



Immigration reform: What the last 'path to citizenship' did for immigrants

Congress is considering comprehensive immigration reform, including amnesty, work visas, and guest worker programs. What this path to citizenship could mean for 11 million illegal immigrants can be seen in the 1986 amnesty of 3 million legalized in the last major immigration overhaul.

By: Erin Siegal – April 7, 2013

To some, steering a big yellow bus along the same city route day after day isn't a highly attractive career. But for Angelica Dimas, who illegally crossed the border into the United States from her native Tijuana, Mexico, in 1981, the opportunity to work as a bus driver in San Diego was a dream realized.

"I was so excited, so happy," she recalls, her voice tinged with pride. "I loved driving buses."

Initially, like countless other undocumented immigrants, Ms. Dimas worked below the legal radar, cleaning houses when she arrived in California at age 17. But five short years and many waxed floors later, when then-President Reagan passed the nation's first comprehensive immigration reform, Dimas filed an application to legalize her status. Along with her green card came the ability to finally get a driver's license, a bank account, a credit line – and the chance to get better jobs.

The Immigration Reform and Control Act of 1986 (IRCA) included sanctions for employers who knowingly hired – and sometimes exploited – a workforce without papers. But it quickly became known for the provision that transformed the lives of millions: *la amnestía*, amnesty.

Between 3 million and 5 million undocumented immigrants were estimated to be living in the US when IRCA passed. The legislation outlined two classes of possible recipients: those who'd lived in the US before 1982 and those who worked in seasonal agricultural jobs.

Three million applied, and 2.7 million were accepted, ascending the first step toward US citizenship: temporary legal status.

Congress is now exploring options for more than 11 million undocumented immigrants in a broader comprehensive reform effort expected to be taken up the week of April 8. Provisions under discussion reportedly include a new guest-worker visa category and

special treatment for agricultural workers. And discussions have focused on mandating a longer wait time – around 10 years – for green cards, in addition to background checks, payment of back taxes, and fines for the undocumented. The long pause in temporary legal status aims, in part, to keep beneficiaries from immediate eligibility for federal public benefits, like food stamps, Medicaid, and unemployment insurance. Also, for young people brought into the US by their parents a special route to citizenship is being considered. Agricultural workers are also likely to get similar special treatment. In the 1980s, IRCA's legalization process was criticized for the arbitrary nature of who qualified, confusion over restrictions, and a general failure to provide an ongoing legal avenue for those immigrants who continued coming to the US seeking employment.

IRCA's opponents also claimed recipients would take jobs from Americans, overload public service systems, and even reshape politics with a new voting bloc likely to be Democratic.

Today, there is similar opposition to granting legal status to undocumented immigrants. Rep. Lamar Smith (R) of Texas says that legalizing those without status is rewarding them for breaking the law. "When you legalize those who are in the country illegally, it costs taxpayers millions of dollars, costs American workers thousands of jobs....," Mr. Smith says on his website. "By granting amnesty, the Senate proposal actually compounds the problem by encouraging more illegal immigration."

The consequences of legalization under IRCA during the past 27 years are not easy to quantify. A look at the broad outlines of consequences – and at the lives of people directly affected – helps bring dimension, nuance, and verifiable meaning to a conversation that triggers emotional fireworks for the public and policymakers alike.

What might amnesty look like this time?

Ironically, IRCA's 1986 beneficiaries are as invisible demographically in their legalized status as they were when they were undocumented immigrants.

"There weren't long-range follow-ups," says Jeff Passel, senior demographer at the Pew Hispanic Center. "It's one of those things that probably should have been done. It would have been nice to take a sample of these people and follow them for 15 or 20 years." What is officially known is that 2,704,884 undocumented immigrants were legalized under IRCA, meaning they obtained temporary legal status, or permanent legal status, or US citizenship – or a combination of all three over time. Of them, 1,040,637 are US citizens today.

There were 1,596,912 immigrants who were legalized because they lived in the US before 1982; 46 percent of that group became citizens by 2009, says Mr. Passel. A second eligible category included 1,093,065 seasonal agricultural workers, and just 28 percent of that group became US citizens.

No one tracked the number of "dropouts" (immigrants who had gained temporary legal status only to later revert to unauthorized status) or the number of those deported. But the Migration Policy Institute notes that as of 2001, 12 percent of IRCA beneficiaries who'd attained temporary legal status never went on to become legal permanent residents.

