

An Overview of Interest Group Participation in Gender- and
Racially-Based Employment Discrimination Litigation

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Introduction

During the past decade, employment discrimination has become a major concern of various groups and organizations that represent the full ideological and economic spectrum. Some groups have sought to ensure full compliance with existing anti-discrimination laws as well as expanded constitutional protections against discrimination. Others have turned to the courts in an effort to persuade judges to construe existing laws as narrowly as possible.

In this paper, we outline the results of a preliminary study in which we have focused on organizations that litigate issues where racially- or gender-based employment discrimination is alleged. Through an analysis of fifty cases that were decided by the Supreme Court between 1970 and 1981, we compare legal strategies as well as success rates of groups both representing and opposing the interests of blacks and women.<1>

In Part I, we review the interest group literature, both as it applies to employment discrimination and to the groups under analysis. Part II posits several hypotheses derived from our review of the literature. Our methodology is described in Part III and in Part IV, our findings are discussed.

Part I. Review of the Literature

Extensive scholarly attention has been devoted to gender and racial employment discrimination. Between 1970 and 1981, hundreds of articles appeared in United States law journals alone. The majority of these articles, as well as the many books that have been written on the subject generally, deal with specific cases of legislative and judicial developments within employment law. To facilitate the integration of the extensive scholarly literature with the research focus of the subject—interest group participation in discrimination litigation—we have divided our theoretical statement into three sections: interest group theory, interest group involvement in discrimination litigation, and specific group analyses.

Interest Group Theory

The proposition that interest groups use the courts either to maintain the status quo or to secure rights in a neutral forum has a long theoretical history (Bentley, 1908; Yale Comment, 1949; Truman, 1951; Vose, 1955, 1958, 1959, 1972; Manwarring, 1962; Ginger, 1963; Birkby and Murphy, 1964; Cortner, 1968; Ziegler and Peck, 1972; Hahn, 1973; Scheingold, 1974; Greenberg, 1974, 1977; Rabin, 1976; Sorauf, 1976; Handler, 1978; Belton, 1978; Weisbrod, 1978; O'Connor, 1980, 1981; Wasby, 1981). The notion that interest groups affect the judiciary was first noted in 1908 by Arthur Bentley. He claimed that there were

luminous instances of the same group pressures which operate through executives and legislatures, operating also through supreme courts and bringing about changes in law in a field above the legislatures, but short of a constitutional convention; changes which no process of legal or constitutional reasoning will adequately mediate, but which must be interpreted directly in terms of pressures of group interests (1908:388).

In stating his belief of the judiciary's susceptibility to group influence, Bentley noted that the judiciary, like the executive and legislative branches, had entry or pressure points where group influence could be exerted. Although he gave some examples where he thought interest group or political pressure came to bear on Supreme Court decision-making in general terms, his major aim was to simply note that, contrary to prevailing beliefs, group influence had a pervasive role in all branches of government, including the judiciary (Bentley, 1908:382-399).

It was not until the publication of David Truman's The Governmental Process in 1951, that a more detailed examination of the role of group interests in the judicial arena was made. Truman found that groups "lobby" the courts "to maintain the status quo" (Truman, 1951). According to Truman, the judicial process could best be understood by looking at group pressures when social changes are at stake. By looking at status quo oriented groups, however, Truman did not recognize the utility or often necessity of, disadvantaged groups' resort to the courts (Cortner, 1968).

Clement E. Vose was the first to do an in-depth study of one interest group's affirmative use of the courts to "end discriminatory practices" rather than to maintain the status quo. His early works, "NAACP Strategy in the Restrictive Covenant Cases" (1955) and Caucasians Only (1959) focused on the National Association for the Advancement of Colored People (NAACP). He found that the NAACP successfully litigated on a variety of issues within the civil rights arena. He concluded that its effectiveness was the product of selecting good test cases, hiring skilled attorneys, and its longevity.

The factors that Vose identified as important for organizational litigation success have been discussed and expanded upon in several studies. These include Joel Handler's Social Movements and the Legal System (1978), Karen O'Connor's Women's Organizations' Use of the Courts (1980) and Stephen Wasby's "Interest Group Litigation Strategy in An Age of Complexity" (1981).

Litigation in several issue areas (the environment, consumer rights, civil rights and social welfare) was analyzed by Handler. He evaluated various "social movements'" effectiveness by examining six success variables: "the characteristics of social reform groups, the distribution of the benefits and costs of activity by social-reform groups, the nature of the bureaucratic contingency confronting the social reform groups, characteristics of judicial remedies and characteristics of law reformers" (1978:5). Handler argued that these "success" variables equally effect all types of litigious interest groups. In using this approach, Handler reversed Vose's process: he created outcome factors prior to analyzing group success whereas Vose examined one organization to determine effective strategies. Not surprisingly, these approaches lead to contrary conclusions about the interest group litigation process.

O'Connor's Women's Organizations' Use of the Courts is one of the most recent attempts to determine "the hows and whys of the adoption and success of particular litigation strategies" (1980:16). She discovered that organizations "adopt" litigation strategies that best fit their specific

objectives. O'Connor found women's groups' success was effected by the presence of several factors: longevity, full time staff, sharp issue focus, financial resources, technical data, well-timed publicity, coordination between affiliates, coordination with other organizations and Solicitor General assistance (O'Connor, 1980:17). However, she concluded that the importance of each factor varied according to the litigation strategy chosen. Specifically, O'Connor classified several women's rights organizations as either oriented towards court victories, publicity or involvement as amicus curiae. She determined that most groups select a particular strategy on the basis of their objectives and abilities. She observed that often noted indicators of court success varied in importance depending upon a groups' strategy.

Wasby's "Interest Group Litigation Strategy in An Age of Complexity," summarized and added several new dimensions to interest group litigation theory. In his attempt "to set out internal and external factors effecting group mobilization of the law" (1981:1), he primarily examined the NAACP's and the NAACP Legal Defense and Educational Fund's strategies. Wasby hypothesized that nineteen factors affect not only group tactics, but determine case outcome, as well (Wasby, 1981:Appendix A).

In addition to discussing organizations' sponsorship of cases, both O'Connor and Wasby note the common use of amicus briefs by interest groups. The importance of amicus curiae briefs has been examined in several studies and various scholars have offered explanations for the use of these briefs (Harper and Etherington, 1952; Vose, 1958; Krislov, 1963; Barker, 1967; Puro, 1971; Neier, 1979; O'Connor, 1980).

