

The Cascading Effects of Arizona's SB 1070 An Overview

Erik Lee*

Henry Romero/REUTERS



Although at the time of this writing, U.S. District Judge Susan Bolton in Phoenix has halted the implementation of several parts of Arizona Senate Bill 1070 in advance of a more thorough hearing on the measure, the bill itself necessitates a broader rethinking of how the United States and Mexico interact on a very important yet poorly addressed policy issue: migration. For this reason, on June 16, 2010, the North American Center for Transborder Studies (NACTS) at Arizona State University and the Center for Research on North America (CISAN) at Mexico's National Autonomous University convened a number of researchers to discuss SB 1070 in detail. What emerged was a portrait of complexity at a particularly difficult juncture in the U.S.-Mexico binational relationship as well as the sense of having witnessed a historical milestone with many "cascading" effects and consequences yet to come.

The presentations and articles for the most part focused on recent developments in local and state anti-immigration measures, but in his article, "The Immigration Debate about Mexicans," Jaime Aguila¹ gives some even broader historical context to SB 1070. He focuses on the complex decade of the 1930s, which saw economic catastrophe, repatriation of Mexicans, and Mexican government attempts to reintegrate re-

* Associate Director, North American Center for Transborder Studies, Arizona State University.

The enormous increase in Arizona's Mexican population in the 1990s was largely driven by U.S. border policy to close down San Diego and El Paso, thus enhancing the relative importance of Arizona as a migration corridor.

turning migrants into Mexican society. The short-term vision and subsequent failure of the two countries' migration-related initiatives was evident for both nations. Aguila highlights Mexico's "unresponsive bureaucracy" and "corrupt local officials," "U.S. employer's perpetual demand for labor," and "lax U.S. enforcement of the border" as evidence for the chronic weakness of both U.S. and Mexican public policy attempts to deal with Mexican migration to the United States and return migration to Mexico.

Mónica Vereá² comprehensively addresses the story of SB 1070 in "Obama and the Anti-Mexican SB 1070." Vereá points out the electoral context of the law—it was introduced in a ferocious environment of primary elections in Arizona. In addition, she emphasizes the enormous increase in the Mexican population in Arizona that came about in the 1990s. This increase, as Vereá points out, was driven in large part by U.S. border policy of the 1990s, which largely closed down San Diego and El Paso (through the implementation of Operations Gatekeeper and Hold-the-Line, respectively) and enhanced the relative importance of Arizona as a migration corridor. Vereá goes on to analyze the ways in which immigration plays into a complex environment of party politics in the United States.

In "Human Rights and the Fetishization of SB 1070," Ariadna Estévez López³ points out the conflict between universal human rights and the legal direction taken by SB 1070 and similar measures. Estévez López focuses on the "fetishization," of SB 1070, or an overly rigid focus on the formal legal issues of SB 1070 rather than the more fundamental issue of migrants and their human rights in the United States. She puts SB 1070 into a broader context when she points out that "the states that approved the most restrictive reforms are the ones that are new destinations for migrants: South Carolina, Nevada, Arizona, and Oklahoma." By contrast, states with a longer and more established tradition of migration from Mexico, such as California, New York, Illinois, and Texas, tend to see more legislation that is protective of migrants' rights.

Doris Marie Provine⁴ analyzes how SB 1070 fits into an overall picture of contradictions and complexity that characterizes how we understand immigration in the United States and particularly in Arizona with "Arizona's New Anti-immigrant Law and Federal Immigration Reform." In particular, "SB 1070 illustrates how the complex compromise of federalism that characterizes the U.S. system of government works in a situation of high political anxiety," according to Provine. Immigration policy is clearly made more difficult by complex local politics in Arizona, particularly in the Phoenix area. As Provine points out, SB 1070 is part of a pattern of similar legislation introduced in Arizona since the 1990s. The "middle" on the immigration issue has all but vanished in 2010: "In an election year, staking out a stand that falls into a reasonable middle ground is difficult. The Arizona public—or at least its most vocal elements—is clearly aroused."

