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# Why the President Will Go Through with His Threat to Act Unilaterally on Immigration Policy

By Stanley Renshon

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The president has placed himself in a box of his own making. The construction of that box began in 2008 when he first ran for the presidency. At a campaign event, he said this about his commitment to passing “comprehensive immigration reform”: “I will make it a top priority of my first year as president.”<sup>1</sup>

He didn’t.

Then in August 2009, after his first year in office had passed without an immigration bill, he was asked the following question at a North American summit with the leaders of Mexico and Canada:<sup>2</sup>

*Q: To President Obama, given the fight that you’re having to wage for health care, I wonder if you can tell us what you think the prospects are for immigration reform, for comprehensive immigration reform, which you’ve said is your goal.*

*President Obama: Now, I’ve got a lot on my plate, and it’s very important for us to sequence these big initiatives in a way where they don’t all just crash at the same time. And what we’ve said is in the fall when we come back, we’re going to complete health care reform. We still have to act on energy legislation that has passed the House, but the Senate, I’m sure, is going to have its own ideas about how it wants to approach it. We still have financial regulatory reform that has to get done because we don’t want a situation in which irresponsible actions in the global financial markets can precipitate another crisis. That’s a pretty big stack of bills. ... and I would anticipate that before the year is out we will have draft legislation along with sponsors potentially in the House and the Senate who are ready to move this forward, and when we come back next year [2010], that we should be in a position to start acting.*

**Translation:** “Immigration was fairly far down the list of things I wanted to accomplish in the first major period of my new presidency when I had a filibuster-proof Democratic majority.”

## A Continuing Focus on the President’s Legacy

Throughout the first two years of the Obama presidency, the public repeatedly said it wanted the president to focus on jobs. He didn’t.

The president tried to frame his signature health care bill as designed to contribute to the economy, but the public was unconvinced and the bill did nothing to diminish their concern that his emphasis had been misplaced and that he had not responded to their economic concerns.<sup>3</sup> The president’s \$800 billion stimulus package was more clearly designed to inject large amounts of government spending into the economy to stimulate it, but it, too, failed to achieve its purposes.<sup>4</sup>

As a result of the mismatch between the president’s policy ambitions and his clearly stated preferences, he and his party received a “shellacking” in the 2010 midterms and the immigration bill that the president had promised in his first year of his term never materialized.<sup>5</sup>

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Later, in a September 2012 interview with Agencia EFE, Spain's international news agency, the president was asked about his campaign promise to make immigration a top priority during the first year of his term. He denied making it: “[T]here are some things, like comprehensive immigration reform, that we have not got done yet. But in 2008 I didn’t promise that I would have everything completed by the end of the first term. I said that we would begin work on all these things.”<sup>6</sup>

## An Immigration Promise Recalled

A few days later he sat for an interview with Jorge Ramos and Maria Elena Salinas at a Univision Town Hall, and the following Q&A occurred:<sup>7</sup>

**Q:** *Mr. President, I want to ask you something that is known as the “Obama promise,” and you knew that I was going to ask you about that. On May 28, 2008, we had a conversation in Denver, Colorado, and you told me the following — and I’m going to quote you: “But I can guarantee that we will have, in the first year, an immigration bill that I strongly support.”*

*I want to emphasize “the first year.” At the beginning of your governing, you had control of both chambers of Congress, and yet you did not introduce immigration reform. And before I continue, I want for you to acknowledge that you did not keep your promise.*

**The President:** *Well, let me first of all, Jorge, make a point that when we talked about immigration reform in the first year, that’s before the economy was on the verge of collapse — Lehman Brothers had collapsed, the stock market was collapsing. And so my first priority was making sure that we prevented us from going into a Great Depression.*

*And as you know, Jorge, even though we controlled the House of Representatives, even though we had a majority in the Senate, the way the Senate operates was if you couldn’t get 60 votes you couldn’t get something moving. So we initiated the meetings, had a series of meetings. And what we could not get was a single Republican, including the 20 who had previously voted for comprehensive immigration reform, to step up and say, “we will work with you to make this happen.”*

**Q:** *It was a promise, Mr. President. And I don’t want to — because this is very important, I don’t want to get you off the explanation. You promised that. And a promise is a promise. And with all due respect, you didn’t keep that promise.*

## Republican Panic and a Deeply Flawed Senate Immigration Bill

That broken promise set the stage in 2012 for liberal and Hispanic activists’ frustration and disappointment. It didn’t, however, start out that way.

