To: Professor Justin Levitt and the Evelyn and Walter Haas, Jr. Fund

From: Jayme Rosenquist, Loyola Law School

Date: July 18, 2025

Re: The CA Supreme Court's *Castro* Decision and Its Historical and Cultural Context

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The 1970 California Supreme Court case *Castro v. State of California*[1] held that English literacy requirements for voter registration violated the Equal Protection Clause of the Fourteenth Amendment. The case came at a time when Latino/Chicano activists in Los Angeles were demanding change for the non-English speaking community during the 1960s and 1970s, on issues ranging from education, to access to the courts, to the right vote. The case was one among many moments during these decades that expanded the rights of language minorities. This memo fills in the historical and cultural context of these significant developments for California's immigrant communities, provides the State's arguments for maintaining the English literacy requirement in *Castro* and the Court's basis for striking it down, and highlights other decisions of the California Supreme Court around the same time that situate *Castro* in a moment of growing immigrant rights in California.

I. Background

In 1894, the California Legislature proposed, and the voters approved, a constitutional amendment requiring residents to pass an English literacy test to register to vote. When Assemblyman Anthony Jennings (A.J.) Bledsoe, a Republican originally from Virginia but residing in Humboldt, California, introduced the amendment, he stated the State needs to "look with alarm upon the increasing immigration of the illiterate and unassimilated elements of Europe" and urged the state "to protect the purity of the ballot-box from the corrupting

[1] *Castro v. State of California*, 2 Cal.3d 223 (1970)

influences of the disturbing elements that came from abroad."[2] Other reporting shows that those who voted in favor of the 1894 amendment did so in the "shadow of the Panic of 1893," a financial crisis that sparked a rise in anti-immigrant sentiment.[3] Newspapers espoused the anti-immigrant beliefs at the time, claiming it was "very fortunate that the Chinese, in the days of unrestricted immigration, did not bring their wives and household goods," arguing this would have led to more naturalized citizens of Chinese descent and a "few thousand Chinese votes would complicate political matters in California considerably."[4]

Reporting was often in favor of the amendment, stating for example, "there ought to be some motive for the obliteration of hyphenized names in this country. 'Irish-American,' 'German-American,' etc. is exceedingly un-American."[5] The *Los Angeles Times* expressed approval of the amendment, claiming that people who had lived in California long enough to vote had lived here long enough to learn English.[6] Of the immigrant Californian who could not speak English well enough to vote, it claimed, "[i]f he is so ignorant it is a safe bet that he is lacking either in capacity or will to learn, and he is not competent to exercise the franchise."[7] It is this history, roughly 75 years later, that the groundbreaking case *Castro v. State of California* overturns.

II. Community Activism that Gave Rise to *Castro*

Mexican American activism significantly raised its voice during the 1960s. In Los Angeles, Latino and Chicano activists organized around civil rights issues such as violent

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[2] Brief for Appellants at 30-31, *Castro v. State of California*, 2 Cal.3d 223 (1970) (No. LA. 29693).
[3] Sebastian Nelson, *Voting Rights of Non-English Speakers in California,* California Originals eNewsletter, Fall 2024.
[4] *Oakland Morning Times*, p. 4, June 2, 1892.
[5] *Weekly Colusa Sun*, p. 9, November 5 1892.
[6] *Los Angeles Times*, p. 4, October 19, 1892.
[7] *Id.*

discrimination from law enforcement officers and within the criminal justice system, inadequate education for non-English speaking students, and governmental bodies that failed to represent its Latino constituency.

Education and Language

The education system was failing the non-English speaking community at this time. In March 1968, *La Raza*, a newspaper publication that reported on local Chicano activism, reported on one of the largest walkouts from Latino students in Los Angeles to ever occur at the time. These walkouts were the "the first organized effort by the community to attack the guts of the American system, its educational system."[8] The newspaper argued that the educational system had "failed to realize the potential of [Chicano] youth with respect to higher education."[9] It criticized the failure of the school system to effectively teach students the command of the English language, stating that "intensive speaking and listening programs are needed since the Mexican-American, unlike his fellow Anglo, does not have the advantage of receiving this at home."[10] The reporting claimed the educational system is "merely producing a brown robot"[11] if it fails to help its students learn the English language. By recognizing the connection between insufficient education and inadequate public participation, the activists targeted their demands at the source, understanding the connection between education and civic participation.

