

Prospects for Immigration Reform in the New Political Climate

The inability of our political system over the past decade to enact immigration reform has left a status quo that satisfies virtually no one. Businesses worry about not getting enough highly skilled workers. Laborers complain about competing for jobs with new arrivals and being forced to accept lower wages. Farmers fret about barriers to bringing seasonal workers to the United States. Higher education institutions are unhappy because of difficulties obtaining educational visas for international students.



Many Americans are angry that porous borders allow potential terrorists and unauthorized immigrants to enter the United States; that undocumented individuals receive social and financial benefits in the form of education, emergency care and public assistance. Still others feel that government enforcement is selective, and creates inequities in how various groups are treated.

This brief explores how America's new political landscape offers hope for action on immigration, even with an economy mired in recession. Just as policy-makers have done on other contentious policy areas, such as tobacco regulation and gun control, tough choices must be made that reconcile competing goals. New federal policy will require a new immigration narrative, bold and innovative ideas and a determination to overcome major obstacles to action.

The nation's growing Latino factor—now 15 percent of the U.S. population—will increasingly counter the rhetoric that favors strict border controls and workplace raids. Some recent shifts in immigration positions, such as union federations announcing willingness to compromise, also brighten the outlook. Despite the hopeful signs, immigration still evokes economic, social, political and cultural obstacles that must be overcome if congressional reform is going to be effective.

Background

The Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, a compromise bill strongly favored by a sitting president, failed when lawmakers could not resolve political differences among various constituencies. Among President Bush's party, only 11 of 49 members supported his position on the key Senate cloture vote, 12 fewer than the number who had backed a similar measure the prior year. In the final two years of their majority, House Republican leaders ignored their president and refused to bring anything other than punitive measures to the floor. Arguments over immigration bogged down over real and perceived impact of new arrivals on American economic and social life. Because the subject touches on delicate issues of family, education, social order, service delivery, culture, language and national character, it is hard for elected officials to bridge competing viewpoints. The legislation failed because of polarized institutions, combative media coverage, complex and shifting public opinion and the real challenge of enforcing borders.

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The New Landscape

Immigration reform in the new political landscape will be shaped by a popular Democratic president armed with substantial Democratic majorities in the House and Senate. However, unified party control of the national government does not guarantee comprehensive policy-making. Democrats controlled Congress and the presidency during the Carter administration but were unable to reform energy policy. During the Clinton administration, Democrats were in a similarly strong political position, yet could not enact the centerpiece of the president's domestic agenda: health-care reform.

Still, on controversial subjects requiring intricate compromise, it helps to have one party clearly in charge. This institutional position makes it easier to negotiate policy differences because it narrows the range of principles that must be negotiated. Such a dynamic is especially the case during periods of extreme polarization of the sort witnessed in recent years. With each party striving for electoral advantage and extremes from each party demanding ideologically pure responses, it is difficult to enact comprehensive measures. Contentious issues such as immigration reform require some support within the opposition party to firm up or compensate for majority party members that might defect under cross-pressures. The supermajority hurdles in the Senate that flow from the filibuster also necessitate bargaining across party lines.

The new climate facilitates reform because it features renewed attention to big ideas and bold policy actions. The 2008 election took place against a backdrop of a global

recession, destabilized financial institutions and a strong sense among the American public that old policy approaches were failing and new ones were required. An October 2008 CBS/*New York Times* national survey found that only 7 percent of Americans thought the country was headed in the right direction while 89 percent felt it was seriously off track. After President Obama's first 100 days, that 7 percent had jumped to nearly 50 percent.

With massive public discontent and big majorities, President Obama has pledged a new policy course in areas from financial regulation and education to health care and energy. As reflected in the American Recovery and Reinvestment Act of 2009, there is a willingness to tackle tough issues and try new policy approaches. In his inaugural address, Obama promised to alter the status quo. Noting that critics had complained that he had "too many big plans," the chief executive responded that "the ground has shifted" and it was time for action.

