

ARIZONA'S SENATE BILL 1070:
UNDERSTANDING THE JUDICIAL PROCESS, CONSTITUTIONALITY, FUTURE
AND EFFECTS OF THE LAW

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Abstract

After the passage of Arizona's Senate Bill 1070 back in 2010 Arizona has been under scrutiny due to the controversial anti-immigration law. In 2012 the Supreme Court struck down most of the provisions of the "Support Our Law Enforcement and Safe Neighborhoods Act" or commonly known as S.B. 1070, however the Supreme Court upheld the most controversial provision, Section 2 (B). This paper discusses the judicial process S.B. 1070 underwent since it was passed in 2010 up to the 2012 Supreme Court decision and also discusses the constitutionality issue of the law. This helps us understand how courts look at cases and what we are likely to see in the future if this law is challenged or if more S.B. 1070 copycat laws are passed like in Alabama, Georgia, South Carolina and other states. Lastly, the influence the law had on other states as well as the economic toll the bill had in Arizona and other states who adopted similar legislations is also discussed. It is difficult to predict if S.B. 1070 will ever be overturned, but we do know that this controversial anti-immigration law, S.B. 1070, adds to the negative perception and economic deficit of the state.

Introduction

The rising population of undocumented immigrants in the United States has caused many states to take their own measures regarding their immigration policies. Among the states who have the biggest population of undocumented immigrants are the U.S. – Mexico border states such as California, Texas and Arizona to name a few. The rising number of undocumented immigrants has become very controversial because of the drain of resources that undocumented immigrants are said to cause in the United States. Supporters of the anti-immigrant policies throughout the United States claim that undocumented immigrants take jobs from American citizens and use up the resources that are for U.S. citizens. One of the first states to take a step towards solving this problem was Arizona back in 2010 when they passed a law which was considered to be the harshest anti-immigration. In an attempt to reduce the number of undocumented immigrants in the state, the Arizona legislature proposed Senate Bill 1070 and Governor Jan Brewer signed the bill into law.

Arizona's S.B. 1070 gained a lot of attention throughout the entire nation because it was said to incite racial profiling. The way the law is worded is extremely interesting because its vagueness and frequent contradictions leave the law open to many possible implementations. An example of this are the factors that are taken into account for S.B. 1070 to "kick in" are very vague and difficult to execute without racially profiling. Beberly Ginn, a Tucson lawyer stated in the AZPOST training video that "reasonable suspicion exists when an officer is aware of specific articulable facts, which when considered with the objective and reasonable inferences, from a basis of particularized suspicion," and Jon Stewart from the "Daily Show" replied: "Mexicans are f***ed" (Kaye). The law explicitly states that officers may not racially profile in order to enforce S.B. 1070, but the way the law is worded and the way police officers are being trained

suggests that the law cannot be possible without racially profiling. Another interesting aspect regarding S.B. 1070 is that the law was the forefront for numerous of similar anti-immigration laws throughout the United States. Many state legislatures began to introduce similar copycat laws to the point where some state's laws, such as Alabama, were harsher and more discriminatory than Arizona's Senate Bill 1070.

The law itself is extremely hard to comprehend and the extensive coverage that the bill has had has caused widespread confusion. The focus of this paper will be in explaining and clarifying the purpose of the law along with the process it had to undergo in order to be implemented. The paper will go through the judicial process the law went through before getting to the Supreme Court. The Supreme Court decision regarding *Arizona v United States*, the constitutionality of the law, and the legal future of the law will also be explained and analyzed. Furthermore, controversy and the way the law is implemented and interpreted will also be discussed throughout the paper. Lastly, there will be a discussion regarding the economic impact the law has had and could continue to have in the future.

Background Information

On the day of April 23, 2010 Arizona governor Jan Brewer signed into law the controversial "Support Our Law Enforcement and Safe Neighborhoods Act" or commonly known as S.B. 1070 (Senate Bill 1070). The legislation made it crime for an undocumented immigrant to be in the state without carrying the appropriate documentation as required by federal law and criminalizes those individuals who shelter, hire and transport undocumented immigrants as well (Lasch). The anti-immigration bill gave state law enforcement officers a similar authority as the federal officers of the Immigration and Customs Enforcement agency. The legislation is believed to be the harshest anti-immigration law passed in Arizona and at that

time in the entire nation. Even before the bill was signed into law by Jan Brewer it had already sparked much controversy and concerns over the possible constitutional and civil rights violations of the law. As soon as the bill was passed activists, groups and individuals began suing the state of Arizona. There were many lawsuits after the bill was signed into law, but only the most important lawsuits challenging S.B. 1070 will be discussed.

Lawsuits

In May of 2010 one of the first lawsuit was filed challenging the Constitutionality of S.B. 1070 in *Friendly House v. Whiting*. The challenge was brought by several individuals and plaintiffs, community service and religious organizations, labor unions and business associations, but was filed by the ACLU. The argument against SB 1070 was that “SB 1070 unlawfully attempts to regulate immigration and punish those whom Arizona deems to be in violation of immigration laws” (American Immigration Council). Also, the complaint states that it is “impermissible encroachment into an area of exclusive federal authority and will interfere and conflict with the comprehensive federal immigration system,” and that it will cause racial profiling against individuals of color. According to the lawsuit that was filed SB 1070 would cause “unlawful interrogations, searches, seizures, and arrests; and will deprive people of freedom of speech and expressive activity.” The plaintiffs challenged the law as a violation of the Supremacy Clause, 1st Amendment, 4th Amendment, Due Process, Equal Protection, Privileges and Immunities clauses and the Arizona Constitution, and they were seeking a preliminary injunction. Several sheriffs and county lawyers filed a motion to dismiss the case on the basis that the case was moot since it had yet not been implemented. The court ruled that the plaintiffs did not substantively challenge the provisions of SB and that the motion for a preliminary injunction was moot. The court recognized that the plaintiffs had challenged some

provisions of SB 1070 under different grounds: “transforms investigatory stops into de facto arrests without probable cause” (American Immigration Council). However, since the case was moot it did not find the motion to be persuasive.

The League of United Latin American citizens also filed a suit against the state of Arizona in July 9, 2010. The complaint by two civil rights organizations and a few citizens argued that SB 1070 violated the Due Process, Interstate Commerce and Supremacy clauses, thus the law is preempted by the federal immigration laws. (American Immigration Council). The plaintiffs explained that the objective of SB 1070 is competing with the objectives that the federal government seeks. Furthermore, the plaintiffs argued that SB 1070 will just cause immigrants to move from Arizona to another state. Lastly, the complaint filed argued that the training materials distributed to the law enforcement agencies was vague and ambiguous. The court dismissed the plaintiff’s motion on September 13, 2010 for lack of standing and because there was no relief that could be granted for the claims that were filed. The National Coalition of Latino Clergy and Christian Leaders also took a stab against the state in Arizona in April of 2010. The lawsuit included “all persons who currently reside in Arizona and find themselves to be negatively affected by the proposed unconstitutional law” (American Immigration Council). Similar arguments were made regarding the specific constitutional violations (including Due Process, Supremacy Clause, and 1st Amendment violations). They sought class certification, attorney’ fees and declaratory as well as injunctive relief, but were unsuccessful.

