

# Judge Puts the Brakes on Arizona Immigration Law

The Obama administration won a victory in federal court Wednesday when Judge Susan R. Bolton halted two key provisions of S.B. 1070, Arizona's much-debated immigration law. Or did it? The law has placed the spotlight on the federal government's failed immigration policy and prompted similar proposals in other states. The Justice Department lawsuit has scored points with the immigrants-rights crowd, but those advocates are not exactly happy—what they really want is for Congress to take up the issue. And the pro-enforcement crowd is not pleased with the administration's decision to fight the law. As the battle over the law continues on a path toward the Supreme Court, here's how commentators are interpreting Bolton's ruling.

## Perplexed

The judge was right to allow most of S.B. 1070 to take effect on Thursday, and even correct when she struck down some sections of it (like a provision making it illegal for undocumented immigrants to solicit work), wrote Ilya Shapiro of the Cato Institute. Where Bolton went wrong, Shapiro said, was “incorrectly” striking down the law's best-known provision, which requires police to check immigration status if they suspect a person they have stopped or arrested is in the country illegally.

### **Ilya Shapiro:**

“Judge Bolton construed Section 2 as conflicting with federal law because it burdens federal resources and impedes federal agency functions, but how can it do that when the resources and agency functions in question are already (supposed to be) devoted to immigration enforcement? The government's decision not to enforce its own laws can't possibly preempt a state law that merely mirrors those laws—laws the federal the government is charged with enforcing.”

Ilya Shapiro, The Cato Institute

## Bemused

Stewart Baker, a former assistant secretary for Homeland Security policy under President George W. Bush, says it's “hard to be critical” of the judge for ruling in favor of federal agencies, which told her the law would get in their way. Still, Baker wonders why Arizona police and federal immigration authorities simply can't work together. Case in point: the Obama administration's position, now backed by Bolton, that calls from local police checking on immigration status would place an undue burden on the federal call centers that would run the check.

### **Stewart Baker:**

“You’d think it would be pretty easy for the feds just to tell the Arizona police, when they call, that the centers will answer Arizona requests only after higher priority requests have been answered. But evidently no one at the document-checking centers can say no. That’s pretty scary. I might want to date them, but I’m not sure I want them enforcing the law.”

Stewart Baker, National Review Online

## Skeptical

Where have we seen this before? Think *Roe vs. Wade*, says New America fellow James Pinkerton, commenting on Politico’s online discussion board. Then, as now, political and legal elites exchanged a “high-five” or two after going to court to stop a law that had public support, Pinkerton writes. In that scenario, he cautions, reformers were only energized.

### James Pinkerton:

“Now let’s complete the historical parallelism between *Roe* then and *U.S. v. Arizona* now. The voters figure out that their views have been trampled and start voting out the politicians who defend judicial trampling. Inch by inch, the law reverts back toward where it was before the judicial decision.”

James Pinkerton, New America Foundation, via Politico

## Approving

*The New York Times* praised Bolton’s decision, then urged Obama to do more to improve national immigration policy. One suggestion: focusing immigration enforcement on serious criminal offenders who are undocumented, rather than casting a wide net.

### Editorial Board:

“Immigration and Customs Enforcement should have no problem with that; it says its highest priority is removing ‘aliens who pose a danger to national security or a risk to public safety.’ Judge Bolton’s ruling reminded us all of the unacceptable price of the Arizona way: an incoherent immigration system, squandered law enforcement resources, diminished public safety, the awful sight of a nation of immigrants turning on itself.”

Editorial Board, The New York Times

## Gung-ho

To Simon Rosenberg of progressive think tank NDN, the Arizona law was “the wrong approach.” But even though the court got it right, no one should be satisfied.

**Simon Rosenberg:**

“The court made it clear today that fashioning immigration policy is a federal responsibility, and for those who want a better immigration system in the U.S., it is time to focus on helping Washington get this done.”

Simon Rosenberg, NDN