



TESTIMONY OF AMBASSADOR JOHNNY YOUNG

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On

Examining the Constitutionality and Prudence of State and Local

Governments Enforcing Immigration Law

Submitted to

The Senate Judiciary Subcommittee on Immigration, Refugees and

Border Security

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I am Ambassador Johnny Young, Executive Director of Migration and Refugee Services of the United States Conference of Catholic Bishops (USCCB). I submit this statement to you on behalf of USCCB.

I would like to thank Subcommittee Chairman Schumer and Ranking Member Cornyn for permitting me to submit our statement on this important matter.

Today's hearing is entitled "Examining the Constitutionality and Prudence of State and Local Governments Enforcing Immigration Law." In my statement, I will outline the foundation for USCCB's position in opposition to Arizona S.B. 1070 and similar unconstitutional state and local immigration policies. I will also restate our support for comprehensive federal immigration reform legislation as the more appropriate solution to a broken immigration system.

The USCCB Position on Immigration

In January 2003, the U.S. and Mexican Catholic bishops released a pastoral letter on migration entitled, "*Strangers No Longer: Together on the Journey of Hope*." In their letter, the bishops stressed that, "[w]hen persons cannot find employment in their country of origin to support themselves and their families, they have a right to find work elsewhere in order to survive. Sovereign nations should provide ways to accommodate this right."¹ The bishops made clear that the "[m]ore powerful economic nation . . . have a stronger obligation to accommodate migration flows."²

In *Strangers No Longer*, the USCCB recognized the right of the sovereign to control and protect its borders, stating: "we accept the legitimate role of the U.S. . . . government in intercepting undocumented migrants who attempt to travel through or cross into [the country]." The U.S. Bishops emphasized, however, that ". . . [w]e do not accept . . . some of the policies and tactics that our government has employed to meet this . . . responsibility."³

The U.S. bishops made clear that despite the sovereign's right to control its borders and engage in enforcement of immigration laws, the "human dignity and human rights of undocumented migrants should be respected." We declared that "[r]egardless of their legal status, migrants, like all persons, possess inherent human dignity that should be respected . . . Government policies that respect the basic human rights of the undocumented are necessary."⁴

Based on *Strangers No Longer* and a long history of Papal and Gospel teachings⁵, the U.S. Catholic bishops have called for reform of our nation's immigration laws for years now, advocating for a new system which balances our heritage as a nation of immigrants with respect

¹ *Strangers No Longer: Together on a Journey of Hope. A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States*, January 23, 2003, No. 35 [hereinafter, *Strangers No Longer*].

² *Strangers No Longer* at No. 36.

³ *Strangers No Longer* at No. 78.

⁴ *Strangers No Longer*, at No. 38.

⁵ Compendium of Catholic Social Doctrine, U.S. Conference of Catholic Bishops, September, 2011.

for the rule of law. Not only must we re-examine enforcement strategies and policies, we also must revamp other aspects of the system, including legal immigration and family unification policies.

Specifically, the USCCB supports legislation which includes 1) an earned path to citizenship for the 11 million undocumented in the nation; 2) a future flow worker program which protects both the rights of U.S. workers and foreign-born workers; 3) improvements in our family-based immigration system to reduce reunification waiting times; 4) due process reforms for immigrants; and 5) policies which address the root causes of migration, such as economic disparities with sending countries.

Mr. Chairman, there exists a national consensus that the U.S. immigration system is severely flawed and needs an overhaul. Of particular concern to USCCB is the impact our broken immigration system is having on immigrant families, many of whom have one or more undocumented persons among their number. Federal and local law enforcement policies have led to an unprecedented separation of families, as undocumented parents are being separated from their U.S. citizen children. Children are often the innocent victims of these policies, which leave them without parents and less opportunity to live a full and productive life in their home country, the United States.