Three more lawsuits were brought against the Arizona’s governor Jan Brewer back in 2010. The only lawsuit that was filed was *Salgado v. Brewer* in April 29, 2010. The complaint (from a patrol officer from PPD and U.S. citizen) argued that the law was preempted by the Supremacy Clause and that it conflicted with the decision in *Plyer v. Doe* (1982) as well as

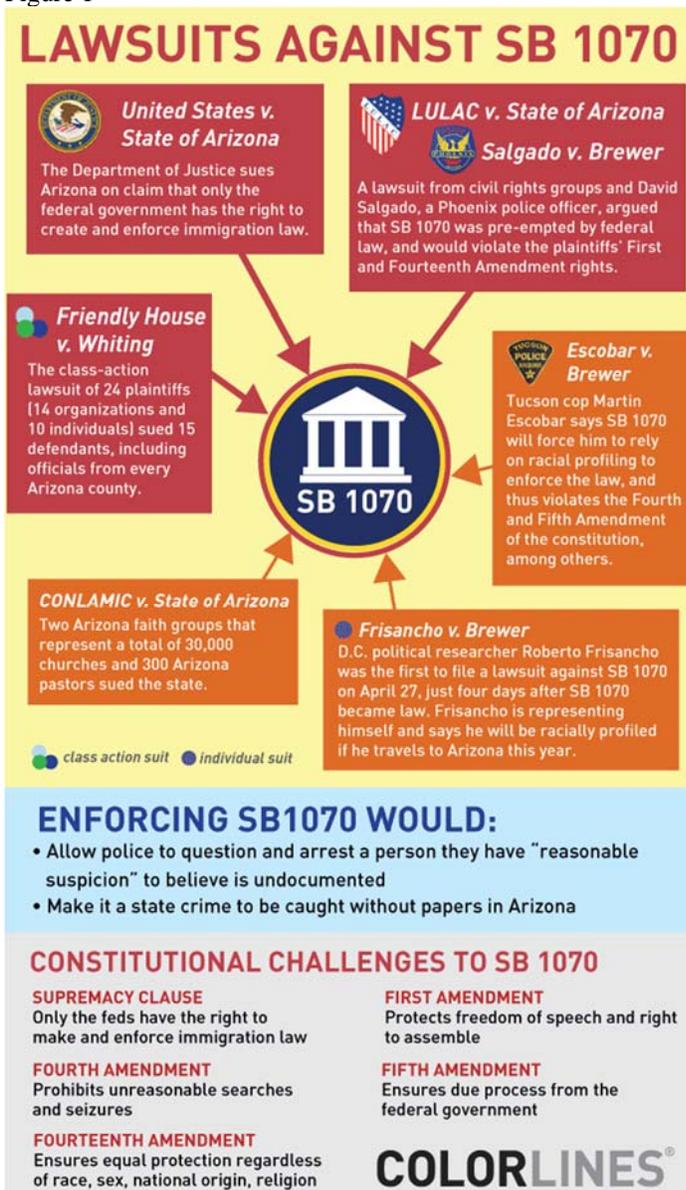
violating the 1st and 14th Amendment rights. (American Immigration Council). The plaintiffs filed a motion for preliminary injunction and defendant Governor Jan Brewer filed a motion for lack of standing. Brewer argued that the plaintiff's motion argument was an "abstract outrage" against the passage of Senate Bill 1070, but the status of the case is still pending. In a very similar case, a naturalized U.S. citizen from the Tucson Police Department sued the governor in *Escobar v. Brewer*. This lawsuit argued the same thing as *Salgado v. Brewer* and requested declaratory and injunction relief as well as attorney's fees. The city of Tucson (one of the defendants) accepted many of the allegations brought. Tucson also sought declaratory relief on the basis that SB 1070 is preempted by and in conflict with the INA and Commerce Clause. The city of Tucson believed that the law would require the city to violate the Constitution and thus filed a preliminary injunction as well. The cities of Tolleson, San Luis, Somerton and Flagstaff joined the lawsuit. Brewer filed a motion to dismiss due to lack of standing because they didn't "present a cognizable case or controversy." Brewer also filed a motion which affirmed that the Ninth Circuit had established a *per se* ruling prohibiting political subdivisions like Tucson from challenging the constitutionality of state statutes. Judge Bolton dismissed Escobar's case on August 31, 2010 for lack of standing. Judge Bolton found that "the mere possibility that Officer Escobar could face future civil liability for enforcing SB 1070 did not present a sufficiently imminent injury to confer standing, particularly given that he would possess qualified immunity against alleged constitutional violations" (American Immigration Council).

Lastly, in *Friasancho v. Brewer*, an American citizen from DC who planned to visit Arizona brought a *pro se* lawsuit arguing that SB 1070 violated the United States and Arizona Constitution. Brewer filed a motion to dismiss for lack of standing because the plaintiff does not state an imminent injury. Attorney General Goddard (another defendant) filed argued that the

plaintiff’s claims were based on mere speculation and failed to consider other possibilities. Judge Bolton dismissed the case for lack of standing as well and agreed with Goddard that the argument was based on speculation.

The following figure illustrates some of the lawsuits brought against S.B. 1070, who brought the lawsuits, the challenges made against the law and a brief explanation of what Senate Bill 1070 is supposed to do.

Figure 1



Linked from <http://www.seiu.org/2010/08/update-arizona-appeal-of-sb1070-injunction.php>

Judicial Process

Finally after numerous lawsuits against the state of Arizona in the United States District Court, which were led by civil rights groups and individuals in an attempt to prevent the law from being implemented, the United States Department of Justice also joined the litigation against SB 1070. The United States Department of Justice sued the state of Arizona on the basis that the law was preempted by federal law, thus was unconstitutional. In July 2010, United States District Judge Susan R. Bolton issued a preliminary injunction and prevented most of the law from going into effect as it was scheduled. Judge Bolton was skeptical of the second sentence of Section 2 (B) which says: “Any person who is arrested shall have the person’s immigration status determined before the person is released” (Campbell). Arizona argued that reasonable suspicion of the individual being in the country undocumented was necessary in order to check the individual’s immigration status and that it was overboard to interpret the statute as applying to everyone that was arrested. Judge Bolton said in her decision that “because the second sentence makes no mention of unlawful presence: the second sentence states plainly that “any person who is arrested” must have his or her immigration status determined before release” (Campbell). Furthermore, Judge Bolton added that determining the immigration status creates a conflict with federal law.

“Requiring Arizona law enforcement officials and agencies to determine the immigration status of every person who is arrested burdens lawfully-present aliens because their liberty will be restricted while their status is checked....Under Section 2(B) of S.B. 1070, all arrestees will be required to prove their immigration status to the satisfaction of state authorities, thus increasing the intrusion of police presence into the lives of legally-present aliens (and even United States citizens), who will necessarily be swept up by this requirement” (Campbell).

The United States District for the District of Arizona determined that Section 2 (B) was a burden to lawful, foreign individuals residing in Arizona, thus the provision is preempted by federal law.

The state of Arizona appealed Judge Bolton's decision to the United States Court of Appeals for the Ninth Circuit. On November 1, 2010 a panel of composed of three judges, Richard Paez, Carlos Bea and John Noonan, gave their ruling on the controversial law. The Court of Appeals' decision was the same as the District Court decision and upheld the preliminary injunction completely. Circuit Judge Paez wrote the majority, the court stated the following regarding Section (B) of S.B. 1070: "Section 2(B) sidesteps Congress' scheme for permitting the states to assist the federal government with immigration enforcement. Through Section 2(B), Arizona has enacted a mandatory and systematic scheme that conflicts with Congress' explicit requirement that in the "performance of immigration officer functions by State officers and employees," such officers "shall be subject to the direction and supervision of the Attorney General" (American Immigration Council). Section 2(B) therefore interferes with Congress' scheme because Arizona has assumed a role in directing its officers how to enforce the INA (Nationality Act)" The United States Court of Appeals said that Section 2 (B) of Arizona's Senate Bill 1070 undermined the President's executive power, that this section was an obstacle to Congress, and that it affected the country's foreign relations.

Supreme Court Decision

The state of Arizona did not give up and after the Court of Appeals' affirmance of the District Court's injunction, the state filed a Petition for a Writ of Certiorari on August 10, 2011 with the United States Supreme Court. Such petition was granted on December 12, 2011 after the court agreed to review the Constitutionality of the controversial Section 2 (B), Section 3, Section 5 (C) and 6. On April 25, 2012 the case was argued and on June 25, 2012 the verdict was given. The Supreme Court decided to strike down 3 of the 4 provisions of S.B. 1070 in *Arizona v. United States*, but upheld the most controversial part of the Senate Bill – Section 2 (B) or

commonly referred to as the “show me your papers” provision. “Under Section 2 (B), state and local law enforcement officials in Arizona are required to check the immigration status of persons whom they have “reasonable suspicion” to believe are undocumented” (Campbell). Justice Kennedy gave the majority opinion in the 5-3 decision, Justices Ginsberg, Breyer, Sotomayor and Chief Justice Roberts joined Kennedy in the majority opinion.

