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Arizona's Controversial SB1070 Remains at Center of Immigration Debate

by Carlos Navarro

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On the first anniversary of the approval of Arizona's controversial Senate Bill 1070 (SB1070), opponents and detractors remain entrenched in their positions regarding the initiative. Gov. Jan Brewer signed the measure into law on April 23, 2010, which among other things required local law-enforcement officials to determine the status of people if there was "reasonable suspicion" that they were undocumented immigrants and to arrest people who were unable to provide documentation proving they were in the country legally ([SourceMex, April 28, 2010](#)).

In July 2010, US President Barack Obama's administration filed an appeal against SB1070, arguing that the measure violates federal law, since the US Constitution stipulates that enforcement of immigration laws falls under the jurisdiction of the federal government ([SourceMex, July 21, 2010](#)). Just days before the law was to go into effect, US District Court Judge Susan Bolton sided with the Obama administration and blocked some of the most controversial elements of the legislation. She argued that immigration matters are the federal government's responsibility.

Gov. Brewer appealed the decision, arguing that the Obama administration had neglected its responsibility and that Judge Bolton had abused her discretion in blocking parts of the law. In April 2011, the US Ninth Circuit Court of Appeals, based in San Francisco, ruled against Brewer. "We hold that the district court did not abuse its discretion" by enjoining two key sections of the law," said the court. "Therefore, we affirm the district court's preliminary injunction order enjoining these certain provisions."

Brewer's office did not have an immediate comment on the US circuit court's decision, but the US Department of Justice (DOJ) celebrated the ruling. "We are pleased with the court's decision," said a spokesperson.

The Mexican government also issued a statement through the Secretaría de Relaciones Exteriores (SRE) endorsing the recent ruling. The statement pointed out that Mexico was able to present a "friend of the court" brief supporting Judge Bolton's suspension of SB1070. As part of the effort, Mexico enlisted the support of several Latin American countries to sign the motion. They included Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Nicaragua, Paraguay, and Peru.

"México will continue taking all necessary steps and avail itself of all instruments at its disposal to offer a firm and immediate response to any violation of the fundamental rights of Mexican citizens, no matter where they are residing and independent of their immigration status," said the SRE.

Human rights advocates were also pleased by the court's decision. "This sends a very clear message to Arizona and other states that would like to follow this example, [SB1070] is unconstitutional," said Omar Jadwat, an attorney at the American Civil Liberties Union (ACLU).

Supporters, opponents entrenched in their positions

While Judge Bolton threw out several controversial provisions of SB1070, she allowed some measures to be enacted, including a provision by which Arizona residents can sue any state office or agency for failing to fully enforce immigration laws. The judge also left intact provisions creating a new state crime of human smuggling, allowing law-enforcement authorities to stop a motor vehicle that picks up day laborers, and prosecution of anyone who knowingly employs illegal foreign residents.

The one-year anniversary of Gov. Brewer's decision to sign SB1070 provided an opportunity for supporters and opponents to reiterate their views. The two sides appear fairly entrenched.

Phoenix-based daily provided a platform for the two sides to air their views. In an editorial, the newspaper condemned SB1070 as a "big, expensive con" that "brought the state boycotts, lost business, a sullied reputation, another court battle and a betrayal of Arizona's heritage."

"The national spotlight made Arizona look like a place where extremism is the norm," said the editorial. "International media lapped up each outrageous statement from SB1070 supporters. Comedians ripped a hole in the state's dignity bigger than the Grand Canyon."

The editorial acknowledged that the law appeared to have strong support among state residents, partly because politicians who supported the measure were very convincing in their arguments. Additionally, there was evident frustration among state residents at the federal government's inability to enact comprehensive immigration-reform legislation. "Some saw SB1070 as a wake-up call to Washington. A year later, Congress is still sleeping," said the editorial.

In a guest commentary in the newspaper, Gov. Brewer offered the opposite viewpoint but agreed with the newspaper that federal inaction provided the impetus for the legislation. "In some ways, this legislation helped change the way we talk about illegal immigration. SB1070 became the symbol of a movement, helping to unify the silent majority of Arizonans and Americans who believe in the rule of law," said Brewer.

"SB1070 stands for the principle that, if the federal government won't secure the border, Arizona will step in to complement federal efforts in a constitutional manner and protect the security of our citizens," she added.

Brewer pledged that Arizona would continue to defend SB1070 against President Obama's "ill-advised lawsuit" in the courts. "I am prepared to take this case and our counterclaim all the way to the US Supreme Court, as may be necessary," said the Arizona governor.

Brewer also offered a set of recommendations to the federal government, asking that the Arizona National Guard be allowed to continue operations along the border with Mexico rather than conclude its mandate this summer. "In the months since the mission started in October, the Arizona National Guard has been involved in approximately 19,000 observations, 10,000 apprehension assists and 235 drug-seizure assists involving more than 18 tons of marijuana," said Brewer.

