



# ARIZONA'S **ANTI**-IMMIGRANT LAW IS ALSO **ANTI**-FAITH

By Jenny Hwang

JUNE 2010

# ARIZONA'S ANTI-IMMIGRANT LAW IS ALSO ANTI-FAITH

BY JENNY HWANG

JUNE 2010

## ABOUT PERSPECTIVES ON IMMIGRATION

The Immigration Policy Center's *Perspectives* are thoughtful narratives written by leading academics and researchers who bring a wide range of multi-disciplinary knowledge to the issue of immigration policy.

## ABOUT THE AUTHOR

**Jenny Hwang** is the Director of Advocacy and Policy for the Refugee and Immigration Program at World Relief. In this position, Jenny works with members of Congress, their staffers, and the Administration to improve refugee and immigration policy. She previously worked in the Resettlement section of World Relief as the Senior Case Manager and East Asia Program Officer where she focused on advocacy for refugees in the East Asia region and managed the entire refugee caseload for World Relief before their arrival to the United States. Previous to World Relief, she worked at the largest political fundraising firm in Maryland managing fundraising and campaigning for local politicians. Jenny has researched refugee and asylum law in Madrid, Spain through the United Nations High Commissioner for Refugees. She is co-author of [\*Welcoming the Stranger: Justice, Compassion and Truth in the Immigration Debate\*](#), available for purchase online.

## ABOUT THE IMMIGRATION POLICY CENTER

The Immigration Policy Center, established in 2003, is the policy arm of the American Immigration Law Foundation. IPC's mission is to shape a rational national conversation on immigration and immigrant integration. Through its research and analysis, IPC provides policymakers, the media, and the general public with accurate information about the role of immigrants and immigration policy on U.S. society. IPC reports and materials are widely disseminated and relied upon by press and policymakers. IPC staff regularly serves as experts to leaders on Capitol Hill, opinion-makers, and the media. IPC is a non-partisan organization that neither supports nor opposes any political party or candidate for office. Visit our website at [www.immigrationpolicy.org](http://www.immigrationpolicy.org) and our blog at [www.immigrationimpact.com](http://www.immigrationimpact.com).

# Introduction

While visiting Phoenix, AZ in late January with a group of evangelical leaders who were in the border region to learn more about immigration, I met an immigrant family struggling to survive in a difficult economy. The father was employed as a mechanic but recently lost his job and lived in constant fear of being separated from his two young children who are U.S. citizens. This man considered moving his family back to Mexico because life was so hard in Phoenix, but was concerned about his two young children who would go back to a country they never knew. They were generous in feeding a group of American visitors delicious homemade Mexican food, as their children ran around the yard, yelling at each other in a mix of Spanish and English. During the same visit, my colleague met an undocumented immigrant woman named Maria whose son was killed by a drunk driver. She cannot press charges, however, because of her undocumented status

The stories of this family and Maria demonstrate the more complicated side of immigration which can often just focus on border security and rule of law. The strict immigration law signed by Arizona Governor Jan Brewer at the end of April further complicates the situation of these immigrants and thousands more in Arizona. The thriving immigrant community in Arizona has contributed tremendously to the growing Arizonan economy and enriched the social fabric of its communities, but the hundreds of miles of border shared with Mexico and increasing border violence has created a palpable frustration in Arizona with immigrants and misguided attempts to stem illegal immigration. While most people would agree that illegal immigration is wrong and our federal immigration laws need to be reformed, this new

***The thriving immigrant community in Arizona has contributed tremendously to the growing Arizonan economy and enriched the social fabric of its communities***

Arizona law was written to stop illegal immigration through attrition, making Arizona such a poor environment to live in that undocumented immigrants will be forced to move to another state. Although federal immigration laws should be enforced and the border secured, addressing illegal immigration by making immigrants' lives miserable would be ineffective in curbing illegal immigration as it is intended to do because these enforcement measures would not address the underlying causes of why immigrants come to the United States in the first place.