The USCCB has repeatedly testified before Congress and commented on immigration law and policy. In a March 2012 letter to Speaker of the House John Boehner, His Eminence Timothy Cardinal Dolan, archbishop of New York and president of the USCCB, and Archbishop Jose Gomez, archbishop of Los Angeles and chairman of the USCCB Committee on Migration, explained why the Church is particularly concerned about immigrants in the United States today: “As pastors to millions of Catholics across the nation, we and our brother bishops are keenly aware of the human suffering being caused by our flawed immigration laws, as we witness it each day in our parishes, social service programs, and health-care facilities. We also understand the political challenges confronting federal immigration reform and the political divisions caused by this issue.”⁶

USCCB Position on State Immigration Enforcement Laws

From the USCCB perspective, Arizona SB 1070 is symptomatic of the absence of federal leadership on the issue of immigration. State laws in Alabama, Arizona, and other states have created environments in which immigrants, regardless of their legal status, and law enforcement personnel are pitted against each other, eroding long-held trust between immigrant neighborhoods and local authorities. The Catholic bishops in states including Arizona⁷ and Alabama⁸ have spoken in opposition to such measures, urging a federal solution rather than state laws.

⁶ USCCB, Letter to House on Immigration, March 22, 2012, available at <http://www.usccb.org/issues-and-action/human-life-and-dignity/immigration/letter-to-house-on-immigration-2012-march.cfm>.

⁷ Arizona Catholic Conference, *Arizona Catholic Conference Bishops Statement on Legislation Impact Vulnerable Populations*, March 2010, available at <http://www.justiceforimmigrants.org/documents/Arizona-Catholic-Conference-Statement-1070.pdf>.

⁸ Most Reverend Thomas Rodi, Archbishop of Mobile, August 1, 2011, available at <http://www.justiceforimmigrants.org/documents/Bishop-Baker-Birmingham-Immigration-Letter.pdf>.

USCCB joined with the Catholic bishops of Arizona in strongly opposing the enactment and implementation of SB 1070. This law, although limited to the State of Arizona, could have negative impact throughout the nation, in terms of how members of our immigrant communities are both perceived and treated. Because of congressional inaction, the federal courts have been forced to intervene to halt their implementation.

Similarly, the USCCB supported the bishops of Alabama, who filed suit against provisions of the Alabama law. The Alabama bishops argue that certain provisions of the state law would inhibit their ability to minister to immigrant communities, a violation of religious freedom: “The law makes illegal the exercise of Christian religion which we, as citizens of Alabama, have a right to follow. The new Alabama law makes it illegal for a Catholic priest to baptize, hear the confession of, celebrate the anointing of the sick with, or preach the word of God to, an undocumented immigrant.”⁹

Mr. Chairman, USCCB feels strongly that state laws such as S.B. 1070, if allowed to stand, would harm our nation.

First, these laws would create a society that treats the foreign-born not as contributors but as threats to us — and would profile them as criminals. The Arizona statute requires law enforcement to detain a person if there is a lawful stop, detention, or arrest, and they have a reasonable suspicion that the person is undocumented, if that person cannot prove otherwise. This gives a green light to racial profiling, as ethnic minorities could be targeted for the slightest of infractions, such as a busted tail light. They also would impact U.S. citizens and legal immigrants who are caught up in the dragnet.

Second, they would make permanent the family separation and breakdown that currently characterizes our nation’s enforcement approach to immigration. In recent years, we have witnessed an alarming rise in family separations, as undocumented parents are being removed from their U.S. citizen children at a record rate. Arizona-type laws will only increase the circumstance of a child waiting at home for their parent(s) to care for them, only to never have them arrive. This causes undue suffering and is no way to instill national pride in the more than 4 million U.S. citizen children living with undocumented parent(s).

By giving them full sway to act as immigration agents, these laws also would forever alter the role of state and local law enforcement, especially as they relate to immigrant communities. As many law enforcement personnel would testify, trust between law enforcement and a community is essential to public safety. It is hard to create that trust when members of a community are the target.

Finally, and most disturbing, they would change our fundamental nature as a welcoming nation, which has served us well since our inception. The goals of Arizona-type copycat laws are to discourage immigrants from coming and to encourage those who are here to leave. We must carefully consider whether that is the signal we want to send to the world, given that immigrants and their ancestors — all of us — built this country and will continue to renew it.

