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*Current Events*

## **Wearing Out Arizona**

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The Bernard and Audre  
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## ABSTRACT

In “Wearing Out Arizona,” Sandra K. Soto describes and analyzes what her colleague K. Tsianina Lomawaima has aptly coined Arizona’s “regressive suite of legislation.” Seeking to further marginalize the growing Latino community in the state (especially the foreign born), these laws and bills curtail mobility, solidarity, education, and even Constitutional rights. Focusing on the neoliberal state’s strategy of enforcement through attrition, Soto suggests that these laws—SB 1070 and HB 2281 in particular—reinforce one another in ways that create “dead citizenship” and a “wearing out” of critique. Even those of us on the left who are able to identify this deadening and who seek to resist it find it difficult to continue to speak out and do more than participate in the pablum of acceptable phrases. Against the strategy of attrition—which entails the weakening of a people *incrementally* over a span of time, until they have finally been worn down, worn out, erased—Soto calls for a new politics of sustenance, collaboration, the collecting and sharing of resources.

KEYWORDS: Arizona; neoliberalism; SB 1070 (immigration); HB 2281 (ethnic studies); attrition

## RESUMEN

En “Wearing Out Arizona,” Sandra K. Soto describe y analiza lo que su colega K. Tsianina Lomawaima llama “el conjunto regresivo de legislación” de Arizona. Buscando marginalizar todavía más la comunidad Latina creciente en el estado (especialmente los que han nacido en el extranjero), dichas leyes y proyectos de ley disminuyen la movilidad, solidaridad, educación, y mismo derechos constitucionales. Enfocándose en la estrategia del estado neoliberal de ejecución de normas a través de atrito, Soto sugiere que dichas leyes – SB 170 y HB 2281 en particular – refórzanse mutuamente en formas que crean “ciudadanías muertas” y un “desgaste” de la crítica. Mismo aquellos en la izquierda quienes podemos identificar esta muerte y que buscamos resistirla creemos difícil continuar a pronunciarnos y hacer más que participar en el pablum de frases aceptables. En contra la estrategia de atrito – que exige la debilitación de un pueblo crecientemente en un periodo de tiempo, hasta que ellos estén vencidos, desgastados, borrados – Soto clama por una nueva estrategia de sostenimiento, colaboración, la colección y compartimiento de recursos.

PALABRAS CLAVE: Arizona; Neoliberalismo; SB 1070 (inmigración); HB 2281 (estudios étnicos); Atrito

This essay is a work in progress because the issues I will be discussing are dynamic in the sense that Arizona is in the thick of lawsuits with uncertain outcomes.<sup>1</sup> It's still unclear, for instance, how the Supreme Court will decide on SB 1070, assuming that Arizona's immigration law will go that far.<sup>2</sup> It is far from clear how the ninth circuit court will decide on a lawsuit brought forth on behalf of eleven K-12 Mexican American Studies educators in Tucson. What *is* clear is that, in Cornel West's words, "Arizona is ground zero... the front line in the struggle for justice."

Let me start with some context. One of the first impressively *short-sighted* and consequential decisions President Obama made upon taking office, was to appoint Arizona governor Janet Napolitano (a Democrat) to Secretary of Homeland Security. As Obama surely would have known, the Governor's vacancy would automatically be filled by Jan Brewer who was at that time Arizona Secretary of State.<sup>3</sup> Brewer immediately began signing the kinds of bills emerging from our Republican-dominated state legislature that Napolitano had routinely vetoed, including SB 1070 (known as the "show-me-your-papers" law) and HB 2281 (known as the "anti-ethnic studies" law). It was no doubt her very vocal support for what my colleague K. Tsianina Lomawaima aptly calls "the regressive suite of legislation" that won her the midterm election.<sup>4</sup> What we are witnessing in Arizona is the result of a well-funded, well-organized, multi-pronged, and energetic neoliberal campaign to distribute resources upwards by methods including:

1. devising newer and more thorough ways of criminalizing undocumented migrants;
2. normalizing the policy of *detaining* undocumented immigrants;
3. holding those detainees in *for-profit* facilities such as those owned by the CCA;
4. terrorizing anyone who dares to speak out against Sheriff Joe Arpaio's bald human rights abuses; and
5. conscripting as immigration cops *all* state employees from secretaries to clerks to teachers.

