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El Salvador: Country Wary of Arizona-Style Anti-Immigration Laws

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Salvadoran authorities, church leaders, and common citizens are paying close attention to a debate that rages well beyond the country's borders, in places like the US states of Arizona and Florida, where tough "papers, please" anti-immigration laws could increase an already steady tide of detentions and deportations.

Last month, Salvadorans joined a chorus of critics in slamming Arizona’s controversial Senate Bill 1070, a watered-down version of which went into effect July 29. Protestors marked the date with a demonstration in front of the US Embassy in San Salvador. Calling for a total repeal of the "racist law," the activists also demanded an end to deportations. US authorities already detain and deport an estimated 20,000 Salvadorans per year (NotiCen, February 11, 2010).

The new law also drew objections from El Salvador’s church leadership. "We are all against the law," San Salvador Archbishop José Luis Escobar Alas said July 28. "It turns innocent men and women into criminals and this cannot be allowed to happen in a country such as the United States of America, a nation of democracy," he said. "To enforce such a law would put the entire country in a very bad light."

SB1070, approved by the state legislators in April, originally required state and local police to ask for proof of legal-residency status in cases where there was "reasonable suspicion" a person might be an illegal immigrant. Police were instructed to arrest anyone who was unable to provide the proper documentation. Several polls suggest a majority of US citizens approve of the strict enforcement measures, despite vocal opposition to the law by rights groups, many leftist politicians, and US President Barak Obama.

Just before it was set to be enforced, US District Court Judge Susan Bolton struck down the law’s most controversial elements, suspending the requirement that police, when carrying out arrests or stopping people for traffic violations, check immigration documentation. She also overruled SB1070’s stipulation that immigrants carry residency papers at all times (SourceMex, July 21, 2010).

Critics complained the law would open the door to rampant and discriminatory racial profiling by police. Judge Bolton agreed. "There is a substantial likelihood that officers will wrongfully arrest legal resident aliens," she said. "Preserving the status quo is less harmful."

Other elements of the law remain intact, however. It is now illegal, for example, to stop a vehicle in traffic and hire someone, a day laborer, for example, off the street.

Arizona Gov. Jan Brewer, a staunch supporter of the bill, has promised to appeal Bolton’s preliminary injunction. "This fight is far from over," she said. "At the end of what is certain to be a long legal struggle, Arizona will prevail in its right to protect our citizens."
Salvadoran political leaders applauded the partial blockage, yet expressed caution that, unless the US federal government can carry out a long-promised overhaul of immigration policy, discriminatory bills like SB1070 will continue to surface.

"It doesn’t mean that this has ended, but for now [Judge Bolton] has put up an obstacle until this is resolved. This is a very important step for our people," Dep. Jorge Schafik Handal of the governing Frente Farabundo Martí para la Liberación Nacional (FMLN) told the Spanish news agency EFE. Schafik chairs the Asamblea Legislativa’s Comisión de Relaciones Exteriores.

Proposals for an Arizona-style anti-immigration law are now being considered in Florida, the US’ fourth-most-populous state, as well. Florida Attorney General Bill McCollum, a Republican candidate for governor, proposed the law Aug. 11, saying Florida law-enforcement personnel should also check immigration status when carrying out arrests or stopping people for traffic violations. Under the proposal, immigrants would also be required to carry residency papers. Failure to do so would be deemed a misdemeanor punishable with up to 20 days in jail for a first offense.

Like its Arizona predecessor, McCollum’s plan drew a sharp rebuke from El Salvador’s Foreign Affairs Minister Hugo Martínez, who chided the gubernatorial candidate for mixing "electoral calculations" with "an issue as sensitive as the rights of immigrants."

