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An Unexpected Legacy: Richard Nixon and Policies for the Spanish Speaking

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Abstract

This paper explores the role of the Nixon administration in the development of civil rights policies for Latinos in the United States in order to examine the complexity of Nixon's position in the typical left-right orientation of US politics. The Latino civil rights movement in the late 1960s and 1970s insisted that Latinos experienced unique linguistic and cultural disadvantages and could not benefit from the same programs and approaches as black Americans. US civil rights policy, however, had been designed (despite nods to creed and national origin) with a black-white binary in mind. The space between the existing civil rights policy mindset and the demands of Latinos for distinct recognition and programs presented an opportunity for Richard Nixon to drive a wedge between blacks and Latinos, two solid Democratic constituencies. The opportunity, however, required a negotiation between political expediency and ideological consistency, as Latinos demanded new expanded policy protections for groups defined by culture rather than race. In the context of Nixon's unusual leadership position and systemic changes in the American political system, the result was an unexpected enhancement to civil rights protections for Latinos under his administration.

Keywords

Nixon, Latinos, Civil Rights, Bilingual Education

Beklenmedik Bir Politik Miras: Richard Nixon ve İspanyolca Konuşanlara Yönelik Politikaları

Özet

Bu çalışma Nixon'ın Amerikan politikasının tipik sağ-sol konumlandırmasındaki yerinin karmaşıklığını sorgulamak amacıyla Nixon yönetiminin Amerika Birleşik Devletleri'ndeki Latin Amerikalılara sivil haklar kazandırılmasına ilişkin politikalardaki rolünü incelemektedir. 1960'larda ve 1970'lerdeki Latin Amerikalı sivil haklar hareketi Latin Amerikalıların kendilerine has dilsel ve kültürel dezavantajlara sahip olduklarını ve siyahi Amerikalıların faydalandıkları program ve yaklaşımlardan faydalanamadıklarını iddia etmektedir. Ancak Amerikan sivil haklar politikası (dini ve milli kökenleri tanımasına karşın) akıllardaki siyah-beyaz karşıtlığına göre hazırlanmıştır. Mevcut sivil hak algısı ve Latin Amerikalıların tanınırlık ve program talebi arasındaki farklılık, Nixon'a iki Demokrat seçmen kitlesi olan siyah ve Latin Amerikalılar arasında bir anlaşmazlık çıkarma fırsatı sağlamıştır. Ancak, bu fırsat, Latin Amerikalılar ırk değil kültür üzerinden tanımlanan yeni ve genişletilmiş koruma politikaları talep ettikleri için, politik yerindelik ve ideolojik tutarlılık arasında bir tercih yapmayı gerektirmiştir. Nixon'ın alışılmadık liderlik duruşu ve Amerikan politik sistemindeki değişiklikler, yönetimindeki Latin Amerikalıların sivil haklarının koruma altına alınmasına yönelik beklenmedik bir iyileşmeyi beraberinde getirmiştir.

Anahtar Kelimeler

Nixon, Latin Amerikalılar, Sivil Haklar, İki Dilde Eğitim

Latinos did not expect much from Richard Nixon's presidency. They feared he was unlikely to do much better than Lyndon Johnson, a Texan and a Democrat who often spoke of his time as principal of a small Mexican American school in his advocacy for the downtrodden. Yet policies for those that government officials called at the time "Spanish speaking" (otherwise known as "Latino" today) not only continued under Nixon, but grew in both significance and substance under

the Republican. Among the Spanish speaking, Mexican Americans received the most targeted attention. Some of the resulting policies undoubtedly benefited all Latinos, while others focused primarily or exclusively on Mexican Americans. This essay will examine Nixon's focus on Mexican Americans, in particular how he arranged for more federal appointments of Mexican Americans while providing them with broader legal recognition as a language/cultural minority.

Few today are probably aware of this unexpected legacy of Nixon, the special attention given to the Spanish speaking. But most would generally recognize that Nixon was a complicated president. He was the hardline anticommunist who went to China, and the candidate who promised to "bring us together" but instead sowed the seeds of division for political gain. On civil rights, this progenitor of the "southern strategy" who sought to slow or halt court-ordered desegregation in southern schools was also the president of the Philadelphia Plan to implement affirmative action for minority contractors. We should also recognize his administration as an important contributor to policies for Latinos, a Republican one that accepted, and indeed augmented, civil rights protections for cultural and linguistic minorities, and the Spanish-speaking in particular.