In the majority opinion Kennedy stated that Article 1, Section 8, Clause 4 of the United States Constitution grants the federal government the power to regulate immigration - the power to “establish a uniform Rule of Naturalization.” Furthermore, Justice Kennedy explained that immigration policy affects “trade, investment, tourism, and Diplomatic relations...as well as the perceptions and expectations of aliens in this country who seek the full protection of its laws” (Campbell). In other words, immigration policy and the way it is handled is taken as a perception of the country as a whole by and the federal government is interested in protecting the appearance and perception of the country. Kennedy went on to explain that foreign countries are concerned about the security, safety and status of their citizens that reside in the United States and the federal government should be able to communicate with those foreign countries with “one national sovereign” and not as fifty separate states. The opinion goes on to discuss Congress’s admission and regulation regarding the removal of undocumented individuals through the INA. Justice Kennedy finished saying “whether, under preemption principles, federal law permits Arizona to implement the state-law provisions in dispute” (Campbell).

After establishing those facts, the first provision of S.B. 1070 addressed by the Supreme Court was Section 3. This section prohibited the “willful failure to complete or carry an alien registration document... in violation of 8 United States Code § 1304(e) or 1306(a)” (Campbell). The Court argued that Section 3 of S.B. 1070 created “a state-law penalty for conduct proscribed

by federal law.” The Immigration and Nationality Act requires aliens to have proof or registration at all times, so the Supreme Court upheld the decision. Section 3 is preempted by federal law; therefore, it is a regulation that is not permissible by the state of Arizona. (Lasch) The Court stated: “Permitting the State to impose its own penalties for the federal offenses here would conflict with the careful framework Congress adopted....Were §3 to come into force, the State would have the power to bring criminal charges against individuals for violating a federal law even in circumstances where federal officials in charge of the comprehensive scheme determine that prosecution would frustrate federal policies” (Campbell). Regarding Section 3, the Court determined that “enforcing additional or auxiliary regulations” created a conflict with federal law, thus Section 3 is preempted.

Section 5 (C) – Employment to Aliens was the next provision of S.B. 1070 that was analyzed by the Supreme Court. Section 5 (C) makes it a crime under Arizona law for “an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor” (Campbell). An infraction to Section 5 (C) was a misdemeanor punishable by a fine of \$2500 and up to six months in jail. However, the Supreme Court also found this section to be in conflict with federal law. This section preempted because the enforcement would interfere with the subtle balance of Congress with regards to the illegal employment of undocumented individuals. The Court clarified that:

“Although §5(C) attempts to achieve one of the same goals as federal law—the deterrence of unlawful employment—it involves a conflict in the method of enforcement.... The correct instruction to draw from the text, structure, and history of IRCA is that Congress decided it would be inappropriate to impose criminal penalties on aliens who seek or engage in unauthorized employment” (Campbell).

Section 5 (C) is intended to do the same thing that the federal government is already doing, but in a different way, which is why this section was preempted.

Next, the provision regarding probable cause for arrests of aliens – Section 6 of S.B. 1070 was analyzed. Section 6 states that “without a warrant, may arrest a person if the officer has probable cause to believe...[the person] has committed any public offense that makes [him] removable from the United States” (Campbell). After reviewing and analyzing this section the Supreme Court concluded that Section 6 of the senate bill is an attempt to vest a greater authority to state enforcement officers in order to detain and arrest more aliens like the authority that the federal government has given to federal immigration officers. The Court explained that this would allow each State to achieve its own immigration policy. The result could be unnecessary harassment of some aliens (for instance, a veteran, college student, or someone assisting with a criminal investigation) whom federal officials determine should not be removed. This is not the system Congress created.” In the majority opinion Justice Kennedy stated that Section 6 of S.B. 1070 violated the principles of the removal process that is entrusted to the discretion of the Federal Government as well as being an obstacle to the objectives and purposes of Congress.

Lastly, Section 2 (B), the most controversial provision of the law was saved for last. Arizona’s controversial S.B. 1070 Section 2 (B) forces law enforcement agents to make reasonable attempts to conclude the migratory status of an individual. The officials can detain an individual if a “reasonable suspicion exists that the person is an alien and is unlawfully present in the United States” (McKanders). In addition, Section 2 (B) also states that “any person who is arrested shall have the person’s immigration status determined before the person is released.” The Court decided that in order to determine the immigration status of the detained individuals the officials should contact Immigration and Customs Enforcement (ICE). This was the most controversial part of the law, and it was the section that was not preempted by federal law (McKanders). The Court concluded that Section 2 (B) cannot be preempted unless there is

concrete evidence that shows that there adverse consequences to the federal law and its objectives. Justice Kennedy's majority opinion left open the possibility of future preemption and constitutional challenges of the law depending on the interpretation and application of the law after it went into effect.

Even though the Court did not strike down Section 2 (B) of S.B. 1070 and preempted the other sections, the dissenting opinions are worthwhile to know. Justice Scalia, who dissented along with Justices Alito and Thomas, wrote an opinion that created a lot of attention due to his "inflammatory rhetoric" (Campbell). Justice Scalia concurs with most of the majority opinion, but dissented with Kennedy's view that "as a sovereign, Arizona has the inherent power to exclude persons from its territory." Justice Scalia wrote that the there is doubt in the Constitution whether the Federal Government was control regarding immigration; however, there is no doubt that Arizona also have the power to do so. Scalia expressed the view that Arizona is entitled to have their own immigration policy, separate from the federal immigration policy. Scalia explains that as long as Arizona's immigration policy does not interfere with that of the federal law. Even though it is not a federal crime for an alien to remain in the country, Arizona should have the power to make it a state crime to remain in Arizona. The extreme belief of states being able to regulate immigration from Scalia was highly criticized, but it appears this belief is shared by many others. As we will see later other states have also tried adopting similar legislations using this power the states have like Scalia says.

Understanding the Decision

Figure 2

Status of Arizona SB 1070 Provisions
as of Oct. 8, 2013

In effect, faces legal challenge		
State agencies can't limit enforcement of federal immigration laws	Residents can sue state for limiting enforcement of federal immigration laws	State officials must work with federal officials regarding undocumented immigrants
Amends human smuggling statute	Amends crime of knowingly employing undocumented immigrants	Amends crime of intentionally employing undocumented immigrants
Amends requirements for checking employment eligibility	Amends impoundment of vehicles used to transport undocumented immigrants	Creates gang/immigration intelligence team enforcement mission fund
Initially blocked, now back in action, faces legal challenge		
So-called "show me your papers" -- If reasonable suspicion of unlawful immigration status exists during a stop, officers required to verify status		
Blocked for now by federal district court and Ninth Circuit		
Criminalizes transporting, harboring, encouraging or inducing an undocumented immigrant to come to Arizona.		
Criminalizes stopping a motor vehicle to pick up day laborers, or day laborers impeding traffic		
Struck down after U.S. Supreme Court ruling		
Criminalizes failure to apply for or carry alien registration papers	Makes it a crime for an undocumented immigrant to work or apply for work	Authorizes warrantless arrest if probable cause of deportable offense

Tracy Greer/Fronteras Desk

Linked from: <http://www.fronterasdesk.org/content/9095/arizona-loses-appeal-reinstate-section-sb-1070>

It is important to understand why the Supreme Court decided to leave Section 2 (B) and why the previous lawsuits were not successful in challenging the law. The main reason why the lawsuits against Senate Bill 1070 have not had any luck or have not led to a ruling against the law is because of the lack of standing. In law, standing or *locus standi*, refers to the ability of a

party to prove to the court that there is harm due to the law or there is a sufficient connection to it. In all or most of the lawsuits prior to the Supreme Court decision, the reasoning behind the decisions came down to whether there was standing or not. The law had yet not gone into effect, thus there was no real standing to present the lawsuit and that is why the Supreme Court did not strike down Section 2 (B). There was no sufficient connection to and no one was being harmed by the law because it was not even implemented.