Critical Race theorists Michael Omi and Howard Winant would probably refer to this list as Arizona's latest racial projects. As they describe it in *Racial Formation in the United States*, a

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<sup>1</sup> Many of the ideas expressed here were generated through conversation with Miranda Joseph, Adela C. Licona, Laura G. Gutierrez, and Chirstina Hanhardt. I would also like to thank the following groups for inviting me to share versions of this work and for giving me critical feedback along the way: the Ethnic & Third World Literature Group of the English Department at the University of Texas; the Intercultural Center for Peace at the University of Northern Florida; the Clarke Forum on Contemporary Issues at Dickinson College; and the Chicano Studies Department at the University of Minnesota. See also: "Nativism, Normativity, and Neoliberalism in Arizona: Challenges Inside and Outside the Classroom."

Christina Hanhardt, Laura Gutierrez, Miranda Joseph, Adela C. Licona and Sandra K. Soto. *Teaching Sex*. Spec. Issue of *Transformations: The Journal of Inclusive Scholarship and Pedagogy*, edited by Hiram Perez. 21.2 (2011): 123-48; and "Neoliberalism and the Battle over Ethnic Studies in Arizona," Sandra K. Soto and Miranda Joseph. *Thought & Action*. Fall 2010. 45-56.

<sup>2</sup> On 4/11/11, the 9<sup>th</sup> U.S. Circuit Court of Appeals upheld Judge Bolton's injunction of four key provisions of SB 1070.

<sup>3</sup> She took office January 21, 2009.

<sup>4</sup> Presentation, "Arizona at the Crossroads 2010," September 27, 2010, sponsored by Faculty Governance and the University of Arizona President's Office, University of Arizona.

racial project is “simultaneously an interpretation, representation, or explanation of racial dynamics, AND an effort to reorganize and redistribute resources along particular racial lines.”<sup>5</sup> Even though it gets far less attention than the anti-immigrant legislation, the most insidious racial project in Arizona’s political conjuncture is, to my mind, the campaign to prohibit K-12 ethnic studies. I want to turn to *that* racial project because the desire to demonize and shut down ethnic studies—Mexican American Studies in particular—is clearly motivated by the fear of an educated and engaged *brown* citizenry capable of recognizing, analyzing, and pressing back against all of these racial projects.

HB 2281 foregrounds and dictates *individualism* in its one-sentence “Declaration of policy”: “The legislature finds and declares that public school pupils should be taught to treat and value each other as *individuals* and not be taught to *resent* or *hate* other races or classes of people.”<sup>6</sup> As such, the law misrepresents Ethnic Studies through a now-familiar ruse that claims that *any* attention to race or racism, even as a topic of study, is in itself racist. This ruse is familiar because it has been used in the apparently endless attacks against affirmative action (including Proposition 107, which just ended affirmative action in Arizona). The law prohibits classes that do any *one* of the following:

1. Promote the overthrow of the United States government.
2. Promote resentment towards a race or class of people.
3. Focus, in their design, on pupils of a particular ethnic group.
4. Advocate ethnic solidarity instead of the treatment of pupils as individuals.<sup>7</sup>

Even though the term “Ethnic Studies” never appears in the law, the law’s author, sponsor, and relentless promoter, Tom Horne, who was at the time Superintendent of Public Instruction, and is now—thanks to HB 2281—state Attorney General, repeatedly has said on record that he designed HB 2281 in order to shut down the Tucson Unified School District’s Mexican American Studies Department (or MASD).<sup>8</sup> In his eight years as Superintendent, Horne never once actually visited an MASD classroom, even after receiving numerous invitations from teachers. Horne—fond of quoting from Martin Luther King’s *I Have a Dream* speech—claims that his multi-year attempt to rid TUSD of MASD is his way of protecting impressionable students by ensuring that they are treated as *individuals* rather than as part of a downtrodden, victimized racial group. Those familiar with the work of Richard Rodriguez—especially his first book, *The Hunger for Memory*—already know the gist of Horne’s ideology. It is based on the controversial framework known as Cultural Literacy, designed by E.D. Hirsch who argues that in order to be “literate” Americans need to know a pre-determined canon of Western knowledge.<sup>9</sup>

Moreover, by trying to intervene in the thoughts and values of students, HB 2281 also

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<sup>5</sup> Omi, Michael and Howard Winant. *Racial Formation in the United States: From the 1960s to the 1990s*. 2nd ed. New York: Routledge, 1994, 56.

