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Master's Thesis

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**U. S. Congress and the Failed Comprehensive
Immigration Reform: Comparative Study of
2007 and 2013 Proposals**

Master's thesis

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Declaration

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3. I fully agree to my work being used for study and scientific purposes.

In Prague on May 10, 2018

Alice Kristenová

References

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Abstract

This master's thesis focuses on the inability of the U. S. Congress to pass a comprehensive immigration reform. The main goal of the thesis is identification of key factors that prevent successful passage of this legislation. Two latest immigration reform proposals from 2007 and 2013 were selected for the research. To analyze them, process tracing was used. This method allows for better understanding of the legislative development. As an analytical framework, approach of John W. Kingdon was selected. His revised garbage can model of organizational choice applied to congressional decision making identifies three process streams that are critical for passing legislation in Congress – problem definition, policy generation and politics. Firstly, Kingdon's framework is described and then applied to the selected immigration reform proposals case studies. Emphasis is put on identification of factors that play key role in generating and passing the policy. Then, both case studies are compared to allow for more general inference. The key finding of the thesis is that the political stream is crucial to passing comprehensive immigration reform. Based on the comparative case study, political skills of leaders and political context significantly influence the ability of Congress to act on the immigration legislation. The main contribution of this thesis is identification of those factors preventing a comprehensive immigration reform from passing and also discussion of conditions that could increase the chance of successfully reforming the immigration system in the future.

Abstrakt

Tato diplomové práce se zabývá neschopností Kongresu Spojených států amerických prosadit komplexní imigrační reformu. Cílem práce je identifikace klíčových faktorů, které schválení brání. Pro výzkum byly vybrány dva poslední předložené návrhy reformy imigračního systému z let 2007 a 2013. Pro jejich analýzu byla použita metoda sledování

procesu, která umožňuje hlubší porozumění vývoje legislativy. Jako analytický rámec byl zvolen přístup Johna W. Kingdona. Ten pro účely analýzy rozhodování Kongresu upravil popelnicový model rozhodování a definoval tři proudy, které jsou klíčové pro prosazení legislativních změn – rozpoznání problémů, předložení řešení a politická situace. Diplomová práce nejdříve popisuje Kingdonův přístup k výzkumu a následně jej aplikuje na vybranou legislativu v rámci případových studií. Při výzkumu je kladen důraz na identifikaci faktorů, které hrály klíčovou roli při vytváření a úpravách obsahu imigrační reformy a při jejím následném schvalování. Obě případové studie jsou následně porovnány, což částečně umožňuje předložit obecnější závěry. Výsledným zjištěním je, že pro prosazení komplexní imigrační reformy je klíčová politická situace, především schopnosti politických lídrů, aktuální kontext doby a načasování. Hlavním přínosem této práce je identifikace faktorů, které brání schválení imigrační reformy v USA. Práce také uvádí podmínky, které by v budoucnosti mohly zvýšit šance na úspěch této legislativy.

Keywords

United States, Immigration Reform, Immigration, Congress, John W. Kingdon

Klíčová slova

Spojené státy americké, imigrační reforma, imigrace, Kongres, John W. Kingdon

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U. S. Congress and the Failed Comprehensive Immigration Reform: Comparative Study of 2007 and 2013 Proposals

Název práce

Americký Kongres a neúspěšné pokusy o komplexní imigrační reformu: srovnávací studie předložených návrhů z let 2007 a 2013

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Introduction

The United States has always been regarded as a nation of immigrants. Since the very beginning of the American history, the nation has taken pride in welcoming newcomers from all over the world and providing them with inclusive environment. Diversity has become key value of the country. Even though immigration was rather controversial topic at certain times, generally speaking, immigrants have played a crucial role in the country's development and have significantly helped to its prominent status on the global scene. However, the increasing flow of immigrants in the recent decades has proved to be rather a challenge for the nation.¹ Immigration has become one of the most prominent and divisive issues in American politics. It affects not only millions of legal and illegal immigrants in the country, but also has a significant influence on businesses and federal budget.

Since the early 20th century, U. S. government has worked towards regulation of immigration. In the 1920s, quotas have been established to limit the number of newcomers and to control their origin.² In the 1960s, the quota system was abandoned and replaced with a system favoring skilled workers and family reunion. The new immigration system better corresponded with the pro-civil rights mood at the time. However, it also started a trend of chain migration and unintentionally gave way to illegal immigration, phenomena that have become one of the most pressing challenges for the country.³ The last

¹ Nativity of the Population and Place of Birth of the Native Population: 1850 to 1990. *U. S. Census Bureau* [online]. March 9, 1999. Retrieved November 14, 2017, from <https://www.census.gov/population/www/documentation/twps0029/tab01.html>

² TINDALL, George Brown and David E. SHI. *Dějiny Spojených států amerických. 5th edition*. Translated by Alena FALTÝSKOVÁ. Praha: Nakladatelství Lidové noviny, 2008. Dějiny států. ISBN 978-80-7106-588-3.

³ KAMMER, Jerry. The Hart-Celler Immigration Act of 1965. *Center for Immigration Studies* [online]. September 30, 2015. Retrieved November 14, 2017, from <https://cis.org/Report/HartCeller-Immigration-Act-1965>

Immigration Policy Revision. *CQ Researcher* [online]. February 12, 1964. Retrieved November 14, 2017, from <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1964021200>

comprehensive immigration reform was passed in 1986 with the aim to correct the system, however it did not have the desired effect.⁴ Since then, the subsequent governments have tried to fix the system to better regulate immigration and to better reflect the needs and values of the country. Although there is a general agreement among policy makers, specialists, and general public that the system needs to be reformed, as the countless legislative efforts suggest, Congress has failed to pass a comprehensive immigration reform for over three decades.

This thesis answers the question why Congress has not been able to pass a comprehensive immigration reform. Emphasis is put on identification of factors and conditions that prevent the legislation from passing. In the comparative case study, the two latest legislative efforts will be analyzed to provide a qualitative insight into the topic – the Comprehensive Immigration Reform Act of 2007 and the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013. The selected immigration bills will allow for topical research, and at the same time provide different political contexts. This allows for a more comprehensive comparative analysis.

The proposals will be analyzed using process tracing. The three-stream approach to the analysis proposed by John W. Kingdon will be used as an analytical framework. The complex approach to the research better reflects reality of the immigration reform debate, and therefore allows for identification of divisive issues and key factors in the policy making process.

Immigration is a vastly complex issue. It is therefore inevitable to limit the scope of research to focus on answering the research question. The main goal of this thesis is to

⁴ NICHOLS, Pamela D. United States Immigration Reform and Control Act of 1986: A Critical Perspective. *Northwestern Journal of International Law & Business* [online]. 1987, Vol. 8 (2). Retrieved from <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1236&context=njilb>

identify factors that prevent a comprehensive immigration reform from passing, using the two most recent immigration reform proposals as examples.

This thesis is divided into seven chapters. In the first chapter, a brief history overview of the cornerstone immigration-related legislation is offered to provide crucial context of the immigration reform efforts. The second chapter is dedicated to a short description of ideological divide of the political parties on immigration, as that plays a significant role in the policy making process. The third chapter is dedicated to methodology of the research. A description of process tracing is followed by a detailed explanation of Kingdon's revised garbage can model and its application to congressional decision making. The three critical streams – problems, policy generation, and politics – and their implications for congressional policy making process are further developed. Chapters 4 and 5 provide detailed case studies of the Comprehensive Immigration Reform Act of 2007 and the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, respectively. In the case studies, firstly the key participants are identified. Then, their role in three policy making processes, as defined by Kingdon, is analyzed. The chapters further elaborate on what factors prevented the respective legislations from passing. In Chapter 6, the case studies are compared, allowing for more complex identification of factors that play the role in the process. The chapter also discusses what factors, based on the research, would have to be met to increase the chance of passing the legislation. The last chapter is concerned with the future of the immigration reform in the United States.

1. History of the U. S. Immigration Reform Legislation

The comprehensive immigration reform proposals introduced in the recent years are result of several decades of political discussion and development, and passed legislation. To fully understand the context of the proposals from the years 2007 and 2013, it is important to review the history of the immigration reform in the United States. This brief overview of the cornerstone legislation will help to establish the theoretical foundation for the research and will provide context for the two bills selected for this comparative case study.

1.1 The 19th and the Early 20th century

The United States is often referred to as the nation of immigrants. Immigration was crucial for further development of the country throughout the 18th and the 19th century and no restrictive policies were adopted until the 1880s. However, in the second half of the 19th century, the immigration rate started to increase significantly, as the immigrants were coming to the United States for work, or political and religious protection. By 1890, about 15 % of the U. S. population was foreign born.⁵ At the turn of the 19th and the 20th century, the federal government decided to limit the number of newcomers. First, restrictions on immigration from China were imposed, later the restrictions started to include other groups to control the number and origin of the people coming to the country. The purpose of the restrictions was to protect the labor market and a relative cultural integrity of the country.⁶

⁵ Nativity of the Population and Place of Birth of the Native Population: 1850 to 1990. *U. S. Census Bureau* [online]. March 9, 1999. Retrieved November 14, 2017, from <https://www.census.gov/population/www/documentation/twps0029/tab01.html>

⁶ Illegal Immigration. *CQ Researcher* [online]. December 10, 1976, *Vol. 2(2)*. Retrieved November 14, 2017, from <http://library.cqpress.com/cqresearcher/document.php?id=cqresre1976121000>

1.2 Johnson-Reed Act (1924)

The most important immigration legislation from the early 20th century is the 1924 Immigration Act, also known as Johnson-Reed Act, or Asian Exclusion Act. The law heavily regulated the number and origin of immigrants by imposing percentage quotas on newcomers. It linked the allowed number of newly coming immigrants from a certain country to the number of people from that country who were already living in the United States, using the 1890 census as a benchmark. The government was therefore basically selecting those, who would be allowed into the country. As a result, immigration from Western Europe was favored over the immigration from Eastern or Southern Europe, or other continents, since in 1890 the number of Western Europeans living in the United States was significantly higher than of the other groups. It was believed that immigrants of western origin would assimilate into the U. S. culture more easily. Asian immigrants were banned from coming to the country altogether. The quota system was defining the immigration policy up until 1965.⁷

1.3 Immigration and Nationality Act (1965)

In 1965, in the wake of civil rights and liberation movement, the quota system, significantly limiting access to certain groups of immigrants, was abandoned. The Democratic Congress passed the Immigration and Nationality Act of 1965, also known as the Hart-Celler Act, which established a new set of conditions for immigrants. Instead of using quotas, which were deemed racist and against American values, the new legislation favored family reunion and admitted people with needed professional skills using a merit-based system. Although, the Act was not seen as something that would

⁷ TINDALL, George Brown and David E. SHI. *Dějiny Spojených států amerických*. 5th edition. Translated by Alena FALTÝSKOVÁ. Praha: Nakladatelství Lidové noviny, 2008. Dějiny států. ISBN 978-80-7106-588-3.

change the lives of Americans significantly, it did. The reform resulted in immigration boom, with increasing immigration from areas which were limited under the quota system, such as Southern Europe, Asia or Latin America. It also started a trend of chain migration – when an immigrant became naturalized, he or she could sponsor family members to come to the United States and become citizens too.⁸

The Hart-Celler Act, although more than 50 years old, still has its legacy in today's world. It created a framework for modern immigration legislation, but also started a trend that brought millions of (often illegal) immigrants into the country, creating an issue that subsequent governments had to deal with.

1.4 Immigration Reform and Control Act (1986)

During the 1980s, the flaws of the Hart-Celler Act started to be more prominent and a major reform was called for, mainly to deal with the rising number of illegal immigrants. Although there was a general agreement within the specialist community that illegal immigration threatens the country, because the government is not able to control it and the flow of illegal immigrants puts pressure on the labor market, there was a disagreement about how to deal with the issue. Many of the legislative efforts were targeted at coping with the flood of illegal immigrants, but not at the underlying causes of such immigration. However, it is important to note that generally, government is limited in actions it can take to influence the causes of immigration. The factors motivating people to migrate are divided into two categories – push and pull factors. While the government can partially influence the pull factors such as the employment rate, crime rate, or political stability, it can rarely

⁸ KAMMER, Jerry. The Hart-Celler Immigration Act of 1965. *Center for Immigration Studies* [online]. September 30, 2015. Retrieved November 14, 2017, from <https://cis.org/Report/HartCeller-Immigration-Act-1965>

Immigration Policy Revision. *CQ Researcher* [online]. February 12, 1964. Retrieved November 14, 2017, from <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1964021200>

influence the push factors such as poverty, conflict or unstable political situation in immigrants' homeland.⁹ The push factors played a key role in the 1980s. As Prof. Charles B. Keeley pointed out, the growing economic disparity among the countries, especially in the case of the United States and Mexico, was one of the causes of growing illegal immigration to the country. Assessing the disparity would need a greater and more complex intervention, than dealing with the outcomes.¹⁰ Because of the complexity of the issue, majority of policy recommendations were focused more on stronger law enforcement, including stricter penalties for visa abusers, stricter border controls or discouragement of employers to hire illegal immigrants, rather than actually dealing with a more general reform.¹¹

The recommendations were enacted in form of the Immigration Reform and Control Act of 1986 (IRCA), which is the last *comprehensive* reform passed by the Congress.¹² The act was a result of several attempts for a reform in Congress led by the Republican Senator Alan Simpson.¹³ The bill was passed by a Republican Senate and a Democratic House, suggesting a bipartisan agreement that action needed to be taken.¹⁴ The law is divided into three parts: one dealing with illegal immigration control – through employment,

⁹ Although, deteriorating such conditions to regulate immigration would be contra-productive as it would negatively affect the U. S. citizens.

Push and pull factors of international migration: a comparative report. *Netherlands Interdisciplinary Demographic Institute* [online]. 2000. Retrieved May 1, 2018, from <https://www.nidi.nl/shared/content/output/2000/eurostat-2000-theme1-pushpull.pdf>

¹⁰ Moreover, even though the governmental can partially regulate the pull factors of immigration, it is limited in influencing the push factors that draw people into the United States.

¹¹ Illegal Immigration. *CQ Researcher* [online]. December 10, 1976, *Vol. 2(2)*. Retrieved November 14, 2017, from <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1976121000>

¹² S.1200 – Immigration Reform and Control Act of 1986. *99th Congress*. Enacted November 6, 1986. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-100/pdf/STATUTE-100-Pg3445.pdf>

¹³ The previous attempts from the years 1982 and 1984 did not pass both chambers in identical form before the Congress adjourned; the 1986 version was re-introduced as a new bill.

¹⁴ The History and Prospects for Comprehensive Immigration Reform. *FosterGlobal.com* [online]. February 15, 2016. Retrieved November 16, 2017, from <http://www.fosterglobal.com/the-history-and-prospects-for-comprehensive-immigration-reform/>

improvement of law enforcement, and verification; the second dealing with legalization of status of illegal immigrants already in the country under certain conditions;¹⁵ and the third focusing on legal immigration reform – providing legal status for certain seasonal agricultural workers who were often immigrants, and introducing a pilot visa waiver program.¹⁶ However, the legislation did not prove to be effective, as it failed to enforce the border protection and did not actually help to prevent employers from hiring illegal immigrants. Moreover, it negatively affected foreign relations with Latin America.¹⁷

1.5 The 1990s: The U. S. Commission on Immigration Reform

Since the IRCA, the proposed legislation has focused on fixing the system established by the 1965 and 1986 laws, with the aim to perfect it, but mainly to correct it. In 1990, the Immigration Act was passed with bipartisan support amending the Hart-Celler Act. It further reinforced the trend of preference system and immigration limitation by setting caps to limit number of people coming from a single country, or people admitted under a selected visa category. Also, the Diversity Visa program, also known as the green card lottery, was created. The program annually dedicates a limited amount of immigrant visa for a lottery; the selection process favors applicants from low-admission countries to promote diversity in the United States.¹⁸

¹⁵ To be eligible, immigrants had to prove they entered the country before January 1, 1982 and that they had resided in the country continuously without any criminal record. They also had to prove general knowledge of the United States, its history, and of English. For more information see S.1200 – Immigration Reform and Control Act of 1986. *99th Congress*. Enacted November 6, 1986. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-100/pdf/STATUTE-100-Pg3445.pdf>

¹⁶ S.1200 – Immigration Reform and Control Act of 1986. *99th Congress*. Enacted November 6, 1986. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-100/pdf/STATUTE-100-Pg3445.pdf>

¹⁷ For more information about the effects of IRCA, see NICHOLS, Pamela D. United States Immigration Reform and Control Act of 1986: A Critical Perspective. *Northwestern Journal of International Law & Business* [online]. 1987, Vol. 8 (2). Retrieved from <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1236&context=njilb>

¹⁸ S.358 – Immigration Act of 1990. *101st Congress*. Enacted Nov 29, 1990. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-104/pdf/STATUTE-104-Pg4978.pdf>

Moreover, under a provision of the Act, the U. S. Commission on Immigration Reform was established. The bipartisan institution was tasked to analyze the situation, define the problems, and work on policy recommendations to report back to the Congress. In its recommendations, the commission focused on three categories of problems the nation was facing, and therefore structured the immigration debate. The categories of the problems were: issues concerning illegal immigration, those concerning the status of illegal immigrants already in the country, and those concerning legal immigration. The whole purpose of the recommended policy changes was to go back to the intention of the 1965 Hart-Celler Act: to unite families, to attract skilled workers, and to admit refugees. Along these lines, the commission suggested policies enforcing stricter control of illegal immigration, securing the border, setting up barriers to illegal employment to eliminate the “pull” of jobs, and limiting legal immigration while preferring skilled workers over family members.¹⁹ However, there was not a general agreement among the immigration reform community about how far should the immigration reform go and how strict it should be in regards to the immigrants already in the country. Disputes over proposed solutions, such as implementation of National Identification Card, caused delays, and finally the Congress settled for a much softer version of the bill. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act introduced stricter rules for exclusion and deportation, sanctions, and gave more power to Border Patrol.²⁰ However, the attempts to go along the lines of the commission’s recommendations, such as denying access to illegal immigrants to public schools or health care, failed, mainly because of the growing concern of Latino voters before the 1996 elections, who would be significantly influenced and angered by the

¹⁹ U.S. Commission on Immigration Reform. *Federation for American Immigration Reform* [online]. June 2003. Retrieved November 17, 2017, from <https://fairus.org/issue/legal-immigration/us-commission-immigration-reform>

²⁰ H.R.3610 – Omnibus Consolidated Appropriations Act, 1997. *104th Congress*. Enacted September 30, 1996. Retrieved from: <https://www.gpo.gov/fdsys/pkg/PLAW-104publ208/pdf/PLAW-104publ208.pdf>

stricter provisions.²¹ Overall, not much has changed in the approach to immigration during the 1990s.

