



Photo by Bisayan lady.

**U.S.–MEX: IMMIGRATION**

The Tijuana–San Diego border.

# Immigration Reform: A Bitter Tide Begins to Ebb

by Tamar Jacoby

In 1961-62, Martin Luther King Jr. spent several months in the small Georgia city of Albany, working with a local desegregation campaign. The effort was a dismal failure. Despite its high-wattage leadership and the involvement of most blacks in Albany, the movement made little progress; one march erupted in racial violence, and King left the city empty-handed, deeply demoralized about his strategy and indeed the future of the civil rights movement.

The 2007 Senate defeat of comprehensive immigration reform was a failure of a different order — much bigger. But the aftermath is not unlike King's experience in the wake of the Albany campaign. The momentum is gone. It's hard to see the road ahead. The strategies and tactics of

the failed attempt appear utterly discredited. And for many proponents of reform, it's difficult to believe that victory will ever be possible.

King's answer was to retreat and rethink. Many veterans of the battle for immigration reform are doing the same thing. And while it may be too soon to report on the outcome of that rethinking, it's not too soon to assess the political landscape in which a renewed campaign would be waged.

What were the consequences of the Senate defeat last June? How has the national debate on immigration evolved in the months since? And what can be learned in this fluid, uncertain interim — uncertain for immigration reform and

for American politics generally — about the prospects of overhauling the immigration system in years to come?

The Senate battle over immigration was a national conflagration. Not just policymakers in Washington, but the media, local and national, and ordinary citizens in every walk of life were engaged. According to one poll fielded shortly afterward, in mid-summer 2007, 86 percent of the public had followed the debate that spring — an extraordinary figure. Emotions ran high on all sides, and people who had hardly thought about the issue before the Senate brought it up found themselves taking harder and harder positions. Political clashes of that magnitude don't fade easily — the intensity doesn't just dissipate. And in the wake of the Senate battle, reform opponents in particular were determined to continue the struggle by other means, channeling their energy into the presidential campaign and, beyond that, to the states, where many legislators were eager to tap into the emotions roused by the congressional contest.

The result, through the summer and fall of 2007, was an ever-rising fever — anti-immigrant fever. Immigration became Topic A on the campaign trail. Presidential hopefuls — and not only Republicans — jostled fiercely to outdo each other in pandering to xenophobic voters. Single-issue candidates Tom Tancredo and Duncan Hunter drove the Republican field relentlessly rightward until — the phrase of the fall — virtually all the GOP contenders were vying to “out-Tancredo Tancredo.” The debate in Iowa was particularly and, to many, surprisingly bitter and — because it took place in a heartland, bellwether state — seemed a harbinger of the national campaign to come. By the turn of the year, there was no questioning the conventional wisdom: immigration was going to be the wedge issue of the 2008 election.

So too in the states — in local politics from Mississippi to Oregon. Immigration dominated a number of off-year state and local elections, and policymakers showed up at their legislative sessions in January 2008 determined to do what voters seemed hungry for — take over where the feds had failed and crack down on the illegal traffic. It didn't matter that the U.S. Constitution and also federal law forbade this. There didn't even have to be many newcomers, legal or illegal, in the state. Immigration became the issue state legislatures had to take on, and it was widely expected that many states would imitate the draconian laws passed in 2007 in Arizona and Oklahoma — laws designed to drive unauthorized immigrants out of those territories.

This fever raging beyond the beltway naturally had consequences in Washington. Blocked by Congress from overhauling the system, the Bush administration concluded that it had no choice but to step up its efforts to enforce the laws on the books, however unrealistic or impractical.



Photo by B. Jefferson Bolender.

#### A sign of the times?

Federal immigration raids proliferated. Several hundred miles of border fence were built. The Department of Homeland Security issued new regulations intended to force employers to use Social Security numbers to weed out and fire unauthorized workers. Court challenges put a hold on some initiatives. But virtually no one, Democrat or Republican, seemed to have the stomach to buck the rising nativist tide.

Things hit bottom when powerful House Democratic Caucus chair Rahm Emanuel called immigration the new “third rail of American politics” and warned the Democratic majority in Congress not to touch it — not to consider moving a new reform bill — until 2013 at the earliest. Even reform advocates, once able to act as a block, now found themselves rudderless and drawn in a dozen different directions. The upshot: in Washington as elsewhere, the approach known as “enforcement-only” — to distinguish it from enforcement combined with an overhaul of the system — dominated the day unopposed.

