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Immigration Reform in Contemporary America: Why It May Never Happen.

By

Amina Philbert-Ives

A Major Research Paper
Submitted to the Faculty of Graduate Studies
Through the Department of **Political Science**
In Partial Fulfillment of the Requirements for
The Degree of **Master of Arts**
At the University of Windsor

Windsor, Ontario, Canada

2018

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Immigration Reform in Contemporary America: Why It May Never Happen.

By

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May 18, 2018

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ABSTRACT

There have been several key moments in immigration reform in the United States since the 1960s, starting with major change in immigration policy that took place under President Johnson in 1965. This paper will examine two key moments of successful reform in US history - The Immigration and Nationality Act of 1965, and the 1986 Immigration Reform and Control Act. In recent times however, Americans have seen the failure of Congress to enact immigration reform, and the use by Presidents Obama and Trump of executive authority in order to bring about any sort of changes. Consequently, this paper will also examine one key moment of unsuccessful reform effort of the US Congress to enact immigration reform - the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013.

I will argue that increased political polarization in American politics and in Congress, is largely responsible for this country's failure to address comprehensive immigration reform today. Using qualitative analysis and the partisan polarization theoretical framework posited by Alan I. Abramowitz, this paper will undertake a comparative case study approach to examine the underlying factors that appear to have influenced the lack of immigration reform in the United States in recent times. These include partisan polarization, bipartisanship, and public attitudes. The paper assesses the factors seemingly responsible for the success, or failure of immigration reform at each of these three key points in time – 1965, 1986, and 2013.

DEDICATION

This is dedicated to my daughter, for whom I strive for excellence.

ACKNOWLEDGEMENTS

First and foremost, I would like to thank God for life, health and strength. Without him, nothing is possible. I would also like to thank my supervisor Dr. Cheryl Collier for her insight, patience and wisdom. Thanks also to Dr. Stephen Brooks whose wealth of resources and suggestions were invaluable. Special thanks to my mother for her unending support, prayers, and words of encouragement. And last, but by no means least, thank you to my Aunt Gloria, who has been there for me through every step of my journey; her love, support, and sacrifices are very much appreciated.

TABLE OF CONTENTS

	Page
DECLARATION OF ORIGINALITY	iii
ABSTRACT.....	iv
DEDICATION	v
ACKNOWLEDGEMENTS	vi
 CHAPTER	
I INTRODUCTION	1
Theoretical Framework.....	7
Methodology	12
Literature Review	14
II CASE STUDY	
Immigration and Nationality Act of 1965	27
III CASE STUDY	
1986 Immigration Reform and Control Act	41
IV CASE STUDY	
Border Security, Economic Opportunity and Immigration Modernization Act of 2013.....	53
V CONCLUSION	71
 BIBLIOGRAPHY.....	 75
VITA AUCTORIS	88

CHAPTER I
INTRODUCTION

An April 2017 public opinion poll by the Center for Middle East Policy at Brookings revealed that in total, 50% of Americans agree strongly or somewhat that “The United States is a nation of immigrants, one with a long history of taking in those fleeing persecution in their home countries.” 32% disagree strongly or somewhat, and 17% neither agree nor disagree with the statement. Additionally, this poll reported that 79% of Democrats and 21% of Republicans agree strongly or somewhat with this statement, while 59% Republicans disagree strongly or somewhat, and only 9% Democrats disagree strongly/somewhat.¹

Table 1 shows respondents’ levels of agreement/disagreement with the statement that the United States is a nation of immigrants, one with a long history of taking in those fleeing persecution in their home countries.

	Percentage of Republicans	Percentage of Democrats	Percentage of Independents	Total Percentage
Agree strongly/somewhat	21	79	44	50
Neither agree nor disagree	18	12	27	17
Disagree strongly/somewhat	59	9	26	32

Source: Brookings Institution Reports

¹ Shibley Telhami, “American attitudes on President Trump’s early policies,” Brookings Institution Reports; Washington, (May 2017): 36-37.

Furthermore, a Brookings Religion, Values and Immigration reform survey administered in 2014 reported that overall, most Americans believe the immigration system in the United States is broken. Less than 1-in-10 (6%) Americans believe that the immigration system is generally working, while 31% say it is working but with some major problems. Nearly four-in-ten (38%) Americans report that the current immigration system is broken but working in some areas, while 23% say it is completely broken. Notably, more than two-thirds (67%) of Republicans say that the immigration system is mostly, or completely broken compared to 62% of independents and 54% of Democrats. Majorities of all major religious groups believe the current immigration system is broken, including more than 6-in-10 white Catholics (67%), white mainline Protestants (67%), minority Protestants (64%), white evangelical Protestants (63%), the religiously unaffiliated (61%) and 56% of Catholics overall.²

This data indicates that Americans across both parties seem rather ideologically divided on whether or not the United States is an immigrant nation. Additionally, this data is indicative of the level of polarization regarding immigration among the electorate in the United States, as it also reveals that a significant number of the population do not believe America is an immigrant nation. Furthermore, others are unsure, or undecided which indicates that public attitudes may not be very responsive to efforts at immigration reform. It is also clear from this data that more Democrats believe the United States is a nation of immigrants, while more Republicans believe it is not. Moreover, most Americans believe the current immigration system is broken, which suggests that they believe something needs to be done to address the issue of immigration in

² Robert P. Jones, Daniel Cox, Juhem Navarro-Rivera, E.J. Dionne, Jr., and William A. Galston. *What Americans Want from Immigration Reform in 2014. Findings from the PRRI/Brookings Religion, Values and Immigration Reform Survey, Panel Call Back*. Public Religion Research Institute, 2014: 16.

America. Again, these figures reveal that Republicans are more likely than Democrats, or Independents to believe the immigration system is mostly, or completely broken. Interestingly, the religiously unaffiliated are as inclined as members of the major religious groups to believe that the current immigration system is broken.

The data revealed in these polls indicate that immigration is a divisive issue in the United States creating opposition among religious groups, political groups, and the general public. In fact, Benjamin Marquez and John F. Witte argue that, “the issue of immigration has been relevant to American politics for over 200 years, and for most of those years it has produced significant controversies, often pitting powerful interests against one another.”³ Those controversies included prohibitions on certain races and nationalities. The United States Naturalization Law of 1790, the nation’s first law regulating citizenship, limited naturalization to ‘free white persons,’ thereby leaving out slaves, free blacks, and indentured servants. In response to increased flows of immigrants from Asia, South Central Europe, Mexico, and Latin America in the 19th and 20th centuries, some of the strictest ethnic and racial exclusions were written into law. The Chinese Exclusion Act (1882), Gentleman’s Agreement with Japan (1907), Asiatic Barred Zone Act (1917), and the National Origins Act (1924) were designed to restrict the flow of non-white immigrants to the United States.⁴

Marquez and Witte state that the Immigration and Nationality Act of 1952, known as the McCarran-Walter Act, abolished previous racial restrictions while retaining national quotas. It introduced several new classifications of immigrants, including individuals with special skills, individuals with relatives in the United States, and refugees. This Act also provided new powers

³ Benjamin Marquez and John F. Witte, “Immigration Reform: Strategies for Legislative Action,” *The Forum* 7 (2009): 1.

⁴ Ibid

for the government to deport immigrants and naturalized citizens, and “to prohibit individuals deemed to be subversives from entering the country.”⁵ Moreover, they argue that in the years to follow, there were “some legislative successes in passing relatively comprehensive immigration reform.”⁶ The Immigration and Nationality Act of 1965, or the Hart-Celler Act, liberalized the nation’s immigration laws by abolishing national origin quotas. On the one hand, the act set annual limitations on the number of immigrants. On the other, it established a system of family reunification that resulted in a dramatic rise in the number of immigrants from non-European countries, especially Asia, Mexico, and Latin America.⁷

Furthermore, Marquez and Witte argue that the Immigration Reform and Control Act of 1986 (IRCA), or the Simpson-Mazzoli Act, shifted immigration legislation from legal to illegal concerns. According to them, a compromise between restrictionists, business interests, and civil rights groups, IRCA greatly expanded funding for border enforcement and created new sanctions for hiring the undocumented, while offering amnesty for illegal immigrants already residing in the United States.”⁸ Marquez and Witte maintain that “during the interim between the Hart-Celler bill of 1965 and the Simpson-Mazzoli bill of 1986, the issue of illegal immigration exploded in America.”⁹ Moreover, they acknowledge that while there have been efforts to modify limits and quotas for legal immigration, they say that it is the treatment of illegals that defines large immigration reform packages in 1986.¹⁰ They identify amnesty, or the “paths to citizenship” as the most explosive of these issues, separating pro-immigration supporters and restrictionists, as

⁵ Benjamin Marquez and John F. Witte, “Immigration Reform: Strategies for Legislative Action,” *The Forum* 7 (2009): 1.

⁶ Ibid

⁷ Ibid

⁸ Ibid, 1-2.

⁹ Ibid, 7.

¹⁰ Ibid

well as partisans.¹¹ Consequently, the United States Congress has been in gridlock for decades over how to deal with the unprecedented number of illegal immigrants currently residing within its borders; an estimated 11.2 million in 2016 according to a Pew Center survey.¹²

Clearly an area of contention for many Americans, it is worth looking into this recurring issue to determine why major immigration reform has been possible at some points in modern American history, but seems to be politically impossible today. In my research of this topic, I have encountered a plethora of scholarly articles related to illegal immigration in the United States; many of these focused on finding a solution to the problem of illegal immigration. However, scholars such as Sarah Binder, Susan Martin, Jennifer Merolla, Benjamin Marquez, and John F. Witte have attempted to explain the reasons why this problem has yet to be addressed by US lawmakers. Thus, the aim of this study is to add to this literature by emphasizing the underlying reasons a solution to the problem of illegal immigration has been politically difficult, while reaffirming some of these scholars' positions. Furthermore, this research will aim to connect the issue to contemporary America, and offer a conclusion about the factors affecting Congress's ability to pass immigration reform today.

There have been several key moments in immigration reform in the United States since the 1960s, starting with major change in immigration policy that took place under President Johnson in 1965. This paper will examine two key moments of successful reform in US history; The Immigration and Nationality Act of 1965 and the 1986 Immigration Reform and Control Act. In recent times however, Americans have seen the failure of Congress to enact immigration

¹¹ Benjamin Marquez and John F. Witte, "Immigration Reform: Strategies for Legislative Action," *The Forum* 7 (2009): 7.

¹² Jeffrey S. Passel, and D'Vera Cohn, "Size of U.S. Unauthorized Immigrant Workforce Stable After the Great Recession," *Pew Research Center* (2016).

reform, and the use by Presidents Obama and Trump of executive authority in order to bring about any sort of changes. Consequently, this paper will also examine one key moment of unsuccessful reform effort of the US Congress to enact immigration reform; the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013.

I will argue that increased political polarization in American politics and in Congress, is largely responsible for this country's failure to address comprehensive immigration reform today. Using qualitative analysis and the partisan polarization theoretical framework posited by Alan I. Abramowitz, this paper will undertake a comparative case study approach to examine the underlying factors that appear to have influenced the lack of immigration reform in the United States in recent times. Consequently, I will examine the roles of three independent variables – partisan polarization, bipartisanship, and public attitudes - to assess the factors seemingly responsible for the success, or failure of immigration reform at each of these three key points in time.

I will posit that US lawmakers today are unable to address immigration reform because they are too ideologically divided to agree on the best solution to the issue of dealing with illegal immigration. Moreover, I will argue that this ideological polarization is reflective of the partisan polarization of the electorate. As a result, my research will seek to determine the role partisan polarization played in addressing immigration reform in 1965, 1986, and 2013. Did Congress become more polarized over these years? Similarly, I will examine the role of bipartisanship at these points in time. Did it become increasingly difficult to compromise over these years? Finally, I will assess the impact of public opinion/attitudes at these key moments. Is there evidence that the public became more divided on the issue over time?

The research paper will proceed in five sections. Chapter I will provide a review of the existing literature on the issue of illegal immigration, and examine the explanations offered for the lack of reform in this area. Chapter II will be a case study of the Immigration and Nationality Act of 1965, to examine the roles played by the independent variables at this point in time. Similarly, Chapter III will be a case study of the 1986 Immigration Reform and Control Act to also examine the factors that seem to be responsible for successful immigration reform during that period. Chapter IV will be a case study of the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 to determine what factors appeared to contribute to the failure of this effort. Finally, Chapter V will offer a conclusion about the factors affecting Congress's ability to pass immigration reform in the United States today.

THEORETICAL FRAMEWORK

Polarization in Congress:

According to Alan I. Abramowitz, the main cause of dysfunctional government in Washington today is partisan polarization, which he defines as the deep ideological divide that exists between Democrats and Republicans. Moreover, he argues that this ideological divide reflects the existence of deep divisions within American society.¹³ Abramowitz argues that in both the Senate and the House of Representatives, the ideological divide between the parties has widened dramatically: The Democratic Party has moved steadily to the left since the 1960s while the Republican Party has moved steadily to the right. He maintains that conservative Democrats and liberal Republicans, who exercised considerable influence in Congress from the end of

¹³ Alan I. Abramowitz, "The Electoral Roots of America's Dysfunctional Government," *Presidential Studies Quarterly* 43, no. 4 (December, 2013): 710.

World War II through the 1960s, have almost completely disappeared.¹⁴

Furthermore, Abramowitz contends that in the past 36 years, there has been a substantial increase in the distance between the parties in both chambers and especially in the House of Representatives: the distance between the average Democrat and the average Republican almost doubled between the Ninety-Fifth House (1977-79) and the 112th House (2011-13), while the distance between the average Democrat and the average Republican increased by almost 50% between the Ninety-Fifth Senate and the 112th Senate. However, he argues that both parties were not equally responsible for this increase in ideological polarization: the rightward shift of the Republican Party over these years was much greater than the leftward shift of the Democratic Party. In fact, Abramowitz states that over 80% of the increase in the size of the ideological divide in the House, and over 70% of the increase in the Senate was a result of the rightward shift in the location of the average Republican.¹⁵

Moreover, Abramowitz says that the growing ideological divide between the parties in the House and Senate has had profound consequences for the congressional decision-making process. According to him, these consequences have been especially significant during periods of divided party control of Congress. For instance, he argues that in the Ninety-Seventh Congress, following the 1980 presidential election, Republicans held a majority of seats in the Senate, while Democrats held a majority of seats in the House. In the 112th Congress, following the 2010 midterm election, Republicans held a majority of seats in the House while Democrats held a majority of seats in the Senate. Abramowitz contends that despite the superficial similarity

¹⁴ Alan I. Abramowitz, "US Senate Elections in a Polarized Era," *The US Senate: From Deliberation to Dysfunction* (Washington: CQ Press, 2012): 2.