1.6 The 2000s: George W. Bush

With growing polarization in the U. S. Congress,²² the prospect of a comprehensive legislation was low. A series of singular bills was enacted, with the aim to correct the established system. In 2000 and 2001, brief discussions started on the topic between George W. Bush and Mexican president Vicente Fox. However, Bush noted that even though the agenda was important, it was a complex issue and it was going to take a while.²³ However, the possibility of discussion ended after the 9/11 attacks. Bush's focus shifted from possible expansion of guest worker program that would promote temporary legal immigration to strengthening the borders again.

Bush tried to push a comprehensive immigration reform through again after his reelection in 2004, however he could not get a bipartisan support for the bill and even faced criticism from his own party - guest worker program backed by Bush was framed as a support to illegal immigration by a fellow Republican.²⁴ During the 109th Congress, both chambers passed their version of an immigration bill (H.R.4437²⁵ and S.2611²⁶), however the

²¹ WEINER, Rachel. How immigration reform failed, over and over. *The Washington Post* [online]. January 30, 2013. Retrieved November 17, 2017, from https://www.washingtonpost.com/news/the-fix/wp/2013/01/30/how-immigration-reform-failed-over-and-over/?utm_term=.54edf548dee4

²² For more information about rising party polarization see BINDER, Sarah. Legislating in Polarized Times. DODD, Lawrence C. a Bruce I. OPPENHEIMER, ed. *Congress Reconsidered*. 11th edition. Thousand Oaks, California: CQ Press, 2016, s. 189-206. ISBN 9781506328782. or SMITH, Steven S. a Gerald GAMM. The Dynamics of Party Government in Congress. DODD, Lawrence C. a Bruce I. OPPENHEIMER, ed. *Congress Reconsidered*. 11th edition. Thousand Oaks, California: CQ Press, 2016, s. 163-188. ISBN 9781506328782.

²³ Bush, Fox to talk immigration, trade. *CNN* [online]. September 5, 2001. Retrieved November 17, 2017, from <http://www.cnn.com/2001/ALLPOLITICS/09/04/bush.fox.visit/index.html>

²⁴ WEINER, Rachel. How immigration reform failed, over and over. *The Washington Post* [online]. January 30, 2013. Retrieved November 17, 2017, from https://www.washingtonpost.com/news/the-fix/wp/2013/01/30/how-immigration-reform-failed-over-and-over/?utm_term=.54edf548dee4

²⁵ H.R.4437 - Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. *109th Congress*. Retrieved from <https://www.congress.gov/bill/109th-congress/house-bill/4437>

Congress failed to sort out the differences and the legislation was not passed. After this failure, Bush settled for enacting the Secure Fence Act of 2006, which provided for construction of fencing along the U.S.-Mexico border.²⁷

For the last time, Bush tried to introduce the immigration reform in 2007 – he reached a deal in Senate on a bipartisan bill that would create a path for millions of illegal immigrants to citizenship, provide for a guest worker program, and most importantly establish a point system that would favor skilled and educated newcomers over family members.²⁸ The Democrats, who controlled the Congress, seemed to be in favor of the proposal. However, after a heated debate, the bill was killed in the Senate using filibuster as Republicans did not agree with certain provisions, particularly the amnesty for illegal immigrants in the country.²⁹

1.7 The 2010s: Barack Obama

After the 2012 elections, Barack Obama took on the issue and tried to create a bill that would pass both chambers. He was not successful, however, even though the momentum in 2013 seemed right. A bipartisan group of Senators known as the Gang of Eight drafted an immigration bill – the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 – which was supported by Obama and went smoothly through the Democratic Senate with significant support from interest groups. It was supposed to be

²⁶ S.2611 - Comprehensive Immigration Reform Act of 2006. *109th Congress*. Retrieved from <https://www.congress.gov/bill/109th-congress/senate-bill/2611>

²⁷ H.R.6061 – Secure Fence Act of 2006. *109th Congress*. Enacted October 26, 2006. Retrieved from <https://www.congress.gov/bill/109th-congress/house-bill/6061/text>

²⁸ WEISMAN, Jonathan. Deal on Immigration Reached. *The Washington Post* [online]. May 18, 2007. Retrieved November 18, 2017, from <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/17/AR2007051700253.html>

²⁹ WEISMAN, Jonathan. Immigration Bill Dies in Senate. *The Washington Post* [online]. June 29, 2007. Retrieved November 18, 2017, from http://www.washingtonpost.com/wp-dyn/content/article/2007/06/28/AR2007062800963.html?tid=a_inl

a much needed *comprehensive* immigration reform. Nevertheless, the bill was not even debated in the House as it lacked support of the Republican-dominated chamber. The GOP was split over the proposed amnesty to millions of illegal immigrants in the country.³⁰

After the failed attempts, Obama decided to enact an executive action in 2014 to deal with critical problems of the broken immigration system in an attempt to reform it. The executive action offered temporary legal status to residing illegal immigrants under the condition they have been living in the United States for at least five years, and therefore protected them from deportation. It also expanded the Deferred Action for Childhood Arrivals (DACA), policy introduced by Obama in 2012, which offered protection to illegal immigrants who were brought to the country as minors.³¹ This immigration policy was ended by Donald Trump in September 2017, with aim to push Congress to approve an actual immigration bill to protect the DACA recipients.³²

Immigration reform is still a divisive issue even during Trump's presidency. In 2017, the Republicans introduced a new reform, the Reforming American Immigration for Strong Employment Act (the RAISE Act), which amends the Immigration and Nationality Act of 1965. Among other provisions, the reform would eliminate the diversity visa program

³⁰ CHISHTI, Muzaffar and Faye HIPSMAN. U.S. Immigration Reform Didn't Happen in 2013; Will 2014 Be the Year? *Migration Policy Institute* [online]. January 9, 2014. Retrieved November 19, 2017, from <https://www.migrationpolicy.org/article/us-immigration-reform-didnt-happen-2013-will-2014-be-year>

³¹ EHRENFREUND, Max. Your complete guide to Obama's immigration executive action. *The Washington Post* [online]. November 20, 2014. Retrieved November 19, 2017 from https://www.washingtonpost.com/news/wonk/wp/2014/11/19/your-complete-guide-to-obamas-immigration-order/?utm_term=.725dbde73a84

³² COWAN, Richard and Yeganeh TORBATI. Trump administration backpedals on citizenship for 'Dreamers'. *Reuters* [online]. October 3, 2017. Retrieved November 30, 2017, from <https://www.reuters.com/article/us-usa-immigration-senate/trump-administration-backpedals-on-citizenship-for-dreamers-idUSKCN1C82DV>

often criticized by the Republicans.³³ However, there has not been any significant progress on any immigration legislation since.

1.8 History Overview

After the review of the U. S. immigration reform history, a certain pattern can be seen. In 1965, a law was created with a good intention, but unsuccessful execution. In 1986, Congress tried to fix the newly established immigration system, but was also not successful. Since then, the government has been trying to fix the problem. It resulted in a patchwork legislation, which does not work together cohesively. The main issue is, however, that only the outcomes are targeted not the causes, as a domestic law cannot often affect the causes. Passing a more comprehensive reform would require more complex approach and a bipartisan agreement. We can see, especially since 1990s, that the growing congressional polarization hinders reaching a bipartisan agreement on immigration. More factors are coming into play, such as the growing Latino population, which influences how presidents and Congressmen approach the immigration issues. Also, the number of people who have illegal status, but reside in the United States for most of their lives, such as the DACA recipients, is growing significantly. This means that a more strict immigration reform, including deportation of illegal immigrants, would negatively affect a big and quite powerful group of people, and basically destroy their lives. Therefore, addressing these issues, such as the status of illegal immigrants in the country, that should have been resolved many years ago, will get harder.

³³ S.354 - RAISE Act. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/senate-bill/354>

US immigration proposals: What's in the Raise Act? *BBC* [online]. August 3, 2017. Retrieved November 30, 2017, from <http://www.bbc.com/news/world-us-canada-40814625>

2. Political Parties on Immigration

Immigration is one of the most divisive issues in American politics. However, the division is complex and does not follow only the ideological split of the parties. Generally speaking, even though the Democrats and the Republicans have different viewpoints, the debate is not divided only along the political lines, but it is also affected by location. In this section, a brief overview of the ideological perspective of policy makers is offered.

As mentioned above, a line can be drawn between the Republican and the Democratic stance on immigration. The Republicans tend to securitize immigration. They often point out the need to secure the border and strictly enforce the immigration laws, and highlight the threat illegal immigrants pose to the country – in terms of criminal activity, public resources exploitation, and negative effect on economy due to illegal employment. The Republicans are in favor of building a wall to secure the U. S.-Mexico border, and support further funding for authorities fighting illegal immigration. The Republican Party criticizes efforts to create a path to citizenship to illegal immigrants in the country, and prefers their deportation. Moreover, it favors limitation of legal immigration in, such as by introducing stricter requirements for asylum and refugee applicants.³⁴ In recent years, the Republicans have favored a piecemeal approach to immigration reform rather than passing a comprehensive solution, as they think the piecemeal approach would be more effective.³⁵

The Democrats acknowledge that the United States is a land of immigrants and stress the benefits the legal immigrants offer to the country. The party agrees that the border needs to be secure and the immigration laws need to be enforced more effectively. However, in the

³⁴ Government Reform – Immigration and the Rule of Law. *GOP* [online]. Retrieved March 2, 2018, from <https://gop.com/platform/reforming-government/>

³⁵ BERMAN, Russell. On immigration, House GOP leaders leaning toward piecemeal approach. *The Hill* [online]. June 3, 2013. Retrieved March 2, 2018, from <http://thehill.com/homenews/house/302963-on-immigration-house-gop-leaning-toward-piecemeal-approach>

Democratic view, the focus of the immigration enforcement should be on those immigrants with criminal record. The immigrants who live orderly lives, study or work, and have their families in the country should be protected and even offered a path to citizenship under certain conditions. The Democrats stress the need for comprehensive immigration reform which would fix the broken system.³⁶

Nevertheless, the parties are not completely coherent in their opinions about immigration. Regardless of party affiliation, the representatives of the southern states tend to be tougher on (illegal) immigration, as a series of anti-immigration laws passed by several southern states in 2011 and 2012 suggests.³⁷

It is clear that within the immigration reform debate there are issues that divide the political spectrum: path to citizenship for illegal immigrants in the country (also referred to as amnesty), the extent of law enforcement and its focus, and legal immigration regulation. The priorities of the parties and also of the individual states play a crucial role in the decision making process of the policy makers and can be traced in their voting behavior. Moreover, immigration has become much more important topic in the election campaigns. With the growing number of immigrants in the country, including the powerful Latino voting bloc, politicians' stance on immigration reform, amnesty or law enforcement can be decisive in winning or losing support of those voters.

3. Methodology

To answer the research question why Congress has been unable to pass a comprehensive immigration reform, I will analyze the two latest legislative efforts from the years 2007

³⁶ Immigration Reform. *Democrats*[online]. Retrieved March 2, 2018, from <https://www.democrats.org/issues/immigration-reform>

³⁷ LOHR, Kathy. In Southern States, Immigration Law Battle Rages On. *National Public Radio* [online]. March 28, 2012. Retrieved March 2, 2018, from <https://www.npr.org/2012/03/28/149468058/in-southern-states-immigration-law-battle-rages-on>

and 2013. Process tracing will be used as the key methodology for this qualitative comparative case study. It allows us to follow the agenda setting and legislative processes in great detail, evaluate all the actors, variables, and it helps to provide basis for causal inference.

For a detailed analysis of the decision making process, I will use the revised garbage can model of decision making proposed by John W. Kingdon in his book *Agencies, Alternatives, and Public Policies*³⁸ as an analytical framework. Kingdon's approach is very fitting for this comparative case study, as it reflects the complexity of the immigration reform policy. It allows for comprehensive tracing of the agenda setting and decision making processes, considers significant amount of variables such as actors in the process, both organizations and individuals, and takes account of the political context. The complexity of this approach then allows for better reflection of the reality. Rather than answering a question of *what* happened with regards to immigration in Congress, it helps us to understand *why* it happened or did not happen. It is helpful in indentifying what factors defined the immigration reform debate, which factors have not been met at the time, and what would possibly have to change in order for the agenda to be more successful next time.

3.1 Process Tracing

Process tracing is one of the core qualitative methods used in social sciences. As Collier put it, process tracing is defined as „an analytic tool for drawing descriptive and causal

³⁸ KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9.

inferences from diagnostic pieces of evidence - often understood as part of a temporal sequence of events or phenomena.³⁹

Alexander L. George and Andrew Bennett play a significant role in the development of this method, especially as they put emphasis on the importance of within-case analysis. In their book *Case Studies and Theory Development in the Social Sciences*,⁴⁰ they further discuss using process tracing specifically in political science. As cases are studied closely, process tracing allows for detailed description of the sequence, providing key evidence for generalization and causal inference. The identified phenomena of the individual cases then can be compared; this comparison then allows for contextualization of the studied events.

In this research, both cases – the congressional legislative efforts from the years 2007 and the 2013 – will be studied individually to gain a better understanding of the respective legislative processes using Kingdon’s approach. Causal mechanisms of both case studies will be identified and then compared. The comparison will help to define whether the immigration reform legislative discourse includes recurring divisive points or factors that prevent it from passing, or not.

3.2 Garbage Can Model of Organizational Choice

In his book *Agendas, Alternatives, and Public Policies* John W. Kingdon, a prominent American political scientist and scholar, researches the legislative process in the modern U. S. Congress, using examples of case studies mainly from the fields of health care and transportation. However, he does not concern himself with procedural matters of the

³⁹ COLLIER, David. Understanding Process Tracing. *PS: Political Science & Politics* [online]. 2011, 44(04), 823-830. Retrieved March 28, 2018, from <http://polisci.berkeley.edu/sites/default/files/people/u3827/Understanding%20Process%20Tracing.pdf>

⁴⁰ GEORGE, Alexander L. and Andrew BENNETT. *Case studies and theory development in the social sciences*. Cambridge, Mass.: MIT Press, 2005. ISBN 0-262-57222-2.

legislative process, such as how bills are passed, how they are voted on, or what is the role of the partisanship and coalition building in the process. Rather, his approach focuses on the preceding processes and asks questions such as how public policy is formed, how does it become an agenda the government attends to, what are the proposed alternatives of the agenda solution and why they were or were not considered.

Kingdon argues that for an idea to come up the agenda, a window of opportunity – *a policy window* – has to open.⁴¹ He grounds his argumentation in the revised version of the Cohen-March-Olsen garbage can model of organizational choice.⁴² According to Kingdon, common approaches to policy making analysis are insufficient – rational approach offers a comprehensive view, however does not factor the complexity and occasional irrationality of the policy making process and is impractical for the most part; incremental approach, on the other hand, describes the evolution of legislative process well, however does not cover sudden change in agenda.⁴³ Instead, the garbage can model takes into consideration the complexity and reality of the agenda setting and policy making processes. It states that decision making in organizations is not a linear process of looking for a solution to a given problem. Rather, the participants in the process metaphorically dump various problems and solutions into a garbage can as they generate them. Cohen, March and Olsen say that “the mix of garbage in a single can depends on the mix of cans available, on the labels attached to the alternative cans, on what garbage is currently being produced, and on the speed with which garbage is collected and removed from the

⁴¹ A more detailed definition of this concept is provided in the next chapter.