Future of Senate Bill 1070

Now that the law has gone into effect one may think that it is just a matter of time for there to be standing and a case challenging this section of S.B. 1070; however, the standing issue in S.B. 1070 is more complex than that. It will be extremely tough for anyone to prove standing because it will be their word versus the officer's word. In order for standing to exist, the affected party will need to prove that the only reason that they are being harassed or suspected under S.B. 1070 is due to racial profiling. Doing so will be extremely difficult due to the factors that are taken into account under S.B. 1070. How can anyone prove that the reason they were stopped is purely based on racial profiling? Due to the easily triggered factors that are taken into account proving that someone is stopped and questioned purely based on racial profiling is extremely difficult and it would also be the word of the officer against the suspect's. Therefore, proving that there was racial profiling is incredible difficult and complex, but necessary to be able to challenge the law and without proof of standing the law cannot be challenged. Even if standing can somehow be proven we also have the issue of mootness. If an undocumented individual could be able to prove that he has standing to file a lawsuit, but is deported then the case would become moot and be thrown out. Mootness refers to when the court cannot do anything to affect the situation, in this example the individual would have already been deported so there is no

remedy for the individual. Mootness just makes it even more difficult for the law to ever be challenged even if by a miracle, standing can be proven by the affected party.

The legal future for S.B. 1070 is extremely uncertain because of its implementation, but it is also hard to challenge. In one hand, there are different agencies around the state of Arizona with different interpretation of the law and different implementations creating chaos and possible civil rights violations. In the other hand, it is extremely to prove standing to challenge the case and if standing is proven will the case be moot or ripe by the time it is heard. Section 2 (B) of Senate Bill 1070 will probably never be challenged, but if it is challenged it will likely not be upheld again. The first time Section 2 (B) was not stricken down was because the judges were not sure if the law would be bad or good once it was implemented, they needed to wait and see. If someone can prove standing and the case is not moot that will be a huge step towards the law being struck down because there needs to be enough and sufficient evidence to get the courts to hear the case. Proving that there is standing means that in fact police officers are racially profiling which is unconstitutional therefore the law would not survive. As states continue to see that these anti-immigration laws continue to survive they will soon start following Arizona's footsteps. Immediately after S.B. 1070 was passed, many copycat immigration laws around the nation began to emerge.

Perhaps the most known is Alabama's HB 56, which was passed in 2011 and has been considered as the harshest immigration law in the country. At first instance, this harsher anti-immigration legislation seemed to work as a large number of undocumented immigrants began to flee from the state, but after it was implemented for two years. However, Alabama's H.B. 56 was struck down as unconstitutional and Alabama is now back right where it was before that legislation was passed in the first place. (American Immigration Council). ACLU activists

expects the same fate for S.B. 1070 and other copycat laws, but that will not occur until after law is implemented for at least a couple of years.

Implementation

As the most controversial section of S.B. 1070 went into effect, there was much speculation on how the law would be enforced and what would happen once it was enforced. This section of SB 1070 requires officers to make a “reasonable” effort to conclude the immigration status of an individual that is arrested, detained or merely stopped. If the officers believes there is “reasonable suspicion” that the individual is present in the country unlawfully then they can verify the immigration status of the individual before releasing them. The way this section is worded has been problematic to many and has caused much skepticism. It is extremely hard to define what reasonable suspicion constitutes and how would an officer conclude the immigration status of Arizona’s residents. According to the AZPOST, there is a set of factors that need to be taken into account when considering if there is reasonable suspicion of the unlawful presence of an undocumented alien (Kaye):

- Lack of identification or possession of foreign identification
- Flight/and or preparation for flight
- Engaging in evasive maneuvers, in vehicle, on foot, etc.
- Voluntary statements by the person regarding his or her citizenship or unlawful presence
- Foreign vehicle registration
- Counter-surveillance or lookout activity
- In company of other unlawfully present aliens
- Location, including
 - A place where unlawfully present aliens are known to congregate looking for work
 - A location known for human smuggling or known smuggling routes
- Being in an overcrowded vehicle
- Being or acting nervous
- Inability to provide an address
- Dress
- Demeanor (unusual or unexplained nervousness, erratic behavior, refusal to make eye contact)
- Significant difficulty communicating in English

Due to the difficulty of implementing the law an instructional video to train police officers was created in an attempt to help the law enforcement agencies. The instructional video can be found at the following link:

http://www.tucson sentinel.com/local/report/070110_azpost_1070/police-training-racial-profiling-not-allowed-under-sb-1070/. According to the video, the statute is to be applied when a

law enforcement officer makes a lawful stop, when the person is arrested or detained. In

addition, there needs to be “reasonable suspicion” for the officer to believe that the individual is in the country illegally. According to the video, “[t]he officer is required to make a reasonable attempt, when practicable, to determine the immigration status of the person who is stopped.

There is an exception if the officer believes that the determination may hinder or obstruct an investigation” (Smith). As we can see from this excerpt, the language utilized in the video is as

equally ambiguous as in the language stated above. The video assures that there has to be a

detention due to a criminal or civil offense in order to consider whether there is reason to suspect that the individual is undocumented. However, once it has been established that there is

reasonable suspicion for S.B. 1070 to apply the video states “[t]he focus here is on reasonable

suspicion that a person is an alien and unlawfully present in the U.S., not reasonable suspicion of criminal activity” (Smith). This is just one of the several contradictions throughout the

instructional video. The video lists the previously stated factors that might establish reasonable suspicion, and also includes the following additional facts and circumstances:

- Voluntary statements by the person regarding his or her citizenship or unlawful presence
Note that if the person is in custody for purposes of Miranda, he or she may not be questioned about immigration status until after the reading and waiver of Miranda rights.
- Traveling in tandem
- Passengers in vehicle attempt to hide or avoid detection
- Prior information about the person
- Claim of not knowing others in same vehicle or at same location

- Providing inconsistent or illogical information

The instructional video assures that race or color shall not be considered in determining the suspicion, and the only way for a reasonable suspicion to exist is if the officer did not rely on race or color. Due to the language in the factors that are taken into account it is extremely hard to believe that race and color will not be a factor. The video also advises officers to consult with their agencies on the specifics of how the law is to be implemented. The video does not offer any “true-to-life” examples for the officers to see, AZPOST executive director said “[w]hat we decided to do is leave the what ifs—and that is what scenario training is all about—to the policy side and let agencies talk about it, because everyone is going to be different” (Kaye). The section regarding racial profiling has been subject to much criticism due to their repeated warnings that racial profiling will not be tolerated. Sgt. John Otalano finds this section insulting because police officers already know racial profiling is not tolerated and believes the videos is more targeted to the general public instead of police officers. Lastly, Sheriff Tony Estrada from Santa Cruz County stated:

“Every speaker keeps saying over and over ‘there will be no racial profiling’ and I say to myself, ‘If there is no racial profiling, why do you keep harping about racial profiling unless you are really concerned about it?’ No matter how you amend, it, no matter how you tweak it, no matter how you disguise it, it’s racial profiling. You’re focusing on a particular group of people” (Kaye).

This video is supposed to instruct law enforcement officers how to implement S.B. 1070, but it is extremely vague, broad, ambiguous and it just raises more doubts and concerns regarding how it will be implemented and the constitutionality of it.

Implementation Concerns

It is important to understand why people care so much about the law and why there are so many concerns regarding the implementation of the law. The ambiguity of the factors that are taken into account in SB 1070 makes it very hard, almost impossible to implement the law. Since

the law went into effect in mid-2012, the implementation of the law has been extremely challenging for law enforcement agencies throughout the state and has even led to discrepancies in the way it is implemented. The factors are so vague and unclear that the Arizonan population are worried that the law is not being implemented correctly will lead to civil rights violations. There is a big fear in the Arizona population, especially amongst the Hispanic population, that police officers will racially profile Arizona's residents, harass them and have too much power. This fear in Arizona has led to skepticism, but the reality is that the law is too vague, it is extremely hard to implement without racially profiling or harassing people. First of all, many of the set of factors that are taken into consideration for S.B. 1070 cannot be used without racially profiling. There are many irregularities in the law and that is the reason we need to talk about the implementation of the law and those irregularities, vagueness and ambiguities that makes it so hard to implement. There is not a norm statewide for all the police departments to adopt in the implementation of the law, therefore everyone interprets the law differently which has increased the complexity of the implementation. It is important to understand how the law is supposed to be implemented on paper and how it is actually being implemented in real life.