As revealed in the *Castro* case, during this time English literacy was often conflated with general literacy. While the *Castro* case was in litigation, activists and lawyers were increasingly concerned about the effect these beliefs had on students within the classroom. At the time, Black

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[8] *La Raza*, Vol. 1 No. 11, p. 7, March 31, 1968.
[9] *Id.*
[10] *Id.*
[11] *Id.*

and Mexican-American students were placed into special education classes at over twice their proportion of the student population, collectively making up a total of 21% of the population but 48% of the students enrolled in special education.[12] There were at least two main reasons. First, the special education test was only administered in English. Second, the test asked questions that assumed a certain lifestyle, such as "Why is it better to pay bills by check than with cash?" and "What color are rubies?"[13] California Rural Legal Assistance ("CRLA") readministered the test to students placed into special education in Spanish and found many of the students were improperly placed in there, passing the test in Spanish. Such results expose the pernicious folly of justifying English literacy requirements by equating overall literacy with English proficiency.

Voting and Representation

During this time, Chicano activists emphasized the lack of adequate representation for the Spanish-speaking community at all levels of government. They urged for reforms that would support more civic participation from the Chicano community. In its very first issue on September 4, 1967, in fact, *La Raza* described the "political disenfranchisement among the poor" caused by "low voter registration" and the lack of participation in the government and political or civic action groups.[14]

When diagnosing the reasons for poor representation and insufficient participation, activists pointed to a variety of reasons. One of those reasons was gerrymandering. Gerrymandering became a focus among the activists because the district lines were drawn based on registered voters rather than total population. *La Raza* did early reporting on a Los Angeles

[12] Marty Glick & Maurice Jourdane, *The Soledad Children*, Arte Publico Press, 2019.
[13] *Id* at 69.
[14] *La Raza*, Vol. 1 No. 6, p. 3, December 2, 1967.

gerrymandering case that was eventually heard by the California Supreme Court after the *Castro* case.[15] It reported that the American Civil Liberties Union (ACLU)[16] "filed a lawsuit to compel the city to apportion councilmanic districts on the basis of total population rather than on the number of registered voters."[17] The case rested on the disproportionately low number of registered voters, compared to total population, in districts that were majority Black and Latino. For example, "in District 9, which includes East Los Angeles and the Boyle Heights area and is largely populated by Chicanos and Blacks, the population is 236,904 and the registered voters number 66,039… [but] District 2, which is the San Fernando Valley, the population is 148,857, the voters 78,228."[18]

Activists also raised the English literacy requirement for voter registration as a barrier to increasing the number of registered voters among language minorities. For example, in its enumerated demands, the Brown Berets, a Chicano activist group predominantly made up of young men, demanded that "the right to vote be extended to all of our people regardless of ability to speak the English language."[19] Similarly, English literacy was a barrier to accessing the courts. *La Raza* authors wrote about an "enormous need for lawyers fluent in Spanish and willing to handle cases for Mexican American clients."[20] It claimed that "Mexican Americans are disadvantaged in criminal cases because "interpreters are not readily available in many Southwestern courtrooms."[21]

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[15] *Calderon v. Los Angeles*, 4 Cal. 3d 251 (1971).
[16] A. L. Wirin, who worked on this case for the ACLU, also worked on the Castro case.
[17] *La Raza*, Vol. 1 No. 6, p. 3, December 2, 1967.
[18] *La Raza*, Vol. 1. No. 15, p. 5, August 5, 1968.
[19] *La Raza*, Vol. 1 No. 13, p. 13, June 7, 1968.
[20] *La Raza Magazine*, Vol. 1 No. 1, 1970.
[21] *Id.*

The activists were spotlighting instances of everyday life where non-English speakers were harmed by the lack of any language access services. This harm spread everywhere, from the criminal legal system, to hospitals, and to ballot boxes. The *Castro* case was a landmark win for the Latino/Chicano movement toward immigrant inclusion growing in Southern California.

III. The *Castro* Case

The two plaintiffs in the *Castro* case were Juana Genoveva Castro and Jesus Estrada Parra. Both were born in the United States and moved to Mexico during their primary education years. They both eventually returned to the United States, residing in Los Angeles beginning in 1946 and 1962, respectively. In 1967, they both met every requirement to register to vote except for their ability to read English. Castro, a resident of Lincoln Heights and single mother of six children, and Parra, a plastic company worker residing in Boyle Heights,[22] came together to sue the State of California with the help of the ACLU and CRLA.

