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A New Strategy for Real Immigration Reform

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In the aftermath of the Senate's inability to pass comprehensive legislation, policymakers are faced with several options for fixing the dysfunctional immigration system. Some will insist on the same flawed legislation with only minor amendments. Others will give up on the issue for now, leaving the policy initiative with those who persist in reviving a failed approach. The best option for lawmakers—indeed, the only option to achieve a sensible immigration policy—is to opt for a new strategy.

Serious immigration reform is within reach, and now is the time to act. Congress has already made significant strides toward solving the illegal immigration problem. Recent efforts by the Administration clearly demonstrate the effectiveness of a reasonable enforcement policy. The public is focused on the issue and rightly demands solutions. What is needed to complete the task is not another attempt at “comprehensive” reform, but a basic commitment to implement and enforce the law, along with a few modest, common-sense legislative initiatives.

An Incremental Strategy. The effort to enact comprehensive immigration and border security measures in one massive and complicated bill collapsed when the Senate voted against cloture and refused to proceed to a vote, and Majority Leader Harry Reid (D–NV) withdrew the legislation from consideration. Several failed amendments showed that there were too many problems concerning many aspects of this “grand bargain” for it to garner sufficient overall support.

In the end, however, the reason for the bill's demise is simple: It would have granted amnesty to

the 12 million or more individuals illegally in the United States and would have done little to secure the border, enforce the law, or facilitate lawful migration. The policy of amnesty first and security and enforcement promises is a recipe for disaster that would have made the nation worse off. The same strategy failed miserably 1986 and would have caused even more damage this time around.

The argument in favor of the Senate legislation was premised on a false choice between permanent legalization and the forced deportation of each and every illegal immigrant in the United States. Yet the solution to the challenges of immigration reform does not necessitate—and will not result from—“comprehensive” legislation or “grand bargains” that compromise on principle and security.

Rather than reviving a flawed and unworkable policy, or taking a wholly unacceptable “do nothing” approach by maintaining the status quo, lawmakers should embrace a simple strategy based on four basic points:

1. **Enforce the laws.** There already exist on the books numerous laws that, if enforced in a targeted manner, would discourage illegal immigration and the employment of illegal labor, as well as send the signal that such activities will no

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longer be overlooked. Recent actions by the Administration prove that reasonable enforcement measures (well short of massive deportations) can significantly reduce the number of illegal border crossings.

2. **Gain back control of the southern border.** Many of the border security provisions of the Senate proposal are already being implemented as requirements of previously enacted legislation, including the Secure Fences Act of 2006 and the Intelligence Reform and Terrorism Prevention Act of 2004. This should continue, as responsible border security and workplace enforcement makes America safer and would help shift the balance of South–North migration into predominantly legal channels.
3. **Emphasize legal immigration.** The process by which individuals enter the country legally must be fair, orderly, and efficient—welcoming those who abide by immigration laws and denying entry and advantages to those who violate the law. The integrity of this process is important to protecting and encouraging a meaningful naturalization and citizenship process.
4. **Create flexible legal opportunities to work in the United States.** A balanced and well-constructed temporary worker program—one that allows for a market-driven source of labor provided by a rotating temporary workforce—would diminish the incentives for illegal immigration by providing an additional option for legal entry and, in combination with other reforms, gradually reduce the population of illegal aliens. This would better foster national security and serve a growing economy.

Together, these elements—along with a general rejection of amnesty—offer a real possibility for strengthening national security and replacing, over time, an undocumented labor force with temporary workers and new legal immigrants. Additional options may become reasonable once these policies are allowed to operate over time; policymakers should consider those options at a later date.

This strategy is realistic and feasible in the short-term. Most of the tools required to beef up border security and pursue workplace enforcement have

already been passed and mostly authorized by Congress. The only missing programmatic component is a practical and realistic alternative for legal temporary workers.