Many of the factors that are considered for reasonable suspicion are very problematic because they are abstract or can be triggered too easily. For example, being or acting nervous is something normal for everyone when speaking to a law enforcement officer. Individuals act nervous all the time when they are around police officers, but this does not make them a suspect of being undocumented especially if they do not fit the ethnic profile of an undocumented immigrant. So, how might we measure "significant difficulty" communicating in English? This is extremely abstract because someone there are plenty of bilingual individuals who might have an accent and mixed with nervousness could have trouble communicating. However, a European

(French, Italian, Irish, etc.) would never be suspected of being undocumented because they do not fit the ethnic profile even if they cannot communicate well in English. Furthermore, one of the factors is being in “a place where unlawfully present aliens are known to congregate looking for work.” If an individual is in a place where undocumented individuals look for work, would that be enough for the police officers to harass him? The set of factors that would trigger a reasonable suspicion are too abstract and are inciting racial profiling. If someone cannot speak English well, is nervous around police officers or in a Hispanic community, etc. then he would be targeted. Essentially under S.B. 1070 if a person looks “undocumented,” that is, fits the profile of an undocumented immigrant then he will be targeted. Besides the racial profiling that occurs in the previously stated factors, another one of the factors for reasonable suspicion is being with someone that who is in the country undocumented. Police officers need to racially profile according to this factor. A white individual would never be suspected or harassed for being in the country illegally even if they are with an undocumented alien. Also, foreign vehicle registration is another factor, but it is unclear how enforcement might work for tourists? Will European license plates be subjected to the same scrutiny as Mexican plates? There are too many unanswered questions by following these abstract set of factors that lead to racial profiling. The Phoenix Law Enforcement Association suggested during the making of the law that discretion should be given to the authorities for the implementation of the law. That means that these factors would not necessarily be implemented equally or fairly.

The major concern regarding S.B. 1070 is the fear of racial profiling in order to determine the immigration status or in order to determine if there is “reasonable suspicion” to interrogate the individual. This law will cause harassment against Arizona’s residents (citizens and immigrants) and visitors. They may face problems if they do not carry the required documentation and will be

prone to racial profiling. There are various abuses documented by the ACLU due to Section 2(B) such as a woman who was questioned about her immigration status when she called the police to help here in a domestic violence situation in Tucson. (Kaye). Recently the Tucson Police Department have revised their immigration policy and will no longer ask the immigration status of victims of witness of crimes in order to be more aligned with the federal immigration priorities. The revised orders state that “mere unauthorized presence in the United States is not a criminal offense, and enforcement of such civil violations is reserved for federal authorities” (Trevizo, Carrasco). Another abuse which is said to be because of S.B. 1070 was the jailing of a Hispanic citizen of 67 years of age. After the elderly Hispanic took out a plastic water bottle from the trash at a convenience store in Mesa, Arizona he was deemed a suspect under S.B. 1070 and arrested for questioning. There are many similar abuses throughout the entire state which have already caused lawsuits against SB 1070 and the state of Arizona.

Furthermore, apart from racial profiling, Senate Bill 1070 may cause a fear to undocumented and documented citizens in Arizona from interacting with the police. Undocumented parents of United States citizens will be afraid to ask for governmental assistance or simply ask police authorities for help. These parents are so afraid of being deported and leaving their kids alone and unprotected that they are afraid to ask the government for assistance to help give them a better living condition. The fear that this law has created amongst the undocumented and Hispanic community is such that they do not trust the police. There is a trust, a bond that has been broken between Arizona community and Arizona’s law enforcement officers. If there was to be a robbery or assault, an undocumented individual would be afraid to report such abuse and criminal activity for the fear of being subjected to S.B. 1070. This is not the case for just non-U.S. citizens, but also for U.S. citizens who know undocumented individuals or are simply afraid

to be racially profiled. If there was spousal abuse and the woman was to report it, she might be nervous, have trouble communicating in English or trigger other factors used in S.B. 1070. The woman would go from being the victim to being subjected of breaking the law. The bond of trust the might have existed between the population and law enforcement in Arizona can forever be broken due to S.B. 1070.

Interpretation Discrepancy

The implementation of S.B. 1070 is a major issue after the Supreme Court's decision in *Arizona v. US*. The law enforcement officers are required to list all the factors they took into account, the specific facts of the situation and everything else that led them to determine that there was reasonable suspicion. These police officers are being trained in order to enforce Senate Bill 1070, but there has been a lot of discrepancy on the way it has been implemented. Some Police Departments, like the Tucson Police Department, believe that not all of these factors need to be met and that there are other factors that need to be taken into account, but those factors are not used by other police departments. In addition, the guidelines are also interpreted differently by each agency. The Tucson Police Department are not sure if the questioning should stop once the individual presents a valid U.S. driver license, but there are states such as Illinois, Utah, Washington and New Mexico that issue driver licenses to undocumented immigrants. (Kaye). In Tucson, when a driver license from New Mexico is shown, the officers need to ask for additional identification, but in the city of Chandler and Pinal County New Mexico driver license are enough identifications. Chief Villaseñor from the Tucson Police Department is unsure of what to do in these situations, whereas Sheriff Paul Babeu from Pinal County expressed that he had no policy regarding this issue.

Moreover, agencies are adopting different policies in the interpretation of the law. For example, agencies in Arizona have different policies for juveniles whom are suspected of unlawful presence in the country. Section 2(B) of SB 1070, or any part of SB 1070 say anything to help the agencies decided what policies should be adopted in this matter. In the city of Nogales, Lt. Octavio Gradillas said that the police is to turn juveniles and kids over to the county juvenile authorities, whereas in the city of Chandler this is not the case. (Kaye). According to Pima County legal counsel Sean Holguin, the sheriff's deputies are not even sure how they are supposed to handle juvenile cases under Senate Bill 1070. In the other hand, Sgt. Joe Favazzo explained that in the city of Chandler if police officers have reasonable suspicion that a minor is undocumented they conduct an investigation of the parents and not the minor. Lastly, in Phoenix, police officers have the authority to investigate the immigration status of juveniles and according to Chief Jack Harris:

“If a school resource officer [a Phoenix Police officer assigned to a local school] is investigating a student for allegations of criminal activity at school (assaulting another student, theft), and the officer develops reasonable suspicion the student is an unlawful alien, pursuant to SB 1070 the officer must make a ‘reasonable attempt’ to contact ICE and verify the student's immigration status...” (Kaye).