In "The Amicus Curiae Brief: From Friendship to Advocacy" (1963), Samuel Krislov traced the use of amicus briefs from their first formal utilization in 1821, to 1963. He found that amicus briefs were originally used to provide the Court with information not presented by either party to the lawsuit. However, Krislov's research revealed that "The amicus is no longer a neutral, amorphous embodiment of justice, but an active participant in the interest group struggle" (1963:703). He concluded that the United States Supreme Court treats amicus briefs "as a potential litigant in future cases, as an ally of one of the parties or as a representative of an interest not otherwise represented..." (1963:704).

Steven Puro also conducted an extensive examination of the use of amicus curiae briefs. In "The Role of the Amicus Curiae in the United States Supreme Court: 1920-1966" (1971), he discussed the amicus participation of the Solicitor General, the ACLU, the AFL-CIO, and the National Association of Railway and Utilities Commission (NARUC) and their perceptions "concerning amicus procedures and purposes" (1971:3). In general, Puro's conclusions are consistent with Krislov's. Puro discovered that "The amicus should be viewed by and large, as an advocate and not as a disinterested party" (1971:246). However, he found that although all four organizations sought "to effect the law" through amicus briefs, their individual behavior differed. For example, Puro observed that while the AFL-CIO and the NARUC "perceived their role as amicus to be that of an ally to one of the parties...", the ACLU and the Solicitor General

both believed that they were representing interests which were not represented in the case when they acted as amici; they believed themselves to be supporting 'a positive civil liberties climate,' or 'the public interest' and were allies of a party only in so far as their

arguments happened to coincide (1971:247).

Several scholars have offered reasons to explain why groups resort to this more limited form of participation rather than to direct sponsorship of litigation. O'Connor found that many "disadvantaged" (Cortner, 1968) litigators "do not have the necessary financial resources to engage in the more expensive, primary sponsorship of litigation schemes" (1980:4). Thus, they are forced to file amicus briefs if they wish to retain "a voice in Supreme Court litigation" (O'Connor, 1980:5). Vose found that four factors form the basis of group participation. These include: "the type of proceeding, the standing (to sue) of the parties, the legal or constitutional issues involved and the groups' interest in the outcome" (Puro, 1971:5). Other explanations for amicus participation include group interest in the issue where the group is unable to gain actual control of the case, or where the sponsoring party's argument can be buttressed by the use of an amicus brief (Peltason, 1955). The latter is particularly true when the actual party to the suit fears that advancing a novel argument may jeopardize its case, but that advocacy of a position by another group cannot hurt its chances of success.

For whatever reasons groups chose to file amicus curiae briefs, it is clear that these organizations and their attorneys believe that amicus briefs have an impact upon case outcomes. Although the precise impact of friend-of-the-court briefs on judicial decision-making is unknown, the number of groups, as well as their rate of participation as amicus in Supreme Court cases continues to grow. A recent study of interest group participation as amicus curiae discovered that organizations filed amicus briefs in more than one-half of the non-commercial cases decided by the Supreme Court between 1970 and 1980 (O'Connor and Epstein, 1981). If groups did not believe their participation had an impact, they would not continue to submit briefs in such large numbers.

Interest Group Involvement in Employment Litigation

While there has been much discussion of general interest group involvement in racially- and gender- based discrimination litigation and even employment discrimination in general, rarely have the two been simultaneously examined. Exceptions include: Handler's Social Movements and the Legal System (1978:Chapter Four:140-149), Robert Belton's "A Comparative Review of Public and State Enforcement of Title VII of the Civil Rights Act of 1964" (1978) Burt Weisbrod's Public Interest Law (1978:Chapter Ten), and Wasby's "Interest Group Litigation Strategy in An Age of Complexity" (1981).

In Social Movements and the Legal System, Joel Handler discussed group use of the courts to end discriminatory employment practices in terms of six theoretical variables: He found that collectively, the organizations, groups and public interest law firms' involved in employment discrimination cases (race and sex were not treated individually) lacked each of the factors he defined as important to conventional success.

Unlike Handler, who adopted an inclusive approach to the study of litigation, Belton, a former NAACP LDF staff lawyer, wrote about the activities of one organization, the LDF, in only one area of employment discrimination: race. His study, which presented "a comparative review of

governmental and private enforcement efforts under Title VII," provided an excellent analysis of efforts in this area (1978:908). Belton's review of Title VII litigation, however, went beyond this simple comparison by drawing important parallels between Brown v. Board of Education, 347 U.S.483 (1954); 349 U.S.294 (1955) and Griggs v. Duke Power Co., 401 U.S.424 (1971). According to Belton, these cases are important not only in terms of their precedential value, but both are excellent examples of the LDF's use of the courts to end discriminatory practices. In both cases, Belton believes the LDF succeeded because it controlled the course of the cases as they were readied for Supreme Court appeal. It sponsored both Brown and Griggs and therefore, the LDF developed the necessary strategies to win in the Supreme Court.

In Burt Weisbrod's Public Interest Law, Handler et. al., also discussed governmental and interest groups' use of the courts to end discriminatory employment practices from an economic perspective. Adopting an expansive definition of public interest law (PIL) firms, they found that firms "combine some of the best elements within the governmental enforcement sector with private-sector flexibility" (1978:284). However, they noted that PIL firms' effectiveness rests upon whether they "will be funded sufficiently" and whether they can obtain "the cooperation of the government" (1978:284). These conclusions are based upon several economic measures of PIL firms' impact on employment discrimination including the number of people affected by court action, among others. Thus, although they discussed several of the factors commonly mentioned by political scientists, including test cases, Handler et al. concluded that financial resources are especially important given the costly nature of employment discrimination litigation.

While Belton and Handler concentrated on internal and external success factors, respectively, Wasby has tried to cast a wider net. His discussion of the LDF's litigation noted his belief that a wide variety of both intra- and inter-organizational factors must be assessed. He posited a fairly inclusive list of "factors" to be considered in studying interest group litigation, including several not specified by others: "perceptions regarding changes in the Supreme Court's doctrine" and "the interplay between previous decisions, litigators' choices and interest groups' evaluations of strategies" (1981:2). By examining these and other factors through examples drawn largely from the NAACP and LDF's experience in the school desegregation, housing, and employment discrimination areas, Wasby hypothesized that both strategy and resource allocation would be affected by these dimensions.

Thus, the area of employment discrimination is just beginning to emerge as an additional example of interest groups' use of the courts to enforce existing laws or to precipitate change. The following section examines the organizations that litigate racially- and gender-based employment discrimination cases.

Organizations that Litigate

In this section, we discuss the treatment that has been given to the specific organizations that litigate gender- and racially-based employment cases. Four "groups", the NAACP LDF, the ACLU, the United States government as represented by the Solicitor General and unions are treated individually because of the important role each has played in this area.<3> Also, these groups represent varying interests within the employment discrimination arena.

