

## *Immigration's moral crossroads*

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### **Body**

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Arizona's [new immigration law](#) is understandable -- and dreadful.

Few Americans would happily tolerate living near a porous border with a failed state, or, in this case, a Mexican state that has failed in certain lawless regions. Portions of the border have descended into an arid state of nature -- a vacuum of authority filled by drug gangs, human traffickers, roving vigilantes and desperate migrants who sometimes die in the desert or in drainage ditches. It is offensive to find such chaos under the American flag.

This is an argument for effective border enforcement. It is also an argument for a guest-worker program that permits an orderly, regulated flow of temporary, migrant laborers, allowing border authorities to focus on more urgent crimes than those resulting from the desire to provide for one's family.

But chaos at the border is not an argument for states to take control of American [immigration](#) policy -- an authority that Arizona has seized in order to abuse.

American states have broad powers. But they are not permitted their own foreign or [immigration](#) policy. One reason is that [immigration](#) law concerns not only the treatment of illegal immigrants but also the proper treatment of American citizens. And here the Arizona law fails badly.

Under the law, [police must make a "reasonable attempt" to verify the immigration status](#) of people they encounter when there is a "reasonable suspicion" they might be illegal. Those whose citizenship can't be verified can be arrested. But how is such reasonable suspicion aroused? The law forbids the use of race or ethnicity as the "sole" basis for questioning. So what are the other telltale indicators?

Gov. Jan Brewer, who signed the law, looked flustered when asked during a news conference the obvious question of how illegal immigrants might be identified. ["I do not know what an illegal immigrant looks like," Brewer replied.](#) "I can tell you that I think that there are people in Arizona that assume they know what an illegal immigrant looks like. I don't know if they know that for a fact or not." Yet Brewer has ordered Arizona police to be trained in the warning signs of illegality -- signs that she cannot describe. There is a reason no Arizona official has publicly detailed these standards -- because the descriptions would sound like racial stereotyping. And probably would be.

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This law creates a suspect class, based in part on ethnicity, considered guilty until they prove themselves innocent. It makes it harder for illegal immigrants to live without scrutiny -- but it also makes it harder for some American citizens to live without suspicion and humiliation. Americans are not accustomed to the command "Your papers, please," however politely delivered. The distinctly American response to such a request would be "Go to hell," and then "See you in court."

The government of Arizona, it turns out, has been ambushed by its own legislature. If this vague law is applied vigorously, the state will be regularly sued by citizens who are wrongfully stopped. But if the law is not applied vigorously enough, it contains a provision allowing citizens to sue any agency or official who "limits or restricts the enforcement of federal immigration laws." Either way, lawyers rejoice.

The Arizona law -- like others before it -- does have one virtue. It sorts Republicans according to their political and moral seriousness. By the mid-1990s, California had experienced an exponential growth in illegal immigration that strained public services. Gov. Pete Wilson responded by supporting Proposition 187, which denied schooling and non-emergency medical care to undocumented children and adults. Doctors and teachers were required to report anyone they suspected of being illegal immigrants.

The resulting debate revealed a gap in judgment. Wilson rode ethnically based resentment to reelection -- while alienating Latinos in large numbers, driving the state Republican Party into irrelevance and earning the general contempt of history. Republican leaders such as Jack Kemp and then-Gov. George W. Bush of Texas (I have worked for both men) fought the political current, opposed Proposition 187-like restrictions and gained in stature over time.

A similar test can be applied concerning the Arizona law. For the record, former governor Mike Huckabee of Arkansas says: "There is no such thing" as being "American-looking." Florida Republican Senate candidate [Marco Rubio says the law could "unreasonably single out people who are here legally."](#) California Republican gubernatorial candidate [Meg Whitman has come out against the Arizona law.](#) Republicans wishing to gain some everlasting credit should join them.

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