But then, just when things looked bleakest, the fever broke — nationally and in the states. Presidential candidate Tom Tancredo, informed by his pollsters that he would garner no more than 2 to 3 percent of Republican primary votes, dropped out of the race before a single ballot was





Photo from Associated Press.

Governor Bill Richardson and Lou Dobbs.

cast. Fellow candidates Mitt Romney and Mike Huckabee discovered what Tancredo and Pat Buchanan before them had discovered: demagoguing immigrants doesn't work at the polls, not even in Republican primaries at the height of what seems like an anti-immigrant tidal wave. Pro-immigration Republican John McCain bested both Romney and Huckabee in race after race and emerged in early spring as the GOP nominee — despite his well-known record of support for an immigration overhaul. Meanwhile, most strikingly, exit polls in primary states found consistent Republican backing — 60 percent of GOP voters in state after state — for what more restrictionist Republicans have lampooned as “amnesty”: legalizing the undocumented workforce.

Similarly, as the spring wore on, it became apparent that things were not going nearly as badly as had been feared in many state capitals. By April 1, when most legislatures began to wrap up their sessions, only one or two had imitated the harsh laws in Arizona and Oklahoma. In fact, as legislators in several states made clear, they had looked closely at the outcome in Arizona and Oklahoma — immigrants fleeing en masse, businesses closing, tax revenues plummeting — and decided that was the last thing they wanted to happen in their states.

Many state legislatures passed some sort of immigration package — politicians felt they had to respond to voter demand that they take action. But as often as not, policymakers negotiated with immigrant advocates and

business owners to produce a bill those groups could live with. Only Mississippi made it mandatory for employers to use the federal E-Verify system — a controversial computer-based program designed to identify undocumented hires. All the other states that considered it ultimately backed off. And even in Arizona, 2008 seemed to bring a reprieve: rather than the still more severe legislation many had expected, there was an effort to dial back the excesses of the law passed the year before.

So the anti-immigrant tide is ebbing — or seems to be — in mid-spring 2008. But where exactly does that leave us? And what are the prospects for reform in the months and years ahead? By any

assessment, the climate is uncertain. The likely outcome of the coming presidential election is as murky as any in memory. The economy is slowing and a recession looming, still unpredictable in depth and duration. Immigration has clearly faded from the tops of most voters' minds — there are many more important political issues to worry about. But that doesn't mean the damage hasn't been done — setbacks to badly needed policy change and a hardening of attitudes across society.

Look at Arizona, where the tough laws passed in recent years are aimed at far more than enforcement. As anti-immigrant advocates proudly boast, Arizona is experimenting with an “attrition strategy.” The next best thing in hardliners' minds to simply deporting the state's half million undocumented residents — as if that were possible — this approach sets out to make life so miserable for unauthorized immigrants that over time they leave the state voluntarily. Arizona has cut off virtually all government benefits for those in the state illegally. Harsh new laws that threaten to shut down businesses with even one undocumented employee are making it all but impossible for those without papers to work. And Maricopa County Sheriff Joe Arpaio has made a career out of stretching legal limits to terrorize the state's illegal population.

Arpaio's latest tactic: high-profile dragnet operations, overseen by a squad of officers and a hovering helicopter, where his men stop Latino drivers for small infractions — a broken tail light is enough — to inquire about their



Photo by Jeffrey Long.

Yolanda Araujo signals her status at a protest in Los Angeles.

immigration status, then proceed to arrest and deport those who cannot produce valid documents. The result: over the past year, some 7,000 undocumented workers have been detained in Maricopa County. Thousands of others have fled the state. The mood in the immigrant community is close to hysteria. Many, legal and illegal, are afraid to leave the house. Some parents have stopped sending their children to school for fear that state officials will follow them home in search of unauthorized relatives. Fewer and fewer undocumented residents are willing to report crimes to the police. And petty criminals, aware of this hesitance, are said to be preying on them without restraint.

The question for the future is what kind of scars this unprincipled enforcement and the fever of 2007 will leave in their wake: how lasting the hardening of attitudes and how deep the tear in the social fabric. The effect among the native-born has been to fan the flames of prejudice. Tactics like Sheriff Arpaio's make it seem legitimate to use color as a proxy for legal status — and to deprive those without papers of even the most basic rights. In spite of the likely economic fallout, more and more people, in Arizona and elsewhere, are starting to believe that attrition is a plausible

strategy. And while many ordinary Americans have been appalled — the backlash to the backlash has been palpable in Arizona and elsewhere — for far too many others, the crackdown has become a convenient cover for bigotry of the ugliest kind.