Police officers in Phoenix and Nogales are in conflict with federal law, according to lawyer Stephen Montoya, “Unless a kid runs up to an ICE agent and says ‘I’m undocumented, take me to Mexico,’ the ICE agent will ask where are your parents, and tell him to go back home. The only way an ICE agent will arrest a kid is if the kid is homeless with no legal guardian. ICE does not arrest kids unless they’re abandoned in the United States or are crossing the border”

In addition, each agency in the state of Arizona is making their own interpretation of Senate Bill 1070, thus there is discrepancy amongst the counties and cities in Arizona. An individual may be properly documented in Chandler, but once they are in Phoenix they can be breaking the law under Senate Bill 1070. The interpretation and enforcement of SB 1070 is mostly determined

by the inclination of the agency towards the law. While some police departments in Arizona are extremely strict in enforcing the law like in Maricopa County, others like the Tucson Police Department do not want to implement the law. Police officers are also divided in the interpretation and enforcement of SB 1070. In the state's capital, the Phoenix Law Enforcement Association (PLEA) want the freedom to rigorously enforce SB 1070 along with federal immigration laws. (Kaye). PLEA leaders and lobbyist, specifically Levi Bolton, suggested that the wording in SB 1070 was written in a way that would give discretion to the law enforcement officers. Many Phoenix officers along with PLEA supporters felt this was a victory against immigration, but since the majority of Phoenix Police Department officers opposed SB 1070, they issued a policy to eliminate that discretion and require police officers to contact the federal immigration authorities. This policy implemented by the Phoenix Police Department has made deporting immigrants more costly, time consuming and a burden for the Immigration and Customs Enforcement. Tucson police chief Roberto Villaseñor says Arizona's new SB 1070 will be a "drain on resources," and that he's "absolutely certain that we are going to be accused of racial profiling no matter what we do" under the new immigration law. (American Immigration Council). Tucson City Counsel Regina Romero asked TPD Chief Villaseñor to tweak the department's immigration policies regarding SB 1070. He altered the policies back in November of 2014 in an attempt to focus more on suspects of crimes and the immigration status of victims or witnesses. (Trevizo, Carrasco). There is an analysis by the Arizona Daily Star conducted in 2014 of thousands of records from thirteen agencies in southern Arizona including the Tucson Police Department which revealed incomplete data and immigration policies which makes it impossible to determine how the law enforcement officials are implementing SB 1070 or whether there were any civil rights violations.

Public Opinion

The public opinion regarding S.B. 1070 is very interesting. Those in favor of the law are the individuals who do not fit the ethnic profile of undocumented immigrants such as Whites and Republicans. The following table best illustrates the public opinion in Arizona regarding the law.

Table 1

Views of Arizona Immigration Law

	App- rove %	Dis- approve %	DK %	N
Total	58	38	4=100	2,013
White	69	28	3=100	1,454
Black	40	56	4=100	235
Hispanic	21	75	4=100	167
College grad+	53	43	4=100	809
Some college	61	35	4=100	600
H.S. or less	61	35	4=100	599
Republican	84	14	2=100	535
Democrat	41	55	4=100	673
Independent	59	37	4=100	736

PEW RESEARCH CENTER June 7-17, 2012. Q68. Figures may not add to 100% because of rounding. White and blacks include only those who are not Hispanic; Hispanics are of any race.

Linked from: http://www.washingtonpost.com/blogs/the-fix/post/sharp-divides-on-arizona-immigration-law/2012/06/25/gJQA1SUx1V_blog.html

Economic Impact

There have been many concerns over civil rights violations, the constitutionality of the law, the implementation and interpretation, etc., but there is also a big economic impact that S.B. 1070 has had in the state and in the entire nation. As we were struggling to overcome the economic crisis of 2007-2008 this controversial law submerged the state in a further worst economic crisis in the state. The deficit which we were already dealing with before the bill was signed into law in 2010 was enormous, so proponents of the law believed that by getting rid of the massive population of undocumented immigrants in Arizona we would be better off. There has always been speculation and talk about the burden that undocumented immigrants are on the state's economy and how they drain the state's resources, take away the jobs of American

citizens and many more similar arguments. However, after the passage of the S.B. 1070 the state did not exactly get rid of the supposed economic burden, but instead likely lost millions of dollars.

Senate Bill 1070 from an economic perspective has done exactly what it was supposed to do: drive or force undocumented immigrants out of Arizona. After the passage of S.B. 1070 approximately 200,000 people were forced out of Arizona, most of them from Phoenix according to Alex Nowrasteh from Forbes magazine. However, despite the fact that there are much less undocumented immigrants now in Arizona the economic impact that S.B. 1070 has caused has been adverse. Since the Supreme Court's decision back in 2012 many economists, such as David Hudson from the Center for American Progress, were already predicting the possibility of Arizona's economy being harmed in five essential areas: tourism, business, agriculture, population loss and education. Many supporters of the bill claimed that undocumented immigrants were taking a toll on the state's economy; however, Nowrasteh believes that "when numerous states will begin to consider Arizona style immigration laws, they should pause to survey the tremendous economic toll it has taken on Arizona."

According to Hudson, S.B. 1070 not only harms the state's economy, but the entire nation's wellbeing since it has also "destroyed the economies in the states" where similar laws have been imposed. The state of Arizona lost 141 million dollars from conference cancellations after the law was passed. The law triggered an economic backlash as national organizations and opinion leaders called for economic boycotts against the state. (Kurtzleben). Many events were cancelled due to the law, there was even speculation that sport teams would boycott against Arizona teams. In Phoenix business activity began to slow down after the Supreme Court upheld Section 2 (B) and Phoenix officials blame the law. "The misperception that our city does not

value diversity continues to be an impediment to attracting national convention groups,” said Scott Dunn, a spokesman for the Greater Phoenix Convention and Visitors Bureau. (Hudson). Out of state tourism has also seen an impact as individuals rather not visit the Grand Canyon state due to the negative perception that the law has caused upon the state. According to a study conducted by the University of Arizona, in 2008 Mexican tourists generated around 976 million dollars in Pima County. (Johnson). Felipe Garcia and Executive Vice President of “Visit Tucson” and the company’s resident expert on Mexico said:

“They come to our malls, to every store you can imagine, and can afford to leave money at restaurants, hotels. It has a great impact here in Southern Arizona and all the state of Arizona because they’re paying sales tax. Every municipality in our state has a benefit from those dollars— or their pesos— when they’re down there, their dollars crossing the border” (Johnson).

Since the passage of S.B. 1070 the number of Mexican tourists has reduced significantly, 28.9 percent decrease, along with the economic stimulus they create according to Banco de México. “According to *Mexican Visitors to Arizona: Visitor Characteristics and Economic Impacts*, Mexican visitors spent directly an estimated \$2.7 billion in Arizona’s department stores, grocery stores, restaurants, gas stations, hotels, and casinos during 2007-08”

(*Pavlovich-Kochi*). The economic stimulus

That Mexican tourist create for Arizona is tremendous and Arizona is losing out on a big chunk of this money due to the controversial law. Paul Cunningham, a councilman from Tucson, claims

Figure 3



Linked from: <http://www.imt.mx/>

that Mexico is a reliable source of income and that “we need to welcome them with open arms and welcome their tourism money with open arms” (Johnson). Despite the efforts by the Metro Tucson Convention and Visitor Bureau to increase the tourism of Mexicans in Arizona the results have not been encouraging.

Businesses have also been affected with the passage of S.B. 1070 the same way that tourism has been impacted. More and more businesses have decided to take their companies to more profitable markets that are not affected by these anti-immigration laws. The state of Arizona is having trouble attracting new businesses into the state due to the negative perception that the population has due to S.B. 1070. A documentary by Carlos Sandoval and Catherine Tambini named The State of Arizona depicts the toll that the law has had on businesses. An Asian-American grocer claims to have lost 30 to 40 percent of his profit and calls the legislation “stupid” (Nuño). The recent legislations have also caused problems with Mexico, one of the country’s biggest foreign trading partner. Arizona officials visited Mexico City in an attempt to reduce friction between Mexico and the United States. Arizona officials proposed “reducing wait time for trucks carrying goods across the border, road upgrades,” however, the Arizona legislators were told by Mexican officials "You hate us. Why are you here?" stated Arizona legislator Catherine Miranda. (Kallick). A Mercedes executive was visiting Alabama and was detained because he failed to present the right papers. An editorial from the *St. Louis Post-Dispatch* advised told the company, “Hey, Mercedes, time to move to a more welcoming state. ... we are the Show-Me State, not the “Show me your papers” state” New businesses prefer to go to other elsewhere and so do existing business in the state, there is little to no hope to make a profit in Arizona due to these anti-immigration laws. The population has decreased, the environment is not business friendly thus it has caused a decrease in businesses in the state and