⁴² For detailed information about the garbage can model of organizational choice see COHEN, Michael D., James G. MARCH and Johan P. OLSEN. A Garbage Can Model of Organizational Choice. *Administrative Science Quarterly* [online]. 1972, 17(1), 1- 25. DOI: 10.2307/2392088. ISSN 00018392. Retrieved April 8, 2018, from <http://www.jstor.org/stable/2392088?origin=crossref>

⁴³ KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9. p. 19.

scene.”⁴⁴ Based on the theory, a decision is an outcome of the garbage can mix interpretation, which is influenced by several factors:

- the garbage itself – what is the significance of the problems and how feasible and appropriate the solutions are,
- the environment – what problems and solutions are present in the mix at the given time and which could therefore possibly pair, and
- the participants – who not only point out the problems and offer solutions, but also interpret the mix and connect problems with solutions and vice versa.

Therefore, it is argued that the process is not linear and rational, starting with problem definition, then providing several solution alternatives, and finally selecting the most fit solution. Rather, the process can also go in the opposite direction: looking for a problem most fit for the provided solution. This is mainly the case for commercial companies, which provide a unique solution and look for a target group that has the corresponding problem.

Kingdon revised the model and applied it to the congressional agenda setting. In the following section, the revision will be further described and explained.

3.3 Kingdon’s Revised Garbage Can Model

Kingdon argues that the only way how a greater policy change can be passed through the Congress is through an open policy window – a short-lived window of opportunity which is favorable to passing a specific agenda and which appears under specific conditions. Based on the garbage can model, Kingdon identifies three streams that need to align, all

⁴⁴ COHEN, Michael D., James G. MARCH and Johan P. OLSEN. A Garbage Can Model of Organizational Choice. *Administrative Science Quarterly* [online]. 1972, 17(1), 1- 25. DOI: 10.2307/2392088. ISSN 00018392. p. 2. Retrieved April 8, 2018, from <http://www.jstor.org/stable/2392088?origin=crossref>

appearing in the metaphorical garbage can at the same time – *problem recognition, policy proposal* and *politics*. To put it simply, for an idea to become a piece of legislation, a problem needs to be recognized, solution needs to be available and political environment needs to be favorable to the change all at the same time.

Same as Cohen, March and Olsen, Kingdon defines two key factors that play role in the process leading to a policy window opening: participants and processes. The processes further divide into three critical streams: problem recognition, policy generation, and politics. He argues that even though participants tend to specialize in one of the processes, it is not their sole area of influence and therefore the research is oftentimes complex.

3.3.1 Participants

Participants play key role in agenda setting and policy making processes. They identify and interpret problems, generate solutions and connect those problems and solutions together. Through interpretation and their personal skills, participants influence which problems will be attended to, which ideas will even come up the agenda, which solutions will be selected and which will become the alternatives.

In Kingdon's framework, the participants are divided into two sub-categories – participants *inside* government and participants *outside* of government. Among the subjects which are part of the establishment belong the following: the administration, including the president and presidential staff, civil servants, and Congress. On the other hand, media, public opinion, interest groups, academics and expert consultants, political parties, and even campaigns and elections themselves are considered as participants outside of government.

Careful study of preferably all these participants, their relationship and their role in each process helps to better understand how the agenda was brought into discussion in the first

place, and then why it was framed and stirred in a certain direction. Different actors have different views, preferences, individual and group goals and incentives – all of these factors influence what policies the participants want to incorporate into a bill or even only into a discussion. Participants' effect on the agenda is also different. While more visible participants, such as the president or prominent members of the Congress, affect the decision making processes of agenda setting more, hidden professionals and specialists in bureaucracy tend to come up with alternatives from which the authorities then choose.⁴⁵ Based on the cooperation (or non-cooperation) of the participants, some of these ideas become part of the compromise, but some of them become alternatives – and they can be either considered, or not considered at all.

Kingdon also highlights the importance of policy entrepreneurs. A policy entrepreneur is someone willing to invest their resources, such as time, energy, reputation or money, to promote a certain policy. They often advocate for the issue because it aligns with their values or it fits their personal interests. They are driven by their ideologies and goals; based on that, they prioritize a certain policy. They can define points that would be key to the reform and therefore not negotiable. They also have the power to frame the policy and to highlight certain aspects to achieve approval of the community, media and public.⁴⁶

3.3.2 Processes

Based on the garbage can model, Kingdon defines three process streams present in the system – *problems*, *policies* and *politics*. These streams are mainly independent, however under certain conditions they come together, allowing for greater policy changes – for a policy window opening.

⁴⁵ KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9. p. 19.

⁴⁶ Ibid. p. 122 – 123.

In any case study, firstly the *problem definition* needs to be analyzed. Most of the times, the problems are already present, they are just not seen as problems yet. It is up to the participants to notice them, interpret them, and draw attention to them. The problems are mainly defined through interpretation of specific indicators, which are usually based on hard data, by specialists. In some cases, however, the problems are also defined in response to a crisis or other significant event and personal experience of policy makers.

Secondly, Kingdon's framework looks into more detail of *policy generation* and what factors influence building consensus on a possible solution to a problem. Even though all three processes are important, research of policy generation feels like the most crucial. In most cases, the policy alternatives are generated by a specialist community rather than authorities. Kingdon argues that the process is influenced by the fragmentation of the policy community, and therefore policy fragmentation. In practice, participants in the policy making process, such as the federal government, local governments, or interest groups, have different viewpoints and different policy priorities. The lack of coherency in the policy proposals results in policy fragmentation. Kingdon also argues that policy entrepreneurs play a key role in the process as they mostly drive the agenda forward by introducing the initial ideas, initiating discussion with the policy communities, softening the political environment up, and keeping the issue alive over time.⁴⁷

Moreover, he addresses the criteria for a policy survival, as not all issues on the agenda turn into actual proposals worth considering. Among the key factors that influence the survival belong technical feasibility of the proposed solution, capability of implementation, and alignment of policy proposal with specialists' values.

⁴⁷ KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9.

Lastly, *political processes* are analyzed. According to Kingdon, politics is a stream quite independent from the other two, yet still very influential. By political processes he means factors connected to elections, parties, and interest group that define the political environment at a given time; such as general national policy mood, elections results, a change in administration, or in party distribution of seats in the Congress. All these results influence the bargaining and consensus building process and can make opening of the policy window possible, or impossible.

According to Kingdon's framework, all the above mentioned factors need to be identified and considered in order to determine how and under what circumstances a policy window opens. He does not provide a formula on when all the factors align, as that is individual for each case. However, he provides a research framework for analysis of the cases.

4. Comprehensive Immigration Reform Act of 2007

George W. Bush had strived for an immigration reform for most part of his two presidential terms. Nevertheless, a *comprehensive* reform was not passed during his era as foreign affairs crises and the division within his own party prevented the policy window from opening. However, Bush did get several singular pieces of immigration-related legislation through the Congress, including the Secure Fence Act of 2006. The passed legislation was rather less complex and therefore less controversial.

In 2007, Bush was very close to passing the breakthrough comprehensive reform he wished for. Bipartisan coalition of Senators supported by the president introduced S.1348 – Comprehensive Immigration Reform of 2007. However, after two months of struggle and heated debate, the bill died in the Senate after Bush's own party – the Republicans – failed to unite in support.

In this chapter, the policy proposal will be further analyzed. Firstly, the content of S. 1348 and the related bill S.1639 will be introduced. Then, the agenda setting process will be traced using Kingdon's approach: the key participants will be identified, as well as the three process streams – problems, policies and politics.

4.1 Legislation Overview

The 2007 immigration reform proposal consisted of two related bills. The first bill – S.1348 Comprehensive Immigration Reform Act of 2007 – was formally introduced on May 9, 2007. Its main sponsor was Democratic Leader of the Senate Majority Harry Reid. On May 17, a bipartisan group of senators led by Edward M. Kennedy (D-Mass.), a long time immigration reform campaigner, and Jon Kyl (R-Ariz.) announced they reached a compromise that would appeal to both sides of the political spectrum. It was also supported by president Bush. However, after almost three weeks of debate and a series of amendments, on June 7, the bill failed to move through Congress as a bipartisan opposition prevented ending the debate on the bill.⁴⁸ Sen. Kennedy tried to revive the legislation, introducing S.1639 - A bill to provide for comprehensive immigration reform and for other purposes. However, on June 28, the proposal was struck down again as the coalition failed to reach the 60 needed votes to invoke cloture and end the debate. Mostly Republican opposition effectively killed the bill in the Senate voting 46 - 53.⁴⁹

⁴⁸ S.1348 – Comprehensive Immigration Reform Act of 2007. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1348>

ROSENBLUM, Illene. Issues and Influentials in the Immigration Reform Debate. *The Washington Post* [online]. June 28, 2007. Retrieved December 1, 2017, from http://www.washingtonpost.com/wp-srv/nation/documents/immigration_primer_060807.html

⁴⁹ S.1639 – A bill to provide for comprehensive immigration reform and for other purposes. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1639>

SMITH, Donna. Senate kills Bush immigration reform bill. *Reuters* [online]. June 29, 2007. Retrieved December 1, 2017, from <https://www.reuters.com/article/us-usa-immigration/senate-kills-bush-immigration-reform-bill-idUSN2742643820070629>

Provisions introduced within the immigration overhaul were rather complex. The proposed reform was targeting three main issues. Firstly, there were provisions aiming to limit the flow of illegal immigrants to the country. The following policies were proposed: to increase the enforcement of the standing laws, to strengthen the United States-Mexico border, including building additional fencing, and to implement an integrated information system called Electronic Employment Verification System, which would collect information about immigrant workers in the United States and prevent illegal employment.

Secondly, the issue of illegal immigrants already residing in the country was targeted. The proposed reform would eventually create a path to citizenship for about 11 millions of illegal immigrants.⁵⁰ Moreover, the reform proposal included the DREAM Act which would provide a path to citizenship to college students who were brought to the country illegally as minors. The DREAM Act had already been introduced in the Congress several times before – unsuccessfully.

Lastly, the reform included legal immigration regulation. It proposed a new green card application system. It would abandon the system favoring family reunion and therefore limit the chain migration, and replace it with a merit-based point system which would favor skilled and educated workers. Guest worker program for temporary workers would be created.⁵¹

As described above, the proposed comprehensive immigration reform was complex.

Through the various provisions it tried to accommodate vast amount of interests

⁵⁰ KROGSTAD, Jens Manuel, Jeffrey S. PASSEL and D’Vera COHN. 5 facts about illegal immigration in the U.S. *Pew Research Center* [online]. April 27, 2017. Retrieved December 4, 2017, from <http://www.pewresearch.org/fact-tank/2017/04/27/5-facts-about-illegal-immigration-in-the-u-s>

⁵¹ S.1348 – Comprehensive Immigration Reform Act of 2007. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1348>

S.1639 – A bill to provide for comprehensive immigration reform and for other purposes. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1639>

throughout the political spectrum. In the following sections, the analysis of why the Congress failed to pass this reform in 2007 is offered.

4.2 Application of Kingdon's framework

4.2.1 Participants

In 2007, several participants entered the agenda setting process. The list of key actors will be provided in this section. Their effect on the process, their role in the process and their motivations in context are then further discussed in the next section.

Based on Kingdon's framework, the participants are divided into two categories – participants inside and outside the government.

Participants Inside the Government

The key participant in the process of immigration reform was the Republican president George W. Bush – he was also the main policy entrepreneur. Immigration reform had been one of his key focuses since he was elected in 2000. During his two presidential terms, he has repeatedly pushed for the comprehensive reform in the Congress. When that effort proved to be unsuccessful he settled for singular immigration bills. The centerpiece of Bush's immigration efforts during his presidency was the guest worker program. The flow of temporary immigrants would allow filling in low-skilled jobs that could not be filled by Americans, a problem business in the southern part of the country were often facing. It was also part of Bush's effort to win over historically Democratic Latino voters in the United States.⁵² The role of individual goals of politicians on also cannot be omitted.⁵³ Most

⁵² FLETCHER, Michael A. and Darryl FEARS. Bush Pushes Guest-Worker Program. *The Washington Post* [online]. November 29, 2005. Retrieved May 1, 2018, from <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/28/AR2005112800067.html>

⁵³ FENNO, Richard F. *Congress at the Grassroots: Representational Change in the South, 1970-1998*. Chapel Hill: University of North Carolina Press, 2000. ISBN 978-0-8078-4855-5.

likely, Bush saw the immigration reform as an opportunity to pass a significant domestic related agenda during his presidency, which was focused mainly on foreign affairs.

Another influential participant was president's own party – the Republicans. The GOP's ideological split at the time of the immigration reform proposal, which resulted in part of the GOP criticizing Bush and opposing the proposal, had crucial influence on the legislation struggles.

It is also worth mentioning the Democratic Senator Edward Kennedy, who has been advocating for immigration reform since joining the Senate in the 1960s.⁵⁴ Since then he has been actively involved in the immigration debate. He was the main sponsor of the Immigration Act of 1990.⁵⁵ In 2007, he was the chief Democratic architect of the proposed bills, vocally advocating for the comprehensive overhaul.⁵⁶

Participants Outside the Government

The ideological split was also seen within the normally coherent labor union groups. While the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) vocally criticized the immigration reform proposal, the Service Employees International Union (SEIU) provided significant support for the bill. The U. S. Chamber of Commerce, representing the interests of the U. S. businesses, appreciated Senate's will to take action, and especially praised the guest worker program that would help recruiting workers from

⁵⁴ HULSE, Carl. Kennedy Plea Was Last Gasp for Immigration Bill. *The New York Times* [online]. June 9, 2007. Retrived May 1, 2018, from <https://www.nytimes.com/2007/06/09/washington/09immig.html>

⁵⁵ S.358 – Immigration Act of 1990. *101st Congress*. Enacted Nov 29, 1990. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-104/pdf/STATUTE-104-Pg4978.pdf>

⁵⁶ HULSE, Carl. Kennedy Plea Was Last Gasp for Immigration Bill. *The New York Times* [online]. June 9, 2007. Retrived May 1, 2018, from <https://www.nytimes.com/2007/06/09/washington/09immig.html>

abroad for positions that are hard to fill by Americans. Moreover, it also supported the new employee verification system.⁵⁷

Latino population also played its part in the 2007 debate. Although its influence was not as significant yet, the policy makers had to address the fact that any strict measures concerning the status of immigrants in the country or limitation of immigration would result in discontent within the growing Latino electorate.

4.2.2 Processes

Problems

Interestingly, the problem definition has not changed much since the 1990s. In 2007, the problems were defined following the three categories identified by the U. S. Commission on Immigration Reform. However, their prominence and framing changed with time. According to the participants, the United States was facing the following problems:

- failure to enforce the standing legislation preventing illegal immigration
- status of illegal immigrants already in the country
- limitation of number of legal immigrants

Illegal Immigration Prevention

Probably the most prominent problem was that the system in place unintentionally gave way to illegal immigration. Even though there were policies in place to prevent it, the government was not able to enforce it. This was caused by the so-called patchwork legislation that has been passed since the 1900s. A failure to approve a comprehensive immigration reform resulted in settling for passage of singular and less controversial bills.

⁵⁷ CASTELLANI, John J. Letter on S. 1348 and Immigration Reform. *U. S. Chamber of Commerce* [online]. June 3, 2007. Retrieved May 1, 2018, from <https://www.uschamber.com/letter/letter-s-1348-and-immigration-reform>

Those bills, however, have not been coherent. Here, I will offer two examples of this incoherency of the system.

Firstly, states and institutions which have the legal power to prevent illegal immigration do not have the capacity to carry out those duties. This is a problem, which was recognized in 2006 by president Bush in his speech on immigration. He said that “the United States has not been in complete control of its borders. As a result, many who want to work in our economy have been able to sneak across our border and millions have stayed.”⁵⁸ He then called for a dramatic increase in funding of border protection, mainly to increase the number of Border Patrol agents alongside the U.S.-Mexico border, and to install more advanced technologies to enhance security.⁵⁹

Secondly, the series of singular bills passed over the decades and the differences between the state and federal laws left space for loopholes. This, for example, created a phenomenon of “sanctuary cities”. A sanctuary city is not a legal term and the precise description is lacking; however, broadly speaking, the term applies to cities or jurisdictions “that have policies in place designed to limit cooperation with or involvement in federal immigration enforcement actions.”⁶⁰ The cities do not violate the standing federal immigration laws, just interpret them more liberally, often use their right to pass local state laws, and limit their cooperation with federal authorities. For example, if a crime suspect is taken into custody and through information sharing process the federal authorities find out he or she is in the country illegally, the respective federal agency, the U. S. Immigration

⁵⁸ BUSH, George W. Speech on Immigration. Transcript provided by *The New York Times* [online]. May 15, 2006. Retrieved March 28, 2018, from https://archive.nytimes.com/www.nytimes.com/learning/students/pop/articles/15text-bush_LN.html

⁵⁹ Ibid.

