

Comparing and Contrasting the Rationales for SB 1070 and HB 56: A Short Analysis

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“THE POLITICS OF EXPULSION: A Short History of Alabama’s Anti-Immigrant Law, HB 56,” by the late Raymond A. Mohl, is a persuasive essay and analysis of the events that led up to the passage of HB 56. Professor Mohl correctly asserts that SB 1070 paved the way for the passage of HB 56. There are various similar factors that led to the passage of Arizona’s SB 1070 and to Alabama’s HB 56 that merit a short review.

The SB 1070 bill was not the first significant immigration-related law passed in Arizona. There were various anti-immigrant policies implemented in the state over the course of the decade leading up to the passage of SB 1070.¹ The stated rationale and enthusiasm for many of these policies, simply put, is that, if legislation can make life in Arizona difficult, if not unbearable, for unauthorized immigrants, most of whom are of Latino origin, then they will eventually leave the state or be discouraged from ever entering.² Many Arizonians supported the law enforcement crackdown on unauthorized immigrants, claiming the immigrants’ presence in the state posed inherent threats to the other residents. However, as in connection with HB 56, there was little if any evidence to validate those fears.

In 1997, the city of Chandler, Arizona, implemented Operation Restoration. Presumably, the idea was to restore the community to a time before immigrants moved in. Chandler police officers launched a dragnet to detain people who they believed appeared to be immigrants, demanding that they prove their citizenship. If those people failed to provide purportedly proper documentation, or if local authorities simply believed the documentation provided was not valid, the suspected immigrants were threatened with deportation. More than four hundred people were detained as part of Operation Restoration,³ including many Latinos who were U.S. citizens. The city of Chandler was sued and ultimately required to pay fines as part of court settlements.

After 9/11, Republicans in Arizona and elsewhere seized the opportunity to highlight the potential dangers of unauthorized cross-border immigration. Making matters worse, fear and concern over terrorism and immigration

were exacerbated when it turned out that several of the 9/11 terrorists had briefly lived in the Phoenix area.

In 2002, the anti-immigrant vigilante groups gained popularity, most notably the groups Civil Homeland Defense and the Minuteman Project. Volunteers from across the country came to Arizona to help patrol the border, using everything from binoculars to high-tech surveillance equipment in a desire to seal the border.⁴

In 2004, a group called Protect Arizona Now (PAN) collected enough signatures to place Proposition 200, the “Arizona Taxpayer and Citizen Protection Act,” on the fall ballot. Proposition 200 passed and required (1) proof of U.S. citizenship when registering to vote, (2) the presentation of identification at polling places, (3) proof of legal immigration status when applying for state public welfare benefits, and (4) notification to immigration officials when suspected unauthorized immigrants applied for benefits. Protect Arizona Now received substantial financial support from some of the vigilante border patrol groups and national anti-immigrant organizations, such as Federation for American Immigration Reform (FAIR) and Americans for Better Immigration—the same groups that backed HB 56.⁵

In 2006, more voter-approved initiatives were passed, further illustrating the growing anti-immigrant, especially anti-Latino immigrant, sentiment in Arizona. Voters that year overwhelmingly passed an “English-only” proposition requiring that all governmental materials be provided in English only. Citizens also approved Proposition 100, which denies bail for immigrants unlawfully residing in the country. Proposition 102 prohibits an unauthorized immigrant from bringing a lawsuit in court or winning damages. For instance, if an immigrant is hurt at a worksite because of employer negligence, he or she cannot claim damages. One of the most draconian policies is Proposition 300, passed that year, which makes anyone without legal authorization ineligible for in-state college tuition, government grants or scholarships, and financial aid.⁶ In 2006, buckling to public pressure to do something to address immigration, then Governor Napolitano also signed HB 2592 into law, prohibiting cities in Arizona from funding day labor sites.

In 2007, Governor Janet Napolitano signed HB 2779, a newly revised employers’ sanctions law that took effect in January 2008. Essentially, the law requires employers to verify that their employees are in the country legally. If an employer knowingly hires an unauthorized worker, he or she is subject to a ten-day suspension of a business license. In 2011, the Supreme Court upheld the law.

While restrictive anti-immigration policies continued to be enacted at the federal and state levels, the Maricopa County Sherrieff Office (MCSO) was generating its own immigration policies. There are about 6.5 million people living in the state of Arizona. Maricopa County is home to about 4 million people and includes the city of Phoenix, which is now more than 40 percent Latino. The Maricopa County Sherrieff Office is the third largest countywide police department in the nation. The head of the MCSO, Joe Arpaio, calls himself the “Toughest Sheriff in America.” Arpaio is a hero to some Arizonians and a villain to others. He has had a long and controversial history as sheriff, particularly when it comes to immigration and the treatment of Latinos.

In 1996, there was a policy formulated entitled 287(g). It provides police officers special training so that they can pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sex-related offenses, narcotics smuggling, and money laundering. If trained under 287(g), officers could question serious offenders about their immigration status. Under Arpaio, the MCSO implemented highly controversial and contentious programs under the veil of 287(g). The MCSO has the most deputies trained through 287(g), approximately 170, in the country. Calling Arpaio’s actions “crime suppression sweeps,” the MSCO set up “stop-and-detention” checkpoints in predominantly Latino communities. Many Latinos had been detained for minor traffic violations, such as rolling through a stop sign or driving with a broken taillight. These violations allowed the MCSO to stop Latinos, question them regarding their status, and then detain them for an indeterminate amount of time. These activities occurred despite the fact that the provisions of 287(g) stipulate that individuals cannot be targeted for minor offenses.⁷