The NAACP and the LDF are the most thoroughly examined of all Supreme Court

litigators (Yale Comment, 1949; Vose, 1959,1965; Osbourne, 1963; Birkby and Murphy, 1964; Barker and Barker, 1965; Casper, 1972; Hahn, 1973; Meltsner, 1973; Rabin, 1976; Kluger, 1976; Greenberg, 1977; Belton, 1978; O'Connor, 1981; Wasby, 1981). Researchers consistently focus on these organizations for several reasons: first, much of the original interest group theory was derived from analyses of the NAACP's pioneering efforts. Vose's early research established a model for others to both follow and expand. A second reason for scholarly attention to the NAACP is its initial and consistent use of the courts rather than legislatures (Vose, 1959). By initially resorting to the courts, the NAACP was able to become the premier civil rights litigator. Additionally, the NAACP has become one of the few organizations perceived to speak for an entire class (Casper, 1972; Greenberg, 1977). Thus, its activities have been of interest to judicial researchers as well as to historical investigators (Roche, 1964; Miller, 1966; Kellogg, 1967). Finally, the NAACP "has used the courts with far greater continued success than any other organization" (O'Connor, 1980:14). Its notable progression of victories in the restrictive covenant (Vose, 1955,1959), school desegregation (Kluger, 1976; Greenberg, 1977), and death penalty litigation (Meltsner, 1973) have brought the NAACP to the forefront of interest group research.

Interestingly, other major litigators have received far less attention than the NAACP. The ACLU, which appears before the Court in equally as many, if not more, cases than the NAACP has been the object of less scholarly attention. Although its history has received some attention (Bean, 1955; Johnson, 1963; Markmann, 1965; Lamont, 1968; Reitman, 1975), the ACLU's role in Supreme Court litigation has been relatively ignored. While some have attempted to examine the Union's litigation strategy (Yale Comment, 1949; Halpern, 1976; Rabin, 1976; Sorauf, 1976; Neier, 1979; Cowan, 1976; O'Connor, 1980) it appears that the complex nature of the ACLU's organization at least partially explains the lack of scholarly investigation. Unlike the NAACP, which represents one identifiable class, the ACLU views itself as society's advocate and consequentially, is involved in a wide range of issue areas (Yale Comment, 1949; Casper, 1972). Its diffuse issue focus, along with the abundant amount of information pertaining to the Union's diverse activities, make the ACLU far more problematic to study than the NAACP. In fact, in prefatory remarks to Constitutional Change, Vose explained why he did not analyze the Union:

The history of the American Civil Liberties Union begged for attention and while interviews with Melvin Wulf and Osmond Fraenkel {ACLU attorneys} started me down the path, the sheer bulk of ACLU papers...dampened any realistic prospect of preparing one (1972:xvi).

To avoid the problems inherent in studying this kind of multi-purpose organization, researchers have analyzed various aspects of the Union's work. The Women's Rights Project (WRP), which was organized separately within the ACLU Foundation to specialize in sex-discrimination litigation, frequently has been observed (Cowan, 1976; Berger, 1979; O'Connor, 1980,1981). The WRP has sponsored more sex discrimination cases than any other women's rights group and regularly appears as an amicus curiae.<4> In essence, it comes closest to being an NAACP-type litigator. In fact, both O'Connor and Cowan discussed the WRP's activities in terms of the criteria typically used to describe the NAACP's court victories. Unlike the NAACP, however, the WRP is not the sole

representative of women or even perceived as such. While most believe that the Court views the NAACP as "the" voice of black Americans, the WRP, at best, can be considered to represent only a segment of American women. Because of the widely divergent views of women concerning issues including abortion and the Equal Rights Amendment, the Justices are mindful that no one group speaks for women.

Even though there is a greater consensus among women on the employment discrimination issue than on any other area of sex discrimination there has been a proliferation of women's rights organizations to deal with this problem as well as other women's rights issues.<5> This large number of groups has affected the WRP's ability to function as an NAACP-type litigator in several ways: first, resources in this area have been divided among several groups (Berger, 1979). Although the WRP is probably the best funded and consequently, best staffed of the women's rights litigators, it has been unable to capture the large share of funds enjoyed by the NAACP. Second, this plethora of women's rights groups has made the adoption of a true test case litigation strategy difficult. Often the WRP has been forced to assist groups or private lawyers who have had cases accepted by the Court, when in terms of overall strategy, they are brought out of synch. This loss of control, a factor stressed by Belton, at times has resulted in defeats for women's rights advocates (for example, Kahn v. Shevin 416 U.S.331 {1974}). In addition, the WRP often has been forced to file *amicus curiae* and in that capacity to provide the Court with a fall back position to blunt the magnitude of defeat. This has happened when WRP lawyer's have recognized that the Court would be unlikely to accept the position of the major party. These WRP briefs have tended to minimize losses, but at times, have resulted in bad feelings among women's rights litigators that has made cooperation difficult—a problem the NAACP has not often had to face.<6>

A third major participant(s), or coalition, in employment discrimination litigation are unions. Although there are several excellent histories of the union movement in America and of particular unions, little has been written about union litigation activities in general, or in the employment discrimination area in particular. Most investigators, however, have concluded that unions, particularly in the past, have been hostile toward black and female members. Historically dominated by white males, this finding is not surprising. In Black Workers in White Unions, William Gould discovered that

A principle obstacle to a more progressive labor movement in the United States is its unwarranted self-satisfaction and smugness about organizing new categories of workers. The effect is to disregard the interests of those who need protection most—the significant number of the poor who are members of racial minorities.

Thus, unions often constitute roadblocks to the achievement of non-discriminatory employment practices (1977:15).

The unions' unwillingness to incorporate racially non-discriminatory employment practices is the product of several factors. Probably, most important, is a universal status quo orientation among unions. Unions appear adverse to "change," especially if change adds to discontentment among members. Unfortunately for minorities, the equal employment practices mandated by Title VII of the 1964 Civil Rights Act often require alterations

that old time union members appear unwilling to make. The implications of this situation for litigation seem apparent: unions often will argue for the status quo, which they view as appeasing their membership particularly in this no-growth period of unionization in the private sector, while groups representing blacks, such as the LDF, argue for change. In fact, one AFL-CIO attorney claimed that

Our use of arguments in amicus briefs is responsive to our craft. That is, we are a particularized interest group. We write briefs to further our interest group or to make the ruling hurt as little as possible (Puro, 1971:220).

Union opposition and/or support of gender-based employment practices is less clear. It is difficult to predict how unions will handle sex discrimination claims primarily because of a glaring lack of literature on the subject. Although the history of women and unions is well documented (Foner, 1979), union support or opposition to women's claims in court have remained relatively unexamined. Existing research, though, conclusively reveals that unions, historically and currently, have opposed employment practices aimed at improving the working woman's status (Walum, 1977).