We may recognize this role without asserting that Nixon was an aggressive civil rights advocate. Two key factors, in addition to Nixon's own complicated personality, help explain his administration's surprising record on Latino policy. First is the distinct leadership position Nixon stepped into as president in 1968. As a Republican president following the Great Society, Nixon had to tread carefully to offer alternatives to his predecessor's approach while remaining true to the nation's ongoing commitment to justice and concern for the vulnerable. Second is the shift occurring in the American political system that gave increased responsibility to administrative officials for determining the particular ways to implement the general legislation passed by Congress. This was a time when the presidency had, paradoxically, both more and less influence over policy development: more, as the New Frontier and Great Society of the 1960s brought to a climax public expectations for presidential leadership in domestic policy; and less, as the American system transitioned to what policy scholars call administrative policymaking.

This new context required of the president a significant bit of

navigation in largely uncharted waters. The two dynamics—Nixon's leadership position and systemic changes in American policy—contributed significantly to the development and entrenchment of policies for Latinos. Such policies recognized and sought to remedy disadvantages resulting from language and culture, and owe as much to Republicans as to Democrats, as much to Richard Nixon's administration as to Lyndon Johnson's. Three key areas of politics and policy—the search for new Republican constituents, the development of Republican-friendly policies for the Spanish-speaking, and the growth of bilingual education—reveal how the Nixon administration developed Latino policies amidst the interplay between the president's leadership context and the changing American political system.

The Search for New Constituencies

One of Richard Nixon's early priorities was to attract members of new constituencies to the Republican fold. Optimism for this endeavor stemmed from the fragmentation of the New Deal coalition that had dominated American governance since the 1930s. As early as the 1968 campaign, and increasingly during his first years in office, Nixon and his advisors believed that the United States might be entering into a period of major political realignment. Through his first year and a half in office he held out hope of attracting a significant portion of the black vote. As late as January 1970 Nixon told aides that he wanted to split the black vote by going after the middle-class "stable elements" most likely to vote Republican. However, black leaders remained largely unmoved, and the president increasingly believed blacks to be captured by the Democrats and unlikely to offer any substantive support to him or other Republicans. By September Nixon informed his aides that he had met with enough black leaders, and his quest for a new American majority would henceforth focus exclusively on other groups (Frymer and Skrentny 149-50; Mason 27-36).

Latinos, and especially Mexican Americans, were one primary target of the new focus. Most studies of Nixon's search for realignment in 1969 and 1970 highlight the so-called "southern strategy" of using coded (and sometimes not so coded) racial rhetoric to appeal to southern whites, and on appeals to hard-working and non-complaining Americans targeted largely at northern urban, working-class, mostly Catholic, European ethnics (see, for example, Phillips; Carter). Less attention has been paid to Nixon's interest in Latinos, but it is the Nixon

team's pursuit of Mexican Americans in particular that resulted in some of its most long-lasting innovations in civil rights policy.

Although Mexican Americans voted Democratic by large majorities, by the mid-1960s Republicans across the Southwest began to advocate for greater party attention to the needs of this growing minority, citing two weaknesses that challenged the Democrat's ability to hold the Latino vote. First, the Democratic Party nationally had so focused on civil rights for African Americans that it left Latinos disgruntled and willing to look elsewhere. Second, the awkward Democratic coalition of northern liberals and southern conservatives left much room for Republicans to appeal to Latinos in the Southwest with even the most moderate efforts. By the mid-1960s, Republicans in the Southwest and West, such as John Tower, George H. W. Bush, and Ronald Reagan, appealed to Mexican American voters and pressed the national party to do so as well. Their efforts were successful enough that Southwestern Democrats took note and warned the Johnson White House to beef up its efforts to stay ahead (Steiner; Young; Kaplowitz, *LULAC* 110, 134).

The Nixon team also saw opportunity in the Mexican American vote. The president had won narrow victories in California and Illinois, and lost a tight race in Texas, in 1968. Reviewing the 1960 and 1968 elections, Nixon advisors estimated that a mere six percent shift in the Mexican American vote could result in a combined 101 electoral votes in California, Texas, Illinois, and New Mexico. In addition, the administration believed, Mexican Americans tended toward a "generally conservative political outlook on other than 'bread and butter' issues," whose elements included "a very strong family structure, deep religious ties," and "respect for law and order and authority figures." These characteristics made Mexican Americans more likely political converts than Puerto Ricans, while Cubans could mostly be pursued through an emphasis on foreign rather than domestic policy (Long Range Strategy 25-39).