On immigration reform, Obama has expressed support for comprehensive legislation. At a March 18 town hall meeting in Costa Mesa, Calif., he explained that "I know this is an emotional issue. I know it's a controversial issue. I know that the people get real riled up politically about this, but ultimately, here's what I believe: We are a nation of immigrants ... I don't think that we can do this piecemeal." During his April 29 press conference, the president reiterated his desire to move the process forward, saying "We can't continue with a broken immigration system. It's not good for anybody. It's not good for American workers. It's dangerous for Mexican would-be workers who are trying to cross a dangerous border."

With experienced leaders in key departments, the Obama administration is well-positioned to achieve immigration reform. For example, Homeland Security Secretary Janet Napolitano is a former governor of Arizona who brings detailed immigration knowledge and political skills. Commerce Secretary Gary Locke is an Asian American who presided as governor of Washington, a state with considerable in-migration, especially from Asian countries.

Top congressional leaders appear committed to action on immigration. At a recent San Francisco rally, House Speaker Nancy Pelosi (D-Calif.) complained about raids targeting illegal immigrants. "Who in this country would not want to change a policy of kicking in doors in the middle of the night and sending a parent away from their families?" She said she had urged Obama "to stop the misguided raids and deportations that are tearing [apart] marriages, children and families." And Senate

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Majority Leader Harry M. Reid (D-Nev.) long has supported the proposed DREAM (Development, Relief and Education for Alien Minors) Act and other initiatives that would allow “students who have lived in the country since age 15 to apply for conditional legal residence after graduating from high school.” At the same time, both are realistic about the concerns regarding immigration reform among some members of their own party and the need to identify compromise responses to their legitimate questions.

Growing Latino Power

Another factor favoring reform is the changing demography of the American electorate. Nationally, Latinos comprise 15 percent of the population, up from 12 percent in 2000. With 46 million Hispanics, the group is a rising political power. This is especially the case since they are concentrated in several key states. Hispanics are 44 percent of the population in New Mexico, 36 percent in California and Texas, 30 percent in Arizona and 25 percent in Nevada.

Hispanics were crucial to President Obama’s 2008 victory. In election night exit polls, it was estimated that 67 percent of Hispanics voted for Obama, compared with 32 percent who voted for Republican John McCain. This represented an 8 percentage point improvement over 2004 when Democrat John Kerry garnered 59 percent of their vote nationally, compared with 40 percent for Republican George W. Bush.

Part of this swing is attributable to shrill GOP rhetoric against illegal immigration and in favor of strict border controls and workplace raids. Conservative Republicans have been especially vocal on security and enforcement issues, and some Hispanics perceive the party as hostile to their interests.

Since Hispanics are clustered in key states and have been a swing bloc in a number of districts, they have political influence disproportionate to their actual size. There were several states where Obama’s share of the Hispanic vote exceeded his overall margin of victory. For example, Obama won Colorado by 7 percentage points, while the Hispanic share of his vote was more than 12 percent. He won Florida by two points and had a nearly eight-point margin over McCain among Hispanics there. And in Nevada and New Mexico, his margin among Hispanic voters exceeded his total vote over McCain.

Hispanics are likely to be crucial in some competitive 2010 congressional races in the South and West. Support for comprehensive immigration reform in Congress strongly correlates with the size of the Hispanic population in a senator or representative’s state or district. As Hispanics become more politically active, they will prove even more crucial to successful electoral coalitions. By 2030, the U.S.

Census Bureau estimates Latinos will comprise 20 percent of the American population. And in 2050, they will represent nearly one-quarter of all Americans.

Shifts in Advocacy Group Positions

A feature that doomed many earlier attempts at immigration reform has been an unwillingness to compromise on the part of key groups. Immigration policy evokes strong feelings among many people, and it has been difficult to get major organizations to bargain and compromise over key principles.

Early signs of shifts in the immigration positions of key organizations are a good sign. For example, labor unions historically have been lukewarm on immigration reform because some of their members think new arrivals result in tougher job competition and lower wages. Recently, though, two union federations, the AFL-CIO and Change to Win, have announced a willingness to accept provisions that previously were anathema to each. In April 2009, the federations publicly revealed that they would accept future guest workers, a key sticking point in past discussions, if an independent immigration commission indexed temporary worker programs to economic conditions. Currently, Congress makes decisions on the size of the temporary worker program, and its actions have not been well-calibrated to rising or falling employment. With this agreement, however, these federations expressed willingness to compromise—a key sign of receptivity to fundamental change.