⁶⁰ KOPAN, Tal. What are sanctuary cities, and can they be defunded? *CNN* [online]. March 26, 2018. Retrieved March 28, 2018, from <https://edition.cnn.com/2017/01/25/politics/sanctuary-cities-explained/index.html>

and Customs Enforcement, can ask the local enforcement to detain the suspect longer so the agency has a chance to investigate his or her immigration status. However, cities are not obliged to act upon this request, and often do not comply with it to protect the person from deportation. Since the cities just interpret the law differently, but within the boundaries, it is hard to take any legal action against this practice. Undoubtedly, however, sanctuary cities prevent authorities to carry out their duties and enforce the standing legislation effectively. At the same time, some politicians argue that sanctuary cities just protect immigrants from the effects of the broken immigration system.⁶¹

Illegal Immigrants in the Country

Illegal immigration prevention is certainly a key problem the country has been facing. However, over the decades, another problem arose as a result of the ineffective immigration system. Based on Current Population Survey estimate, there were around 11 million illegal immigrants in the United States in 2007.⁶² These people are not subject to the government's immigrant selection process, in many cases they use and exploit public resources, e.g. they have access to public schools and healthcare, and the government has no control of their number, therefore cannot effectively regulate it to protect its legal residents, e.g. to regulate foreigners' access to labor market. Moreover, over 66 % of the unauthorized immigrants reside in the United States for more than 10 years and they have built their lives in the country.⁶³ Additionally, the U. S. government loses revenue because

⁶¹ ROBBINS, Liz. De Blasio Defends New York Policies on Immigration. *The New York Times* [online]. June 28, 2017. Retrieved May 1, 2018, from <https://www.nytimes.com/2017/06/28/nyregion/bill-de-blasio-defends-new-york-policies-on-immigration.html>

⁶² CAMAROTA, Steven A. Immigrants in the United States, 2007. *Center for Immigration Studies* [online]. November 8, 2007. Retrieved December 15, 2017, from <https://cis.org/Report/Immigrants-United-States-2007>

⁶³ KROGSTAD, Jens Manuel, Jeffrey S. PASSEL and D'Vera COHN. 5 facts about illegal immigration in the U.S. *Pew Research Center* [online]. April 27, 2017. Retrieved December 15, 2017, from <http://www.pewresearch.org/fact-tank/2017/04/27/5-facts-about-illegal-immigration-in-the-u-s>

of illegal immigration, as the country expenditures on illegal immigrants are higher than the taxes they pay.⁶⁴

The status of certain groups connected to illegal immigration, especially children, has become problematic. One, there are children who were brought to the country illegally as minors. Since their parents brought them to the country, they had no influence over the decision to come to the United States. However, those people constantly face the threat of deportation. Two, there are children born in the United States to the illegal immigrant parents. As by the law, the U. S. born children automatically become citizens. The question is how to treat these families, since parents should be subjected to legal consequences, while the children have legal status, and the immigration policy in place promotes family union.

Legal Immigration Control

The reform of legal immigration system also poses many problems. The first one is chain migration. Overall, in 2007 there were about 38 million immigrants in the United States, including both legal and illegal.⁶⁵ Many of them have entered the country on the basis of being a family member of someone who had entered the U.S. legally before. Chain migration is result of the 1965 immigration reform which focused on family reunions. With the growing number of foreigners applying for legal status in the United States a question arises if the system preferring family members over other applicants benefits the country. The United States is in a position where it can choose the immigrants it will allow to the

⁶⁴ O'BRIEN, Matt and Spencer RALEY. The Fiscal Burden of Illegal Immigration on United States Taxpayers. *Federation for American Immigration Reform* [online]. September 27, 2017. Retrieved December 15, 2017, from <https://fairus.org/issue/publications-resources/fiscal-burden-illegal-immigration-united-states-taxpayers>

⁶⁵ CAMAROTA, Steven A. Immigrants in the United States, 2007. *Center for Immigration Studies* [online]. November 8, 2007. Retrieved December 15, 2017, from <https://cis.org/Report/Immigrants-United-States-2007>

country; therefore the debate is whether it should choose more wisely based on the benefits the immigrants can offer.

It is important to realize that immigration is in best interest of the United States. Government wants to control it, but it cannot stop it. Aside from appealing to American values that promote diversity, the U. S. labor market among other examples relies on immigrants, especially for low-skilled manual and seasonal work positions that are often hard to fill by American workers. Therefore, when crafting an immigration policy, the policy makers need to keep in mind that the flow of legal immigration needs to continue.

Immigration Framing

Since the problem definition has remained similar for several decades, for the purpose of application of Kingdon's framework, analysis of immigration debate framing is crucial.

In 2007, the key frame that was used by the majority of the participants was 'immigration as a security concern'. This frame was significantly supported by the Republican Party, which has been securitizing the immigration debate for a long time.⁶⁶ The reason why this frame was popular at the time suggests itself. The terrorist attacks of September 11, 2001 were still a vivid memory of not only policy makers, but also the general public. As the attackers were immigrants who had gotten through the standing immigration system without capturing attention of the authorities, the course of the immigration debate after 9/11 was stirred towards border tightening and strict enforcement. Immigration control became key element of national security and the battle against terrorism.

⁶⁶ Government Reform – Immigration and the Rule of Law. *GOP* [online]. Retrieved March 2, 2018, from <https://gop.com/platform/reforming-government/>

Moreover, immigration has not been portrayed only as a potential threat to national security. Illegal immigration was framed by many in the general and political debate, including president Bush, as a phenomenon bringing crime to local communities.⁶⁷

Although, ‘security threat’ was not the only frame used to describe immigration in 2007, it was one the key one that influenced how immigration and immigrants were perceived.

Policy Generation

In his framework, Kingdon compares the process of policy generation to the process of natural selection in what biologists call a ‘primeval soup’. He argues that the policy ideas float around the same way as molecules do, with some of them being more prominent than others. Ideas are proposed, confronted the same way molecules bump into each other, and then combined creating a completely new idea. Then they are altered based on the reaction of the specialized or general public. Only the fit survive the complex process of natural selection and prosper.⁶⁸

This process can be traced down in the case of immigration reform efforts. Many solutions were generated since 1986; and only a few of them survived the testing within the policy community involved in the immigration reform debate. They follow the problems defined in the previous part of this study.

⁶⁷ BUSH, George W. Speech on Immigration. Transcript provided by *The New York Times* [online]. May 15, 2006. Retrieved March 28, 2018, from https://archive.nytimes.com/www.nytimes.com/learning/students/pop/articles/15text-bush_LN.html

⁶⁸ KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9. p. 116 – 117.

The immigration reform bills proposed in 2007 were vastly complex and long, providing a comprehensive overhaul – S.1348 consists of 790 pages, S.1639 is 762 pages long. The legislation provided the following solutions:⁶⁹

To target *illegal* immigration issues

- stronger enforcement of border security
- stronger enforcement of the standing legislation
- implementation of Electronic Employment Verification System, an integrated information system that would collect information about immigrant workers in the U. S. to prevent illegal employment

To target illegal immigrants already in the country

- granting legal status to those who were brought to the country illegally as children and who study in the U. S. (the DREAM Act)
- creation of path to citizenship for illegal immigrants already residing in the country

To target *legal* immigration issues

- abandonment of family reunion based system to end chain migration
- introduction of merit-based point system
- establishment of guest worker program for temporary workers

The generated policies provided solutions strictly to the problems defined, as the Table 1 shows.

⁶⁹ S.1348 – Comprehensive Immigration Reform Act of 2007. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1348>

S.1639 – A bill to provide for comprehensive immigration reform and for other purposes. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1639>

Problem		Proposed policy
Illegal immigration prevention	<i>Poor enforcement of the standing laws</i>	Stronger enforcement of the standing legislation
	<i>Lack of tools to control illegal immigration</i>	Implementation of Electronic Employment Verification System
		Stronger enforcement of border security, including additional funding
Illegal immigrants in the country	<i>Status of illegal immigrants</i>	Creation of path to citizenship
	<i>Status of studying children of illegal immigrants</i>	The DREAM Act
Legal immigration control	<i>Need of seasonal workers</i>	Establishment of guest worker program for temporary workers
	<i>Chain migration</i>	Abandonment of family reunion system and introduction of merit-based point system

Table 1: Problems and proposed policies in 2007

Based on the analysis of available data, I provide the following explanation for why the policies mentioned above survived the policy selection process, why they were pursued by the policy community, and also why they were so complex.

First of all, the debate about immigration is significantly fragmented. The reform would affect many areas of the public sphere. It would influence labor market, therefore affecting businesses and unions. It would also influence border protection, refugee program, health care and education. Certainly, the reform would also have significant effect on Latino minority. Therefore, many interest groups have their stake in the final version of the reform and obviously try to lobby for the solution that would favor them the most. As Kingdon argues, community fragmentation leads to policy fragmentation. This explains the variety of proposed solutions and the complexity of the proposed reform. To illustrate that, the spectrum of proposed solutions on how to deal with the illegal immigrants already in the country can be used as an example – the alternatives vary from absolute amnesty for the

immigrants to strict deportation, both solutions favoring different interest groups within the community. Since there are many (often contradicting) interests, solution of one problem affects solution of the other. This also means that immigration reform is prone to criticism from many participants as it requires a great compromise of all participants.

The other ideas, which did not survive the selection process either because of technical feasibility or political environment at that time⁷⁰ – such as introduction of the National Identification Card or strict policies of health care and public education denial to the illegal immigrants – became alternatives to the proposed policies.⁷¹

The core of the reform in 2007 was based on the policy recommendations from the 1990s.⁷² This was possible due to the fact that the defined problems have not changed much since that time. However, that does not mean that the administration did not work on the policies at all prior to introduction of the reform bill. The 2007 immigration reform proposal differs in certain provisions and details from the original recommendations, however those details are important. The differences in proposed policy were caused by the influence of two factors – policy entrepreneurs and the debate about the alternatives.

In case of the 2007 bill, the main policy entrepreneur was the Republican president George W. Bush. As already mentioned in the history overview, Bush wanted to initiate the debate about immigration reform in 2001; however the terrorist attacks of 9/11 shifted the country's priorities.⁷³ He resumed his efforts in his second term, trying to push the reform

⁷⁰ Effect of political environment on policies is discussed further in this section.

⁷¹ WEINER, Rachel. How immigration reform failed, over and over. *The Washington Post* [online]. January 30, 2013. Retrieved January 5, 2018, from https://www.washingtonpost.com/news/the-fix/wp/2013/01/30/how-immigration-reform-failed-over-and-over/?utm_term=.54edf548dee4

⁷² For more information about the U.S. Commission on Immigration Reform's recommendation see FAIR.org. Available at: <https://fairus.org/issue/legal-immigration/us-commission-immigration-reform>

⁷³ Bush calls for relaxed immigration rules. *CNN* [online]. July 10, 2001. Retrieved January 5, 2018, from <http://www.cnn.com/2001/ALLPOLITICS/07/10/bush.newyork/index.html>

through Congress in 2005, 2006 and finally 2007. As the main initiator, Bush was able to set the priorities for the reform – he put an emphasis on the guest worker program as the key element, a priority which arose from the discussion with the Mexican president Vicente Fox and which was supposed to appeal to the Republicans.⁷⁴ However, he was well aware that the final bill needed to appeal to the various interest groups with contradicting demands. Bush, with support of the Senate Democratic Majority Leader and a sponsor of the bill Harry Reid and a group of bipartisan supporters, was trying to emphasize the need to compromise and push the agenda forward. To put pressure on his colleagues to bring them to the discussion table, Sen. Edward Kennedy (D), a cosponsor of the bill and a long time immigration reform advocate, stressed that the opportunity is there and the Congress should not try to block it: “I’ve been around here long enough to know that opportunities like this don’t come often.”⁷⁵

However, Bush faced a severe criticism from his own party, especially from the conservative wing. The conservative Republicans were able to reframe the public debate and instead of putting emphasis on the creation of guest worker program, like Bush intended, they brought attention to the de-facto amnesty for the 11 million illegal immigrants already residing in the United States. The amnesty was a very divisive issue within the party. This resulted in loss of Republican support and set off a wave of criticism for the whole bill.⁷⁶

⁷⁴ Bush, Fox to talk immigration, trade. *CNN* [online]. September 5, 2001. Retrieved December 5, 2017, from <http://www.cnn.com/2001/ALLPOLITICS/09/04/bush.fox.visit/index.html>

⁷⁵ SANDLER, Michael. Negotiators Agree on Immigration Plan. *CQ Weekly* [online]. May 21, 2007, p. 1518-19. Retrieved December 5, 2017, from <http://library.cqpress.com/cqweekly/weeklyreport110-000002515631>.

⁷⁶ BAKER, Peter. Bush Chides GOP Critics of Immigration Plan. *The Washington Post* [online]. May 30, 2007. Retrieved December 5, 2017, from <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/29/AR2007052901067.html>

The Republican split shaped the immigration debate significantly in 2007.⁷⁷ The strategy of the party was not coherent, with conservatives against the bill and moderate Republicans for the bill. This division also reflected the interests of those the GOP represented. The split about the mentioned guest worker program is a good example. It was supported by the finance and business wing of the GOP that was favoring cheap labor force which under the provision of the new reform would be allowed to the country. The southern members of the party were however more inclined to build a fence on the United States-Mexico border and to enforce the border security.⁷⁸ Simon Rosenberg, the New Democratic Network president, summed up the situation as “a debate between the strategists who want to win and a part of their base that is extremely xenophobic”.⁷⁹ The lack of agreement hurt not only the bill, but also the party which split based on conservative and centric stance.

There was also a split among usually very coherent interest groups like unions, which was caused by the proposed policy. AFL-CIO, traditionally Democratic leaning group, opposed the bipartisan bill, saying that the guest worker would only lead to worker exploitation, worse working conditions for everyone, and that it would encourage employers to pay less. On the other side, Service Employees International Union which has many immigrants among its members – praised that the program would allow immigrant workers to unionize and apply for citizenship. It would also allow business to be more responsive to economy

⁷⁷ The broader influence of the GOP split in 2007 will be discussed in the chapter about politics.

⁷⁸ SWARNS, Rachel L. Republican Split on Immigration Reflects Nation's Struggle. *The New York Times* [online]. March 29, 2006. Retrieved May 1, 2018, from <https://www.nytimes.com/2006/03/29/us/republican-split-on-immigration-reflects-nations-struggle.html>

Voting pattern of Senators on S.1348. Retrieved from https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00206

⁷⁹ SCHALLER, Thomas F. Is Rush Limbaugh Right? *Salon* [online]. May 23, 2007. Retrieved December 6, 2017, from https://www.salon.com/2007/05/23/immigration_20/

with more flexible workforce; this aspect was also supported by the U. S. Chamber of Commerce.⁸⁰

For the Democrats, the main divisive issue in the immigration reform proposal was the guest worker program. They criticized the fact that the program does not offer a clear path to citizenship. This criticism was also echoed by Latino advocacy groups. Several Democrats, as well as some Republicans, were not in favor of the extent of the program and demanded a limitation of the number of permitted guest worker visa holders.⁸¹

The significantly divided debate modified the 1990s recommendations, which were the core of 2007 bill, so the new policy would accommodate all the interests. For example, the guest worker program was approved, however significantly limited. As a response to the Democratic criticism of the program, an amendment proposed by a New Mexico Democrat Jeff Bingaman, which lowered the cap of annually issued worker visas from 400,000 to 200,000, was adopted.⁸² Eventually, the program was agreed to end after 5 years.⁸³ Also, any legalization of residing illegal immigrants was tied to securing the border first, a provision that was targeted to win over South Republican votes.

As the analysis proves, the final version of immigration reform proposal had been developing prior to the introduction of the bills in the Senate, but also during the congressional debate about the legislation. The policy making process was dynamic.

⁸⁰ WILLIAMS, Krissah. Unions Split On Immigrant Workers. *The Washington Post* [online]. January 27, 2007. Retrieved December 6, 2017, from <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/26/AR2007012601635.html>

⁸¹ SANDLER, Michael. Immigration Overhaul Gains Ground in Senate. *CQ Weekly* [online]. May 28, 2007, p. 1604-5. Retrieved December 7, 2017, from <http://library.cqpress.com/cqweekly/weeklyreport110-000002520629>

⁸² Ibid.

⁸³ SANDLER Michael. Reid Pulls Immigration Overhaul. *CQ Weekly* [online]. June 11, 2007, p. 1746-47. Retrieved December 7, 2017, from <http://library.cqpress.com/cqweekly/weeklyreport110-000002528407>

The debate was heavily influenced by the participants, who were lobbying for their version of the key provisions.