Many scholars have discussed the importance of the United States' or more specifically, the Solicitor General's participation in Supreme Court litigation (Tanenhaus et al., 1963; Brigman, 1966; Scigliano, 1971). Based upon the literature and the observations of several Supreme Court litigators (Greenberg, 1977), there is little doubt about the importance of the Solicitor General's participation. The Solicitor General's presence in a suit, either as a direct representative or as amici, increases the likelihood of the Court not only hearing a case, but also of the Court ultimately adopting the Solicitor General's position. Thus, interest groups consistently have attempted to persuade the government to enter a case as an amici on their sides.

Thus, while many researchers have examined interest groups' use of the courts, the literature is replete with gaps. Specifically few systematic studies exist that analyze a variety of organizations' strategies within employment discrimination litigation. Although scholars have focused on the legal implications of the United States Supreme Court's gender- and racially-based employment cases, little is known on how its decisions have come about. Given the extensive interest group participation in this area, a systematic study of these organizations' roles in this area should add to our understanding of Supreme Court decision-making.

Part II. Hypotheses

Based upon the literature, we expect to find the following:

H1: When the NAACP Legal Defense and Educational Fund sponsors a racially-based employment discrimination case, the LDF generally

prevails.

This hypothesis is generally based upon many researchers' conclusions about the LDF's litigation abilities. The LDF is often regarded as a model litigator and it enjoys many of the success factors noted in the literature. More specifically, in the employment discrimination area, the LDF's ability to control litigation has been offered as a major reason for its success in the judicial forum.

H2: When the ACLU's Women's Rights Project participates as either a direct sponsor or as amicus curiae in a gender-based employment discrimination case, the WRP generally prevails.

This hypothesis is based upon Cowan's (1976) and (1980) O'Connor's critiques of the WRP as a successful outcome- and amicus curiae-oriented litigator.<7> Although the ACLU has been criticized for its lack of issue concentration, creation of the WRP has allowed the Union to specialize in one, albeit fairly broad, area. Even though we expect to find that the organization directly sponsors proportionately fewer cases than the LDF, the literature leads us to expect that the WRP possesses the necessary combination of factors to be a successful litigator.

H3: When the United States (Solicitor General) participates as a sponsor or as amicus curiae in either gender- or racially-based employment discrimination cases, it is likely that Court adopts the position advocated by the United States.

This hypothesis is based on the many studies that have examined the role and impact of the Solicitor General's participation. Most researchers have found a high correlation between the government's involvement as a party and Court acceptance of a case for review, as well as ultimate success.

H4: Given its longevity, expertise and reputation of the NAACP LDF, the LDF prevails in proportionately more cases than those where women's rights groups prevail.<8>

This hypothesis is based on the belief that the Court's perception of various organizations plays in an important role in case outcome. The Court perceives the LDF as "the" voice of black Americans, whereas it views the various women's rights groups as only representing one segment of American women. Moreover, the large number of women's organizations has detracted from their ability to pursue successful litigation strategies. For example, important success factors, such as resources, have been divided among "competing" groups. The LDF has not faced these problems and, therefore, should be a more effective litigator than the

many women's rights groups, combined.

H5: When unions participate in a case as either as amicus curiae or as direct sponsors, it is likely that the unions' positions are unfavorable to both blacks and women.

While we cannot predict case outcome because so little is known about unions' use of the courts, we expect that unions generally oppose change that will negatively affect their members. Thus, unions' positions can be viewed as intervening variables that effect women's and black's litigation efforts.

Part III. Methodology

Data for this research was collected by reviewing volumes 24 to 67 of The Lawyer's Edition of the United States Supreme Court Reports to identify all gender- and racially-based employment discrimination cases. All United States Supreme Court cases decided between January, 1970 and March, 1981 that were reported in The Lawyer's Edition were included in this study. A total of fifty cases were identified. After each case was categorized by race and gender, every brief submitted in each case was read. This step was essential because no reporter system accurately records group sponsorship or all amicus curiae filed in any Supreme Court litigation.

The dependent variable for H1 through H4 is United States Supreme Court decisions between 1970 to 1981. These decisions are divided into three categories: decisions favoring the claims of blacks or women, decisions opposing black's or women's claims and mixed decisions. In most instances, cases were classified on the Court's actual decision to reverse or to affirm. However, when the Court vacated and/or remanded the case or judgement, a "pro" or "anti" classification was determined by the facts involved and the Court's majority opinion. Cases were classified as "mixed" if no clear victor emerged. This primarily occurred when the Court partially reversed and partially affirmed a particular case. The dependent variable for H5 is union position: either opposing or favoring women's or black's claims.

The independent variable for H1 through H5 is interest group participation. For this research, interest group participation can take two forms: amicus curiae briefs and direct sponsorship. The variable is divided into two categories: participation favoring black's or women's claims and participation opposing blacks's or women's claims.

Our statistical analysis has been kept at a simple level: the hypothesized groups' success percentages have been compared with the "control" or overall success percentages for racially- and gender-based employment litigation. This is in keeping with the pilot nature of this study. We also felt that given the small number of cases and the fact that our population included the universe of racially- and gender-based employment cases decided by the Court between 1970 and 1981, the figures best speak for themselves.

Part IV. Findings

Racially-Based Employment Discrimination

Table 1 presents Supreme Court decisions and interest group participation in racially-based employment discrimination from 1970 to 1981, by case.

(Table 1 about here)

Of the thirty cases involving racial discrimination, 56.6 percent (n=17) were decided in favor of the parties alleging racial discrimination. The Court decided against the position advanced by civil rights advocates in 36.6 percent (n=11) of the cases and reached mixed results in the remaining 6.6 percent (n=2). Interest groups participated as direct sponsors or as amicus curiae in 100 percent (n=30) of the cases discussed here.

Our analysis of the data in Table 1 substantiates H1 which proposed that the LDF would be likely to prevail when it sponsored a case. The LDF sponsored 30 percent (n=9) of the racially-based employment cases. Of these, it won 66 percent (n=6). Of the remaining twenty-one cases not sponsored by the LDF, the Court decided in favor of black interests in 52.3 percent (n=11). Thus, LDF case sponsorship appears to increase the chances of the Court finding for black interests.

Although H1 was structured in terms of sponsorship, we have also analyzed LDF impact as amicus curiae. The LDF participated as a friend-of-the-court in fourteen cases. The parties it supported were successful 57.1 percent of the time, only a slightly higher percentage than the overall success rate for black interests. Clearly, the control factor emphasized by Belton appears important to LDF success.

In H3 we predicted that the Court would be likely to adopt the position advocated by the United States government when it appears either as amicus curiae or as a party to the litigation. Of the twenty-six cases in which the government participated, the Court decided in the government's favor in 76.9 percent (n=20).