¹⁵ Alan I. Abramowitz, "The Electoral Roots of America's Dysfunctional Government," *Presidential Studies Quarterly* 43, no. 4 (December, 2013): 710-712.

between these two congresses, the deep ideological divide between the parties in the 112th House and Senate made any sort of bipartisan compromise much more difficult than in the Ninety-Seventh Congress.¹⁶

In addition, Abramowitz argues that the dramatic decline in the number of moderates and the growing ideological divide between the parties in both the House and Senate has made bipartisan compromise much more difficult in both chambers. According to him, it was much easier for Democrats and Republicans to come together 30 years ago when the ideological distance between them was much smaller. Today, he says that reaching across the aisle requires reaching much further than in 1981-83. Abramowitz argues that this does not matter very much in the House of Representatives where the majority party can easily pass legislation without any help from the minority party as long as it remains unified. However, he states that it matters a great deal in the Senate because it makes filibustering – efforts to hold the Senate floor in order to prevent a vote on a bill - much more attractive to members of the minority party. Abramowitz contends that not only is the ideological distance between the median Democrat and the median Republican much greater now, but it is much more difficult now for the majority party to obtain 60 votes to invoke cloture – legislative vote used to stop debate on an issue and put it to a vote - because the ideological distance between the majority pivot and the filibuster pivot is much greater today than it was in the Ninety-Seventh Senate.¹⁷

¹⁶Alan I. Abramowitz, “The Electoral Roots of America’s Dysfunctional Government,” *Presidential Studies Quarterly* 43, no. 4 (December, 2013): 710-712.

¹⁷ *Ibid*, 712-713.

Polarization in The Electorate:

Abramowitz also contends that the fundamental cause of gridlock in the United States Congress is the fact that Democrats and Republicans disagree sharply on almost every major issue the country faces, including taxes, spending, gay rights and abortion. In addition, he argues that “there has been an increase in the consistency of positions on economic and cultural issues over time so that those who are liberal on economic issues are increasingly likely to be liberal on cultural issues, while those who are conservative on economic issues are increasingly likely to be conservative on cultural issues.”¹⁸ Abramowitz believes that this creates a situation where those on opposing sides on one issue are increasingly likely to be on opposing sides on other issues. He argues that the attitude that “today’s ally may be tomorrow’s opponent while today’s opponent may be tomorrow’s ally”¹⁹ is much less prevalent than in the past. He believes that this ability to make an ally today of yesterday’s opponent, “tends to dampen the intensity of political conflict.”²⁰ He maintains that Democrats and Republicans however, now find themselves on opposing sides on almost all issues.

Abramowitz also believes there is a close connection between the growing ideological divide between Democrats and Republicans in Washington, and the growing divisions within American society. He states that trends examined in election results as well as survey data on the changing characteristics and attitudes of voters, show that over the past four decades the parties in the electorate have become increasingly divided along geographic, racial, cultural, and ideological lines.²¹

¹⁸ Alan I. Abramowitz, “The Electoral Roots of America’s Dysfunctional Government,” *Presidential Studies Quarterly* 43, no. 4 (December, 2013): 713-714.

¹⁹ *Ibid*, 714.

²⁰ *Ibid*, 712-714.

²¹ *Ibid*, 714.

According to Abramowitz, today most Democratic elected officials represent strongly Democratic constituencies and receive a large share of their votes from African Americans, Latinos, and other nonwhites. He argues that Democratic voters in these constituencies tend to hold liberal views on the size and role of government as well as on social issues such as abortion and gay rights. Abramowitz argues that the more attentive, informed and active these Democratic voters are, the more likely they are to hold liberal views on these issues. On the other hand, he maintains that most Republican elected officials represent strongly Republican constituencies and receive only a tiny share of their votes from African Americans, Latinos, and other nonwhites. In his view, Republican voters in these constituencies tend to hold conservative views on the size and role of government as well as on social issues. As with the case of Democratic votes, Abramowitz argues that the more attentive, informed, and active these Republican voters are, the more likely they are to hold conservative views on these issues. He reasons that the large ideological differences between Democrats and Republicans in Washington reflect the large differences between the characteristics and attitudes of the voters represented by the two parties.²²

The concept of partisan polarization is crucial to this study because it explains the current state of the United States' political system and begs the question of whether or not this was the state of affairs in 1965, 1986 and 2013. If polarization is found to be a factor affecting decision making both in Congress and among the electorate in 2013, it becomes clear why it remains challenging today to address the issue of illegal immigrants, and consequently immigration reform. This polarization, characterized by stalemate and ideological divergence, will explain why it has been difficult for Republicans and Democrats in Congress to compromise when

²² Alan I. Abramowitz, "The Electoral Roots of America's Dysfunctional Government," *Presidential Studies Quarterly* 43, no. 4 (December, 2013): 714.

deciding on what actions need to be taken to address the issue of illegal immigration in the United States.

METHODOLOGY

Using qualitative analysis and a comparative case study approach, I will examine the context of the legislative processes used in enacting three pieces of legislation - the Immigration and Nationality Act of 1965, the 1986 Immigration Reform and Control Act, and the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 – in order to find the answer to my research question. I will rely on both primary and secondary data such as books, journal articles, government websites, opinion polls, congressional voting records, public records, and dissertations to test my hypothesis and elicit conclusions.

While the US Congress has made many attempts at immigration reform between 1965 and 2018, I chose to focus on these specific Acts for several reasons. The 1965 Act was chosen for examination because it can be described as legislation that changed the future of immigration in the United States. The 1986 Act was chosen because it was through this legislation that millions of illegal immigrants in the United States were granted amnesty as a means of reforming a ‘broken immigration system;’ a very contentious issue in contemporary US politics. Finally, the 2013 Act was chosen because it is the most recent attempt at overhauling the immigration system in the US, and in this case - unlike in 1965 and 1986 - Congress was unable to find consensus to pass this bill.

Examination of these crucial moments in American history will allow me to test my hypothesis that in recent times the task of immigration reform has been unattainable due to

partisan polarization, not only in the United States Congress, but also among the electorate. I will explore each Act individually addressing three variables in each instance – partisan polarization, bipartisanship, and public opinion/attitudes in that era. Partisan polarization will be measured by examining congressional voting records for evidence of split party line voting, and secondary literature will be examined for evidence of stalemate, and ideological divergence.

Bipartisanship will be measured by examining congressional voting records for evidence of centrist voting; that is evidence of liberal Republicans and conservative Democrats. Additionally, this variable will be measured by the presence of bipartisan groups within congress. In the secondary literature, bipartisanship will be measured by instances of compromise between the two parties when making decisions on issues, or each party's willingness to work with the other despite differences in views, opinions, ideas, or strategies.

Finally, public opinion/attitudes will be measured by examining opinion polls for evidence of the electorate's division on the issue by party, and public interest or lack of interest in immigration. Furthermore, secondary literature will be examined for information from polls and opinion surveys, public reactions to policies and decisions made by lawmakers regarding immigration, and the public voicing their opinions on issues, or putting pressure on lawmakers to enact change in the direction they want it to go. Similarly, Congress' success will be measured by its ability to compromise, or display evidence of bipartisanship, as well as its ability to actually enact legislation despite contention. Conversely, failure will be measured by Congress' inability to compromise, and its inability to actually enact legislation on contentious issues.

LITERATURE REVIEW

Susan F. Martin argues that proponents of comprehensive immigration reform are correct in their summation that the US immigration system is badly broken. Martin makes reference to a yardstick established by The Commission on Immigration Reform for measuring the credibility of immigration policies: "People who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave."²³ She concluded that the large number of unauthorized migrants, in combination with the lengthy backlogs in the legal immigration system, demonstrates that US immigration policy fails this simple test.²⁴

Nearly half (47%) of Americans believe that the number of immigrants coming to the country illegally has increased over the last five or six years.²⁵ According to Jones et al, roughly one-third (34%) say the rate has stayed about the same, and 13% say it has decreased. They argue that views about the relative rate of unauthorized immigration are closely associated with political predispositions; for instance, Republicans (63%) are more likely than Democrats (44%) or independents (42%) to believe illegal immigration has increased. Additionally, among members of the Tea Party – conservative activists emerging in late 2008, early 2009 - nearly two-thirds (66%) believe that the number of immigrants coming to the US illegally has increased over the last few years.²⁶

²³ Susan F. Martin, "Waiting Games: The Politics of US Immigration Reform," *Current History* 108.717 (2009): 166.

²⁴ Ibid

²⁵ Estimates of unauthorized migration show a dramatic decline between 2007 and 2009 with this decline stalling between 2010 to 2012. The current estimate of 11.7 million immigrants who are in the country illegally remains significantly below the 12.2 million estimated to be in the country in 2007. See Passel, Jeffrey S. D’Vera Cohn and Ana Gonzalez-Barrera, "Population Decline of Unauthorized Immigrants Stalls, May Have Reversed," *Pew Research Center*, September 23, 2013.

²⁶ Robert P. Jones et al., "What Americans Want from Immigration Reform in 2014," Findings from the PRRI/Brookings Religion, Values and Immigration Reform Survey, Panel Call Back. Public Religion Research Institute, 2014: 16.

So why have efforts to reform the immigration system not been responsive to this belief that illegal immigration continues to rise? I will discuss possible factors that may account for this failure to act on the part of US lawmakers such as partisan polarization, the complex nature of the issue, the framing of the issue by politicians, activists, and the media, public attitudes toward immigration reform, and the current approach to reform.

Partisan Polarization:

Sarah Binder argues that the debt limit crisis which occurred in the United States in 2011 is just one example of “the many episodes of legislative deadlock fuelling debate about whether Congress has lost its ability to identify and resolve major public problems.”²⁷ According to Binder, in October 2011 Congress garnered its lowest approval rating (9%) in polling history. She states that public trust in the government’s capacity to solve the major problems facing the country also hit record lows; almost all Americans felt their country was on the wrong track and were pessimistic about the future. Binder says that the public viewed both parties negatively, and the widespread consensus was that “politics and governance were utterly dysfunctional.”²⁸

After four decades of observing the US Congress, Mann and Ornstein concede that “there is no denying the impact of broad changes in America’s wider political environment – most importantly the ideological polarization of the political parties – on how Congress went about its work.” They state that they have documented the demise of regular order, as Congress bent rules to marginalize committees and deny the minority party in the House opportunities to offer amendments on the floor. They point to “the decline of genuine deliberation in the lawmaking

²⁷ Sarah Binder, “The Dysfunctional Congress,” *Annual Review of Political Science* 18 (2015): 86.

²⁸ *Ibid*, 85-101.

processes on such important matters as budgets and decisions to go to war; the manifestations of extreme partisanship; the culture of corruption; the loss of institutional patriotism among members; and the weakening of the checks-and-balances system.”²⁹

According to Mann and Ornstein, the US Congress is dysfunctional because there is a serious mismatch between the political parties, which in their view have become “as vehemently adversarial as parliamentary parties.” Moreover, they attribute this dysfunction to a governing system that makes it extremely difficult for majorities to act. Second, they cite the fact that one of the two major parties – the Republican Party – has become “an insurgent outlier.” They contend that the Republican Party has become “ideologically extreme, contemptuous of the inherited social and economic policy regime, scornful of compromise, unpersuaded by conventional understanding of facts, evidence and science, and dismissive of the legitimacy of its political opposition.” Mann and Ornstein argue that when one party moves this far from the center of American politics, it is extremely difficult to enact policies responsive to the country’s most pressing challenges.³⁰

Sarah Binder concurs that levels of legislative deadlock have steadily risen over the past half century. She argues that stalemate at times now reaches across three-quarters of the germane issues on lawmakers’ agenda. Binder argues that partisan polarization appears to be on “the verge of passing historical levels in the Senate and has surpassed House records stemming from the turn of the century.”³¹ Furthermore, she supports the argument that this polarization is asymmetric: Republicans (particularly in the House) have moved farther to the right than

²⁹ Thomas E. Mann and Norman J. Ornstein. *It’s Even Worse Than It Looks: How the American Constitutional System collided With the New Politics of Extremism* (New York: Basic Books, 2012): XII.

³⁰ Ibid

³¹ Sarah Binder, “The Dysfunctional Congress,” *Annual Review of Political Science* 18 (2015): 97.

Democrats have moved to the left. According to Binder, “so long as some degree of polarization is driven by sheer partisan team play – in which the opposition party is more likely to object to proposals endorsed by the president – then extreme levels of partisanship will continue to lead to unprecedented levels of deadlock.”³²

Gary C. Jacobson supports these arguments. In fact, he states that there is systematic evidence documenting the increasing partisan polarization in Congress, particularly as traced by scholars Keith Poole and Howard Rosenthal since the 1980s. Jacobson points to two notable discoveries by Poole and Rosenthal; first, that congressional parties have moved apart ideologically in both the Senate and the House, and second, that Republicans have been responsible for most of the change – more than 80% for both chambers.³³ According to Jacobson, “the congressional parties have been driven apart by a diverse array of interacting internal and external forces, but one essential factor has been the corresponding polarization of the congressional parties’ respective electoral bases, which was itself in part a reaction to polarized national politics.”³⁴

Similarly, Matthew N. Beckmann argues that because elected officials’ foremost consideration is keeping their jobs, “partisan electoral incentives bleed into governance.” Beckmann contends that this can discourage presidents and opposing partisans from seeking agreement or making concessions “even when bipartisan policy accord is possible.”³⁵

³² Sarah Binder, “The Dysfunctional Congress,” *Annual Review of Political Science* 18 (2015): 97-98.

³³ Gary C. Jacobson, “Partisan Polarization in American Politics: A Background Paper,” *Presidential Studies Quarterly* 43 (2013): 690-691.

³⁴ *Ibid.*, 691.

³⁵ Matthew N. Beckmann, “Up the Hill and Across the Aisle: Discovering the Path to Bipartisanship in Washington,” *Legislative Studies Quarterly* 41 (2016): 269.