Politics

Political environment greatly affects the process of policy generation and even more the process of its consideration and its passage. Kingdon states that the political stream comprises of public mood at certain time, election results, partisan and ideological distribution in the Congress, and the changes in administration.⁸⁴

Public opinion is a useful indicator of national mood; especially considering the fact that many policy makers look at the public opinion polls and consider the national mood during their decision making process. In the end – as Richard Fenno put it – the main goal of majority of politicians is to get reelected, and to reach that goal, they need public support.⁸⁵

In 2006, a year prior to the introduction of the immigration reform proposal, the national mood was favorable to immigration overhaul. General public deemed immigration to be one the most important problems facing the country. However, despite the framing of immigration as a security concern, two out of three Americans thought that immigration was good for the country. This number has been on the rise since the 2002, when the perception of immigration was at the lowest since the 9/11 attacks. Moreover, the opinion that the immigration should be kept at current level, without any increase or decline, was getting more popular. Interestingly, Americans also favored allowing the illegal immigrants already in the country to gain citizenship over deportation. Lastly, the public was almost equally split on identification the immigration priorities – about 52 % would

⁸⁴ KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9. p. 145.

⁸⁵ FENNO, Richard F. *Congress at the Grassroots: Representational Change in the South, 1970-1998*. Chapel Hill: University of North Carolina Press, 2000. ISBN 978-0-8078-4855-5.

focus on halting the flow of illegal immigrants, while about 43 % would prefer the government to focus on dealing with immigrants already in the country.⁸⁶

Certainly, parallels between the national opinion about immigration and the policy proposed by the legislators can be drawn. This only supports the argument that national mood plays a key role in the decision making and agenda setting processes.

As already mentioned, the national mood was in favor of immigration reform in 2007. However, the political development at that time and the rising party polarization was playing an important negative role in the process.

Bush's efforts in 2007 followed the unsuccessful immigration overhaul attempts in the previous years. After the midterm elections in 2006, there was House with a Democratic majority, Senate with equal number of Republicans and Democrats, two independents caucusing with the Democrats, and Democratic majority leader Harry Reid, and Republican president George W. Bush. The government was divided and party polarization was rising, making it harder for the Congress to reach a compromise.⁸⁷ Bush was working across party lines with the Democrats on the new immigration legislation, nevertheless the fact that the Democrats did not have a simple strong majority in the Senate proved to be crucial.

It was not only party polarization which prevented the compromise. Moreover, the Republicans were experiencing division within the party, as the conservative wing of the

⁸⁶ JONES, Jeffrey M. American's Views of Immigration Growing More Positive. *Gallup News* [online]. July 10, 2006. Retrieved December 7, 2017, from <http://news.gallup.com/poll/23623/americans-views-immigration-growing-more-positive.aspx>

⁸⁷ For more information about rising party polarization see BINDER, Sarah. Legislating in Polarized Times. DODD, Lawrence C. a Bruce I. OPPENHEIMER, ed. *Congress Reconsidered*. 11th edition. Thousand Oaks, California: CQ Press, 2016, s. 189-206. ISBN 9781506328782. or SMITH, Steven S. a Gerald GAMM. The Dynamics of Party Government in Congress. DODD, Lawrence C. a Bruce I. OPPENHEIMER, ed. *Congress Reconsidered*. 11th edition. Thousand Oaks, California: CQ Press, 2016, s. 163-188. ISBN 9781506328782.

GOP was vocally criticizing the president and denied any compromise. The division was also seen among general public – Republicans were divided almost 50/50 as to whether the government should rather enforce the standing immigration laws or pass a new reform.⁸⁸ The split indicates that the Republican Party had trouble agreeing on the right solution, and was sending mixed messages to their voters, which resulted in disagreement about the Bush’s proposal. As the immigration reform proposal was modified to accommodate all the interests of the fragmented GOP and the Democrats, it took a shape that was acceptable neither to conservative Republicans nor liberal Democrats. This effectively prevented proceeding on the bill in the Senate, where it died.

In addition, with the approaching presidential elections in 2008, both political parties had to focus on winning the important Latino electorate. Latinos were crucial voting bloc especially for the Democrats. However, as the Latino electorate was growing, their voters started to be important also for the GOP. Nevertheless, the policies proposed by the GOP and incorporated into the bill, including the limitation of guest worker program, were not in line with the Latino interests and faced, or would potentially face, criticism from the voting bloc. The bill lacked sufficient support even among other interest groups such as the labor unions.

4.3 Overview of the 2007 Immigration Reform Proposal

In 2007, the Congress was close to passage of the immigration reform. However, the three critical streams did not align and the policy window as defined by John Kingdon failed to open. Based on the provided analysis, it was caused by a combination of an insufficient policy and unfavorable political environment. Even though public was in favor of the bill,

⁸⁸ CARROLL, Joseph. Americans Divided on Need for New Immigration Laws. *Gallup News* [online]. July 16, 2007. Retrieved December 9, 2017, from <http://news.gallup.com/poll/28135/americans-divided-need-new-immigration-laws.aspx>

in Congress, Bush's reform was met with more criticism than support as it failed to incorporate many of fragmented policy community's interests. Moreover, the reform was hurt by the political environment at the time – rising party polarization affected the bill as well as the GOP intraparty division. Bush faced severe criticism from his own party, which significantly influenced the progress of the immigration bill through Congress. In addition, the 2008 presidential elections were approaching and the Republicans needed to win over the growing Latino electorate. Unfortunately for Bush, he was not able to frame the policy debate in a way which would assure the Latino voters that the immigration reform would effectively change their lives for better. In the end, the bill was not able to pass through Senate as it lacked sufficient support on both sides of the political spectrum; the final altered version was too mild for the conservatives and too harsh for the liberals.

5. Border Security, Economic Opportunity, and Immigration Modernization Act of 2013

Barack Obama made immigration reform one of his top priorities after his election in 2008. However, as economic stability and foreign policy gained more prominence during his first term as president, he was able to focus on the comprehensive immigration policy only after his reelection in 2012.

In this chapter, the 2013 immigration reform proposal which was introduced as the bill S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act will be analyzed. Firstly, the content of S.744 is introduced, then the key participants will be identified. Lastly, the processes will be traced using Kingdon's framework; the analysis of three critical process streams – problems, policies and politics – will be offered.

5.1 Legislation Overview

The 2013 immigration reform proposal was introduced on April 16, 2013 as S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act in the Senate. The sponsor, Democratic Senator Charles E. Schumer, was joined by group of seven bipartisan co-sponsors. This group of Senators – four Republicans and four Democrats – was referred to as the “Gang of Eight”. Unlike the bills in 2007, S.744 was referred to several committees including the Committee on Judiciary and Committee on Small Business and Entrepreneurship.⁸⁹ This move allowed members of the Senate and the respective lobby groups to debate the proposal more thoroughly and offer amendments.

After weeks of consideration of the amendments and comments, including the effect the bill would have on the national budget, the Border Security, Economic Opportunity, and Immigration Modernization Act was passed by the Senate on June 27, 2013 by a 68 – 32 vote. The Democratic majority was joined by 14 Republicans, creating a bipartisan coalition which was strong enough to invoke cloture during the debate and to end filibustering attempts. Nevertheless, the Republican House did not consider the bill and wanted to work on its own immigration reform proposal. However, in summer the House priorities shifted from the immigration reform to passing appropriations, and eventually the immigration reform died in the 113th Congress.⁹⁰

After the failure of the immigration reform, Obama enacted an executive action in 2014 to solve the most pressing issues. The executive action expanded the 2012 Deferred Action

⁸⁹ S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

⁹⁰ Ibid.

CHISHTI, Muzaffar and Faye HIPSMAN. U.S. Immigration Reform Didn't Happen in 2013; Will 2014 Be the Year? *Migration Policy Institute* [online]. January 9, 2014. Retrieved March 24, 2018, from <https://www.migrationpolicy.org/article/us-immigration-reform-didnt-happen-2013-will-2014-be-year>

for Childhood Arrivals (DACA), which allowed illegal immigrants who were brought to the country as minors to apply for deportation deferral. Similar deferral was provided to illegal immigrants who had been permanent residents for at least five years and to parents of U. S. citizens. Obama's executive action was met with severe criticism pointing out a potential presidential power abuse. The Republicans have continuously criticized that Obama's behavior regarding executive order is unconstitutional and does not respect the separation of powers and the legislative power of the Congress.⁹¹ Nevertheless, the immigration executive orders reduced the threat of deportation many of the 11 million illegal immigrants had been facing.⁹²

Similarly to the 2007 proposal, the 2013 immigration reform included provision to target three categories of issues. Firstly, to prevent illegal immigration, additional funding and manpower would have been appropriated to Border Patrol to protect the U.S.-Mexico border. Secondly, under certain circumstances, a pathway to legal status and eventually citizenship would have opened to illegal immigrants already in the country. The DREAM Act was also included in the proposal. Lastly, the old system of legal immigration regulation would have been replaced with a new merit-based point system and the controversial Diversity Visa Lottery program would have been repealed. The guest worker program was also part of the proposed reform; moreover other categories of non-immigrants visas would have been introduced under the provision of the bill.⁹³

⁹¹ KANE, Paul. Boehner to sue Obama over executive orders. *The Washington Post* [online]. June 25, 2014. Retrieved May 1, 2018, from <https://www.washingtonpost.com/news/post-politics/wp/2014/06/25/boehner-to-sue-obama-over-executive-orders/>

⁹² EHRENFREUND, Max. Your complete guide to Obama's immigration executive action. *The Washington Post* [online]. November 20, 2014. Retrieved February 20, 2018, from https://www.washingtonpost.com/news/wonk/wp/2014/11/19/your-complete-guide-to-obamas-immigration-order/?utm_term=.a7970f1ef13d

⁹³ S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

In the following chapter, the 2013 immigration reform proposal will be further analyzed using Kingdon's framework and the key factors that prevented the overhaul from passing will be identified.

5.2 Application of Kingdon's Framework

5.2.1 Participants

The process of the immigration reform policy generation in 2013 had more significant participants than the process in 2007. Based on Kingdon's framework, the list of key participants will be provided in this section, divided into two categories – participant inside and outside the government. Then, the participants will be put into context of the process in the next chapter.

Participants Inside the Government

President Obama was one of the main actors in the process. In 2008, Obama set comprehensive immigration reform as his top priority and promised to tackle the issue during his first presidential term.⁹⁴ However, he failed to keep the promise as the country faced other problems at that time. The United States had been involved in two wars in the Middle East, it had also faced devastating economic recession. Moreover, in Congress Obama had to turn his attention and energy to Obamacare as the health care reform had been facing severe backlash. In short, there was no space for comprehensive immigration reform in the agenda during Obama's first term.

However, during the second term, Obama returned to the issue and put it back on the agenda as one of his main focus. He was one of the key instigators of the debate during the

⁹⁴ OBAMA, Barack. Speech on Immigration. 2008. Retrieved February 20, 2018, from <https://www.youtube.com/watch?v=yUWJHmRjJy0>

process. Obama's determination to tackle the reform was also demonstrated by his statement that he would propose his own immigration bill if Congress failed to act.⁹⁵ His main motivation for the reform was the need to appeal to the Latino voters, especially during his presidential campaign.⁹⁶ Also, Obama was most likely driven by his individual goal to make a good public policy.⁹⁷ The successful passage of the reform would certainly bring Obama extra individual points.

The bipartisan coalition sponsoring the bill in the Senate was no less important to the process. Republicans Marco Rubio, Jeff Flake, John McCain, Lindsey Graham and Democrats Dick Durbin, Robert Menendez, Chuck Schumer and Michael Bennet were the drafters and also the key policy entrepreneurs of the reform. All of them were a long time immigration reform advocates, who sensed a chance at a successful passage of the proposal.⁹⁸ The group, also known as the Gang of Eight, was vital to pushing the proposal through the Senate and gaining support for the bill on both sides of the political spectrum, as the policy making process analyzed in the next sections suggests.

Participants Outside the Government

Participants outside the government played a vital role to decision making in 2013. Their influence was far more significant than in 2007.

⁹⁵ LOTHIAN, Dan, Jessica YELLIN and Tom COHEN. 'Now's the time' to move on immigration, Obama says. *CNN* [online]. January 30, 2013. Retrieved February 20, 2018, from <http://www.cnn.com/2013/01/29/politics/immigration-reform/index.html>

⁹⁶ McCARTHY, Tom. The evolution of immigration reform under Obama – a timeline. *The Guardian* [online]. November 20, 2014. Retrieved May 1, 2018, from <https://www.theguardian.com/us-news/2014/nov/20/immigration-reform-under-obama-timeline>

⁹⁷ For more information about individual goals motivating policy makers' behavior see FENNO, Richard F. *Congress at the Grassroots: Representational Change in the South, 1970-1998*. Chapel Hill: University of North Carolina Press, 2000. ISBN 978-0-8078-4855-5.

⁹⁸ For more information about the group see WEINER, Rachel. Immigration's Gang of 8: Who are they? *The Washington Post* [online]. January 28, 2013. Retrieved March 2, 2018, from https://www.washingtonpost.com/news/the-fix/wp/2013/01/28/immigrations-gang-of-8-who-are-they/?utm_term=.09c05f4e9390

Interest groups and business lobby played a crucial role in the immigration reform debate, as many of them has major stake in the final version of the bill. Companies like Microsoft and non-profit organizations have spent millions of dollar to lobby the Congress either in favor of the reform, or against it.⁹⁹ Moreover, even the public became involved in the debate, as the Republican reluctance to act on the reform caused backlash and encouraged protests.¹⁰⁰

Similarly to 2007, the growing Latino population affected behavior of actors on both sides of the political spectrum. With the approaching midterm elections, Democrats could not afford to lose the support of their key electorate, while the Republicans wanted to win their share of this voting bloc over for themselves.

5.2.2 Processes

Problems

Interestingly, in the immigration debate the definition of problems in 2013 was strikingly similar to the definition generated in 2007. Previously, this study mentioned that the broader categories of issues the country has been facing concerning immigration have not changed much since the 1990s. As the Comprehensive Immigration Reform Act was not passed in 2007 to solve them, the problems have remained on the table up until 2013. It is therefore needless to go through the three categories of problems again. Instead, this section will focus on the role of context and framing of the immigration debate.

⁹⁹ OLSEN-PHILLIPS, Peter. Special Interests Battle Over Immigration Reform. *OpenSecrets.org* [online]. March 4, 2013. Retrieved March 24, 2018, from <https://www.opensecrets.org/news/2013/03/special-interests-weigh-in-on-immig/>

¹⁰⁰ PRESTON, Julia. 8 Lawmakers Arrested at Immigration Protest. *The New York Times* [online]. October 8, 2013. Retrieved March 24, 2018, from <http://www.nytimes.com/2013/10/09/us/8-lawmakers-arrested-at-immigration-protest.html>

The growing Latino population in the United States influenced the prominence of the guest worker program and the status of illegal immigrants already in the country in the political debate. In 2010, there were about 51 million Latinos in the country and the number was growing steadily.¹⁰¹ Since we can presume that many of those people had come to the country as immigrants themselves, or knew someone who did, maybe even illegally, the immigration system has become one of their top concerns. Moreover, as the Democratic president and the Senate were relying heavily on the Latino electorate, Latino concerns gained higher priority within the agenda. The guest worker program for seasonal workers and the status of illegal immigrants already in the country and their children became the key issues in the political debate in 2013.

Immigration Framing

The framing of immigration as a national security threat had persisted until 2013. In the bill, the following explanation was offered:

“As a Nation, we have the right and responsibility to make our borders safe, to establish clear and just rules for seeking citizenship, to control the flow of legal immigration, and to eliminate illegal immigration, which in some cases has become a threat to our national security.”¹⁰²

However, even though securing the U. S.-Mexico border was still one of the core issues, other problems, such as the economic prosperity of the country or the ever pressing problem of status of illegal immigrants in the country, became prominent. The debate was

¹⁰¹ FLORES, Antonio. How the U.S. Hispanic population is changing. *Pew Research Center* [online]. September 18, 2017. Retrieved February 20, 2018, from <http://www.pewresearch.org/fact-tank/2017/09/18/how-the-u-s-hispanic-population-is-changing/>

¹⁰² S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

framed in context of economic benefits, humanity, and “finally taking action”. The frame of the immigration reform corresponded with the prioritized issues, highlighted the importance of legal immigration for the U. S. economy and offered a very liberal, yet realistic approach to dealing with the immigrants already in the country. The frame is clearly visible in the policies that were generated by the policy community.

Policy Generation

The 2013 immigration reform proposal was even more complex and detailed than the legislation proposed in 2007 – one indicator could be the length of the proposal which was 1 198 pages; that is about 400 pages longer than the first 2007 immigration bill.¹⁰³ Another indicator of the complexity is the amount of proposed solutions to target the defined problems. For the purpose of this research, the main provisions are divided into three categories based on the type of issues they target. The following policies were offered in 2013:¹⁰⁴

To target *illegal* immigration issues

- stronger enforcement of border security, including usage of advanced technologies
- expansion of the E-Verify system that would help to prevent employers to hire illegal immigrants and help enforce the standing legislation

To target illegal immigrants already in the country

- granting legal status to those who were brought to the country illegally as children and who study in the U. S. (the DREAM Act)

¹⁰³ S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

¹⁰⁴ Ibid.

