

7-21-2010

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Recommended Citation

Navarro, Carlos. "Mexico Pleased with U.S. Decision to Challenge Arizona's Immigration Law, but Concerns Remain about Long-Term Policy." (2010). <https://digitalrepository.unm.edu/sourcemex/5420>

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Mexico Pleased with U.S. Decision to Challenge Arizona's Immigration Law, but Concerns Remain about Long-Term Policy

by Carlos Navarro

Category/Department: Trade and Internatio

Published: Wednesday, July 21, 2010

The reaction was generally positive in Mexico to US President Barack Obama's decision to file a legal challenge to Arizona's tough immigration law, due to go into effect on July 29. But there is greater concern that the US might not be able to address the larger issue of immigration reform any time soon, given the polarized political climate ahead of US congressional elections in November 2010. The immigration issue is so important that the six Mexican governors and two US governors from US-Mexico border states would not let their commitment to boycott Arizona prevent them from meeting to discuss the issue. Instead of Phoenix, the governors will meet in Santa Fe, New Mexico, sometime in mid-September.

US says SB1070 violates federal jurisdiction on immigration

On July 6, the US Department of Justice (DOJ) filed a lawsuit challenging Arizona's new immigration law in a federal court. Under Arizona's Senate Bill 1070 (SB1070), approved in April, law enforcement officers are not only permitted but required to ask for identification from any person they suspect of having undocumented status ([SourceMex, April 28, 2010](#)).

The administration's lawsuit contends that Arizona's approval of SB1070 violates federal law, since the US Constitution stipulates that enforcement of immigration laws falls under the jurisdiction of the federal government. A big concern for the administration is that SB1070 would set a precedent that other states and entities could follow.

"I agree with the argument that the federal government's authority under the preemption clause will prevail over the Arizona state law," Robert Pugsley, professor of law at Southwestern Law School in Los Angeles, told The Christian Science Monitor. "Otherwise we could have 50 states writing immigration laws and it would result in the chaos that the preemption clause was specifically created to prevent."

"This is an important step that is likely to succeed," Tonatiuh Guillén, president of the Colegio de la Frontera Norte (COLEF), told the Mexico City daily newspaper El Universal. "The legal route is the only way to prevent the enactment of this law, which is clearly xenophobic, racist, and counter to the constitutional principles of [the US]."

But others say the case is not quite as cut and dried. "There is good basis to believe the DOJ lawsuit may fail," said Hector Chichoni, a partner at the national law firm Epstein Becker Green, also in an interview with The Christian Science Monitor. "The Arizona law does not necessarily preempt the federal government; rather [it] sets the state and local government as enforcers of what is already available, and on certain cases, mandatory under immigration law."

Proponents of SB1070 argue that the law contains language that prohibits application solely based on a suspect's color, race, or national origin, and the measure is, therefore, not discriminatory. A suspect, they say, would have had to have violated some law to merit a detention.

Others counter this argument by saying that even the smallest violations, such as littering, running a stop sign, or violating a city's noise ordinance, could make someone subject to interrogation. "It is obvious that the law, as written, focuses on a particular ethnic group," said Ediberto Román, a law professor at Florida International University (FIU) in Miami.

Obama's commitment to immigration reform questioned

The Mexican government was clearly pleased by the Obama administration's decision to file the lawsuit. "Mexico expresses its approval of the United States government decision to try and prevent the SB1070 law from taking effect," the Calderon government said in a statement.

The Mexican government also took the opportunity to reiterate its "firm commitment to watch over the protection and the rights of Mexicans overseas."

But some political observers in Mexico wonder whether the Obama administration is truly committed to taking the next step toward comprehensive immigration reform, even though the US president recently asked Congress to begin working on an immigration initiative. Some went as far as to suggest that the lawsuit represents some political maneuvering by the administration to obtain the Latino vote for Democrats ahead of the November congressional elections.

"Immigration is not one of [Obama's] priorities next to the economic recession or the elections," said Pedro Isnardo, a political analyst at the Universidad Nacional Autónoma de México (UNAM).

Some critics even questioned the US president's resolve to oppose SB1070. "Even though the law had already been approved, Obama refused to address this issue or talked about it in general terms," columnist Yuriria Sierra wrote in the Mexico City daily newspaper *Excélsior*.

Sierra suggested that Obama has not offered a clear strategy on immigration. "For example, in a recent speech at American University, he conditioned immigration reform on the 'need to first seal our southern border,'" said the columnist.