Moreover, the relatively simple black-white story of civil rights had become complicated by the success of civil rights legislation and by growing national awareness of other civil rights movements. Laws now existed to remedy discrimination based on race, creed, color, national origins, and in some cases gender, and new groups could seek to gain coverage under the existing legislation or use the momentum to gain

new legislation specifically applied to their particular needs. Mexican Americans saw in the example of the black civil rights movement both a model for their own movement and a challenge to their own interests receiving attention. They suffered discrimination, often quite similar to that experienced by blacks, but they perceived civil rights policies as focusing almost exclusively on race-based discrimination. The Mexican American organizations most targeted by Nixon insisted that Mexican Americans are white and that their problems were grounded in linguistic and cultural discrimination, essentially drawing a distinction between race and ethnicity. The resulting ambivalence left racial and ethnic minorities calling for many of the same things while finding it difficult (and sometimes counterproductive) to work together (Behnken). Particular policies targeting Mexican Americans, as distinct from blacks or other groups, could be useful to Nixon.

To be sure, there were some obstacles to Republican inroads—Mexican Americans favored economic policies not typical of the GOP, had historically voted heavily Democratic, and had recently developed a radical Chicano movement that engaged in protests and denunciations of traditional authorities. But with only a small shift needed for potentially significant electoral results, Nixon could focus on those elements within the Mexican American community most likely to support Republicans. An appeal to these Mexican Americans would not threaten Nixon's other coalition building efforts (as appeals to blacks might frustrate southern whites, for example). Within six months of taking office Nixon made it clear to his aides that he wanted greater attention focused on this possible new constituency (Frymer and Skrentny 154-59).

The greatest opportunity for Nixon was that many of the middle-class and potentially Republican Mexican Americans felt like "stepchildren of the Great Society," as one leader often put it. The fiery new voices of the Chicano movement such as Rodolfo "Corky" Gonzales, Reies Lopez Tijerina, or Jose Angel Gutierrez, might gain the headlines, but the administration believed there to be a disconnect between the average Mexican American and those national "leaders." A focus on "local community leaders, professionals, and upwardly mobile lower-class Mexican Americans" could pay large dividends (Long Range Strategy 27; Marumoto). An appeal to these Mexican Americans fit nicely with Nixon's priority of attracting disaffected Democrats. The question was how to attract them. One answer was to uphold the general

underlying American commitment to justice, but to do so in more Republican friendly ways. Such an approach could avoid alienating the Republican base, appeal to frustrated Democrats, and allow the president to distance himself from his Democratic predecessors.

Reorienting Great Society Commitments

The desire to enlarge the Republican majority justified Nixon's appeal to Mexican Americans and other disaffected Democrats. His position as the Republican president to follow Johnson's Great Society in 1968 helps explain his particular, and often contradictory, approach to accomplishing that goal. Though critical of the Great Society, Richard Nixon was no libertarian. His budget allocations for social spending for fiscal year 1974 were sixty percent higher than Lyndon Johnson's for fiscal year 1968. Nixon supported programs that shocked conservatives, including a guaranteed minimum family income, federal aid for college students, increased spending on the arts and humanities, environmental protections, and urban parks, among other initiatives. Nixon's first few years in office so frustrated speechwriter and arch-conservative Patrick Buchanan that Buchanan declared Nixon "no longer a credible custodian of the conservative political tradition of the GOP." William Safire, another speechwriter, concluded that Nixon's "heart was on the right" but that "his head was, with FDR, slightly left of center" (Small 154; see also Hoff).

Yet Nixon was not clearly a liberal either. He did challenge the inherited policies and programs of the Great Society. He did rail against government that was too big and too expensive. He did oppose busing to force integration in schools; and his two nominations to the Supreme Court threatened to undo legal gains for civil rights. The contradictions make better sense if viewed in the context of Nixon's leadership position. As articulated in the scheme devised by political scientist Steven Skowronek, Nixon was a president opposed to a resilient policy regime. That is, as a Republican he could freely attack the Great Society in its areas of overreach or failure. But he could not simply dismiss its goals and moral vision, such as the destruction of Jim Crow segregation, national concern for the poor, and aid for the elderly. The nation still held those commitments as legitimate, thus limiting Nixon's ability to fully repudiate his predecessors. So he had to engage in what Skowronek calls the "politics of preemption" by fostering political division among factions of the dominant coalition, maximizing discontent with his

predecessor's results while fulfilling the goals (Skowronek). This wild-card position can be seen in historian Robert Mason's description of Nixon as a president that did not "challenge the existing emphasis on government activism" as much as insisted "the implementation of most programs depended too much on an unresponsive bureaucracy" helping "small numbers of Americans while ignoring the problems of the others" (Mason 6). Opening the door to those "others" could result in new policies and programs to make the government more responsive to possible new Republican constituents, such as Latinos, even while driving a wedge in the old Democratic coalition and allowing for criticism of programs created and overseen by Nixon's Democratic predecessors. This approach to policy returned political dividends.