Changes in Public Opinion

Americans long have held complicated attitudes on immigration. A 2008 analysis of recent Gallup national public opinion surveys undertaken by E.J. Dionne Jr. for a Brookings report titled “Democracy in the Age of New Media: A Report on the Media and the Immigration Debate” found that, from 2001 to 2007, a majority of Americans thought immigration was a good thing for the country. The percentage dipped after 9/11 and again in 2007 during the national debate over immigration reform. But even with the contentiousness of the recent congressional debate, 60 percent of Americans felt it was a good thing. By ethnic group, 74 percent of Hispanics thought immigration was a good thing, compared with 59 percent of non-Hispanic whites and 55 percent of African Americans.

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The most recent 2009 figures in a Pew Research Center survey demonstrate that nearly two-thirds (63 percent) of Americans favor a “path to citizenship” for illegal immigrants currently in the United States if they pass a background check, pay fines

and have a job. Support for legalization is strongest among young people aged 18 to 29 years old (71 percent) and decline with older residents. Sixty-seven percent of the 30-to-49 age range favors legalization compared to 62 percent of those in the 50-to-64 age range and 48 percent of people over 65 years.

Most people in the United States, however, do not want to open our borders much wider. A 2007 Gallup survey found that 45 percent wanted to decrease immigration, 35 percent thought it should stay at current levels and only 16 percent believed it should increase. In looking at these views from 1965 to 2007, there has been a sharp drop in the percentage thinking immigration should decrease. The high point for this attitude took place during the bad economy of the early 1990s, when nearly two-thirds of Americans felt that way. But these numbers dropped in the late 1990s, swelled slightly after 9/11, and then shifted to 40 percent in 2006 and to 45 percent in 2007.

The financial meltdown and recession will likely accentuate that negative sentiment temporarily, but historical evidence suggests that immigration resistance will lessen as the economy recovers.

In terms of country of origin, the strongest public opposition to immigration in 2006 came in regard to in-migration from Latin American countries. Forty-eight percent felt too many immigrants were coming from that region, compared with 39 percent who felt that way about arrivals from Arab nations, 31 percent who said that of Asian lands and 20 percent who believed too many were arriving from Europe.

Despite these views, immigration does not rank highly in the public's perception of America's most pressing problems. In 2008, for example, only 4 percent on an open-ended question claimed immigration was the country's most important problem. Indeed, the only time since 1997 when public ranking jumped was in 2006 during the last congressional debate over immigration. At that time, 19 percent felt it was the most important problem. With the bill's failure, it dropped back to single digits. When asked in a January 2009 Pew Research Center survey what the country's top priorities should be, immigration ranked 17th out of 20 listed policy areas. Forty-one percent believed immigration should be a top priority, while 85 percent chose the economy, 82 percent picked jobs and 76 percent named terrorism.

During the 2008 election, a *Washington Post*/ABC News poll asked how important a variety of issues were to voters. Sixty-three percent said that immigration was important to their vote, compared with 92 percent who felt that way about the economy, 83 percent who chose the Iraq war, 81 percent who named education, 78 percent who picked health care, 70 percent who cited taxes, 58 percent who named global warming, 50 percent who said that of gun control and 39 percent who felt that way with social issues such as abortion and gay civil unions.

Based on his analysis of opinion data, Dionne concluded that “Americans are philosophically pro-immigrant but operationally in favor of a variety of restrictions.” To document that point, a Democracy Corps national study found Americans distinguish between different types of situations where restrictions are warranted. When asked whether they favored particular actions, 80 percent supported tougher enforcement so businesses don’t hire illegal workers, 77 percent said we should double the number of border patrol agents, 76 percent backed implementing a guest worker program to allow immigrants to work here for a set period of time, 65 percent felt we should cut off non-essential public services such as welfare programs to illegal immigrants, and 64 percent thought we should allow illegal immigrants to pay a fee and learn English and then become eligible to apply for citizenship. Fifty-two percent said we should deport all illegal immigrants, and 51 percent thought we should build a fence along the U.S.-Mexico border.

