



Endorsement of a House Resolution Condemning the “Insular Cases”

April 8, 2021

On March 26, U.S. Reps. Raúl Grijalva of Arizona, Gregorio Sablan of the Northern Mariana Islands, Stacey Plaskett of the U.S. Virgin Islands, Michael San Nicolas of Guam, Jenniffer Gonzalez-Colon of Puerto Rico, Chuy García of Illinois and Nydia Velázquez and Ritchie Torres of New York introduced a resolution ([H. Res. 279](#)) condemning the racist and ethnocentric “insular cases” and calling for their holdings to be rejected in their entirety.

Fix the Court endorses this bipartisan resolution.

The “insular cases” refer to a set of early 20th century Supreme Court decisions concerning the application of the Constitution and U.S. law to newly acquired territories. The Court repeatedly held that constitutional protections were not to be enjoyed by the people of Guam, Puerto Rico and beyond. The cases infamously refer to territorial inhabitants using derogatory and dehumanizing language. Despite their reliance on racist stereotypes, these decisions have never been overturned in full.

FTC executive director Gabe Roth released this statement on H. Res. 279:

“This bipartisan resolution is right to condemn the insular cases, which relied on racist and ethnocentric assumptions to justify denigrating the inhabitants of U.S. territories to second-class treatment.

“The Supreme Court’s reluctance to reject their holdings in full, despite clear opportunities to do so, is deeply disappointing, albeit not surprising. From *Plessy* to *Korematsu*, the Court has played a leading role in some of the darkest moments in our nation’s history. Though the institution cannot rewrite its past, it can follow Rep. Grijalva’s lead in assuring the public that bigotry has no place in its modern jurisprudence.

“I commend Rep. Grijalva and his colleagues for encouraging the Supreme Court to contend with and rectify its past errors. I urge other representatives to join their effort and bring the resolution to the House floor.”

Fix the Court joins other organizations in supporting H. Res. 279, including the ACLU and Equally American. ACLU senior staff attorney Adriel Cepeda Derieux [called](#) the cases “dangerous relics that stand for the continued second-class status of millions of American citizens.” Equally American [added](#) that the insular cases are “unrepentantly racist and doctrinally flawed.”

Fix the Court also supported the resolution when introduced in the last Congress. In a 2019 [op-ed](#) in the *Arizona Daily Star*, FTC researcher Dylan Hosmer-Quint wrote, “Hopefully, the Supreme Court will find an opportunity to condemn, if not overturn outright, the insular cases. Hopefully, Congress will vote on the Grijalva resolution. Regardless, it’s incumbent upon us as citizens to recognize that, even today, the Court’s jurisprudence is marred by a checkered past. [...Such an acknowledgement can] better prepare us for whatever decisions come in the future.”

Unfortunately, the Supreme Court last June passed up on what [many viewed](#) as an opportunity to acknowledge the racist history of the insular cases and reject their holdings. In *Financial Oversight and Management Board v. Puerto Rico*, the Court [upheld](#) the constitutionality of federal management of Puerto Rico’s budget and finances. But despite calls from activists and litigants alike, the Court merely acknowledged that the insular cases were “much-criticized” and declined to overturn them outright.