State and Local Government / State Immigration Laws / Do states have a right to pass anti-immigration laws?

On April 19, 2010, the Arizona State Senate passed a law that requires police officers to detain anyone they have reason to suspect is living in the United States illegally, and to verify the suspect's immigration status with federal officials. The law also makes it a state crime to not carry immigration papers. Signed into effect by Gov. Jan Brewer on April 23, Senate Bill 1070 incited outrage from people claiming the law encouraged racial profiling. In response to a law suit filed by the U.S. Department of Justice against the state of Arizona, a federal judge eventually issued an injunction against the most controversial provisions of the law. On June 25, 2012, the Supreme Court struck down several parts of the law, but upheld its most controversial provisions—the law's mandate requiring law enforcement officers to check the immigration status of anyone they stopped or detained. Despite this ruling, however, critical questions remain about the extent to which an individual state can authorize actions against illegal immigration.

Arizona is just one of many states grappling with the question of whether local authorities should create and enforce laws related to illegal immigration or leave the matter to federal authority. Proponents of local control argue that the federal government has failed in its efforts to regulate illegal immigration. Given inaction or inadequacy at the federal level, they argue, state governments should be able to exercise power over their own communities. Advocates for federal control, on the other hand, point to a century of legal precedent granting powers over immigration exclusively to the federal government. Since immigration is an aspect of foreign affairs, they believe, regulations about who enters the nation belong to the government of the United States, not to any one state in particular. As city and state demographics continue to fluctuate, the debate between state and federal immigration authority over immigration has yet to be resolved.

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