

## AN INTRODUCTION TO THE DEBATE ON THE ARIZONA IMMIGRATION LAW<sup>†</sup>

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I do not have to tell anyone that the debate on the condition of immigration law in this country is a topic that provokes strong passion, as we saw on television screens and on cable networks across the country last summer.<sup>1</sup> The topic is such an emotional issue, yet I find myself oddly ambivalent about it. On the one hand, as a lawyer, I obviously feel very strongly about the rule of law and law enforcement. On the other hand, since I am an immigrant myself, I also feel strongly about the value of immigration as a bedrock component of what makes America great. But thankfully, today we have an all-star panel to help us wade through these emotional and thorny legal issues, focusing particularly on the Arizona law. Unless you were on the planet Mars, you have heard that the state of Arizona has passed a law<sup>2</sup> in the area of immigration enforcement that has triggered quite a bit of response from liberals, conservatives, and moderates.<sup>3</sup>

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<sup>†</sup> This speech is adapted for publication and was originally presented at a panel discussion as part of the Federalist Society's National Lawyers Convention on Civil Rights: Immigration, the Arizona Statute, and *E Pluribus Unum* in Washington, D.C. on November 18, 2010.

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<sup>1</sup> See Fox News Channel, *Fox News and the Arizona Immigration Law*, YOUTUBE (Apr. 26, 2010), <http://www.youtube.com/watch?v=axawILbGhLA> (collecting several clips of the debates on Fox News regarding the Arizona immigration debate); CBS, *Uproar over Ariz. Immigration Law*, YOUTUBE (May 2, 2010), <http://www.youtube.com/watch?v=PGSvk6-n7X8&feature=channel> (discussing the purpose of the Arizona law, the right method of correcting the immigration problem, and the effect of the law on Arizona on CBS's "Face the Nation" with Harry Smith featuring former representative J.D. Hayworth and Illinois Representative Luis Gutierrez).

<sup>2</sup> ARIZ. REV. STAT. ANN. § 11-1051 (LEXIS through 2010 legislation) (effective 2011).

<sup>3</sup> See Randal C. Archibold, *Arizona's New Immigration Law Widens the Chasm Between Sides*, N.Y. TIMES, Apr. 26, 2010, at A13; see also Kasie Hunt, *Democrat: Arizona Law Like 'Nazi Germany'*, POLITICO (Apr. 26, 2010, 4:04 PM), <http://www.politico.com/news/stories/0410/36365.html> (quoting Colorado Democrat Representative Jared Polis) ("[The Arizona law] is absolutely reminiscent of second class status of Jews in Germany prior to World War II when they had to have their papers with them at all times and were subject to routine inspections at the suspicion of being Jewish."); Liz Goodwin, *Arizona Immigration Law Divides Republicans and Conservatives*, YAHOO! NEWS (Apr. 28, 2010,

We have three excellent speakers today. Roger Clegg, the President and General Counsel of the Center for Equal Opportunity, will begin our discussion. The Center for Equal Opportunity is a conservative research and educational organization that specializes in civil rights, immigration, and bilingual educational issues. Mr. Clegg has held several senior positions at the U.S. Department of Justice, ranging from Assistant to the Solicitor General to the number two official in both the Civil Rights Division and the Environmental Division. He is a graduate of Yale Law School.<sup>4</sup>

We are also honored to have Kris Kobach here. He is the recently elected Secretary of State from the state of Kansas, Senior Counsel at the Immigration Reform Law Institute, and, most recently, a professor of law and Daniel L. Brenner Scholar at the University of Missouri, Kansas City School of Law.<sup>5</sup> He has litigated a number of truly high-profile lawsuits across the country in the field of immigration. Perhaps his most important role is with regard to the statute we are discussing. He also graduated from Yale Law School.<sup>6</sup>

Finally, finishing the discussion is Margaret Stock, who is an adjunct faculty member in the Department of Political Science at the University of Alaska, Anchorage. She is an expert in immigration, citizenship, national security, military affairs, and constitutional law. She previously taught at the U.S. Military Academy at West Point, New York, and is a member of the American Bar Association Commission on Immigration. Unlike our other panelists, she graduated from Harvard Law School, which is our nod to diversity on the panel.<sup>7</sup>

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7:17 PM), [http://news.yahoo.com/s/ynews/20100428/ts\\_ynews/ynews\\_ts1840](http://news.yahoo.com/s/ynews/20100428/ts_ynews/ynews_ts1840) (showing a split between Republicans in their views about the Arizona law).

<sup>4</sup> Roger Clegg, CTR. FOR EQUAL OPPORTUNITY (Sept. 13, 2007), <http://www.ceousa.org/content/view/507/123/>; *Mission Statement*, CTR. FOR EQUAL OPPORTUNITY (Oct. 12, 2007), <http://www.ceousa.org/content/view/533/127/>.

<sup>5</sup> KANSAS SECRETARY OF ST., <http://www.kssos.org/> (last visited Feb. 11, 2011); *Attorneys and Staff*, IMMIGR. REFORM L. INST., <http://www.irli.org/about/attorneys> (last visited Mar. 30, 2011).

<sup>6</sup> *About Kris Kobach*, KRIS KOBACH FOR SECRETARY OF ST., <http://www.kris-kobach.org/site/Html/expanded.html> (last visited Mar. 30, 2011); *see also* Julia Preston, *Political Battle on Immigration Shifts to States*, N.Y. TIMES, Jan. 1, 2011, at A1 (noting that Secretary Kobach was instrumental in helping many states devise their immigration laws).

<sup>7</sup> Margaret Stock, DEP'T OF POL. SCI., U. OF ALASKA ANCHORAGE, <http://polsci.uaa.alaska.edu/resources/faculty/Stock.html> (last visited Mar. 30, 2011).