Similar distinctions arise when people are asked whether they approve of unauthorized immigrants receiving specific public services. The highest support (74 percent) comes in regard to attendance at public schools from kindergarten through high school for illegal immigrants’ children who are American citizens; 64 percent favor use of hospitals and emergency rooms; 50 percent support attending public schools through high school for children who are here illegally; 35 percent approve of entrance to state colleges at in-state tuition rates for children of illegal immigrants; 31 percent support driver’s licenses, and 25 percent favor access to Medicaid, the government health program for the poor.

Illegal Flows at a Low

Over the past year, there has been a dramatic decline in undocumented immigration that may help reassure a worried American public. Statistics gathered by the U.S. Border Patrol reveal that illegal flows have dropped to a 30-year low due to better enforcement and problems in the current American economy. The number of illegal immigrants apprehended was 1.7 million in the mid-1980s, 1 million in the late 1980s, 1.6 million in 2000, and 705,000 in 2008. The latter was the lowest number of border crossing apprehensions since 675,000 were stopped in 1976. Since 2006, 6,000 border patrol agents were added along the Mexican boundary and 526 miles of fence were built to enhance enforcement.

Obstacles to Be Overcome

Despite some hopeful signs, immigration reform never is going to be an easy task. There are many political and policy cross-currents surrounding this topic. The country is deeply divided on the subject, which is why elected officials have difficulty resolving the conflicts.

Among the obstacles faced are:

A Bad Economy

People naturally grow more fearful about immigration during rising unemployment. There is worry over new arrivals taking jobs held by citizens or competing with them and keeping wages low. In addition, bad economies place budget pressure on state and local government, and those already in America worry about a drain on public services and competition over scarce resources.

E. J. Dionne demonstrates in his analysis the importance of economic conditions to immigration attitudes. His research shows that over the past decade, attitudes correlate highly with the national unemployment rate: rising unemployment fuels anti-immigration sentiment and the reverse eases the tensions.

The country's current weak economy is a major obstacle. America's gross national product dropped 6.3 percent in the fourth quarter of 2008 and another 5.7 percent during the first quarter of 2009. Over the past year, national unemployment has risen from 4.5 to 8.9 percent. Based on these numbers alone, this year does not appear to be an auspicious time for immigration reform.

But recessions eventually end and there are promising signs that the current one is easing. As our economy improves, we need to pay attention to American competitiveness and the contributions immigrants make to our economy. Immigrants spend money on goods and services, pay taxes and perform jobs that most American citizens don't want. Universities invest millions in training foreign students but then send them home without any U.S. job opportunities that would take advantage of their new skills.

Several advocacy organizations understand the importance of economic cycles to immigration attitudes and have proposed linking immigration policy to workforce and economic conditions. They recognize that it is reasonable to reduce immigration when the economy weakens and increase it when warranted by economic growth. This represents a new policy approach that addresses people's legitimate concerns about job competition and scarce resources.

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Particularistic Politics

Past immigration debates have been hindered by a decentralized political system structured around political responsiveness to local congressional districts and states. The virtue of this system is that it slows policy change and ensures that enacted legislation passes local community standards. Yet at the same time, our institutional arrangements hinder comprehensive reform on any policy issue because of the difficulty of assembling coalitions and navigating a fragmented political system.

In dealing with immigration, there is no shortcut to working through the legislative process, identifying and responding to the concerns of individual members, dealing with committee and subcommittee chairs and reconciling bills passed by the House and Senate. However, on other divisive issues, Congress has opted for an institutional arrangement in which members set broad policy while administrative agencies work out the details. For example, legislators generally do not develop technical requirements for radio and television broadcasters, preferring to leave that to the Federal Communications Commission. Similarly, regulation of the environment involves a great deal of administrative policy-making by the Environmental Protection Agency.

Given the technical issues involved in immigration reform and the virtue of depoliticizing conflict in this area, some advocacy organizations have proposed the creation of a Federal Immigration Commission with authority to make decisions within the confines of broad principles enunciated by legislators. Such a commission would not resolve the issue currently before Congress in terms of how to enact comprehensive immigration reform. But once broad principles are determined by legislators, having an independent agency implement them will help in the long run to reduce contention surrounding civic discussions.

