURY AMERICA (2004).

39. Some of the story can be found in SKRENTNEY, 'Learn, Amigo, Learn!': Bilingual Education and Language Rights in the Schools, in THE MINORITY RIGHTS REVOLUTION, *supra* note 7, at 179-229.

The potential was evident in novel coalitions that so soon became the norm that they are taken for granted today, their innovative quality forgotten. They became routine in litigation, as black, Latino, and feminist groups filed *amicus* briefs in support of one another's fights against discrimination. In the 1970s, groups such as the National Association for the Advancement of Colored People ("NAACP"), the National Organization for Women ("NOW"), LULAC, the American GI Forum, and the Mexican American Legal Defense and Education Fund ("MALDEF") regularly allied in legal challenges to combat longstanding practices of exclusion and subordination affecting some or all of them, and in lobbying efforts to expand—and later to defend—egalitarian policies enabled by the Civil Rights Act, such as affirmative action.⁴⁰

These groups also came together across old barriers in grassroots activist campaigns that changed national understanding of Mexican American problems and needs. The best example is the decade-long Coors Beer Boycott. Launched by the American GI Forum in 1969 to protest discrimination against Mexican American workers, the boycott attracted widening support from other groups with grievances against Coors: African Americans, trade unionists, and feminists, along with white liberals angry about Joseph Coors' well-publicized support for the conservative wing of the Republican Party.⁴¹ Students, for their part, brought the Coors fight to campuses,⁴² helping to make the Coors fight perhaps the most broad-based boycott coalition in U.S. history. It is a perfect example of the new solidarities that the Civil Rights Act encouraged. Without the rights Title VII conferred, there would have been no anti-Coors coalition. Paying attention to the legal and political construction of identity is thus vital to explain meta-changes in movement strategy over time.

Since the 1960s, the Republican Party has solicited the Mexican American vote with a different brand of politics. Competitive and entrepreneurial, the Republican Party approach encourages cultural conservatism and explicit or implicit rivalry with African Americans. Begun under Richard Nixon and continued by Ronald Reagan and the two Bush administrations, "the Chicano strategy," as one journalist called it in 1969, involves playing to traditional family values, religious orthodoxy, and both Mexican and American nationalism, while also fomenting what one Nixon operative called the "*black/brown* issue" by encouraging Mexican American fears that "blacks get preference."⁴³ The Republican Party's strategy exploits the tradition stemming from the era of Jim Crow and the loophole of Guadalupe Hidalgo, which together prompted Mexican Americans to claim whiteness to climb over blacks up the steep U.S. racial ladder. Republicans have played to that historic ambivalence about minority standing, rooted in Mexican concepts of race as well as in U.S. history.⁴⁴ Mexicans Americans have never voted

40. See, e.g., MACLEAN, *supra* note 6, at chs. 6, 7, & 9.

41. On the Coors struggle, see *id.* at 177-80.

42. *Id.*

43. For specific citations, see *id.* at 180-81.

44. For elaboration on electoral politics, see *id.* at 179-83; also, for a prescient analysis based on the 1972 election, see TONY CASTRO, CHICANO POWER: THE EMERGENCE OF MEXICAN AMERICA (1974), and more generally, JUAN GÓMEZ-QUIÑONES, CHICANO POLITICS: REALITY AND PROMISE: 1940-1990 (1990). For an innovative analysis of how Mexican racial traditions influenced the strategies of migrants as they negotiated the U.S. racial order, see Michael McCoy, *Mestizaje Meets the Color Line*:

as a monolithic bloc. Even as they remain overwhelmingly Democratic, Republican appeals have lured a significant minority in past elections and would likely gain more if vocal Republican leaders were not so brutish on the subject of immigration.

Surveying the current flux in American politics in light of this deep history, it seems reasonable to expect that what happens between Mexican Americans and African Americans over the next decade will decide the direction of American politics more generally in the era ahead. If the scale tips toward black-brown competition and hostility, the U.S. will likely lurch further to the right. Some influential Mexican Americans seem to be actively encouraging that development. The attorney, sociologist, and author Nicolas C. Vaca, for example, brandishes census counts like a cudgel. Announcing that “the numbers now belong to Latinos,” he warns ominously “let there be no doubt that this power will be wielded.”⁴⁵ An honest reckoning of the complex history of relations between two oppressed groups is one thing; a tendentious quest to show that “zero-sum conflict trumps any idealized notion of Latino-Black cooperation” is another.⁴⁶ “Vaca’s underlying project,” one reviewer sagely concluded, seems to be a determination “to free Latinos from any guilt they might feel about pursuing their own interests” at the expense of blacks.⁴⁷ Clearly, there is more than enough fear and anger on both sides to generate hostility and perhaps rupture.

