



## **Media Analysis: Coverage of *Arizona v. United States*, a Challenge to the Constitutionality of Arizona’s SB 1070**

What follows is an analysis of mainstream newspaper coverage of the U.S. Supreme Court argument in *Arizona v. United States*, a constitutional challenge to Arizona’s anti-immigrant “show me your papers” law, SB 1070. The analysis identifies major trends in the framing, narrative, opinion, quotations, and facts used by media outlets in journalistic reporting and commentary surrounding the case. Designed for pro-immigrant advocates, policymakers, and other spokespeople, it is intended to identify openings and challenges for media engagement and persuasive communications about the case.

### **Methodology:**

The Opportunity Agenda staff conducted a scan, using the LexisNexis database, of national and regional daily newspaper coverage<sup>1</sup> during the week before and the week after the Supreme Court oral argument in *Arizona v. United States*, which took place on April 25, 2012. The scan produced 167 stories, from which we randomly selected 40 for full close review.

### **Main Themes and Narratives**

The main themes that we identified are as follows:

- ▶ The stories define the case as about the “show me your papers” provision, Section 2(B), and they often call it just that. They mention the provisions criminalizing failure to carry “alien registration document[s]” (Section 3) and seeking work without authorization (Section 5(C)), but these are depicted as secondary provisions. Very few stories discuss Section 6, which allows warrantless arrests when an officer has “probable cause” to believe that a person has committed a crime that makes that person removable from the United States. This division of emphasis roughly mirrors the time spent discussing these provisions during the oral argument.
- ▶ The coverage overwhelmingly predicts, based on the argument, that the Court will uphold the show me your papers provision, while striking down the criminalization provisions. They describe this predicted “mixed decision” as a victory for anti-immigrant advocates, who have been mostly unsuccessful in the lower courts.
- ▶ The reporting largely failed to note that the Court’s ruling in this case—most likely at the end of June—will not be the last word on SB 1070’s constitutionality. There are Equal Protection challenges to the law pending. And if any aspect of it goes into effect, there will quickly be “as applied” challenges to the way in which it is being implemented. These details were lost in the coverage of this case.
- ▶ Editorials on the law and oral argument overwhelmingly oppose SB 1070, and urge the Court to overturn it. This includes the *Arizona Republic*. A small number of editorials support the law, and at least one argues that the Obama campaign will benefit politically (i.e., gain more Latino voters) if the law is upheld.
- ▶ The specter of racial profiling has a prominent role in coverage—while recognizing that the Supreme Court case does not address that issue. The possibility that the “papers” provision will result in racial profiling pervades the coverage, with people arguing both sides.



# The Opportunity Agenda

*Building the National Will to Expand Opportunity in America*

- ▶ There are, however, very few instances of “real life” racial profiling reported in this coverage. The exceptions are scattered quotes of Latino citizens who say they were stopped under the law.
- ▶ Although the case is about the extent to which states can pass their own immigration laws, there is only modest discussion of this issue in the coverage. What exists is largely in the form of quotes about a patchwork of 50 state laws. There was little or no mention of what 50 different immigration policies would mean in practice.
- ▶ There is universal consensus in the stories that the federal government has failed to fulfill its responsibility to fix a broken immigration system. Comprehensive immigration reform—by various names—is the alternative that the stories identify, and some stories note that a pathway to citizenship is as popular with Americans as SB 1070-style laws.
- ▶ There are frequent references to President Obama’s aggressive deportation strategy, and the large numbers of immigrants deported by his administration.
- ▶ There is an overwhelming theme of divisiveness and rancor in the debate over SB 1070 and immigration laws generally. The debate is portrayed as ugly, polarizing, and politicized. There is frequent reference to the notion that federal lawmakers on both sides of the aisle would rather play politics on this issue than address it effectively.
- ▶ There is an assumption that the expected ruling (upholding the “papers” provision) will encourage copycats. But there are also frequent statements that enthusiasm for these laws has cooled considerably, even in the states that adopted them—for a combination of agricultural/business, boycott, migration, and political reasons. There are multiple references to the failure of legislation in Mississippi, to the recall of Russell Pearce, and to efforts to moderate the state laws that were recently passed.
- ▶ A number of stories note the importance of Latino voters, their concerns about immigration and an anti-immigrant political environment, Romney’s efforts to rebuild Latino support after an extremist primary process, and President Obama using the immigration issue to try to solidify his advantage in Latino support.
- ▶ There is significant coverage of the fact that net immigration from Mexico to the U.S. is near zero, and this is often described as giving America “breathing room” for more rational policymaking—along with frequent skepticism that reform will occur. The recent Pew study on immigration numbers generated most of this coverage.
- ▶ Alternatives to the term “illegal immigrant” are emerging—primarily “undocumented,” and occasionally “unauthorized.” While “illegal immigrant” is still the predominant term, and at least one paper used the term “illegals,” there is much more variation than in past coverage.
- ▶ The phrase “attrition through enforcement” is repeated again and again by friend and foe alike, and is framed as a viable, if controversial, strategy. “Self-deportation” appears occasionally, and more derisively.
- ▶ There was no mention of the fact that an adverse ruling—upholding one or more parts of SB 1070—could also create new room for pro-immigrant laws by some states or localities.
- ▶ Nor was there meaningful discussion of immigrant integration policies, or of alternatives like wage and hour enforcement or due process protections.



