

January 2012

TO: Interested Parties

FROM: Jim Kessler, Senior Vice President for Policy;
Lanae Erickson, Deputy Director of the Social Policy & Politics Program

RE: *Holding Children Blameless, but not Adults: A Politically Feasible Path for Illegal Immigrants*

Third Way has and always will support an earned pathway to citizenship for the 11 million undocumented immigrants now residing in the United States. But we have come to the conclusion that a blanket path to citizenship is politically impossible—for now and for the foreseeable future.

The Republican Party stands four-square opposed to comprehensive reform. One need only witness the Republican primary in which candidates were roasted for being “soft” on the issue. Rick Perry was skewered for granting in-state tuition to illegal immigrant students in Texas. Newt Gingrich took fire for saying “there has to be some zone between deportation and amnesty.” And many Republicans in Congress who were former supporters of reform have retreated from their past views.

The Democratic Party has also moved—from enthusiastic and vocal to more cautious supporters of reform. There is little groundswell from rank and file members of Congress to move forward on comprehensive legislation, and the focus has turned to the *D.R.E.A.M. Act*, a much smaller bill.

But the fact remains that there are an estimated 11 million undocumented immigrants living in the United States, and according to the Pew Research Center, approximately 63% of those people have been here for 10 years or more.¹ The debate around what to do with them is often characterized as a choice between deportation and citizenship. This memo offers a third option that reflects moderate values and has the potential to un-stick the debate. There are two components:

- Immediate eligibility for permanent legalization and a path to citizenship for any undocumented immigrant who is currently a minor or who entered America as a minor, so long as they do not have a felony record.
- A path to permanent legalization—but not citizenship—for any undocumented immigrant who entered the country as an adult, so long as they do not have a felony record.

This approach has one principle on which we think both parties should agree: **hold the children blameless, but not the adults.** It gets far closer to fundamental reform than *D.R.E.A.M.* for Democrats and reassures Republicans that citizenship won’t be given away. And thus it has the potential to win bipartisan support in the future.

A Politically Feasible and Morally Just Proposal

The population of the 11 million is made up of two very different groups that require different policies: 1) undocumented people brought to the United States as children, and 2) undocumented people who violated rules and came here or overstayed their visa as an adult.

Citizenship for people brought here as children.

There is a very basic concept that we adhere to with this population: children broke no rules, committed no crime, and should pay no penalty.

We propose providing a “Permanent Legal Status - Minor” (PLS-M) visa to all undocumented individuals who entered the United States as a minor, so long as the individual has not been convicted of a felony crime. This new status would protect holders of this PLS-M visa from deportation, make them eligible for the same government services as other legal permanent residents, and allow them to exit and enter the country freely. Those with a PLS-M visa would not be eligible to vote and would not be allowed to bring relatives into the country through family immigration.

We propose providing an earned path to citizenship to all PLS-M visa holders, but with a cost. They must first earn an associate or bachelor’s degree, or serve honorably in the military, to attain citizenship. There would be no fee or fine associated with the Permanent Legal Status - Minor visa beyond the cost required for other permanent visas.

Our proposal goes beyond *D.R.E.A.M.* because that bill is meant to be a stepping stone to an eventual, comprehensive compromise. By contrast, our proposal is the heart of a compromise on comprehensive reform. Thus, for example, we substitute permanent status for the conditional status mapped out in *D.R.E.A.M.*, among other differences. And we believe this policy is politically feasible because its principle—that we should not punish children for the mistakes of their parents—has been previously backed by countless policymakers on both sides of the aisle, including original *D.R.E.A.M. Act* author Republican Senator Orrin Hatch and previous GOP cosponsors Senators John McCain, Charles Hagel and Richard Lugar.

Legalization for people who came here as adults.

In drafting this piece of the proposal, we kept two principles in mind:

- 1) People who broke a rule should pay a price; and,
- 2) Mass deportation is both impractical and immoral.

For those undocumented immigrants who chose as adults to come to the United States—or stay here—illegally, citizenship is a bridge too far for many Americans. However, leaving them in their current situation is bad for taxpayers and is dangerous, impractical, and inconsistent with American values.

Under our proposal, undocumented immigrants who entered or overstayed their visas as an adult and currently reside in the United States could apply for conditional status. This conditional status would last for several years, providing protection from deportation and authorization to travel abroad or work in the country. At the end of that period, if the immigrant had met the specified requirements and had not been convicted of any felonies, he or she would be eligible for a “Permanent Legal Status – Adult” (PLS-A) visa.

Holders of a PLS-A visa could not be deported, would be eligible for the same public services as other legal permanent residents, and would be able to be employed, obtain a passport, and travel freely. **PLS-A holders would not be eligible to petition for citizenship** and could not use their status to bring family into the country to live. Unlike the PLS-M visa, there would be meaningful fees, fines, and other requirements associated with earning a PLS-A visa. Many of these have already been defined in past immigration reform bills.

Policymakers ranging from George W. Bush to the current 2012 GOP candidates agree that citizenship should not be given away to lawbreakers, but that we can’t afford to do nothing with the 11 million, and deportation is not a practical option. Allowing undocumented adults to earn a path to legalization, but stopping short of citizenship, provides perhaps the only plausible and politically feasible path forward.

Conclusion

There are several aspects of the immigration debate that we do not address here. For example, in an earlier paper, we strongly endorsed legal immigration reforms that would make the United States the world’s foremost magnet of global talent. Thus, we would increase skilled immigration levels and also offer green cards to foreign students who earn advanced degrees and certain undergraduate degrees at our colleges and universities. Enforcement on the border, a workable employment verification system, and an adequate supply of temporary workers must also be addressed in a comprehensive plan. **But nothing can occur without a framework that deals with the 11 million who are already here.**

For six years, the debate over the fate of the 11 million undocumented immigrants has come down to a tug-of-war between two implacable foes—team citizenship and team deportation. Neither side has made any progress; neither side has the strength to pull the other team over the line. This stalemate has to end, and only a new choice can reset the debate.

Our new two-part proposal reflects the values of most Americans: that we should hold children blameless but not adults, by allowing those who came here as minors to earn citizenship and provide an earned path to legalization—but not citizenship—for the adults. It would likely be greeted with open arms by those to whom it offers a path to legality. It would likely be greeted with less resistance by those who want to send everyone back to their original home countries. But sticking to the same plan will not work. It’s time for a fresh centrist solution.

Endnotes

¹ Paul Taylor, Mark Hugo Lopez, Jeffrey Passel and Seth Motel, "Unauthorized Immigrants: Length of Residency, Patterns of Parenthood," Report, Pew Research Center, December 1, 2011. Available at: <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood/>.