Editorial

"To judge is an exercise of power"

Latino Studies (2009) 7, 291–294. doi:10.1057/lst.2009.27

"To judge is an exercise of power"¹ – are we all-powerful, then? Certainly, we judge one another, our work, our society, our fields, disciplines, friends, enemies, colleagues. We judge our country's laws, traditions, procedures, politics, policies, and are in turn judged by others. To pass judgment: to exercise power; this is certainly what the United States has done to the island of Puerto Rico.

Sonia Sotomayor has just been nominated to the Supreme Court of the land. The third woman, the 111th Supreme Court nominee – the first person of Latin American descent. It's not any Latin American country, however: it is Puerto Rico – a Latin American country that has never been independent. Colonized first by Spain, and then by the United States – ironically, just as Puerto Rico had wrested some political autonomy from Spain in 1898 – Puerto Rico is an anomaly in the world's history of colonialism. Although it is a Latin American country, very little is known about it in that continent, other than that it is part of the United States and that, given their US passports, Puerto Ricans are "Americans."

Similarly, in the U.S., although it has been a "testing ground for traditional American civil liberties" (Schoultz, 1998, 319) for so long, Puerto Rico is also entirely unknown. This was confirmed yet again during the Vieques debacle in 2001, before September 11, when President Bush gave his explanation for why the Navy had decided to pull out of Vieques. Rather than discussing the right of U.S. citizens not to be bombed by their own government, Bush explained instead that "Puerto Ricans are our friends and neighbors and they don't want us there" (Snow and Wallace, 2001).

What does it mean for a member of a country that is still a colony of the United States, to have been nominated to the highest court of the land? What are the implications for the United States – and for Puerto Rico? – as Juan Manuel García Passalacqua noted during the May 27 *Democracy Now* roundtable (Goodman and González, 2009) following Sotomayor's nomination. How do we understand the irony of the fact that a representative of the colonized – will be defining and determining the future laws of their colonizer?

After all, Puerto Ricans have had US passports since 1917; they are still the rightless US citizens who cannot vote for their own President. They are the living proof of the long history of US–Latin American relations, steeped in

1 Sotomayor, (2001) 2009, citing Judge Judith Resnik.

nineteenth century social Darwinist views of the inherent superiority of the Anglo Saxon master race; the incarnation of the long legal contradictions of US history and of the ongoing racial bias underpinning ethnic relations even today. If there were a draft, they would be sent to every war by the commander in Chief, as they indeed were, for many years. The informal ‘recruitment’ in the nation’s inner city public schools serves as a proxy for the draft, and the ‘tradition’ of using Puerto Ricans (and more generally all Latino/as) as canon fodder for the US imperialist adventures abroad, continues

As Garcia Passalacqua also pointed out, Sotomayor is well aware of the fact that she is Puerto Rican. She served on the Puerto Rican Legal Defense Fund, an organization explicitly aimed at protecting the rights of Puerto Ricans – again an irony, as, after all, dividing the American citizenry into “ethno-national” groups, including Puerto Ricans, is anathema to the very conception of a community of citizens.

Do Americans *know* that, like all Puerto Ricans, she too is not an immigrant? Sotomayor herself has referred to her parents’ move to the US as an immigration to the projects in the South Bronx of New York, where she was raised. “Like many other immigrants to this great land, my parents came because of poverty and to attempt to find and secure a better life for themselves and the family that they hoped to have” (Sotomayor, 2001). But Puerto Ricans can’t immigrate – just as New Yorkers or Californians, or Arizonans can’t “immigrate” to other parts of the United States – unless, of course, the island is indeed not part of the United States

The co-host of the May 27 *Democracy Now* roundtable, Juan González, seemed to suggest as much, noting that the rulings in the early-twentieth century Insular cases pertaining to Puerto Rico affirmed that Puerto Ricans did not live in an incorporated territory. In effect, the island territory of Puerto Rico continues to be a part, and simultaneously outside, of the territorial boundaries of the United States. And yet ... again, one of its diaspora’s members has been nominated to sit on the highest court of the land.

It is interesting to observe the extent to which Sotomayor’s nomination has galvanized the Latino community in the United States, regardless of national origins. Puerto Ricans have been treated as if they were just another group of immigrant Latino/as, as Ramos-Zayas (2004, 27) has pointed out, even though, contrary to other Latino/as they are all – without exception – born into US citizenship. This distinguishes them from other Latino/as – all of whom have at least some immigrant history in their midst. But today, after 40 years of the labels, the specificity of the Puerto Rican status doesn’t seem to matter anymore – at least not in the eyes of those who see Latino/as as “illegals” and “delinquents” (Ramos-Zayas, 2004).

What does it mean then for a Puerto Rican to be nominated to sit on the Supreme Court of the United States – to define the law; to shape it; to (re)direct it; to ensure it protects all citizens – the rights of all persons living in the United States? Will it make any difference? Has it already?