In addition to Nixon's particular leadership position, Mexican American policy benefited from changes in the American policy system. Through the 1960s and early 1970s, growing attention to citizenship rights sparked a shift in economic and social policy mechanisms from compensation for past harm and toward prevention. That is, whereas early civil rights and economic regulation demanded that offenders stop discriminating or overcharging, for example, now the goal became preventing the damage in the first place. Consumer safety regulations required seatbelts in cars instead of just compensation payments after an accident; occupational safety required inspections and standards of safety prior to injury instead of just worker's compensation after an accident; affirmative action required pro-active steps in hiring instead of bringing legal action after a discriminatory refusal to hire. The growing complexity of these policy goals required increased expertise to set and enforce the standards. Specialists in administrative agencies, congressional subcommittees, and courts gained authority—all unelected and, compared with the presidency and Congress, acting out of the public eye. Advocacy took on a new form in this environment, as engaging an agency or subcommittee became as effective, or more effective, than lobbying the president or Congress. With expertise at a premium, specialized interest groups proliferated to maneuver within this new policy dynamic (Milkis, "Remaking"; King).

The new policy environment presented opportunities for constituencies that could organize and fund full-time lobbyists and lawyers. Initially this presented a challenge for Mexican Americans. Their membership organizations, heretofore the dominant community voice in national policy matters, had limited ability to raise funds, draft

policy proposals, apply for grants, or litigate court cases. Leadership in these groups was essentially a part-time job. The other, newer voices advocating for the Mexican American community came from the Chicano movement, actually a series of movements with charismatic leaders staking claim to a nationalism and racial identity distinct from the American mainstream (Garcia). While somewhat effective at articulating an identity, mobilizing the grassroots, and engaging in local politics, the Chicano movement did not receive a welcome from either the Johnson or Nixon White Houses. Indeed, the Chicanos represented much of what Nixon ran against.

The limitations faced by organizations and the marginalization of Chicanos in policy circles help explain the primary demand that Mexican Americans placed on national officials—appointments of Mexican Americans to federal government positions of influence. Precisely because they were limited in their ability to craft policy or lobby specialized agencies and subcommittees, they sought representation within the federal bureaucracy; such officials were paid to develop policy and could ensure attention to the needs of the Mexican American community, and would have the authority or influence to effect progress. They had always relied on personal relationships with governors, members of Congress, and, in the case of LBJ, the president. But the new policy environment changed the game. The Johnson administration had grown frustrated with the demand by Mexican Americans for appointments instead of specific policies, viewing them as symbolic rather than substantive. The Nixon team embraced them, symbolism and all.

The administration recognized right from the start that at the top of the list of Mexican American desires was "a reasonable number of visibly high-level appointments in this administration" (Wilkinson). Nixon responded in November 1970 with a "Sixteen Point Program" to increase federal employment of Spanish speaking individuals. The sixteen points represented steps to be taken by the Civil Service Commission (CSC) "to assist Spanish-speaking American citizens who are interested in joining the Federal civilian service." The steps included a full-time CSC official to focus on the Latino population, as well as an array of initiatives to recruit and provide employment opportunities throughout the administrative agencies and offices for Latinos. The White House also created a Minority Recruitment Program to focus on high-level presidential appointment searches. Given the starting

point, the overall percentage of appointments that went to the Spanish-speaking remained tiny, especially at the highest levels, but by late 1971 the administration had appointed twenty-two Latinos ("Spanish Speaking") to "major executive positions," including the directorship of the Office of Economic Opportunity, the US Treasurer, the executive director of the president's 16-Point Program for the Spanish Speaking, the administrator of the Small Business Administration, and the chair of the advisory council to the Office of Minority Business Enterprise, among others (Overview 26-27; Marumoto).