I fear that when the law takes full effect at the end of July, there will be many unintended consequences that will impact not only hundreds of families in Arizona, but also Christian ministries and churches that serve immigrants in Arizona. Already, I have heard from Christian leaders on the ground that high school church youth groups that had many undocumented students as members are already missing some who have just disappeared without any word to their friends and neighbors. Other Christian leaders have lamented to me that the law's effect on the ground is "ridiculous and absurd. It's a backwards attempt at creating a society based on fear instead of rational, common sense policy."

# The Practical Impact of the Law

SB1070 as passed out of the Arizona state legislature stated that if a law enforcement official has “reasonable suspicion” that someone is in the U.S. illegally, the officer may immediately arrest and detain the individual. The language at that time was so broad that charges of racial profiling ensued. How would a law enforcement officer determine “reasonable suspicion” other than basing this suspicion on the color of someone’s skin or their ability to speak English? This would include not just undocumented immigrants but U.S. citizens or legal permanent residents—anyone who may be an immigrant, legal or not, and does not carry the proper identifying documents with them.

***“Since immigration is regulated by federal law, carrying out immigration enforcement should be the sole responsibility of the federal government.”***

Changes were made to the original law to reduce the chances for racial profiling, so an officer could only ask about an immigrant’s legal status while enforcing another law. For example, the officer would be required to ask about the immigration status of an individual if pulling them over for speeding, loitering, or some other offense. The law also was changed to remove the word “solely” from the following sentence: “The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin,” so that officers will not “solely” use race, color, or national origin as grounds for suspecting that someone is in the country illegally. While these changes in the law may mitigate the chances for racial profiling, these changes do not alter the intent of the law to empower all local law enforcement officials in Arizona to check the immigration status of anyone

they deem suspicious while carrying out their normal law enforcement duties. This new law also makes it a state crime to live in or travel through Arizona illegally and increases penalties for employers who hire illegal immigrant day laborers. While targeting unscrupulous employers is part of reducing illegal immigration, doing so without providing legal avenues through which employers can get the workers they need will stifle businesses in Arizona at a time when they need to thrive.

Since immigration is regulated by federal law, carrying out immigration enforcement should be the sole responsibility of the federal government. The Department of Homeland Security’s Immigration and Customs Enforcement (ICE) division has a system in place in which undocumented immigrants who entered the country illegally are detained and deported. In the past year alone, DHS has deported a record 387,790 individuals from the United States. Only in certain cases has the federal government contracted with local law enforcement officials (under the 287(g) program) to identify, detain, and deport undocumented immigrants. Although the Government Accountability Office has found serious problems with the 287(g) program, these agreements clarify the responsibilities of federal and state officials. The Arizona

law, however, circumvents this process by directly requiring local law enforcement officials to implement federal immigration law.

Many local law enforcement officers, including the Arizona Association of Chiefs of Police, have since opposed the Arizona law because they believe that questioning the legal status of individuals would distract them from targeting harmful criminals and diminish trust between police officers and immigrants, who are often essential partners in fighting crime. John Morton, Department of Homeland Security's Assistant Secretary for ICE, has said that he does not believe that a "patchwork of state laws" is the best way to reduce illegal immigration, and Secretary Napolitano also said she believes it will "detract from and siphon resources that we need to focus on those in the country illegally who are committing the most serious crimes in addition to violating our nation's immigration laws. I think these kinds of laws are not value-added to law enforcement."

State governments cannot dictate the priorities of a federal agency tasked with enforcing immigration laws in the best interest of not only a few border states, although important, but the entire country. Federal courts have previously ruled that state and local laws similar to Arizona's are unconstitutional because only the federal government has the power to regulate immigration as articulated by the Supremacy Clause in Article VI of the Constitution. Court challenges to the law are mounting, and people of faith are mounting their own challenges, as demonstrated by the 24-hour prayer vigil in front of the Arizona State Capitol that started this past week led by a local youth pastor Ian Danley of Neighborhood Ministries. He is gathering students and local pastors to protest the bill right where it was passed. The Isaiah 58: Solidarity Vigil and Fast for Arizona is another faith movement which started June 6th, eight weeks prior to the implementation of SB 1070, for people of faith in cities across the U.S. including in South Carolina, North Dakota, Pennsylvania, Maryland and Alabama to be in constant prayer and public witness in solidarity with the faith and immigrant communities in Arizona. This movement is inspired by Isaiah 58, which teaches us that a "true fast" is undertaken in service of "loosening the chains of injustice."