Meanwhile, immigrants, legal and illegal, are feeling less and less welcome in the United States. Fear and suspicion on one side of the equation is breeding anger and alienation on the other, particularly among immigrant youth — the second generation that traditionally makes the leap from hesitant newcomer to full-fledged American. Instead, more and more Latino young people find themselves doubting whether that kind of full inclusion is possible, and the perception, as one young woman put it to me, that “Americans hate us,” is eating away at their desire. The irony: an anxiety about immigrants born largely out of fear that they will not assimilate is making it less and less likely that many will attempt or succeed in doing so. And the longer the current, angry interim lasts, the worse this long-term damage will surely be — the more bitter and entrenched attitudes are sure to grow on both sides of the color line.

Still, even in this painful, uncertain climate, it's possible

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Photo by Britney Bush.

Sign at a May 1, 2007 protest in Seattle.

to find reasons for hope — hope for a reframing of the politics of immigration that would make an overhaul possible in the next year or two.

The good news starts at the top. All three leading presidential candidates are on record in favor of immigration reform. And given the way the issue has played out politically in recent months, unless a new bout of nativist fever breaks out on the campaign trail — and of course, that is still possible — whoever is elected should feel they have some room to maneuver in advancing change once they take office.

So too among the public. For all the polarization hardening in states like Arizona, polls still show no more than a minority of voters — some 20 to 25 percent — dead set against an immigration overhaul. It's a vocal, intense minority: both its media spokesmen — TV anchor Lou Dobbs and others — and its rank and file. But most of the nation, while anxious about large numbers of newcomers and angry at the erosion to the rule of law, is prepared to think pragmatically about how the U.S. should handle the realities we face. Poll after poll shows that most voters recognize that immigrants are hard workers, that they are filling jobs few if any Americans want to do and that most of the undocumented population is here to stay, attrition or no attrition. These voters aren't pro-immigrant — far from it. And they aren't going to raise their voices in favor of an overhaul. Still, they might accept one — if Congress could find its way to passing a bill.

The challenge for policymakers is how to thread the needle between this weak acceptance and strong opposition to reform. A stunning number of seemingly hesitant legislators

— politicians who generally avoid immigration except to take the safe side of unavoidable votes on enforcement measures — tell you in private that they “get it”: that they understand the country's need for immigrant workers and grasp that it would be better for everyone if the flow were legal. But, they explain, they can't vote for that so long as their constituent mail continues to run the way it does: depending on who's counting, more than 20-to-1 against an immigration overhaul.

Still, there is good news here too — two pieces of good news. First, those trying to advance reform don't need to completely turn the tide of public opinion — it isn't flowing as one-sidedly against them as you might think if the only television you watch is “Lou Dobbs Tonight.” And second, the advocates don't need to change the minds of a large number of hostile members of Congress. They merely need to provide enough political cover so that legislators who already agree with them feel comfortable voting their beliefs — or feel there will be a price to pay for running the other way whenever the issue comes up.

Where will that political support come from? What's needed is pressure on the left and the right: from newly engaged and enfranchised Latino voters on one side and increasingly concerned business owners on the other — employers finding it harder and harder to stay in business or grow their way out of an economic slowdown because immigration enforcement is depriving them of workers. Will this pressure materialize in the strength that's needed in the next year or two? Only time will tell.

Immigration won't be on the agenda in the new president's first 100 days — there are too many other, more pressing issues. It's hard to imagine Congress passing an overhaul as long as the country is stuck in an economic slowdown. And it's hard to be too optimistic when the climate in places like Arizona is as bitter as it is. Still, nearly a year after the Senate defeat, it's clear that the national mood has shifted — that much, if not all, of the air has gone out of last year's ugly anti-immigrant furor. The road ahead is still murky. Momentum is still stalled. But perhaps it's not too soon to think about Martin Luther King's last words on Albany. “When we planned our strategy for Birmingham months later,” he wrote in his autobiography, “we spent many hours assessing Albany and trying to learn from its errors. Our appraisals not only helped to make our subsequent tactics more effective, but revealed that Albany was far from an unqualified failure.” The March on Washington took place just 12 months after the defeat in Albany.

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