By the summer of 1972 the administration's record of Spanish-surnamed federal employment included over 1,200 positions during the previous year, with the greatest concentration coming in the significant GS-4 through GS-12 categories. In the highest grades of GS-13 and above, appointments had increased to 55, representing a doubling since the end of 1970, including 16 full-time and 40 part-time presidential appointments. The numbers remained small as a percentage of overall high-level appointees, but it was change worth publicizing. The administration attributed the success to the Sixteen Point Program (Kingsley). Significantly, Latinos represented the largest gains of any group covered by minority status, and the program improved relations with Mexican American and other Latino organizations, in the estimation of Civil Service Commission chair Robert Hampton. As Nixon advisor Len Garment noted in reviewing these results, the administration had "in effect promulgated a Presidential 'affirmative action program'" for Latinos (Garment).

The administration's record in appointments could help in attracting Mexican Americans to Richard Nixon, but it could also create challenges for other administration initiatives. In addition to appointments, Nixon sought to recast Republican policy priorities as beneficial for Mexican Americans. He insisted that Kennedy and Johnson were wrong to target national policy narrowly on Democratic interest groups, via categorical grants and regulations, even while he approved programs and spending to attract those groups in new, Republican-friendly ways. Revenue sharing and block grants would distribute federal funds to states and localities with fewer strings attached and would streamline the organizational sprawl of federal agencies (Graham, *Civil* 136-37). Agency priorities would be redirected toward aiding the disadvantaged in ways most likely to generate Republican support.

"Black capitalism" represented Nixon's effort to respond to civil rights in this "new wineskins" vein. As Nixon's sole campaign pledge regarding the racial unrest of the late 1960s, "black capitalism" was an approach not unlike the more recent emphasis on an ownership society, grounded in drawing economic outliers into the American mainstream in a way particularly appealing to the traditions of a business-friendly and private-enterprise-focused Republican Party. The party had promoted a federal role in business development since the creation of the Small Business Administration (SBA) in the early 1950s. By the end of that decade the SBA was providing equity capital to small business investment companies, and by the 1960s was one engine for anti-poverty and ghetto rehabilitation efforts (Graham, *Civil* 314).

Eager to build in this direction while maximizing the publicity payoff, in March 1969 Nixon created, by executive order, the awkwardly-named Office of Minority Business Enterprise (OMBE). The "black capitalism" of the campaign trail fanned out to encompass minorities more generally, identified in the executive order as "blacks, Mexican-Americans, Puerto-Ricans, Indians, and others." (Nixon "Executive Order 11458"). The office was charged with coordinating the activities of 116 existing programs in 21 federal agencies. But trouble emerged when the new office appeared to threaten the work of an agency headed up by one of Nixon's most significant Mexican American appointments.

As the OMBE tried to find its footing, the SBA continued its own efforts. Section 8(a) of the Small Business Act authorized the SBA to contract with federal agencies and then subcontract with small businesses—something of a coordinating role in itself. Nixon appointed Hilary Sandoval, a Mexican American, as head of SBA, and in 1970 issued Executive Order 11518 directing the SBA to "particularly consider the needs and interests of minority-owned small business concerns and of members of minority groups seeking entry into the business community." Nixon again used the more general term "minority," but the appointment of Sandoval seems to have implied, and Mexican Americans were quick to infer, that the agency should shift at least some of the emphasis that, since the urban uprisings of the late 1960s, had been focused almost entirely on blacks (Nixon "Executive Order 11518"; Skrentny 144-48; Kaplowitz, *LULAC* 137-39).

In this context Sandoval in particular, and Mexican Americans in general, greeted the new OMBE not as an opportunity but as a

threat. With a Mexican American at the helm of an agency specifically directed to focus attention on minority small business issues, the new OMBE could be seen as moving in on SBA territory. The episode highlights one element of the new American political system and the political approach of the Latino groups; with agencies gaining influence in the new system, and the Latino organizations pushing for representation in the leadership of those agencies, appointments became increasingly likely to establish client relationships and make reorganization efforts difficult. Client relationships, as characterized by James Q. Wilson, exist when the costs of a governmental program or funding are spread widely through the population, while the benefits are targeted narrowly to one specific group (426-51). In this case, Mexican Americans believed they had an established relationship with the SBA, and that the new coordinating role of the OMBE could force the SBA to compete for funding and for influence within the executive branch. The fact that Mexican American groups were among those the administration specifically hoped to benefit through OMBE did little to ameliorate the initial reaction, and Nixon special assistant Robert Brown found himself doing damage control with Mexican Americans over the OMBE, reassuring Mexican American leaders that the new organizational structure would not impinge on existing relationships (Brown).

