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Members of Congress, Civil Rights Leaders Call on Biden's DOJ to Reject Racist Insular Cases Doctrine

Coalition demands a definitive stance against historical rulings impacting U.S. territories

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V.I. Delegate to Congress Stacey Plaskett addresses the audience at Wednesday's press conference in Washington, discussing the Insular Cases

WASHINGTON — At a press conference held Wednesday on Capitol Hill, a coalition of elected officials, civil rights organizations, and advocates announced that they had called on the U.S. Department of Justice to publicly and definitively denounce the racist doctrine established by the Insular Cases.

The cases are a series of Supreme Court rulings from 1901 to 1922 that established an unequal, colonial framework for U.S. territories like Puerto Rico, Guam, American Samoa, and the U.S. Virgin Islands. In the rulings, the court declared that the territories were not fully incorporated into the U.S. and that the Constitution did not fully apply there. Most infamously, the rulings referred to the territories and their inhabitants as "alien races" and "savage tribes."

Over the years, a groundswell of opposition to the overtly racist rhetoric has been rising, however previous administrations have failed to address the issue. Most recently the Supreme Court has, twice in two years, [passed](#) on [opportunities](#) to repudiate its earlier rulings, while the Biden Department of Justice in 2021 relied on the Insular Cases rulings to argue that people born in U.S. territories have no constitutional right to certain United States citizenship rights.

"In 2024, no one should use racist language from the Insular Cases to deny citizenship rights to people born in U.S. territories, to people who decide to reside in U.S. territories," said Stacey Plaskett, Congressional representative for the U.S. Virgin Islands. She contrasted President Biden's arguments against denying federal benefits to residents of U.S. territories with the actions and legal arguments of his Justice Department. "He declared that there could be no second class citizen in the United States of America. Yet, his own Justice Department and its leadership continue to rely on cases to argue that people in those territories have no right to hold U.S. citizenship; that citizenship in U.S. territories is a mere privilege for Congress to extend or retract at their whim. And we know what this Congress looks like. We don't want to have our citizenship based upon that," the congresswoman declared.

Neil Weare, co-director of the advocacy group Right to Democracy, recounted growing up in Guam and having to register for the draft, while at the same time being unable to vote for the president during elections. "What I read in my high school history textbooks did not align with the situation I was seeing on the ground in my community," he said, explaining the genesis of his interest in the issue which has led to his decade-long quest to challenge the Insular Cases. Mr. Weare thanked Congresswoman Plaskett and Governor Albert Bryan Jr. for their leadership and advocacy on the issue.

A day before this year's "Transfer Day" commemoration, Governor Bryan sent U.S. Attorney General Merrick Garland a letter calling on the Justice Department to "expressly reject the Insular Cases and the racist logic of the doctrine of territorial incorporation." That doctrine, the governor argued, was "devised out of whole cloth" by the Insular Cases to justify the acquisition and governance as colonies territories "largely populated by people of color." The governor noted that many of the same justices who gave their "separate but equal" decision in the now-repudiated Plessy v. Ferguson matter were behind the reasoning of the Insular Cases.

President of the Puerto Rico Bar Association Manuel Quilichini also sent a similar letter to the Justice Department.

Right to Democracy co-director Adi Martínez-Román, who was born and raised in Puerto Rico, says that the ongoing effect of the colonial legal framework established by the Insular Cases could be clearly seen after hurricanes Irma and Maria in 2017, when "the disaster response left a lot to be desired." She argued that it was past time for territorial residents to be given the opportunity to "exercise their political rights and self-determination to really decide what the relationship with the United States should be like." The re-evaluation of the relationship, however, will not be possible until the federal government abandons its reliance on the Insular Cases. "The U.S. has a colonial problem," declared Ms. Martínez-Román.

While the disavowal of the Insular Cases will not “magically solve the colonial problem the United States has,” said Mr. Weare, the complete rejection and repudiation of the racist ideology espoused within the cases would, according to Ms. Martínez-Román, “crumble down this wall that has been feeding or justifying inaction for years and years,” enabling a more amenable legal and political environment with which to examine the relationship between the United States and its territories.

As speakers during Wednesday’s press conference made clear, [calls for the rejection](#) of the Insular Cases by the president and the most senior legal minds in the country will only grow louder in the months and years to come.

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