- creation of path to citizenship for illegal immigrants already residing in the country under certain conditions

To target *legal* immigration issues

- abandonment of family reunion based system to end chain migration
- introduction of merit-based point system
- establishment of guest worker program for temporary workers
- broadening and restructuring of the non-immigrants visa categories

Again, the process of generating policies was rather linear and the policies offered solutions exactly to the defined problems (Table 2).

Problem		Proposed policy
Illegal immigration prevention	<i>Poor enforcement of the standing laws</i>	Stronger enforcement of the standing legislation
	<i>Lack of tools to control illegal immigration</i>	Required use of E-Verify and significant enhancements to the system
		Additional advanced technologies to protect the border
Illegal immigrants in the country	<i>Status of illegal immigrants</i>	Creation of path to citizenship under certain conditions
	<i>Status of studying children of illegal immigrants</i>	The DREAM Act
Legal immigration control	<i>Need of seasonal workers</i>	Broadening the categories of non-immigrant visas
		Establishment of guest worker program for temporary workers
	<i>Chain migration</i>	Abandonment of family reunion system and introduction of merit-based point system

Table 2: Problems and proposed policies in 2013

As the list and the Table 2 above suggest, the policy that survived the political debate in 2013 was very similar to the proposals in 2007. However, since the immigration reform was complex, policy entrepreneurs had a major stake in attending to the key issues of the

debate. They had to generate the policies accordingly, yet incorporate many interests to gain support for the bill on both sides of the political spectrum.

One of the most prominent policy entrepreneurs was the Democratic President Barack Obama. As mentioned earlier, after his reelection he set the immigration reform as one of his top priorities, partly as a response to the pressure of the growing Latino electorate which demanded change. Influenced by that, Obama brought attention to creating a path to citizenship for illegal residents, making it one of the key elements of the proposed reform.

A bipartisan group of Senators known as the Gang of Eight was also key to the process.¹⁰⁵ During the debate and policy generation, the group played a crucial role. The Senators were able to keep the bill intact while debating and incorporating constructive inputs from the participants, protecting it from amendments that would disrupt the compromise, as the following sections suggest.

Illegal Immigration Prevention

In the light of the failure of the 2007 bill, the new policy had to be altered to better accommodate all the interests. One of the key complains of the opposing Republicans was that the standing immigration laws were not broken, they were just not enforced, and that especially the southern border has to be more secure.¹⁰⁶

As a response to the comment about ineffective enforcement, the reform expanded a system called E-Verify that would verify immigrants' status before they would be hired to

¹⁰⁵ For more information about the group see WEINER, Rachel. Immigration's Gang of 8: Who are they? *The Washington Post* [online]. January 28, 2013. Retrieved March 2, 2018, from https://www.washingtonpost.com/news/the-fix/wp/2013/01/28/immigrations-gang-of-8-who-are-they/?utm_term=.09c05f4e9390

¹⁰⁶ LOTHIAN, Dan, Jessica YELLIN and Tom COHEN. 'Now's the time' to move on immigration, Obama says. *CNN* [online]. January 30, 2013. Retrieved March 2, 2018, from <http://www.cnn.com/2013/01/29/politics/immigration-reform/index.html>

ensure they are eligible to work in the United States. E-Verify was already used in the country, established in 1997, but it has been a voluntary program.¹⁰⁷ However, under the provision of the reform, its use by the employers would be mandatory.¹⁰⁸

The reform would also authorize funding for border protection to be appropriated; an amendment was passed to further extend the funding to provide for more border patrol agents and high-tech equipment.¹⁰⁹

Status of Immigrants Already in the Country

A pathway for illegal immigrants already in the country was also incorporated into the bill. However, considering the 2007 failure of the proposal, stricter conditions would apply, including fines and obligations to pay the taxes for the years spent in the U. S. illegally.¹¹⁰ This step was incorporated into the bill to appeal to the Republicans. The DREAM Act granting children of illegal immigrants who are studying in the United States was also included in the bill. Its form was almost not changed since the last proposal.¹¹¹

Legal Immigration Regulation

The guest worker program remained part of the proposed policy; however more categories of visas were added, including the Blue Card, to address immigrant agricultural workers who were vital to U.S. economy.¹¹²

¹⁰⁷ BRUNO, Andorra. Electronic Employment Eligibility Verification. *Congressional Research Service* [online]. March 19, 2013. Retrieved May 1, 2018, from <https://fas.org/sgp/crs/misc/R40446.pdf>

¹⁰⁸ S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² For more information about the categories see S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

However, the introduction of new temporary visa categories was one of the divisive issues in the debate and some of the Republicans, including Senator Jeff Sessions (R-Alabama) opposed it. According to him, the variety of temporary non-immigrant visas would permit larger number of people to legally come to the United States. He argued that once people are permitted to enter based on a temporary visa, they are most likely to overstay the visa. Enhanced border protection would then not have the capacity to deal with the immigrants already in the country.¹¹³

The immigration reform proposal also repealed the diversity visa program and the family reunion favoring system, under which legal immigrants already in the U. S. could sponsor their family members to come to the country. This would be replaced by a merit-based point system favoring skilled and educated immigrants.¹¹⁴ This provision would significantly limit the problematic chain migration. The provision was one of the divisive issues, as the Democrats were in favor of family reunion, and the Republicans in opposition, favoring the point system that would better reflect needs of employers. The merit-base point system was already part of the 2007 proposal.¹¹⁵

Politics

The political situation in 2013 was rather different than in 2007, which also resulted in slightly different outcome of the policy making process. First, the national mood will be briefly assessed, followed by analysis of political environment.

¹¹³ SESSIONS, Jeff during debate on S.744. *Congressional Record* [online]. June 21, 2013. Retrieved March 7, 2018, from <https://www.congress.gov/amendment/113th-congress/senate-amendment/1183/text?q=%7B%22search%22%3A%5B%22s.744%22%5D%7D>

¹¹⁴ S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

¹¹⁵ S.1348 – Comprehensive Immigration Reform Act of 2007. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1348>

S.1639 – A bill to provide for comprehensive immigration reform and for other purposes. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1639>

The national mood was rather favorable of immigration in 2012, a year prior to the introduction of the reform bill. Even though only 2 % of Americans deemed immigration the most important issue facing the country, their views on immigration became rather liberal. They would prefer if the government focused on finding a solution for the millions of illegal immigrants already in the country rather than to focus on the halt of illegal immigration. Moreover, the opinion that the immigration should increase was on the rise. Even though only 21 % favored increase in immigration, while majority of the nation would decrease it or keep immigration at a present level, it is the highest number in favor of increased immigration Gallup has measured since 1987. This could be a result of the fact that after the previous failed attempts at immigration reform, the focus of the nation was shifted towards issues of economy and foreign affairs, and immigration became less prominent and therefore less politically urgent.¹¹⁶

The situation within the government was different from the situation in 2007. The government was divided with a Republican House, Democratic Senate and the Democratic president Obama. In the Senate, the Democrats held 53 seats after the 2012 elections. Even when the two Senate independents were regularly caucusing with the Democrats, the party was short of the 60 votes to prevent filibuster. Nevertheless, this fact was rather insignificant, as the bill had bipartisan support of 68 Senators in the end. On the other hand, after the 2012 elections, Republicans gained majority in the House. The lack of agreement in the lower chamber proved to be one of the one of the causes of the bill's failure.

Since the reform originated in the Senate, the bipartisan bill had no trouble passing through the chamber, where the president's party had a majority. However, it was blocked in the

¹¹⁶ JONES, Jeffrey M. Americans More Positive About Immigration. *Gallup News* [online]. June 16, 2012. Retrieved March 24, 2018, from <http://news.gallup.com/poll/155210/americans-positive-immigration.aspx>

House. The Republicans did not agree with certain provisions, particularly with providing illegal immigrants in the country with a path to citizenship, and decided to craft their own single House bill targeting immigration issues.¹¹⁷ Potentially, the differences between the bills would have been resolved in a conference. However, it is not clear whether the conference would agree on a version of the bill that would be acceptable to both chambers.

Moreover, the House Republicans, including Bob Goodlatte, the GOP's key man on immigration and the chairman of the House Judiciary Committee, started to vocally advocate for a piecemeal approach to legislation, rather than crafting a comprehensive reform.¹¹⁸ Since both chambers were willing to tackle the immigration reform, there was hope that the differences between chambers would have been resolved in the conference.¹¹⁹

However, the House was working on their proposals through the summer of 2013 and after the August recess, the priorities of the chamber changed. The deadline for passing appropriations or a continuing resolution, possible government shutdown, and the debt ceiling discussions were coming closer and the GOP leaders concluded that there was not enough time and a favorable political environment to bring the immigration reform back to the floor.¹²⁰

¹¹⁷ PARKER, Ashley and Jonathan WEISMAN. Republicans in House Resist Overhaul for Immigration. *The New York Times* [online]. July 10, 2013. Retrieved May 1, 2018, from

<https://www.nytimes.com/2013/07/11/us/politics/gop-in-house-resists-overhaul-for-immigration.html>

¹¹⁸ BERMAN, Russell. On immigration, House GOP leaders leaning toward piecemeal approach. *The Hill* [online]. June 3, 2013. Retrieved May 1, 2018, from <http://thehill.com/homenews/house/302963-on-immigration-house-gop-leaning-toward-piecemeal-approach>

¹¹⁹ CHISHTI, Muzaffar and Faye HIPSMAN. U.S. Immigration Reform Didn't Happen in 2013; Will 2014 Be the Year? *Migration Policy Institute* [online]. January 9, 2014. Retrieved March 24, 2018, from <https://www.migrationpolicy.org/article/us-immigration-reform-didnt-happen-2013-will-2014-be-year>

¹²⁰ Ibid.

The Republican lack of action on the bill was met with criticism and protests as the immigration reform proposal had an extraordinary support.¹²¹ The proposed policy was approved by many interest groups like labor and agriculture groups, small businesses, the U. S. Chamber of Commerce, law enforcement, and universities.¹²² Over 600 companies and interests groups were lobbying the Congress on both sides, which was the highest number since 1998.¹²³ This suggests that an enormous amount of lobbying groups had interest in the outcome of the immigration reform effort. Tech industry was one of the major supporters of the reform, as it would solve its shortage of high-skilled STEM workers. In 2012, Microsoft alone spent \$8 million on lobbying and filled 33 immigration-related reports, which made the company one of the strongest advocates.¹²⁴ Moreover, there was a significant general public approval, regardless of party affiliation. At least two thirds of Americans supported all key provisions of the proposed reform. The support ranged from 68 % for additional spending on security measures to 85 % for mandatory employee verification system.¹²⁵ Additionally, Congressional Budget Office stated that the bill would reduce federal deficit, a factor that could have appealed to the fiscal conservatives.¹²⁶ However, after the governmental crisis and the shutdown in October 2013

¹²¹ PRESTON, Julia. 8 Lawmakers Arrested at Immigration Protest. *The New York Times* [online]. October 8, 2013. Retrieved March 24, 2018, from <http://www.nytimes.com/2013/10/09/us/8-lawmakers-arrested-at-immigration-protest.html>

¹²² CHISHTI, Muzaffar and Faye HIPSMAN. U.S. Immigration Reform Didn't Happen in 2013; Will 2014 Be the Year? *Migration Policy Institute* [online]. January 9, 2014. Retrieved March 24, 2018, from <https://www.migrationpolicy.org/article/us-immigration-reform-didnt-happen-2013-will-2014-be-year>

¹²³ Immigration, Issue Profile, 2013. *OpenSecrets.org* [online]. 2013. Retrieved May 1, 2018, from <https://www.opensecrets.org/lobby/issuesum.php?id=IMM&year=2013>

¹²⁴ OLSEN-PHILLIPS, Peter. Special Interests Battle Over Immigration Reform. *OpenSecrets.org* [online]. March 4, 2013. Retrieved March 24, 2018, from <https://www.opensecrets.org/news/2013/03/special-interests-weigh-in-on-immig/>

¹²⁵ NEWPORT, Frank. Americans Widely Support Immigration Reform Proposals. *Gallup News* [online]. February 5, 2013. Retrieved March 24, 2018, from <http://news.gallup.com/poll/160307/americans-widely-support-immigration-reform-proposals.aspx>

¹²⁶ CHISHTI, Muzaffar and Faye HIPSMAN. U.S. Immigration Reform Didn't Happen in 2013; Will 2014 Be the Year? *Migration Policy Institute* [online]. January 9, 2014. Retrieved March 24, 2018, from <https://www.migrationpolicy.org/article/us-immigration-reform-didnt-happen-2013-will-2014-be-year>

the pressure of interest groups and institutions was not enough to persuade the divided House Republicans to return the immigration bill to the agenda and debate it again.

On the other hand, some interests groups strongly opposed the reform and welcomed its failure. Among those was NumbersUSA, an organization created to limit immigration, which lobbied against the path for citizenship. In 2012, it spent \$600,000 on immigration lobbying, an amount incomparable with the resources provided by the tech industry.¹²⁷

5.3 Overview of the 2013 Immigration Reform Proposal

In 2013, the Congress was even closer to passing the comprehensive immigration reform than it was in 2007. The policy proposed by Obama and the bipartisan Gang of Eight was met with tremendous support both among specialized and general public. The policy entrepreneurs were able to accommodate many remarks of various interest groups while keeping the bill intact and protecting it from any provisions that could hurt its passage. Moreover, the financial resources provided by the supporting companies and interests groups surpassed those of the opposing groups. However, the reform was hurt by the political context at that time.

First, the GOP was not fully satisfied with the bipartisan version of the bill. Their disagreement was prominent mainly in the House, where the Republicans had majority. Therefore the Senate version of the reform was not accepted there. Nevertheless, the Republicans were not obstructing the reform; they were willing to tackle it and started to work on their version of immigration bills. However, this slowed the process down, which proved to be critical. As the House was working on their immigration policies, the

¹²⁷ OLSEN-PHILLIPS, Peter. Special Interests Battle Over Immigration Reform. *OpenSecrets.org* [online]. March 4, 2013. Retrieved March 24, 2018, from <https://www.opensecrets.org/news/2013/03/special-interests-weigh-in-on-immig/>

congressional agenda started to shift as the end of the fiscal year was nearing. Immigration lost its priority and was replaced with debate about appropriations, continuing resolution, debt ceiling, and then eventually government shutdown.

6. Comparative Study of the 2007 and 2013 Proposals

Kingdon argues that for an agenda to be pushed through the Congress a policy window has to open, which happens when all the mentioned streams – problem, policy and politics – align. In this chapter, I will apply this argument to the analyzed bills and compare the traced processes. Moreover, I will focus on identification of the factors that prevented the reforms from passing. I argue that the key factors in both cases were political skills of policy entrepreneurs¹²⁸ and the political context.

6.1 Problems and Policies

In both cases, the generated policies corresponded well with the problems that were defined by the policy community. Evidently, the policy is fragmented as a result of the fragmented community. This resulted in vast and complex legislative proposals to accommodate various interests.

Interestingly, the issues that were targeted in both cases, as well as the provided solutions, were strikingly similar. In Table 3, the comparison of the offered solutions to problems is offered.

¹²⁸ For the purpose of this thesis, political skill is defined as “the ability to effectively understand others at work, and to use such knowledge to influence others to act in ways that enhance one’s personal and/or organizational objectives.” See FERRIS, Gerald R. and Darren C. Treadway. Political Skills in Organizations. *Journal of Management* [online], 33 (3). June 2007, 290 – 320. DOI: 10.1177/0149206307300813. Retrieved from <https://hubert.hhh.umn.edu/SusanGKomenPDF/PoliticalSkill2007.pdf>

Problem		Policy proposed in 2007	Policy proposed in 2013
Illegal immigration prevention	<i>Poor enforcement of the standing laws</i>	Stronger enforcement of the standing legislation	Stronger enforcement of the standing legislation
	<i>Lack of tools to control illegal immigration</i>	Implementation of Electronic Employment Verification System	Required use of E-Verify and significant enhancements to the system
		Stronger enforcement of border security, including additional funding	Additional advanced technologies to protect the border
Illegal immigrants in the country	<i>Status of illegal immigrants</i>	Creation of path to citizenship	Creation of path to citizenship under certain conditions
	<i>Status of studying children of illegal immigrants</i>	The DREAM Act	The DREAM Act
Legal immigration control	<i>Need of seasonal workers</i>	Establishment of guest worker program for temporary workers	Establishment of guest worker program for temporary workers
			Broadening the categories of non-immigrant visas
	<i>Chain migration</i>	Abandonment of family reunion system and introduction of merit-based point system	Abandonment of family reunion system and introduction of merit-based point system

Table 3: Comparison of the policies generated in 2007 and 2013

First of all, the two strategic differences between the proposals will be pointed out. Then the explanation for the striking similarity of the proposed policies will be offered.

