

# The Civil Rights Project

*Proyecto Derechos Civiles*



For immediate release  
April 23, 2014

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## The Civil Rights Project Reaction to Supreme Court Decision in Michigan Prop 2 Case

--Los Angeles—The Civil Rights Project deeply regrets yesterday's decision by the Supreme Court, which ruled that Michigan's Proposal 2, banning race-conscious college admissions, is constitutional. The decision overturns a lower court's ruling that the referendum violated the federal constitutional guarantee of equal protection. The Supreme Court's decision exemplifies how legal decisions can ignore the stark realities of our nation and the deep racial inequalities that continue to exist in America.

"As members of the judiciary tasked with intervening to carry out the guarantee of equal protection," Justice Sotomayor concluded in her dissent, "we ought not sit back and wish away, rather than confront, the racial inequality that exists in our society."

Institutions of higher education in Michigan, wishing to address the ways in which race continues to matter in shaping students' educational opportunities, now face an enormous hurdle, forbidding them to do what they concluded to be necessary for educational and social reasons—to overcome racial barriers and take actions that enrich their classes and their ability to adequately prepare the future leaders of the state and the nation. This court's decision hobbles institutions seeking diversity in the few states with bans similar to Michigan's.

Michigan has one of the nation's most segregated and unequal systems of public education. The race-conscious admissions practices, used by the University of Michigan to create opportunities for students of color, were those approved by the Supreme Court in 2003. They did produce more diversity than had existed before. After the referendum took effect, there was a sharp reduction in minority enrollment.

As Justice Sotomayor stated in her dissenting opinion, today's ruling "drains the Fourteenth Amendment of one of its core teachings" that protecting the right to meaningful political participation "must mean vigilantly policing the political process to ensure that the majority does not use other methods to prevent minority groups from partaking in that process on equal footing."

It is extremely difficult for relatively powerless minority communities to obtain the resources--financial and otherwise--needed to make a serious effort to amend a state constitution. Even if a future majority in the state were to favor race-conscious admissions policies, the majority cannot act except by changing the constitution. The Supreme Court had recognized that creating such an insurmountable barrier to considering positive civil rights policies violated principles of equal protection. There were very important precedents, including one striking down the California proposition that would have prohibited fair housing laws, and another overturning a proposition to prevent school desegregation in Washington State.

Yesterday's decision is another in a series by the current Supreme Court pushing the nation backward in terms of racial equity, and interpreting away key civil rights precedents. Here in California, the decision means that California's ban on affirmative action, which has so negatively affected public universities, will stand until and unless supporters of diversity and equal opportunity in higher education can marshal the resources to reverse Proposition 209.

This is a particularly urgent issue for our own campus at UCLA, which had the largest number of applicants of any in the nation this year, and is struggling against the odds to create a genuinely diverse campus. Real diversity helps students and future leaders of our state prepare to live, work and govern in a state where the substantial majority of students who are Latino, African American and American Indian now have too little access.

The Civil Rights Project remains stalwart in its commitment to advancing diversity in higher education, and to supporting institutions of higher education that implement constitutionally upheld race-conscious admission policies. Our research shows that these policies reduce inequality and enhance the prospects for degree attainment and future leadership contributions – outcomes that help secure a brighter and more just future, for entire communities and for American society.

#### **About the Civil Rights Project**

Founded in 1996 by former Harvard professors Gary Orfield and Christopher Edley, Jr., the Civil Rights Project/Proyecto Derechos Civiles is now co-directed by Orfield and Patricia Gándara, professors at UCLA. Its mission is to create a new generation of research in social science and law, on the critical issues of civil rights and equal opportunity for racial and ethnic groups in the United States. It has commissioned more than 450 studies, published 14 books, including five on access to higher education, and issued numerous reports from authors at universities and research centers across the country. The U.S. Supreme Court, in its 2003 *Grutter v. Bollinger* decision upholding affirmative action, cited the Civil Rights Project's research.

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