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To Build A Better World, Start In Your Own Community

Republican candidates ignore Latinos

By Raul Reyes
Hispanic Link

From Cesar Chavez's 1960s boycotts to the immigrant-rights movements of today, "Si se puede" has long been a stock phrase in Hispanic politics. While it translates as "Yes, we can," the real message has always been greater. "Si se puede" means "we'll fight the good fight, we'll persevere, we'll never give up."

These three words are routinely invoked everywhere from high school assemblies to presidential campaigns.

Yet lately I'm wondering if the GOP has decided on a strategy of "No se puede" — "No, we can't" — when it comes to Hispanic voters.

At the June 28-30 convention of the National Association of Latino Elected & Appointed Officials, Republicans opted out of the forum for presidential candidates. All of the GOPers except for Rep. Duncan Hunter of California sent their regrets to the nonpartisan group, and the forum was canceled. In contrast, all of the major Democratic hopefuls appeared at a separate forum at the event.

The GOP no-shows are surprising considering Florida is home to the United States' most conservative Hispanics. The state's three Hispanic House members are Republican, as is Sen. Mel Martinez, chairman of the Republican National Committee. Some state leaders did not even try to put a positive spin on the lack of interest from their candidates.

Coming in the wake of the harsh rhetoric from conservatives who contributed to the collapse of the Senate's immigration proposal, does this mean that Republicans are giving up on Latinos?

If so, they have a lot to lose. Until recently, the GOP had been making inroads among the Hispanic electorate, which traditionally has leaned Democratic. George W. Bush made a concerted outreach to Latinos and in 2004 drew a record 40 percent of the Hispanic vote.

A new USA Today/Gallup poll shows those gains have eroded. By a three-to-one margin, Hispanics say they are Democrats or lean that way. Only 11 percent of Hispanics called themselves Republicans, down from 19 percent in 2005. Meanwhile, the number calling themselves Democrats rose from 33 percent to 42 percent.

Although Latinos are still underrepresented at the polls, our political influence is rising. Under the 2008 primary schedule, more than three-quarters of the Hispanic electorate will have a chance to vote for a presidential nominee before Feb. 5, giving us a historic chance to influence who will be the next occupant of the White House.

I can understand why Tom Tancredo, who once derided Miami as "a Third World country," might not want to attend a gathering of influential Hispanics. Ditto for Fred Thompson, the potential candidate who recently linked Cuban immigrants to "suitcase bombers." Yet it's hard to see why John McCain, architect of the failed Senate proposal, would not make time for the Latino convention. And aren't Mitt Romney and Rudolph Giuliani, both of whom have Spanish-language Web sites, interested in meeting the leaders of our community?

The Republicans damaged their standing among Latinos by allowing the tone of the immigration debate to become offensive to most Hispanics. So the Latino convention would have been a prime opportunity for them to demonstrate they are still committed to the nation's largest minority group. Instead, by snubbing the convention, the Republicans sent the misguided message that Latinos are not important to the GOP.

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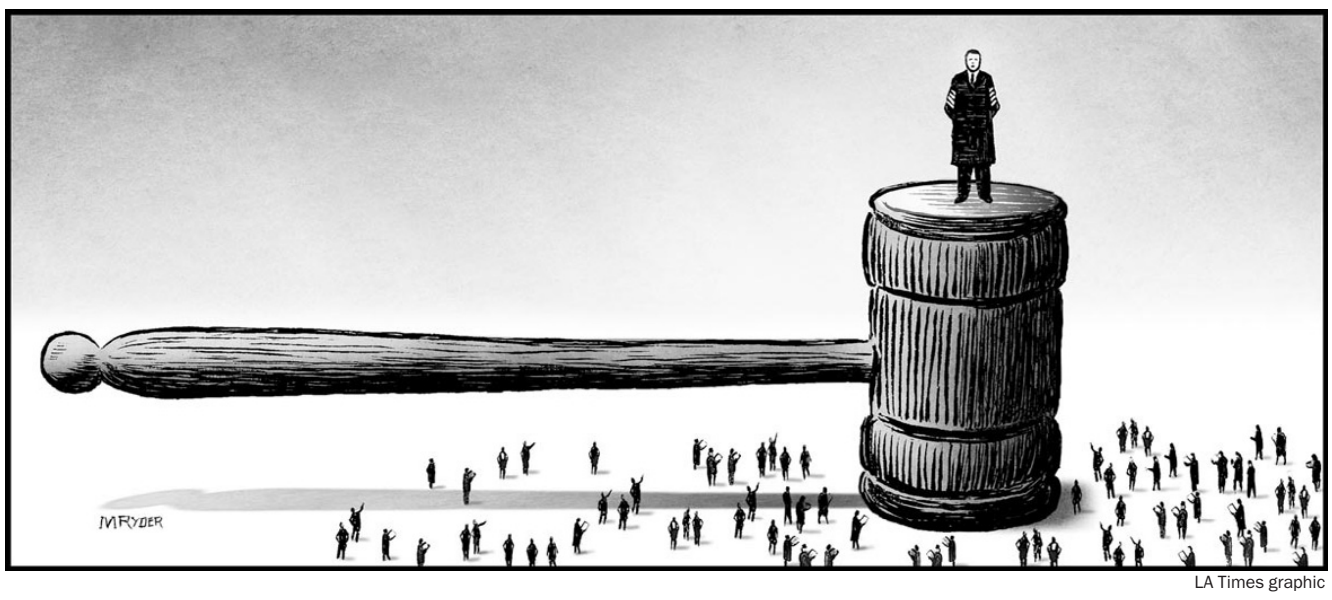

