

JUDGE SONIA SOTOMAYOR: JUSTICE WITH EMPATHY

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Next year I will be introducing a bill to prevent strip searches of students in school because of the invasive and traumatic experience it can be for young girls. That's a subject that the United States Supreme Court has had to wrest with recently. Justice Ruth Bader Ginsburg was visibly upset with the male justices' lack of empathy for a 13 year old female student who was subjected to a strip search by school officials based on an unsubstantiated tip that the girl had Ibuprofen. None of the male Supreme Court justices seemed to understand what Justice Ginsburg did: that some actions by authorities can have deleterious effects on the persons on whom it is done.

That is one point that President Obama is making with his nomination of Sonia Sotomayor for the United States Supreme Court. "Issues like the degree to which an action by state authorities is traumatic or violate accepted social norms come up all the time, which is exactly why empathy is such an important quality in a Supreme Court justice," wrote Constitutional Law and Government & Politics Professor Howard H. Schweber. "[A] Supreme Court justice's ability to recognize harm being done to someone by an action of the state should not depend on his or her being personally acquainted (and aware that they are acquainted) with a member of the same group. That's what empathy – what Martha Nussbaum calls 'narrative imagination' – is all about, the capacity to recognize the reality of others' situation."

Judge Sotomayor's nomination is not only a matter of representation of the Hispanic population in our court. Her being named as a justice also comes with the expectation that she will display a level of knowledge and understanding of social realities that would otherwise not be available on the Supreme Court without her contributions to the debate in deciding cases. That's the real point of the argument about empathy, Schweber says.

That ability to decide cases with a full grasp of the social context in which they occur should be comforting to many of us in Hawaii. Judge Sotomayor's background – while from the other side of the country – still strikes familiar notes with many of us here. Her parents came to New York from Puerto Rico. Although Puerto Rico is a territory of the U.S., its Spanish language and culture makes the move her parents made to multi-cultural New York akin to many of us second and third generation immigrants whose parents and grandparents arrived here in the islands to begin a life anew in our country.

Like many other first generation immigrants, Sotomayor's father did not speak English. Her parents took laborer jobs to support their children and raised them in working class neighborhoods. Sotomayor's father died at the age of 42 from heart problems when she was only nine years old. Her mother, Celina, then had the task of raising her children as a single parent. She put great emphasis on education, as many immigrant mothers have, and instilled in them the value of setting high goals, studying and doing well at school, hard work, and perseverance. Judge Sotomayor's younger brother is a physician and university professor.

Judge Sotomayor has been criticized by some for her comments regarding a “wise Latina woman” and older white men. In my opinion, her detractors need to step back and understand that she spoke from a perspective of hard-earned, well-deserved pride in her achievements and the confidence that it brings. As a wise Latina woman, she is just as qualified as anyone out there whether he be an older white male, a younger Asian man, or anyone for that matter. A mountain has certainly been made of a mole hill in these criticisms.

Judge Sotomayor’s academic qualifications have been as stellar as any white male. If not for her ethnic extraction, she would instead be lauded as extremely well qualified and well suited for a place on the nation’s highest court. She graduated as valedictorian from her Catholic primary school class with a near-perfect attendance record. She went on to graduate as valedictorian of her high school class as well, having been elected to its student government and being a member of its forensics team.

Sotomayor began Princeton University on a full scholarship, at a time when there were few women and even fewer (about 20) Latino students. An accomplishment in itself, she said she felt like a visitor in an alien country, something to which many of us can relate. She tirelessly advocated for the recognition of Hispanic culture at Princeton, resulting in the first hiring of Latino faculty and introduction of courses in Hispanic history and politics. She ran an after-school program for local children and volunteered at the Trenton Psychiatric Hospital as an interpreter. Her senior thesis received an honorable mention for the Latin American Studies Thesis prize. A history major, Sotomayor earned a near-perfect “A” average in her junior and senior years. She won the Pyne Prize, the top award for Princeton undergraduates for her strong grades and extracurricular activities, and graduated summa cum laude.

Sotomayor then entered Yale Law School, again a place with very few Latinos. She earned the law school’s highest honors as editor of the Yale Law Journal and managing editor of what is now the Yale Journal of International Law. After graduating, she worked as an assistant district attorney in New York where she earned a reputation for being smart, dedicated, fearless, and effective. She left government work for a private firm where she specialized in international law, arbitration, and intellectual property litigation, where much of her time was spent tracking down and suing counterfeiters of Fendi merchandise. President George H.W. Bush selected Sotomayor to be a federal judge for the District Court for the Southern District of New York, a post she held from 1992 to 1998. President Bill Clinton then nominated her as an appellate judge for the United States Court of Appeals for the Second Circuit, where she has served since 1998 to the present.

When Judge Sonia Sotomayor is confirmed by the whole Senate, she will take her place as the 111th justice, only the third female justice, and the first Hispanic justice on the United States Supreme Court. This will spell a great moment in history as the point where even the highest political and judicial offices became open to all races. It harmonizes with the election of Hawaii-born Barack Obama to the White House, and marks a new era where America continues to prove itself to indeed be the land of opportunity for all.