



May 4, 2010

The Honorable Jan Brewer
Governor of Arizona
1700 West Washington
Phoenix, Arizona 85007

Dear Governor Brewer and the People of Arizona:

The National Association for Chicana and Chicano Studies (NACCS) was established in 1972 and is the nation's oldest and largest professional scholarly organization dedicated to the research and study of the Mexican-origin peoples in the United States. Our membership covers every state in the union including Arizona, where several outstanding national higher education centers for Chicana/o Studies are located. We are writing to express our deepest concerns and convey our unwavering opposition to Arizona's SB 1070. Our statement will also briefly outline some of the general ethical principles and policy outcomes we believe should be considered as the nation debates and develops humane and effective proposals for comprehensive federal immigration reform.

The NACCS membership includes hundreds of scholars and experts in the social sciences and humanities. At least four are former MacArthur "Genius" Fellows; many serve on corporate, foundation, and governmental boards and commissions, have been elected officials and leaders in their respective communities, or are currently in leadership positions as University and college deans, provosts, and presidents. Many of us have authored prize-winning books and all of us are accomplished and widely-recognized scholarly authors, professors, and researchers. As U.S. citizens, we are public servants in the real sense of providing rigorous education, training, and knowledge to diverse students and communities in the United States and beyond. Above all, we are Americans and some of us can trace our heritage in what is now the United States as far back as dozens of generations. For example, I am an American of Mexican-Irish-German-Creek descent, who can trace my ancestry back to my Black Irish roots, and beyond, to my Creek great-great grandmother, Missouri Ann Berryhill in the mid-1600s. I love this country, and will eagerly defend, through peaceful non-violent means, its promise of democracy and largely unrealized humane potential.

Our NACCS colleagues have spent decades studying the law, culture, history, economics, and politics of immigration. Many have testified before Congress or before state and federal courts as expert witnesses. To cite one example, NACCS members were among the expert witnesses for the U.S. Supreme Court decision in the case of "In Re: Alien Children Education Litigation," a.k.a. *Doe v Plyler*, 457 U.S. 202 (1982). As you may recall, the judgment in that case was based on the Equal Protection and Due Process Clauses of the U.S. Constitution, and was decisively against the State of Texas Education Code for discriminating against the children of out-of-status parents, many of them U.S.-born citizens. The lesson of that historic case is clear: We can not punish innocent children for acts committed by their parents and still claim to be a free and open society.

Over the past three decades, the social science scholarship on immigration, including Mexican immigration, has arrived at several indisputable conclusions based on overwhelming and systematic empirical evidence. First and foremost, the undocumented immigrant population pays more in taxes than it receives in the form of public services including healthcare and education (see for e.g., Perryman Group 2010). In fact, the widely-publicized report, "Undocumented Immigrants: Myths and Reality," published in 2005 by the non-partisan Urban Institute, noted that "the U.S. Social Security

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Administration has estimated that three quarters of undocumented immigrants pay payroll taxes, and that they contribute \$6-7 billion in Social Security funds that they will be unable to claim." But this goes beyond whether immigrants pay their "fair" share of taxes, with little hope of ever directly benefiting from their substantial contributions. The American Chamber of Commerce (1985) has long proposed that Mexico's young workforce could be the key to keeping Social Security solvent at a time when the U.S. citizen workforce is retiring with fewer workers available to replace them.

Moreover, it is now indisputable that the post-1994 displacement of rural populations, including the indigenous peoples of Mexico, is the direct result of the implementation of NAFTA. It is equally irrefutable that the people of the Mexican Diaspora are revitalizing inner cities and many nearly abandoned rural towns in the United States. Ask small town mayors in the Midwest, Pacific Northwest, or South, and some will eagerly recount how immigrants have helped revitalize their communities, many of which were literally on the verge of becoming ghost towns. Ask inner city council members in any large U.S. city and they will acknowledge that immigrants bring prosperity, strong family values, and a community-oriented work ethic. Even former President Ronald Reagan understood this when he said: "Hispanics are Republicans; they just don't know it yet."