<sup>6</sup> Arizona Revised Statutes § 15-111.

<sup>7</sup> Arizona Revised Statutes § 15-112 (A).

<sup>8</sup> Until 2009, the name of the program was “Mexican American/Raza Studies.” The term “Raza” was dropped from the title because of political pressure.

<sup>9</sup> See Richard Rodriguez, *Hunger for Memory: The Education of Richard Rodriguez*. NY: Bantam, 1982; and, E.D. Hirsch, Jr. *Cultural Literacy: What Every American Needs to Know*. Boston: Houghton Mifflin Company, 1987. See also an excellent volume of responses to that paradigm: *The Politics of Liberal Education* edited by Darryl J. Gless and Barbara Herrnstein Smith. Durham: Duke UP, 1992.

reaches into a realm that is more often on the *private* side of the public/private divide erected by classical liberalism. And we might understand this intervention as the active production of what queer theorist Lauren Berlant has called dead citizenship. That is, the production of a de-politicized public sphere in which citizens affirm symbols and perform correct private behaviors (heterosexuality... or maybe color-blindness) but are utterly unable and unwilling to engage in live political contestation.<sup>10</sup> As the active intervention of HB 2281 indicates, dead citizenship is not a *state* that is achieved. It has to be continually produced. It is the wearing out, the deadening, the chilling of speech, a process of shutting down engagement. Even those of us on the left who are able to identify this deadening and who seek to resist it find it difficult to continue to speak out and do more than just participate in the pabulum of acceptable phrases. *Wearing out Arizona*: the state's chilling campaign is wide-reaching and insidiously norm-producing.

One of the most effective ways that anti-ethnic studies activists mobilize support for their position is to collect, read, and quote from, actual books, essays, lesson plans, photographs, speeches, and slogans that are either known to be *used in* Tucson ethnic studies classrooms, or that *describe* from an insider-position ethnic studies in some way, shape, or form. Therefore, Tom Horne's measured, articulate, and relentless publicity against MASD is punctuated with an archive of primary and secondary material that is supposed to signify all that is wrong with ethnic studies:

- Rudy Acuña's *Occupied America: A History of Chicanos* (1972), which is used regularly in the classes.<sup>11</sup> Its ethnonationalist ethos makes it a favored piece of evidence of sedition.
- Paulo Freire's *Pedagogy of the Oppressed* (1970), read by MAS students and emulated by MAS teachers, is used as evidence of Marxism.<sup>12</sup>
- Photographs of students dressed like Brown Berets and standing arm in arm in front of Tucson High School are enlarged, placed on easels at press conferences and pointed to as evidence of hatred.

Supporters of MASD typically use one of two lines of reasoning: MAS courses are in compliance with HB 2281; or, HB 2281 itself must be opposed. The TUSD Governing Board has chosen the former line, though they have wavered between asserting that MAS *is* in compliance and that MAS "*shall comply*."<sup>13</sup> MASD supporters worry that the Board's use of the future tense suggests that it plans to scrutinize and modify the program. While the Board makes fumbling attempts to work within the confines of the law, the more radical stance—and the one that I share—is that the law itself is problematic and should be opposed. Most notably, a group of TUSD MASD teachers known as "The Tucson 11" has filed a lawsuit against the Superintendent of Public Instruction and the AZ State Board of Education, arguing that HB 2281 violates their

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<sup>10</sup> See Lauren Berlant, *The Queen of America Goes to Washington City*. Durham: Duke University Press, 1997.

<sup>11</sup> *Occupied America* is now in its 7<sup>th</sup> edition. On the use of this book to buttress HB 2281, see "Cal State Northridge professor caught in Arizona controversy," *LA Times*. <http://articles.latimes.com/2011/jan/14/local/la-me-0114-tobar-20110114/2>.

<sup>12</sup> Now in its 30<sup>th</sup> edition.