Nixon's major governmental reorganization effort (the New Federalism) required more than reassuring words when it came to satisfying Latino interests, as it more directly threatened an existing relationship between Latinos and an administrative agency. Nixon's program, on its grandest scale, re-envisioned the relationship between Washington and the states. Programs that focused on economic security and quality-of-life issues, such as social security and environmental regulation, would remain under federal auspices. But for programs whose circumstances varied across localities and regions, such as education, job training, and social services, Nixon sought to cut through federal regulations that tied the hands of service providers. In these areas, rather than provide categorical grants to accomplish specific goals through complex regulations, Nixon sought to return authority and funding to the states through revenue sharing and block grants, allowing local authorities to invest the resources to best serve local needs (Milkis *Presdient*, 225-28).

As it happened, one of the targets of the New Federalism—

job training—was one of the few programs that already specifically addressed Mexican Americans. In the mid-1960s the Navy developed a pilot project in Houston to train and place Mexican Americans in the service. With industries in need of workers and Mexican Americans in need of jobs, the program proved popular, and by 1965 the Department of Labor and Office of Economic Opportunity funded job-training centers across the Southwest. Operation SER, as the program was known (with a play on the Spanish verb *to be*), provided remedial education and language skills, advice, job placement, and relocation services. While the program fit the Great Society model of federal funds underwriting local implementation—the two leading Mexican American organizations jointly administered the program—it was an early example of a categorical grant, in that the funds focused specifically on one group. As the Johnson administration noted in a draft speech prepared for the president, Operation SER provided "a specialized service, bilingual and culturally oriented," because Mexican Americans tended to fall through the cracks of conventional job-training programs (Kaplowitz, *LULAC* 87-88).

Revenue sharing threatened Operation SER by forcing it to compete with other job training programs for state funding. Requiring such competition job training programs would, in theory, provide a more efficient response to local conditions. But Mexican American leaders noted in criticizing the New Federalism that it was local conditions that necessitated the categorical programs in the first place. Much as the civil rights movement shifted rights enforcement from the local to the national level because states neglected the rights of minorities, the national job training programs existed to ensure local responsiveness to the needs of the most disadvantaged. As one Latino leader pointed out, it made little sense to give job-training funds "back to the mayors. That's where the problem came from" (Pena).

Southwestern Republicans in Congress, too, called on the administration to protect funding for Operation SER, out of concern for their relationship with their Mexican American constituents. Representative John Rhodes (Republican of Arizona) noted both political and policy concerns when he complained to the White House that revenue sharing "is going to hurt us terribly among the Spanish-speaking people, and will perhaps put many programs which should be kept back to the starting point" (Rhodes). Rhodes had supported the administration in its general programmatic cutbacks

and impoundment of funds, but Operation SER, he believed, deserved special consideration. Similarly, a joint letter to the president from Congress calling for continued funding for SER at least until the program could secure funds under the new system, included John Tower (Republican of Texas) along with a range of stalwart Democrats (Tower). Despite the philosophical and practical appeal of revenue sharing as a Republican alternative to the Great Society, Republicans recognized the significance both of some categorical programs and of Latino interests. The administration relented and protected the existing funding for Operation SER, at least until the program could secure the needed funding from another source.

Nixon's efforts to recast the Great Society in more Republican-friendly ways faced many challenges. With respect to specific policies for Latinos, governmental reorganization threatened existing relationships that had been developed in a changing policy environment. The administration protected programs that targeted Latinos by carving out exceptions to its reform package and appointing Latino leaders to run them. Thus his Republican administration implicitly affirmed the argument that Mexican Americans deserved distinct programs, and its appointments embedded Mexican American administrators in agencies that, when threatened by other new initiatives, could present a formidable challenge to change. The carving out of exceptions to its own reform agenda put a Republican stamp on existing client relationships targeting language minorities.

The Case of Bilingual Education

Bilingual education offers perhaps the best example of the Nixon administration's policy innovations for Mexican Americans. Nixon could not claim credit for creating bilingual education. The program originated in the 1968 Senate re-election campaign of Ralph Yarborough (Democrat of Texas), and authorized federal money to help local school districts teach children of limited English proficiency (LEP). The bill became Title VII of the Elementary and Secondary Education Act of 1965, as amended in 1968 (PL 90-247). The Johnson administration actually opposed the bill, believing that bilingual education was already eligible for federal funds without new legislation and concerned about new appropriations amidst a deteriorating economy.

