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Editorial

## **An Illegal Immigration Patchwork**

States and localities have been taking immigration enforcement into their own hands out of frustration over Washington's failure to enact comprehensive reform, over misguided and ineffective federal enforcement of existing rules and over a sense that America has lost control of its borders. Numerous states and towns have enacted harsh laws seeking to regulate the employment of undocumented workers, and, in some instances, keep them out of housing.

The troubling result is a growing patchwork of punitive statutes bound to spawn unfairness to businesses and employees while undermining the federal government's proper authority over immigration.

The Supreme Court is now weighing whether to consider a challenge to Arizona's immigration law. Before deciding, the justices have asked the solicitor general, Elena Kagan, to provide the views of the Obama administration. This is a chance for the court to weigh in against the improper splintering of national immigration policy, and Ms. Kagan should urge the court to seize that opportunity.

At issue is a problematic ruling last year by the United States Court of Appeals for the Ninth Circuit. The ruling upheld Arizona's state-based employer sanctions law, which provides for the suspension or revocation of business licenses when firms are found to have knowingly hired illegal immigrants.

The state's approach may not sound unreasonable. But like the more extreme Hazleton, Pa., ordinance struck down by a federal judge in 2007, the Arizona scheme has a crucial legal flaw. It usurps the federal government's right to set immigration policy.

Arizona has broad authority to regulate companies doing business within the state. But that authority does not include the right to penalize firms for immigration violations that have not been determined by the federal government nor to impose penalties vastly harsher than Congress intended when it created the current employer sanctions system more than 20 years ago.

When the Hazleton decision was handed down, then-Senator Barack Obama hailed it as a "victory for all Americans" that underscored the need for national immigration reform. In that same spirit, President Obama should now want the Supreme Court to grab the

Arizona case to vindicate the nation's interest in having uniform immigration policies, and to stop the spread of local laws that can make achieving real worthwhile national reform harder.

The Arizona statute was signed into law by Arizona's former governor, Janet Napolitano, who now leads the Department of Homeland Security. But that awkward fact should not prevent the administration from taking a principled stance in favor of Supreme Court review.