

OVERVIEW

INTRODUCTION. ON BEING BROWN IN THE DEMOCRATIC COMMONS

Latinos are the largest minority group in the United States but the most disenfranchised from American institutions. Sonia Sotomayor is the first Latina on the Supreme Court, and that represents progress to some, but it comes at the price of historical amnesia. Ignoring that the legally mandated forms of inclusion that facilitated her ascent to the court no longer exist creates a false sense of political enfranchisement that doesn't yet exist for Latinos.

*Being Brown · Supreme Court · Black and Brown Lives ·
Democratic Commons · Historical Amnesia*

PART I. A LATINA FOR THE NATION

CHAPTER I. SONIA SOTOMAYOR AND “THE LATINO QUESTION”

Answering “the Latino question”—What is the country to do with Latinos, and what are Latinos to do about their disenfranchisement from American civic life?—requires a confrontation with Trumpism’s assault on the civil rights of

minorities and Latinos in particular. While the 1954 Supreme Court case *Hernández v. Texas* constitutionally mandated Fourteenth Amendment protections for Latinos, it has been largely ignored. The case needs to be reconsidered for the protections it may provide.

*"The Latino Question" · Hernández v. Texas ·
"The Negro Problem" · "The Jewish Question" · The Brown Commons*

CHAPTER 2. SONIA SOTOMAYOR'S ELUSIVE EMBRACE

Sotomayor's significant educational achievements were made possible by sheer determination and "affirmative action." By the time she graduated from law school in 1979, however, the *Regents of the University of California v. Bakke* (1978) decision had already stacked the deck against affirmative action. Less than fourteen years after the passage of the Civil Rights Act of 1964, the *Bakke* case eliminated the quota-driven forms of redress that allowed minorities access to social mobility through education.

*University of California v. Bakke · Affirmative Action ·
Civil Rights Act · Multiculturalism*

PART II. LOSING SONIA SOTOMAYOR

CHAPTER 3. SONIA SOTOMAYOR, THE MEDIAPHEME

The use value of Sotomayor's life story was read differently by various national constituencies depending on their political goals. The rise of new media coincided with her ascent to the court, as did the rise of "alternative facts." A "mediapheme" encapsulates the most resonant, but not the most truthful or accurate, version of a person, story, or event that travels through channels of mass communication susceptible to "deepfake": false representations of real events. Thus the mediapheme, unchecked or uncountered, creates "truthiness" and can destabilize democratic processes that rely on facts. Newt Gingrich's Contract with America ushered in an assault on "expertise" and created

the scaffolding for rolling back civil rights victories, diminishing democratic checks and balances, and the eventual disrespect for evidence that we have inherited in today's political culture.

Mediapbeme · “Deepfake” · “Alternative Facts” ·
Fake News · *Democratic Checks and Balances* ·
Newt Gingrich · *Contract with America*

CHAPTER 4. SONIA SOTOMAYOR AND OTHER STATES OF DEBT

Sotomayor was the most financially indebted justice to arrive on the court. She was also indebted to the first Black president for nominating her, as well as to her parents, whose personal sacrifice led them to New York City in search of a better life. The most significant debts, however, were erased in the telling of her success story and included the hidden history of U.S. empire building in Puerto Rico and related biological experiments on Puerto Ricans. These experiments led to the sterilization of over a third of all women on the island and the torture of political prisoners. It also led Nationalists like Pedro Albizu Campos, Dolores “Lolita” Lebrón Sotomayor, and many others to resist the U.S. sacking of the island and its people.

Odious Debt · *Celina Báez* · *Juan Luis Sotomayor* ·
Puerto Rican Nationalists · *Pedro Albizu Campos* ·
Lolita Lebrón · *Sterilization* · *Eugenics* · *Puerto Rican Independence
Movement* · *Extractive Capitalism*

CODA. THINKING OTHERWISE: SONIA SOTOMAYOR AND THE EMERGENCE OF LATINO LEGAL THOUGHT

While on the Second Circuit Court of Appeals from 1998 to 2009, Sotomayor had a jurisprudential record that aligned her with conservative causes and outcomes. There was a transformation in her jurisprudential thinking after she arrived on the Supreme Court. She used the term *undocumented immigrant* for the first time in the history of the Supreme Court (against *illegal alien*) and became a defender

of due process protections, Fourteenth Amendment protections, and LGBTQ rights. Sotomayor's "thinking otherwise" might be paving the way for the emergence of "Latino legal thought" and the instantiation of greater equity under the law.

*Critical Race Theory · LatCrit · LGBTQ Rights ·
Latino Legal Thought · "Thinking Otherwise"*