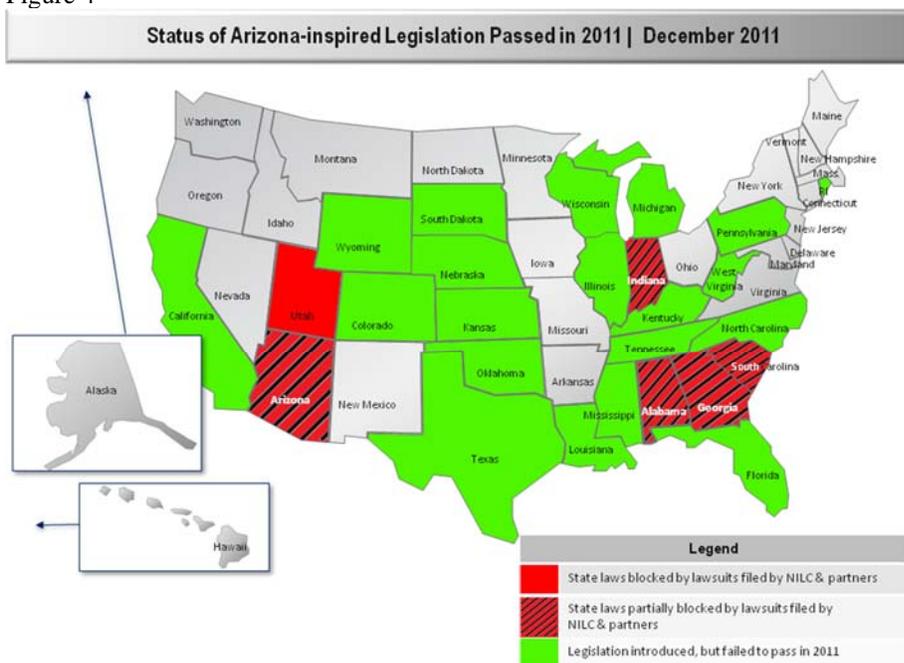
thousands and millions of dollars lost. These restrictive laws have caused and will continue to cause these negative economic impacts on businesses.

Another area that has been harmed and has caused economic losses nationwide due to S.B. 1070 is in agriculture. Many states such as Alabama and Georgia have imposed their own restrictive and harsh copycat laws. The United States' agriculture industry is very dependent on undocumented immigrants and due to the restrictive, anti-immigrant laws the industry has faced billions of dollars in losses. The industry has faced a shortage of labor and according to a recent article by *Time Magazine* it has been extremely difficult to replace the undocumented employees who have left their jobs due to laws like S.B. 1070 in Arizona or H.B. 56 in Alabama.

(Hershberger). According to *Time Magazine*:

“Roughly 70% of the 1.2 million people employed by the agriculture industry are undocumented. No U.S. industry is more dependent on undocumented immigrants. But acute labor shortages brought on by anti-immigration measures threaten to heap record losses on an industry emerging from years of stiff foreign competition. Nationwide, labor shortages will result in losses of up to \$9 billion, according to the American Farm Bureau Federation.”

Figure 4



Linked from: <http://www.nilc.org/map-az-inspired.html>

The states that have been most affected by the shortage of labor are Alabama, Arizona, Georgia, Indiana, North Carolina, South Carolina and Utah. As incentives farmers have tried persuading local workers by offering packages, but they local workers express that they do not wish to work in such harsh and low paying job. Consequently the shortage of workers has caused the crops that are left to rot thus loosing thousands and millions of dollars. Supporters of laws such as S.B. 1070 or H.B. 56 argue that undocumented immigrants “steal” American jobs, but as we can see the undocumented and “unskilled” immigrants are essential to the U.S. economy, specifically in agriculture. (Hershberger). An Arizona pecan farmer named Nan Walden expressed that “we feel strongly that there has never been a greater need for federal leadership for immigration reform.” In Alabama a tomato farmer has estimated that he will lose \$300,000 due to the shortage of labor and the Georgia Agribusiness Council estimated a 1 billion dollar lost for the same reason in 2011 (pecan, cotton and peanut crop losses not included). (Hudson). The negative economic impact on agriculture that S.B. 1070 has triggered has caused billions of dollars in losses and farmers are calling for an immigration reform to fix the shortage of workers in the fields.

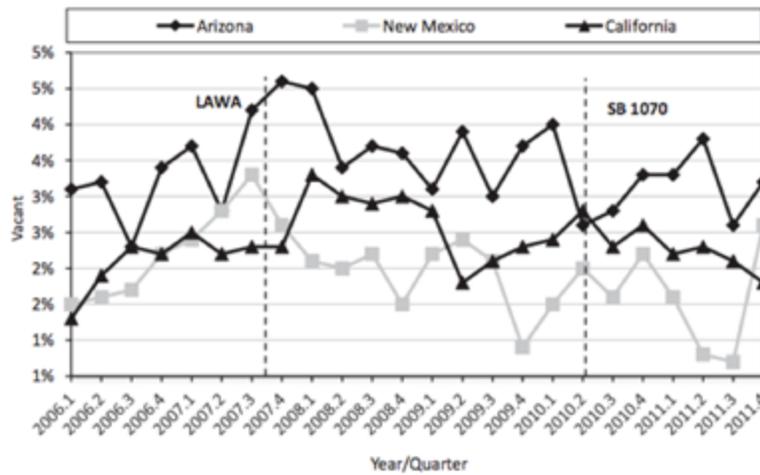
As if all these economic losses were not enough education has also suffered the impact of S.B. 1070. University students began dropping out after the law passed, including out of state, honor students who do not want to be subject to police harassment or racial profiling. Rufus Gasper, the Maricopa Community College Chancellor, said “the many Latino citizens and lawful immigrants who attend college now face the offensive and discriminatory prospect of incessant demands to show their documents... we can expect that some will find this prospect discouraging and will discontinue their pursuit of education and training as well” (Hudson). Many universities in Arizona, Alabama, Georgia and other states that have adopted similar laws

to S.B. 1070 have suffered economic losses due to the dropping out of students. Furthermore, these states are now looked down upon and criticized for the lack of diversity that they will end up having as more and more Hispanic students go to other states. There are abuses in K-12 schools against Hispanic students which are also driving them out of the state along with their families leading to a massive loss of the Hispanic population in the state. The loss of undocumented immigrants in K-12 grades will cause a big loss for schools in Arizona. For each student that stops attending K-12 schools in Arizona the school will lose approximately 1,069 dollars.

The population loss that has caused the negative economic impacts on businesses and in the agriculture industry has also had other big economic impacts affecting the state of Arizona. The new harsh and deterring immigration laws have provoked a big population loss in the state, around two hundred thousand individuals left the state after the controversial immigration law was passed. The loss of population has resulted in the fewer workers (mostly hard labor workers), less tax revenues for the state, less consumption, fewer customers for local business and lower property values. (Hudson). It was estimated that 581,000 jobs would be lost, meaning that employment would drop by roughly 17.2 percent. A study conducted by Vera Pavlakovich-Kochi examined the impact that Mexican immigrants have in Arizona. Although Mexicans are not the only undocumented immigrants in Arizona, or the only nationality that is affected by S.B. 1070, Pavlakovich-Kochi results give us an idea of the great impact that the loss of population has had in our state's economy. Mexicans form 14 percent of the workforce and according to the study *Immigrants in Arizona: Fiscal and Economic Impacts*, immigrants generated 43.8 billion dollars in 2004 and it is estimated that 29.2 billion dollars was generated by undocumented immigrants. (Pavlakovich-Kochi). The direct consumption of immigrants in the same year was

10.2 billion dollars in goods and services and 6.1 billion dollars from undocumented immigrants according to the same study. Lastly, the loss of this huge population of undocumented immigrants led to the crash or to the further devaluation of the

Figure 5
Homeowner Vacancy Rates



Source: U.S. Census, Quarterly Vacancy and Homeownership Rates by State and Metropolitan Statistical Area.

house market. There are more and more unoccupied housing and less demand which brought the values of houses down. What is more worrisome is that even legal immigrants are leaving the states because they have relatives who are undocumented immigrants or simply because they do not want to be harassed by the authority that this law gives to police officers. As we can see from the statistics undocumented and documented immigrants contribute greatly to the state's economy and the population loss experience in Arizona has had an enormous negative economic effect.

