

Examining the Legal and Political Ramifications of Senate Bill 4 (2017-2024) in the Context of States’ Rights and the Border Predicament in Texas

L'examen des Ramifications Juridiques et Politiques du Projet de Loi Sénatorial 4 (2017-2024) dans le Contexte des Droits des États et de la Situation à la Frontière au Texas.

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Abstract

This article examines the implications of the states’ rights in relation to the ongoing border crisis in Texas, which has emerged as a significant issue in 2024. It purports to examine the historical context of the states’ rights doctrine, its relevance today, and its impact on the current situation at the Texas border crisis. Understanding the legal and political dynamics surrounding this doctrine is crucial in comprehending the complexities of the crisis. This study employs the historical and analytical research approaches to offer an insightful analysis in support for the arguments. The main finding reveals that the ongoing conflict highlights the enduring relevance of the states’ rights doctrine in American politics and the ongoing tension between the U.S. federal government and Texas State government over immigration policies. Through a comprehensive analysis of relevant data, this article provides insights into the interplay between state autonomy, federal

authority, and border security. Furthermore, it explores the potential consequences and challenges as states exercise their rights under this doctrine.

Keywords:

States' Rights; Texas border crisis; Immigration policy; state/federal authority; Senator Bill 4; legal and political implications.

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Resumé

Cet article examine les implications des droits des États en lien avec la crise frontalière actuelle au Texas, qui est devenue un enjeu majeur en 2024. Il es droits des États, sa vise à analyser le contexte historique de la doctrine d pertinence aujourd'hui et son impact sur la situation actuelle de la crise à la frontière texane. Comprendre les dynamiques juridiques et politiques entourant cette doctrine est essentiel pour appréhender les complexités de Cette étude utilise des approches de recherche historique et .la crise analytique pour offrir une analyse approfondie en soutien aux arguments présentés. La principale conclusion révèle que le conflit en cours met en s droits des États dans la lumière la pertinence durable de la doctrine de politique américaine et la tension persistante entre le gouvernement fédéral Unis et le gouvernement de l'État du Texas concernant les-des États politiques d'immigration. À travers une analyse complète des données t article fournit des perspectives sur l'interaction entre pertinentes, ce l'autonomie des États, l'autorité fédérale et la sécurité des frontières. De plus, il explore les conséquences et les défis potentiels alors que les États .ctrineexercent leurs droits en vertu de cette do

Mots clés

Droits des États; crise à la frontière du Texas; politique d'immigration; autorité étatique/fédérale; projet de loi sénatorial 4; implications juridiques et politiques.

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1. INTRODUCTION

The concept of states' rights has played a major role in shaping the history of the United States as well as defining the nature of the legal and political relations between the Federal government and States' governments. From the early years of independence right up to the present, the question of the balance of power has been a critical issue in American politics and constitutional law.

Historically, states' rights doctrine emerged as a key point of contention during the constitutional convention in the late 18th century. The framers of the Constitution grappled with the question over the way in which powers are allocated between the federal government and the states' governments, ultimately settling on a system of federalism that divided powers between the two levels of government. This division of powers, enshrined in the Tenth Amendment, has been a source of ongoing debate and conflict throughout American history.

The question of states' rights came to a head during the antebellum period of the 1850s leading up to the Civil War (1861-65), as

the southern states argued for their right to secede from the Union in defense of their perceived states' rights to protect and perpetuate the institution of slavery. The outcome of the Civil War and the subsequent Reconstruction era fundamentally altered the balance of power between the federal government and the states, but the question of states' rights continued to be a point of contention in American politics. In the modern era, the question of states' rights has continued to be a topic of debate and conflict, particularly in areas such as civil rights, immigration, and healthcare. It remains a central issue in American politics and constitutional law, shaping the ongoing debate over the proper allocation of powers between the federal government and the states.

In fact, immigration and border security have been a source of conflict between the federal government and individual states, especially those along the southern border. In recent years, Texas has been at the forefront of the debate over immigration and border security, with state officials and lawmakers asserting their right to address these issues in the absence of what they perceive as sufficient federal action. This has led to clashes between the state and federal governments over issues such as immigration enforcement, border wall construction, and the allocation of resources to address the influx of illegal immigrants.