***“People of faith are often at the front lines of helping those in need and do so without checking the legal status of those they see.”***

## The Moral Challenge of the Law

The United States is often a model for the world in its systems of justice and rule of law. These systems and laws are supposed to be congruent with accepted international norms and be consistent in its treatment of the most vulnerable among us who are often immigrants and refugees. When the Arizona bill was passed, a group of independent UN experts expressed concern about the "vague standards and sweeping language of Arizona's immigration law, which raise serious doubt about the law's compatibility with relevant international human rights treaties to which the United States is a party." The Arizona law diminishes U.S. standing

in the world and is not consistent with an often-stated motto in the State Department to “do at home what we preach abroad.” Included in this Group of Experts expressing concern about the Arizona law were the Special Rapporteur on the human rights of migrants, Jorge Bustamante; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai; and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya.

**“Our immigration system, however, has created broken families in which approximately 3.1 million U.S. citizen children live in families with at least one undocumented member.”**

Arizona’s new law not only begets practical questions of how local law enforcement officials who lack proper training can enforce complex federal immigration laws, but the law also brings up a moral question of how this new law will implicate people carrying out ministries of mercy because they believe they are called to a higher law- God’s law. People of faith are often at the front lines of helping those in need and do so without checking the legal status of those they serve. The Bible, and other religious texts, all have some admonition to its followers to care for and welcome the stranger among them. The Arizona law makes some of this activity illegal by constituting “smuggling of human beings” as the “transportation by a person or an entity that knows or has reason to know that the person is not lawfully in this state.”

Therefore, a local church that picks up an undocumented immigrant for Sunday service could be charged with a misdemeanor and have their church van impounded. Also, according to the Arizona law, a church volunteer who picks up a group of 10 immigrants could be classified as a felon and incur a \$1,000 fine for each immigrant in the van.

Keeping families together is of utmost importance to many in the faith community. Families are the building blocks through which individuals are able to grow and stabilize within society. Our immigration system, however, has created broken families in which approximately 3.1 million U.S. citizen children live in families with at least one undocumented member. In Arizona, these mixed status families could be arrested if driving together. A wife whose husband is undocumented could be charged for driving with her husband to the grocery store. Laws that do not reflect the fundamental desire for families to be together leads to the break-down of society.

The law also states that it is unlawful to “conceal, harbor or shield an alien from detection in any place in Arizona, including any building or means of transportation.” If the government of Arizona interprets having an undocumented immigrant worship in a church building on Sunday as “harboring an alien from detection,” or helping an immigrant with legal services as an attempt to “shield an alien from detection,” many churches in Arizona will be engaged in unlawful activity. The language of the Arizona bill is so broad that it gives local law enforcement officials broad discretion to enforce immigration laws against individuals and entities, deterring these well-meaning individuals and organizations from engaging in the very acts that they feel compelled to carry out because of Christian love or duty.

# Aligning Our Policies with Our Values

While the majority of Americans want to end illegal immigration, targeting families and churches that are ministering to the strangers in their midst is a step backward in addressing illegal immigration by preventing the integration of the newcomers and deterring focus off real, effective solutions that will fix the broken immigration system. Rather than curbing illegal immigration because it does not increase border security or provide temporary visas for future immigrants to come to the U.S. , the law will likely drive immigrants further into the shadows of society, especially the many who have family members who are U.S. citizens. Immigrants currently living in Arizona may leave the state but end up in states where they feel more welcome and are able to work.