The table below from Vera Pavlakovich-Kochi's study reflects the evident positive economic impact that documented and undocumented immigrants, whom are affected by S.B. 1070, have in the state of Arizona.

Table 2

Cost Category	Cost Due To All Foreign-Born (\$ millions)	Cost Due To MX Immigrants (\$ millions)	MX Immigrants' Share of Costs (%)
Education (ELL)	544.1	415.4	76.3
Hospital Uncompensated Care Costs	149.3	110.0	73.7
AHCCCS Costs	642.0	443.2	69.0
Cost of Inmates	91.0	68.9	75.7
Cost of Undocumented Immigrants	87.4	86.5	99.0
Total Fiscal Costs	1,513.8	1,124.1	74.4

Economic Activity	Contribution of All Foreign-Born (\$ millions)	Contribution of MX Immigrants (\$ millions)	MX Immigrants' Share (%)	Mexican Visitors (\$ millions)
Immigrants' Consumption	10,247.0	6,132.3	59.8	
Mexican Visitors' Spending				2,404.2
Immigrants' Output as Workforce*	33,522.0	23,066.2	68.8	
Total Economic Contribution	43,769.0	29,198.5	66.7	2,404.2

Linked from: http://ebr.eller.arizona.edu/arizona_border_region/border_effect.asp

Implementation Costs

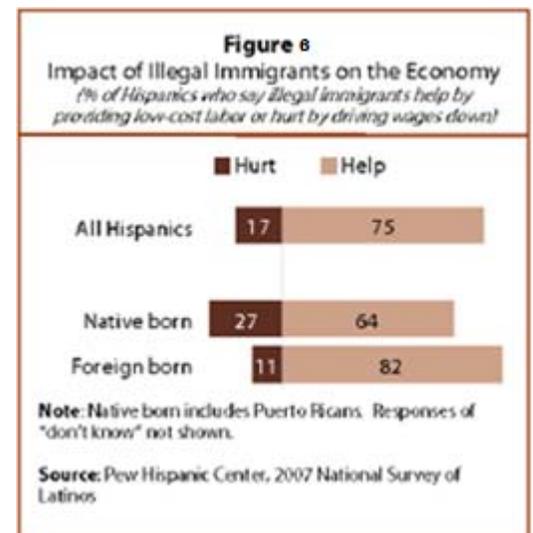
We have already seen the positive economic impacts that undocumented immigrants have in the state of Arizona as well as the adverse, negative impact that the law has caused in many of the state's industry. However, we have yet not addressed the impact that we, the tax payers will suffer in order to be able to implement this law. Arizona has already lost billions and billions of dollars that the Hispanic population in the state put into the economy, and as if that wasn't enough we still need to pay for the implementation of the law. After Governor Brewer signed into law the bill a 10 million dollar investment was made towards the local law enforcement, but this was just the start. The fiscal note that was introduced along with the bill claims that "the fiscal impact of this bill cannot be determined with certainty. We do not have a means to quantify the number of individuals arrested under the bill's provisions or the impact on the level

of illegal immigration"(American Immigration Council). In 2006 a similar law was introduced in Yuma County, but was vetoed by Arizona's ex-Governor Janet Napolitano. The fact sheet from Yuma County Sherriff's Department estimated the following expenses:

- Law-enforcement agencies would spend between \$775,880 and \$1,163,820 in processing expenses;
- Jail costs would be between \$21,195,600 and \$96,086,720;
- Attorney and staff fees would be \$810,067-\$1,620,134;
- Additional detention facilities would have to be built at unknown costs.

Yuma County Attorney Jon Smith stated that S.B. 1070 would be much more costly than the law that was intended to be passed in back in 2006. In an email to the Arizona lawmakers Smith wrote:

"It was also noted that the Superior Court, Justice Courts and Municipal Courts would also realize increased costs if that legislation passed. Although such increases were not calculated, it was and should be noted that such would include additional court staff, interpreters, administrative staff and pre-trial services. In a percentage of those cases, Juvenile Court and the juvenile detention facility would have also recognized cost increases...An increase of this proportion would stifle all areas of the system, from the moment of arrest to the point of conviction, sentencing and incarceration. Already LEA (law enforcement agencies) are fighting to stay afloat through the use of furloughs, and mandated days off with pay. I really doubt the fines and fees assessed will be able to match the need and cost associated" (American Immigration Council).



Linked from: <http://www.pewhispanic.org/2007/12/13/v-views-about-immigrants/>

The revenue that the state has lost and the costs of the law has amounted in a far-fetched billion dollar deficit. The state is already in a multi-billion dollar deficit, so enacting this costly law back in 2010 was irrational and due to our current economic situation it is still absurd.

Conclusion

Throughout the paper many aspects of the controversial anti-immigration S.B. 1070 law have been explored and analyzed. First of all, after explaining the law and the objectives that it

seeks to reach, the paper goes through the judicial process the law underwent until reaching the Supreme Court. The law had been challenge on many constitutional grounds before reaching the Supreme Court such as violations to the Supremacy Clause, 1st Amendment, 4th Amendment, Due Process Clause, Equal Protection Clause, Privileges and Immunities Clause and the Arizona Constitution. The Supreme Court had to take consider many aspects and possibilities in making their decisions regarding the constitutionally of the law. Each and every section judged by the Supreme Court's majority decision was described and analyzed throughout the paper along with the dissenting opinions and legal future of the law. Furthermore, the way the law currently works is also analyzed including the implementation, training of officers and implementation of the law. Lastly, in order to put into context the importance of law aside from the constitutionality aspect of the law, the economic effect was also analyzed. The paper makes sure to touch upon every aspect of the law, clarify controversies and explain the effects of the law.

The future of Arizona's Senate Bill 1070 is very uncertain due to the complexity of challenging the law, but there are also many possibilities for the law to be overturned. As discussed earlier, in order to challenge the law several things need to line up so that it can at least be heard. Even though the law has proved to be unworkable without racially profiling and harassing the Arizona population challenging it will be nearly impossible. The Supreme Court ruled that the law could not be struck down because they did not know if it would be unconstitutional or not in practice, but there needs to be standing and the case cannot be moot. Even if the suing party can come up with civil rights violations those two aspects (standing and mootness) will be a huge obstacle that will probably not be overcome. In the near future I do not see the law being overturned or even being in danger of being challenged. There are only two feasible possibly to getting rid of S.B. 1070. The first is that the state legislature of Arizona will

eventually realize the mistake they made and they will get repeal the law without it going to court. The other possibility is that Congress passes a law that prohibit actions allowed by S.B. 1070 the same way the Immigration Act of 1965 replaced the Asian Exclusion Act (Immigration Act of 1924).

While there were many S.B. 1070 copycat laws passed or proposed in many other states, as long as the economy continues to be like it is, no other state will likely attempt to pass similar laws after seeing what happened in Arizona and Alabama. The United States' Hispanic population will continue to increase and passing such anti-immigration laws would give states a bad reputation and make them lose billions of dollars. Undocumented immigrants do drain resources, however, they are also a big and important part of the United States economy and it would be foolish from an economic viewpoint to pass such laws. Many copycat laws have already been vetoed or struck down like in Alabama, thus many states would rather not waste time resources or risk the bad reputation. There is no future for these laws, as there will be no future in Arizona with S.B. 1070 even if it is never officially overturned.

Five years from now there might still be traces of S.B. 1070 in some parts of Arizona or in some states where copycat laws were passed. After many civil rights and constitutional violations police departments will eventually become less strict in the enforcement of S.B. 1070 like the Tucson Police Department has started to do. This practice will eventually lead S.B. 1070 to becoming one of those discriminatory laws that were never overturned, but are no longer enforced. Since the passage of the law and the constant pressure of the entire nation the uproar has decreased. Police Departments, like in Tucson, have begun giving in to the pressure and recognizing that the law will lead to more problems. It is a matter of time until the law stops being enforced, but the wait will take many and many years. For now we have an

unconstitutional law that will not be overturned any time soon, but will eventually stop being enforced due to its civil rights and constitutional violations.

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