Interestingly, the government's success rate is lower (70 percent) when it is a party to a suit. However, when the government's participation is limited to filing amicus briefs, it was successful 81.2 percent of the time. It may be that the Court is more willing to accept the views of the Solicitor General when it is clear that the government is participating in the case out of interest and not of necessity, at least in the area of racial employment discrimination litigation.

A particularly interesting pattern that emerges is the interrelationship between the LDF and the Solicitor General. The LDF's success rate correlates very closely with the government's participation as amicus curiae. In every sponsored case won by the LDF, the U.S. government appeared as an amicus in support of the LDF's position. Of the three cases lost by the LDF, the U.S. government submitted amicus urging the Court to find against the parties in two, and did not make an appearance in the third.

In H5, we posited that unions could be expected to oppose black claims before the Supreme Court. Unions participated in nine of the thirty racial employment discrimination cases studied here. They sponsored four and

appeared as amicus in six.<10> In 40 percent of these cases, unions advocated a judicial determination against black interests. However, in several of these cases, unions were directly contesting the actions of black employees who the union perceived as attempting to avoid established union arbitration procedures or where the employee alleged some kind of union discrimination. Therefore, it appears that unions generally oppose black interests in court only when they perceive blacks as posing a direct threat to union authority or interest. These kinds of actions by unions appear to support our status quo explanation, but generally we cannot conclude that unions argue against black interests, per se. While this in itself is an interesting finding, a more important pattern that we found was the success of union litigation. While analyzing our data, we were surprised to find that the case outcome advocated by unions in all nine cases was adopted by the Court. They were successful in 100 percent of the cases they entered regardless of whether the unions advocated a position for or against blacks. Whether this phenomenal success rate is due to attorney expertise, entering the "right" cases or Court deference to union opinion, is beyond the scope of this study. Union litigation success in this area, however, clearly needs further attention.

Gender-Based Employment Discrimination

Table 2 presents Supreme Court decisions and interest group participation in gender-based employment discrimination litigation from 1970 to 1981, by case. Of the twenty cases decided by the Court involving claims of gender-based discrimination,

(Table 2 about here)

50 percent were decided in favor of claimants alleging discrimination. The Court decided against those claimants in 40 percent of the cases (n=8) and reached mixed results in the remaining 10 percent (n=2). Interest groups participated as sponsors or amicus curiae in every case examined here.

In H2, we predicted that the WRP would be successful in cases that it either sponsored or appeared as amicus curiae. It participated as such in 65 percent (n=13) of these cases. The WRP's position was adopted by the Court in 53.8 percent (n=7). Although this figure is only slightly higher than the overall success rate for gender-based discrimination claims, a party's chances of prevailing were far less when the WRP was not a participant. Of the seven cases where the WRP did not participate, women's arguments were accepted by the Court in only 28.5 percent (n=2).

Although the WRP has sponsored 71.4 percent (n=10) of the fourteen cases at the Supreme Court level alleging gender-based discrimination, it has sponsored only two employment discrimination cases (O'Connor, 1981). Apparently, the WRP has determined to devote its resources to less expensive kinds of discrimination claims. Also, unlike the LDF, which tends to handle cases from the trial court level, the ACLU often enters cases at the appellate stage (Yale Comment, 1949). Employment discrimination litigation, the success of which is highly dependent upon the development of an adequate trial record, normally is not well suited to WRP tactics. This probably accounts for its minimal direct involvement in this area.

The fairly high amicus participation rate of the WRP (n=11) is easily explainable given its significant involvement in other areas of gender-based discrimination litigation. Negative decisions in the employment area frequently can have an adverse impact on its overall strategy. Therefore, the WRP has often filed briefs in what it viewed as losing cases to minimize unfavorable precedent. Although it was successful in 54.5 percent of eleven cases it appeared as amicus curiae, some of its losses and mixed results can be viewed as attempts to salvage bad cases. Whether the results may be deemed as "success," however, is difficult to assess.

The WRP strategy to minimize unfavorable precedent is particularly visible in pregnancy-discrimination litigation. Six of the cases noted in Table 2 involved pregnancy-related claims. The WRP, which participated in 100 percent of these cases, lost in four. Pregnancy claims, in general, were rejected by the Court in 66 percent of the cases.

In H3, we posited that the United States government would generally be successful in most cases, including those where gender-based employment discrimination was alleged. The U.S. government participated in 60 percent of the cases identified in Table 2. The Court accepted the U.S. government's position in 75 percent. This figure is high when compared to both the overall (50 percent) and the WRP (53.8 percent) success rates. In the eight cases where the U.S. government did not appear as a party or as amicus, claimants alleging gender-based discrimination suffered defeat 75 percent (n=6) of the time. And when the U.S. filed briefs against women's claims (n=2), its views prevailed in all cases.

Thus, while there appears to be a relationship between the success of gender-based discrimination claims and U.S. support, the WRP's success appears less dependent upon U.S. participation than that of the LDF. The WRP participated in six cases without government support and won 50 percent. In all of its successfully sponsored cases, the LDF received amicus support from the U.S. government. In the one case where the WRP and the U.S. met head on, the WRP lost. Yet, the WRP won 50 percent of its cases without U.S. assistance whereas the LDF did not win a single sponsored case without government participation. U.S.-LDF collaboration is also evident when the LDF participated as amicus curiae. Of the fourteen cases where the LDF filed amicus briefs, the U.S. was present as a sponsor or amicus in twelve.

In H5, we predicted that unions would generally oppose women's claims. Unions participated in 45 percent of the twenty gender-based cases. Contrary to our expectation, in all nine cases, unions either represented or appeared as amicus on behalf of women. This is a relatively surprising finding given the long history of unions' ambivalence to organizing women in the United States.

The kinds of cases in which unions participate in on behalf of women, however, appear to reflect a status quo orientation. Fifty-five percent of the cases entered by unions involved pregnancy discrimination claims. Involvement in this area, particularly by the AFL-CIO, seems oriented toward appeasing female members which entails little risk of alienating members in long standing. In part, this kind of participation by some unions may be considered symbolic gestures toward women and in part, is simply a traditional effort to obtain additional benefits. Although studies have indicated that pregnancy benefits "are the first things bargained away at the negotiating table," most unions need to attract new members (Walum, 1977). Thus, by appealing to women, through litigation, they are actually benefitting themselves.