**Taking a united stand**

Salvadorans have good reason to care about US immigration policy given their country’s deep economic and social ties to the northern behemoth. Mexico may have far more citizens in the US—nearly 13 million according to the Pew Hispanic Center—but relative to its population (6.1 million), El Salvador actually has a much larger percentage of its people living stateside. In all, there are an estimated 2.5 million Salvadorans in the US. In Los Angeles, California, alone there are more people from El Salvador (approximately 350,000) than in any Salvadoran city except the capital, San Salvador. It is no wonder that Salvadoran politicians make occasional California campaign stops.

Together those immigrants send back some US$4 billion per year in family remittances, nearly as much as El Salvador nets from all its exports combined. That revenue—from products like coffee, sugar, and shrimp—also comes in large part from the US, which consumes more than half of El Salvador’s total exports. The economic dependence is so complete, in fact, that US dollars circulate within El Salvador as legal currency.

Last month Salvadoran authorities joined representatives from throughout Latin America in calling on nations like the US to respect immigrants’ human rights, regardless of their legal status. Delegates from the 22 member nations of the Conferencia Iberoamericana, a political consultation group representing Spanish- and Portuguese-speaking countries in both Latin America and Europe, made the plea during an immigration summit held July 22-23 in San Salvador. Organized under the banner "United for Immigration," it was the group’s second such immigration forum. The first took place two years ago in Cuenca, Ecuador.

"The concrete position here has been that the rights of migrant workers and their families are fundamental. They should not be discriminated against for their legal status, nor should they be treated as scapegoats for the global [economic] crisis," said Lorena Escudero, minister of Ecuador’s Secretaría Nacional del Migrante.
While the immigration forum’s participants directed their arguments at all countries, they made specific reference to the controversial Arizona law, calling it a "discriminatory policy."

The conclusion echoed statements made the previous month by Jorge Bustamante, the UN’s special rapporteur for immigrant rights, who lambasted the bill as racist. "This leads to racist discrimination because it allows for skin color to be the determining factor for whether or not to suspect someone of being undocumented," Bustamante said.

**Rights violations predate current debate**

But in the US case, immigrant rights—particularly when it comes to people hailing from Mexico, Central America, and elsewhere in Latin America—is a concern that long predates the Arizona bill.

Particularly troublesome are the rising incidences of immigrant detention and deportation, practices that became increasingly common following the formation in 2003 of the US Immigration and Customs Enforcement (ICE). As the agency explains on its Web site, ICE is "part of the federal government’s response to the 9/11 attacks." It is the largest investigative agency within the Department of Homeland Security (DHS) and operates with an annual budget of more than US$4 billion per year—roughly equivalent to El Salvador’s yearly export earnings.

ICE’s heavy-handed approach to immigration pushed the overall number of immigrant deportations from 190,000 in 2000 to nearly 390,000 in 2009. Roughly 90% of last year’s deportees were Mexican or Central American. The numbers for El Salvador have peaked at approximately 20,000 per year. Not only can those deportations literally tear families apart, but—as is the case for El Salvador, where approximately 400 forcibly removed people arrive every week—they also place a huge strain on the impoverished receiving country.

Some of those deportees have criminal records. Many, however, do not. Either way, before getting shipped out of the US, all immigration detainees must endure frightening stays in ICE (or in some cases privately outsourced) detention facilities, where, unlike people charged under criminal law, they are not allowed to post bail or see a government-appointed attorney. Instead, an immigrant detainee must simply wait—days, weeks, in some cases even years—for their case to finally go before an immigration judge.

So far this year, US deportations to El Salvador are consistent with the recent trend. Between Jan. 1 and July 25, the US "repatriated" 11,102 Salvadorans, the Salvadoran government reported. Approximately 2,140 of them came from Arizona. With that state’s new law now in place, those numbers could start to creep up, El Salvador’s Dirección General de Migración y Extranjería predicts.

"We’re prepared to receive our countrymen and women who are sent back," said Rubén Alvarado, the government body’s director general. "As a consequence, we have to offer the best assistance not only to [the deportees] but also to the families that receive them."

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