Although IRCA's path to legalization applied to more people – mostly Mexican – than any law before, there has been legislation that produced smaller waves of legalized immigrants: the 1992 Chinese Student Protection Act, the 1997 Nicaraguan Adjustment

and Central American Relief Act, and the 1998 Haitian Refugee Immigration Fairness Act. More than 1 million Cubans between 1960 and 2009 were also granted legal permanent resident status.

IRCA's coauthor, the famously outspoken former Republican Sen. Alan Simpson from Wyoming, is proud of the legalization provision, saying it "brought people out of the dark."

"At some point in time, you have to do something," says Mr. Simpson, who stresses that those who crafted IRCA avoided calling legalization provisions an "amnesty" because that word was too loaded. "Unless you want to go hunt people. And who wants to be part of a country who goes hunting people to get 'em out? That's nuts. You have to give them some kind of status."

Six siblings got college degrees, better jobs

Amelia Cobarruvias felt trapped in Mexico in the 1970s, caring for seven younger brothers after her two older sisters married.

"She hated it," says her daughter Maria. "She had wanted to go to school ... she was like, 'Well, the first boyfriend I have who tells me he's gonna take me to El Norte, I'm leaving!' "And she did – she followed Florencio Cobarruvias to Oregon's Columbia River Gorge in 1978. Mr. Cobarruvias had migrated seasonally to pick fruit for almost a decade. Although he was illiterate, his new wife could read – but neither spoke English. When Maria, their first daughter, was born, the attending nurse couldn't understand them well enough to spell their surname, so Maria's last name remains misspelled to this day: "Cobarrubias."

When Mrs. Cobarruvias was pregnant with her second child, complications arose. She tried to visit a doctor to relay her concerns, but was told to go home and wait until her next scheduled appointment. She miscarried before receiving medical attention.

"My mom was angry. She felt like she'd been discriminated against, for being poor, for being a farmworker," Maria says. "Not being able to speak out about it was difficult for her. But out of fear – because they were undocumented – they didn't want to call attention to themselves."

By the mid-1980s, the couple had seven children who all helped in the orchards, picking apples, pears, and cherries.

For years, the family lived in farmworker housing, sometimes without running water. The nine of them later moved into a single-wide trailer. When IRCA passed in 1986, all were able to file for legal status.

"I think growing up in that kind of poverty is what motivated us to go to college," Maria says. All told, six Cobarruvias children have graduated from college and the youngest sister is attending now.

"My mother always told us, *tienen que ir a la escuela*, you have to go to school, you have to go to school," says Maria, who is now a lawyer in Santa Ana, Calif. "It was because she never had the chance to go."

"Her favorite gifts now are college T-shirts," Maria says, pausing to laugh. "And she has so many!"

The family's trajectory typifies statistics laid out in a 2004 report by economists Pia Orrenius and Madeline Zavodny showing that the main fiscal consequence of IRCA was

increased earnings for legalized immigrants. For those from Latin America, wages increased at a rate between 6 and 13 percent of what they had earned before becoming legal.

Increased earnings were a direct result of having the legal paperwork allowing movement into higher-paying jobs, the report stated. And those already working in "skilled occupations" were able to increase their pay at a higher rate than those in low-skilled jobs.

An immigration amnesty, the economists wrote, probably does increase tax revenues. But determining the actual amount is complicated. An estimated 50 percent of unauthorized immigrants in 1986 did pay taxes, but couldn't collect benefits until they were legalized.

In 2005, reporter Eduardo Porter examined the financial consequences of IRCA in The New York Times. "For Social Security's finances, it was a great piece of legislation," he wrote. "The estimated seven million or so illegal immigrant workers in the United States are now providing the system with a subsidy of as much as \$7 billion a year."

Mr. Porter detailed how, after IRCA took effect in 1986, the Social Security Administration received "a flood of W-2 earnings reports with incorrect – sometimes simply fictitious – Social Security numbers," which were then "stashed" in an "earnings suspense file." He posited that unauthorized immigrants contributed "more than most Americans to the solvency of the nation's public retirement system" because of this surplus.

At the time, Porter said, the mystery surplus, believed to be largely contributed by undocumented immigrants, was "generating \$6 billion to \$7 billion in Social Security tax revenue and about \$1.5 billion in Medicare taxes" annually.