While anti-immigration fervor continued to grow in Arizona, another key political actor took the stage. Russell Pearce started his career working as an MSCO deputy for twenty-three years, under the supervision of Sheriff Joe Arpaio. In 1995, he became the Director of the Arizona Motor Vehicle Division. As director, he implemented a program that required a social security number when applying for an Arizona driver’s license, meaning one cannot get a driver’s license if one is in the country unlawfully. In 2000, Pearce was elected to the Arizona House. In 2004, Pearce was a vocal supporter of Proposition 200, the policy that discourages unauthorized immigrants from voting or using welfare, even though they were permitted to do so. In 2006, Pearce was elected to the State Senate. Pearce has publicly made numerous anti-immigrant comments. He generated controversy for stating

on an NPR radio show that Arizona needed to bring back another Operation Wetback program. He also sent out some e-mails that were linked to white supremacists, but maintained that he did not read the content of the e-mails. In 2008, Pearce introduced legislation that would ban education programs that did not support American values. And, in 2010, he proposed legislation that would deny birthright citizenship to children whose parents are unauthorized immigrants.⁸

Around 2009, the MSCO was sanctioned for inappropriately carrying out 287(g). Federal funding was taken away from the MSCO. It is around this point that Pearce expressed on numerous occasions that the federal government was restricting the efforts of police in Arizona to track down unauthorized immigrants. In 2010, State Senator Pearce introduced the Support Our Law Enforcement and Safe Neighborhoods Act later to be known as SB 1070.

The organization that helped fund Proposition 200 in 2004, FAIR, was again involved in the backing of the proposal. Like the 2011 HB 56 in Alabama, the 2010 SB 1070 bill was authored/engineered by Kris Kobach. Under the state's trespassing statute, immigrants can be criminalized for their mere presence in Arizona. Additionally, the proposal would bar cities from enacting policies that prevented them from enforcing federal immigration laws. The SB 1070 bill also made it a crime to stop a vehicle on the road to hire a day laborer if it impedes traffic. Arizonians were no longer able to transport, harbor, conceal, or shield an unauthorized immigrant. Finally, the legislation would strengthen the state's employer sanctions laws, giving prosecutors more latitude in investigations.

The measure passed along party lines. All Democrats opposed the measure; all Republicans supported it. On April 28, 2010, Governor Jan Brewer signed SB1070, setting off national and international controversy. In June 2012, the U.S. Supreme Court overturned most parts of the bill, except for the provision that requires police officers to make a reasonable attempt when determining the immigration status of a person stopped, detained, or arrested. The Supreme Court also maintained that there must be reasonable suspicion that the person is in the country illegally. Most important, the Court stated that it would reconsider its decision if civil rights violations took place.⁹

Unauthorized Mexican immigration decreased not because of tough immigration laws, such as SB 1070, or more border enforcement. Clearly, the economy, either robust or ailing, is the greatest influence on immigration. Some have extolled the virtues of creating anti-immigration laws; others

have chosen to boycott the state of Arizona. As a backlash to SB 1070, there were several significant economic hits to the state. Arizona lost 141 million dollars in convention cancellations after SB 1070. The tourism industry lost an estimated 253 million in economic output, 9.4 million in tax revenues, and 2,761 in jobs.¹⁰

The events of SB 1070 and HB 56 have numerous similarities. There are comparable anti-immigrant sentiments in Arizona and Alabama that blame immigrants for economic woes and problems. There are several of the same organizations and key players who worked to formulate and promulgate the policies. Interestingly, there is even a similar kind of political and economic fallout that has occurred because of the loss of immigrants. Like Alabama's, Arizona's state economy was hurt when immigrants left the state, reducing taxes and resources. The factors and events that result in anti-immigrant legislation at the state level are thoughtfully examined in Mohl's essay "The Politics of Expulsion: A Short History of Alabama's Anti-Immigrant Law, HB 56."

NOTES

1. Lisa Magaña and James Garcia, *From A to Z, How Arizona Transformed Latino Politics* (Austin: University of Texas Press, forthcoming).

2. Lisa Magaña and Erik Lee, eds., *Latino Politics and Arizona's Immigration Law SB 1070* (New York: Springer Press, 2013); Luis F. B. Plascencia, "Attrition through Enforcement and the Elimination of a 'Dangerous Class,'" in *Latino Politics*, ed. Magaña and Lee, 93–127.

3. Lisa Magaña, "SB 1070 and Negative Social Constructions of Latino Immigrants in Arizona," *Aztlán* 38, no. 2 (Fall 2013): 151–62.

4. Ibid.

5. Manuel Avalos, Lisa Magaña, Adrian Pantoja, "The Latino Vote in Arizona," in *Beyond the Barrio: Latinos in the 2004 Elections*, ed. Rodolfo O. de la Garza, Louis DeSipio, and David L. Leal (Notre Dame, IN: University of Notre Dame Press, 2010), 13.

6. Magaña and Garcia, *From A to Z*.

7. Lisa Magaña, "Fear of Calling the Police: Regulation and Resistance," in *Social Welfare Policy: Regulation and Resistance among People of Color*, ed. Jerome H. Schiele (Thousand Oaks, CA: Sage Publications, 2011), 255–69.

8. Magaña and Garcia, *From A to Z*.

9. Lisa Magaña, "Arizona's Immigration Policies and SB1070," in *Latino Politics*, ed. Magaña and Lee (New York: Springer Press, 2013), 19–26.

10. David Hudson, "The Top 5 Reasons Why S.B. 1070—and Laws Like It—Cause Economic Harm," Center for American Progress, June 25, 2012, <https://www.americanprogress.org/issues/immigration/news/2012/06/25/11677/the-top-5-reasons-why-s-b-1070-and-laws-like-it-cause-economic-harm/>.

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