In "The United States v. Arizona," Evelyn Cruz⁵ points out the hard road ahead for SB 1070, major parts of which were enjoined by U.S. District Judge Susan Bolton. Cruz gives us a detailed discussion of the major constitutional issues raised by the bill, including concepts such as the Tenth Amendment to the U.S. Constitution (states' rights), concurrent power, and the supremacy clause. Cruz emphasizes that "SB 1070 faces an uphill battle, exemplified by the District Court's order enjoining major portions of the bill from going into effect. The phrases thrown around to defend it may play well in the media, but they do not play well in constitutional construction."

In "Arizona's Law: The Wrong Approach," Paz Consuelo Márquez-Padilla⁶ frames the issue as the movement of poverty toward abundance and the existence of a real transnational labor market. Márquez-Padilla offers some important statistics for us to anchor our understanding of this movement and labor market dynamic. Namely, she points out the existence of 300 million legal crossings from Mexico to the United States every year, as well as the truly impressive wage differential between the U.S. and Mexico, which reaches 12:1 in

In the new era of “shared responsibility,” this relatively new concept has yet to be applied to international migration. Mexico and the U.S. need new, more creative, and more fully bilateral approaches to this old issue.

some industries. Perhaps most importantly, Márquez-Padilla confronts the two nations’ radically different perspectives on this issue and argues that both need a different one: “As long as the two countries refuse to see this as a shared phenomenon, the situation will continue to be unmanageable.”

Silvia Núñez García⁷ explores the ever-changing character of racism and discrimination in the United States in “On the Labyrinths of SB 1070.” In particular, the discourse surrounding SB 1070 contrasted with falling crime levels in the Phoenix area are particularly challenging to understand. Núñez García links the issue of SB 1070 to particularly racialized aspects of state and national politics in the United States. The intensely dynamic nature of domestic politics in the United States makes it nearly impossible to predict with any clarity the eventual composition of comprehensive immigration reform. In addition, Núñez points out the difficulty (for many Mexican observers) of fully comprehending the intense anxiety felt by U.S. citizens over the deterioration of the U.S. economy and the enormous political challenges facing President Barack Obama. She argues that in the current context, we need to recognize and actively address the enormous socio-cultural distance between the two countries; strengthen binational alliances in order to research the issue in depth in terms of short-, medium-, and long-term goals; and bring additional anthropological and psycho-social analysis to bear on these challenging issues.

In his concluding thoughts, Rick Van Schoik⁸ emphasizes the challenging complexities of the issues raised: “the double-edged nature of the issue arose over and over again.” Against the backdrop of confounding institutional and bureaucratic asymmetries between the two countries, Van Schoik raises the issue of a Mexican border agency and the necessity of enhanced international cooperation on migration. The issue, while an immensely difficult one for both countries to deal with domestically, is too important to push to the bottom of the binational agenda. “The bottom line is that federal inactivity is misguided and even dangerous.”

FINAL THOUGHTS

Though the United States and Mexico share an almost 2,000-mile land border, the two countries do not currently possess anything approaching a workable joint framework for addressing medium- to low-skilled labor mobility. This unfortunate gaping deficit in our public policies and binational relations has been left unresolved for decades. SB 1070 underscores this deficiency and, though a local measure, puts the onus squarely on the shoulders of the U.S. federal government.

Yet while immigration is a federal responsibility in the United States, the complexity of both the issue and domestic politics continue to confound our attempts to address it with legislative actions alone. The two nations find themselves in a new era of “shared responsibility”; however, this relatively new concept has yet to be applied to international migration. What we have done up to this point is clearly not working; the issue is impeding us from advancing on a number of other important fronts, and we are clearly unable to resolve it unilaterally. In this age of such immense challenges to our shared security, competitiveness, and sustainability, we are in need of new, more creative, and more fully bilateral approaches to this old issue. ■■

NOTES

¹ Assistant professor at Arizona State University’s School of Arts and Letters.

² Researcher, professor and founding director of CISAN.

³ Researcher at CISAN.

⁴ Professor in the School of Social Transformation at ASU.

⁵ Clinical law professor and director of the Immigration Clinic at ASU’s Sandra Day O’Connor School of Law.

⁶ Researcher at CISAN.

⁷ Director of CISAN.

⁸ Director of the North American Center for Transborder Studies at Arizona State University.