The president’s 2012 reelection set off alarm bells among many Republican leaders, a fear fiercely fanned by Democrats and their allies. Obama received 71 percent of the Hispanic vote, compared to Mitt Romney’s 27 percent.<sup>8</sup> The choice, many GOP Washington leaders and pundits argued, was between adapting to the new demographic realities of a far more diverse American population or risking electoral decline and perhaps obscurity.<sup>9</sup>

As a result, when with the help of four Republican senators the Senate passed a comprehensive immigration bill written primarily by Democratic staff members, there was heavy pressure for House Republicans to follow suit. They didn’t, and the president was again placed in the position of disappointing his liberal and Hispanic activist supporters who pressed him to take matters in his own presidential hands through executive action.

We now know that there were discussions between the president and Rep. John Boehner (R-Ohio) during this period, but they went nowhere. Nor were they likely to. Obama might well agree, as he reportedly did last year, to a piecemeal overhaul rather than one bill, “as long as together it accomplished the goals of a broader bill.”<sup>10</sup> But that simply would have given the president what he wanted in pieces rather than all at once. Moreover, it was unclear whether enforcement would precede any legalization, as Republicans wanted, or whether legalization would precede enforcement, as the president and his allies wanted.

What he would not agree to do is stop taking unilateral actions (executive orders, memos, and the like), as Boehner requested. Instead he offered Boehner what he saw as a compromise. He would give Boehner until the end of the summer 2014 to get

his caucus to sign on to a comprehensive bill or set of bills that added up to the same thing, and if that didn't happen he would go ahead with executive action. That time line envisioned Republicans passing the House version of the 2013 Senate bill or something closely resembling it. But of course the size and scope of that bill was exactly what had made House Republicans balk. In the end, the president's end-of-summer deadline and the fast approaching midterm elections provided little time, even if there was more common ground, which there did not appear to be.

## Deporter in Chief?

On March 9, 2014, liberal immigration activist Janet Murguia, president of the National Council of La Raza, was interviewed on Univision's Spanish-language talk show "Al Punto". Host Jorge Ramos asked about her characterization of President Obama as the "deporter in chief" in a recent speech. She didn't back down: "The truth is we're at the point of reaching two million deportations," she said. "For us, this is a historic level, more than any other president of the United States."<sup>11</sup>

As is so often the case, one must be careful with what statistics are being used, and why.<sup>12</sup> Beyond the inconsistencies of the normal bureaucratic procedures, there is the added issue of the president's use of deportation data. In his discussions, the president has made use of merged data categories that conflate "removals" with "returns". Andrew Stiles reports that, "The ICE report noted that, of those 368,644 removals, 235,093 (or nearly two-thirds) were carried out on individuals "apprehended while, or shortly after, attempting to illegally enter the United States." And, as a consequence, "Immigrants apprehended at the border are often times referred to ICE and subsequently processed as a removal. This has the effect of artificially inflated (sic) the number of removals, or deportations, by at least 50,000 per year ... People are in fact being apprehended at the border, but their cases are grouped as removals in the statistical record."<sup>13</sup>

Given the various ways border enforcement, whether in the form of "removal" or "return", is defined and counted, it also important to keep in mind that interior enforcement has been declining. That is, for illegal aliens who are not caught at the border, the chances of being detained and deported have been steadily decreasing. So, for example, using mostly unpublished internal Department of Homeland Security (DHS) and ICE statistics, "based on raw statistics rather than pre-packaged press kits", one analysis found that "The number of deportations resulting from interior enforcement by ICE declined by 19 percent from 2011 to 2012, and is on track to decline another 22 percent in 2013."<sup>14</sup> John Sandweg, until recently the acting director of Immigration and Customs Enforcement, provided confirmation of the findings of that analysis. In an interview he said, "If you are a run-of-the-mill immigrant here illegally, your odds of getting deported are close to zero — it's just highly unlikely to happen."<sup>15</sup>

So the question of whether the president is really "deporter in chief", as Ms. Murguia alleges, is difficult to confirm and depends what you count and how you count it.