The governor also urged federal authorities to complete the border fence, especially the Tucson sector. She said the federal government's move to erect barriers in the San Diego and El Paso districts forced many would-be migrants to attempt to cross through less-protected Arizona.

As of May of 2009, about 670 miles (1,078 km) of the barrier had been completed or were under construction before President Barack Obama took the symbolic step of eliminating funding for further expansion of the barrier in the 2010 budget ([SourceMex, May 13, 2009](#)).

Republican state Sen. Russell Pearce, chief sponsor of SB1070, also vowed to continue to fight the federal government's efforts against the Arizona initiative. "We're not going to retreat. We will do what we have to do and I personally will do what I have to do until this invasion is stopped," said the senator.

Pearce proclaimed SB1070 a success even though the state is not allowed to enforce its main provisions. He boasted that the legislation is responsible for forcing an estimated 100,000 to 200,000 undocumented immigrants to leave the state. This, he said, resulted in a sharp decrease in violent crime in Arizona, a reduction in the number of inmates in state prisons, and a decline in overcrowding in some schools, especially those in primarily Latino neighborhoods.

But some critics suggested that Pearce is not presenting the full picture. For example, Democratic state Sen. Kyrsten Sinema pointed out that the state might have been losing legal immigrants and citizens along with the undocumented immigrants, especially since the makeup of many immigrant families is mixed. "So some of the people in the family are citizens, some of the people in the family are not citizens. But if one person is not, then the whole family may move. And then we lose that revenue, and we lose those future workers," Sinema told.

Similar measures introduced in other states

Another byproduct of the federal decision to oppose SB1070 might have been to deter other states from enacting similar legislation. Shortly after Arizona approved the legislation in 2010, similar bills were introduced in 22 other states: Alabama, Arkansas, Colorado, Florida, Idaho, Indiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Utah.

The legislatures in 11 states rejected the effort, partly because of the legal costs of defending legislation that has been deemed unconstitutional. Although some decisions are still pending in Tennessee, Florida, South Carolina, and Alabama, immigrant-rights organizations on balance are pleased. "The copy-cat wave seems to have fallen," said Janet Murguía, president of the National Council of La Raza (NCLR).

At present, only Georgia is close to approving a measure similar to Arizona's SB1070. The Georgia initiative (HB87) only needs the signature of Gov. Nathan Deal.

Utah recently approved HB116, an initiative that requires undocumented immigrants in the state to register in order to be allowed to work. Ultraconservative legislators like Rep. Lamar Smith (R-TX), have criticized the federal government for not cracking down on Utah's HB116 with the same vigor that it did with Arizona's SB1070. Utah officials are quick to point out that their legislation would not go into effect for two years, allowing state officials to work with the federal government to ensure that the measure complies with federal law.

"The law recognizes the reality that Utah needs immigrant workers," the Ogden-based newspaper said in an editorial. "It makes sure that those [undocumented immigrants] who work here and who are otherwise law-abiding residents will be able to do their jobs without harassment and contribute to the state economy."

Extent of economic impact also debated

Some immigrant-rights groups said the loss of workers could be hurting Arizona in the long run because the state could be losing tax revenues. "Many of the undocumented workers do pay taxes on their earnings. And even those who don't, pay other taxes, such as sales taxes or social security," said Maribel Hastings, an analyst for the immigrant-rights organization America's Voice. "They are also consumers, and many businesses depend on them."

At the broader level, the passage of SB1070 unleashed an economic boycott of Arizona. Dozens of cities and counties and a number of school districts announced business boycotts in the months after Gov. Brewer signed SB1070 into law. "That translated into the immediate loss of millions of dollars to Arizona's tourism industry. Groups such as Alpha Phi Alpha, the National Minority Supplier Development Council, and the National Council of Teachers of English pulled bookings from the Phoenix Convention Center and other large-scale resorts and hotels," said .

But a study conducted by the accounting firm Elliott D. Pollack & Co., based in the Phoenix suburb of Scottsdale, suggests that the impact of the boycotts was probably not as large as originally thought. The study, commissioned by the Center for American Progress, determined that the economic boycott cost the state more than US\$140 million in lost business from meetings and conventions. The firm said the loss, while negative, was small when placed in the context of Arizona's overall GDP, which the US Bureau of Economic Analysis (BEA) put at US\$231 billion in 2009.

"Is [SB1070] a huge impact? No," said Elliott Pollack. "Is it an impact? Yes. And it's an impact when the rest of the economy is also bad. Does it make a bad situation worse? Yes."

Pollack also pointed out that it was difficult to quantify the economic damage to the state other than to measure its impact on tourism.

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