Prior to CRLA's founding in 1966, the soon-to-be founding staff members were working on cases challenging voter registration literacy tests throughout the south. When the organization launched in California, CRLA aligned itself closely with community-based organizations to ensure a direct line between CRLA and the people it would come to represent. In an interview with an advocate who worked at CRLA at the time of the *Castro* case, it became clear that this close relationship to the community is likely part of the reason the *Castro* case found its way into CRLA's offices. Reporting reveals that Genoveva Castro's sister, Alice Hernandez, was a "major force" encouraging her to bring the suit.[23] Alice Hernandez was an active member of the Neighborhood Adult Participation Program ("NAPP"), a Los Angeles community-based War on

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[22] *Los Angeles Times*, p. 3, September 14, 1967.
[23] *Highland Park News*, p. 8, September 17, 1967.

Poverty program.[24] CRLA's close connection to the community may have led Alice Hernanez of NAPP to bring her sister's case to CRLA.

State Arguments: Illiteracy and English Proficiency

Castro and Parra's case went before the California Supreme Court in 1970. The State of California defended the English literacy requirement by claiming the State had a compelling interest in ensuring the voters have sufficient ability to educate themselves on the candidates and issues they are voting on. It also argued that "it is the duty of anyone who intends to reside in this state permanently to learn its language."[25] The State pushed that English is the "official" language of the country and argued it must "be presumed that a person residing in this country, especially one born here, does not show a sufficient dedication to this country if he refuses to learn its language."[26]

Further, the State claimed that language minorities "necessarily must segregate" themselves, meaning they "cannot associate with the whole of the body politic."[27] The State even claimed the intent of the amendment was the legislature's belief that non-English speakers were "so intellectually incapable of learning English, that they would not exercise the franchise with responsibility."[28] In the specific cases of Castro and Parra, the State claimed that the plaintiffs had accessible opportunities to learn English, proclaiming that learning English is "not an insuperable hurdle for those literate in Spanish. Numerous facilities are provided."[29] As

[24] Maria Nolasco, *Ode to Watts: The War on Poverty in South Los Angeles*.
[25] Brief for Respondents, *Castro v. State of California*, 2 Cal.3d 223 (1970) (No. LA. 29693).
[26] *Id* at 12.
[27] *Id.*
[28] *Id.*
[29] *Id.*

evidence, the State provided a list of English-language classrooms located throughout Los Angeles.

Plaintiffs Prevail: Language Access and Constitutional Rights

Despite the State's arguments, the plaintiffs prevailed. Justice Raymond Sullivan, originally from San Francisco and appointed to the Court by Governor Pat Brown, wrote the majority opinion. He declared California's English-only elections unconstitutional, writing, "[s]hould California desire additional, more stringent, intellectual standards, it must adopt a far more accurate method of measuring the relevant quality, intelligence, than is provided by the crude and psychologically unsupported expedient of equating linguistic ability with intelligence."[30] He distinguished between persons who are limited-English proficient and persons who are illiterate, making clear that while the State assumed that voters who spoke little to no English had no capacity or ability to educate themselves on public matters, this was obviously wrong – fluent Spanish speakers were just as intellectually capable as fluent English speakers and could use Spanish-language periodicals and news sources to educate themselves.[31] Recognizing the value of the constitutional right to vote, Justice Sullivan concluded that "elaborate educational qualifications for voters are incompatible with our commitment to full and equal participation in the political life of the nation."[32]

IV. California Supreme Court History Immediately Before and After *Castro*

Leading up to and immediately following the *Castro* case, the California Supreme Court mostly made decisions in furtherance of immigrant rights when given the opportunity. In 1952,

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[30] *Castro v. State of California*, 2 Cal.3d 223 at 240 (1970).
[31] *Id* at 233. The "equal protection question is whether intelligent use of the ballot should not be as much presumed where one is versatile in the Spanish language as it is where English is the medium."
[32] *Id* at 240.

the Court held that a law restricting land ownership based on citizenship and ancestry violated the Equal Protection Clause.[33] Right before the *Castro* case, the Court held that labor laws disallowing noncitizens the right to work on public works was unconstitutional.[34] In an opinion by Justice Tobriner, a close friend of Justice Sullivan, the Court argued that the "concept of equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment."[35] By so claiming, the Court confirmed that alienage is a "suspect classification," which requires the Court to analyze state actions under the heightened strict scrutiny standard.[36]