Race and Sex: A Comparison

Table 3 presents the number of Supreme Court employment discrimination cases in which several interest groups participated and their success rates between 1970 and 1981. As noted earlier, the U.S. government participated on behalf of black interests in a

(Table 3 about here)

significantly higher percent of cases than those where gender-based employment discrimination was alleged. One explanation for this is that black groups, notably the LDF and the NAACP, regularly confer with the Solicitor General prior to Supreme Court appeal and enjoy a congenial relationship with that office.<11> In contrast, women's groups rarely ask for this kind of assistance.<12> Given the apparent significance the Court attaches to U.S. government participation, it may be advantageous for women's groups to establish a similar relationship as part of their litigation approach to Supreme Court appeals. However, we should note that unlike the race discrimination area where several cases were sponsored by the LDF, the WRP actually sponsored very few cases. In fact, 80 percent of the gender-based employment cases were not sponsored by women's groups. Since women's groups have yet to build up expertise in this area (as defined by regular court participation), it may not be unsurprising to see that they do not regularly confer with the Solicitor General.

H4 predicted that the LDF would be a more successful litigator than all the women's rights groups combined. The LDF, which participates in 76.6 percent of the race cases, won 56.5 percent of the time. Of the thirteen gender-based claims with women's group participation, women won 53.8 percent of their cases. Thus, although the LDF participated in more cases than the women's groups combined, their success rates were fairly comparable and thus, the hypothesis is not supported.

Comparable success rates are evident when we look at the broader range of civil rights groups that have participated in racial employment cases.<13> There, civil rights groups succeeded 57 percent of the time compared to the 53.8 percent figure for women. Civil rights groups then participated in more race cases than women did in the gender area. Yet, their success rates were fairly comparable. It appears that the proliferation of women's rights groups have not damaged the gender-based employment cause as much as we expected. It may be true, however, that if women had sponsored more cases and had attained control of the sequence of cases that have arisen before the Court, their success rates may have been much higher.<14>

In terms of union support for women and blacks, in H5 we posited that unions generally would oppose the claims of both blacks and women. While unions opposed black interests in 44 percent of the race cases, they supported women in every gender-based case in which they participated. This finding is interesting for two reasons: first, although unions clearly support women's claims more than black's, they do not generally oppose black interests and appear to oppose blacks only when union interests are threatened. Second, unions participate in proportionately more sex discrimination suits than in race cases. Although all of these conclusions must be considered tentative

because of the small number of cases under analysis, these findings provide an interesting overall picture of some important groups' roles in Supreme Court litigation.

Conclusion

This study is a preliminary effort to develop a different and broader perspective of Supreme Court litigation by presenting a comparative review of interest group involvement in two areas of employment discrimination. Prior to this analysis, most studies have focuses on one particular group's litigation strategies and its subsequent court successes and failures. Deriving our theoretical base from these studies, we have developed several hypotheses concerning interest group and governmental behavior in in employment discrimination. Our data confirms three of our five hypotheses.

Yet, perhaps more interesting than our actual expectations, is the discovery of several unanticipated patterns. For example, many more groups than generally expected participate in employment litigation, both opposing and favoring women's or black's claims. Organizations that tend to favor employers such as the Chamber of Commerce and the Equal Employment Advisory Council, as well as the more claimant oriented groups including the Lawyer's Committee for Civil Rights Under Law and the Southern Poverty Law Center deserve scholarly attention.

The Equal Employment Advisory Council, for example, which was not founded until 1976, has submitted eight amicus curiae briefs in racially-based employment discrimination suits. All eight of these supported claims of employers. The argument advanced by the EEAC has prevailed 62.5 percent of the time, leading us to conclude that the Court must attach significance to the EEAC's expertise that it has developed through the use of statistical information to support (or disprove) claims of discrimination. Court acknowledgement of this expertise, and the EEAC's recognition of its relatively high success rate, apparently has led it to file amicus curiae briefs in recent gender-based discrimination cases.<15> Although at this writing, the EEAC has filed only three amicus curiae briefs (all against women's claims), its position has been adopted by the Court in two instances.

While the EEAC, until recently, has limited its Court participation to racially-based cases, over twenty airlines, several insurance companies and major corporations have regularly filed amicus briefs in one area of gender-based cases —pregnancy discrimination. This coalition of employer interests participated in 83.3 percent (n=5) of the six pregnancy cases.

At the other end of the ideological spectrum, the Lawyer's Committee, also has played a significant role in race, but not gender discrimination cases. Although it has sponsored only two cases, it has appeared as amicus curiae in twelve. The position it advocated has been adopted by the Court in 61.5 percent of the cases.

Another interesting pattern that was discovered by comparing the use of the courts by women's groups and black groups. In each instance the Supreme Court decided against women, it was forced to reverse the ruling of the court immediately below. However, in three of the cases where the Court found against blacks, it upheld the decision of the lower court. This could imply that women's groups have brought better test cases to the Court. However,

given the low rate of actual sponsorship by women's rights groups, we do not believe this to be a promising explanation.

These and other patterns that have emerged from this preliminary study require further investigation. However, it is clear that interest groups play an extremely important role in this issue area. Organizational involvement in litigation on both sides of a wide variety of issues is increasing. Therefore, more attention should be given to their growing importance and influence upon the Court.

Notes*

1. For purposes of our study, we have defined success in traditional terms, i.e. the Court's adoption of the resolution urged by one of the parties.
 2. Amicus briefs made their first formal appearance in Green v. Biddle, 21 U.S.1 (1821).
 3. We have included the U.S. government as one of our interests groups because it brings to the Court a defined set of interests and regularly submits amicus briefs advocating those interests.
 4. One area where the WRP does not participate, however, is abortion litigation. The ACLU specifically established the Reproductive Freedom Project to litigate in that area.
 5. For example, the Women's Equity Action League concentrates on discrimination in higher education, the WRP focuses on federal benefits and the National Abortion Rights Action League primarily works on reproductive freedom issues.
 6. For example, in Dothard v. Rawlinson, 433 U.S.321 (1977), the WRP submitted an amicus brief which urged the Court, if it was to find against the Southern Poverty Law Center, to narrowly construe the bona fide occupational qualification exception.
 7. An outcome-oriented strategy "is one in which an organization, over a period years, regularly brings 'test cases' (generally selecting cases whereby precedent is created incrementally to bring about the primary objective) before the U.S. Supreme Court to eventually secure a favorable judicial decision in a particular policy area."
- An amicus curiae strategy is "the simple repeated gesture of filing amicus briefs" (O'Connor, 1980:3-4).
8. For this study, women's rights groups include any predominately female organization or public interest law firm, whose goal is to expand rights and opportunities for women.

*The authors would like to express their appreciation to Stephen Wasby.

9. The Indian Card Company and the Bureau of National Affairs microfiche series contain all amicus curiae briefs filed in Supreme Court cases.

