



Beyond Arizona

Without Comprehensive Immigration Reform,
Intolerance Will Rise Across Our Country

Gebe Martinez May 2010

Introduction and summary

For years now, the temperature in Arizona has been rising, not from the punishing arid desert heat but from the increasing political intolerance of the state's immigrant population. A new boiling point was reached last month when Gov. Jan Brewer signed a law requiring police to investigate, detain, and arrest people if they sense immigration violations.

The implications of Arizona's S.B.1070 are startling. Racial profiling of suspects will increase and legal residents could face detention if they are stopped by a police officer and do not have in hand valid identification such as their birth certificates or passports. It is the most severe immigration enforcement law enacted by any state since 1994, when California voters approved Proposition 187, a measure that proposed denying education, nonemergency health care, and other public services to undocumented immigrants. A federal court subsequently ruled the proposition was unconstitutional because it trampled on the federal government's exclusive jurisdiction over immigration matters. Similar serious legal questions are being raised over Arizona's attempt to criminalize illegal presence in the state given the federal government's control over immigration law and policy.

Contrary to the title of Support Our Law Enforcement and Safe Neighborhoods Act, S.B.1070, law enforcement groups including the Arizona Association of Chiefs of Police oppose the measure. The reason: It will seriously hinder community policing efforts that rely on residents cooperating with police, not hiding from them.

Arizona's governor and lawmakers do not want undocumented immigrants to hide. They want them out. The law states the intent is "to make attrition through enforcement the public policy of all state and local government agencies in Arizona... and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States."

Angry in tone, the measure was born out of fear and frustration with the federal government's inability to manage its broken immigration system. Citizens across the country, but especially along the southern border, increasingly believe that rising crime rates are due to growing undocumented immigrant populations—even though federal crime statistics at the end of last year showed a drop in violent crime in major cities along the U.S.-Mexico border and undocumented immigrant entries into the United States fell in recent years due to the economic recession and tighter border security.

This frustration was clearly evident in a recent Wall Street Journal/NBC News public opinion poll. Almost two-thirds of all the adults polled supported the provisions contained in SB 1070. The poll underscores the rising frustration across the country over the lack of action in Washington on immigration. Rather expectedly, the population that would most likely be targeted by the new law or feel its effects, Latino adults, oppose it by 70 percent. Before Arizona enacted this immigration control measure, numerous polls showed the public favoring a comprehensive immigration reform solution.

But there also is a strong strain of anti-immigrant nativism driving the campaign for laws such as Arizona S.B.1070. Listen to Arizona State Sen. Russell Pearce, the Republican who sponsored the new state law and whose son, a sheriff's deputy, was seriously injured by a criminal who was an undocumented immigrant. In a 2008 interview with National Public Radio, Sen. Pearce declared:

I will not back off until we solve the problem of this illegal invasion. Invaders, that's what they are. Invaders on the American sovereignty and it can't be tolerated.

Sen. Pearce's impatience is palpable in many communities in our country, enabling restrictionists to play on misplaced public fears in order to enact new state and local ordinances to control undocumented immigration. What is happening in Arizona is an example of the political, economic, and moral upheaval that stems from a lack of leadership in Congress to enact badly needed comprehensive immigration reforms. The public demands that the system be fixed and would support comprehensive immigration reform if it were an option.

Instead of mustering the political will to overhaul the immigration system, Congress has thrown money at the problem in recent years, increasing spending on border protection and immigration enforcement by almost 80 percent from fiscal year 2005 to fiscal year 2010, from \$9.5 billion to \$17.1 billion. Dissatisfied immigration restrictionists in Arizona and other states nonetheless push for the draconian measures contained in S.B.1070—requiring action at the state and local level that is probably unconstitutional, because they appear to conflict with the federal government's immigration authority.

But the restrictionists press on, seeking the legislative equivalent of a tourniquet to stop the flow of immigrants—legal and illegal—into the United States. Generally, these laws fall into seven categories:

- Restricting immigrants' access to public benefits and services
- Requiring employers to verify a person's legal status before becoming eligible for employment
- Outlawing areas where day laborers can gather
- Establishing "English-only" policies
- Mandating that landlords check the legal status of their tenants
- Requiring state and local police to enforce immigration laws
- Restricting immigrants' access to driver's licenses

Now, Arizona's S.B.1070 pushes law enforcers even further by forcing them to determine what an undocumented immigrant looks like in order to enforce immigration law. Not satisfied with the extent of this new law, some conservative politicians in states with lower immigrant populations—Texas being an exception—are fanning the flames with fiery political rhetoric, vowing to follow Arizona's lead. But the broader national political response has rejected the severe tactics.

In Texas, Austin Police Chief Art Acevedo, a Cuban immigrant, says Arizona created “an environment where U.S. citizens and legal residents will be treated as criminals by law enforcement personnel based primarily upon the color of their skin.” And Gov. Rick Perry, a Republican up for re-election this year, says he did not think the Arizona law would take Texas “in the right direction.”

Nationwide reaction to the S.B.1070 is similar, though more pointed. The Major League Baseball Players Association, whose roster include players on 15 teams that conduct spring training in Arizona, stands squarely against the new law, and Major League Baseball Commissioner Bud Selig is facing public pressure to move the 2011 All-Star Game from Phoenix, just one example of the economic boycotts against Arizona being called for by immigrant advocacy groups and even other cities. Indeed, Phoenix's National Basketball Association franchise, the Suns, changed their name on Cinco de Mayo to “Los Suns.” Their playoff opponent, the San Antonio Spurs, attempted to follow suit, but their Spanish-language jerseys were not ready before game time in Phoenix.

Phoenix Mayor Phil Gordon is as worried about the economic consequences of the new law as he is about the ethnic strife it may create. The city's convention center has about \$90 million in future revenues it now fears losing because of S.B. 1070. Already, numerous groups, including the National Association of Black Accountants and the International Communications Association have cancelled their planned meetings in Phoenix.

Faith leaders also condemn the measure, noting “it goes beyond anti-immigrant sentiments.” The Arizona law “stands as evidence that in 21st Century America, we may no longer be in the Desert of Segregation or the Egypt of Slavery but we just discovered there are Giants to be slain in the land of Promise. The Arizona Law is without a doubt, anti-Latino, anti-family, anti-immigrant, anti-Christian and unconstitutional,” stated the National Hispanic Christian Leadership Conference.

This raging political firestorm will not end until constitutionally sound federal solutions are in place. This paper examines the rapid rise in state and local immigration enforcement measures that have been implemented in the absence of the needed overhaul of federal immigration law. We review how immigration restrictionists are pushing new laws detrimental to the safety of our communities and in violation of the U.S. Constitution, using any scare tactic available to rally support for their cause. And we will show how legal challenges to the harshest of these new laws are succeeding in federal courts across the country. Finally, we will present once more the compelling case for comprehensive immigration reform, which would put an end to these restrictionist efforts and restore our nation's legal immigrant heritage.

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