What is much less difficult to assess is the effect of the deporter in chief accusation from a close ally of the president and his key aides. They were stung and reacted angrily:

*More than a dozen center-left and hard-left immigration groups sent representatives to what sounded like another uninspiring strategy session in the White House's Roosevelt Room with senior Obama adviser Valerie Jarrett and Cecilia Munoz, head of the Domestic Policy Council. ...*

*A quick look around the table revealed the still-smoldering wound Obama felt after being branded "deporter in chief." The authoress of the hottest barb ever directed at Obama by the Left, Janet Murguia of the National Council of La Raza, was conspicuously absent. No representative of La Raza was even invited.<sup>16</sup>*

## The President's Legacy Hunger: Emancipator in Chief?

The president put himself in this position. He promised his Hispanic advocacy groups and other liberal allies that he would push for "comprehensive" immigration legislation, including substantially increasing legal immigration and providing a "pathway to citizenship" for the 11-12 million illegal migrants already living in the country.

The repeated delays have made these allies impatient and even angry, and political support for the president among ordinary Latinos has begun to drop off.

Worse, the election of a Republican House and Senate means that the president's aspirations for a place in history, of being ranked as a "great" presidential figure, on a par with FDR and Lincoln, with whom he identifies, have been dashed — though "squandered" is perhaps a more accurate word.

In his single-minded quest for "greatness" through big transformative legislation, Obama chose not to focus on the ailing American economy and sacrificed the bipartisan opportunities he might have had or created had he opted simply to be a *good* president instead of a *great* one.

At every turn in his presidency — when he first won election in 2008, after the 2010 midterm "shellacking", after his reelection in 2012, and after the most recent repudiation of his leadership in the 2014 midterm elections, he could have turned toward the center, but chose not to do so. Had Obama really attempted to work with Republicans and find common ground, he might have found achieving sound health care legislation, tax and entitlement reform, immigration reform, and the expansion of preschool education entirely possible, maybe even likely. That would have been quite a record.

Instead, his one signature achievement, his health care bill, for which he spurned immigration legislation in his first two years and which was supposed to ensure his presidential and historical legacy, is widely disliked by much of the public and may not survive judicial review or a Republican Congress in anything like its present form.

The country wanted bipartisan and economic progress. The president wanted greatness.

The president's legacy hunger is impossible to satisfy at this late date, given his present political circumstances and past political mistakes. He seems to know this. Facing a public largely disappointed in him and his leadership, and a declining cadre of fervent supporters, the president is now turning to his one remaining legacy card: executive action on immigration.

Sweeping actions on immigration are entirely consistent with this need for something to put on his legacy résumé. As *Washington Post* columnist Charles Lane notes, "Not since Abraham Lincoln pondered his Emancipation Proclamation in 1862 has a president considered ordering a more sweeping adjustment to membership in the American community than the mass relief for illegal immigrants that President Obama is said to be contemplating."<sup>17</sup> Lane knows the difference between the two: "There is obviously no analogy between slavery and the disadvantages the undocumented face today. Also, they established residence unlawfully, for which there must be some reckoning." Furthermore, he writes, "the broadest measure Obama is considering would be constitutionally dubious, politically explosive, and flatly contradictory to his own recently expressed views."

Still, "The ideological concept behind Obama's grand slicing of the Gordian knot of immigration, if he attempts it, would be akin to that which drove Lincoln's action: the president as liberator. ... its impact would be dramatic, and might define Obama's legacy as powerfully as the Emancipation Proclamation defined Lincoln's."

Obama's advisors in the White House and his supporters outside of it agree: "An immigration program would solidify Obama's place alongside presidents Reagan and Lyndon Johnson as a leader who reshaped the government's role in American life for a generation," one top White House official said. The advisor declared it would place Obama as "the progressive version of Reagan." Furthermore, "Those close to the president see it as a program that, along with the healthcare law and expansion of equal rights for gays and lesbians, could cement a legacy on a par with the achievements of the civil rights era."<sup>18</sup>

Predictable Republican opposition is not likely to dissuade this president from pursuing his dreams of glory, cementing his view of himself as the nation's moral compass and avatar, helping to ensure a new large ethnic constituency for his party, and being associated with the president, Abraham Lincoln, with whom he has repeatedly identified himself.<sup>19</sup>

## The President Responds

On June 30, 2014, in a Rose Garden statement delivered by the president himself, that is exactly what he said he would do.<sup>20</sup> Then the president announced that he was delaying his executive immigration overhaul until after the midterm elections.<sup>21</sup>

In a subsequent "Meet the Press" interview, he acknowledged he did so for obvious political reasons, to protect Democratic senators running for reelection.<sup>22</sup> The unacknowledged subtext of this admission was that the president's actions are likely to be very upsetting to voters, and of course voters are just one subset of ordinary Americans.