<sup>13</sup> Emphasis added. "Resolution to Implement Ethnic Studies in Tucson Unified School District in Accordance with All Applicable Laws" (12/30/10). This Resolution is a marked departure from the Board's previous two resolutions which boldly asserted compliance.

rights under the 1<sup>st</sup> and 14<sup>th</sup> Amendments.<sup>14</sup> The Tucson 11 has publicly urged TUSD to join their suit, or file their own suit against the state, claiming that by asserting compliance, they are validating an unconstitutional law.<sup>15</sup> The Tucson 11 has garnered local and national support, from the Tucson Democratic Party's unanimous resolution that ethnic studies classes "should not only be *left as-is* but should be expanded ... throughout Arizona," to UFW leader Dolores Huerta's statement that "They've got to start Freedom Schools and violate the law," to AFL-CIO leader Rebekah Friend's recognition that "HB 2281 ... is part of a bigger, repressive attempt nationwide to control parts of the population, from women's health care to workers' and immigrants' rights ... It's a mindset to cleanse out ethnic studies, unions, and all social spending generally that we in unions and others have fought for, like the eight-hour working day, child labor laws and social security..."<sup>16</sup>

As you can see, HB 2281 has been met with widespread criticism locally and nationally. In many ways, this criticism was *buttressed* by SB 1070. Certainly, the campaigns for, and anti-Mexican sentiment stirred by, SB 1070 and HB 2281 reinforced one another. However, were it not for the international attention Arizona received on the heels of Governor Brewer's signing of SB 1070, HB 2281 would have received far less media attention, which in turn, would have generated far less public outcry from concerned scholars and organizations throughout the nation. Indeed, the condemnation of HB 2281 by UN experts was part of their much longer indictment of SB 1070.<sup>17</sup> And, I want to turn now to that law.

SB 1070 is a long, byzantine, sweeping, and confusing immigration law that explicitly and implicitly does several things. Do not let anyone tell you that it simply *mirrors* federal immigration laws. It creates *new* crimes that did not exist before and extends not only the *power* of Arizona police officers, but very importantly, the *responsibility* of Arizona police officers. The principle architects of 1070 are Arizona State Senator Russell Pearce and Kris Kobach, who

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<sup>14</sup> See their website, "Save Ethnic Studies," <http://www.saveethnicstudies.org/>; John Roll, the federal judge assigned to hear the case, was one of the six people killed by Jared Lee Loughner in his attempted assassination of Councilwoman Gabby Giffords on January 8, 2011.

<sup>15</sup> Letter to TUSD Governing Board signed by the Tucson 11 (01/11/11).

<sup>16</sup> Emphasis added. "Pima Democrats join anti-HB 2281 side," *Tucson Citizen*, <<http://tucsoncitizen.com/three-sonorans/2011/01/11/pima-democrats-join-anti-hb2281-side-will-tusd-join-the-right-side-of-history-or-continue-to-comply-with-right-wing-extremism/>>. "Dolores Huerta: Let's Violate Ethnic Studies Ban," *COLORLINES* <[http://colorlines.com/archives/2011/01/dolores\\_huerta\\_lets\\_violate\\_hb\\_2281\\_teach\\_ethnic\\_studies\\_in\\_tucson.html](http://colorlines.com/archives/2011/01/dolores_huerta_lets_violate_hb_2281_teach_ethnic_studies_in_tucson.html)>. "Arizona Unions Aid Educators' Fight Against the State's Anti-Ethnic Studies Law," *In These Times*, [http://www.inthesetimes.com/working/entry/7063/labor\\_unions\\_support\\_educators\\_fight\\_against\\_ariz\\_anti-ethnic\\_studies/](http://www.inthesetimes.com/working/entry/7063/labor_unions_support_educators_fight_against_ariz_anti-ethnic_studies/)

<sup>17</sup> "Arizona: UN experts warn against 'a disturbing legal pattern hostile to ethnic minorities and immigrants.'" About HB 2281, UN experts noted that "such law and attitude are at odds with the State's responsibility to respect the right of everyone to have access to his or her own cultural and linguistic heritage and to participate in cultural life. Everyone has the right to seek and develop cultural knowledge and to know and understand his or her own culture and that of others through education and information."