The Nixon administration, however, embraced it. It proved relatively easy to outdo Johnson on bilingual education—the Democrat

had spent no money under the act in 1968. Nixon tripled available funds during his first years in office, from under $7 million to over $19 million, and he proposed $41 million for 1973 (although his totals also remained well below congressional authorizations). The legislation technically was available to a range of language minorities, but the Nixon team revealed its priority when it boasted that 94 percent of the students served in federal-funded bilingual programs were Spanish-surnamed (Kaplowitz, *LULAC* 145-46).

A Republican president spending moderately more than his Democratic predecessor on bilingual education was a significant, but not the most significant, development for this targeted aid program. For their lasting impact on social policy, the regulatory developments are far more important. Here the White House played a role alongside that of an office of the sub-presidency—the Office for Civil Rights (OCR) in the Department of Health, Education and Welfare (HEW). The office existed to ensure that recipients of federal funds issued through HEW did not discriminate in violation of civil rights law. OCR was the type of office within the bureaucracy that so rankled Richard Nixon—those he viewed as staffed by activist officials crusading to right wrongs without regard for political expediency or tact and insufficiently loyal to the elected leadership with ultimate authority. Specifically, the OCR had raised the suspicions of the White House for antagonizing the South at a time when Nixon was going after the white southern vote. Nixon replaced OCR director Leon Panetta with Stanley Pottinger, who inherited the difficult tasks of leading the career officials in OCR and HEW. Pottinger may have seen bilingual education as a reasonable opportunity to accomplish both. In May 1970 he issued a memo, originally drafted by Panetta, to all school districts with more than five percent "National Origin-Minority Group Children," in order to clarify the office's approach to enforcing civil rights protections for language minorities. Those protections, OCR asserted, came from Title VI of the Civil Rights Act of 1964, which prohibited any program receiving federal funds from discriminating on the basis of race, color or national origin. The memo outlined the responsibility of school districts to ensure equal educational opportunity for "national origin-minority group children deficient in English language skills" (Pottinger).

The memo stretched the national origin protections in Title VI to cover the language-based discrimination in the schools in order to bring the problem under OCR jurisdiction. The issue was not

technically about national origin, as a school might be guilty of this "national origin discrimination" even while its English-fluent Mexican American students thrived. And as Gareth Davies has noted, it was odd that the 1964 legislation would be invoked against a school's *failure* to discriminate between groups—schools could be punished for discrimination because they treated Mexican Americans just like everyone else (Davies 152; see also Skrentny 213, 224). The problem OCR sought to rectify was undoubtedly real—school districts often placed children who spoke a language other than English in special education classrooms alongside students with developmental disabilities, or placed them indefinitely into separate classes for LEP students, leaving them behind in their mastery of subjects at grade level. Remedying such situations was a worthy goal, but to get there the OCR had to use its own enforcement authority to expand the reach of the legislation. This was precisely the kind of thing made increasingly possible in the new policy environment, and most ironically, it was often the kind of thing Nixon would complain about with respect to bureaucracy. But Nixon did not rail against the OCR directive on bilingual education, and his administration actually considered *enhancing* it to accomplish its own political goals.

The direct evidence is limited, in part because OCR has yet released its files to the National Archives, but historian Gareth Davies makes a persuasive case that the White House actually approved of Pottinger's memo, at least recognizing its usefulness. First and foremost, the administration did not actively oppose it. Also, Pottinger was under careful watch; for example, he was told he must submit for White House inspection, prior to release, any memoranda that were to be made public and might offend white Southerners. Under such scrutiny, Pottinger received affirming comments not only from his superiors at HEW but also from Nixon's closest aides. Finally, the arguments from the OCR memo found their way throughout the administration. For example, Solicitor General Robert Bork, a strict constructionist who had opposed the Civil Rights Act as unconstitutional, found himself in 1973 defending the OCR interpretation that the Equal Protection clause of the Fourteenth Amendment required special accommodations for LEP students (Davies 148-159).

Other evidence confirms that the OCR approach was not anathema, and was potentially useful, to the administration. Most notably, in December 1971 Charles Colson suggested that the president

consider a bilingual education mandate. Colson had been charged with increasing the ethnic support for Nixon in 1972 and saw great potential for "some significant movement" in the Spanish-speaking electorate. His recommendations included goals for what percentage of public housing should be occupied by the Spanish-speaking and for appointments of Spanish-speaking officials. On the issue he viewed as most significant to the Spanish-speaking population—bilingual education—Colson suggested that the administration might "require that bilingual education programs be components of any educational institution receiving funds with more than a 10 percent Spanish-speaking population" (Colson). That is, where the OCR memo required districts to take *some* remedial action *if* discrimination was found to be taking place, Colson suggested requiring all districts to employ *one* particular educational approach (again, bilingual education) *regardless* of a finding of discrimination. The memo asserted that action must be taken where "inability to speak and understand the English language excludes national origin-minority group children from effective participation in the education program." Colson thought perhaps simply having more than ten percent of the population be Spanish-speaking was sufficient cause to require this approach. The memo conflated national origin and limited English proficiency to expand its authority to enforce educational disadvantage; Colson did so to mandate one specific method in a search for new constituencies.