This temporary delay for politically expedient purposes had at least one reliably liberal democratic pundit believing that the president will not follow through on his promise, again.<sup>23</sup> Matthew Yglesias worries that the president will just punt by saying “the time isn’t right.” And in truth, several of the president’s strongly stated, public promises — such as, “if you like your insurance you can keep it”<sup>24</sup> or the red lines the president drew on the use of biological weapons in Syria<sup>25</sup> — have proved to be poor guides to the president’s actual behavior.

After the substantial losses of the 2014 midterm elections, at least two prominent Democrats, David Axelrod, President Obama’s former chief advisor, and Ed Rendell, former DNC chair and Pennsylvania governor, suggested that the president hold off on his executive actions until the new Congress has a chance to work on immigration legislation.<sup>26</sup> The new Republican House and Senate leadership apparently suggested the same idea to the president at a post-election luncheon, but “Obama dismissed the offer.”<sup>27</sup>

The president is not likely to back down after having made a very dramatic public announcement about his forthcoming executive amnesty plans,<sup>28</sup> having publically put into motion the DHS review of his options,<sup>29</sup> having his lawyers vet his possible executive immigration actions for court challenges,<sup>30</sup> having disappointed his liberal and Hispanic active base repeatedly on the immigration issue, wanting to take steps to try and cement the attachment of Latinos to the Democratic party, knowing that almost 70 percent of that ethnic group have heard something about the president’s executive amnesty plans,<sup>31</sup> and wanting to build a lasting legacy on the ashes of his repeated failures to listen to the public and govern from the center.

At a meeting with the Congressional Hispanic Caucus, the president was quoted as assuring members of his party that “he won’t back down from his plans to ease deportations.”<sup>32</sup>

There is every reason to believe him.

Be prepared.