But politicians like Smith say immigrants drain social services. "Under current law," Smith said last month, "once 11 million illegal immigrants receive probationary status, they will immediately have access to federal benefits like Social Security and 'Obamacare' coverage."

But the proposed framework states that current restrictions "preventing non-immigrants from accessing federal public benefits will also apply to lawful probationary [temporary] immigrants." Temporary status would last about 10 years, after which applicants could receive green cards making them eligible for some federal benefits, including food stamps and Medicaid. During those 10 probationary years, applicants would pay taxes, back tax payments, and a proposed fine for having first entered the country illegally.

A 2007 Heritage Foundation report on projected costs of legalizing 11 million immigrants conceded that fines and an increase in taxes collected from newly legal immigrants might, in the short run, exceed the cost of government benefits extended to them. But in the long term, the report's author, Robert Rector, estimated that legalized immigrants would cost the government \$2.6 trillion.

He based his estimates on the idea that undocumented immigrants, lacking education, would stay in low-skill, low-wage jobs and would, therefore, over time be more likely to rely on government benefits.

But a new March 2013 study from the libertarian-leaning Cato Institute, "Poor Immigrants Use Public Benefits at a Lower Rate than Poor Native-Born Citizens," opposes Mr. Rector's findings. For example, the report said, two-thirds of the children of low-income native US citizens were on Medicaid, while about half of low-income

noncitizen children received Medicaid. The main reason for the gap was cited as "strict benefit eligibility barriers for many immigrants." It also noted the cost of care for immigrants to be notably lower than that of native-born citizens.

In 2004, an analysis in the online journal of the Migration Policy Institute examined government reports from 1992 and 1996 and concluded that occupational mobility for IRCA recipients was the biggest fiscal takeaway.

"As a group, most, but not all, [immigrants] arrived with relatively low skill levels and found low-skill, low-wage jobs," the report said.

"Yet by 1992 ... five years after legalization, most had jobs that were better than the first jobs they reported and, for many, much better than the jobs held in their homeland.... [Many] had attained occupational status better than the bottom third of all persons in the [US] labor force."

The Migration Policy Institute report also offered clues into the demographics of the beneficiaries: Most were young, between the ages of 22 and 24, and had an average education level of seventh or eighth grade. Three-quarters had entered the US illegally, while one-quarter had simply overstayed their visas. Almost half reported they'd paid human smugglers to get in.

An \$800 letter from the boss

Teresa D., a San Diego retirement facility aide who requested the Monitor use only the initial of her last name, was among nearly 2 million undocumented immigrants excluded from being legalized through IRCA – and her experience shows some of the program's commonly perceived failures: document fraud and arbitrary qualification dates.

Rising crime and the growing cost of living at home in Oaxaca, Mexico, drove Teresa to the US at the age of 19 in 1985. Tired of working in the fields with her father and brother, she took various custodial jobs in hotels and restaurants in the US, until IRCA passed a year later.

Though she wasn't eligible to be legalized under IRCA because she arrived after 1982 and didn't work in agriculture, Teresa found a way around the restrictions. Two friends, both farmworkers from Acapulco, offered a favor: Their boss could provide documents to her – for \$800.

Teresa felt that the lie paled in comparison to the opportunity. She took them up on the deal.

On the day of her interview, Teresa walked into the immigration office with trembling hands. The agent peppered her with questions. She told him she worked for the company listed on the fraudulent employment letter.

Six months later, she had a work permit. Soon after, she became a US citizen.

Today, Teresa doesn't regret her decision. But neither does she think citizenship changed her life dramatically: She's worked in the same low-pay, low-skill custodial eldercare and cleaning jobs that she previously held without papers.

The extent of fraud committed by immigrants like Teresa under IRCA is unknown. But, notes Martin Arriaza, a construction worker in California's agricultural Imperial Valley, it was common enough to inspire a well-known joke. In fact, it's the first thing he thinks of when the topic of *la amnestía* comes up. Immigration officials asked IRCA applicants

questions designed to root out those pretending to be farmworkers. The joke at the time, Mr. Arriaza recalls, was "What size ladder do you use to pick strawberries? Seven, five, or three feet high?"

The answer? "It's none of the above," he says in Spanish. (Strawberries grow close to the ground.)