The social scientific community can assert with confidence both that undocumented immigrants are taxpayers and that they have a net positive impact on the U.S. economy. Another significant research finding is that undocumented workers stimulate job creation through increased demand for goods and services. Cities with the largest immigrant populations have the lowest unemployment rates in the country (Perryman Group 2010). Much of this economic activity is due to the entrepreneurial spirit of these immigrants who create their own small businesses to serve an ever more diverse and appreciative clientele. In Phoenix, for example, it is very likely that the owner, cook, or waitperson at your favorite restaurant is one of the immigrants that could suffer disparate treatment under SB 1070. In this respect, we note that the recent study by the Perryman Group (2010) suggests that the State of Arizona will stand to lose about 140,000 jobs and close to a billion dollars in state revenue if it enforces SB 1070.

Insofar as immigration is a matter of federal and not state law, it is clear to any reasonable U.S. citizen, even if only vaguely familiar with the U.S. Constitution, that SB 1070 violates the Supremacy Clause in Article VI of the Constitution of the United States. Moreover, as the ACLU-Arizona and the Mexican American Legal Defense Fund (MALDEF) compellingly demonstrated in letters submitted to you last week, this legislation also violates the Equal Protection and Due Process Clauses of the Constitution. As Anthony Romero, the head of the national ACLU affirms, "Arizona's new law sacrifices the civil liberties of millions of people living and working in Arizona, while doing nothing to address the real problems the state is facing." We anticipate with confidence that judicial review will render SB 1070 unconstitutional.

We are thus compelled to ask: Why did you sign an unconstitutional and inflammatory law? We can only assess your motives for signing this bill in the context of other recent actions you have undertaken. This includes your active role as Arizona Secretary of State and as a key Republican Party leader who engaged in the efforts to block your state's Latina/o voters from exercising their inalienable right, as U.S. citizens, to participate in the 2008 elections, for presumably failing to prove their citizenship. This is one of the incidents that led to the unethical firing, offensive to all Americans, of federal attorneys who failed to deliver or prosecute a single case of "illegal alien voter fraud." This context leads us to conclude that the only reason you signed this law is politics – a politics grounded in fear and hatred, and designed to block the growing number of Latino/a citizens from participating in shaping the future of our democracy.

The use of misguided state-level legislation like SB 1070 to score political points with your base or in Washington, DC, even if it is intended to force badly needed and long overdue comprehensive immigration reform, plays with people's lives. More than merely misguided, we judge this to be immoral and unethical. It demonstrates a lack of respect for both the civil rights of U.S. citizens of Mexican descent, and the democratic principles of freedom, equal protection, and due process embodied by our Constitution.

SB 1070 is at best an inflammatory law and will surely come to serve as a rationale to justify violent attacks against persons who appear to "look illegal." This is what I call an "ecology of fear" – a political and civic climate, deliberately stoked by politicians, that creates an environment of intolerance, fear, insecurity, and hatred that is hostile to any one appearing "foreign" to the self-image of "white Americans" – whether immigrants or people of color in general.

Indeed, it is this ecology of fear that led to the murder of a young legal Ecuadorian immigrant in the Bushwick section of Brooklyn on December 7, 2008. The perpetrators of this crime were white youth who, like those convicted last month on Long Island for a similar crime, were out "Beaner hopping" or hunting for "Mexicans" and "illegal aliens." In these difficult economic times, when our nation's white youth invariably face the same stresses and tragedies of structural violence – poverty, unemployment, and lack of access to education or healthcare

opportunities – it seems hardly surprising that they might engage in misguided acts of violence under the cover of a draconian law they misconstrue to be designed to justify *anyone* wanting to target “suspect illegal aliens” for harassment or civilian arrest. We can only imagine what the more ideologically extremist and heavily-armed groups like the American Border Patrol and Minutemen are likely to do under the cover of the murky climate this law creates.