1. States' Rights in the U.S. History:

1.1. Origins and Nature:

The concept of states' rights in the American history is deeply rooted in the foundation of the nation during the second half of the eighteenth century. During the period of drafting the constitution in Philadelphia in 1787, there was a debate over the need for an appendix to the constitution that aims at protecting civil rights and individual liberties. While anti-Federalists argue for the inclusion of a Bill of Rights 1791 with a particular amendment that reserves powers which are not granted to the federal government to the states (the tenth amendment), the Federalists provided a strong defense of the Constitution (National Archives, n.d.).

Anti-Federalists articulated concerns regarding the potential erosion of state sovereignty by centralized power were the most contentious issue during the debates surrounding the ratification of the Constitution. The concept of federalism, as enshrined in the Constitution, embodies a delicate equilibrium between the authority of the federal government and that of the states. The Ninth Amendment emphasizes that the enumeration of certain rights in the Constitution should not undermine others retained by the people. Historically, the struggle between federal and state power has been a central theme in American government before drafting the U.S. constitution. The Articles of Confederation, that served as a political road map from 1777 to 1789, emphasized on the importance of limited central government power and state sovereignty (Rosenthal & Joseph, 2021).

1.2. States' Rights in Action:

1.2.1. Civil War and Secession: the Constitutional Debate:

The secession of Southern states from the Union during the Civil War was primarily driven by the contentious debate surrounding states' rights and secession. Following the election of Abraham Lincoln in 1860, seven Southern states, including South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana,

and Texas, chose to secede from the Union and establish the Confederate States of America (Pierce, 2023).

Based on states' rights doctrine, the southern states believed that it is their legal right to secede from the Union for the sake of protecting their economic interests and political sovereignty. The southern movement of secession was driven by many concerns such as the federal overuse of power and the illegal meddling in southern states' economic and political interests. The legality of secession was a contentious issue that was not definitively resolved by the Civil War but rather through force, not law. The secession crisis also divided states like North Carolina, where debates over secession pitted different factions against each other, ultimately leading to a vote on whether to secede or remain in the Union (Liu, 2018).

1.2.2. Personal Liberty Laws (1850s) and The Fugitive Slave Act of 1850:

As a defiant reaction to the the Fugitive Slave Act of 1850, the Personal Liberty Laws of the 1850s were states laws designed for protecting the Southern runaway slaves as well as the Northern free blacks. These laws were passed by many Northern state governments to undermine the Fugitive Slave Act through providing legal protections and due process rights to the fugitive slaves. Historically, the Fugitive Slave Act , one of the provisions of the Compromise of 1850, widened the gap between pro and anti-slavery states by making the detention and deportation of slaves a federal issue (Rosenberg, 1971).

The Personal Liberty Laws included provisions such as prohibiting state officials from providing assistance in the apprehension and extradition of the fugitive slaves, guaranteeing a trial by jury for them, and enforcing stringent punishments for individuals engaged in the unlawful seizure or dissemination of

false information regarding fugitive slaves. Many northern states including Wisconsin, Massachusetts, Michigan, Rhode Island, and Connecticut enacted these laws and created a trend where northern states try to object and undermine laws that support the existence and extension of slavery (Morris, 1974).

The dispute regarding these laws highlighted the wider discussion on states' rights and federal power. Southern representatives and some Northern Democrats argued that these liberty laws breached the national constitution, whereas abolitionists and anti-slavery advocates considered them as crucial safeguards for personal liberty from the unjust treatment and exploitation (Rosenberg, 1971). Many Northern states resisted what they perceived as an excessive use of federal power infringing on their own rights and principles. According to them, states had the power to enact laws to protect their citizens, including fugitive slaves.

2. Texas: Evolution from Mexican Territory to U.S. State:

Historically, the Louisiana Purchase is considered as one of the major significant periods of America's westward expansion. it brought the entire continental area under the control of the federal government. The acquisition methods varied from annexation (Texas and Hawaii), conquest (California and Florida), to diplomacy (Alaska and Oregon), raising historical, moral, and political questions. President Jefferson faced challenges regarding the constitutional legality of the purchase, as it exceeded his authority under the Constitution. Despite debates and concerns about the constitutionality of the purchase, the Senate ratified the treaty with France on October 20, 1803, doubling the size of the United States (NCC Staff, 2023).

Texas' intricate historical trajectory is defined by its evolution from a territory of Mexico to an autonomous republic, culminating in its eventual

incorporation as a state within the United States. Declared its independence from Mexico on March 2, 1836, The Republic of Texas faced various challenges such as the low population density, financial debts, and border disputes. Despite these numerous difficulties, it maintained its independence until February 1846 (Nance, 2023).