A Real Reform Agenda. Rather than trying to amend the existing proposal or draft another mammoth and unwieldy comprehensive bill, Congress should enact piecemeal a few nonpartisan measures consistent with broadly accepted principles and public opinion. These measures include:

1. **Provide appropriations to enforce the law and enhance border security.** Congress should ensure the enforcement of laws already on the books such as the REAL ID Act and the Secure Fence Act. Congress must fully fund these programs and then press the Administration to efficiently and effectively implement them.
2. **Open a dialogue with Americans.** Rather than trying to craft immigration and security reforms behind closed doors, Congress should hold a series of hearings in Washington and in local communities. The purpose of these hearings should be to explore alternative solutions to the proposals in the Senate legislation.
3. **Complete the security tool kit.** Additional modest measures can help to achieve more effective workplace enforcement and border security. Such measures include: facilitating the sharing of Social Security “no match” data with the Department of Homeland Security; federal grants for policing in border communities; encouraging state and local governments to cooperate with enforcement through the 287(G) program.
4. **Reform Immigration Services.** Congress should appropriate funds to rapidly modernize the U.S. Citizenship and Immigration Services in order to reduce backlogs and enhance efficiency. Fast, effective, and responsive immigration services will help make legal migration to the United States a much more appealing option.
5. **Improve Citizenship program.** Congress should develop a deliberate policy that helps immigrants and new citizens assimilate by educating them about the country’s common language and political principles. An amendment to this effect passed overwhelmingly as part of the Compre-

hensive Immigration Reform Act of 2006, providing a good baseline for further legislation.

6. **Establish a practical and flexible temporary worker program.** This program must be based on the labor needs of the marketplace and not driven by bureaucratic direction from Washington, nor undermined by the unrealistic demands of organized labor.
7. **Engage state and local governments.** State and local governments can play a significant role in helping redress the balance between lawful migration and illegal presence.
8. **Work with Latin American partners to boost employment and economic growth.** Congress should support legislation that encourages free trade, responsible foreign assistance programs, and good governance. As the United States and its partners in Latin America work to extend prosperity across the hemisphere, the pressures of South–North migration will ease and border security will become much more manageable.

A Different Future. Without serious policy change, the illegal population in the United States will continue to grow, the burden on local communities will increase, the stresses on civil society will become greater, and border security will become more expensive while remaining just as ineffective. On the other hand, with a handful of initiatives, Congress and an Administration working to implement existing and new national security and immigration laws could achieve a comprehensive solution in a reasonable amount of time. The future that would unfold would be far brighter than the one the United States faces now.

As with any major policy goal, reducing illegal entry and presence in the United States will take time and perseverance. Likewise, it is misleading and naive to suggest that every policy aspect can and should be settled up front in one all-encompassing agreement. The challenge is to answer the big questions first so that the others fall into place or are susceptible to later resolution. This approach to immigration is analogous to the policy success of welfare reform in the 1990s. The use of incentives and disincentives to encourage work reduced welfare rolls over time by 60 percent, through the

decreased entry and increased exit of welfare program participants.

In this sense, the rejection of amnesty is the key—not the obstacle—to policy success. Not only does denying amnesty to lawbreakers serve as a deterrent to illegal border crossings, but it also creates the incentive for illegal aliens already present to return to their countries of origin and, if they wish to do so, apply without partiality or prejudice for legal entry into the United States. Over time, this policy uses the marketplace and incentives to resolve a seemingly intractable situation in accord with core principles of governance and the interests and individual choices of a very large and diverse unlawful population.

Some have decried such an “attrition” policy as wildly impractical or even a “silent amnesty.” Regardless, it is the only viable option that offers a fair and reasonable alternative to the objectionable extremes of complete amnesty and forced deportation. It is also the best option for avoiding the same circumstances or worse in years hence.

An Achievable Objective. Securing a future where America’s borders are no longer porous, its laws are respected, and illegal labor is replaced by legal workers and legal immigrants is an achievable objective. The way forward is not to repeat the failures of the past but to pursue an incremental strategy of real reforms.

With these steps, the President and Congress can deliver on their promises to provide border security and to realize comprehensive immigration reform. This achievement would help lawmakers to not only regain the trust and confidence of the American people but also to meet their solemn obligations to keep the nation safe, prosperous, and free for all Americans—and all those who will become Americans—today and for generations to come.

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