## Sources and Quotes:

The coverage quoted a wide range of individuals, with the Supreme Court Justices (particularly Roberts, Scalia, Sotomayor, and Breyer) and oralists (Clement and Verrilli) among the only people quoted multiple times.

- ▶ After the Justices and attorneys, the most frequently quoted categories were, in descending order, federal lawmakers, pro-immigrant advocates, state policymakers, and researchers. Anti-immigrant advocates were a tiny fraction of those quoted in our sample, and they were dwarfed by pro-immigrant advocates, among others. There were also very few business leaders quoted (those who were opposed the law), few law enforcement officials (those who supported the law), and few or no identified faith leaders.
- ▶ With the exception of a small number of Dreamers, virtually no undocumented immigrants, and few immigrants generally, were quoted in the coverage.
- ▶ Pro-immigrant advocates were prominent and “on message.” In terms of content, the quoted advocates (along with President Obama) were most likely to invoke values, challenge racial profiling, and connect SB 1070 to the rights and interests of all Americans. Federal lawmakers mostly engaged in rather cynical political discourse about Latino voters and poll numbers. State officials mostly debated the merits of the law. Researchers discussed demographic changes and political implications. The few anti-immigrant leaders (from the group FAIR), who were quoted mostly focused on states’ rights arguments and invasion metaphors.

## Implications and Recommendations:

Many aspects of the coverage offer significant opportunities. These include the broad opposition to SB 1070 by editorial boards, the prominence of racial profiling concerns, the sense that enthusiasm for anti-immigrant laws is fading for economic and political reasons, the near consensus in the reporting that some form of national immigration reform is needed, the warning that Latino voters will punish anti-immigrant politicians, and the dominance and persuasive messaging of pro-immigrant advocates. The gradual move away from the term “illegal” is also encouraging. These advantages should be reinforced in pro-immigrant movement communications and engagement with media outlets.

The continuing challenges that exist point to several recommendations for pro-immigrant advocates and allies:

- ▶ Raising the visibility and voice of immigrant, business, faith and law enforcement voices, explaining from their unique perspectives why SB 1070-style laws are bad for America, and promoting positive alternatives. There seems to be a particular opening for op-eds, which were largely absent in our scan.
- ▶ Highlighting concrete examples of racial profiling due to these laws, and the human stories behind them. Media and opinion research suggest public concern about profiling exists, but competes with skepticism and doubts that it is actually occurring.
- ▶ Providing reporters and other audiences with greater detail and examples of the chaos and confusion that could result from 50 different immigration laws. Paradoxically, it may also be beneficial to begin talking about pro-immigrant laws that forward-looking states and municipalities could pass if the Court says that they have greater latitude.



# The Opportunity Agenda

*Building the National Will to Expand Opportunity in America*

- ▶ Highlighting positive and proactive policies that integrate immigrants into our social fabric and economic engine, and that address real issues like job creation, living wages, public safety, and social services. Pointing to places like California, Connecticut, and New Mexico that are using these approaches successfully can help to concretize them in the minds of reporters and public audiences.
- ▶ Communicating to reporters and public audiences that, whatever the outcome of *Arizona v. United States*, there will almost certainly be subsequent Equal Protection and “as applied” challenges to the implementation of whatever aspects of the law survive.

Finally, given the complexity of this case, and the multiple provisions at issue, it will be important to develop advance messaging for each of the half dozen or so possible outcomes. Anti-immigrant advocates are likely to declare victory under almost any of the likely scenarios. Immigrant supporters should be ready to tell their story, adapted to the specifics of the decision.

---

<sup>i</sup> Using the terms “Arizona” and “supreme court” and “immigrant”/“immigration,” the scan identified articles, editorials, and op-eds in English-language newspapers published in the United States that are listed in the top 50 in circulation in *Editor & Publisher Year Book*:

Arkansas Democrat-Gazette  
Chicago Sun-Times  
Chicago Tribune  
Daily News (New York)  
Detroit Free Press  
Fort Worth Star-Telegram  
Journal of Commerce  
Los Angeles Times  
Miami Herald  
Newsday (New York, NY)  
Orlando Sentinel  
Pittsburgh Post-Gazette  
Sacramento Bee  
San Antonio Express-News  
San Diego Union-Tribune  
St. Louis Post-Dispatch  
Star Tribune (Minneapolis MN)  
Sun-Sentinel (Fort Lauderdale)  
Tampa Bay Times  
The Arizona Republic (Phoenix)  
The Atlanta Journal-Constitution  
The Baltimore Sun  
The Boston Globe  
The Boston Herald  
The Buffalo News  
The Charlotte Observer  
The Christian Science Monitor  
The Cincinnati Enquirer (Ohio)  
The Columbus Dispatch  
The Courier-Journal (Louisville, Kentucky)  
The Daily News Journal,  
Murfreesboro, TN



# The **Opportunity** Agenda

*Building the National Will to Expand Opportunity in America*

---

The Daily Oklahoman (Oklahoma City, OK)  
The Dallas Morning News The Denver Post  
The Detroit News (Michigan)  
The Hartford Courant The Houston Chronicle  
The Indianapolis Star (Indiana) The Kansas City Star  
The Milwaukee Journal Sentinel  
The New York Post  
The New York Times  
The Orange County Register  
The Oregonian  
The Philadelphia Daily News (PA)  
The Philadelphia Inquirer  
The Plain Dealer  
The San Francisco Chronicle  
The Seattle Times The Tampa Tribune  
The Washington Post  
Times-Picayune (New Orleans)  
USA Today