One year after Texas's declaration of independence in 1836, the United States recognized it as a newly-independent nation on March 3, 1837. Subsequently, on August 4, 1837, Texas made a formal appeal for annexation. However, due to apprehensions within the United States regarding economic implications, slavery issues, and diplomatic relations with Mexico, Texas retracted its annexation request on October 12, 1838 (Collier, 1849). In early 1844, Texas recommenced its endeavors for annexation. On April 11 of the same year, diplomats from the United States and Texas ratified an annexation treaty. However, the Senate rejected it on June 8, 1844, with a decisive vote of 35 to 16.

The grounds for this rejection were multifaceted, encompassing staunch opposition from Northern states to the addition of a new slave state, apprehensions regarding treaty obligations and the possibility of conflicts with Mexico, the strategic considerations of the presidential campaign in which James Polk prioritized Texas annexation, and the interplay of personal politics, which prompted notable figures like Thomas Benton, Henry Clay, and Martin Van Buren to withhold support for annexation in 1844 (Lawson & Seidman, 2004).

On January 25, 1845, the House of Representatives endorsed a joint resolution advocating the annexation of Texas with a vote tally of 120 to 98. Subsequently, on February 27, 1845, the Senate mirrored this action by passing a comparable resolution with a narrow margin of 27 to 25. The House ratified the Senate's version promptly the following day, and on March 1, 1845, President Tyler signed the resolution. The significant milestone of Texas's annexation was

further solidified on November 10, 1845, when Texan voters overwhelmingly voted for the annexation. With resounding majorities in both the House and Senate, Texas was admitted as a new state, and on December 29, 1845, Texas was formally welcomed into the Union (Bicknell, 1899).

2.1. Texas and its Immigration Policy: A Historical Survey:

Texas has a rich historical background of immigration, predominantly from Mexico. Presently, immigrants constitute approximately one-sixth of the state's overall population and play a crucial role in sustaining various sectors of the local economy. The construction industry, as an example, stands as one of the state's largest and rapidly expanding sectors, heavily relies on immigrants for over a third of its labor force. Serving as neighbors, entrepreneurs, taxpayers, and employees, immigrants form an indispensable component of the diverse and flourishing community in Texas, making substantial contributions that yield benefits for all stakeholders involved.

In a report prepared by the American Immigration Council, immigrants make up a significant portion of Texas' population, with one in six residents being an immigrant and another one in six being a native-born U.S. citizen with at least one immigrant parent. The top countries of origin for immigrants in Texas are Mexico, India, El Salvador, Vietnam, and Honduras. Furthermore, there are 1.4 million U.S. citizens in Texas who live with at least one family member who is undocumented, and 1.6 million undocumented immigrants make up 33% of the immigrant population and 6% of the total state population. The report concludes that immigrants are an important part of the state's workforce, with the largest number of immigrant workers found in certain occupations such as construction, food preparation and serving, and transportation and material moving. Undocumented

immigrants make up 8% of the Texan workforce (American Immigration Council, 2020).

2.2. Overview of the Immigration Landscape in Texas prior to Senate Bill 4:

Before the implementation of Senate Bill 4 (SB4) in Texas, the immigration landscape in the state was characterized by ambivalent policies ranged from cooperation on the one hand to resistance to federal immigration enforcement on the other. According to Chishti and Gelatt (2023), some cities and counties, like Travis County, adopted "sanctuary policies" that limited their cooperation with federal immigration authorities, while others, like San Antonio, faced legal disputes for refusing to cooperate with federal immigration enforcement efforts.

The debate about immigration enforcement in Texas extended beyond local administrations to encompass state legislators who proposed measures and initiatives targeting human smuggling and the problem of illegal entry into the state. Nevertheless, these efforts faced opposition from advocacy groups and former immigration jurists who argued that the proposed laws were unconstitutional and could lead to racial profiling (Aguilar, 2023; Gulasekaram, Su, & Villazor, 2019). Some of these policies included:

Sanctuary city policies: It entailed restrictions on local law enforcement agencies regarding the investigation of individuals' immigration status and complying with detainer requests. Critics of these policies argued that state-level legislation should be enacted to prevent the adoption of such policies by cities and other governmental bodies.

Enforcement of federal immigration laws: Texas law enforcement agencies were required to uphold and enforce federal immigration laws, as they operated within the scope of authority delegated by the federal government.

