

Redistricting 2011: California Latinos Face New Opportunities and Old Challenges

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On August 15, 2011, California completed an historic redistricting of its congressional and state lines. For the first time, an independent commission, the California Citizens Redistricting Commission, drew the maps for Congress, the state legislature, and the Board of Equalization. Many groups promoting the civic participation of Latinos and other underrepresented Californians, including the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, opposed the ballot

measures that created the commission and gave it responsibility for all statewide maps (Propositions 11 and 20). The groups were extremely concerned that poorly drafted sections of Proposition 11 would create obstacles for the political progress of their communities and efforts to gain fair representation.

The NALEO Educational Fund and others closely monitored the implementation of Proposition 11 at every phase, helping to draft regulations to ameliorate some of the flaws, conducting exhaustive outreach to encourage Latinos to apply for the commission, and mobilizing community members to participate in the commission's hearings.

After eight months of meetings and public hearings throughout the state, the posting of draft maps and "visualizations," the commission approved plans that enhance opportunities for Latinos in some parts of the state and significantly impair Latino progress in other areas. The

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Assembly maps created four additional strong Latino districts—two in Los Angeles County, one in the San Diego area, and one in the Imperial County/Riverside County area. The congressional map created two additional strong Latino districts that the state legislature failed to create in 2001 because of incumbency protection considerations—one in the San Fernando Valley and one in the San Diego/Imperial County area.

However, the commission's state Senate map severely diminishes Latino opportunities in two key areas in the state. Currently, Latinos in the San Fernando Valley and in the Orange County areas of Santa Ana and Anaheim are in districts with a strong Latino presence. Although the existing districts are not yet majority Latino citizen voting age population (CVAP), the Latino population is increasing its presence in the areas, and the community is making progress toward achieving fair representation. The commission's maps for these areas weakened Latino electoral opportunities by significantly reducing the districts' Latino CVAP.

In addition, the commission missed opportunities at the congressional and Assembly levels to create an additional Latino majority district in the Central Valley. In San Bernardino County, there was significant Latino population growth during the last decade, and the overall population would have declined had it not been for the Latino increase. In its congressional map, the commission retained one

Latino majority district in the area, but failed to strengthen the Latino presence in a second district. As of this writing, the Mexican American Legal Defense and Educational Fund (MALDEF), a voting rights legal organization, is analyzing the commission's maps to determine if litigation challenging them is warranted.

One of the positive aspects of the commission's process was the opportunities it provided the public to provide input to the commission. The transparency and accessibility of the process was a significant improvement over the state's 2001 redistricting, where legislators made closed-door deals to protect the seats of incumbents. The commission held over 30 public hearings where community members were invited to share perspectives about their communities of interest and present their own district plans.

Unfortunately, several members of the public made comments that demonstrated a fundamental ignorance about one of the most important goals of redistricting, to ensure fair representation for all Californians. Individuals reprimanded the commission for its efforts to ensure compliance with the federal Voting Rights Act of 1965 (VRA), one of the top-ranked criteria for the maps set forth in Proposition 11. These comments were often framed as criticism of the commission's consideration of race or ethnicity in drawing lines, or as attacks on organizations working to advocate for Latino voting rights, such as the NALEO Educational Fund and MALDEF.

The hostility expressed by some is particularly troubling in light of the state's changing demographics, and the state's history of discrimination against Latinos in past redistrictings. As the 2010 Census enumeration approached, groups working with the Latino community recognized the critical importance of a complete census count for the fair representation of the Latino community, and conducted an unprecedented community mobilization campaign. The community responded, and the data from Census 2010 revealed that Latino population growth accounted for 90% of the state's population increase since the last decade. California's Latino population is more than 14 million strong, and more than one of three Californians are Latino (38%).

While the state's Latino population has grown robustly over the last several decades, Californian's past redistrictings have been marked by efforts to stifle the Latino vote, making the protections provided by the VRA particularly salient to line-drawing in the state. Congress enacted the VRA in 1965, during the height of the civil rights era. Initially, the act primarily protected African Americans from discrimination in voting, forbidding such practices as literacy requirements and poll taxes—and the VRA became a powerful tool to combat discriminatory gerrymandering.

In 1975, Congress amended the VRA to extend its protections to “language minorities” —essentially Latinos, Native Americans, and Asians and Pacific Islanders. Fif-

teen years later, a seminal federal court ruling in an action over the redistricting of the Los Angeles County Board of Supervisors recounted California's history of discrimination against Latinos. In 1990, during a successful VRA challenge against the new map drawn by the board, the plaintiffs proved that the board had intentionally discriminated against Latinos during the 1981 redistricting.

In *Garza v. County of Los Angeles*, 918 F.2d 763 (1990), the court found that the board's 1981 redistricting was calculated in part to keep the effects of past discriminatory redistrictings in place (1959, 1965, and 1971), as well as to prevent Latinos from attaining a majority in any district in the future. Latinos were 35% of the county's total population, yet no Latino had served as supervisor since 1875. In the special election that followed under a court-ordered new redistricting plan, voters chose Gloria Molina as their representative, the first Latina to serve on the Board of Supervisors.

The Latino community in the Northeast San Fernando Valley faced similar challenges in securing the opportunity to elect its congressional candidate of choice. In 1991, the failure of the legislature and then-Governor Pete Wilson to agree on a congressional plan placed the redistricting process in the hands of special masters, a panel of retired judges appointed by the California Supreme Court. The special masters created a strong Latino congressional district in the Northeast San Fernando Valley.

In 2001, the legislature drew congressional lines, and, as part of its effort to protect incumbents, it weakened Latino voting strength in the San Fernando Valley district. MALDEF brought a lawsuit against the legislature's maps, claiming violations of the VRA. While the court ultimately did not find a violation, it acknowledged that there was evidence that the legislature deliberately chose not to create a majority-Latino district. The California Citizens Redistricting Commission rectified this error by drawing a strong Latino Northeast San Fernando Valley congressional district. Unfortunately, the state Senate district drawn in the area inexplicably weakens Latino voting opportunities. Before the commission's map, the Senate district had a Latino CVAP of 47%; the district created by the commission in the same area has a Latino CVAP of 38%.

California's history of redistricting at all levels of government demonstrates the continued challenge of ensuring that the state's maps offer the Latino community an opportunity to translate its population growth into fair representation throughout the state. In addition, the VRA protections against discrimination voting are based on the fundamental premise that there is a connection between such discrimination and unequal access to educational and economic opportunities. Under court rulings, evidence demonstrating that there has been discrimination against underrepresented groups in the area of employment, education and health is relevant to determining if there has

been a violation of the VRA. Data from the U.S. Census Bureau's 2009 American Community Survey reveal that significant disparities between Latinos and Non-Hispanic whites are pervasive throughout California, as revealed by lower high school completion rates, and higher levels of unemployment and poverty.

The social and economic challenges faced by California's Latino underscore why fair redistricting is crucial for the future progress of California. Latinos are the state's second largest population, and California's prosperity and well-being depend on the strength of its Latino community. It is critical that Latinos can choose elected representatives who can fashion policy solutions that address their communities' concerns. Compliance with the VRA during redistricting will help California leave behind its legacy of discrimination against Latinos, ensure an accountable democracy, and provide all Californians with leadership that will help the state surmount its social and economic challenges. If the lines drawn during the 2011 redistricting provide opportunities for fair Latino representation, they can become roadmap for a stronger and more vibrant California.