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10035&LangID=E>.

worked under Attorney General John Ashcroft in the George W. Bush administration, and who is now Kansas Secretary of State. Like Brewer, Kobach and Pearce used SB 1070 as campaign leverage in a political climate that has moved Republicans further and further to the right. Both men have strong and long records of anti-immigrant activism. Pearce is currently challenging the 14<sup>th</sup> Amendment by arguing that so called “anchor babies” born in the U.S. to undocumented immigrants should not receive citizenship. Kobach, meanwhile, is an attorney for the powerful anti-immigration group FAIR (the Federation for American Immigration Reform), which for several compelling reasons has been designated as a “hate group” by the Southern Poverty Law Center.<sup>18</sup> Many conservative politicians around the country see Brewer as leading the good fight against undocumented immigration, such that at least 20 states have proposed copycat bills. Not just politicians but large sectors of the public support 1070. One man in Wyoming, for instance, has contributed 1.5 million dollars to Brewer’s SB 1070 fund, which will help her defend the law against a series of lawsuits.<sup>19</sup>

The explicit intent of SB 1070 is “to make *attrition* through enforcement the public policy of all state and local government agencies in Arizona.” The OED defines “attrition” as “The action or process of rubbing away, wearing or grinding down, by friction.”<sup>20</sup> Thus, the strategy deployed in a “war of attrition” is the weakening of a people *incrementally* over a span of time, until they have finally been worn down, worn out, erased. Quite simply, SB 1070 seeks to make the daily lives of the undocumented so difficult to manage that they will finally self-deport. But I would also say that 1070’s strategy of attrition is multi-pronged. We should also think about the other groups of people who get caught up in the sweeping attrition strategy of 1070. One of the main lawsuits against Arizona brought by the ACLU and other national civil rights organizations on behalf of unions, immigrant advocacy organizations, and churches argued that these organizations would be harmed partially because, under 1070’s transportation and harboring provisions, their volunteers and employees would “face an imminent risk of prosecution.”<sup>21</sup>

I mentioned earlier that the law is byzantine. You would have to devote large quantities of time and patience to reading SB 1070, the lawsuits, the injunctions, the legal analyses, and existing federal immigration law in order to even begin to understand what 1070 does and does not do. In fact, my colleague Gabriel Jackson Chin—professor of law at the University of Arizona—claims that it would take half of a law-school faculty to understand 1070.<sup>22</sup> The point

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<sup>18</sup> See “The Teflon Nativists,” *Southern Poverty Law Center*, <<http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2007/winter/the-teflon-nativists>>.

<sup>19</sup> See “Wyoming man donates \$1.5 million to defend Arizona immigration law,” *abc15.com*, <[http://www.abc15.com/dpp/news/state/wyoming-man-donates-\\$1.5-million-to-defend-arizona-immigration-law?ref=nf](http://www.abc15.com/dpp/news/state/wyoming-man-donates-$1.5-million-to-defend-arizona-immigration-law?ref=nf)>.

<sup>20</sup> “Attrition.” Def. 2a. *The Oxford English Dictionary*. 2<sup>nd</sup> ed. 1989. Print.

<sup>21</sup> *Friendly House v. Michael B. Whiting*

<sup>22</sup> Chin Lecture. “SB 1070.” Department of Mexican American & Raza Studies, University of Arizona, 02 September 2010. See also Chin et al. “Preliminary Comment Draft. Arizona Senate Bill 1070: A Preliminary Report on Legal Issues Raised by Arizona’s New Statute Regulating Immigration.” June 7, 2010. Version 1.2; and, Chin and Kevin R. Johnson, “Profiling’s Enabler: High Court Ruling Underpins Arizona Immigration Law,” *Washington Post*. July 13, 2010.



is that 1070 is actually *known* to be sloppy, messy, disorganized, and *confusing*—which is to say that it is crafted brilliantly. That is, for Chin, the sloppy architecture of 1070 is a strategy for confusing and scaring undocumented people and their allies. It’s another strategy for wearing out Arizona.

I invite you to help us think about how to respond to this relentless wearing out, wearing down, and deadening. I’ve *only* talked about 1070 and 2281. There are so many other components of the legislative assault that exhaust us: the erosion of reproductive rights, health care, and public education, to name a few. Sustaining life in the face of this onslaught of efforts to wear us out means sustaining each other, a collecting and sharing of resources. Never have I more firmly believed in collaboration than at this moment. But the sustenance is not only about the local and interpersonal. It is sustained by the collaboratively built analyses of history and social processes, that which the Tucson students—together with the Tucson 11—are fighting for.