In a 2006 op-ed defense of IRCA in *The Washington Post*, former Senator Simpson claimed that after 20 years, the legislation still hadn't been fully executed – that neither a system that adequately sanctions employers nor one that verifies identities had been created.

"Unfortunately, what is in place is the use of several different identifiers, which were meant to be temporary, and a flourishing underground economy engaged in creating fraudulent documents for illegal immigrants," he wrote with the law's Kentucky cosponsor, Rep. Romano Mazzoli, a Democrat.

When immigration authorities suspected falsified affidavits, they "had little investigative capacity to disprove them," the Migration Policy Institute noted – underscoring the need then, and perhaps today, for more funding to be channeled to internal enforcement, rather than external measures like higher border fences.

Estimates from the Center for Immigration Studies, a conservative think tank, estimated the number of agricultural worker applicants in California – 699,100 – "was at least twice as high as any other government measure of the total farm labor force," David S. North, a fellow for the center, wrote in "A Bailout for Illegal Immigrants?" Mr. North's conclusion: "[A]mnesties simply beget more illegals, and they, in turn, beget new and more vigorous pleas for another amnesty."

The legal and illegal shirrtail effect

For nine days, in late 1981, 12-year-old Evelyn Cortez-Davis traveled north from war-torn El Salvador via bus and train with her mother and three sisters. On Dec. 19, they crossed the US border – just 11 days before the date IRCA would designate as the cutoff for amnesty.

"Before we left San Salvador, my parents had to explain everything to us," Ms. Cortez-Davis recalls. "They didn't want us to have a false sense of security about the move. They wanted us to know how dangerous it was.... They explained that we could die, that we could end up having to watch each other die."

They made it, and settled in California's San Fernando Valley. By Cortez-Davis's senior year in high school, everyone in the family had applied for legalization under IRCA.

"The process took the better part of three years before we finally received our permanent residence cards," recalls Cortez-Davis, now a civil engineer. "I spent the first two years at UCLA as an undocumented student."

Though today her whole family has been naturalized, the pathway to citizenship was hardly simple. In many cases, IRCA's legalization process created mixed-status families. Like Cortez-Davis, some family members remained undocumented for years after applying for legalization.

In other cases, some family members didn't qualify.

"Those who arrived in the five years between the January 1, 1982 cut-off date for the general legalization and the law's 1987 implementation were ineligible for the program," noted an August 2005 Migration Policy Institute policy brief. "Many of these people were the immediate relatives of people who did qualify for legalization."

Within a few years, legal permanent residents were able to sponsor relatives – including spouses, children, and unmarried adult children – for green cards. Those who became US citizens could petition for even more types of relatives: parents, unmarried children's minor children, married children and their families, and siblings and their families.

"The number of green cards for U.S. citizens' immediate relatives – spouses, unmarried minor children, and parents – is unlimited," wrote Ms. Orrenius and Ms. Zavodny in their analysis of IRCA's economic impacts. "Family-sponsored immigration began to rise in 1992, and immigration by immediate relatives of U.S. citizens began to rise in 1996."

To them, it was clear that IRCA had led to increases in legal as well as illegal immigration. "Many of the people sponsored for green cards by IRCA beneficiaries were living in the United States illegally," the report said.

Yet preexisting quotas limited the number of petitioners admitted each year, so scores of applicants became stuck mid-process. Only a certain number of people from each country were eligible, and category limitations also existed.

"What happened was that once the beneficiaries became lawful permanent residents, then they had to petition for their family members through the normal system," says Donald Kerwin, director of the Center for Migration Studies. That led directly to backlogs for family-based immigration applications.

"A little-known fact about the current unauthorized population is that a large percentage of them have actually gone through the legal immigration system, and have been approved in the first phase of that process," Mr. Kerwin says. In other words, some of the more than 11 million undocumented immigrants living in the US are ensnared in backlogs; they've been waiting for years to legalize. They've been waiting ever since their relatives obtained status years ago, thanks to IRCA. Some have overstayed their visas, and some have let their temporary status lapse. Some arrived without authorization ahead of family sponsorship.

"They're not trying to cut the line," Kerwin says. "They're in the line."

Official data compiled by economists Orrenius and Zavodny show that in 1985, the number of immediate relatives admitted to the US from Mexico as legal permanent relatives hovered around 40,000. By 2003 that number had more than tripled to 140,000.