Following the *Castro* case, the California Supreme Court decided a variety of cases dealing with language rights and voting. As mentioned earlier, the Chicano activist movement led the lawsuit challenging California's drawing of district lines based on registered voters rather than total population, arguing it had a detrimental impact on representation for the Latino community in Los Angeles. That case was heard by the California Supreme Court in 1971. In an opinion again authored by Justice Sullivan, the Court held that district lines drawn based on registered voters was improper in Los Angeles.[37] The Court emphasized that using total population to draw district lines was "more likely to guarantee that those who cannot or do not cast a ballot may still have some voice in government."[38] On the voting rights front, CRLA won a case in 1973 that challenged California's disenfranchisement of people with felony convictions.[39] Calling on the standard established by *Castro* for determining how a state may

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[33] *Sei Fujii v. State of California*, 38 Cal.2d 720 (1952). Of note, A.L. Wirin also worked on this case.
[34] *Purdy & Fitzpatrick v. State*, 71 Cal. 2d 566 (1969).
[35] *Id* at 578.
[36] *Id.*
[37] *Calderon v. Los Angeles*, 4 Cal.3d 251 (1971).
[38] *Id* at 259.
[39] *Ramirez v. Brown*, 9 Cal.3d 199 (1973).

permissibly achieve its compelling interest, the Court held that the disenfranchisement was unconstitutional because it was not the least burdensome means of preventing election fraud.[40] These developments show that when the Court in the 1960s and 70s was faced with issues related to immigrant rights and language justice, it often held in favor of immigrant communities.[41]

While much of the California language justice activism was born out of the activism from Spanish speakers, as the predominant non-English language spoken throughout California, other advocates came to join in the fight towards language justice around this time as well. The American Jewish Committee submitted an amicus brief in the *Castro* case, writing that they are "in sympathy with an individual's right to engage in practices and customs consonant with his cultural roots."[42] After the *Castro* case, the Chinese population began to organize around related issues. For voting rights, Chinese American community leaders throughout San Francisco educated their community about their rights through public service announcements on radio and TV.[43]

Around this same time, the Chinese American community began organizing to demand improvements in the schools for their Chinese-speaking children, leading to a US Supreme Court case that would later be called the "Brown v. Board of Education for students whose native

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[40] *Id* at 216.
[41] This was not always the case. In *Guerrero v. Carleson*, 9 Cal.3d 808 (1973), the Court held that the State was not obligated to send translated notices announcing a reduction in welfare benefits to recipients who were known to be limited English proficient because it was reasonable to expect the notice recipients to find a translator for the notices. *Id* at 813.
[42] American Jewish Committee as Amicus Curiae Supporting Petitioners at 1, *Castro v. State of California*, 2 Cal.3d 223 at 240 (1970).
[43] Trish Morita-Mullaney, *Lau v. Nichols and Chinese American Language Rights*; The Sunrise and Sunset of Bilingual Education. Multilingual Matters & Channel View Publications, 2024.

language is not English."[44] In 1974 the Chinese community sued under Title VI of the Civil Rights Act of 1964, alleging discrimination based on national origin because of the English-only instruction and lack of any interpreters in California public education. The Supreme Court of the United States held unanimously for the students, arguing that a failure of public schools to provide sufficient instruction to teach students the English language makes a "mockery of public education."[45]

V. Conclusion

Castro created a tidal wave of residents who would now be able to register to vote. But while the ghosts of 1894 were slayed and the English literacy requirement for voter registration was eliminated, the ballots were still printed only in English. Less than three months after *Castro* was decided, Representative Edward R. Roybal spoke on the issue of voting, stating "it seems to me that it is at least equally important, in order to assume an effective voice for California's 200,000 newly-enfranchised Spanish-speaking citizens, who have up to now been denied the right to vote, and who this year will be exercising this right for the very first time, to provide them with ready access to voting materials in their own language."[46] In the years immediately following, California would pass its first laws guaranteeing some degree of language access in elections and setting the stage for the current day.

While the fight for a right to vote and sufficient representation spans many decades, communities, and demands, the work of the activism of the 1960s paved the way for future judicial, and eventually legislative, achievements.

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[44] Mark Walsh, *In 1974, the Supreme Court Recognized English Learners' Rights. The Story Behind That Case*. Education Week, January 19, 2024

[45] *Lau v. Nichols*, 414 U.S. 563 at 566 (1974)

[46] *Highland Park News-Herald and Journal*, p. 6, June 14, 1970.