

The Brookings Institution  
5 on 45: A federal judge ruled against the census citizenship question. What's next?  
January 16, 2019

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(MUSIC)

PITA: You're listening to 5 on 45 from the Brookings Podcast Network, analysis and commentary from Brookings experts on today's news regarding the Trump administration.

FREY: I'm Bill Frey with the Metropolitan Policy Program here at the Brookings Institution. This week's ruling by federal judge Jesse Furman of the Southern District of New York represents an important first step toward restoring the integrity of the 2020 census. The judge's ruling struck down the Trump administration's decision to add a citizenship question to the 2020 census. A question that would lead to an under enumeration of a large segment of Latino immigrants and other communities. The addition of this question was approved late in the process by Commerce Secretary Wilbur Ross. In so doing, the court ruled that Ross had violated the Federal Administrative Procedures Act by not taking full account of among other items research that showed that adding this question would discourage census participation and increase its cost. It also found violations of provisions of the Federal Census Act regarding reporting changes to Congress. The court ruling clearly took seriously the evidence presented by the Census Bureau's own staff. And other analysts indicating that especially in the current political environment the inclusion of this question would deter several minority and immigrant groups from participating in the census, particularly those living in households that contained one or more noncitizens both legal and undocumented.

My analysis of the American Community Survey shows which groups would be most negatively affected by this underreporting. Latinos. Asians. Young people and urban residents. Their reduced response would lead to a flawed reapportionment of Congress under representing high immigration states like New York and California. The board also lead to the drawing of congressional and state legislative districts at overrepresent whites, older populations, and rural residents. While it was not made explicit in the court's ruling, there seems no doubt that adding this question was politically motivated by the Trump

administration's efforts to undercount groups that are not among Trump's political base. This would not only rob these minority groups of political representation, but also their fair share of hundreds of billions of dollars of federal funding for medical social and education programs that are distributed on the basis of census counts. Another way a citizenship question on the census could reduce the representation of young, minority, and urban populations. Would be to open the door to using the citizen population, rather than the total population in drawing state legislative districts. This has not been done in the United States to date and has been struck down in at least one Supreme Court decision. But the availability of citizen tabulations for less dense areas that would result from the 2020 census might tempt states to consider this possibility. Perhaps prompted by the current administration, a December 28, 2018 Federal Register notice request for comment by the Commerce Department indicates its willingness to put the citizenship data on files that they give to states for redistricting purposes. The availability of this file could certainly motivate some states to attempt redistricting. That would reduce the representation of groups which currently tend to vote largely Democratic.

Finally, it is important to recognize that the census by virtue of its attempt to count all of the population. Is the backbone of thousands of government and private sector surveys that guide decision making over the course of the entire next decade. The likely under enumeration of our growing and future oriented populations, racial minorities, youth, and urban communities will only constrain needed investments both private and public in those groups and places. Aside from these very tangible negative effects on representation the addition of the citizenship question to the census would politicize the census as an institution. In the past filling out the census form was thought of as a national civic engagement exercise which allows people to claim they are residents of America. The politicization of this institution would not only lead to a flawed census count but would further inflame divisions that have come to the fore in the past two years. This court

decision is a first step toward restoring the 2020 census to its rightful place in our democracy.

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