

# Trump administration argues in Supreme Court for including citizenship question on 2020 census

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The US Supreme Court heard 80 minutes of oral arguments Tuesday over the proposed move by the Trump administration to include the question of citizenship in the 2020 US Census. If introduced next year, it would represent the first time in over 50 years that the census questionnaire would request information regarding the citizen or non-citizen status of respondents.

The decision to request information regarding citizenship on the census is designed to intimidate immigrants and ultimately to divert resources from working class areas. It represents the latest maneuver by the Trump administration in its campaign to whip up racist anti-immigrant chauvinism.

The Trump administration's campaign against immigrants has featured the demand for the construction and expansion of walls along the Mexican border, massive police raids to terrorize immigrants, the deployment of military troops along the border, the deliberate abuse of immigrant children by separating them from their parents, and the housing of immigrants in degrading and unsafe conditions in internment camps.

Accurate responses to census questions are required by law, so the introduction of the citizenship question would force undocumented immigrants either to expose themselves and their family members or break the law.

While the proposed census question will target millions of non-citizens currently living in the country, it was designed by the Trump administration as an attack on the working class as a whole.

The inclusion of citizenship information in the census questionnaire will reduce the response rate among undocumented immigrants, due to the fear of the consequences of providing truthful responses. This undercounting of population levels, in turn, will serve as a pretext for reducing the level of resources and services provided to working class areas where undocumented immigrants reside.

Secretary of Commerce Wilbur Ross announced the change to the census form last year. Ross, who was

appointed by Trump, oversees the Department of Commerce and its Census Bureau. The announcement by Ross prompted a lawsuit by a coalition of states, other government entities, and civil rights groups last November, which was filed in federal district court in Manhattan.

On January 15, a federal district judge decided that the inclusion of the citizenship question in the census was unlawful on multiple grounds, including because it would result in "degradation of data quality" and was "arbitrary and capricious," ordering the Trump administration not to include it.

The US census originated in the late 18th century as a simple head count every ten years. As it developed into the early 20th century, the census expanded to include questions of social interest beyond a simple enumeration of the population. However, the citizenship question was removed from the census in 1960, on the grounds that it would result in inaccurate data regarding non-citizens. The census after 1960 was limited to questions deemed relevant for enumeration, while all of the other data-gathering was conducted with respect to sample subsets of households.

All of the available statistics, including multiple scientific studies, confirm that including the citizenship question in the census in 2020 will result in a lower count of non-citizens. In enacting the change, Ross disregarded the findings and opinions of his own advisers and staff in the Census Bureau.

The Trump administration requested the Supreme Court take the case immediately, without waiting for a decision in the intermediate federal appellate courts, in the hopes of an expedited ruling. On February 15, the Supreme Court decided to take up the case. The Trump administration contends that the decision by Ross was a proper exercise of his discretion and cannot be overturned in court.

In the Supreme Court on Tuesday, Trump's Solicitor General Noel Francisco asserted various pretexts for including the question on the census, including that it is designed to "protect voter rights" and was somehow

calculated to increase the accuracy of the responses.

In contrast to the various technical arguments asserted by the Trump administration, the proposed measure in reality will accomplish two things. First, it will contribute to efforts to create a climate of fear and scapegoating with respect to undocumented immigrants. Second, it will generate, by design, inaccurate population figures for working-class areas.

According to the government's own analysis, the inclusion of the citizenship question will cause an estimated 6.5 million fewer people to be counted by the census. In addition, an estimated 9.5 million people will give responses that will conflict with information contained in other government records.

Certainly, there are immediate partisan calculations behind this maneuver for the Republican Party. In the federal and local legislatures, where the official population figures that are used to determine representation are expected to drop in areas that have historically elected Democrats, the new census data would provide the opportunity for redrawing districts in a manner that would strengthen the position of the Republican Party. The states of California, Texas, Arizona, Florida, New York, and Illinois all face the possibility of losing a seat in the House of Representatives.

However, massively inaccurate and conflicting population figures will have implications far beyond these political machinations. The federal census provides population data that is used to measure and assess how resources are allocated across a broad swath of social, civil and technical infrastructure.

A friend-of-court brief filed by a national coalition of school boards pointed out that the census data was important not only for electoral reasons, but “is also the fulcrum for the allocation of hundreds of billions of dollars of funding for vital governmental programs. And countless public and private institutions rely on an accurate census to shape policy, set priorities and distribute resources ... [E]ven relatively small errors in the census count can have far-reaching effects on tens of millions of individuals.”

The brief continued: “In the area of public education alone, an inaccurate census count could impact billions of dollars flowing to vulnerable population groups in the parts of the country most in need.”

Another friend-of-court brief by a coalition of minority and other community nonprofit organizations observed that inaccurate census data will affect the distribution of financial assistance to schools in low-income areas, special education grants, child development assistance, foster care programs, nutrition programs, school lunch programs, programs for pregnant women, housing assistance programs, medical coverage assistance for seniors and children, and other

public programs.

Census data is relied upon to determine how grocery stores are stocked with merchandise, what types of doctors are needed in a particular area, and planning for natural disasters. A coalition of charitable organizations similarly opposed the change to the census, on the grounds that it would produce inaccurate data that would disrupt their operations.

While the outcome of the case in the Supreme Court is not certain, a number of legal commentators have indicated that, in light of the oral arguments, the Trump administration is likely to prevail.

The court's so-called liberal wing—Elena Kagan, Sonia Sotomayor, Ruth Bader Ginsburg, and Stephen Breyer—largely permitted the Trump administration to frame the debate, which centered around whether the introduction of the citizenship question would result in less accurate data. “It's a technical case,” Justice Breyer said, addressing Trump's Solicitor General.

The Supreme Court's liberal wing is in alignment with the Democratic Party establishment as a whole, which has not put forward any principled opposition to the Trump administration's anti-immigrant witch-hunt. Instead, the position of the Democrats is that the campaign against immigrants (euphemistically termed “immigration reform”) should be prosecuted in a smarter way.

On Tuesday, the same day as the oral arguments were taking place in the Supreme Court, the *New York Times* published an opinion piece by columnist Thomas Friedman titled, “Trump Is Wasting Our Immigration Crisis.”

Invoking the specter of “drug smugglers, asylum seekers and illegal immigrants” who were “flocking to open borders,” Friedman declared that “we need new walls,” but that the demand for a wall is “only part of the solution.” According to Friedman: “the solution is a high wall with a big gate—but a smart gate.”



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