Many would say yes, particularly in view of the numerous articles and commentaries discussing Sotomayor as a role model, especially for the young Latinas growing up in the South Bronx, where she herself was raised (Marks, 2009). No, if we go by the multiple Ku Klux Klan-type responses, some of which are even invoking such extremists and racists as David Duke and the White supremacists.² Indeed, the past 20 years of “culture wars” show that despite the election of the nation’s first Black president and despite many academic studies and political debates, progressive responses to the multiple attacks on “identity politics” have failed to curb the fear of difference in the United States. While Sotomayor’s nomination is undoubtedly the result of the decision of a small “enlightened” political elite in the United States to promote some kind of democratic will, the inflammatory attacks repeated ad nauseam in the mainstream media across the country, and that once would have been prosecuted as the hate speech that they are, have been left legally unchallenged. Consider, for example, conservative talk show host G. Gordon Liddy’s comments, as reported by Ali Frick, on the *Think Progress* website:³

I understand that they found out today that Miss Sotomayor is a member of La Raza, which means in illegal alien [*sic*], “the race”. And that should not surprise anyone because she’s already on record with a number of racist comments.

Following his equating of the Spanish language with illegality, and his attack on all Latino/as as undocumented, Liddy goes on to discuss his gender-related fears of Judge Sotomayor in shockingly misogynistic and disrespectful terms

Let’s hope that the key conferences aren’t when she’s menstruating or something, or just before she’s going to menstruate. That would really be bad. Lord knows what we would get then.

Is this the way *anyone* – particularly a nominee for the Supreme Court of the United States – should be discussed?

Undoubtedly, the reaction against Sonia Sotomayor is also the result of over 100 years of (neo)-colonial domination of Puerto Rico by the United States – a domination that had as its point of departure the venom of racist discourse and practice against a still-to-become sovereign people. But it is also the result of the society’s complacent indifference to the continued mistreatment and disrespect toward all people of Latin American descent in the United States.

As scholars, as Latino/as, as citizens, as women and men living in the United States, it is imperative that we judge and respond to the mistreatment of any Latino/a – that we denounce the extent to which the disdain for all people of Latin American descent – and Americans’ fear of difference – has led to the disappearance of Americans’ sense of justice, of values, of what is right and

2 For a brief summary of some of the racist and sexist rhetoric and criticism against the nomination of Sonia Sotomayor, immediately after her nomination, see, for example, the compilation presented on the Rachel Maddow Show (Maddow, 2009).

3 As reported by Frick (2009). For an excellent analysis of right wing attacks on Sotomayor, cf Rivers Pitt (2009).

wrong, regardless of what is at stake. As Sotomayor suggested in her 2001 lecture, “To judge is an exercise of power” – and it is time that Latino/as exercise their full power to demand respect and justice for all in US society.

Saludos!

References

- Frick, A. 2009. G. Gordon Liddy on Sotomayor: “Let’s Hope that the Key Conferences Aren’t when She’s Menstruating”. thinkprogress.org, 29 May; <http://thinkprogress.org/2009/05/29/liddy-sotomayor-menstruating>, accessed 2 July 2009.
- Goodman, A. and J. González. 2009. Obama Nominee Sonia Sotomayor Poised to Become First Hispanic Supreme Court Justice. *Democracy Now*, 27 May, http://www.democracynow.org/2009/5/27/obama_nominee_sonia_sotomayor_would_become, accessed 29 May 2009.
- Maddow, R. 2009. The Rachel Maddow Show. MSNBC, 29 May, <http://www.msnbc.msn.com/id/31046925>, accessed 2 July 2009.
- Marks, A. 2009. Sotomayor’s Influence: Latinas in the South Bronx Follow Her Lead. *Christian Science Monitor* 17 June.
- Ramos-Zayas, A.Y. 2004. Delinquent Citizenship, National Performances: Racialization, Surveillance, and the Politics of “Worthiness” in Puerto Rican Chicago. *Latino Studies* IV(1): 26–44.
- Schoultz, L. 1998. *Beneath the United States: A History of U.S. Policy toward Latin America*. Boston, MA: Harvard University Press.
- Snow, K. and K. Wallace. 2001. Bush says Navy will quit bombing Vieques, CNN. Com, 14 June 2001, <http://archives.cnn.com/2001/US/06/14/vieques.halt.04/index.html>.
- Sotomayor, S. 2001. A Latina Judge’s Voice. The Annual Judge Mario G. Olmos Lecture in *The New York Times* 15 May 2009, http://www.nytimes.com/2009/05/15/us/politics/15judge.text.html?_r=1, accessed 25 May 2009.

Suzanne Oboler
John Jay College of Criminal Justice,
The City University of New York, New York, USA
E-mail: soboler@jjay.cuny.edu