LA Times graphic

How to judge the Roberts Supreme Court

By Kermit Roosevelt • *The Christian Science Monitor*

PHILADELPHIA — With a flurry of 5-to-4 decisions handed down at the end of June, the Supreme Court served notice that things are changing at One First Street.

We should pay attention.

The court is powerful and important. Its ability to strike down state and federal laws means that it sets the government's boundaries. It also plays a leading role in articulating America's constitutional commitments. It gives substance and definition to the majestic generalities of the Constitution, phrases such as "due process" and "equal protection." In a real sense, the subject of Supreme Court decisions shows who we are as a people, what values we hold dear.

With so much power concentrated in the hands of so few, citizens must be able to evaluate the court's performance.

Activism vs. fidelity is flawed

Conventional wisdom focuses on a distinction between what we could call activism and fidelity. Faithful judges (the good ones) apply the law regardless of their own views. Activist judges (the bad ones) rule based on their own preferences.

This model of activism and fidelity is the one Chief Justice John Roberts invoked in his 2005 confirmation hearings when he promised to be an umpire, not a player.

Unfortunately, it is useless in evaluating decisions because it offers unrealistic caricatures on both sides. True activists don't exist; all judges believe that they are faithfully applying the law. But objective umpires don't exist either, because the Constitution does not provide clear answers in hard cases. That is what makes them hard. Consider some of the most controversial decisions from the just-concluded term.

Does the Constitution's protection of the freedom of speech mean that Congress cannot regulate corporate political advertisements that in effect endorse or oppose particular candidates? Does it mean that school officials cannot regulate off-campus speech by students? Does the guarantee of equal protection mean that school boards cannot take an individual's race into account in assigning students to public schools in order to promote racial integration? And how does the due process clause apply to a ban on partial-birth abortion?

Anyone who is candid about these questions will admit that the Constitution itself does not tell courts how to decide them. The Constitution indicates that some values — speech, equality, and liberty — are important. But it does not explain how to balance those values against competing government interests, or even how, precisely, these values should be understood.

Nor, in fact, does the Constitution say that the task of balancing values and interests is given to judges alone. Other people can balance, too, perhaps better than the court. Maybe Congress is better at figuring out what regulations will mitigate the corrupting influence of money on politics. Maybe the president is better at deciding what national security requires. Maybe school administrators are better at deciding what measures will fulfill their educational missions.

The key question is not whether judges are activist or faithful. It is when the court should be assertive in enforcing a constitutional provision, disregarding the views of others, and when it should be deferential, respecting their views. Understanding that the key choice is the one between deference and assertiveness takes us away from useless rhetoric about activism and back to basic principles of American government.

Judicial review is the court's contribution to the separation of powers, its role as check and balance in our system of divided government. The question we should ask is when do we want the court to be a meaningful check on the president and Congress, a meaningful supervisor of the states? And when do we want the political branches to have the last word?

With this question in mind, we can evaluate the court's performance by asking whether its choices of deference and aggression can be explained by any principle. Recent decisions show no obvious pattern.

In upholding the federal partial-birth abortion ban, the court did defer to Congress, but not in the ordinary sense of allowing legislators to make a choice between competing values such as women's liberty and fetal life.

Instead, it elevated the medical judgment of members of Congress above that of doctors, including the American College of Obstetrics and Gynecologists, which held that the banned procedure was sometimes the safest way to terminate a particular pregnancy.

That was a strange choice. As the Terry Schiavo case showed, Congress is not very good at playing doctor in politically charged areas.

Nor do recent rulings indicate a pattern of deference to Congress. In an area where Congress has more relevant expertise — the conduct of political campaigns and elections — the court did not defer.

It struck down part of the Bipartisan Campaign Reform Act that restricted the ability of corporations to oppose specific candidates at election time, even though it agreed that Congress could attempt to limit the corrupting effect of money on politics. It differed with Congress as to whether this restriction was an appropriate method of doing so, and it followed its own judgment.