Moreover, Beckmann says that with the increased political gridlock in Congress, more attention has been focused on whether the public is becoming more polarized, that is, taking more extreme stands on issues, which would create a more fractured society.³⁶

The Complex Nature of the Issue:

Susan Martin argues that part of the explanation for America's repeated failure to achieve reform is the controversial nature of the immigration issue in US politics. She states that this issue sparks intense reactions on both sides of the political spectrum. Different groups are equally committed to ensuring, on the one hand, that unauthorized migrants are kept out of the country and do not receive amnesty if they have entered illegally; and on the other hand, that those who provide needed work gain the fullest access possible to employment opportunities, benefits, and citizenship.³⁷ Another reason Martin proposes for the lack of immigration reform in the United States is the nature of the political coalitions that form around immigration, which makes it difficult to gain consensus. She identifies different groups in the debate, all of which are characterized by varying attitudes about immigration levels on the one hand, and immigrant rights on the other. These groups may support each other on some issues, and oppose each other on other issues, making it difficult to come to a consensus on the overall issue.

Martin also argues that many Americans speak fondly and nostalgically about their own immigrant ancestors who, in their minds, created the nation of immigrants. At the same time, she

³⁶ Thomas J. Johnson, and Angela M. Lee, "Kick the bums out?: A Structural equation model exploring the degree to which mainstream and partisan sources influence polarization and anti-incumbent attitudes," *Electoral Studies* 40 (2015): 210-220.

³⁷ Susan F. Martin, "Waiting Games: The Politics of US Immigration Reform," *Current History* 108.717 (2009): 160-166.

argues, they are fearful that today's immigrants are somehow different and less likely to contribute and assimilate - that is, to become true Americans. Martin contends that the result of this ambivalence is the absence of any strong consensus among the public about changes in immigration policy. According to her, "a small group that knows what it opposes can often preempt action - as witnessed in immigrant rallies that derailed House Republican enforcement measures and talk radio shows that derailed Senate regularization measures. But pressure for positive changes is too often lacking. The safe decision for politicians is no decision - at least until there is no choice but to act."³⁸

Former Representative Tom DeLay (R-Texas) also seemed to think immigration reform was a complex issue. In a 2010 address to Congress, he accused President Obama of shying away from his campaign promise of immigration reform. He felt that the then president did not approach the issue as a priority. According to DeLay, "...if left up to Congress alone to drive a message, an issue as complex as immigration will fragment into a million shards on the floor." He argued that illegal immigration and the broken immigration system was a serious matter that should be a Congressional and Presidential priority. He acknowledged that this would be difficult but stated that "sometimes the things that are the most difficult are the things that most need to be done." DeLay argued that given the complexity and the magnitude of the problem, immigration reform needed border security measures much stronger than the current law to secure any chance of bipartisan success.³⁹

³⁸ Susan F. Martin, "Waiting Games: The Politics of US Immigration Reform," *Current History* 108.717 (2009): 164.

³⁹ Tom DeLay. *The Left is Right: On Immigration Reform Delay*. Roll Call; Washington DC (Washington, DC) 16 Mar 2010.

Framing of The Issue:

The manner in which the issue of illegal immigration has been framed in the United States is undoubtedly a factor in Congress' challenges in reforming the immigration system. According to Cook, nativists – those favouring the interests of Americans over those of immigrants - have framed the debate in the US through a combination of website appeals by lobby groups (Numbers USA), popular radio talk shows (Rush Limbaugh), and television “news” (Lou Dobbs on CNN; Fox News). Cook argues that nativists' domination of local media outlets and their ability to organize at the grassroots have shifted the national debate in an increasingly conservative direction. Moreover, she states that Republicans and Democrats who initially supported immigration reform have become more cautious or have become restrictionists themselves. Cook also contends that those who were earlier marginalized as extreme have moved to the mainstream. She also reported that even when Democrats talked about the legalization of 12 million undocumented immigrants, they were careful to avoid the term “amnesty,” stressed the need to “get in line,” and affirmed their strong support for “securing our borders” as a first step.⁴⁰

Merolla et al argue that even though there are other important aspects of immigration policy that should be relevant to Congress - such as the shortage of workers with advanced degrees in science and engineering and the need for improvements in temporary agricultural worker programs - much of the public's attention has been focused on the problem of illegal immigration. According to them, much of the floor debate and related media coverage on immigration matters centered on the issue of illegal immigration.

⁴⁰ Maria Lorena Cook, “The Advocate’s Dilemma: Framing Migrant Rights in National Settings,” *Studies in Social Justice* 4 (2010):145-164.

Merolla et al maintain that “amidst the policy debates, advocates and elected officials have attempted to shape public opinion and legislative outcomes in their favour, with increasing attention to the framing of policy in news coverage and popular discourse. In addition to disagreeing over policy framing, advocates have also fought over the terms used to describe the people themselves who may be affected by such policies. On the liberal side, advocates have preferred to use the term "undocumented" instead of "illegal," arguing that the latter tilts the debate in favour of restriction. At the same time, conservative advocates on immigration have long insisted on using the word "illegal," arguing that alternative terms mask the fundamental legal violations committed by those who overstay their visas or enter the country without one. Finally, many policy analysts, demographers, and federal government agencies have preferred to use the term "unauthorized immigration," opting for a more descriptively accurate, and perhaps politically less laden term to refer to those who may be eligible for deportation.”⁴¹

Merolla et al highlight Lakoff and Ferguson’s argument that the “illegal frame” criminalizes and dehumanizes immigrants, especially by referring to them as “aliens,” which immediately implies an otherness or an “invasion,” and inflates the severity of the “offense” of immigrating illegally. The “security” frame, they add, draws upon the “threat” of immigration, especially the threat of terrorism, and stresses the need for “border security.” Furthermore, Lakoff and Ferguson argue that the “undocumented worker” and “temporary worker” frames limit the role of immigrants to “worker,” and lead to the disregard of civil and human rights of immigrants.⁴²

⁴¹ Jennifer Merolla, S. Karthick Ramakrishnan, and Chris Haynes, “Illegal,” “Undocumented,” or “Unauthorized:” Equivalency Frames, Issue Frames, and Public Opinion on Immigration,” *American Political Science Review* 11 (2013): 790.

⁴² *Ibid*, 789-807.

Public Attitudes Toward Immigration Reform:

Dunaway et al argue that the public's attitude toward immigration has traditionally been different for those residing in states that share a border with Mexico, and those living in non-border states. They suggest that public opinion toward immigration points to several explanations that are based on individual-level characteristics such as economic outlook, age, gender, education, partisanship, and ideology. According to Dunaway et al, "news coverage is a potentially important and currently neglected explanatory variable in determining Americans' attitudes toward immigration."⁴³ Experiments they conducted showed that when the media devoted greater attention to immigration, the public was more likely to identify immigration as one of the nation's most important problems. Their findings highlighted two features of the public's perception of immigration: first, that public opinion on immigration varies according to the amount of news coverage on immigration. Second, they found that "the significant interaction between border state residency and media coverage of immigration suggests that when media coverage of immigration increases, the gap in the perception of the importance of immigration among individuals residing in non-border versus Border States decreases."⁴⁴

Similarly, Terry-Ann Jones argues that public opinion on immigration policies vary extensively based on factors such as political ideology, race, ethnicity, socioeconomic status, and geographic region. Further, she contends that dynamics such as economic crises, widespread unemployment, and heightened security concerns periodically produce changes in these opinions. Jones also contends that both advocates of, and opponents to immigration, promote their agendas through organizations and the news media, and simultaneously represent the public and influence

⁴³ Johanna Dunaway, Regina P. Branton, and Marisa A. Abrajano, "Agenda Setting, Public Opinion, and the Issue of Immigration Reform," *Social Science Quarterly* 91 (2010): 363.

⁴⁴ *Ibid*, 373.

the public. Additionally, Jones argues that public opinion is essential to immigration policies, which she says are periodically modified to reflect both domestic and international conditions. Furthermore, she maintains that public support for immigration policies inform the way in which immigrants are received; for instance, immigrants may encounter hostility in environments where the majority of the public holds unfavourable attitudes toward them.⁴⁵

Ward Kay argues that on immigration reform, “the motivated minority that highly influences public policy is in dissonance with the policy preferences of the majority of Americans.”⁴⁶ Kay makes reference to a 2006 attempt at comprehensive immigration reform whose main tenets were supported by 80% of Americans in a Gallup poll. This reform effort was defeated however, when anti-immigration opponents flooded the Senate switchboard with protest calls. Kay also carried out a study which found that the majority of Americans’ views are not represented by interest groups involved in the policy debate on immigration. According to Kay, Americans are moderate in their viewpoint, being both against the flow of unauthorized immigration while at the same time acknowledging that hard working immigrants should be allowed to become citizens. Kay says however, that “for those who support stricter immigration measures, the issue is of higher salience, which provides them with more influence than the general public.”⁴⁷

⁴⁵ Terry-Ann Jones. “The Role of Public Opinion in US and Canadian Immigration Policies.” *American Review of Canadian Studies*, 2016. Vol. 46, No. 1, 1-15.

⁴⁶ Ward Kay. “Where’s the “Public” in Public Policy: Skewed Democratic Pluralism vs. Nuanced Public Opinion in Attitudes Toward Unauthorized Immigrants.” PhD Diss., George Mason University, 2010: 3.

⁴⁷ *Ibid*, viii.

Approach to Reform:

Benjamin Marquez and John F. Witte suggest that immigration reform in the United States has not been possible because the various complex issues involved in immigration are “considered as a comprehensive package of reforms instead of being addressed as separable and discrete issues, subject to serial and incremental legislation.”⁴⁸ They argue that although there is widespread admission that some immigration reforms have failed, there remains a political proclivity for large reform efforts. Marquez and Witte believe the reasons may be that “political reputations and credit-taking are on the line, and cannot be satisfied by more modest, serial attacks on a set of issues.”⁴⁹ Alternatively, they propose that perhaps only through large packages can there be enough agreements with diverse groups to reach a compromise on any of the issues of the day. In other words, “by adding and subtracting issues, coalitions build to a majority – a majority not obtainable on most of the discrete issues considered separately.”⁵⁰ While Marquez and Witte concede that their conclusion is not definitive, they suggest that political leaders should ask if it is better to solve discrete issues or push for large packages that may be “sub-optimal on many of the issues included.”⁵¹

Furthermore, Marquez and Witte suggest that the most important stimulus for the passage of bills should be a clear majority consensus on how a bill can improve a situation over the status quo. They believe that a number of the issues that support restricting illegal immigrants may well fall within this domain. According to Marquez and Witte, border security clearly does, and they contend that there is relatively strong support for either separate or negotiated combinations on

⁴⁸ Benjamin Marquez and John F. Witte, “Immigration Reform: Strategies for Legislative Action,” *The Forum* 7 (2009): 2.

⁴⁹ *Ibid.*, 3.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

employer sanctions, worker identification, and guest or temporary worker programs. They argue however, that “although few advocate mass deportation or unconstrained amnesty for those residing illegally in the country, the intensity of these issues may make compromises in the absence of overwhelming partisan majorities very difficult. This they state, is why little has been done on these issues since the 1980s.”⁵²

Similarly, Susan Martin argues that top down reform efforts by Congress have failed in large part because they sought to achieve too much too quickly. Instead, she suggests that the US Congress needs comprehensive reform “achieved incrementally to ensure the effectiveness and test the impact of new approaches.”⁵³ Martin believes this strategy would have a better chance of convincing skeptics on both sides of the debate. On the other hand, John N. Wiegner argues that previous immigration reforms failed to reduce illegal immigration by attacking illegal immigrant costs. He proposes that new immigration reforms should consider reducing or eliminating illegal immigrant benefits, which would have the effect of increasing perceived costs thereby prompting self-removal from the country.⁵⁴

A review of the literature on this issue has revealed several possible factors that can be responsible for Congress’ inability to address comprehensive reform. I have however, chosen to examine three of these variables more closely - partisan polarization, bipartisanship, and public opinion/attitudes - to test my hypothesis. These variables have been identified both by Alan I. Abramowitz and academic scholars cited in the literature review, as significant contributing factors

⁵² Benjamin Marquez and John F. Witte, “Immigration Reform: Strategies for Legislative Action,” *The Forum* 7 (2009): 10-11.

⁵³ Susan F. Martin, “Waiting Games: The Politics of US Immigration Reform,” *Current History* 108.717 (2009): 164.

⁵⁴ John N. Wiegner, “Comprehensive Immigration Reform and Illegal Immigration in the United States since 1965: A Case Study.” PhD Diss., Northcentral University, 2017, 18. ProQuest (10608239).

to the issue of immigration reform. Moreover, I believe these variables have the most potential for accurately examining immigration reform in the United States using the cases and methodology I have chosen. These variables easily lend themselves to qualitative analysis and comparative case studies; primary and secondary data such as books, journal articles, government websites, congressional voting records, public records, public opinion polls, and dissertations can be perused for examples of polarization, bipartisanship, and public opinion/attitudes for the time periods under examination.

The following chapters will provide comparative case studies of the three reform efforts in 1965, 1986, and 2013. For each of these case studies, I will examine the role played by these variables in determining the success, or failure of the reform effort. The next section, Chapter II, will be a case study of the Immigration and Nationality Act of 1965.

CHAPTER II

CASE STUDY:

THE IMMIGRATION AND NATIONALITY ACT OF 1965

Triadafilos Triadafilopoulos states that “the 1965 Immigration Act’s origins lie in the desire of lawmakers to rid US immigration policy of its reliance on racially discriminatory criteria, captured most directly in the infamous National Origins Quota System.”⁵⁵ According to Triadafilopoulos, US Presidents from Harry Truman onward saw the quotas and other restrictions to immigration from Asia and elsewhere as impediments to American national interests and campaigned vigorously to have them removed. Triadafilopoulos says that they were “opposed by supporters of restriction in Congress, who carried the day with the passage of the 1952 Immigration Act, also known as the McCarran-Walter Act.”⁵⁶ The Immigration and Nationality Act (INA) of 1965 (the Hart-Celler Act) became law on October 3, 1965. Eric Arnesen argues that the new law may not have been perfect, as some were disappointed “at the restrictions imposed on immigration from the Western Hemisphere,” but he says its overall impact was positive, as “the new law can be hailed for putting an end to 41 years of discrimination in which immigration quotas were based on nationality...”⁵⁷

As signed by Democratic President Lyndon B. Johnson, the major provisions of the bill provided for the following: first, the national-origins quota system would be abolished as of July 1, 1968. Until that time, unused visas would go into a pool and be made available to countries

⁵⁵ Triadafilos Triadafilopoulos, “The Limits of Deliberation: Institutions and American Immigration Policy,” *Society* 47 (2010):127.

⁵⁶ Ibid.