Access to asylum seeking: Federal statutes gives migrants the entitlement to pursue asylum, regardless of their entry way into the nation. Nevertheless, concerns have been raised following the implementation of SB4, suggesting that migrants detained under this recent legislation could face obstacles in accessing federal procedures designed to facilitate their asylum claims or other related forms of protection.

Obstruction of federal law on immigration: The U.S. Department of Justice claims that SB4 hinders federal immigration law because it prompts illegal migrants to cross the border in different states but not Texas. This would require the U.S. Department of Homeland Security to redistribute its assets, resources, and staff (Senate Research Center, 2017).

These policies and the subsequent debates surrounding immigration enforcement in Texas laid the groundwork for the enactment of Senate Bill 4 in 2017. This legislation marked a significant shift in Texas' approach to immigration enforcement, mandating local governmental bodies and law enforcement agencies to collaborate with federal immigration authorities. Nevertheless, the execution of SB4 has encountered legal disputes and resistance.

3. SB4: Provisions and Debate:

Senate Bill 4 (SB4), known also as the illegal entry bill, in Texas is a controversial immigration law designed to empower local and state law enforcement to apprehend and detain individuals suspected of unlawful entry into

the United States. The law was passed as a reaction to concerns over the increasing numbers of illegal immigrants and scheduled to take effect on March 9, 2024. Nevertheless, SB4 faced opposition from various groups, such as civil rights organizations, who argued that it violated the Supremacy Clause of the U.S. Constitution, which stipulates the primacy of federal laws over state laws (Reinstein, 2024).

The bill creates a new state crime for unauthorized entry into Texas from a foreign country, constituting a class B misdemeanor on first offense. Subsequent charges could increase to a felony depending on the migrant's criminal record, particularly if they have a prior conviction for illegal entry. Moreover, the bill authorizes a judge or county magistrate to mandate the migrant's return to a designated port of entry, subject to the completion of comprehensive identification procedures and cross-referencing with state and federal databases (Aguilar, 2023).

3.1. Provisions and Key Points:

Senate Bill 4 aims at preventing the implementation of policies by local entities that impede the enforcement of immigration laws. It delineates specific actions that are prohibited for law enforcement officers in connection with immigration enforcement. Furthermore, the bill establishes mandates for law enforcement agencies regarding the management of detained individuals who are unable evidence of legal residency in the United States. These obligations encompass notifying the judiciary of their immigration status and documenting pertinent details within case records (Senate Research Center, 2017).

In addition to this, the bill addresses the enforcement of federal immigration law by law enforcement agencies, specifying particular responsibilities concerning immigration detainers, notifications, and documentation. It authorizes the Comptroller of Public Accounts to issue rules in relation to immigration

enforcement, which may encompass the withholding of state grant allocations from regional entities discovered to contravene the directive prohibiting or dissuading the execution of immigration statutes (Senate Research Center, 2017).

Local entities are mandated to refrain from taking into account the considerations of race, color, language, or national origin in the execution of immigration laws unless authorized by the United States or Texas Constitution. The legislation enables the lodging of complaints with the attorney general against local entities breaching immigration enforcement policies, with ensuing measures by the attorney general to ensure adherence, along with the potential reimbursement of costs accrued in pursuit of redress. Besides, local law enforcement agencies are required to revise their protocols to align with Senate Bill 4 and formalize any informal guidelines concerning immigration enforcement (Senate Research Center, 2017).

3.2. Debate:

Debate surrounding the bill echoed past confrontations between Republicans and Democrats, particularly focusing on the contentious issues of potential racial profiling implications and the constitutionality of the bill. Central to this debate was the question of whether SB4 promotes discriminatory practices and its alignment with constitutional principles, considering the predominant authority of the federal government in matters pertaining to immigration enforcement (Aguilar, 2023).

Opponents of SB 4 argue that it contravenes federal law through granting non-federal law enforcement officers extensive power to arrest and deport residents suspected of unauthorized border crossings, and represents an encroachment into the daily affairs of Hispanic and migrant populations within the

state. At the onset of the debate on the legislation, state representative Victoria Neave Criado, D-Dallas, serving as the chair of the Mexican American Legislative Caucus, stated that SB4 represents an expansive and intrusive legislative measure poised to potentially disrupt the fundamental dynamics of federal and state power. She emphasized that the enforcement of immigration laws unequivocally falls within the exclusive purview of the federal government, underscoring the overarching federal jurisdiction in this domain (Chin & Miller, 2011).

