

Why Courts Matter: Latino Rights

The federal courts often must step in to stop laws or practices that violate the rights of minorities, and Latinos are the largest ethnic minority in the country. Current federal judicial vacancies should be filled with judges who will protect the rights of Latinos to vote and access educational opportunities, as well as the rights of immigrants to be free from discrimination and other civil rights violations.

Educational opportunity: The Constitution guarantees equal educational opportunity for all children. The federal courts are often the only way to ensure that Latino students have these opportunities, regardless of income, nationality or language skills.

- A Dallas public school segregated Latino and minority students into English as a Second Language (ESL) classrooms, even though many of these students were proficient in English and had high test scores. The Latino students were not allowed to mix with other students at the school even in music, art and physical education classes. The parents of the segregated students brought a lawsuit in 2006 against the school district and the U.S. District Court for the Northern District of Texas ordered school officials to stop the segregation and pay punitive damages.
- In recent years, several states have begun to deny low tuition rates and financial aid to U.S. citizens who are children of undocumented immigrants. In some cases, before these students can even apply to a university, they have to show proof that their parents are legal residents. In 2012, five students in Florida, all born in the United States, filed suit against Florida education officials in the U.S. District Court for the Southern District of Florida arguing they had the right to the same benefits afforded to all other American students. The federal court found the Florida education officials' regulations unconstitutional because they "create a second-tier status of U.S. citizenship."

Voting rights: In recent years, some states have passed laws that would suppress the vote of minorities, the elderly, students and the disabled. Federal courts have blocked several of these laws and ensured that Latinos would have access to the polls.

- **Voter Registration Restrictions:** Prior to the 2012 election, the Florida legislature passed a law that put severe restrictions on third-party voter registration organizations. Many advocacy organizations make it part of their mission to register voters, particularly in minority communities, but this law made it almost impossible to continue this work. The League of Women Voters of Florida challenged the law in the U.S. District Court of the Northern District of Florida, which stopped the law, calling it "harsh and impractical."
- **Voter ID:** Several states passed voter ID laws that disproportionately impacted minority communities who were less likely to have a government-issued ID. Federal courts stopped these laws from going into effect and preserved the Latino vote in South Carolina, Wisconsin and Texas in the 2012 election.
- **Proof of citizenship laws:** Federal law requires that people registering to vote attest on an official form whether or not they are U.S. citizens. Arizona and three other states – Alabama, Kansas and Georgia – have laws that also require those registering to vote to show proof of U.S. citizenship. The U.S. Supreme Court will decide this spring whether those additional requirements are constitutional.

Latinos in the federal judiciary

A diverse federal bench improves the quality of justice and instills confidence that judges understand the real-world implications of their decisions. Latinos are not well-represented in the judiciary but President Obama is taking steps to remedy that.

- Latinos make up only eight percent of the active federal bench, though Latinos make up nearly 17 percent of the U.S. population.
- Twelve percent of Obama's confirmed judges have been Latino, compared to nine percent of Bush's and seven percent of Clinton's.
- President Obama nominated, and the Senate confirmed, the first Latina to the U.S. Supreme Court, Justice Sonia Sotomayor, in 2009.
- President Obama nominated the first Latino Circuit Court of Appeals judges in three circuits (Albert Diaz on the 4th Circuit, Adalberto Jose Jordan on the 11th Circuit and Jimmie V. Reyna on the Federal Circuit).
- Obama has nominated what would be the first Latina lesbian on the federal bench, Nitza Quiñones Alejandro.

Why Courts Matter: Immigrant Rights

In coming years, our federal courts will continue to play a large role in protecting the rights of immigrants. Current federal judicial vacancies should be filled with judges who understand the Constitution's promise of equality and due process extends to immigrants.

Racial profiling: In recent years, state legislatures have passed laws like Arizona's SB 1070, which allow local law enforcement to stop anyone they suspect do not have papers, resulting in the racial profiling of minorities, particularly Latinos. Progressives focused their energy in defeating these harmful state laws, but in the end, several passed and were then challenged in federal courts. A challenge to the Arizona law made its way in 2012 to the U.S. Supreme Court, which struck down several of the harmful provisions of SB 1070, but allowed the "show me your papers" provision to stand.

- In *Arizona v. U.S.*, the Supreme Court allowed the "show me your papers" provision of SB 1070 to go into effect, noting that if individuals are in fact discriminated against because of the law, they may bring new constitutional challenges to the law. This means now that SB 1070's "show me your papers" provision and similar measures in other states are in effect, and federal courts will become increasingly important in challenging racial profiling of Latinos and other minorities.
- Maricopa County Sheriff Joe Arpaio and his deputies have been targeting Latinos and other minorities in their law enforcement practices for years. The local police department has unlawfully detained, questioned and arrested Latinos for the sole purpose of investigating their immigration status. Individuals who were racially profiled under Arpaio's practices brought a lawsuit in the U.S. District Court of Arizona. The court denied the police department's motion to dismiss the case in July 2008, and the case proceeded to trial. A decision in the case is pending.

Immigration detention: Throughout the United States, immigrants who pose no flight risk and have strong arguments for remaining in the country are often held in mandatory detention while awaiting their deportation proceedings. While in detention, many immigrants do not receive adequate medical care and treatment, and many immigrant detainees have reported sexual abuse claims against detention guards and other inmates. Federal courts are often the only avenue for protecting the due process rights of immigrants in detention, and can provide relief for immigrants who are victims of abuse.

- Bertha Mejia, a grandmother who had lived for years in California with no violent offenses, was detained by Immigration and Customs Enforcement officers for nearly 18 months with no option of a bond hearing. She was detained after a misdemeanor conviction for stealing groceries, and she languished in a county jail without the chance to have a hearing before an immigration judge. In March 2013, after immigration attorneys petitioned on Mejia's behalf, the U.S. District Court for the Northern District of California ordered a bond hearing.
- Last fall, a class action lawsuit was filed in the U.S. District Court for the Western District of Texas against Immigration and Customs Enforcement alleging that one of its contract guards sexually assaulted at least nine female detainees during transportation from the Hutto Detention Center in Texas. The case is still pending.
- Many immigrants who are seeking asylum from their home countries are held in detention indefinitely while they await an immigration hearing. In September 2012, the U.S. District Court for the Central District of California ordered bond hearings for hundreds of immigrants in detention in Los Angeles who had been locked up indefinitely while awaiting an immigration hearing.

Rights of DREAMers: In June 2012, the Obama Administration announced that certain young people who were brought to the United States as children, also called DREAMers, would be able to get work permits and Social Security Numbers and remain in the country without the threat of deportation for a renewable period of two years, a program known as Deferred Action for Childhood Arrivals (DACA). Civil rights groups are now relying on federal courts to stop any state laws that could sabotage the rights of DREAMers.

- On the same day that DACA was set to go into effect, Arizona Gov. Jan Brewer issued an order denying driver's licenses to qualifying immigrant youth. Though these young immigrants are now authorized to live and work in the United States, they cannot get a basic driver's license. A class action lawsuit challenging Brewer's policy in February 2013 is currently pending in the U.S. District Court of Arizona.

Legal Progress is the legal policy and communications program at the Center for American Progress. A key mission of Legal Progress is to educate the public about the impact of the courts on issues they care most about.