⁵⁷ Eric Arnesen. “Introduction.” *Labor: Studies in Working-Class History of the Americas* 12, no. 3, (2015): 9-12. DOI 10.1215/15476715-2920303.

with backlogs on preference waiting lists. Second, the Asia-Pacific Triangle provision was repealed immediately. Third, a limitation of 170,000 immigrant visas, exclusive of parents, spouses and children of United States citizens, was established on a first-come, first-served basis. Fourth, a ceiling of 20,000 visas annually was imposed for any one such country. Fifth, for natives of independent Western Hemisphere countries, an overall ceiling of 120,000 visas, exclusive of parents, spouses and children of United States citizens, was established, effective July 1, 1968, unless Congress provided otherwise. Finally, seven preference categories were established; four for the purpose of family reunion, two for professional and skilled or unskilled workers, and one preference for refugees, including those displaced by natural calamity.⁵⁸

Maddalena Marinari argues that while many Americans today blame the 1965 Immigration Act for what they see as the end of restriction and the country's loss of control over its borders, migration and policy scholars in her view, have demonstrated that the law was hardly "a paragon of liberal immigration reform." Marinari says that while these scholars concur that the law successfully abolished the national origins quota system and the discriminatory Asia-Pacific Triangle - immigration reformers' primary goal - they also note that it created new restrictions with its imposition of the first global ceiling on immigration to the United States; the first cap on immigrants from the Americas paved the way for today's dominant immigration issue: ever-rising rates of unauthorized entry and illegal residence."⁵⁹

Partisan polarization on the issue of immigration has been a part of the US history for decades, beginning with the Immigration and Nationality Act of 1965. In fact, one can argue that polarization is partly responsible for the current issues with illegal immigration in the United

⁵⁸ Edward M. Kennedy, "The Immigration Act of 1965," *The Annals of the American Academy of Political and Social Science* 367 (1966):137-149.

⁵⁹ Maddalena Marinari, "“Americans Must Show Justice in Immigration Policies Too:” The Passage of the 1965 Immigration Act." *The Journal of Policy History* 26 (2014): 220.

States; polarization in the 89th Congress led to the restriction of immigrants from the Western Hemisphere, which scholars like Marinari suggests, created an incentive for immigrants from this region to remain in the United States illegally.

Partisan Polarization:

According to Triadafilopoulos, by the 1960s, sentiment in Congress regarding the National Origins Quota System was shifting; this and other restrictions to immigration from Asia and elsewhere were now being viewed as impediments to American national interests. He argues that liberal Democrats representing urban constituencies with strong ethnic attachments came out in support of reform and were joined by President John F. Kennedy. Kennedy introduced a bill in 1963 which would have abolished the quota system and replaced racial and ethnic categories with admissions criteria based on potential immigrants' education and work-related skills. The proposal also rejected any limits to immigration from the Western Hemisphere and made special allowances for the reception of refugees. Triadafilopoulos argues that the Kennedy bill received the support of liberal Democrats in both Houses of Congress, and a broad range of civil society groups. Despite this however, "powerful members of congressional committees with restrictionist leanings used their influence to block the bill's progress, effectively bottling it up through 1963 and 1964."⁶⁰ Progress on immigration reform only resumed after Lyndon Johnson assumed the presidency following Kennedy's assassination.

This resistance to Kennedy's bill demonstrates that, like today, partisan polarization existed in Congress; not only was it present, but it was seemingly strong enough to repress a bill that was popular in both Houses of Congress. It can also be inferred that Triadafilopoulos'

⁶⁰ Triadafilos Triadafilopoulos, "The Limits of Deliberation: Institutions and American Immigration Policy," *Society* 47 (2010): 127.

reference to committee members with “restrictionist leanings” who blocked the bill’s progress, were Republicans in Congress during this period.

Triadafilopoulos also argues that despite growing support for changes along the lines set out in the Hart-Celler bill, President Johnson was forced to engage in “horse trading” to solidify a legislative majority. Specifically, Johnson agreed to demands made by the chair of the House Immigration Subcommittee, Michael Feighan (D-OH), to replace the original bill’s preference for immigrants with special skills and training with a preference for family members. While Feighan’s position was based on pressure by union leaders fearful of increased competition from an influx of skilled foreign workers, similar demands from conservatives such as Senator Everett Dirksen (R-IL) were based on using family reunification to limit flows from “non-traditional” sources. According to this line of thought, limiting new admissions to the relatives of past immigrants would preserve the United States’ distinctively White-European character.

Again, the polarization in the 1965 Congress seemed to be initiated by the conservatives whose ideologies favoured the status quo. Further, in this instance, the literature revealed that conservatives in the 1965 Congress were reacting to the pressure being put on them from their electorate, which suggests the possibility of a polarized American public as well. According to Triadafilopoulos, wary of squandering the Democratic majority in Congress, Johnson opted to forgo a long fight with Feighan, Dirksen and other restrictionists and accepted their demands, agreeing to replace the original bill’s skills-based preferences with a system that favoured family reunification. As a result, 74% of yearly visa allotments were dedicated to family reunification, while only 20% were reserved for immigrants with occupational skills. The remaining 6% of yearly visas were reserved for refugees.⁶¹ It should be noted that the 89th Congress (1965-1967)

⁶¹ Triadafilos Triadafilopoulos, “The Limits of Deliberation: Institutions and American Immigration Policy,” *Society* 47 (2010): 127.

comprised of 435 Representatives: 295 Democrats and 140 Republicans. Both the Senate and House of Representatives were democratically controlled. Johnson's unwillingness to face off with conservatives suggests that partisan polarization was such an issue then, that it was more productive to simply give in to restrictionist demands than risk the possibility of ending up with a 'dead bill;' as is the case with the 2013 "Gang of Eight" legislation, which will be examined later.

Daniel Tichenor agrees with Triadafilopoulos' view. Tichenor points out that given the bitter conflicts that regularly emerge in the United States over unauthorized immigration, an obvious question should be how national policymakers ever translate rival interests and goals into sweeping immigration reform. He argues that at the heart of these "rare shifts from gridlock to non-incremental policy change lies several recurring elements: the centrality of bipartisan, "strange bedfellow" alliances; the necessity of painful compromises to appease disparate actors; and the predictable contradictions of resulting immigration reform packages."⁶²

According to Tichenor, significant immigration reform in US history has almost always demanded the formation of unstable left-right majority coalitions as well as bargains that typically encompass competing goals. In his view, it should hardly come as a surprise that rival and incongruous elements were woven into the Immigration and Nationality Act. He concurs that ironically, House Democrat from Ohio, led a coalition of restriction minded Southern Democrats and conservative Republicans who demanded important concessions for ending the national-origins quota system. Tichenor describes Feighan as an ardent anti-Communist with strong ties

⁶² Daniel Tichenor, "The Political Dynamics of Unauthorized Immigration: Conflict, Change, and Agency in Time," *Polity* 47 (2015): 292.

to patriotic and nativist organizations, who chaired the House immigration subcommittee and regularly clashed with more progressive members of his party.⁶³

Katsuyuki Murata agrees that this numerical restriction placed on the Western Hemisphere was added to persuade legislators to vote for the bill. These legislators were worried about rapid population expansion in Latin American countries and the adverse effects of increased immigration, especially on the job market.⁶⁴ Irving Bernstein, Roger Daniels, and Daniel Tichenor argue that President Johnson understood that the window of opportunity for liberal legislation was fleeting and skillfully took advantage of the convergence of a Democratic landslide election with what Daniels terms “a national consensus of egalitarianism” to pass a flawed, but nonetheless momentous immigration law. Dissenting from this interpretation, Mae Ngai and Aristide Zolberg contend that the ease with which reformers accepted the ceiling on immigration from the Western Hemisphere reflected their long-standing ambivalence about immigrants from the Third World. According to this view, East Coast reformers, disconnected from and unfamiliar with the Asian, Mexican, and Latin American communities in the United States, willingly acquiesced to an immigration law that continued a regime of restriction to protect the status of their own ethnic communities in American society.

Finally, Otis Graham argues that in their eagerness to repeal the national origins quota system, immigration reformers intentionally ignored information available to them about changing global demographic trends and pushed for an immigration law that, in his opinion,

⁶³ Daniel Tichenor, “The Political Dynamics of Unauthorized Immigration: Conflict, Change, and Agency in Time,” *Polity* 47 (2015): 283-301.

⁶⁴ Katsuyuki Murata, “Searching for a framework for a Synthetic Understanding of Post-1965...” *Transforming Anthropology* 14 (2006): 95.

“moved the country away from a stable population growth to a pattern of intense population growth that has had far-reaching and overwhelmingly negative consequences for the country.”⁶⁵ Clearly, partisan polarization is not a new phenomenon in the immigration debate. Whatever the motivations of the various interests involved, they were powerful forces to be reckoned with. This resulted in decisions being made that were not necessarily in the best interests of America, as Tichenor and Graham purport.

Furthermore, examination of congressional voting records on immigration in 1965 reveals evidence of polarization in the 89th Congress. The 1965 vote to amend HR 2580 - a bill to amend the Immigration and Nationality Act, by establishing on July 1, 1968, a limit of 115,000 immigrants per year from countries in the Western Hemisphere – resulted in a vote of 228-198.⁶⁶ The majority of Democrats (214) were opposed to this bill, while the majority of Republicans (121) supported it. These figures support the argument that Congress was polarized on the issue in 1965. The following table shows a breakdown of these votes:

Table 2 shows results of the first vote to amend the Immigration and Nationality Act in 1965

	All votes	Democrats	Republicans
Yea	198	77	121
Nay	228	214	14
Not voting	7	3	4

⁶⁵ Maddalena Marinari, ““Americans Must Show Justice in Immigration Policies Too:” The Passage of the 1965 Immigration Act.” *The Journal of Policy History* 26 (2014): 221.

⁶⁶ <http://news.gallup.com/poll/1660/immigration.aspx>

Bipartisanship:

The second vote to pass HR 2580 - The Amended Immigration and Nationality Act – revealed an interesting change in the vote: Democrats completely flipped from a majority opposing this bill, to a majority supporting it (215). These figures support the literature as Tichenor explained the irony of House Democrat from Ohio, Michael Feighan, being the one who led a coalition of restriction minded Southern Democrats and conservative to demand that the ceiling be imposed on the Western Hemisphere. This second vote reveals the presence and influence of moderates in the 89th Congress. This coalition was able to convince a large majority of Democrats to vote in favour of this bill after they had all opposed it in the first vote, resulting in the bill’s success by a vote of 325 to 101.

While this second vote does illustrate the ability of this congress to compromise, it more accurately depicts the ability of moderates to significantly affect legislation. The presence of moderates in this Congress is also supported by the literature; Tichenor makes reference to both restriction minded Southern Democrats, and progressive Conservatives in the 1965 Congress. The results of this vote also support Abramowitz’s theory that moderates were more prevalent in Congresses prior to 1980, and that compromises are more easily achieved with these individuals in Congress.

Table 3 shows results of the second vote to amend the Immigration and Nationality Act in 1965

	All votes	Democrats	Republicans
Yea	325	215	110
Nay	101	76	14
Not voting	7	3	4

According to Edward M. Kennedy, the long record of defeats for earlier proposals on immigration reform inevitably prompts the question as to why Congress acted in 1965. In his view, there is little doubt that of key importance was the unusual parliamentary situation in Congress, where the large Democratic majority “was generally responsive to the spirit, if not the letter, of the administration’s proposal.”⁶⁷ Kennedy believes that Republican leaders were also ready to act on the issue. Moreover, in the Judiciary Committees of both Houses, the balance of power lay with those who had long worked for reform, or who readily recognized the need for changes in policy governing the admission of immigrants. And in the Executive branch, for the first time in more than a decade, the White House, under both President Kennedy and President Johnson, was deeply committed to basic reform and actively mobilized its forces to see it through.⁶⁸

Kennedy maintains that “the legislative history of the bill, especially the drawing of a consensus which, in effect, neutralized any significant opposition both within and without the Congress, generated an atmosphere receptive to reform which was consonant with changing attitudes among citizens on questions of race and national origin.”⁶⁹ Additionally, he says there was a tremendous effort put forth by several private organizations, whose many years of work throughout the country were helping to bring the hope of reform into reality.⁷⁰

Marinari also argues that “exploiting the administration’s eagerness to abolish the national origins quota system and carry out reform swiftly, a group of Southern Democrats, who realized reform was inevitable, leveraged its votes and committee positions to obtain crucial

⁶⁷ Edward M. Kennedy, “The Immigration Act of 1965,” *The Annals of the American Academy of Political and Social Science* 367 (1966): 149.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Edward M. Kennedy, “The Immigration Act of 1965,” *The Annals of the American Academy of Political and Social Science* 367 (1966): 149.

concessions from Johnson, the most important of which was the unprecedented imposition of a ceiling on immigration from the Western Hemisphere.”⁷¹

Public Opinion/Attitudes:

The Roper Center for Public Opinion Research revealed that at the time of the 1965 Immigration Act, a majority of Americans (36%) believed immigrants should be admitted into the US based on their skills rather than on the basis of their country of origin. 29% indicated that immigration should be based on country of origin, 15% indicated that it made no difference to them, and 20% of Americans indicated that they were not sure. Additionally, this research reported that 71% of Americans believed that a person’s occupational skills should be a very important factor in determining whether or not he/she should be admitted to live in the United States, 21% indicated that occupational skills were not very important, and 8% had no opinion. This study also revealed that 32% of Americans believed the country in which a person was born was a very important factor in determining whether or not he/she should be admitted to the United States, 56% indicated that this factor was not very important, while 11% had no opinion.⁷²

In addition, Gallup polls that year found less than 1% of the public naming immigration as the most important problem facing the nation. And, by the end of 1965, the Harris poll found just 3% naming immigration revision as the legislation most important to them (Back then, Medicare legislation was cited most often – 28%). While Americans were much quieter about

⁷¹ Maddalena Marinari, ““Americans Must Show Justice in Immigration Policies Too:” The Passage of the 1965 Immigration Act.” *The Journal of Policy History* 26 (2014): 220.