In addition to the Democratic party's state representatives, The American Civil Liberties Union (ACLU) and various civil rights groups initiated legal action against SB4, contending that it contravened the supremacy clause and was preempted by federal legislation. The ACLU further posited that the enactment of the bill had the potential to result in racial profiling and familial separations, thereby detrimentally impacting communities throughout the state (ACLU, 2024).

From the opposite side, proponents of the bill ardently support it and argue that the state of Texas possesses the inherent authority to defend and protect its own borders and the citizens of the state. State Rep. David Spiller, R-Jacksboro, the House sponsor of the bill asserts that SB4 represents a groundbreaking measure enabling Texas to safeguard its residents, repatriate undocumented immigrants, and pursue legal action, including incarceration, against those who resist deportation (Rabb, 2023).

U.S. District Judge David Ezra articulated that the implementation of the law would lead to significant irreparable harm to the federal government. This potential harm stems from the law's capacity to potentially encourage other states to enact their individual immigration legislations, thereby establishing a disparate and incongruous assortment of regulations concerning immigration. Such fragmentation contrasts the historical precedence of immigration matters being

reserved exclusively within the purview of the federal government. Judge Ezra further emphasized that the enactment of SB 4 poses a direct challenge to the core principle that the United States must administer immigration policies uniformly and with unified authority (García, 2024).

3.3. The Jurisdictional Conflict: SB4 and the Texas/Federal Government Debate:

In accordance with the Supremacy Clause and Foreign Commerce Clause of the U.S. Constitution, the federal government has the authority to regulate immigration and manage international borders. Pursuant to this authority, Congress has established a comprehensive framework regulating the entry of non-citizens into the United States and the deportation of non-citizens from the country. Due to the preemption of SB 4 by federal government and its violation of the U.S. Constitution, the Justice Department pursues a declaration of SB 4's invalidity and requests a preliminary and permanent injunction to prohibit the state from enforcing the law ("U.S. Department of Justice," 2024).

According to the Justice Department's lawsuit, specific aspects of Texas SB 4 are considered unconstitutional and infringe on the federal government's jurisdiction over immigration. This include:

1. Regulating Immigration: Texas SB 4 attempts to regulate immigration through the creation of two new state crimes encompassing a spectrum of legal charges from misdemeanors to felonies. This intrusion into immigration regulation falls under the federal government in accordance with the mandates of the U.S. Constitution and prevailing federal laws that govern immigration policies. This suggests that Texas SB 4's attempt to regulate

immigration interferes with the authority that the federal government has in this area.

2. Judicial Authority: SB 4 also grants state judges the power to order the expulsion of individuals from the United States. This provision raises concerns since decisions pertaining to the expulsion of non-citizens are traditionally falling under the federal jurisdiction, as confirmed by the Supreme Court in the case of *Arizona v. United States*. The federal government has the exclusive responsibility for making such decisions to uphold consistency and uniformity in matters related to foreign relations and the enforcement of immigration policies.

3. Incompatibility with Federal Legislation: The Justice Department's lawsuit argues that SB 4 is at odds with existing federal laws and the U.S. Constitution. The Constitution clearly designates the federal government as the sole authority to regulate immigration and manage international borders. By creating its own set of immigration-related crimes and enforcement protocols, Texas SB 4 undermines this federal framework and encroaches upon the federal government's ability to enforce entry and removal provisions of federal immigration laws.

4. Supremacy Clause Implications: Under the Supremacy Clause of the U.S. Constitution, state laws that conflict with federal laws are considered invalid. Because SB 4 is preempted by federal law, the Justice Department asserts that it is unconstitutional and seeks to invalidate the law to prevent its enforcement by the state of Texas ("U.S. Department of Justice," 2024; BBC News, 2024; Erum, 2024).

Conclusion

This research came to the conclusion that the Jurisdictional and political discord between the Texas state government and the federal government, particularly in the context of Senator Bill 4, represents a novel manifestation of states' rights doctrine and the ensuing political discourse surrounding issues such

as immigration policies and the interpretation of the Supremacy Clause. The passage of Senator Bill 4, aimed at enforcing stringent immigration regulations at the state level and curtailing the capacity of local administrations to implement sanctuary measures, serves as a demonstration of the state's assertion of its prerogatives and independence vis-à-vis federal directives

This development has engendered a confrontational rapport between Texas and the federal government, each vying to assert dominance and influence regarding issues of immigration and governance. Ultimately, the resurgence of states' rights has engendered a strained and divisive dynamic between Texas and the federal government, highlighting the ongoing power struggle between state and federal entities.

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