Rosa Segura, an immigration lawyer in Mount Helena, Calif., says between 10 and 15 percent of her current clients are the children of immigrants who were legalized because of IRCA. Some have been waiting for legal status for decades.

"The families of agricultural workers were able to naturalize, and their wives and kids could join them within a five- to six-year span," Ms. Segura says. "But then there are the kids who turned 21 before legalizing their status. Those kids have been waiting for 20 years."

Immigrants a blue voting bloc?

Gaining US citizenship after IRCA was, like most immigration procedures, a staggered process. Candidates first applied for temporary legal status. After that, an average of five years was spent as a legal permanent resident, or green-card holder, before

naturalization to become a citizen could occur. For spouses of US citizens, the wait as a legal permanent resident is around three years.

Lawful permanent residents can live and work in the US, but can't vote, hold certain government jobs, automatically enter the US, or qualify for certain federal benefits. They're also subject to deportation at any time.

Those who were legalized through IRCA began receiving their green cards in 1989. By 1994, after the required wait, the earliest applicants were eligible for US citizenship.

By 2009, the US Department of Homeland Security estimated the total number of beneficiaries from all countries who had been naturalized via IRCA was a little over 40 percent of those who'd been eligible.

That's higher than the general average for Mexican green-card holders, according to the Pew Hispanic Center. Its February 2013 report, "The Path Not Taken," said that just 36 percent of legalized Mexican immigrants, including those who obtained legal status through IRCA, ever become full-fledged US citizens.

The reasons? First, it's expensive. An application for naturalization costs \$680. Second, many respondents reported that "personal barriers" got in the way, such as not being able to meet the level of English proficiency required by the US.

Some amnesty recipients, like Amelia Cobarruvias, remained permanent residents for decades until a good reason to become a naturalized American emerged. For Cobarruvias, that reason came in 2008, 24 years after IRCA passed.

"My mother naturalized when Obama was first running," her daughter Maria says with a chuckle. "She did it because she wanted to vote [for him]."

This is one reason some conservative leaders are wary of an influx of immigrant voters. In his keynote speech at the Conservative Political Action Conference last month, Donald Trump said: "Even if given the right to vote, 11 million people will be voting Democratic. It's just the way it works..."

He called immigration reform a "suicide mission" for Republicans.

Over time, the Latino vote has definitely skewed blue, according to exit polls and surveys. It might be deduced that those who were legalized via IRCA would do the same, and have an impact due to geographic concentration.

A 1992 study funded by the US Department of Justice, Immigration, and Naturalization Services found that among a sample of 6,153 IRCA recipients, 55 percent lived in California, 18 percent in Texas, 7 percent in Illinois, and 7 percent in New York. But today, the new American citizens and green-card holders created by IRCA are scattered throughout the country.

Foreign-born Latinos were also paying closer attention to immigration reform talks, the poll showed, with 84 percent saying they were closely following the news. Just 67 percent of American Latinos said the same. And of all Latinos polled, 44 percent said they'd be more likely to vote Republican if Republicans took the lead in passing immigration reform; 66 percent said they'd be more likely to vote Democratic given the same hypothetical.

Yet if the current plans for legalization result in longer wait times for citizenship, as proposed, an increase in actual immigrant voters would be around 15 years away.

The enduring American dream

Some say that the new immigration reform proposals – which include everything from amnesty to increased use of drones over the border to an entry-exit visa tracking system – still won't address the root causes of migration. Today, the number of immigrants from Mexico has dropped dramatically because of the wobbling US economy and tighter border controls.

"No one should have the ridiculous idea that an immigration reform bill is going to fix [the] larger geopolitical problems," says Daniel Sharp, a lawyer who works with the nonprofit CARECEN. "Until there is a Mexican dream and a Central American dream, and not just an American dream, people will continue to come into the country." For attorney Maria Cobarrubias, the daughter of poor farmworkers, gratitude for amnesty still colors her life. She dreams of returning home to the Oregon farm communities of her youth to help the next generation of immigrants currently harvesting American fields.

"There's a lot of agriculture and farm-workers in the Northwest, and not a lot of attorneys," Maria says. "That's my goal: to one day move back and give back to the community I was brought up in.... There's a need for immigration help."