⁷² SEE diagram at Roper Center for Public Opinion Research. “Huddled Masses: Public Opinion and the 1965 US Immigration Act.” <https://ropercenter.cornell.edu/huddled-masses-public-opinion-and-the-1965-u-s-immigration-act/>

immigration back then, the public was divided about the right level of immigration. A June 1965 Gallup poll found that 39% preferred maintaining present levels, almost as many said they should be decreased (33%), and only a few (7%) favoured increased immigration.⁷³

In the end, a majority of the public approved of changing the laws so that people would be admitted on the basis of their occupational skills rather than their country of origin. And after the Immigration and Nationality Act was passed fully, 70% said they favoured the new law. According to Andrew Kohut, an approval score like that was possible because, unlike today, there were almost no partisan differences on the issue. A 1964 survey administered by the American National Election Studies revealed that 9% of Americans saw themselves as independent, 15% felt they were leaning independent, 38% said they felt weak partisanship, and 38% said they felt strong partisanship.⁷⁴ In addition, a mid-1965 Gallup poll found 54% of Republicans and 49% of Democrats favouring the concept of admittance based on job skills. Support was only modestly lower among two population groups: less well-educated Americans (44%) and Southerners (40%).⁷⁵

Moreover, as Acting Chairman of the Senate Subcommittee on Immigration and Naturalization, Edward M. Kennedy conducted extensive hearings on the immigration bill, open to any individual or organization which requested to be heard. According to Kennedy, fifty-six witnesses presented their views and responded to comprehensive questioning by members of the Subcommittee. Kennedy argues that every conceivable opinion was heard, but the witnesses

⁷³ Roper Center for Public Opinion Research. "Huddled Masses: Public Opinion and the 1965 US Immigration Act." <https://ropercenter.cornell.edu/huddled-masses-public-opinion-and-the-1965-u-s-immigration-act/>

⁷⁴ The American National Election Studies. The ANES Guide to Public Opinion and Electoral Behaviour. http://electionstudies.org/nesguide/toptable/tab2a_3.htm

⁷⁵ Andrew Kohut, "50 Years Later, Americans give thumbs-up to Immigration Law that Changed the Nation," *Pew Research Center*. (2015). <http://www.pewresearch.org/fact-tank/2015/02/04/50-years-later-americans-give-thumbs-up-to-immigration-law-that-changed-the-nation/>

overwhelmingly supported the basic principles contained in the Administration's bill. Moreover, a number of organizations which had traditionally opposed changes in the national origins concept, “softened their opposition considerably in view of the obvious unworkability of the quota system and the growing public pressure for reform.”⁷⁶ The Immigration and Nationality Act was passed in 1965, at the height of the Civil Rights Movement in the United States. Ruth Gomberg-Muñoz argues that the passage of the Hart-Celler Act was “celebrated as the dawn of a new era in US immigration policy - one that moved away from the explicitly race-based immigration policies of the past. Although this Act was immigration legislation, it was widely considered to be an extension of civil rights legislation.”⁷⁷

Chapter Summary:

The 1965 case study reveals elements of all three variables under investigation; partisan polarization, bipartisanship/compromise, and the influence of public opinion. The literature shows that despite a Democratic majority in both the Senate and House of Representatives, conservatives in the House were able to block the bill for two years and demanded concessions in exchange for voting to end the National Origins Quota System. The Immigration and Nationality Act passed only after these restrictionists were pacified with the ceiling imposed on the Western Hemisphere. Similarly, congressional voting records during this period illustrated the polarization between these two parties on the issue of immigration. It is interesting to note however, that opposition to this bill was ironically led by a group of Southern Democrats, whose ideology aligned with that of conservatives on this issue.

⁷⁶ Edward M. Kennedy, “The Immigration Act of 1965. *The Annals of the American Academy of Political and Social Science* 367 (1966): 142.

⁷⁷ Ruth Gomberg-Muñoz, “Inequality in a “Post Racial” Era: Race, Immigration, and Criminalization of Low-Wage Labour,” *Du Bois Review* 9 (2012): 339–340.

Bipartisanship in this Congress also involved this group of Southern Democrats and conservative Republicans. The literature revealed that Republicans were under pressure from their electorate to protect their interests, while Democrats were under pressure from their electorate to change a system they viewed as discriminatory. Both parties therefore had their motivations for working together. It can be argued that President Johnson gave in to these concessions in order to prevent a long battle with restrictionists, and to quickly enact the desired changes. This group, according to Marinari, exploited the administration's eagerness for reform, and leveraged its votes and committee positions to obtain concessions from President Johnson. Tichenor also referenced this group of moderates in the literature; the restriction-minded Southern Democrats – that is conservative Democrats - whose presence was crucial to the passage of the bill. It can be argued therefore, that the presence of these moderates made compromise easier during this period; particularly since these moderates belonged to the majority Democratic party.

Elements of racial undertones in 1965 were also revealed in the literature which suggests that conservatives wanted to limit flows of immigrants from “non-traditional” sources with their demand for the ceiling on the Western Hemisphere in order to preserve the White European character of the United States and protect the status of their own ethnic communities. This suggestion of racially motivated behaviour bears similarity to the 2013 case, which will be discussed in Chapter IV.

The literature also reveals public opinion/attitudes to be a significant contributing factor to the passing of legislation in 1965. Congress's view of the National Origins Quota System was consonant with that of the American public, which felt that it was discriminatory, and that individuals should not be refused admission to the United States on the grounds of origin. There

was also tremendous pressure for reform from the public at this time due to the political climate, which was fraught with civil rights activism. It is important to note that although the public generally seemed disinterested in the issue of immigration in 1965, they were unified in their strong dissatisfaction with the quota system; a discriminatory practice their opposition helped to change. Moreover, polls showed that the majority of Americans supported the new law once it was passed. It can be argued therefore, that public opinion had a significant effect on lawmaking during this period, as the Immigration and Nationality Act was enacted in part, in reaction to public sentiment. However, it should also be noted that even then, the public was divided about the right level of immigration as indicated by the June 1965 Gallup poll; 39% preferred maintaining present levels, 33% preferred decreasing levels, and 7% favoured increased immigration. This suggests elements of polarization among the American people.

The next section, Chapter III, will examine the 1986 Immigration Reform and Control Act to determine the role of the variables with regard to that legislation.

CHAPTER III

CASE STUDY:

THE 1986 IMMIGRATION REFORM AND CONTROL ACT

Ruth Gomberg-Muñoz argues that since the Hart-Celler Act, race has all but disappeared from immigration policy discussions, while the category of “illegal immigrant” has become ever more conspicuous.⁷⁸ In 1986, the US Congress passed legislation aimed at curbing undocumented migration to the United States. The 99th Congress (1985-1987) consisted of 254 Democrats and 181 Republicans, under Republican President, Ronald Reagan. Republicans retained the White House and Senate, while Democrats maintained a House majority, despite Republican gains in the 1984 election.

According to Donato et al., the Immigration Reform and Control Act (IRCA), sought to reduce illegal migration through sanctions of employers, increased border enforcement, and a legalization program for undocumented migrants already in the United States. The main purpose of IRCA was to stop the movement of undocumented migrants to the United States, and it relied on several mechanisms to accomplish this. Donato et al state that IRCA prohibited employers from hiring undocumented workers and enacted civil and criminal penalties against those who did so knowingly. Additionally, they argue that it authorized an increase in the resources allocated to the Immigration and Naturalization Service (INS) for border enforcement. IRCA, according to Donato et al, also provided for the legalization of two types of undocumented immigrants already in the United States: those who had resided continuously in the United States

⁷⁸ Ruth Gomberg-Muñoz, “Inequality in a “Post Racial” Era: Race, Immigration, and Criminalization of Low-Wage Labour,” *Du Bois Review* 9 (2012): 339–353.

since 1982, and those who had worked as agricultural labourers for at least 90 days during 1986.⁷⁹

This legislation according to Durand and Massey, “not only sought to deter Mexicans from leaving and crossing the border, it also attempted to neutralize the magnet of US jobs by criminalizing the hiring of undocumented workers.”⁸⁰ They argue that IRCA for the first time required prospective employees to present documents confirming identity and a right to work in the US. Employers had to fill out an “I-9 Form” that identified the prospective worker and listed the documents he or she had presented. IRCA sought to apply sanctions against employers who knowingly hired undocumented migrants, and the I-9 forms were devised as a means to define “knowingly.” Durand and Massey argue that as long as an employer inspected some reasonable-looking documents and completed an I-9 form, he or she had satisfied his or her duties under the law.⁸¹

Partisan Polarization:

According to Benjamin Gonzalez, while the IRCA bill “sailed through the Senate,” largely due to the majority held by Republicans, it failed in the Democratically-controlled House. He argues that amendment after amendment was offered and there was resistance to the bill on the part of a coalition of business interests and civil rights organizations; the latter concerned with the potential discrimination as a result of employer sanctions, and the elimination of the

⁷⁹ Katherine M. Donato, Jorge Durand and Douglas S. Massey, “Stemming the Tide? Assessing the Deterrent Effects of the Immigration Reform and Control Act,” *Demography* 29 (1992): 139-140.

⁸⁰ Jorge Durand and Douglas S. Massey, “The Costs of Contradiction: US Border Policy 1986-2000,” *Latino Studies* 1 (2003): 243.

⁸¹ *Ibid*

fifth preference category for visas to brothers and sisters of citizens. Moreover, Gonzalez says that much of the debate on IRCA in the Senate “focused on the nuts and bolts of implementation,” as well as an acknowledgement that this bill was the result of compromise, and thus while not an ideal piece of legislation for most, it seemed like the only possibility considering the divided nature of Congress, public opinion on undocumented immigration, and the need for action. Gonzalez references a House debate, in which Rep. Edward Roybal of California pointed out that, “Many have said that they would vote for the bill, but with mixed emotions. Others said that they would hold their nose to vote for this piece of legislation. Others just would vote for the bill simply because there was nothing else.”⁸²

Gonzalez argues that the bill, while not popular with everyone, was seen as a necessity, because immigration reform was seen as a necessity.⁸³ He contends also that debate in the House, where Democrats held a 253-182 majority, was much more contentious than it was in the Senate, where most of it focused on fine tuning the bill via amendments and questions about its implementation. Gonzalez also argues that overall, there were approximately 48 pages of the Congressional Record dedicated to the House debate on IRCA. Furthermore, he says that some of the resistance to IRCA in the House was driven by a perception that the amnesty program rewarded criminal behaviour with legalization.

Gonzalez references a speech by Rep. Barton of Texas, who argued that, “...if we condone amnesty, we are condoning an illegal act of those illegal immigrants who have entered this country illegally.”⁸⁴ Similarly, Republican Bill McCollum of Florida, echoed this sentiment

⁸² Benjamin Gonzalez. “The Undocumented Threat: Beliefs, Policy Preferences, and the Politics of Immigration.” PhD Diss., University of Washington, 2014. ProQuest (3641536): 60.

⁸³ Ibid, 63.

⁸⁴ Ibid.

by pointing out that, “We are going to be rewarding lawbreakers; people who have been here illegally who have no business becoming citizens and permanent residents...”⁸⁵ This perception that undocumented immigrants were being rewarded through amnesty was extensively debated to highlight the fact that legal immigrants still had to go through a long process to achieve what undocumented immigrants, according to Republicans, “were getting by simply crossing the border and avoiding deportation.”⁸⁶

The literature reveals that in 1986, partisan polarization was a significant factor in decision making regarding immigration in the House of Representatives. Gonzalez states that the bill ‘sailed through the Senate,’ which suggests that polarization may not have been a significant factor in the Senate. It does suggest however, that like the Congress of 1965, there were moderates in the 99th Congress. The literature clearly suggests that members of the House of Representatives in the 1986 Congress were very much divided on the issue of immigration; the contention mainly stemming from Republicans’ opposition to amnesty. The literature also reveals however, that this Congress faced pressure from the electorate to act, and it seems that the resulting compromise, IRCA, was felt to be preferable to no response. Additionally, it is clear from the literature that many voted for this bill reluctantly. Furthermore, examination of congressional voting records on immigration in 1986, like the 1965 case, also reveals some polarization. The 1986 vote to pass HR 3810, a bill to amend the Immigration and Nationality Act to revise and reform the immigration laws, revealed that the majority of Democrats (172)

⁸⁵ Benjamin Gonzalez. “The Undocumented Threat: Beliefs, Policy Preferences, and the Politics of Immigration.” PhD Diss., University of Washington, 2014: 63. ProQuest (3641536).

⁸⁶ Ibid.

were in favour of this bill, while the majority of Republicans (106) were opposed.⁸⁷ This is illustrated in the table below:

Table 3 shows results of the first vote to pass a bill to amend the Immigration and Nationality Act in 1986

	All votes	Democrats	Republicans
Yea	235	172	63
Nay	171	65	106
Not voting	27	15	12

In the second vote on this issue to accept the conference report on S1200, a bill to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States clearing the measure for Senate action, the data revealed similar results to the first vote. A clear majority within the Democratic party voted in favour of this action (163), while a majority of Republicans (93) were opposed. However, this second vote revealed something that was not present in the first vote, or in the 1965 Congress: evidence of polarization within the Republican party, suggesting an ideological shift/division within the group. While the majority of Democrats were clearly in favour of this bill (163-82), there was clear polarization in the Republican vote (79-93), which is a significant difference from the first vote, in which a clear majority were opposed to the bill.⁸⁸ Although it can be argued that these numbers suggest dissatisfaction with the amended bill on the part of most Republicans, as a corresponding decrease in support from Democrats may support this, the small margin between those

⁸⁷ <http://news.gallup.com/poll/1660/immigration.aspx>

⁸⁸ <http://news.gallup.com/poll/1660/immigration.aspx>

Republicans in favour of the bill and those opposed to it in the second vote, seems to more likely suggest some polarization and division within the party. This is illustrated in the table below:

Table 4 shows results of the vote to amend the Immigration and Nationality Act in 1986

	All votes	Democrats	Republicans
Yea	242	163	79
Nay	175	82	93
Not voting	16	7	9

Bipartisanship:

The third vote on this issue was to adopt the conference report on S1200, the Immigration Reform and Control Act, which would amend the Immigration and Nationality Act, to effectively control unauthorized immigration into the United States by granting amnesty to illegal aliens who can prove that they entered the United States prior to January 1, 1982, penalizing employers who knowingly hire illegal aliens, and establishing a special farm worker program for western agricultural growers. These voting records revealed evidence of bipartisanship/compromise; the bill passed with a vote of 67-27, with a majority of Democrats (36), and a majority of Republicans (31) voting in favour of this bill. This data also hints at the existence of moderates in the 1986 Congress. As we will see in the discussion of the 2013 case, the issue of amnesty was a major factor in the death of the proposed bipartisan bill in the 113th Congress, which is in direct contrast to this 1986 situation which shows that despite a Republican

Senate majority, amnesty was still granted to “nearly 2.7 million individuals.”⁸⁹ As with the 1965 case, this too suggests the presence of moderates in the 1986 Congress.