10. Unions participated in nine cases. However, in Weber, unions both sponsored the case and filed amicus briefs.

11. A 1977 NAACP annual report, in discussing the Bakke case, claimed that:

The NAACP filed an amicus curiae brief in support of the affirmative action concept with the U.S. Supreme Court. Furthermore, NAACP General Counsel Nathaniel R. Jones conferred several times with Solicitor General Wade H. McCree and Assistant Attorney General Drew Days 3rd to ensure that the Justice Department's brief would strongly support the concept and the program. (1977:44)

12. This assessment was derived from 1977 interviews with several experienced women's rights litigators.

13. Here, we broadly define civil rights groups to include all organizations that litigate for minority interests.

14. The Southern Poverty Law Center (SPLC) has sponsored three gender-based employment discrimination cases. It lost two and received mixed results in the third. Given that women's rights groups collectively sponsored only three additional cases, it is clear that the SPLC's participation has depressed women's success rates.

15. In County of Washington v. Gunther, argued before the Supreme Court this term, the EEAC filed an amicus curiae against women's interests. Joining the EEAC in Gunther, arguing against judicial acceptance of an equal pay for comparable work doctrine were: AFL-CIO, IUE, UAW, International Personnel Management Association and National League of Cities, among others.

Groups urging the Court to adopt this view include: ACLU, NOW Legal Defense and Education Fund, American Nurse's Association, Lawyer's Committee, Women's Equity Action League, LDF, and the U.S. government.

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Table 1*
Interest Group and Governmental Involvement in
Racially-Based Employment Discrimination Litigation
1970-1981

Case	Black	Supporting Black Union	US/ST	Claims	Other	Opposing Black Claims	USDC Decision	Case	Supporting Black Union	US/ST	Claims	Other	Opposing Black Claims	USDC Decision	Case	Supporting Black Union	US/ST	Claims	Other	Opposing Black Claims	USDC Decision									
Griggs v. Duke Power 401 US 254 (1971)	NAACP LDP+	AFL-CIO	US, NY			C of C	Reversed - (supporting blacks)	Fitzpatrick v. Blitzer 427 US 443 (1976)	NAACP LDP+ NAACP, MALDF, ACLU, LCCNUL					US							Reversed (supporting blacks)									
Love v. Pullman 404 US 522 (1972)	NAACP LDF		US+				Reversed - (supporting blacks)	ITE v. Myers 429 US 229 (1976)	NAACP LDP+ Memphis & Shelby City Legal Serv.+					US							Legal Services Assoc	ERAC	Reversed- (supporting blacks)							
McDonnell Corp. v. Green 411 US 792 (1973)	NAACP LDP+		US			C of C	Remanded (for blacks)	Tameters v. US 431 US 326 (1977)	NAACP LDF					US+								Teamsters+	Vacated/ Remanded- (opposing blacks)							
Alexander v. Gardner Co. 415 US 36 (1974)			US			C of C, ANF	Reversed - (supporting blacks)	E. Tx. Motors v. Rodriguez 431 US 395 (1977)	MALDF+ NAACP LDF					US									ERAC	Vacated/ Remanded- (opposing blacks)						
Mayer of Phil. v. Bd. Equity League 415 US 605 (1975)	LCCNUL					Philadelphia+	Reversed - (opposing blacks)	Haselwood v. US 433 US 299 (1977)	ACLU, LCCNUL, NAACP LDF					US+									NEA	Vacated/ Remanded (mixed)						
Expierion v. Westar Addit. 420 US 50 (1975)	Local civ. org. NAACP, LCCNUL, SCLC					US	Reversed - (opposing blacks)	Christiansberg v. EEOC 434 US 421 (1978)	LCCNUL, NAACP LDF					US+										ERAC, C of C	Affirmed- (supporting blacks)					
Johnson v. Railway Ex-Press 421 US 454 (1975)	NAACP LDP+					US, RR Clerks+	Affirmed- (opposing blacks)	Steelworkers v. Weber*** 443 US 193 (1979)	ACLU, AALDF, LCCNUL, NAACP, NAACP LDF, NRC, MALDF					US+										WLF, AACC, CCL, DMA, EKLDF, WLS NORLDF, WVAL	Calif. Govt- oct. Office Asso., PLF, PAC, SCLF, LA, ULJY	Reversed- (supporting blacks)				
Albermarle Co. v. Moody 422 US 405 (1975)	NAACP LDP+ LCCNUL		US			C of C, Scott Paper Co., ASFA	Vacated/ Remanded- (supporting blacks)	Parsons v. Motors 438 US 567 (1978)	NAACP LDP+					US											ERAC	Reversed (opposing blacks)				
Franks v. Bowman Co. 424 US 747 (1976)	NAACP LDP+ AFL-CIO Steal-Workers		US			C of C	Reversed- (supporting blacks)	Cty. of L.A. v. Davis 440 US 623 (1979)	ACLU, LCCNUL, NAACP LDF					US+											SF, Calif. Cty. of Police ERAC	Vacated/ Remanded- (mixed)				
NAACP v. FPC 425 US 642 (1976)	NAACP v. FPC Dase Ctr. for CR+ NRC, NCLR					US, Natl. Gas Assoc., Edison Elec Instit.	Affirmed- (opposing blacks)	Md. of Ed. of NYC v. Harris 444 US 130 (1979)	LCCNUL					US+											+NYCH	Affirmed- (supporting blacks)				
Brown v. CSA 425 US 820 (1976)	NAACP LDP+		US+			US+	Affirmed (opposing blacks)	California Brewer's Asso. v. Bryant BY Gas Club v. Carey 447 US 54 (1980)	NAACP LDF LCCNUL					US												AFL-CIO ERAC	Vacated/ Remanded (opposing blacks)			
Chandler v. Roundtree** 425 US 642 (1976)	LCCNUL+ NAACP LDF		US+			US+	Reversed- (supporting blacks)	Railway Express v. Piper 447 US 752 (1980)	NAACP LDF					US													Affirmed (supporting blacks)			
Washington v. Davis 426 US 229 (1976)	NAACP LDF					DO-, APA ASFA, ETS	Reversed- (opposing blacks)	Phillips v. Eisenrich*** 63 L.Ed. 902 (1980)	NAACP LDF MALDF, NAACP, LCCNUL, NCLR, ACLU					US+													AACC, WLC, WBA	BB	Affirmed- (supporting blacks)	
McDonald v. Santa Fe Co. 427 US 273 (1976)	NAACP LDF		US			AJC, BB, C of C	Reversed- (supporting race claim)	Del. St. Coll. v. Ricks 66 L.Ed. 431 (1981)						US													AADF	ERAC	Affirmed (Cyprus 5 ing blacks)	
								Delta v. August 67 L.Ed. 287 (1981)	ACLU, LCCNUL, NAACP					US														Northwest WLC	ERAC	Affirmed (supporting blacks)

*List of Abbreviations follows tables.