⁹ *Ibid.*

USCCB Position on the Constitutionality in State and Local Governments Enforcing Immigration Law

USCCB and several other Christian denominations filed an *amicus curiae* brief with the U.S. Supreme Court in the case of *Arizona vs. United States*, supporting the principle that the federal government controls the enactment and implementation of the nation's immigration laws.¹⁰ The brief, submitted March 26, argued that the federal government is in the best position to protect the well-established goals of family unity and human dignity in the nation's immigration system. The brief also made the case that a patchwork of state laws could inhibit the Church's mission to serve immigrants, thus impinging upon religious liberty. The Evangelical Lutheran Church of America, the Presbyterian Church (U.S.A.), and the Lutheran Immigration and Refugee Service joined the bishops in filing the brief.

Specifically, the USCCB brief contends that the Arizona law conflicts with the well-established goals of federal immigration law to promote the values of family unity and human dignity and that the law – and that only the federal government can reconcile competing objectives of enforcement and these values.

“The Conference has a strong interest in ensuring that courts adhere to two important goals of federal immigration law — the promotion of family unity and the protection of human dignity,” the brief stated. “The provisions of SB 1070 at issue in this case would hinder these critical federal objectives by replacing them with the single goal of reducing the number of undocumented immigrants in Arizona at all costs.”

The brief adds that the Arizona law's singular state goal of “attrition” of undocumented immigrants through enforcement is flatly inconsistent with this longstanding U.S. approach to immigration policy to protect family unity and human dignity.

In addition, the USCCB brief argues that state laws such as SB 1070 threaten to restrict the Church's ability to provide pastoral and social service care to immigrants and their families, thus infringing upon the Church's religious liberty. Often churches are where immigrants come for support, both pastoral and material. Certain provisions of certain state laws could negatively affect church ministries — soup kitchens, homeless shelters, hospitals, and parishes — which provide basic material and spiritual needs to persons who seek help, regardless of their legal status.

“The Catholic Church's religious faith, like that of many religious denominations, requires it to offer charity — ranging from soup kitchens to homeless shelters — to all in need, whether they are present in this country legally or not. Yet SB 1070 and related state immigration laws have provisions that could . . . criminalize this charity . . . [or] exclude from that charity all those whose presence Arizona and other states would criminalize,” the brief argued.

¹⁰ The brief is available at <http://www.usccb.org/about/general-counsel/amicus-briefs/upload/state-of-arizona-v-united-states-of-america.pdf>.

USCCB asked the Supreme Court to affirm the judgment of the United States Court of Appeals for the Ninth Circuit in striking down the Arizona law. We are hopeful that these arguments will bring an additional perspective to the arguments against SB 1070.

Conclusion

Mr. Chairman, it is our opinion that we should not have arrived at this precipitous moment in which the Supreme Court will rule on this law. Congress and the Administration already should have enacted immigration reform.

It is our hope that the Supreme Court will rule the Arizona law unconstitutional and Congress will move toward the enactment of comprehensive immigration reform as soon as possible. Arizona's S.B. 1070 and similar laws are not a proper solution to the current problems in federal law. To the contrary, such state action actually causes more problems than it solves.

Mr. Chairman, passage of immigration reform is more important now than ever. While many of our federal elected officials have made good faith efforts to pass reform, too many still view the issue through a political lens, using it to gain political or partisan advantage. This gamesmanship must stop.

Unless Congress acts in the near future, we are deeply concerned that these new State laws will continue to tear at the social fabric of our nation. As a result of these state and local laws, divisions between U.S. citizens and immigrant communities continue to grow, to the detriment of our nation.

Mr. Chairman, we stand ready to work with you to help all Americans, as well as their congressional representatives, better understand the importance of immigration reform, so that the members of Congress feel more emboldened to address this important issue—sooner rather than later. We urge you to work to build consensus with your colleagues so that immigration reform legislation can be adopted by Congress as soon as possible.

Thank you for your consideration of our views.