

# US Supreme Court to review Arizona immigration law

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The Supreme Court announced Monday that it will review a lower court decision striking down provisions of an anti-democratic Arizona state law targeting undocumented immigrants, SB 1070.

Arizona's SB 1070, signed into law in April 2010 amidst a right-wing campaign of anti-immigrant hysteria, includes a number of historically unprecedented and onerous provisions targeting undocumented immigrants.

One such provision requires state police to determine the immigration status of any person stopped or arrested, even for routine traffic violations.

The bill also empowers local and state police officers to stop anyone and demand identification papers, without a warrant, if the officers have a "reasonable suspicion" that a person is an undocumented immigrant. The phrase "reasonable suspicion," ostensibly a threshold requirement to justify police contact, has over the last several decades been the vehicle for greatly expanded police powers.

The bill criminalizes residents without documents, undocumented immigrants seeking work, and even "harboring an illegal immigrant," subjecting offenders to jail, fines, and other measures.

The Arizona law was the first of a number of similar bills in state legislatures throughout the country, all seeking via different forms of discrimination—in housing, contracting, education and transportation—to criminalize and harass an entire section of the working class.

The Obama Administration mounted a limited legal challenge to SB 1070 in 2010, arguing that the power to regulate immigration and naturalization was exclusively federal, such that the Arizona state legislation was invalid. On this basis, the Court of Appeals for the Ninth Circuit overturned certain

provisions of the bill.

On Monday, the Supreme Court, on its own initiative, announced it would review the Ninth Circuit decision. By taking the case on for review voluntarily, the Supreme Court ignored the Obama administration's request to leave the lower court decision undisturbed.

While the fate of the case in the Supreme Court is unclear, the fact that the Ninth Circuit decision is being reviewed will encourage the right-wing defenders of SB 1070.

A Supreme Court decision upholding the Arizona law would have vast legal implications affecting the historic relationship between federal and state governments.

The US Constitution gives the federal Congress alone the power to "establish [a] uniform Rule of Naturalization." This provision, among others, has long been understood to preclude the states from enacting their own immigration laws. Nevertheless, state legislatures in Alabama, South Carolina, Utah, Georgia, and Indiana, in defiance of federal law, have recently enacted their own versions of SB 1070 attacking undocumented immigrants.

The Arizona legislation was promoted by ultra-right elements in the leadership of the state's Republican Party. Its prime sponsor, state Senator Russell Pearce—closely associated with white supremacist and anti-immigrant groups—has introduced previous bills against immigrants which are now facing constitutional challenges in the federal courts.

Pearce recently lost his Senate seat in a recall election seen as the result of popular hostility to his role in advancing the anti-immigrant legislation.

The Supreme Court upheld 5-3 another anti-immigrant measure sponsored by Pearce last May in *Chamber of Commerce v. Whiting*. That measure targeted employers of illegal immigrants by bolstering

a federal provision authorizing states to consider compliance with immigration rules when issuing business licenses. In that case, as in the review of SB 1070 announced Monday, Justice Elena Kagan recused herself, citing her prior employment at the Justice Department under Obama.

According to the *Wall Street Journal*, “The White House sees the development as a plus with Hispanic voters, who strongly oppose these state laws and are likely to be energized regardless of the outcome, according to a person familiar with White House officials’ thinking.”

The Obama administration’s opposition to SB 1070 has nothing to do with a principled opposition to anti-democratic measures directed against undocumented immigrants. In just three years, the Obama administration has deported 1.2 million immigrant workers, compared to the 1.57 million deported in the eight-year Bush administration.



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