But there is an alternative prospect, whose very existence builds on the coalition model whose origins are traced here. If the scale tips toward cooperation among blacks and Latinos, the U.S. could start to address the stunning economic inequality that hurts most Americans, and harms these two groups disproportionately. Some of the promise of the latter direction—of efforts to align over common needs—can be seen in the immigrant rights movement in which Mexican Americans are playing a leading role, and which African American civil rights leaders have vocally supported. At the grassroots, progressive unions have walked the walk with organizing campaigns that extend the solidarity model encouraged by the Civil Rights Act. Examples include the Immigrant Workers Freedom Ride of 2003,⁴⁸ the ongoing Hotel Workers Rising campaign of the union UNITE HERE,⁴⁹ the 2007 AFL-CIO alliance with the National Day Labor Organizing Network,⁵⁰ and the civil rights language and tactics used in the mobilization against the draconian Sensenbrenner Bill produced by the Republican House of Representatives in late 2005. The degree to which the U.S. labor movement has renounced its historic antipathy to undocumented immigrants is

Mexicans and Racial Formation in Greater Chicago: 1916-1960 (2008) (unpublished Ph.D. dissertation, Northwestern University) (on file with author).

45. NICOLAS C. VACA, *THE PRESUMED ALLIANCE: THE UNSPOKEN CONFLICT BETWEEN LATINOS AND BLACKS AND WHAT IT MEANS FOR AMERICA* 15, 61 (2004).

46. *Id.* at 193.

47. Ed Morales, *Brown Like Me?*, *THE NATION* 26, Mar. 8, 2004.

48. For an overview, see <http://www.iwfr.org/>.

49. David Moberg, *Hotel Workers Rising Tide: A 'Movement for Equality' Tops UNITE HERE's Agenda*, *IN THESE TIMES*, Apr. 19, 2006; Yvette Doss, *Labor Pains: Hotel Housekeepers Push for Healthier Work Conditions and Better Pay*, Ms., Winter 2008, 16. For current developments and overview, see <http://www.hotelworkersrising.org/> (last visited 7/13/08).

50. Stephen Greenhouse, *Labor Federation Forms Pact with Day Laborers*, *N.Y. TIMES*, Aug. 10, 2006.

striking, as is its new embrace of a rubric for organizing that frames workers rights as “human rights” in all organizing.⁵¹ With leading Mexican American based immigrant rights organizations and the labor unions for which Latinos now are a prime constituency actively expanding the civil rights tradition in this way, the solidarity model has unprecedented momentum. If organizers succeed in persuading sufficient numbers at the community level, the U.S. could see great progress in winning policies to promote equity for all in coming years.⁵²

Yet, powerful economic, political, and cultural forces push in the other direction, and it would be foolhardy to underestimate their strength. Above all, conservative success in remodeling the nation’s political economy has ensured that contests over vital resources take place now in a context rife with insecurity and miserly in the most basic safety-net protections.⁵³ With little left of War on Poverty programs to provide needed services or of mass membership-based civil rights organizations to encourage grassroots activism for justice, and with the steady barrage of divisive discourse coming from a well-funded right, a reversion to the competition and rivalry mode of the pre-Civil Rights Act years seems almost foreordained. The strategies of activists and the effectiveness of their organizing campaigns may provide some counterweight. But so, too, as this article shows, might developments in the courts and government practice. Paying attention to how law and politics construct citizen identities and group strategies, then, matters not only to explaining the past but also to shaping the future.

51. For support of immigrant workers, see for example <http://www.changetowin.org/issues/workers-rights/immigrant-workers-rights.html> and <http://www.aflcio.org/issues/civilrights/immigration/upload/AFLCIOPO.pdf> (last visited 7/13/08). For the human rights framing of labor’s cause, see JAMES A. GROSS, ED., *WORKERS’ RIGHTS AS HUMAN RIGHTS* (2003); Restoring the Right to Form a Union: Organizing Summit 2006, <http://www.aflcio.org/joinaunion/voiceatwork/d10.cfm> (last visited 7/13/08).

52. Scholars have yet to catch up to activists and journalists in examining these developments, particularly as they involve Mexican immigrants, but those who work in labor studies constitute an important exception. Pioneering explorations include Hector Figueroa, *Back to the Forefront: Union Organization of Immigrant Workers in the Nineties*, in NOT YOUR FATHER’S UNION MOVEMENT: INSIDE THE AFL-CIO (Jo-Ann Mort ed., 1999); Dorian T. Warren, *A New Labor Movement for A New Century?: The Incorporation and Representation of Marginalized Workers in U.S. Unions* (2004) (unpublished Ph.D. dissertation, Yale University) (on file with the author); JANICE FINE, *WORKER CENTERS: ORGANIZING COMMUNITIES AT THE EDGE OF THE DREAM* (2006); RUTH MILKMAN, L.A. STORY: IMMIGRANT WORKERS AND THE FUTURE OF THE U.S. LABOR MOVEMENT (2006); Roger Waldinger, *Who Makes the Beds? Who Washes the Dishes?: Black/Immigrant Competition Reassessed*, in IMMIGRANTS AND IMMIGRATION POLICY: INDIVIDUAL SKILLS, FAMILY TIES, AND GROUP IDENTITIES 265-88 (Harriet Orcutt Duleep & Phanindra V. Wunnava eds., 1996).

53. See, e.g., JACOB HACKER, *THE GREAT RISK SHIFT: THE ASSAULT ON AMERICAN JOBS, FAMILIES, HEALTH CARE, AND RETIREMENT AND HOW YOU CAN FIGHT BACK* (2007).

