

Who Killed the Immigration Bill, and Who Wants it to Come Back?
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Within hours of the Senate vote to kill its comprehensive immigration reform bill, the lobbyist for software giant Oracle Corp. had already declared that Silicon Valley's proposal for more guest workers was still alive. "We don't think it's dead," Robert Hoffman told the San Francisco Chronicle. Microsoft Corp. CEO Steve Ballmer threatened to move more high tech jobs out of the country if electronics corporations didn't get more contract migrant labor. Other corporate spokespeople also announced they were looking for ways to revive the Senate bill in which they'd invested so much political capital.

Immigrant communities and union activists had been in the streets for months, trying to stop the same bill. In San Francisco alone, seven were arrested in the office of Senator Diane Feinstein, during the recess that preceded the June 7 vote. Dozens more debated the senator in front of her home the morning after the arrests. Around the country, similar demonstrations did what they could to kill the bill. The National Day Labor Organizing Network called it a "cynical and mean-spirited effort of those Senators that seek to poison the immigration reform debate yet again," and warned, "we are fearful that an insufficient Senate bill cannot be adequately repaired in the House of Representatives or in a conference session."

It was no surprise that many greeted the (perhaps temporary) death of comprehensive immigration reform as a necessary move to protect immigrants themselves. These groups saw in the bill a threat of more contract labor programs, more enforcement and raids, greater militarization of the border and erosion of basic due process rights. Filipinos for Affirmative Action, voicing a criticism common in Asian American and Latino communities, said the bill "moved away from permanent, family-based immigration toward a temporary employment system."

As debate in the Senate proceeded, even the bill's promise of legalization for the nation's 12 million undocumented residents proved so restrictive that only a small percentage eventually would have qualified. Migrants without status would have had to place their families in jeopardy just to apply.

After the vote in the Senate defeating cloture, killing the bill at least for the moment, John Sweeney, head of the AFL-CIO, declared it "plagued by anti-family, anti-worker provisions," and called it "doomed at the onset. The bill abandoned long-standing U.S.

policy favoring the reunification of families and failed to protect workers' most basic rights."

Despite the fact that the bill was brokered by the Bush administration, many of its proponents were not Republicans, but liberal Democrats, most prominently Senator Edward Kennedy. Supporting it was a network of lobbyists referred to in the press as "immigration advocates," large employers, and conservative think tanks. For two years this alliance advocated a strategy of trading legalization of undocumented immigrants for increased immigration enforcement and guest worker programs. The National Immigration Forum and the DC umbrella group it initiated, the Coalition for Comprehensive Immigration Reform, were key players in this strategy. Behind them was the Essential Worker Immigration Coalition, which brought together over 40 of the largest corporate trade and manufacturing associations in the country, under the aegis of the U.S. Chamber of Commerce. EWIC head John Gay, also head of the National Restaurant Association, chairs the NIF board.

These Washington groups supported all the compromise bills embodying the legalization/enforcement/guest worker tradeoff, beginning with the original Kennedy/McCain bill in 2005. The same argument was used to justify them all: "It's not possible to get legalization without including more enforcement and guest worker programs." While the groups occasionally disagreed with individual provisions of the proposals that followed, they not only agreed with the basic structure and architecture of these bills, but became their ardent advocates in meetings around the country.

As the proposals moved through negotiations with the administration and Congressional Republicans, legalization schemes became more restrictive, enforcement provisions more ferocious, and contract labor schemes more extensive. Yet the recently defeated Senate compromise was greeted as a "good starting point." Even at the end, the DC groups called on immigrant communities to urge defeat of "bad" amendments to it, while continuing to urge Senators to support the comprehensive immigration reform, or tradeoff, framework.

While Congress considered this series of proposals, the Bush administration embarked on a series of highly publicized immigration raids and workplace firings, to put pressure on immigrant communities and unions to accept its reform program. The bills themselves called for giving the Immigration and Customs Enforcement agency, part of the Department of Homeland Security, more enforcement authority to conduct these raids. The administration, for instance, proposed that employers be required to fire any worker whose Social Security number didn't match the agency's database. Although Bush never actually issued this regulation, and the bills obviously hadn't passed, ICE and employers began using it as the basis for enforcement actions.

Workers at the Woodfin Suites in Emeryville, California, were fired after they tried to enforce the city's living wage ordinance. At the Smithfield pork plant in Tar Heel, North

Carolina , hundreds were fired, and many then deported, during the hardest-fought union organizing drive in years. Similar raids and firings swept the country, as the administration set ICE loose on immigrant communities, implementing the very language in the comprehensive reform bills. Beltway lobbying groups often expressed alarm over the raids, but didn't withdraw their support for bills that would have made such raids more widespread.

After coordinated raids at Swift meatpacking plants in November, in which over a thousand workers were picked up for deportation, Homeland Security Secretary Michael Chertoff told reporters the enforcement actions would show Congress the need for "stronger border security, effective interior enforcement and a temporary-worker program." Bush wants, he said, "a program that would allow businesses that need foreign workers, because they can't otherwise satisfy their labor needs, to be able to get those workers in a regulated program." Within weeks of Chertoff's statement, the Southern Poverty Law Center issued a report, "Close to Slavery," which provided exhaustive documentation that current guest worker programs, like those the administration proposed, systematically violated workers' rights. Abuse in H-2 programs was so extensive, and government enforcement of existing labor protections so completely absent, that SPLC called them "fundamentally flawed."

