

# Clearinghouse REVIEW

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## PURSUING RACIAL JUSTICE

★ ★ ★ ★ ★ IN THE ★ ★ ★ ★ ★  
21ST CENTURY

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A Legal Services Imperative  
Structural Racialization  
Racial Impact Statements  
Racial Equity Impact Analysis  
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Immigrant Rights as Civil Rights  
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## To Strengthen Civil Rights Laws

Our nation is about to begin commemorating golden anniversaries of the federal legislative victories of the civil rights movement. These include the Civil Rights Act of 1964, with protections against employment and public accommodations discrimination; the Voting Rights Act of 1965; the Immigration Act of 1965, recognized as a civil rights achievement because it eliminated the more blatant racial bias in our federal policies; and the Fair Housing Act of 1968. Fifty years is a significant accomplishment for these laws, particularly because it took more than one hundred years to achieve meaningful enforcement of post–Civil War Constitutional amendments.

Thus, as many have recognized, these commemorations must involve more than a celebration, but a recommitment to and strengthening of these civil rights laws. We recognize this imperative in the face of narrow-minded pundits who regularly assert that fifty years is long enough to accomplish necessary change in our society and polity. Consistent with this ahistorical and anticontextual commentary, each U.S. Supreme Court term presents threats to restrict or vitiate civil rights protections. This year saw the conservative majority, in *Shelby County v. Holder*, incapacitate one of the most powerful Voting Rights Act provisions—requiring preclearance of electoral changes in certain jurisdictions. Next term already poses threats of undermining equal protection and of limiting the disparate impact theory.

*Shelby County*, of course, demands legislative remediation, presenting an opportunity to modernize the Voting Rights Act, using knowledge gathered since 1965 to improve on its protections. This opportunity, thrust upon us by the Supreme Court, ought to be voluntarily extended to other civil rights laws. Golden anniversaries should invite discussion, and ultimate enactment, of improvements informed by half a century of challenging experience. Improvements might include finishing what was not completed; the possibility of federal immigration reform offers the chance to eliminate the remaining vestiges of racially discriminatory policy—such as the national origin quotas that, though equalized among nations, still subject similarly situated Mexican potential immigrants to longer waits to reunify families. Improvements might also include importing tools from one law to another; imagine what might have been accomplished in closing the so-called achievement gap if a Voting Rights Act–like preclearance obligation applied to changes in state education policy.

Improvements should also respond to key social development. First is the demographic growth of the nonwhite population, and in particular the growth of the Latino community, now the nation's largest minority group. The Latino community's historical and continuing struggle with discrimination by proxy—language, accent, presumed or actual immigration status, for example—and with fitting these deprivations into preexisting legal frameworks should inform civil rights legislation 2.0.

Second is recognizing the entire Constitution as a tool for civil rights progress. In just the last twenty years, preemption under the supremacy clause, previously seen as primarily a business tool to block state-law regulation, has become a staple of civil rights law, particularly for immigrants. Beyond this, the contracts clause and even the Tenth Amendment, the states' rights amendment, have potentially served civil rights goals. An expanded view of the Constitution should underlie a reinvigorated civil rights scheme.

These and other changes should form the further impetus and foundation for a twenty-first century civil rights legislation. This special issue of CLEARINGHOUSE REVIEW, with its exploration of the critical connections between racial justice and legal services, should contribute to this golden civil rights endeavor.

THOMAS A. SAENZ

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CLEARINGHOUSE REVIEW encourages the submission of articles from legal aid field staff and others. Send articles to Ilze Sprudz Hirsh, editor and vice president of communication programs, Sargent Shriver National Center on Poverty Law, 50 E. Washington St. Suite 500, Chicago, IL 60602; ilzehirsh@povertylaw.org.

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