According to Juan P. Osuna, IRCA was a response to the growing problem of illegal immigration in the United States. He states that in 1986, the Immigration and Naturalization Service (INS) reported that apprehensions of undocumented aliens reached an all-time record, suggesting that the number of undocumented aliens residing in the country was larger than ever before. Osuna argues that when Congress first recognized the growing number of undocumented aliens as a significant national concern in the early 1970s, by then, actual immigration in the United States had exceeded three times its legal limit. He maintains that in October 1974, the United States Attorney General estimated that between four and seven million undocumented aliens lived in the United States, while other reports estimated even higher numbers. A 1981 report estimated that between 7.9 million and 9.9 million undocumented aliens were in the United States. By 1986, the most widely accepted figures indicated that between four and six million aliens were living in the country.⁹⁰

According to Osuna, although immigration has always been an issue in the United States’ political history, amnesty has not. He argues that from 1975 to 1986, however, Congress considered various amnesty proposals designed to regulate the problem of illegal immigration. Osuna states that several alternative solutions were available to control illegal immigration. Congress, however, chose a generous amnesty program to legalize the status of millions of aliens; this was viewed as the least costly alternative, politically as well as financially and

⁸⁹ Pia M. Orrenius and Madeline Zavodny. "Do Amnesty Programs Reduce Undocumented Immigration? Evidence from IRCA*." *Demography (Pre-2011)* 40, no. 3 (08, 2003): 437-50.

⁹⁰ Juan P. Osuna, “Amnesty in the Immigration Reform and Control Act of 1986: Policy Rationale and Lessons from Canada,” *The American University Journal of International Law and Policy* 3 (1988):145-196.

administratively.⁹¹

Public Opinion/Attitudes:

According to an NBC and 1982 Roper investigation, two thirds of Americans called for the government to take serious measures to control illegal immigrants. They were afraid that illegal immigrants were seizing jobs and sharing public benefits. According to a 1983 Gallup investigation, 79% of Americans supported a government stance to seriously control illegal immigrants. Moreover, in 1975, the New York Times called for employer sanctions because of the number of illegal immigrants coming to America to find good jobs; six to seven million illegal immigrants every year.⁹²

Edwin Harwood argues that in the early 1980s, the American public consistently expressed overwhelming opposition to illegal immigration, along with calls for strengthened enforcement actions by the government to stop the influx of illegal immigrants. Harwood references a May 1982 poll conducted by the Merit Survey, which reported that 84% of the public expressed concern about the number of illegal aliens in the country. Moreover, Harwood identifies an October 1977 Gallup poll, which revealed that 72% of the public agreed that penalties should be imposed on businesses that hire illegal aliens. According to Harwood, when Gallup asked the same question again in October 1983, the percentage agreeing had risen to 79%.⁹³ Furthermore, Harwood argues that in the 1980s, the American public was “decidedly

⁹¹ Juan P. Osuna, “Amnesty in the Immigration Reform and Control Act of 1986: Policy Rationale and Lessons from Canada,” *The American University Journal of International Law and Policy* 3 (1988):145-196.

⁹² Huiyun Tang, “The Role of Congress in Illegal Immigrations Policy as an Example of the IRCA,” *International Relations and Diplomacy* 3 (2015): 459-469.

⁹³ Edwin Harwood. “American Public Opinion and US Immigration Policy.” *The Annals of the American Academy of Political and Social Science*, 487, September 1986, 205. SEE Public Opinion, p. 49 (June-July 1983), Gallup Report, report no. 218, p. 14 (Nov. 1983), and poll conducted by the American Institute for Public Opinion, Mar. 1977, for the Roper Center.

cool” to the idea of granting amnesty. Harwood identified an October 1983 Gallup poll which found that only 41% of the American public supported permanent resident status for illegal aliens who had lived at least six years in the United States, while 52% of the public expressed opposition.⁹⁴

Harwood also references a June 1984 survey by Gallup which found that 55% of Americans opposed amnesty for illegal aliens, compared with only 35% saying they favoured legalizing the status of illegal aliens. Harwood argues that Gallup’s findings were almost identical to the June 1984 Newsweek poll, which found only 34% of the public supporting amnesty for illegal aliens, compared with 55% who wanted illegal aliens arrested and deported.⁹⁵ Similarly, in a June 1986 Gallup poll, 35% of respondents indicated that immigration should be kept at its present level, 7% felt that immigration should be increased, 49% indicated that they believed immigration should be decreased, and 9% had no opinion.⁹⁶

The literature in this case study reveals an American public that was very interested in the issue of immigration; particularly illegal immigration. This is in contrast to the 1965 case which indicated a very disinterested public (less than 1% interested in issue). However, in both cases the public were responsible for putting pressure on the government to enact change in legislation regarding immigration; in 1965 they wanted an end to the quota system, and in 1986 they wanted a solution to the problem of illegal immigration. In both cases, the result was controversial legislation enacted through bipartisan compromises in response to this pressure for action.

⁹⁴ Edwin Harwood. “American Public Opinion and US Immigration Policy.” *The Annals of the American Academy of Political and Social Science*, 487, September 1986, 206. SEE Gallup Report, report no. 218, p. 14 (Nov. 1983).

⁹⁵ Edwin Harwood. “American Public Opinion and US Immigration Policy.” *The Annals of the American Academy of Political and Social Science*, 487, September 1986, 205. SEE Public Opinion, p. 49 (June-July 1983), Gallup Report, report no. 218, p. 14 (Nov. 1983), and poll conducted by the American Institute for Public Opinion, Mar. 1977, for the Roper Center.

⁹⁶ <http://news.gallup.com/poll/1660/immigration.aspx>

Chapter Summary:

In 1986 there was consensus by lawmakers regarding the need for action, or some form of change; they realized they had to address the large numbers of illegal immigrants entering the United States. In fact, in this case, as with 1965, there was evidence of polarization in Congress as reflected in the debates and arguments made either for or against the proposed 1986 bill. The literature reveals that debates in the house were particularly contentious, as there was resistance to IRCA based on the perception that the amnesty program rewarded criminal behaviour with legalization. This situation is similar to the 2013 case – as we will see in Chapter IV; Republicans in the House of Representatives, like those in the 1986 Congress, were also strongly opposed to amnesty because they believed it rewarded criminal behaviour with legalization. Amnesty as a solution to the phenomenon of illegal immigration was first considered in the 1986 Congress, and again in the 2013 Congress, as we will also see later.

Moreover, although this bill passed in the Republican majority Senate, it initially failed in the Democratically-controlled House. There was resistance to this bill by business interests and civil rights organizations; both groups having their own motivations for resistance. In the end however, the bill passed after concessions were made to all the different interests; employer sanctions, amnesty for illegal immigrants, and increased border security. This resistance to the bill until concessions were made, supports Abramowitz's theory that compromise had become more difficult over time.

With regard to bipartisanship/compromise in this case study, the literature reveals that even though amnesty had never been considered by a US Congress previously, several amnesty proposals were designed in 1986 to address the phenomenon of large numbers of illegal immigrants as the least costly alternative; politically, financially, and administratively. Similar

to the 1965 case, compromise occurred only when those demanding concessions were granted what they wanted; the imposition of a ceiling on the Western Hemisphere in 1965, and amnesty, stronger borders, and sanctions against employers in 1986.

Unlike the 1965 case, which revealed that the majority of the American public were disinterested in immigration, the public in 1986 were very concerned with this issue; particularly illegal immigration. In fact, 84% expressed that they were concerned, while 79% supported a government stance to seriously address the issue. While the 1965 American public were concerned with racial discrimination and dismantling a discriminatory immigration system, the 1986 American public were concerned with addressing illegal immigration, and its supposed consequences.

The literature also reveals that in 1986, the American public “consistently expressed overwhelming opposition to illegal immigration,” and wanted lawmakers to strengthen enforcement efforts to stop the incursion of illegal immigrants. IRCA was in fact legislation in response to the wishes of most American citizens who feared that illegal immigrants were taking away their jobs and sharing public benefits. The new legislation seemed responsive to the wishes of the people, as was the case in 1965. Moreover, the sanctions against employers in this bill were reflective of the sentiment among the public that employers were hiring illegal immigrants at the expense of American workers. It can be argued therefore, that public opinion seemed to have a significant effect on lawmaking in 1986. It is interesting to note however, that although the majority of the American public was overwhelmingly negative towards illegal immigration in 1986, and the majority indicated that they were against amnesty for illegal immigrants, Congress nevertheless passed IRCA, which granted amnesty to nearly 2.7 million individuals. This

legislation seems to be in direct conflict with the wishes expressed by the American people – 55% opposed amnesty for illegal aliens.

It should be noted that the 1986 case study reveals some evidence of polarization within the Republican party itself, which suggests the presence of an ideological division among party members. One can argue that this division was in response to what can be viewed as liberal Republicans within the party in 1986; support for a bill providing a “path to citizenship” for illegal immigrants could have separated the more right-wing Republicans from the more moderate liberal Republicans in the 99th Congress. This polarization within the Republican party is in contrast to the 89th Congress in which the majority of Republicans voted the same way, revealing no conflict or extremism within the party. Another point to note in the 1986 case study is that illegal immigration was the focus of the 99th Congress, which is different from the 1965 case which did not have to address illegal immigration as an issue. In fact, scholars like Marinari suggests that the issue of illegal immigration was a direct consequence of the prohibitions of the 1965 Immigration and Nationality Act.

The next section, Chapter IV, is an examination of the Border Security, Economic Opportunity, and Immigration Modernization Act to determine the role of the variables on this legislation, which was unsuccessful.

CHAPTER IV
CASE STUDY:
BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION
MODERNIZATION ACT OF 2013

“Senator Marco Rubio (R-FL) joined Senators John McCain (R-AZ), Lindsey Graham (R-SC), Jeff Flake (R-AZ), Chuck Schumer (D-NY), Dick Durbin (D-IL), Robert Menendez (D-NJ) and Michael Bennet (D-CO) to introduce S. 744, the "Border Security, Economic Opportunity and Immigration Modernization Act of 2013." The bill's introduction supposedly marked a first step toward achieving the strongest border security and enforcement measures in US history, modernizing the legal immigration system to encourage economic growth and job creation, and ending the current de facto amnesty by dealing with the undocumented immigrant population in a tough, but fair way that was directly linked to achieving several security triggers.”⁹⁷ These Senators became known as the “Gang of Eight.” The 113th Congress, consisted of a Republican majority in the House of Representatives, and a Democratic majority in the Senate. It should be noted that this is in contrast to both the 89th and 99th Congresses; the 89th Congress consisted of a Democratic majority in both the Senate and House, while the 99th Congress consisted of a Republican majority in the Senate and a Democratic House majority.

Marco Rubio issued the following statement after the bill’s introduction: "Our immigration system is broken, and the status quo of having 11 million undocumented people living under de facto amnesty will only continue if we do nothing to solve this problem. This bill

⁹⁷ Marco Rubio. U.S. Congress. Senate. “Rubio & Colleagues Introduce The “Border Security, Economic Opportunity & Immigration Modernization Act of 2013.” Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

marks the beginning of an important debate, and I believe it will fix our broken system by securing our borders, improving interior enforcement, modernizing our legal immigration to help create jobs and protect American workers, and dealing with our undocumented population in a tough, but humane way that is fair to those trying to come here the right way and linked to achieving several security triggers.”⁹⁸

The Border Security, Economic Opportunity and Immigration Modernization Act of 2013 provided for border security, legalization, interior enforcement, and reforms to non-immigrant visa programs. Title I of the Act provided for border security measures that would achieve and maintain effective control in high risk areas of the southern border. This included the development and implementation of a fencing plan, an E-verify system, and a biographic entry-exit system at air and sea ports. The bill appropriated \$3 billion for this plan which would include technology, personnel, and other resources. Title II of the Act provided a path to citizenship for the 11.5 undocumented immigrants in the United States. It would establish a new framework for future legal immigration by revamping the current family and employment-based systems and creating two additional merit-based immigration systems. Title III would mandate that E-verify provide additional worker protections, reform the immigration court system and provide additional measures related to interior enforcement. Finally, Title IV would reform the current non-immigrant visa programs and create a new worker visa that would meld greater employer flexibility with worker protections and the ability to apply for permanent residence.”⁹⁹

⁹⁸ Marco Rubio. U.S. Congress. Senate. “Rubio & Colleagues Introduce The Border Security, Economic Opportunity & Immigration Modernization Act of 2013.” Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

⁹⁹ Chuck Schumer et al., U.S. Congress. Senate. “Summary of Border Security, Economic Opportunity, and Immigration Modernization Act of 2013.” Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

Partisan Polarization:

Senator Jeff Sessions (R-AL), a senior member of the Senate Judiciary Committee, introduced the House Safe Act as an amendment to The Border Security, Economic Opportunity and Immigration Modernization Act on June 19, 2013. This amendment provided crucial resources to ICE officers and contained reforms that would improve public safety and help establish a lawful immigration system. Sessions believed that the original bill included provisions that would collectively weaken interior enforcement. According to Sessions, "Much of the focus to date on the security flaws in the Gang of Eight plan have centered around the fact that it provides immediate amnesty without border security. Less discussed, however, is how the Gang of Eight plan decimates future immigration enforcement inside our borders." According to Sessions, the Gang of Eight plan would not only effectively create an immediate amnesty for those in the US illegally today, but a permanent de facto amnesty for future illegal aliens who arrive tomorrow.¹⁰⁰

In an April 2013 News Release, Washington DC Congressman Steve King released the following statement in response to the comprehensive immigration bill introduced by the Senate "Gang of Eight:"

"The Gang of Eight's bill is aggressive and outrageous amnesty," said King, "It is instant legalization of all illegal immigrants in the United States, with very few exceptions. It contains only promises: the promise of a plan for border security, of a backup plan for the border security, and of workplace enforcement in the form of making E-Verify mandatory. What makes anyone

¹⁰⁰ Jeff Sessions. U.S. Congress. Senate. "Sessions Introduces House SAFE Act as Amendment to Gang of Eight Immigration Bill." Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

think President Obama would enforce any future immigration laws when he has violated his own oath of office to take care that the laws be 'faithfully executed?' I expected this from Democrats who have long understood their brand of more taxes, more borrowing, and more government giveaways, and know how to sell it. It is the Republicans who should know better. Republicans who support this bill have effectively said to Americans, 'we are prepared to sacrifice the Rule of Law on the altar of misguided and erroneous political expediency.'¹⁰¹

Furthermore, Sen. Mike Lee, (R-Utah), who claimed strong Tea Party backing, was initially part of the bipartisan Senate talks but ultimately backed out, saying he agreed with a majority of the plan's principles, but could not support what he saw as a special path to citizenship for people who broke the law. Kaplan also identifies Sen. Ted Cruz, (R-Texas), who said he was interested in “beefing up” border security and fixing the legal immigration system, but not a plan that contained a path to citizenship for illegal immigrants.¹⁰² On the other hand, the plan received praise from individuals such as Sen. Chris Coons (D-DEL), a member of the Senate Judiciary Committee. Coons referred to the Border Security, Economic Opportunity, and Immigration Modernization Act as a comprehensive immigration reform bill that made important strides toward repairing America’s broken immigration system. Senator Coons said the bill was a balanced, bipartisan one that would make the US immigration system fairer and more humane, would provide new opportunities for American-educated immigrants to pursue their ideas and innovations in the US, and it would “make extraordinary investments” in the security of

¹⁰¹ Steve King. U.S. Congress. House. “King Response to “Gang of Eight’s” Immigration Bill.” Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

¹⁰² Rebecca Kaplan. “How the Tea Party Came Around on Immigration.” *National Journal*, March 21, 2013: 1.

borders.¹⁰³

The 2013 Congress was very polarized on the issue of immigration and the best strategies to fix a system that all agreed is broken. While the “Gang of Eight” ideas seemed to hold merit across parties, in Congress, Republicans - particularly in the House - remained staunchly opposed to, and unwilling to compromise on any strategies that included amnesty for illegal immigrants. Moreover, some Republicans went as far as berating other Republicans for even considering this as an option. In fact, some Republican members of Congress indicated their support for this legislation until amnesty became a factor, at which point support was withdrawn. This was in direct contrast to the view of Democratic members of Congress who felt that this bill made significant strides towards repairing the broken system. The failure of the 2013 Congress to pass this legislation, unlike the cases of 1965 and 1986, suggests that as Abramowitz contends, partisan polarization has increased over the years, thus making compromise and bipartisanship more difficult in 2013 than it was in 1986 and 1965.

