



WHY LAWYERS AND ALL OTHERS SHOULD BOYCOTT ARIZONA

Posted on May 4, 2010 by Cyrus Mehta

I was most proud when the American Immigration Lawyers Association (AILA) decided to pull its Fall conference out of Scottsdale, Arizona within minutes of the passage of Arizona's SB 1070, which makes it a criminal offense for failing to carry alien registration documents, and authorizes law enforcement to determine the immigration status of a person "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States." In addition, the law mischievously allows any legal resident of Arizona to sue an official or agency within the state that restricts or puts limits on the enforcement of SB 1070.

On the other hand, I am surprised that the ABA plans to go ahead with the Equal Justice Conference in Phoenix, Arizona from May 13-15, despite pressure from participants and speakers, including the New York City Bar Justice Center, <http://tiny.cc/q69gc>, to move the conference elsewhere. I too was a panelist and withdrew from the EJC, along with speakers from the City Bar, Legal Aid and the Fragomen Law Firm, that would showcase an innovative joint pro bono project between the City Bar Justice Center, AILA and Legal Aid to provide legal assistance to immigrant detainees at the Varick Street Detention Center. In its press release earlier today, <http://bit.ly/cwCShz>, ABA's President Carolyn Lamm acknowledged that SB 1070 "infringes on civil rights and belies our nation's principles of justice to all," but then went on to state that the EJC brings together various components of the legal community to deliver services to the poor and that "e are not going to allow these efforts to be even temporarily derailed by an unjust law. Doing so would have a further detrimental effect and run contrary to ensuring the principles on which our nation was formed continue to thrive."

Immigration lawyers were the first to realize the draconian consequences of SB 1070, which would ultimately diminish the civil liberties of all persons. Since then, others have also followed with boycotts including the 10,000 strong Alpha Phi Alpha last Friday, which said that it would relocate its convention in July from Phoenix to Las Vegas. Even ABA's partner, National Legal Aid and Defenders Association (NALADA) pulled out of the EJC shortly before the ABA announced that it was forging ahead with the EJC, http://www.nlada.org/News/NLADA_News/2010050439586533. While one can understand ABA's concerns about losing money on breached contracts, my e mail that I sent to Mr. Scudder of the ABA and Mr. Saunders of NLADA (which has since pulled out) on April 26, 2010, still expresses my strong conviction that the ABA ought to boycott Arizona. Here is an excerpt:

The most powerful message that the ABA and NLADA can send to Arizona is to boycott the state so that it economically hurts and that they do not use our dollars to fund and implement SB 1070. The boycott will also powerfully reverberate all around the US and the world, and others too will follow your lead and boycott the state. Imagine if fewer or no tourists visit the Grand Canyon. This will truly bring the message home to those who support SB 1070. AILA set a great example by withdrawing its Fall conference from Scottsdale, AZ, and so must the EJC, which is much larger. This is the most powerful way to send a message to law makers and their supporters for enacting such misguided legislation that legalizes racial profiling and forces even US citizens, especially persons of color, to carry their passports out of fear being arrested when they visit the state.

You can negotiate with the Hilton hotel group to host the conference in another state a few weeks or months later. I think ABA also has enough clout to negotiate with airline carriers to grant a credit to those who have already booked their fares. While there will be a price to pay for shifting the conference, the message that it will send will be most powerful and will outweigh the losses from not holding the EJC in Arizona and will, I think, be viewed by historians as a heroic step that turned the tide. Participants can learn how to advocate against SB 1070 and similar measures when the EJC convenes in another state.

The ABA ought to also be more sensitive to conference participants who will soon, once the law takes effect, be vulnerable to arrest under SB 1070. Suppose I came to Arizona, and as a New Yorker is wont to do, crosses the road while the light is still red. I encounter Sheriff Joe Arpaio on the other end of the street who justifiably accuses me of jay walking, but also forms a reasonable

suspicion that I am an alien who is unlawfully present in the United States. After all, the most venerable Sheriff Arpaio may have such a basis as I was not born in the United States and may have a foreign appearance, and while I think I speak English very well, may discern an accent that might sound foreign to him. He asks me for a registration document to prove that I am not in unlawful status in his state, which I do not have because I left my US passport at home in New York. He arrests me under SB 1070. And even if SB 1070 may not have taken effect, we all know that the Sheriff already thinks he has inherent authority to arrest me. While I may be able to ultimately sort out this mess, an arrest will traumatize me and my family (including my young children) and disrupt my ability to practice law for some time in New York. I see no need to go to Arizona and risk convulsing my routine existence. It is also ironic that a conference on equal justice is being held in a state that has completely trampled upon the notion of equal justice.

To come to think of it, SB 1070 can lead to absurd results. [As David Isaacson points out](#), a battered spouse who has been granted “deferred action,” may technically incur criminal liability for being present in Arizona because “deferred action” is not really a status (resulting in a registration document), and it is more an exercise of prosecutorial discretion not to pursue her removal for a particular period of time. Similarly, an intracompany transferee of a foreign entity who is a manager of its subsidiary in Arizona may be in jeopardy when an L-1 visa extension has been filed in a timely manner prior to the expiration of the prior L status, and he is yet to receive a receipt notice of such a filing. Moreover, if he wishes to hike into the Grand Canyon, he will need to carry a registration document on him at all times, lest Sheriff Arpaio accosts him on one of the trails. Our manager won’t have it just after filing the L visa extension, and the poor fellow may have to carry a copy of the L-1 petition in the hot desert sun, with all 51 exhibits, along with a federal express receipt while on his hike down into the bottom of the Canyon! Even that might confuse the hell out of the Sheriff or one of his subordinates whether a humongous copy of an L visa filing constitutes lawful or unlawful presence in the State of Arizona.

There are many who will disagree. One can legitimately argue that bringing the EJC to Arizona at this juncture makes sense as it would bring advocates together to talk about how to deal with the unjust implementation of the law. Moreover, the virus is spreading and other states may also likely implement copycat laws. Do we move a lawyer’s conference each time a state is likely to

implement a similar law? 19 groups have already withdrawn or cancelled events in Arizona, http://www.meetings-conventions.com/article_ektid34040.aspx, and a travel trade group has called for an end to all boycotts. In my opinion, pouring money into Arizona's coffers, which may be used to implement SB 1070, does not promote a solution. If one wants to mobilize advocates to deal with the law, the conference need not be in Arizona in this day and age. We hold conferences in certain places because they also provide an opportunity for people to combine it with a vacation, and Arizona undoubtedly fits the bill as one of the world's best vacation spots. Attendees can have fun while learning and supporting the local economy. But Arizona has passed a law that undermines the essential objective of the conference, which is equal justice. Conferences are very different from a march or a protest or a sit in, or lawyers coming in to the state to litigate against SB 1070. This is a conference where people will be spending money and sitting in an air-conditioned posh conference center having discussions, NOT marching through the streets speaking truth to power. Fruitful discussions may be had elsewhere without supporting a state that has passed such an unjust law. The strongest message one can send is to withdraw a conference from the state, and when it affects pocketbooks, those who have passed SB 1070 and those thinking of passing similar laws in other states may give pause and wonder whether it is truly worth it.

(The views in this post are the author's personal views and do not represent the views of any organization that he is associated with)