Still, some observers see a connection between the opposition to the Arizona law and the ongoing fight against drug traffickers. "It's easy to understand the legitimate concerns of people in Arizona about border security, but the measure actually makes the border far less secure," said Andrew Selee, director of the Mexico Institute at the Woodrow Wilson Center in Washington.

Malcolm Beith, a freelance journalist and author of the book "The Last Narco," said SB1070 will "create fear, distrust of authorities in the minds of legal foreign nationals and good citizens with illegal status in Arizona who might be very useful in helping to stop the traffic of illegal drugs through their contacts in foreigner networks."

Immigration a polarizing issue in US

One of the major concerns is that the law further polarizes the US ahead of the 2010 elections, ultimately hurting the effort to pass a comprehensive immigration-reform law. "Without doubt [the

law and Obama's challenge] will polarize the entire country, exposing the radical positions that exist, not only regarding the case in Arizona but the immigration question at the national level," said COLEF's Guillén.

Guillén's concerns are supported by recent public-opinion surveys. A Washington Post-ABC News poll showed that more than half (58%) of respondents said they support SB1070. But respondents were divided along racial lines, with 68% of whites supporting the measure and only 31% of nonwhites saying they favor SB1070.

The divergent opinions are also evident in the political arena. Legislatures in some states such as Oklahoma are considering enacting a law similar to SB1070. And there have also been some actions targeted at undocumented immigrants at the municipal level. The city council in the small community of Fremont in southeastern Nebraska recently approved a measure to ban landlords from renting property to undocumented workers. Would-be renters would have to apply for a license from the city before they could legally sign a rental contract.

Conversely, there has been strong opposition to SB1070 from cities around the country. Some municipalities such as Baltimore, Seattle, San Francisco, and St. Paul, Minnesota, have prohibited employees from using municipal funds to travel to Arizona.

In Mexico, a joint committee (Comisión Permanente) of members of the Chamber of Deputies and Senate, comprising members from all parties represented in the two chambers, has passed a resolution asking the Secretaria de Relaciones Exteriores (SRE) to increase the budget for Mexican consulates in Arizona to allow them to better represent and defend the interests of Mexican nationals residing in that state. Mexico has consulates in Phoenix, Tucson, Nogales, Douglas, and Yuma.

Border Governors Conference moved to New Mexico

The SB1070 controversy has also had repercussions for the 28th Border Governors Conference, originally scheduled for Phoenix on Sept. 8-10. On July 8, Arizona Gov. Jan Brewer, in her capacity as conference chair, canceled the event because of the decision of the governors of the six Mexican states to boycott the event if it was held in Arizona.

"I find no appropriate alternative to cancellation, since each of you has stated in your correspondence that you will not come due to legislation recently passed in Arizona," Brewer wrote to the governors of Baja California, Chihuahua, Coahuila, Nuevo León, Sonora, and Tamaulipas. "Naturally I am disappointed by your decision, as I sincerely believe the gathering of the Governors in Arizona would have presented a great platform to initiate dialogue about the legislation and other topics of great importance to the border region."

The cancellation prompted strong words from New Mexico Gov. Bill Richardson, who offered to host the event in Santa Fe in September. The actual dates for the replacement conference had not been announced as of July 21.

"Governor Brewer doesn't have the authority to cancel the Border Governors Conference," said Gilbert Gallegos, a spokesman for the New Mexico governor. "She may not want to host it for political reasons, but that's not a reason to sidestep the tough issues that border governors must address, including migration and border violence."

The two other US border governors had divergent opinions. California Gov. Arnold Schwarzenegger said he plans to attend the conference in Santa Fe, but Texas Gov. Rick Perry said he would not attend if the event were moved from Arizona.

Schwarzenegger spokesperson Francisco Castillo said the California governor believes that the conference provides an opportunity for dialogue on immigration and other important issues. "This is a conference where 10 border governors are able to work together on mutual concerns," Castillo said.

Perry had a different take on the issue. "I talked to Jan [Brewer] early on, and I said, 'Listen, we're not going to be coming to the meeting. Regardless of what anybody else is saying...we're going to support you,'" the Texas governor said in a television interview.

Perry emphasized that it was Arizona's turn to host the event and that it should not be held anywhere else. "If other governors decide they don't want to come in some type of protest, frankly, that's their business and it's their loss," Perry said. "That's my call on it. I won't be there."

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