When looking at Table 3, there are two differences between the generated policies. Firstly, the bills offer a different strategy to provide authorities with a tool to control illegal employment. While in 2007, the bill proposed an implementation of a new Electronic Employment Verification System, in 2013 the bill proposed enhancement to the already existing E-Verify system. Secondly, unlike the previous proposal, the 2013 legislation broadened the categories of non-immigrants visas to target the need for temporary workers. It would be an exaggeration to suggest that any of the two differences had any major effect on the legislation prospect in the Congress. However, since the proposed policies are

otherwise remarkably similar, it is interesting to point out that both the 2007 and the 2013 political debate offered partially different approach to the reform.

As already mentioned above, the policies proposed in the 2007 and 2013 reform bills are very similar. To explain why that is, we need to review the history and evolution of the debate. Since 1986 when the last comprehensive reform was passed, there has been a general bipartisan agreement that the immigration system is in need of a reform. This has allowed for a general discussion among the specialized community, which is crucial to policy generation. The bipartisan effort to change the system resulted in creation of the already mentioned U. S. Commission on Immigration Reform – a bipartisan group of experts whose task was to critically assess the immigration policies and offer recommendations. This was an impulse to stir the ‘primeval soup’ of ideas and initiate discussion, testing of ideas, combinations of proposals and their alternation. During the 1990s the commission has produced reports with recommendations for the immigration policy. As the policies generated within the expert group have been a result of bipartisan discussion, they have included ideas and preferences of both parties representing the broad spectrum of interest groups, therefore making it the most effective and widely accepted view on the immigration reform at that time.

When after such a long discussion and focus on the topic, experts agree on a solution, it suggests that the solution is the best possible. The 2007 and 2013 bills have drawn a significant inspiration from those recommendations. Therefore, I argue that the similarity of both examined reform proposals is caused by the fact that administration relied on a set of policies which were a result of vast discussion of experts in the field, policies that according to the natural selection were the most fit to survive and to be effective. The

administration was simply not able and motivated to generate other major ideas, rather it adjusted their priority based on the context and the public opinion.

6.2 Policy Entrepreneurs

Policy entrepreneurs significantly affect bill's success in Congress, they frame and steer the debate, earn support for the policies and push the bill through the Congress. I argue that there was a major difference in the political skills of the involved policy entrepreneurs in 2007 and 2013 that significantly affected the outcomes.

In 2007, George W. Bush supported by the bipartisan group of Senators, including a long time immigration advocate Edward Kennedy, was able to bring the immigration agenda on the table and reach a compromise. Nevertheless, while the compromise was supposed to earn bill's support on both sides of the spectrum, in fact it made it weak. In the end, the reform was too liberal for the conservatives and too conservative for the liberals. It only appealed to a centric group of Senators, which was not enough to pass it through the Senate. The ideological split within the GOP and the growing criticism of the president from his own party lines did not help the reform much.

On the other hand, the Gang of Eight did much better job in stirring the bill through the debate in 2013. While incorporating the most pressing comments into the proposal, they were able to protect it from any changes and amendments that would result in the failure of the bill in the Senate. They were able to reach a compromise that would appeal to both sides of the spectrum and that eventually resulted in passing the bill through the Senate. However, after the success in the Senate, President Obama nor the Gang were able to push the House to act in timely manner.

6.3 Political Environment

The problem definition and generated policies were similar in 2007 and 2013. Therefore, I argue that the political stream provides the greatest distinction between the two legislative efforts. First, the national mood will be discussed, followed by the identification of factors that prevented the policy window from opening.

In both cases, the public was united in its opinion about immigration, even across the party lines, and generally supportive of the immigration reform. The national mood differed in only two ways in 2006 and 2012, a year prior to introduction of respective reform proposals. Firstly, people saw immigration as a less important issue 2012 than in 2006. This was most likely caused by the little political urgency of immigration after the failed overhaul attempt in 2007.¹²⁹ Secondly, the public became more supportive of dealing with the illegal immigrants already in the United States rather than halting the flow of new immigrants. This was a significant difference from 2006, when the public opinion was reversed.¹³⁰ At the same time, in a long term majority of Americans favor allowing the illegal immigrants in the U. S. to gain citizenship over deportation.¹³¹ The national mood was ideal for the proposed reforms in both 2007 and 2012 case, and therefore did not play a crucial role in failure of the passing.

Although, in both 2007 and 2013 there was a significant opportunity to pass the immigration reform, the political environment at the time was not favorable to the policy change. Immigration is a divisive issue that affects many groups within the society. In both

¹²⁹ JONES, Jeffrey M. Americans More Positive About Immigration. *Gallup News* [online]. June 16, 2012. Retrieved March 24, 2018, from <http://news.gallup.com/poll/155210/americans-positive-immigration.aspx>

¹³⁰ Ibid.

¹³¹ JONES, Jeffrey M. American's Views of Immigration Growing More Positive. *Gallup News* [online]. July 10, 2006. Retrieved April 13, 2018, from <http://news.gallup.com/poll/23623/americans-views-immigration-growing-more-positive.aspx>

cases, the growing influence of the Latino electorate affected the policy proposals and their overall framing. For obvious reasons Latinos opposed any strict policies that would lead to deportation or persecution of illegal immigrants. This factors was further enhanced as elections were approaching. The 2007 immigration reform was proposed a year before the presidential and congressional elections, in 2012 the reform was proposed a year prior to the important midterm elections. Especially the Democrats in 2013 could not afford to significantly anger the Latino voters. This suggests that the election cycle deteriorates chances of moving on the immigration reform.

In 2013, an additional factor affected the process. After the bill passed the Senate in June 2013, the House started to work on its own proposal. If the House passed its own version of the bill, the differences would then have to be resolved in a conference. This would slow the process down. Moreover, it is not clear that the conference would agree on a version of the bill which would be acceptable to both the House and the Senate. Nevertheless, the House agenda shifted with the end of the fiscal year. As the chamber failed to pass the needed appropriations, the focus of the House quickly shifted towards the approaching government shutdown. The immigration reform was replaced on the agenda and then never came back during the 113th Congress.

6.4 Factors Playing Decisive Role in the Process

Based on the study of the 2007 and 2013 immigration reform proposals, some parallels in the processes can be drawn. The research suggests that there are two key factors that influence the outcome of the immigration reform attempts – political skills of policy entrepreneurs and political context.

The problem definition and policy proposals almost have not changed between 2007 and 2013, therefore I conclude that the two factors have not played a significant role in the failure of the legislation. However, both cases show that the personal political skills of the policy entrepreneurs are vital to the legislation's success. The skills of the Gang of Eight and their power to reach a compromise that would be widely accepted was the reason why the 2013 proposal passed the Senate and the 2007 proposal did not.

The other factor that proved to be important was the political context at the time, especially with regards to the election cycle. This factor was especially prominent in the 2013 case, when the immigration reform was overshadowed by a governmental shutdown. Certainly, this factor is hard to control. Nevertheless, it needs to be considered and anticipated. It is mainly up to the political leaders to find the right timing for the immigration policy.

Based on the comparative case study, a question arises whether the approach to immigration policy should even be comprehensive. Immigration reform is a highly divisive issue that concerns many interest groups with often opposing priorities. A passage of a legislation that would appeal to all the involved parties proved to be rather difficult, as the research shows. Especially, when external factors like congressional calendar affect the process. Passing a series of singular bills targeting one problem at a time could prove to be more effective.

An incremental change in the immigration reform, rather than a comprehensive approach, has become rather popular, especially in the House. Marco Rubio, a Republican member of the former Gang of Eight, admitted that a long-term piecemeal approach is the only possible solution in his view.¹³² Rep. Raúl Labrador, also a Republican, stated that

¹³² BYRNES, Jesse. Rubio: Piecemeal immigration approach only option. *The Hill* [online]. April 19, 2015. Retrieved April 13, 2018, from <http://thehill.com/blogs/ballot-box/presidential-races/239350-rubio-piecemeal-immigration-approach-only-option>

“‘comprehensive’ is a swear word in the House of Representatives” and that he would prefer a step-by-step approaching dealing with the issue.¹³³ Previously, House Minority Leader Nancy Pelosi suggested that she would support a series of singular immigration bills rather than a comprehensive reform, if needed.¹³⁴

7. Future of the Immigration Reform

With the current presidency of Donald Trump, we can certainly expect another attempt at immigration reform. Immigration has been a key topic of Trump’s presidential campaign in 2016. His rhetoric as a presidential candidate mostly revolved around building “the wall”. However, as president, Trump was forced to offer a more comprehensive view. In the 2018 State of the Union speech, Trump offered a four-pillar plan for immigration reform. Unsurprisingly, the plan targets the same issues and in 2007 and 2013, with one exception – the plan does not deal with the status of majority of the illegal immigrants residing in the country.

The first pillar would be to open a pathway to citizenship to about 1.8 million illegal immigrants who were brought to the country as minors, if they meet certain conditions. This provision is similar to the DREAM Act. However, the first pillar omits to mention the plan for the remaining 9 million illegal immigrants in the country. The second pillar is focused on securing the border. The third pillar proposes to end the visa lottery and replace it with a merit-point based system which would favor skilled workers. The fourth pillar would end the system of family reunion and therefore end the problematic chain migration.

¹³³ PARKER, Ashley and Jonathan WEISMAN. Republicans in House Resist Overhaul for Immigration. *The New York Times* [online]. July 10, 2013. Retrieved May 1, 2018, from <https://www.nytimes.com/2013/07/11/us/politics/gop-in-house-resists-overhaul-for-immigration.html>

¹³⁴ GIBSON, Ginger. Pelosi: Piecemeal immigration approach possible. *Politico* [online]., June 27, 2013. Retrieved April 13, 2018, from <https://www.politico.com/story/2013/06/nancy-pelosi-piecemeal-immigration-approach-possible-093515>

In Trump's view the new immigration reform would represent a compromise that would put the Americans first and ensure the security of the country.¹³⁵

During Trump's presidency, several immigration-related bills were introduced, including the RAISE Act¹³⁶, the Kate's Law¹³⁷, and No Sanctuary for Criminals Act¹³⁸ – all of them proposed stricter immigration measures targeted especially at the illegal immigrants in the country. However, no significant progress on the legislation has been made.

After a brief study of Trump's proposal outlines, the similarity with the previous immigration reform attempts researched in this study is striking. Moreover, Trump could prove to have the political skills to force the Congress to act. However, in order to see if he will be able to succeed, we may have to wait until he completes his presidential term (or terms) in the office.

Conclusion

This thesis analyzed why Congress has been unable to pass a comprehensive immigration reform in the recent years. Research of the two latest immigration reform efforts – the Comprehensive Immigration Reform Act of 2007 and the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 – provides a qualitative analysis of the cause of Congress' inability to act. The two proposals were then compared to define

¹³⁵ TRUMP, Donald J. State of the Union Address. January 30, 2018. Retrieved April 1, 2018, from https://www.realclearpolitics.com/video/2018/01/30/trump_the_four_pillars_of_immigration_reform.html

¹³⁶ S.354 - RAISE Act. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/senate-bill/354>

US immigration proposals: What's in the Raise Act? *BBC* [online]. August 3, 2017. Retrieved November 30, 2017, from <http://www.bbc.com/news/world-us-canada-40814625>

¹³⁷ H.R.3004 - Kate's Law. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/house-bill/3004>

¹³⁸ H.R.3003 - No Sanctuary for Criminals Act. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/house-bill/3003>

the key factors that affect the immigration policy making process and prevent the reform from passing.

In my thesis, I argue, based on the research of the selected bills, that the key factors that have prevented the U. S. Congress from passing a comprehensive immigration reform are lack of political skills of policy entrepreneurs and unfavorable political context. Both factors intertwine as the political leaders should be able to take the political context into consideration during the policy making process.

The lack of political skills of policy entrepreneurs proved to be crucial for failure of the immigration reform. Both analyzed case studies suggest that political leaders involved were not able to combine favorable timing of the proposal with political environment open to compromise, and then pressure the Congress to act in timely manner. In 2007, president Bush and a bipartisan group of immigration reform supporters introduced their legislative proposal at a time, when the Republican Party was facing an intraparty ideological divide. The party's incoherency hurt the bill. Moreover, the group of sponsors and co-sponsors of the bill was not able to appropriately steer and frame the debate in the Senate. As a result, the bill faced severe criticism and compromises had to be made. However, after the adjustments, the immigration reform proposal became too conservative for the liberals and too liberal for the conservatives, and it lost support within the chamber.

In 2013, the situation was slightly different. President Obama supported by the bipartisan Gang of Eight was able to make the Congress act and reached a widely accepted compromise. Moreover, the Gang was able to steer the bill through the amendment process and keep it intact, preventing any adjustments that could potentially hurt the bill's support in the Senate. However, after the reform passed the Senate, the political leaders failed to

persuade the lower chamber to accept the compromise, or at least work on its own solution promptly.

The second factor that significantly influences the inability of Congress to act on the immigration reform is the political context at a given time. In the analyzed cases, the context was mainly affected by election cycle and congressional calendar. As the Latino voting bloc became more powerful, immigration gained more prominent position in the election campaigns. Any strict immigration provisions that would negatively affect the Latino electorate would influence their voting preferences. Especially the Democrats rely heavily on the Latino support and cannot afford to lose it. On the other hand, the Republicans try to win over their share of the Latino votes. In both 2007 and 2013, the immigration reform was proposed a year prior to general elections; in the case of 2007, it was even a year prior to important presidential elections. Therefore, the timing of the immigration reform introduction proved to be improperly selected. The approaching campaigns significantly influenced behavior of the political leaders and the policy making process. While both parties tried to appeal to the Latino voters with certain immigration provisions, they also had to appeal to their other, often more traditional, voting groups – however, the interests of these groups were often contradicting. This prevented the Congress from agreeing on a compromise solution. Moreover, the situation in 2013 was further hindered by the congressional calendar. After the reform passed the Senate in June, the House was determined to prepare its own proposal. Eventually, the differences between both bills would be sorted out and the reform would be passed. However, with the approaching end of the fiscal year, the priorities of the House shifted from the immigration reform towards budget discussions, and later to government shutdown. Certainly, the timing and the political context cannot always be controlled. However, it is up to the

political leaders to demonstrate their political skills and take these factors into consideration.

In the last years, a question has arisen whether the congressional approach to immigration reform is not conceptually wrong. More and more policy makers on both sides of the spectrum lean towards a piecemeal approach rather than a comprehensive approach. This opinion is highly popular mainly within the House of Representatives. Congress proved to be unable to pass a complex solution, however, it is able to pass singular immigration-related bills that target only a specific problem, and therefore are less controversial. In the end, the incremental changes of piecemeal legislation could be the way to reform the immigration system. However, it is important to keep the singular bills coherent and to avoid patchwork legislation, which has proven to be ineffective.

To conclude, passing an immigration reform relies on many factors that need to align at the same time. The analyzed immigration reform proposals suggest that there is a way to generate a policy that would be widely supported by all participants. However, the reform needs to be proposed at a favorable time, considering the political context, and supported by a more ambitious leader who would be able to pressure Congress to act without delay and to pass either comprehensive or piecemeal solution that would fix the broken U. S. immigration system.

Summary

Immigration is one of the most prominent and divisive issues in American politics. Although experts, policy makers, and general public agree that the immigration system in place needs to be reformed, Congress has failed to pass a comprehensive immigration reform for over three decades. This master's thesis focused on the causes of Congress'

inability to act on the reform. It identifies the factors that influence the policy making process, and puts emphasis on those factors that prevent the immigration reform from passing. To provide a qualitative insight, two recent immigration reform proposals – the Comprehensive Immigration reform Act of 2007 and the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 – are studied.

In this master's thesis, firstly a brief overview of the U. S. immigration reform history and ideological divide of the political parties is offered to provide context for the topic. Then, the used methodology is introduced. Process tracing was used as the key method. John W. Kingdon's revised garbage can model of congressional decision making is then used as an analytical framework. The framework is applied to the two selected immigration reform proposals. Emphasis is put on identification of key factors that influenced the processes in 2007 and 2013. Then, both case studies are compared. This allows for more general identification of factors preventing the immigration reform from passing in the recent years. It also allows for discussion of conditions that would have to be met to increase the chance of passing a comprehensive immigration reform.

Based on the conducted research, the two most significant factors that prevented a comprehensive immigration reform from passing were skills of political leaders and political context at given time. Especially congressional calendar and election cycle proved to play a key role in the analyzed cases. Therefore, passing a comprehensive reform requires strong political leaders who are able to generate a widely supported policy, and push it through Congress at the right time. The analysis also suggests that the approach to immigration system might be conceptually wrong, as the Congress is not able to agree on a comprehensive proposal. Instead, a piecemeal approach could be more effective in reforming the immigration system.