The administration did not follow through on Colson's recommendation, but not for philosophical concerns. The greatest problem with Colson's plan, White House officials determined, was that it required new legislation. Title VI of the 1964 Civil Rights Act, on which the OCR memo was based, and HEW enforcement practices required a finding of discrimination before taking remedial action. A blanket requirement for all schools with more than ten percent national origin students would stretch Title VI to the point of snapping. Furthermore, they determined that it would be relatively easy to show discrimination in eighty percent or more of the school districts with a five percent or more Spanish-speaking student population. So even without new legislation, they could reach most Spanish-speaking students. Better, from a White House perspective, to avoid a new legislative battle and all-encompassing enforcement if possible, particularly when many of the discriminating schools were "looking for help to deal with this problem." OCR's approach with the schools regarding bilingual education,

the Nixon team surmised approvingly, was "much softer" than it was in the school discrimination cases, and the "across the board approach of enforcement is how we got into the school desegregation mess" in the first place (Clawson). Colson's bilingual education mandate was not enacted, but it was in the realm of possibility, and was rejected on practical, rather than philosophical, grounds.

The Nixon team's consideration of a bilingual education mandate takes on more significance in light of the 1974 Supreme Court case *Lau v. Nichols*. In Lau the court determined that the Civil Rights Act of 1964 covered non-English speaking (in this case Chinese) students in the San Francisco schools. According to the court's decision, equal treatment (e.g., using the same texts, facilities, curriculum, etc.) of students who cannot understand English is discriminatory, in that it precludes them an equal opportunity to learn. In this reasoning the court affirmed, and in fact referenced, Stanley Pottinger's 1970 OCR memorandum equating language skills with race and/or national origin in order to bring these students under Title VI coverage. And like the 1970 memo, the court required the schools to provide assistance to these students, regardless of any intent to discriminate, but stopped short of proscribing a particular remedy. The Nixon administration had filed a brief in support of the school children in Lau, and administration officials Robert Bork and Stanley Pottinger appeared to the Court in support of the plaintiffs. Congress also passed the Bilingual Education Act in 1974 to provide federal funding for bilingual education efforts. But the greatest shift occurred the following year, when OCR issued the rules that it would use to enforce Lau and the new legislation. In its "Lau Remedies" the OCR announced that three methods were valid for schools to comply with *Lau v. Nichols*: transitional bilingual education, in which students were taught in their native language in order to learn sufficient English; bilingual-bicultural education, in which students were taught in both languages; and multi-lingual-multicultural education. OCR specifically rejected English as a second language because it did not make any use of the student's native language (Moran 1268-71; Skrentny 223-35; Kaplowitz, *LULAC* 171-75). In effect, OCR had now adopted something like Colson's suggestion, requiring schools to use some form of bilingual education, even without a specific finding of discrimination. The Republican Nixon and Ford administrations were on the same page as the agencies, the Supreme Court, and Congress regarding bilingual education.

Conclusion

Richard Nixon was never a favorite of Mexican Americans. His personal history did not involve relations with Latinos as Lyndon Johnson's had, and his personality was not one to draw new crowds. In addition, many of the gains of his first administration seemed hollow by 1973, when economic pressures heightened and election year pressures lowered. Funding cutbacks and the elimination of some appointed positions left some Latino leaders thinking they had been played for political gain. But the most significant changes of the Nixon years were more foundational and structural. The Nixon administration was the first to assume that Spanish surnames needed to be included in a wide range of appointment considerations. Those appointments would grow increasingly important for giving voice to the concerns of the Latino community in an environment of administrative policymaking. And this Republican administration accepted a regulatory regime that recognized the distinct policy remedies desired by Mexican Americans as a language/cultural minority, giving such approaches legitimacy where even the Johnson administration had hesitated. This occurred at the intersection of Richard Nixon's push to fragment the Great Society coalition and the changes in the American political system, leaving Nixon with an unexpected legacy on policies for the Spanish speaking.

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