When such incidents occur in Arizona, as we predict will be the case because of the climate of racial hostility and hatred fed by SB 1070 in desperate economic times, will you then be prepared to renounce this law as misguided, harmful, and discriminatory? Like all Americans, NACCS members fully expect U.S. elected officials to reject any laws or policies that are blatantly unconstitutional, and that could unleash the same type of fury and violence we have seen in human history – whether that of our nation, through the Trail of Tears and Wounded Knee, or that of the world, through the Soviet gulags, Nazi death camps, and the more recent ubiquitous killing fields wrought of ethnic cleansing in Bosnia, Rwanda, Darfur and the ongoing “Third World War,” waged on indigenous populations in Chiapas and Oaxaca in Mexico, or in Guatemala, or El Salvador.

How are “random” murders and assaults different from the death toll of a systematic military campaign if the result is still many thousands of innocent dead and injured? How can your government explain the use of low-intensity counter-insurgency tactics, based on a policy of “militarization,” along the Arizona-Mexico border? How is this any different from an incremental approach to ethnic cleansing, since such a policy funnels the flow of desperate people into the heat and death chamber of the desert or into the equally heinous realm of forced labor and slavery that undocumented workers are subject to in the Arpaio gulags or under the oppressive yoke of ruthless employers from New York City to Los Angeles? How do you justify this policy to the countless women raped, killed, and mutilated along the entire length of the border by sexual predators, paramilitary groups, ICE officers, and criminal organizations? We must all come to understand that the ecology of fear is a state of exception that suspends the rule of law while encouraging uninformed Americans and others to dehumanize and terrorize innocent human beings who are only guilty of trying to survive under the tyrannically-imposed conditions of a “bare life.”

As longtime American citizens, many of us have relatives in Arizona and trace our ancestry back to the early 1700s. Are these multigenerational Arizona natives also to be detained under the new law for “looking illegal”? Will you detain and deport Tohono O’odham natives with Spanish surnames and brown skin who are more likely to lack birth certificates or other proof of citizenship? We note your awkward reaction when you were asked to define “looking illegal” by a Chicana journalist at your press conference when you signed the bill. You stated that this is not racial profiling, even as you admitted that you were not able to describe what an “illegal alien” looks like. You then vaguely asserted that there “were people in Arizona” who would be able to make this determination, presumably in an “objective” and non-partisan manner.

If you, as the leader of your state, cannot give an accurate directive to your officers, we must ask then, how you expect those who must obey your orders, or anyone for that matter, to know the answer to this question, and implement this bill. Similarly, we ask how you determined that a law that targets people that “look illegal,” is not a form of racial profiling, in view of the fact that the average white Arizonan’s stereotype is that so-called “illegals” are all Mexicans? Similarly, what criteria will you use to instruct the police to identify the 44 percent of undocumented immigrants in Arizona who are *not* Mexican or Latina/o? How will the police distinguish an undocumented Irish, Russian, Chinese, English, Greek, or Canadian immigrant, from a legal one? In addition to allowing for lawsuits against your state’s police forces for not complying with the confusing dictates of SB1070, application of the law promises to fall well short of meeting the standards of judicial scrutiny and review. As a result, by the very nature of the prescribed police actions, SB 1070 will serve only to perpetuate the existence of a class of persons excluded from Constitutionally-guaranteed equal protection and due process rights.

We are aware of the role of FAIR (Federation for American Immigration Reform) in drafting of the language of SB 1070. We are also aware of the funding FAIR has received for decades from the Pioneer Fund, a notorious non-profit foundation that promotes the use of practical eugenics and selective national-origin quota laws as policies to ensure the survival and supremacy of the “white race” as the dominant actor in U.S. culture, society, and politics. The association between the principal architect of the law, Russell Pearce, FAIR, and the Pioneer Fund taints SB 1070 with the legacy of hateful racist ideology. We are also aware that Mr. Pearce has known Nazi Party associates and indeed has enthusiastically greeted them in public venues. The emerging electoral majority and swing-vote bloc comprised of Latina/o and other voters of color in this country, including those in Arizona, will likely consider any elected official that has supported, voted for, or endorsed this unconstitutional law as a champion of a racist vision of the United States.

