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Plan Z for Immigration

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“AMORAL FAILING and a national shame.” During his 2020 campaign, that was how Joe Biden characterized America’s immigration policies in the Trump era. On his first day in office, the new president announced an ambitious reform. The U.S. Citizenship Act of 2021 would include a pathway to citizenship for undocumented immigrants. It would raise caps on legal immigration. It would increase aid for Central America. It touched all the progressive erogenous zones.

And it was dead on arrival. “It’s such a progressive wish list that it’s almost counterproductive,” a pro-immigration lobbyist told me. By summer, the reform effort had stalled, migrants were flooding the border, the Democrats were divided, and the Republicans were demagoguing. Just like always.

For the country, as well as for immigrants and their families and employers, the cost of our never-ending immigration crisis has been very high. Among its consequences was the presidency of Donald Trump, who could not have reached the White House without the disruptive energy that immigration unleashed. In fact, if you had to pick a date when America launched itself toward Trumpism, June 28, 2007, would be a good choice.

Immigration was on the floor of the Senate. A bipartisan coalition had revived what was then—and still is—the logical compromise: stricter controls at the borders and at job sites, more legal immigration (especially of skilled workers), and a path to citizenship. Had the compromise passed, “it would have changed the politics,” Jim Kolbe, who was then a House Republican representing an Arizona border district, recently told me. “It would have been seen as putting the immigration issue behind us.”

Instead, the bill failed, badly. A disappointed Mitch McConnell, then the Senate minority leader, said, “I had hoped for a bipartisan accomplishment, and what we got was a bipartisan defeat.”

Before 2007, immigration had been a controversial issue but also a normal one—susceptible to bargaining and compromise. Congress had passed major reform under President Ronald Reagan in 1986, and then a series of tune-ups in the '90s. After 2007, paralysis set in. For conservatives, the stalemate became emblematic of the country's inability to secure its borders and enforce its laws. For liberals, it was emblematic of the country's inability to deal humanely with millions of immigrants. And for moderates, it was a symbol of congressional incompetence. According to the Pew Research Center, two-thirds of the public wants a pathway to citizenship and better border control. “Everyone knows what has to be done,” Kolbe told me, “but no one has the will to do it.”

This dispute has now inflamed our whole body politic. “I think the immigration debate is a bigger problem for the country than any of the failures of the immigration system,” Yuval Levin of the American Enterprise Institute told me. In other words, the country needs a resolution to the political crisis around immigration at least as much as it needs a solution to the policy mess. As long as voters believe Washington is too incompetent and venal to handle immigration, they will not trust it to do anything else, and the door will stay open to demagogues and nihilists.

So now what? Plan A, comprehensive progressive reform, will not work. Plan B, comprehensive conservative reform, will not work. Plan C, compromise, should work but has failed time and again. That leaves Plans D, E, and F: piecemeal reforms for groups such as “Dreamers” and farmworkers, and the kinds of patchwork changes that congressional Democrats were seeking to include in their budget-reconciliation package this fall. They may be the best we can do.

But there is one piecemeal proposal that deserves special attention. I think of it as Plan Z, because it reframes the whole problem.

IN 2019, REPRESENTATIVE John Curtis, a Republican from Utah, introduced what he called the State-Sponsored Visa Pilot Program Act. It would have allowed a new avenue for immigration by authorizing states to sponsor people for three-year, renewable work visas. The bill found no co-sponsors and never came up for debate, but Curtis told me he intends to reintroduce it in the current Congress.

Delegating immigration authority to the states is not a new concept; Senator Ron Johnson, a Republican from Wisconsin, introduced a similar plan in 2017. According to Alex Nowrasteh of the Cato Institute, a libertarian think tank, bills seeking authority to issue work visas have been introduced in 11 state legislatures since 2008, and three such bills have been voted into law. But the federal government has ignored them.

One problem is that people just can't get their mind around letting someone other than the federal government decide who comes and stays. You can't have individual states picking immigrants for the whole country! What about security? What about fairness? Could a conservative state discriminate on the grounds of, say, race or religion?

But the idea is not really that dramatic. This proposal wouldn't encroach on the existing federal systems for visas, refugees, or family reunification. Any state-sponsored work permits would be in addition to the current number. The federal government would still vet the applications and control permanent residency and citizenship. Federal law and the Constitution would still forbid discrimination.

When I asked Mitch Daniels, the president of Purdue University, in Indiana, and a former Republican governor of the state, whether policy makers there would participate in such a program, he replied with a prompt yes. "The one thing" keeping Indiana from economic competitiveness, he said, "is that we don't have enough people with the right skills." Besides, he added, universities and businesses can already sponsor immigrants for visas; why shouldn't states have the same authority?

HOW WOULD STATE-SPONSORED visas work? In Curtis's 2019 version, every state would have the option of sponsoring 5,000 work visas a year, plus an additional allotment based on its population, up to a nationwide total of 500,000. No state would be obligated to sponsor anyone, so states could shut their doors if they chose to. They could favor tech workers, farmworkers, family members; they could even use their visas to temporarily legalize undocumented workers already living there. The only requirements would be that the visas couldn't be employer-specific (so bosses couldn't use them to blackmail workers with deportation threats) and that the immigrants holding them live and work in the state that sponsored them.

How would the plan prevent immigrants from moving out of state? Each state would be required to report where its visa holders live and work, and if it couldn't account for them, it would lose visas the next year. States that administered their programs well would be rewarded with more visas.

In any case, immigrants who settle into jobs and communities are not all that inclined to move. In Canada, which has allowed its provinces to sponsor immigrants since 1996 and which does not restrict where visa holders reside, more than 80 percent of them stay put for more than 10 years. "The vast majority," [a government report on the program](#) said in 2017, "have become established economically, with high employment rates and earnings that increase over time."

Even if this system isn't perfect, the politics would be healthier than at present, when the federal government is making decisions, or nondecisions, and the states have no voice. "We've been so wrapped around the axle on immigration law and policy for so long that it might be very constructive to look at it through a different lens," Janet Napolitano, a former governor of Arizona and secretary of homeland security in the Obama administration, told me. "Maybe it avoids some of the hard lines that both sides have drawn."

State-sponsored immigration is not a cure-all. It would not remedy Congress's deficiencies or resolve difficult questions about border control, asylum, or citizenship. What it would do is make American communities feel that they have some influence. It might dispel the rancid air that has

suffocated reform. And it might begin to free our national politics from the curse of immigration gridlock.