Divisive Media Coverage

Polarized media coverage was a major problem in the last effort at comprehensive immigration reform. According to a Brookings study by Nonresident Senior Fellow Roberto Suro, news reporting “played a very direct role in heightening the polarization on immigration issues.” The dominant narrative centered on “illegality,” which contributed to negative public perceptions about immigration. News coverage increased in 2006 and 2007, but still trailed attention paid to other major issues. In 2007, for example, nearly 10.8 percent of news reported focused on the 2008 campaign, compared to 7.8 percent based on Iraq policy, 5.9 percent on Iraq events, 2.9 percent immigration, 2.4 percent on Iran and 2 percent on domestic terrorism. According to Suro’s analysis, “immigration received four times as much attention from conservative talk show hosts than from liberals,” which explains why public attitudes toward immigration grew more negative and greater worry was expressed about new arrivals.

Public Concern over Border Security and Social Impact

With an estimated 500,000 unauthorized immigrants entering America each year, there are legitimate fears about the credibility of the rule of law as well as their social and economic impact. However, most immigrants, legal or undocumented, are not allowed to participate in Medicaid, Supplemental Security Income, food stamps, Temporary Assistance to Needy Families or the State Children’s Health Insurance Program. Undocumented immigrants are not able to receive any forms of welfare, public health care or retirement. Legal permanent residents must contribute to Medicare and Social Security for at least 10 years before they can benefit from these government programs. Children born in the United States, though, can receive government aid directed to youth.

One exception to this general pattern occurs with education. Based on a 1982 U.S. Supreme Court decision, *Plyler v. Doe*, states and localities cannot deny immigrants access to elementary or secondary education. A 1975 Texas law withheld education funding for children who came to the country illegally and allowed local schools to deny enrollment to these pupils. But on a 5 to 4 vote, the Supreme Court ruled that this law violated the 14th Amendment and therefore was unconstitutional. Schools must educate children regardless of whether they are legal or unauthorized residents of the United States.

The same logic applies to emergency health care. Hospital emergency rooms are supposed to treat patients even if they do not have the ability to pay or legal status. Everyone deserves emergency care regardless of whether they are poor, undocumented or uninsured. In reality, however, undocumented individuals tend to get the least care. One California study by Alexander Oretaga found that “undocumented Mexicans and other undocumented Latinos reported less use of health care services and poorer experiences with care compared with their U.S.-born counterparts.”

Since border security is an important public concern in regard to unauthorized immigration in general and use of public resources in particular, policy-makers need to consider new digital technologies that may aid border enforcement. Remote sensors and digital monitors might help identify popular crossing spots and therefore assist Border Patrol agents in stemming flows.

Those same technologies must be used to put teeth into the requirement that employers validate the legal standing of prospective employees before hiring them. Without a credible plan for enforcement, we will not be able to overcome the hurdles that have thwarted comprehensive immigration reform over the past two decades.

Deep Public Mistrust of Government

The biggest public opinion change since the 1950s has been the growing public mistrust of government. Fifty years ago, two-thirds of Americans trusted the government to do what is right. Today, more than two-thirds mistrust the government in Washington.

This pervasive mistrust has profound consequences for immigration because, even if national authorities enact comprehensive reform with tough enforcement and border security, it is going to be hard to convince citizens that the government will follow through with effective action. Given the failure of immigration rules to stem the flow of unauthorized immigration, it is easy for immigration opponents to play to citizen skepticism and undermine support for compromise proposals. Any effort to pass comprehensive reform is going to have to take into effect the deeply rooted nature of public cynicism. No new narrative will be successful unless it explicitly addresses this aspect of citizen opinion. And that narrative must be anchored in policies that have a reasonable chance of being effective.

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About the Brookings Immigration Series

Reforming immigration policy has been a subject of intense debate and promises to be so again in this new political climate. This series presents the work of experts from a variety of fields at Brookings and is designed to inform the public debate over immigration policy. Our goal is to stimulate new thinking on this important area and to present new information that sheds light on major immigration concerns and trends.

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