

RED LIGHT ON HARSH STATE LAWS

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Body

The nation's immigrant communities can breathe a bit easier. In striking down three of four disputed provisions of Arizona's harsh anti-immigrant law, the U.S. Supreme Court Monday warned states that almost any effort to wade into immigration issues or target people with a different skin color or limited English would not be tolerated. The ruling is largely a win for the Obama administration, affirming its assertions that immigration matters are uniquely the province of the federal government. The court upheld a key provision that directs law enforcement to verify the immigration status of anyone lawfully stopped or arrested who is suspected of being here illegally, but it suggested reasonable parameters for that section's enforcement and opened the door to future legal challenges.

Arizona passed its controversial anti-immigrant law known as SB 1070 in 2010, claiming federal intransigence forced it to take immigration enforcement into its own hands. President Barack Obama has deported a record number of illegal immigrants, and the flow of foreign nationals across America's southern border has been reduced, partly because of the weak U.S. economy. Even so, five other states followed Arizona's lead and passed similar harsh laws. During its 2011 session, the Florida Legislature failed to pass proposed immigration enforcement bills, but some lawmakers were poised to try again if given a green light by the Supreme Court. Now that light has turned red.

Of the three provisions set aside by the court as "pre-empted" by federal law, one would have made it a state crime for illegal immigrants to seek work or hold a job, and another would have required all immigrants to always carry proof of legal status. The high court also struck down a provision that authorized police to arrest without a warrant anyone they believe committed a deportable crime. The 5-3 ruling authored by the court's single moderate, Justice Anthony Kennedy, drew a clear line of federal authority, proclaiming that the federal government alone is responsible for a "comprehensive and unified" system of dealing with foreign nationals. "Foreign countries concerned about the status, safety, and security of their nationals in the United States," Kennedy wrote, "must be able to confer and communicate on this subject with one national sovereign, not the 50 separate states."

The court at least tempered the so-called "show me your papers" provision, an offensively broad requirement that directs police to verify the legal status of suspected illegal aliens who are lawfully stopped, detained or arrested. Kennedy wrote that inquiry must be made while a person is detained for other legitimate reasons, such as after a criminal arrest. He also noted that the law can be further challenged after it's implemented, and it's a safe bet that racial profiling and other considerations not before the Supreme Court will be litigated.

Encouragingly, the court didn't entirely divide along traditional ideological lines. Chief Justice John Roberts, who typically sides with the court's conservative wing, joined liberal Justices Ruth Bader Ginsburg, Stephen Breyer and

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Sonia Sotomayor to make up the five-justice majority. The three dissenters were the court's most conservative members, Justices Antonin Scalia, Clarence Thomas and Samuel Alito. Justice Elena Kagan did not participate in Arizona vs. United States, probably because she had worked on the case as Obama's solicitor general. While all four key provisions should have been overturned, this is a reasonable opinion that provides a pragmatic path for the future and makes clear that the responsibility for immigration rests with the federal government, not the states.

Washington should take the hint. After the election, the next president and the next Congress should break the partisan gridlock and pass comprehensive immigration reform.

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