The United States is an inspiring experiment in multiracial Democracy; Most of our society’s more noble achievements emerged from multicultural public life; the country is also strongly characterized by ecumenical diversity. For the majority of Americans, including Mexican-origin Americans, this diversity is tumultuous, and at

times untidy and messy, but ultimately a joyous and exhilarating affirmation of our nation's cultural and political values. For most Americans, and especially for young people in the Millennial Generation, the demographic transition to a "majority of ethnic minorities" is not a calamity or devolution into savagery. It is not the end of history; it is not the beginning of a "wetback" invasion or a fantasy "re-Conquest." It is not the end of Euro-American cultures or of protestant values; nor is it an end to English as our primary political, administrative, and scientific language. It is instead a step forward in the American Experiment through the inspiring progressive hope and creativity unleashed by the multi-hued rainbow of human energy nurtured by our society's liberal – and we hope, eventually fully-participatory – democratic traditions. This is the very reason that so many people wish to come to this nation to become part of a wondrous, ever-shifting multicultural and multiethnic mosaic with an unfathomable depth of possible just futures.

We therefore urge all of the people of Arizona to embrace the ethical principle that "No Human Being is Illegal," as stated pro-forma in the United Nations Declaration of Human Rights. We urge Arizona civil society to publicly endorse and support a policy of comprehensive federal immigration reform that emphasizes the rights of workers, women, and indigenous peoples within the framework of the broader goals of social justice through sustainable and equitable development. We urge Arizonans to declare their support for federal policies that replace the over-militarization of the border and its Arpaio gulags with reforms that address the structural inequities and violence unleashed by NAFTA and that resulted in the current process of top-down globalization and the consequent displacement of more than 8 million farmers and their families – among them people who are now trying to live, work, and survive among us.

Efforts to resolve immigration will ultimately have to address multi-lateral concerns and the broadest societal needs in a climate of equitable negotiations among Mexico, the United States, Canada, and other parties. Arizona civil society groups can actively work with allies across borders to create spaces that build on grassroots development programs that directly match the remittances workers send back to their origin communities. Rural Mexico can and must be rebuilt from the grassroots-up and fair-minded Americans can help in this more open and democratic process. Also, a path to naturalized citizenship and other forms of permanent legal status for out-of-status workers currently in the United States should certainly become part of a more progressive vision for comprehensive immigration reform. It is time to stop deporting the families of immigrants who have died fighting for the U.S. in Iraq and Afghanistan. It is time to reunite the numerous families split apart by draconian raids and round-ups that have steadily increased since 2001. We are all human beings and not one among us all should be treated as cattle to be herded and prodded into holding pens for processing, persecution, and deportation.

Finally, because SB1070 is an unconstitutional law that is a thinly veiled form of institutionalized racial discrimination, **NACCS is joining, and widely endorsing, a *targeted* economic boycott of your state.** Our organization will be particularly vigilant and active in your state as a result of SB 1070 and the National Office and Chair will directly participate in ongoing efforts to hold you and other elected officials accountable, through heightened scrutiny of your state and a focus on police and elected official misconduct through a "score card" on "democracy-haters," and other educational, media outreach, and networking events including efforts to help Arizonans understand that "race" is a phantom menace. Regardless of our diverse ethnic or national origins, or legal status, we are all members of the same race: the human race. I close, by noting that although we have held our organization's annual national convention in Arizona before (1992, 2000), we do not plan to do so again, until this law is repealed, and the State of Arizona rejoins our nation's democratic traditions and values by demonstrating respect for the Constitutional rights of all U.S. citizens and immigrants. As U.S. citizens, the members of NACCS uphold the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution that provides that "no state shall ... deny to any person within its jurisdiction the equal protection of the laws." The due process and equal protection clauses apply to all *persons* within the territorial jurisdiction of the U.S. This includes undocumented workers, who are the dignified and creative peoples of the NAFTA-induced Mesoamerican Diaspora. They are helping us rebuild a more democratic, resilient, and justice-loving America, based on their own blood, sweat, tears, and dreams. In the end, they are just like you and me.

Sincerely,

A handwritten signature in black ink that reads "Devon G. Peña". The signature is written in a cursive, flowing style. A long horizontal line extends from the end of the signature to the right.

Devon G. Peña, Ph.D., Chair (2010-11)
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