

Immigration Reform: The New Third Rail

The GOP would be wise to avoid shrill rhetoric and argue instead for more visas for the highly skilled.

Back in August, when he was heading to his Martha's Vineyard vacation, President Obama called on Congress to pass a comprehensive immigration bill. He has renewed that call more recently, and Sens. Charles Schumer and Lindsey Graham say they want to co-sponsor a bipartisan bill. With Democrats holding 59 of 100 Senate seats and 254 of 435 House seats (there are three vacancies), you might think passage would be assured. But you would be wrong.

Prospects for a comprehensive immigration bill look worse than they did when George W. Bush was pushing for one in 2006 and 2007. In 2006 the Republican Senate did pass such a bill, but it never came to a vote in the House, which passed a border fence bill instead. In 2007 a Democratic Senate failed to pass a bill, as Harry Reid, in his first year as majority leader, yanked it from the floor twice.

The problem now, with Mr. Bush back in Texas, is that the immigration issue is political poison for both parties. Any bill that provides legal status to illegal immigrants leaves Democrats open to the charge that they're backing "amnesty" and rewarding those who have broken the law. And vocal Republican opposition to such a bill leaves the GOP open to charges of anti-Hispanic bigotry, with possible backlash at the polls for years to come.

Democrats do have one reason to bring a bill forward. According to the exit poll, Hispanics voted 67% to 31% for Mr. Obama in 2008 and 68% to 29% for Democratic members of Congress. Hispanic politicians like Rep. Luis Gutierrez of Chicago have been agitating for immigration legislation and threatening civil disobedience if one is not passed. An estimated 100,000 people marched in Washington on March 21, the day the House passed the Democrats' health-care bill, in support of comprehensive immigration legislation.

Even so, Speaker Nancy Pelosi, like her Republican predecessor Dennis Hastert, says she will not bring up the issue in the House until and unless the Senate passes a bill. Many Democratic members—Blue Dogs in rural districts, union stalwarts in industrial areas—fear that major reforms could give Republican opponents campaign fodder and cost them their seats in November.

Facts on the ground support such assessments. When immigration bills were debated in 2006 and 2007, unemployment was below 5%. For the last six months it has been hovering around 10%. In mid-decade it was expected that the flow of immigrants, legal and illegal, would continue indefinitely at the same high levels as it had since the early 1990s. Now it seems to have slowed.

The Pew Hispanic Center reported last summer that Mexican immigration to the U.S. from spring 2008 to spring 2009 was only one-quarter the level of 2004-05. The Center for Immigration Studies (CIS) estimates that the number of illegals in the U.S. dropped to 10.8 million in spring 2008 from 12.5 million in summer 2007—a decline of 14%. While the

numbers are hard to verify, the CIS estimates that 1.2 million illegals returned to Mexico in 2006-09, more than twice as many as in 2002-05. The Census Bureau estimates that, for the first time since 1970, the nation's foreign-born population declined in 2007-08.

This apparent downturn in immigration and the possible outmigration of illegals tend to undercut the argument for legalization. The argument ran that the nation needed more workers and that otherwise law-abiding and hard-working illegals who paid fines and took a place at the end of line could become constructive citizens. Ineffective enforcement of immigration laws, the argument went, was not their fault and amounted to something like an invitation to cross the border. But now, with high unemployment, we no longer need so many workers. If illegals are returning to their countries of origin in significant numbers, why encourage them to stay?

In addition, the argument that effective enforcement is unfeasible is weaker than it was just a few years ago. One result of the unsuccessful push for comprehensive legislation in 2006-07 was beefed up enforcement. Some 600 miles of border fence have been built, and border-crossing arrests—generally considered a proxy for illegal border crossings—have sharply declined.

Moreover, the e-Verify system for determining the legal status of potential employees has improved. In Arizona, where because of state law use of e-Verify is most common, there's been a statistically significant decline in the foreign-born population, according to the Census Bureau. The possibility of using biometric identification (fingerprinting, facial recognition, DNA, etc.) to keep track of immigrants might make enforcement even more effective.

Increasingly, effective enforcement cuts both ways. One could argue that if we can enforce the law better in the future a one-time amnesty now—similar to President Reagan's 1986 amnesty—would not lead to more illegal crossings. One could also argue that better enforcement means we shouldn't reward those who broke the law in the past.

Most Senate Democrats still seem disposed to vote for a comprehensive bill. But they will need some significant number of Republicans to get the needed 60 votes. And the two Republicans who led the fight for such a bill in 2006-07 are no longer available. John McCain faces primary opposition from immigration critic J.D. Hayworth. His Arizona colleague Jon Kyl is not on board either. And it's not clear how many Republican votes Lindsey Graham, for all his appearances on the Sunday talk shows, can deliver. This is one issue on which Democrats may wish that George W. Bush, with his strong support of a comprehensive bill, were still around.

Mr. Bush's absence may also be a source of regret for Republicans. The instinct of many GOP politicians is to denounce any form of legalization, and in the shrill tones one hears from callers on talk-radio programs. But those shrill tones seem to turn off many voters, not just Hispanics but also suburbanites who favor strict enforcement of immigration laws but shy away from anything that sounds like prejudice against minorities.

Republicans would be well advised to avoid such rhetoric. They should take a cue from Sen. Kyl's work on the 2007 bill, and from the thoughtful 2009 report of a bipartisan panel assembled by the Brookings Institution and Duke University's Kenan Center. Both urged significant reductions in the number of green cards for legal residents' relatives beyond the nuclear family and for a sizeable increase in the number issued to high-skill immigrants. This is the approach taken currently by Canada and Australia, with good results. The

argument would be that in our current economy we need fewer job seekers and more job creators.

These reforms would probably not be welcomed by the Hispanic groups that are pushing the Democrats to take up this legislation. But a package that provided limited legalization, further strengthened enforcement, and made room for more high-skill immigrants might be the only way to obtain bipartisan support—and could minimize the damage that each party faces from this emotion-laden issue.

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