+Sponsoring group. All others filed amicus briefs.

**This case involved a black woman who claimed gender- as well as racially-based discrimination.

***Amicus briefs are too numerous to list in full.

Table 2a
Interest Group and Governmental Involvement in
Condemned Employment Discrimination Litigation
1970-1981

Case	Women	Supporting Women's Cause Litig. Issues	Opposing Women's Cause Issues	Opposition Groups	Decision	Women's Involvement	Governmental Involvement	Other	
Phillips v. Martin Marietta (1971)	WORLDWIDE ACCL, RW	NACCP, LDF	ATF-CIO	DB	Reversed (Supporting women)	507, 439 (1977)	ACLU, WEP, Human Resources	439 US 202 (1977)	None
Pitts v. Press v. Pitts (1974)	None, WEP, VALLEY, WEP, VALLEY, AT-LDF, Women	None	DB, 9 SE. HR Orgs.	ATF, IARR	Affirmed (Supporting women)	NA. of Teachers v. Shoney 439 US 26 (1978)	None	439 US 26 (1978)	None
Clarkland et al. v. LAPEL (1974)	WEP, WEP, WORLDWIDE, WEP, WEP, WEP	None	ATF, IRR, Va. NA, ALC, AT-CIO, Comm. on HR	CALL., C of C, Delta Afr.	Affirmed (Supporting women)	Davis v. Paananan 443 US 228 (1980)	WEP, 25 mem. of Cong., NA	443 US 228 (1980)	None
Corning Glass v. Brewwing (1974)	WEP, NACCP, LDF	None	DB	C of C	Affirmed (Supporting women)	Gov. John. D.C. v. Hamer 64 L.R. 319 (1980)	None	NACCP LDF	None
Cady v. Atchley (1974)	WEP, CCA, RW, WEP	None	IRM, DB, VA	Call., Atty., Physiatrists, PUF, Nat. Assoc. of Handicapped, ASTR	Reversed (Supporting women)	Dr. Dept. v. Berlin 67 L.R. 207 (1981)	None	ATF-CIO, DB	Reversed/Resound (Supporting women)
Schlesinger v. Palmer (1973)	None	None	AT-LDF	DB	Reversed (Supporting women)	None	None	None	None
Trump v. Dept. of Empl.-Sec. (1973)	None	None	AT-CIO	Ordn.	Reversed/Resound (Supporting women)	None	None	None	None
Liberty National v. Tolson (1973)	CCA, WEP, D.C., RW, WEP	None	AT-CIO, DB, NA, EIC	Am. Ind. Assn., Am. Bkt. Ind., ASTR, Nat. Assn. of Handicapped, C of C, 21. ASTR	Reversed (Supporting women)	None	None	None	Reversed (Supporting women)
CE v. Gilbert (1976)	WEP, WEP	None	DB, VA	AMP, AT-CIO	Reversed (Supporting women)	None	None	None	None
Ortiz et al. v. Icaer. v. EPOC (1977)	None	NACCP LDF, AT-CIO	DB	3 ASTR, EAC, ASTR, Induc. Bkfst. Am. of Nat. Assn. of Handicapped	Reversed (Supporting women)	None	None	None	None
Doehard v. Berlin (1977)	WEP, WEP	None	CALL., SLOP, Wash. St. RR	None	Reversed (Supporting women)	None	None	None	None

List of abbreviations follows table.
*Supporting group; LDF=Lawyers Guild action funds
*Opposed by the LDF

Table 3
Interest Group Participation and Success in
Racially- and Gender-Based Employment Discrimination Cases
United States Supreme Court 1970-1981*

Groups	Racially-Based Claims N=30 (56.6%)					Gender-Based Claims N=20 (50%)				
	amicus supporting blacks	sponsored supporting blacks	amicus opposing blacks	sponsored opposing blacks	totals	amicus supporting women	sponsored supporting women	amicus opposing women	sponsored opposing women	totals
LDF	14 (50%)	9 (66%)	--	--	23 (56.5%)	2 (50%)	1 (100%)	--	--	3 (66%)
WRP (and ACLU)	6 (66%)	--	--	--	6 (66%)	11 (54.5%)	2 (50%)	--	--	13 (53.8%)
Unions**	4 (100%)	2 (100%)	2 (100%)	2 (100%)	10 (100%)	9 (44%)	2 (50%)	--	--	11 (45.4%)
U.S.	14 (78.5%)	7 (71.4%)	2 (100%)	3 (66%)	26 (76.9%)	8 (62.5%)	2 (100%)	2 (100%)	--	12 (75%)
Blacks' Groups**	20 (60%)	15 (53.3%)	--	--	35 (57.1%)	2 (50%)	1 (100%)	--	--	3 (66%)
Women's Groups**	2 (100%)	--	--	--	2 (100%)	12 (50%)	4 (75%)	--	--	16 (56.2%)

*N represents total participation within the specified categories

% represents success rates within the specified categories. Mixed decisions were included as non-success.

**Numbers for these groups may differ from the text because of overlapping sponsorship and amicus briefs.

Abbreviations

AACC: Affirmative Action Coordinating Committee
AALDF: Asian American Legal Defense and Educational Fund
AAUP: American Association of University Professors
AN A: American Nurses Association
APA: American Psychological Association
ARF: American Retail Federation
ASPA: American Society for Personnel Administration
BB: Anti-Defamation League of B'nai B'rith
CofC: Chamber of Commerce
CCR: Center for Constitutional Rights
EEAC: Equal Employment Advisory Council
ERLDF: Equal Rights Legal Defense and Education Fund
ETS: Educational Testing Service
HRW: Human Rights for Women
IUE: International Union of Electrical, Radio and Machine Workers
LCCRUL: Lawyer's Committee for Civil Rights Under Law
LWV: League of Women Voters
MALDF: Mexican-American Legal Defense and Education Fund NAACP
LDF: NAACP Legal Defense and Education Fund
NBA: National Bar Association
NBMC: National Black Media Coalition
NCLR: National Council of La Raza
NEA: National Education Association
NLG: National Lawyer's Guild
NOW: National Organization for Women
NOWLEDF: NOW Legal Defense and Education Fund
NPRC: National Puerto Rican Coalition
PAC: Polish American Congress
PLF: Pacific Legal Foundation
PRLDF: Puerto Rican Legal Defense and Education Fund
SELF: Southeastern Legal Foundation
SPLC: Southern Poverty Law Center
USJF: United States Justice Foundation
WEAL: Women's Equity Action League
WLC: Women's Law Center
WLF: Women's Law Fund
WLP: Women's Law Project
WLDF: Women's Legal Defense Fund
WRP: Women's Rights Project