The SPLC and other exposes gave guest worker programs such a bad reputation that DC-based groups took pains to disassociate themselves from the term. The bills they supported would "break the mold," they claimed, by creating contract labor programs that wouldn't exploit workers. They invented new terms: "essential worker" or "new worker" plans. Behind the semantic fog, however, the bills preserved the two crucial characteristics of all employment-based guest worker schemes: new migrants could only come if recruited by an employer or labor contractor, and people had to remain employed to stay. Migrants losing a job and unable to find another within a short time would be deported.

To justify contract labor programs, the DC coalition asserted constantly that U.S. corporations face dire labor shortages. The Bureau of Labor Statistics, however, estimates the May, 2007 unemployment rate at 4.5%, and says over 7 million workers were unemployed in 2006. Most unions believe these are serious undercounts. Unemployment in African American and Chicano communities is much higher, over double digits even during economic booms.

Yet instead of raising wage and benefits to attract workers, or paying more taxes to improve education and training in working class communities, employers held that only huge guest worker programs could meet their labor needs. In an joint oped piece for Politico.com, Thomas Donahue, CEO of the U.S. Chamber of Commerce, and Andy Stern, President of the Service Employees International Union (one of two unions that supported the tradeoff bills) stated that "we need legislation that will create a carefully monitored essential worker program," and called it "a system that provides U.S. businesses with the workers it needs."

Meanwhile, legalization proposals in the same tradeoff bills were presented as the payoff for immigrant communities. Yet many of the legalization schemes threatened to disqualify immigrants guilty of document fraud. ICE now says this includes anyone who's given a false SS number to get a job, something almost all undocumented workers have done. Other proposals would have imposed employment requirements, imposed high fines difficult for most working families to pay, and required people to take an undetermined amount of time off work to return to their home countries to apply for readmittance, with no guarantee they could pass a host of bureaucratic checks. Most proposals would have had people wait at least a decade before they could get a green card for permanent legal residence (not citizenship). Legalization programs wouldn't even take effect until the U.S. gained "operational control" of the border, leaving the door open for years of increased enforcement with no change at all in the status of the undocumented.

Many organizations outside DC did not support this approach to immigration reform. Instead they called for a positive agenda focusing on human and workplace rights, legal status and equality. They proposed reforms that didn't criminalize migration, work or the border itself, and that instead protected families and communities. The National Network for Immigrant and Refugee Rights urged that "we work for a different "starting point" for immigration reform that protects the rights of all immigrant families, workers and communities."

The beltway lobbying strategy started by asking what employers and a Republican administration would be willing to accept. Groups like NDLOM, however, proposed building a popular movement to change the political terrain in Washington, like the civil rights movement of the 1960s. Responding to lobbyists who called the Senate bill the only chance to reform immigration law for years, NDLOM said "We know the struggle for justice and immigration reform requires a long view of history, and we will not be pressured into accepting an insufficient compromise simply for sake of political expediency. We owe it to this and future generations to pass a bill that we can all be proud of."

"The best way to guarantee the rights and wages of all workers in this country," added the AFL-CIO's John Sweeney, "is to give every immigrant the opportunity to become a citizen, with all the rights and duties that entails. At the same time, Congress must revise our immigration system so that in the face of labor shortages, future foreign workers may enter this country not as dispensable units of production but as permanent residents with the same rights and protections as all other U.S. workers."

Basic differences have divided the immigrant rights and labor movements, not just over tactics and strategy, but also over goals. Should immigrant rights groups and unions support increased enforcement? Should they allow employers to recruit hundreds of thousands of workers a year, on visas which condition their right to stay in the US on continued employment? Should temporary or contract labor programs be the condition under which the undocumented are allowed to stay?

This division, between Washington-based organizations, and grassroots coalitions outside the beltway, has existed for over a decade. In 1996 many community-based coalitions around the country withdrew from the National Immigration Forum when it insisted it was not possible to save the rights of undocumented immigrants in the Clinton-backed immigration bill. The DC-based strategy tacitly called for saving the rights of legal immigrants by telling Congress that while the country needed to do something about illegal immigration, legal residents shouldn't be punished in the same bill. The strategy failed, and according to Filipinos for Affirmative Action, "the Illegal Immigration Reform and Immigrant Responsibility Act undermined the basic rights of all immigrants, denied their right to due process, and expanded the reasons for detention and deportation." The starting point for immigration reform should be instead an agreement that "all immigrants have a right to be treated equally, with full legal, employment, human and civil rights."

Today's disagreements are similar. They are in part over strategy and tactics, but also raise a deeper issue: Should U.S. immigration policy become a labor supply system for corporations, or should it support families and communities? In the mainstream press, this question gets little coverage because the framework proposed in Congress so heavily sets the media agenda. Anger over exclusion from the debate provoked the Mexican American Political Association to declare that "We are totally opposed to the off-handed declarations made by compromising individual Latino television commentators or organizations that advocate - NOTHING IS WORSE [than failure to pass an immigration bill]. In fact, NOTHING WILL BE WORSE [than the proposed Senate legislation] in terms of the millions of individuals and families who will be criminalized in perpetuity."

Moving from an effort to defeat anti-immigrant legislation to an agenda that can win more progressive reforms requires an open debate over those disagreements. As Silicon Valley and other employer groups move to bring the Senate bill back, that discussion is more urgent than ever.