Examination of congressional voting data in 2013 also reveals that there was polarization in Congress on this issue. The vote to pass S. 744 – the Border Security, Economic Opportunity and Immigration Modernization Act – in the Senate showed that all Democrats voted in favour of this bill, while a majority of Republicans voted against it. Furthermore, in this case, like in 1986, the Republican vote revealed some polarization within the party on this issue, with the votes split 32-14 against the bill (the 14 Senators voting with Democrats in bipartisan solidarity). The bill, however, passed in the Senate 69-32. This is illustrated below:

¹⁰³ Christopher Coons. U.S. Congress. Senate. “Senator Coons votes for historic immigration reform bill.” Washington: Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

Table 5 shows the vote to pass S. 744 – the Border Security, Economic Opportunity and Immigration Act in the 2013 Senate

	All votes	Independents	Democrats	Republicans
Yea	69	2	53	14
Nay	32	0	0	32

The rise of the Tea Party is a phenomenon unique to the 2013 case that also has to be examined as a factor responsible for polarization in the 113th Congress, as one can argue that this group put pressure on Republicans to move more to the right ideologically. Scholars like Maxwell and Parent argue that protest activities highlighted by the popular media during this period suggests that Tea Party members were in opposition to a single symbol: Barack Obama, the first African-American president. They argue that this observation and “the timing of the appearance of the movement (within weeks of Obama’s inauguration) could indicate that this movement represented an Obama backlash, as opposed to a new wave of fiscal conservatism,¹⁰⁴ as the movement purported.

Furthermore, Patrick Fisher, who analyzed 2012 ANES data to compare the demographics and attitudes of Tea Party supporters to Republicans who did not support the Tea Party, states that “demographically, Tea Party supporters are whiter, older, more male, more religious, and more Southern than Republicans who did not identify themselves as members of the movement.” He argues that “not only are Tea Party supporters demographically different from Non-Tea Party Republicans, but there are significant ideological and policy preference

¹⁰⁴ Angie Maxwell and T. W. Parent. "The Obama Trigger: Presidential Approval and Tea Party Membership." *Social Science Quarterly* 93, no. 5 (12, 2012): 1384.

differences between the two groups as well. On virtually every issue analyzed, the issue positions of Tea Party supporters are more conservative, sometimes considerably so, than Non-Tea Party Republicans.”¹⁰⁵

Fisher also argues that “support for the Tea Party is motivated by something beyond the more conventional view of conservatism in which economic freedom and small government as well as social and fiscal responsibility are prized.”¹⁰⁶ He also cites scholars Parker and Barreto (2013), “who argue that people who are attracted to the Tea Party are reactionary conservatives – that is, people who fear change that seems to undermine their way of life. It is thus similar to Ku Klux Klan of the 1920s and the John Birch Society of the 1950s and 1960s. The most important similarity of the Tea Party and these groups is the presence of change: the displacement of the white, Christian, male-dominated, native-born American.”¹⁰⁷

Similarly, Christopher S. Parker argues that “the Tea Party faction in the House of Representatives has roiled American politics. From the outset, the reactionaries of the right have refused to cooperate with the Obama Administration. Whether on health-care reform, financial reform, immigration reform, same-sex rights, or violence against women, the Tea Party has continued to resist legislative initiatives promulgated by the White House. Among many liberals, it has become accepted wisdom that such resistance to the President’s agenda is driven by the fear and racial anxiety evoked by his mere presence in the White House.”¹⁰⁸

Moreover, Ragusa and Gaspar argue that “the Tea Party’s emergence induced a conservative shift in the voting behaviour of its lawmakers.” They found that “representatives

¹⁰⁵ Patrick Fisher. "The Tea Party and the Demographic and Ideological Gaps Within the Republican Party.", *History and International Relations* 7, no. 2 (2015): 13.

¹⁰⁶ Ibid, 18.

¹⁰⁷ Ibid

¹⁰⁸ Parker, Christopher S. Will the Tea Party Outlast Obama? *Democracy*, Winter, 2014. 24.

who (1) joined the Tea Party Caucus and (2) had a large volume of Tea Party activists organized in their district underwent a significant shift to the right in their roll-call record in the 112th Congress.” In fact, they also found that “unlike Democrats and Non-Tea Party aligned Republicans who also shifted to the right or left in the 112th Congress, Tea Party Republicans did not “bounce back” in the 113th Congress.”¹⁰⁹ This extreme right-wing movement is evident in the response of some Republicans to those who supported Democrats on the ‘Gang of Eight’ bill; they were seen as traitors by the more right-wing members of the Republican party.

Furthermore, the literature implies that race, and a fear of change among conservative whites played a role in the resistance to compromise and polarization in the 2013 Congress. This may be a factor in explaining Republican’s strong opposition to the bipartisan bill. Racial undertones were also revealed in the 1965 Congress, which showed opposition to the legislation by conservatives and conservative leaning Southern Democrats who insisted on the imposition of a ceiling on immigration from the Western Hemisphere. This was seen as a measure to maintain the “nontraditional” sources of immigrants to the United States. In the 1965 case, these restrictionists blocked the bill until concessions were made. In the 2013 case however, Republicans were simply unwilling to compromise; they did not even demand concessions in return for their support. This phenomenon in the 2013 Congress not only provides a possible explanation for why immigration reform efforts failed, but also supports Abramowitz’s theory that over the years Republicans have moved more to the right ideologically, are more polarized than in previous years, and are also more unwilling to compromise than in past periods.

¹⁰⁹ Jordan M. Ragusa and Anthony Gaspar. "Where's the Tea Party? an Examination of the Tea Party's Voting Behavior in the House of Representatives." *Political Research Quarterly* 69, no. 2 (06, 2016): 361-362.

Bipartisanship:

The Border Security, Economic Opportunity, and Immigration Modernization Act was introduced in the Senate on April 16, 2013. On May 21st, the bill passed out of the Senate Judiciary Committee on a vote of 13-5. Debate on the Senate floor began on June 7, 2013. Senators filed more than 500 amendments, but very few actually were offered on the floor, or voted upon due to filibusters. The bill as amended passed the Senate on June 27, 2013 by a vote of 69-32.¹¹⁰

There was clear compromise in the case of this 2013 bill, as the ‘Group of eight’ campaigned for a bipartisan effort to pass this legislation in the Senate. Even more noteworthy was the Republican display of bipartisanship when 14 Senators crossed the aisle to vote in solidarity with Democrats to ensure this bill passed in the Senate. Prior to the passing of this legislation, Sen. Patrick J. Leahy (D-VT) urged Senators to support a procedural motion to consider the bill: "The legislation before us is the result of a bipartisan group of Senators who came together and made an agreement," Leahy said of the Act, "What was initially a proposal from the so-called 'gang of eight' became, through the Committee process, the product of a group of 18, supported by a bipartisan majority of the Judiciary Committee. If Senators who have come together to help develop this bill keep their commitments, I have no doubt that we will be able to end this filibuster and pass this fair but tough legislation on comprehensive immigration reform."¹¹¹

Republicans in the House however, were not so accommodating. Many of them refused to consider this bill on the grounds that it disregarded rule of law and rewarded criminal

¹¹⁰ Immigration Policy Center. *A Guide to S. 744: Understanding the 2013 Senate Immigration Bill*. Special Report. July 2013.

¹¹¹ Patrick Leahy. U.S. Congress. Senate. "The Time is Now to Consider Comprehensive Immigration Reform." Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

behaviour. They refused to compromise regarding the proposal for a pathway to citizenship. Consequently, no action has been taken on this bill since 2013, effectively rendering it dead. It can be argued therefore that ideological polarization in the House of Representatives, was responsible for this failed attempt at immigration reform. Furthermore, it can be argued that this polarization was centered on the issue of amnesty for illegal immigrants. This scenario is similar to the one experienced in the 1986 Congress where Republicans in the House were also strongly opposed to amnesty. Unlike the case of 1986 however, ultimately, House Republicans in the 113th Congress were unwilling to compromise. This too, seems to support Abramowitz's theory that over the years Congress has become more polarized, and that Republicans were mainly responsible for this polarization. Additionally, this supports Abramowitz's view that polarization in Congress makes it more difficult to compromise than in earlier years. This 2013 case study supports Abramowitz's position on this since, despite polarization, the Congresses of 1965 and 1986 were able to find common ground to pass legislation.

Friedman and Kaper argue that with Congress as divided as it has been in a century, partisanship was unpopular because it was blamed as the cause of the dysfunction in Congress. The 'gang of eight,' according to Friedman and Kaper, was popular because it was seen as an antidote to that partisan dysfunction. They say that the 'Gang of Eight' advertised the idea that the obstacle to good governance was process, not politics – that if lawmakers from both parties just talked together, they could fix things.¹¹²

Senate Judiciary Committee Chairman Patrick Leahy (D-VT.), who was managing the bill on the floor, said the Republican amendment was part of the Senate's bipartisan process to passing comprehensive immigration reform. Leahy admitted that the bill as

¹¹² Dan Friedman and Stacy Kaper. "Few Expect a Deal from Gang of Eight." *National Journal*, 2012.

amended would not have been one that he would have drafted. However, he claimed to support the amendment because he believed it would increase Republican support for the legislation. According to Leahy, the bipartisan immigration reform bill would unite families and provide a legal pathway to citizenship for millions of individuals. He also believed that it would address the nation's labour needs and provide reasonable reforms to support refugees and asylum seekers. Leahy urged Senators to come together to support the bill to fix a broken immigration system that hurts all Americans.¹¹³ While in principle Democrats and Republicans were willing to compromise to fix an immigration system that both sides agree is broken, this bipartisanship ended at amnesty. The 113th Congress, in 2013, was too ideologically divided on this issue to actually find consensus to enact legislation.

Public Opinion/Attitudes:

According to the Pew Research Center, despite the political rhetoric emanating from Washington, and press reports of an immigration deal shaping up in the US Senate in 2013, US immigration reform was not a priority for many Americans – especially some in the Republican Party. Pew Research Center states that despite the political impetus behind immigration reform, such change still faced an uphill fight with the American public; Americans were much more interested in seeing Washington strengthen the economy and cut the budget deficit. Pew contends that “this relative disinterest may accord added leverage to many Republicans who

¹¹³ Patrick Leahy. U.S. Congress. Senate. “Leahy Urges Bipartisan Compromise for Comprehensive Immigration Reform.” Congressional Documents and Publications. Washington: Federal Information & News Dispatch Inc., 2013.

remain troubled by the cultural implications of greater immigration and do not support an easier path to citizenship.”¹¹⁴

Bruce Stokes argues that immigration reform became a front burner issue in Washington during this period because in the 2012 election, 10% of American voters were Hispanics and 71% of them voted for Obama. Moreover, Stokes argues that Asian Americans, who account for only 3% of the electorate but are the most rapidly growing minority group, gave 73% of their votes to the “Democratic standard bearer.” Stokes maintains that with their party drawing an overwhelming share of its support from whites in 2012, while nearly half of the Democratic Party was comprised of ethnic minorities, Republican candidates needed to attract immigrant voters.