Also, many churches that minister to immigrants by integrating them as the newest members of society may be charged with carrying out unlawful activity. With a stroke of a pen, the activities of ministries that have existed for over 30 years to empower immigrants to gain life skills, learn English, and become self-sufficient will be considered illegal. Churches will be unable to pick up undocumented immigrants for church on Sundays for fear of being fined for “knowingly transporting” someone who is without papers in Arizona. Asking for someone’s legal status was never a requirement for a church to serve those in need, but because this law makes so many of the activities that churches engage in illegal, many churches will be forced to choose between following what they feel like God has called them to do (serving immigrants in their communities) and disobeying the Arizona law, or obeying the Arizona law and not being able to carry out what they feel is so central to their identity as a faith-based organization.

*“...targeting families and churches that are ministering to the strangers in their midst is a step backward in addressing illegal immigration...”*

Immigration holds an important place in our national mythology and lore. While the United States is a nation founded by immigrants, immigrants were often simultaneously welcomed and scorned throughout our history. In 1751, Benjamin Franklin bemoaned the influx of German immigrants whom he feared would “establish their language and manners to the exclusion of ours [the English]” and would never “adopt our Language or Customs, any more than they can acquire our complexion.” Years later, George Washington, our founding father, said in a speech that “The bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions.” While the words of Emma Lazarus inscribed on the base of the Statue of Liberty immortalized the idea of America as a refuge of freedom and opportunity, just a year prior to the poem’s publication, in 1882, the U.S. Congress passed the first significant federal law restricting immigration, the Chinese Exclusion Act, which legally forbade Chinese immigrants from entering the United States for more than sixty years. The Quota System of 1924 also effectively shut out immigrants from southern and Eastern Europe and most all Asians based on supposedly scientific theories that deemed new

immigrants as biologically inferior to, and thus less capable of assimilation, than races that had populated America in the previous centuries

***“In the end, I believe our nation will be not be judged by the productivity of our budgets, or the genius of our laws, or even the earnestness of our faith communities. We will be judged, both by history and by God, by the way we treated people, especially those who needed our help.”***

*-Florida Pastor, Joel Hunter*

It wasn't until 1965 that these laws were overturned, years after President John F. Kennedy eloquently argued before his passing that the United States should have an immigration policy that was generous, fair, and flexible, allowing the nation to “turn to the world, and to our own past, with clean hands and a clear conscience.” The Arizona law reminds me of some of the most egregious anti-immigrant pieces of legislation that were passed in our history. What's troubling, however, is that in all past instances, the federal government had passed such restrictions on immigration. In this case, Arizona is taking federal responsibility into its own hands. When we look back on previous immigrants who came to the U.S. and consider the unwelcoming environment to which they first arrived, it is also important to remember that these immigrants' descendants are considered full-blooded Americans who integrated and contributed to our country in immeasurable ways.

Recently, President Obama committed 1,200 National Guard troops to the border and asked for \$500 million from Congress for strengthened border security. While amplifying border security to stem violence is important, we've spent the past decade doubling border security but the levels of immigration to the U.S. have not responded accordingly. What we see instead is that immigrants often respond to the labor needs of our country and migrate accordingly. Unless Congress and the White House work together to enact comprehensive immigration reform that will holistically increase border security, provide more responsive legal avenues through which future workers can come to the U.S., and require undocumented immigrants currently in the U.S. to earn the right to stay in this country, states like Arkansas, Maryland, Minnesota, Missouri, Nevada, , Ohio, and Pennsylvania will erroneously follow the lead of Arizona in considering similar laws that will expand the patchwork of laws in what is ultimately a federal responsibility.

Laws like Arizona are not just a distraction on real enforcement but affect the very moral fiber of our country. Every day that the federal government fails to enact comprehensive immigration reform, families continue to live in fear in our country. Florida pastor Joel Hunter got it right when he testified before Congress, saying, “In the end, I believe our nation will be not be judged by the productivity of our budgets, or the genius of our laws, or even the earnestness of our faith communities. We will be judged, both by history and by God, by the way we treated people, especially those who needed our help.”