Sources

Books and Academic Articles

COHEN, Michael D., James G. MARCH and Johan P. OLSEN. A Garbage Can Model of Organizational Choice. *Administrative Science Quarterly* [online]. 1972, 17(1), 1- 25. DOI: 10.2307/2392088. ISSN 00018392. Retrieved April 8, 2018, from <http://www.jstor.org/stable/2392088?origin=crossref>

COLLIER, David. Understanding Process Tracing. *PS: Political Science & Politics* [online]. 2011, 44(04), 823-830. Retrieved March 28, 2018, from <http://polisci.berkeley.edu/sites/default/files/people/u3827/Understanding%20Process%20Tracing.pdf>

DODD, Lawrence C. a Bruce I. OPPENHEIMER, ed. *Congress Reconsidered*. 11th edition. Thousand Oaks, California: CQ Press, 2016, s. 163-188. ISBN 9781506328782.

FENNO, Richard F. *Congress at the Grassroots: Representational Change in the South, 1970-1998*. Chapel Hill: University of North Carolina Press, 2000. ISBN 978-0-8078-4855-5.

FERRIS, Gerald R. and Darren C. Treadway. Political Skills in Organizations. *Journal of Management* [online], 33 (3). June 2007, 290 – 320. DOI: 10.1177/0149206307300813. Retrieved from <https://hubert.hhh.umn.edu/SusanGKomenPDF/PoliticalSkill2007.pdf>

GEORGE, Alexander L. and Andrew BENNETT. *Case studies and theory development in the social sciences*. Cambridge, Mass.: MIT Press, 2005. ISBN 0-262-57222-2.

KINGDON, John W. *Agendas, Alternatives, and Public Policies*. Updated 2nd ed. Boston: Longman, 2011. ISBN 978-0-205-00086-9.

NICHOLS, Pamela D. United States Immigration Reform and Control Act of 1986: A Critical Perspective. *Northwestern Journal of International Law & Business* [online]. 1987, Vol. 8 (2). Retrieved from <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1236&context=njilb>

TINDALL, George Brown and David E. SHI. *Dějiny Spojených států amerických*. 5th edition. Translated by Alena FALTÝSKOVÁ. Praha: Nakladatelství Lidové noviny, 2008. Dějiny států. ISBN 978-80-7106-588-3.

Legislation

H.R.3003 - No Sanctuary for Criminals Act. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/house-bill/3003>

H.R.3004 - Kate's Law. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/house-bill/3004>

H.R.3610 – Omnibus Consolidated Appropriations Act, 1997. *104th Congress*. Enacted September 30, 1996. Retrieved from: <https://www.gpo.gov/fdsys/pkg/PLAW-104publ208/pdf/PLAW-104publ208.pdf>

H.R.4437 - Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. *109th Congress*. Retrieved from <https://www.congress.gov/bill/109th-congress/house-bill/4437>

H.R.6061 – Secure Fence Act of 2006. *109th Congress*. Enacted October 26, 2006. Retrieved from <https://www.congress.gov/bill/109th-congress/house-bill/6061/text>

S.1200 – Immigration Reform and Control Act of 1986. *99th Congress*. Enacted November 6, 1986. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-100/pdf/STATUTE-100-Pg3445.pdf>

S.1348 – Comprehensive Immigration Reform Act of 2007. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1348>

S.1639 – A bill to provide for comprehensive immigration reform and for other purposes. *110th Congress*. Retrieved from <https://www.congress.gov/bill/110th-congress/senate-bill/1639>

S.2611 - Comprehensive Immigration Reform Act of 2006. *109th Congress*. Retrieved from <https://www.congress.gov/bill/109th-congress/senate-bill/2611>

S.354 - RAISE Act. *115th Congress*. Retrieved from <https://www.congress.gov/bill/115th-congress/senate-bill/354>

S.358 – Immigration Act of 1990. *101st Congress*. Enacted Nov 29, 1990. Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-104/pdf/STATUTE-104-Pg4978.pdf>

S.744 – Border Security, Economic Opportunity, and Immigration Modernization Act. *113th Congress*. Retrieved from <https://www.congress.gov/bill/113th-congress/senate-bill/744>

Other Sources

BAKER, Peter. Bush Chides GOP Critics of Immigration Plan. *The Washington Post* [online]. May 30, 2007. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/29/AR2007052901067.html>

BERMAN, Russell. On immigration, House GOP leaders leaning toward piecemeal approach. *The Hill* [online]. June 3, 2013. Retrieved from <http://thehill.com/homenews/house/302963-on-immigration-house-gop-leaning-toward-piecemeal-approach>

Bush calls for relaxed immigration rules. *CNN* [online]. July 10, 2001. Retrieved from <http://www.cnn.com/2001/ALLPOLITICS/07/10/bush.newyork/index.html>

Bush, Fox to talk immigration, trade. *CNN* [online]. September 5, 2001. Retrieved from <http://www.cnn.com/2001/ALLPOLITICS/09/04/bush.fox.visit/index.html>

BUSH, George W. Speech on Immigration. Transcript provided by *The New York Times* [online]. May 15, 2006. Retrieved from https://archive.nytimes.com/www.nytimes.com/learning/students/pop/articles/15text-bush_LN.html

BRUNO, Andorra. Electronic Employment Eligibility Verification. *Congressional Research Service* [online]. March 19, 2013. Retrieved May 1, 2018, from <https://fas.org/sgp/crs/misc/R40446.pdf>

BYRNES, Jesse. Rubio: Piecemeal immigration approach only option. *The Hill* [online]. April 19, 2015. Retrieved from <http://thehill.com/blogs/ballot-box/presidential-races/239350-rubio-piecemeal-immigration-approach-only-option>

CAMAROTA, Steven A. Immigrants in the United States, 2007. *Center for Immigration Studies* [online]. November 8, 2007. Retrieved from <https://cis.org/Report/Immigrants-United-States-2007>

CARROLL, Joseph. Americans Divided on Need for New Immigration Laws. *Gallup News* [online]. July 16, 2007. Retrieved from <http://news.gallup.com/poll/28135/americans-divided-need-new-immigration-laws.aspx>

CASTELLANI, John J. Letter on S. 1348 and Immigration Reform. *U. S. Chamber of Commerce* [online]. June 3, 2007. Retrieved from <https://www.uschamber.com/letter/letter-s-1348-and-immigration-reform>

CHISHTI, Muzaffar and Faye HIPSMAN. U.S. Immigration Reform Didn't Happen in 2013; Will 2014 Be the Year? *Migration Policy Institute* [online]. January 9, 2014. Retrieved from <https://www.migrationpolicy.org/article/us-immigration-reform-didnt-happen-2013-will-2014-be-year>

COWAN, Richard and Yeganeh TORBATI. Trump administration backpedals on citizenship for 'Dreamers'. *Reuters* [online]. October 3, 2017. Retrieved from <https://www.reuters.com/article/us-usa-immigration-senate/trump-administration-backpedals-on-citizenship-for-dreamers-idUSKCN1C82DV>

EHRENFREUND, Max. Your complete guide to Obama's immigration executive action. *The Washington Post* [online]. November 20, 2014. Retrieved from https://www.washingtonpost.com/news/wonk/wp/2014/11/19/your-complete-guide-to-obamas-immigration-order/?utm_term=.a7970f1ef13d

FLETCHER, Michael A. and Darryl FEARS. Bush Pushes Guest-Worker Program. *The Washington Post* [online]. November 29, 2005. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/28/AR2005112800067.html>

FLORES, Antonio. How the U.S. Hispanic population is changing. *Pew Research Center* [online]. September 18, 2017. Retrieved from <http://www.pewresearch.org/fact-tank/2017/09/18/how-the-u-s-hispanic-population-is-changing/>

GIBSON, Ginger. Pelosi: Piecemeal immigration approach possible. *Politico* [online]., June 27, 2013. Retrieved from <https://www.politico.com/story/2013/06/nancy-pelosi-piecemeal-immigration-approach-possible-093515>

Government Reform – Immigration and the Rule of Law. *GOP* [online]. Retrieved from <https://gop.com/platform/reforming-government/>

HULSE, Carl. Kennedy Plea Was Last Gasp for Immigration Bill. *The New York Times* [online]. June 9, 2007. Retrieved from <https://www.nytimes.com/2007/06/09/washington/09immig.html>

Illegal Immigration. *CQ Researcher* [online]. December 10, 1976, Vol. 2(2). Retrieved from <http://library.cqpress.com/cqresearcher/document.php?id=cqresre1976121000>

Immigration, Issue Profile, 2013. *OpenSecrets.org* [online]. 2013. Retrieved May 1, 2018, from <https://www.opensecrets.org/lobby/issuesum.php?id=IMM&year=2013>

Immigration Policy Revision. *CQ Researcher* [online], February 12, 1964. Retrieved from <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1964021200>

Immigration Reform. *Democrats* [online]. Retrieved from <https://www.democrats.org/issues/immigration-reform>

JONES, Jeffrey M. American's Views of Immigration Growing More Positive. *Gallup News* [online]. July 10, 2006. Retrieved from <http://news.gallup.com/poll/23623/americans-views-immigration-growing-more-positive.aspx>

JONES, Jeffrey M. Americans More Positive About Immigration. *Gallup News* [online]. June 16, 2012. Retrieved from <http://news.gallup.com/poll/155210/americans-positive-immigration.aspx>

KAMMER, Jerry. The Hart-Celler Immigration Act of 1965. *Center for Immigration Studies* [online]. September 30, 2015. Retrieved from <https://cis.org/Report/HartCeller-Immigration-Act-1965>

KANE, Paul. Boehner to sue Obama over executive orders. *The Washington Post* [online]. June 25, 2014. Retrieved from <https://www.washingtonpost.com/news/post-politics/wp/2014/06/25/boehner-to-sue-obama-over-executive-orders/>

KOPAN, Tal. What are sanctuary cities, and can they be defunded? *CNN* [online]. March 26, 2018. Retrieved from <https://edition.cnn.com/2017/01/25/politics/sanctuary-cities-explained/index.html>

KROGSTAD, Jens Manuel, Jeffrey S. PASSEL and D'Vera COHN. 5 facts about illegal immigration in the U.S. *Pew Research Center* [online]. April 27, 2017. Retrieved from <http://www.pewresearch.org/fact-tank/2017/04/27/5-facts-about-illegal-immigration-in-the-u-s>

LOHR, Kathy. In Southern States, Immigration Law Battle Rages On. *National Public Radio* [online]. March 28, 2012. Retrieved from <https://www.npr.org/2012/03/28/149468058/in-southern-states-immigration-law-battle-rages-on>

LOTHIAN, Dan, Jessica YELLIN and Tom COHEN. 'Now's the time' to move on immigration, Obama says. *CNN* [online]. January 30, 2013. Retrieved from <http://www.cnn.com/2013/01/29/politics/immigration-reform/index.html>

McCARTHY, Tom. The evolution of immigration reform under Obama – a timeline. *The Guardian* [online]. November 20, 2014. Retrieved from <https://www.theguardian.com/us-news/2014/nov/20/immigration-reform-under-obama-timeline>

Nativity of the Population and Place of Birth of the Native Population: 1850 to 1990. *U. S. Census Bureau* [online]. March 9, 1999. Retrieved from <https://www.census.gov/population/www/documentation/twps0029/tab01.html>

NEWPORT, Frank. Americans Widely Support Immigration Reform Proposals. *Gallup News* [online]. February 5, 2013. Retrieved from <http://news.gallup.com/poll/160307/americans-widely-support-immigration-reform-proposals.aspx>

O'BRIEN, Matt and Spencer RALEY. The Fiscal Burden of Illegal Immigration on United States Taxpayers. *Federation for American Immigration Reform* [online]. September 27, 2017. Retrieved from <https://fairus.org/issue/publications-resources/fiscal-burden-illegal-immigration-united-states-taxpayers>

OBAMA, Barack. Speech on Immigration. 2008. Retrieved from <https://www.youtube.com/watch?v=yUWJHmRjJy0>

OLSEN-PHILLIPS, Peter. Special Interests Battle Over Immigration Reform. *OpenSecrets.org* [online]. March 4, 2013. Retrieved from <https://www.opensecrets.org/news/2013/03/special-interests-weigh-in-on-immig/>

PARKER, Ashley and Jonathan WEISMAN. Republicans in House Resist Overhaul for Immigration. *The New York Times* [online]. July 10, 2013. Retrieved from <https://www.nytimes.com/2013/07/11/us/politics/gop-in-house-resists-overhaul-for-immigration.html>

PRESTON, Julia. 8 Lawmakers Arrested at Immigration Protest. *The New York Times* [online]. October 8, 2013. Retrieved from <http://www.nytimes.com/2013/10/09/us/8-lawmakers-arrested-at-immigration-protest.html>

Push and pull factors of international migration: a comparative report. *Netherlands Interdisciplinary Demographic Institute* [online]. 2000. Retrieved from <https://www.nidi.nl/shared/content/output/2000/eurostat-2000-theme1-pushpull.pdf>

ROBBINS, Liz. De Blasio Defends New York Policies on Immigration. *The New York Times* [online]. June 28, 2017. Retrieved from <https://www.nytimes.com/2017/06/28/nyregion/bill-de-blasio-defends-new-york-policies-on-immigration.html>

ROSENBLUM, Illene. Issues and Influentials in the Immigration Reform Debate. *The Washington Post* [online]. June 28, 2007. Retrieved from http://www.washingtonpost.com/wp-srv/nation/documents/immigration_primer_060807.html

SANDLER Michael. Reid Pulls Immigration Overhaul. *CQ Weekly* [online]. June 11, 2007, p. 1746-47. Retrieved from <http://library.cqpress.com/cqweekly/weeklyreport110-000002528407>

SANDLER, Michael. Immigration Overhaul Gains Ground in Senate. *CQ Weekly* [online]. May 28, 2007, p. 1604-5. Retrieved from <http://library.cqpress.com/cqweekly/weeklyreport110-000002520629>

SANDLER, Michael. Negotiators Agree on Immigration Plan. *CQ Weekly* [online]. May 21, 2007, p. 1518-19. Retrieved from <http://library.cqpress.com/cqweekly/weeklyreport110-000002515631>.

SCHALLER, Thomas F. Is Rush Limbaugh Right? *Salon* [online]. May 23, 2007. Retrieved from https://www.salon.com/2007/05/23/immigration_20/

SESSIONS, Jeff during debate on S.744. *Congressional Record* [online]. June 21, 2013. Retrieved from <https://www.congress.gov/amendment/113th-congress/senate-amendment/1183/text?q=%7B%22search%22%3A%5B%22s.744%22%5D%7D>

SMITH, Donna. Senate kills Bush immigration reform bill. *Reuters* [online]. June 29, 2007. Retrieved from <https://www.reuters.com/article/us-usa-immigration/senate-kills-bush-immigration-reform-bill-idUSN2742643820070629>

SWARNS, Rachel L. Republican Split on Immigration Reflects Nation's Struggle. *The New York Times* [online]. March 29, 2006. Retrieved from <https://www.nytimes.com/2006/03/29/us/republican-split-on-immigration-reflects-nations-struggle.html>

The History and Prospects for Comprehensive Immigration Reform. *FosterGlobal.com* [online]. February 15, 2016. Retrieved from <http://www.fosterglobal.com/the-history-and-prospects-for-comprehensive-immigration-reform/>

TRUMP, Donald J. State of the Union Address. January 30, 2018. Retrieved from https://www.realclearpolitics.com/video/2018/01/30/trump_the_four_pillars_of_immigration_reform.html

U.S. Commission on Immigration Reform. *Federation for American Immigration Reform* [online]. June 2003. Retrieved from <https://fairus.org/issue/legal-immigration/us-commission-immigration-reform>

US immigration proposals: What's in the Raise Act? *BBC* [online]. August 3, 2017. Retrieved from <http://www.bbc.com/news/world-us-canada-40814625>

Voting pattern of Senators on S.1348. Retrieved from https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00206

WEINER, Rachel. How immigration reform failed, over and over. *The Washington Post* [online]. January 30, 2013. Retrieved from https://www.washingtonpost.com/news/the-fix/wp/2013/01/30/how-immigration-reform-failed-over-and-over/?utm_term=.54edf548dee4

WEINER, Rachel. Immigration's Gang of 8: Who are they? *The Washington Post* [online]. January 28, 2013. Retrieved from https://www.washingtonpost.com/news/the-fix/wp/2013/01/28/immigrations-gang-of-8-who-are-they/?utm_term=.09c05f4e9390

WEISMAN, Jonathan. Deal on Immigration Reached. *The Washington Post* [online]. May 18, 2007. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/17/AR2007051700253.html>

WEISMAN, Jonathan. Immigration Bill Dies in Senate. *The Washington Post* [online]. June 29, 2007. Retrieved from http://www.washingtonpost.com/wp-dyn/content/article/2007/06/28/AR2007062800963.html?tid=a_inl

WILLIAMS, Krissah. Unions Split On Immigrant Workers. *The Washington Post* [online]. January 27, 2007. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/26/AR2007012601635.html>

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