Is there a pattern of protecting free speech? No; in the so-called Bong Hits 4 Jesus case, the court allowed public school administrators to punish a student for his speech, even though the speech occurred off-campus and did not disrupt a school event. Speech that promotes drug use, the court said, is inimical to education.

Is there perhaps a pattern of deferring to experts or local authorities such as school boards? No; the court rejected expert medical views in the partial-birth abortion ban case, and it rejected the views of school boards in two cases dealing with attempts to foster integration in public schools in Seattle and Louisville, Ky.

The court did not say that there was anything wrong with the goal of integration. But because the school administrators had chosen to attain integration by using a system that sometimes considered race in student assignment, the court held that they had violated the Constitution. Not only did the court not defer to the judgment of school administrators, it declared that what they had done was constitutionally just as suspect as the South's segregation after the abolition of slavery.

A mirror for society

How can we explain these decisions? The absence of a pattern suggests that what might look like deference is actually agreement. The Roberts court does not leave issues to the political process when it thinks that others are better at balancing. It upholds government actions only when it thinks the government has gotten the constitutional balance right.

What drives the decisions is not a theory about when deference is appropriate but simply the court's view of the relevant constitutional provisions. This across-the-board assertiveness makes those views especially important.

The Roberts court does not believe that the due process clause provides much protection for the legal right to an abortion. It seems to favor corporate electioneering over student speech. And it believes that all government use of race offends the equal protection clause, whether it is done to segregate or to integrate. Equality, in this view, is not threatened by public schools coming to mirror residential patterns of racial segregation, but rather by the government considering race in trying to promote integration.

These are judgments about America's core constitutional values, about who we are as a people. Such rulings are not required by the words of the Constitution; indeed, for the past 40 or 50 years, Americans have lived with dramatically different interpretations of constitutional law. The court's decisions are holding a mirror up to society. To evaluate its performance, we need only ask if we recognize ourselves.

Kermit Roosevelt is a professor of law at the University of Pennsylvania and the author of "The Myth of Judicial Activism."

The question we should ask is when do we want the court to be a meaningful check on the president and Congress, a meaningful supervisor of the states?

End judicial activism

By Tom Fitton
Judicial Watch

Two lawsuits that could have a nationwide impact on the marriage debate are working their way through the California courts.

In one case, a ruling by U.S. District Judge Richard Kramer invalidated a California law approved by voters in 2000 stipulating that "Only marriage between a man and a woman is valid or recognized in California." The case is now before the California Supreme Court. If the court sides with Kramer and ignores the will of the voters, a radical new definition of marriage could become the law of the land in California.

In another lawsuit, the liberal Court of Appeals for Ninth Circuit essentially ruled that the following statement represents a "hate crime": "Marriage is the foundation of the natural family and sustains family values." The Good News Employee Association, an African-American Christian group of City of Oakland employees, posted the above message on an electronic bulletin board, the same bulletin board used earlier by homosexual activists to invite city employees to a "National Coming Out Day" rally. The Christian group was reprimanded and its members threatened with termination. The homosexual support group was not.

The lawsuit, filed by the Good News Employee Association which claims its members' rights to free speech were violated, will likely be appealed to the U.S. Supreme Court. If the Ninth Circuit decision is allowed to stand, however, it will serve as a model for other homosexual pressure groups, and their friends at the American Civil Liberties Union, who wish to use so-called "hate crimes" laws to silence opponents.

While differing in the details, both of these legal cases have one thing in common: activist judges who use the courts to advance specific social and political agendas.

Judicial activism has been around in American jurisprudence since the very beginning of our system of justice, and it was of great concern to our Founding Fathers, who were careful to construct a system of three co-equal branches of government.

Why? Because they believed when power is vested in one person or one entity, liberty is in peril. Legislators, who answer to the people, create the law. Judges, who answer to no one, interpret the law.

As Judicial Watch recently noted in its amicus curiae (friend of the court) brief filed in the California "gay marriage" litigation mentioned above, "The laws of this nation rely on the proper functioning of the courts, including a proper balance of powers, and the judiciary's ability to demonstrate restraint."

Judicial activism should be an endangered species in American jurisprudence. We should be wary of activist judges who attempt to undermine society's fundamental institutions, including marriage and the family through judicial fiat. Homosexual activists have been unable to find support for their radical agenda at the ballot box, so they turn to the courts.

Gay pressure groups, with help from their friends in the American Civil Liberties Union, have filed lawsuits in nine states in an attempt to redefine marriage. Homosexual activists are, of course, focusing on the nation's most liberal states where activist judges tend to be in greater supply. Once legal precedent is set, however, they will not stop until every state is forced to redefine marriage.

Judicial activism is wrong no matter the issue or cause. But when it attacks the institution of marriage, the very foundation of our society, it represents an invitation to disaster.

Tom Fitton is president of Judicial Watch, a nonpartisan educational foundation that fights government corruption. Visit www.judicialwatch.org for more information.

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