According to another Pew Research Center survey, seven-in-ten Americans say there should be a way for people in the United States illegally to remain in the country if they met certain requirements. But only 43% thought they should be allowed to apply for citizenship. According to Stokes, another survey showed that immigration reform was simply not a top priority for most Americans; a little over half thought the federal budget crisis was the most essential issue for the president and Congress to act on in 2013. Only 16% accorded that priority to immigration reform. The same survey found that while 70% of the public said that it was essential to pass a major deficit reduction bill in 2013, only half of the public believed it was crucial to enact major immigration legislation. Moreover, Americans disagree on the details of what should be contained in that legislation. Just a quarter say the priority should be given to creating a way for illegal immigrants already in the country to become citizens if they met certain requirements, while almost half think equal weight should be given to better border

¹¹⁴ Bruce Stokes. “Americans Divided over Immigration Reform.” Pew Research Center (2013). <http://www.pewglobal.org/2013/04/03/americans-divided-over-immigration-reform/>

security and stronger enforcement of immigration laws. Only 11% of Republicans saw a path to citizenship as the most important issue, while 43% said it was tighter border security.¹¹⁵

In a March 2013 Gallup poll which asked Americans how much they personally worry about illegal immigration, 37% of respondents indicated that they worried about it a great deal, 23% worried about it a fair amount, 26% worried about it only a little, and 14% indicated they did not worry about it at all. Similarly, in a June 2013 Gallup poll, 40% of respondents felt that immigration should be kept at its present level, 23% felt that immigration should be increased, and 35% indicated that they believed immigration should be decreased. Only 2% of respondents had no opinion. Another June 2013 Gallup Poll revealed that 5% of Americans were very satisfied with the current level of immigration into the country, 31% were somewhat satisfied, 25% somewhat dissatisfied, 31% very dissatisfied, and 8% had no opinion. Asked of those dissatisfied with the current level of immigration, whether they would like to see this level increased, decreased, or remain about the same, 5% wanted an increase, 35% wanted a decrease, 16% wanted it to remain the same, and 8% had no opinion.¹¹⁶

Another June 2013 Gallup poll revealed that 72% of Americans thought immigration was a good thing for the country, 25% thought it was a bad thing, 2% had a mixed response, and 1% had no opinion. A June 2013 Gallup poll asking what the main focus of the US government should be in dealing with the issue of immigration revealed that 41% of Americans favoured halting the flow of illegal immigrants, 55% favoured government developing a plan to deal with immigrants currently in the US illegally, and 4% had no opinion. Furthermore, when asked how

¹¹⁵ Bruce Stokes. "Americans Divided over Immigration Reform." Pew Research Center (2013). <http://www.pewglobal.org/2013/04/03/americans-divided-over-immigration-reform/>

¹¹⁶ <http://news.gallup.com/poll/1660/immigration.aspx>

important it was to them that the government take steps that year to deal with developing a plan to deal with the large number of illegal immigrants already living in the US, a June 2011 Gallup poll revealed that 43% of respondents believed this was extremely important, 38% thought it was very important, 13% said moderately important, 5% said it was not that important, and 1% had no opinion.¹¹⁷

Moreover, a June 2013 Gallup poll revealed that 83% of Americans favoured tightening security at the borders as part of legislation to address the issue of illegal immigration, 16% opposed it, and 1% had no opinion. Another June 2013 Gallup Poll revealed that 84% of adults surveyed favoured requiring business owners to check the immigration status of workers they hire as part of legislation to address the issue of illegal immigration, 16% opposed, and 1% had no opinion. Similarly, as part of legislation to address the issue of illegal immigration, 76% of adults surveyed in a June 2013 Gallup poll favoured expanding the number of short term work visas for immigrants whose job skills are needed in the US, 23% opposed it, and 1% had no opinion. Also, as part of legislation to address the issue of illegal immigration, a June 2013 survey of adults revealed that 88% of Americans favoured allowing illegal immigrants already in the country the opportunity to become U.S. citizens if they meet certain requirements over a period of time, including paying taxes and a penalty, passing a criminal background check and learning English, while 12% of Americans opposed it.

Another June 2013 survey which asked respondents which political party's policies on immigration and immigration reform come closer to their own – the Democratic party, or the Republican party - 48% of respondents said they aligned more closely with the policies of the

¹¹⁷ <http://news.gallup.com/poll/1660/immigration.aspx>

Democratic party, while 36% said they aligned more closely with the policies of the Republican party. 1% aligned with both equally, 9% aligned with neither party, and 7% had no opinion.¹¹⁸ Moreover, a 2012 survey administered by the American National Election Studies (ANES) revealed that 14% of Americans saw themselves as independent, 24% felt they were leaning independent, 28% said they felt weak partisanship, while 34% said they felt strong partisanship.¹¹⁹

This data suggests that in 2013, the American public, as Susan Martin argues, seemed ambivalent about immigration reform. On one hand, they seemed disinterested in the issue as one poll indicated that only 16% thought this issue was a priority. Moreover, although only 37% indicated that they worried about illegal immigration a great deal, 55% favoured government developing a plan to deal with illegal immigrants currently in the United States. In fact, 43% said it was extremely important that this plan be developed in 2013. These figures suggest that the American public were quite concerned with illegal immigration in 2013 (not as concerned as the 1986 public, but still significantly concerned). Furthermore, 83% of Americans favoured tightening the borders, and 84% favoured requiring business owners to check immigration status of workers as part of legislation to address the issue of illegal immigration.

Ironically, all these concerns were addressed in the ‘Gang of Eight’ plan which failed to receive support in the 2013 House of Representatives. Does this suggest a disconnect with Congress and the wishes of the American people in 2013? It does however, support Abramowitz’s theory that Republicans in Congress have become so ideologically polarized that they simply refuse to compromise, even when it may be possible to reach consensus. One can

¹¹⁸ <http://news.gallup.com/poll/1660/immigration.aspx>

¹¹⁹ The American National Election Studies. The ANES Guide to Public Opinion and Electoral Behaviour. http://electionstudies.org/nesguide/toptable/tab2a_3.htm

argue though, that it is a possibility that this ambivalence regarding immigration reform may be a factor in the ‘Gang of Eight’s’ failed reform effort; there seems to have been no pressure from the American public in 2013 to influence lawmakers’ decision. This is a different scenario from the 1965 and 1986 cases, where lawmakers were heavily pressured for reform by the people, leading to compromises which resulted in legislation.

Chapter Summary:

In 2013, lawmakers felt that the immigration system was due for an overhaul, and efforts were made to reform the system. Like in 1965 and 1986 however, there was evidence of ideological polarization. While the “Gang of Eight” initiative was supported by Democrats and some Republicans in the Senate, Republicans in the House strongly opposed it; mainly because of the inclusion of a “path to citizenship” for undocumented immigrants. Although the “Gang of Eight” framed the bill as a bipartisan effort at immigration reform to show the public that reform was possible if political parties put their differences aside, as Abramowitz contends, party loyalty had become much more powerful in contemporary America than these lawmakers realized. Moreover, Republicans opposing the proposal sharply criticized those Republicans supporting the bill, in effect calling them traitors to the party. This loyalty, both to party and ideology, was also more powerful than the bipartisan show of the “Gang of Eight.”

Interestingly, the 1986 case study revealed evidence of what seems like the emergence of a division within the Republican party on the issue of immigration. This split is also evident in the 2013 case as Republicans publicly expressed their displeasure with party members supporting the bipartisan bill. Abramowitz’s theory supports this as he argues that over the years, Republicans have been moving more and more to the ideological right. In fact, this split

seems to confirm that the more right-wing members of the Republican party were putting pressure on its more moderate members to move further right, in effect discouraging the presence of liberal Republicans, which was revealed to be present in the 1986 case study. It is also important to note that while the 89th and 113th Congresses were similar in that both revealed the presence of bipartisan groups working towards a common goal - the group of Conservatives and Southern Democrats in 1965, and the 'Gang of Eight' in 2013 - the 113th Congress in this study is unique in that it also included the presence of the Tea Party which may be a factor in the failure of the 2013 Congress to pass legislation on immigration reform.

The literature reveals that this group may have been a reaction to Barack Obama. In addition, it shows that the Tea Party faction in the House of Representatives has refused to cooperate with the Obama administration from the outset, regardless of the issue, and has resisted legislative initiatives promoted by the White House. It also revealed that Tea Party supporters are whiter, older, more male, more religious, and more Southern than Republicans who did not identify themselves as members of the movement. Moreover, Tea Party supporters are more conservative on all issues. The 2013 case study clearly shows a decrease in the number of moderates in the 113th Congress, supporting Abramowitz's argument that moderates have continued to disappear over the years.

Furthermore, scholars Parker and Barreto (2013) argue that people who are attracted to the Tea Party are reactionary conservatives – those who fear change that seems to undermine their way of life. He likens this group to the Ku Klux Klan of the 1920s and the John Birch Society of the 1950s and 1960s highlighting the most important similarity of the Tea Party and these groups as the presence of change: the displacement of the white, Christian, male-dominated, native-born American. The literature also reveals that the Tea Party's emergence

induced a conservative shift in the voting behaviour of its lawmakers who continued to maintain their stance in the 113th Congress. This extreme right-wing movement is evident in the response of more conservative Republicans to those who supported Democrats on the ‘Gang of Eight’ bill; they were seen as traitors by the more right-wing members of the Republican party.

The literature in this case study revealed that the American public seemed ambivalent about immigration reform in 2013. On one hand, they seemed disinterested in the issue with only 16% citing it as a priority, while on the other, polls carried out revealed what seemed to be interest in the issue; particularly regarding illegal immigration. A significant percentage of Americans indicated they were worried about illegal immigration and supported a government plan to address the issue in 2013. This leads to questions about whether or not ambivalence among the American people played a role in the demise of the 2013 “Gang of Eight” plan. This ambivalence certainly seems to have been reflected in the response to the plan by the public which did not put any pressure on the government to enact change, as was the case in both 1965 and 1986. In both these Congresses, legislation enacted was reflective of public sentiment.

The literature also reveals that 48% of Americans indicated that their views more closely aligned with that of the Democratic party on the issue of immigration and immigration reform, while 36% indicated that their views more closely aligned with that of the Republican party on these issues. This suggests some polarization among the American public on the issue of immigration, as purported by Abramowitz. Is it possible that Abramowitz was also right about polarization in Congress being reflective of a division among the American people?

CHAPTER V

CONCLUSION

This study reveals that partisan polarization does in fact play a significant role in the inability of lawmakers in the United States to address comprehensive immigration reform. The case studies explain that although partisan polarization has always been a factor in the lawmaking process in Congress, before 2013, this did not prevent lawmakers from working together to pass legislation. In 2013 however, polarization does seem to be a factor. It is plausible therefore, that the parties have become more polarized over the years. As Abramowitz and other scholars in the literature have posited, this polarization in Congress is the reason lawmakers have been unable to compromise on many issues, including immigration reform. The cases examined in this study, particularly the 2013 case, strongly support the argument that partisan polarization has affected lawmakers' ability to address comprehensive immigration reform in the United States today. Moreover, this study reveals that for the most part, Abramowitz's theory does provide a plausible explanation for why US lawmakers have seemingly found it impossible to enact legislation on immigration, particularly given the large number of illegal immigrants currently living in the US.

In addition, this study supports Abramowitz's position that the dramatic decline of moderates in Congress has made bipartisan compromise much more difficult than it was in the past. All three cases confirmed the presence of moderates in the Congresses under investigation; it can be argued that their presence in the Congresses of 1965 and 1986 may have played a significant role in influencing lawmakers' decisions and their willingness to compromise to enact immigration legislation. Although moderates were also present in the 2013 Senate, their presence was not significant enough to influence decision making or inspire bipartisanship in the

House of Representatives to successfully pass the ‘Gang of Eight’ bill. This however, further confirms Abramowitz’s view that the level of polarization had increased so much between the Congress of 1965 and that of 2013 that it made compromise more difficult, even though moderates – particularly in the Senate - attempted to create a situation conducive to consensus. Consequently, the study supports the view that it has become increasingly difficult for US lawmakers to compromise over the years.

Abramowitz also posits that the Republican party is more responsible for the increase in ideological polarization than the Democratic party, as it has shifted more rightward than the Democratic party has shifted leftward. This is especially supported by the 1986 and 2013 cases; in 1986 it was Republicans in the House who opposed amnesty and demanded concessions for voting for the IRCA bill. Similarly, in 2013, it was Republicans in the House who has rendered the ‘Gang of Eight’ bill a dead initiative. Even in the 1965 case, in which opposition was led by conservative Democrats, it was their conservative views that made an alignment with Republicans possible to demand that a ceiling be imposed on immigrants from the Western Hemisphere. This supports the argument that ideologically, Republicans were more polarized than Democrats, who in all three cases were seemingly more willing to compromise.

This position is further supported by the rise of the Tea Party in 2008-2009, which one can argue was in response to what was seen as a threat to the status quo for a white, male-dominated American society. This group’s presence was proven to have significantly influenced lawmakers’ positions and decisions on issues before the Congress. In fact, it can be argued that this conservative group put pressure on members of the Republican party to move further to the right, splitting the party between its more conservative Tea Party supporters, and non-Tea Party Republicans. Consequently, lawmaking decisions in the Congress of 2013 reflected a situation of

a divided Republican party putting pressure on its own members to make more right-wing decisions, as opposed to a situation of Democrats versus Republicans. This was clearly depicted in the 2013 case where members of the Republican party were berated for even considering the ‘Gang of Eight’ bill, which included a ‘path to citizenship’ for illegal immigrants. This division within the Republican party makes compromise even more elusive.

The study also reveals that public opinion was in fact an important factor in the first two case studies – 1965 and 1986. In both cases, legislation was enacted in response to pressure being put on Congress by members of the public to address the issue at hand; a discriminatory system in 1965 and large numbers of illegal immigrants in 1986. In 2013, however, the public seemed ambivalent toward the issue and there is no evidence in the literature examined that any pressure was put on the 113th Congress to make a decision regarding immigration reform. In fact, after members of the House refused to support the ‘Gang of Eight’ bill in 2013, it simply died. Based on the literature and statistical data reviewed during this study, there was no evidence to indicate that the public became more divided on the issue of immigration over time. Although there was some evidence of polarization among the American people in some opinion polls examined, their general position on the issue over time seems consistent. Furthermore, while there was some evidence to support Abramowitz’s view that the ideological divide existing between Democrats and Republicans reflects the existence of deep divisions within American society, the scope of this study did not allow extensive examination of data that could conclusively support this argument.

It was very clear from this study however, that conservatives in America – especially in Congress - remain resistant to compromise on the issue of amnesty. Whether or not these lawmakers are simply representing the more polarized views of their constituents on the issue of

immigration remains an area for future research. Nevertheless, it has proven to be a polarizing issue over the last few decades, making it clear that at least some Americans seem averse to the idea of providing a “path to citizenship” for the millions of illegal immigrants in the US. Considering this, the probability of immigration reform appears low. This does not mean however, that immigration reform is impossible. It is possible that as the face of America changes, so too will the face of Congress. That is, conservative voters become outnumbered by liberal voters, as more immigrants and children of immigrants make up not only the electorate, but Congress as well. It is possible then that there will be enough consensus to enact immigration reform. However, as long as conservatives adhere to their ideologies and vote accordingly, it will be very difficult to change immigration policy given the current political system in the United States.

Finally, I acknowledge that variables other than the ones examined in this study, such as interest groups, do have an effect on lawmakers’ ability to act in Congress. However, given the scope of this study, all possible factors could not be examined. Moreover, since this major paper relied mainly on secondary data, some information was not readily available for examination. I also acknowledge some overlapping with partisan polarization and bipartisanship as variables – in some instances, these variables were inevitably tied together. I would like to see future studies in this area focus on the relationship between immigration reform and ethnic groups to determine how perceptions of immigrants – particularly from racialized groups - affect voting patterns in the United States.

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