## End Notes

- <sup>1</sup> Oscar Lopez, [“10 Obama Quotes On Immigration Reform To Celebrate His Birthday”](#), *The Los Angeles Times*, August 4, 2014. The video can be found [here](#) (at 0:27).
- <sup>2</sup> White House, [“Press Conference by President Obama, President Calderon of Mexico, and Prime Minister Harper of Canada”](#), Guadalajara, Mexico, August 10, 2009.
- <sup>3</sup> Sarah Wheaton, [“Obamacare brings Democrats backlash, not benefits”](#), *Politico*, October 29, 2014.
- <sup>4</sup> Yuval Rosenberg, [“Obama’s Stimulus Plan: What Worked, What Didn’t”](#), *The Fiscal Times*, February 21, 2012. See also Michael Grabell, [“Money Well Spent?: The Truth Behind the Trillion-Dollar Stimulus, the Biggest Economic Recovery Plan in History”](#), New York: Public Affairs Press, 2012.
- <sup>5</sup> William Branigin, [“Obama reflects on ‘shellacking’ in midterm elections”](#), *The Washington Post*, November 3, 2010.
- <sup>6</sup> [“Obama: I Didn’t Promise to Complete Immigration Reform in my First Term”](#), *Fox News Latino*, September 14, 2014.
- <sup>7</sup> White House, [“Remarks by the President at Univision Town Hall with Jorge Ramos and Maria Elena Salinas”](#), University of Miami, September 20, 2012.
- <sup>8</sup> Mark Hugo Lopez and Paul Taylor, [“Latino Voters in the 2012 Election”](#), Pew Hispanic Center, November 7, 2012, p. 1.
- <sup>9</sup> See Kathleen Parker, [“The GOP’s principled suicide”](#), *The Washington Post*, July 12, 2013. I take up the issue of GOP panic over its demographic future in connection with immigration reform elsewhere. See Stanley Renshon, [“Avoiding GOP Immigration Reform Self-Sabotage, Pt. 2: Tea Party vs. Establishment”](#), Center for Immigration Studies blog, May 21, 2014; [“Avoiding GOP Immigration Reform Self-Sabotage, Pt. 3: Conservatives for Comprehensive Immigration Reform”](#), Center for Immigration Studies blog, May 23, 2014; and [“Avoiding GOP Immigration Reform Self-Sabotage, Pt. 4: The Chamber of Commerce”](#), May 27, 2014.
- <sup>10</sup> Carol E. Lee and Peter Nicholas, [“Boehner Warns Obama Against Unilateral Action on Immigration”](#), *Wall Street Journal*, November 6, 2014.
- <sup>11</sup> Julie Kliegman, [“Activist Janet Murguia calls Obama ‘deporter-in-chief,’ says he has deported more immigrants than other presidents”](#), *Tampa Bay Times*, November 11, 2014. (The paper translated Miss Murguia’s comments from the Spanish.) See also, Reid Epstein, [“National Council of La Raza leader calls Barack Obama ‘deporter-in-chief’”](#), *Politico*, May 4, 2014.
- <sup>12</sup> One must distinguish between illegal immigrants who are caught and “returned” — simply sent back without processing or penalty — and those who are “removed” — processed with the penalty of establishing a record that would make their attempted reentry a felony. See Nora Caplan-Bricker, [“Who’s the Real Deporter in Chief: Bush or Obama”](#), *The New Republic*, April 17, 2014. The more commonly used word “deportation” refers in most people’s mind to a process wherein someone goes before a legal adjudication and is ordered out of the country. When used with that understanding, “deportation” is much closer to the formal definition of “removal” than “return”. The official government definitions of these terms can be found in the [2012 Yearbook of Immigrations Statistics](#), Department of Homeland Security Office of Immigration Statistics, July 2013, p. 103, footnotes 1 and 2.
- <sup>13</sup> Andrew Stiles, [“Obama Administration Inflating Deportation Numbers”](#), National Review Online, February 10, 2014.
- <sup>14</sup> Jessica Vaughan, [“Deportation Numbers Unwrapped”](#), Center for Immigration Studies, October 2013.
- <sup>15</sup> Quoted in Brian Bennett, [“High deportation figures are misleading”](#), *The Los Angeles Times*, April 1, 2014.
- <sup>16</sup> Major Garrett, [“Obama’s Immigration Independence Day”](#), *National Journal*, July 3, 2014.
- <sup>17</sup> Charles Lane, [“On immigration reform, President Obama as emancipator?”](#), *The Washington Post*, August 6, 2014.

- <sup>18</sup> Kathleen Hennessey and Christi Parsons, [“On immigration, will Obama shape his legacy or the next election?”](#), *The Los Angeles Times*, August 30, 2014.
- <sup>19</sup> Stanley A. Renshon. [Barack Obama and the Politics of Redemption](#), New York: Routledge, 2011, pp. 87-91.
- <sup>20</sup> White House, [“Remarks by the President on Border Security and Immigration Reform”, Rose Garden](#)”, June 30, 2014.
- <sup>21</sup> Ed O’Keefe and David Nakamura, [“Obama delays executive action on immigration until after midterm elections in November”](#), *The Washington Post*, September 6, 2014.
- <sup>22</sup> [“President Barack Obama’s Full Interview With NBC’s Chuck Todd”](#), September 7, 2014.
- <sup>23</sup> Matthew Yglesias, [“He doesn’t know it yet, but Obama’s likely to break another promise on immigration”](#), *Vox*, October 8, 2014. (Title subsequently changed to “The midterms may have killed bold executive action on immigration”.)
- <sup>24</sup> Aaron Blake, [“Politifact awards ‘Lie of the Year’ to Obama”](#), *The Washington Post*, September 12, 2013. See also, Angie Drobnic Holan, [“Lie of the Year: ‘If you like your health care plan, you can keep it’”](#), *Tampa Bay Times*, December 12, 2013.
- <sup>25</sup> Mark Landler and Michael R. Gordon, [“Obama Not Rushing to Act on Signs Syria Used Chemical Arms”](#), *The New York Times*, April 26, 2013.
- <sup>26</sup> David Axelrod, [“Immigration bill won a huge bipartisan majority in the Senate. POTUS should agree to shelve exec order for up or down vote in House”](#), November 5, 2014, 3:01 p.m., tweet; and Evan McMorris-Santoro and Adrian Carrasquillo, [“Two Prominent Democrats Float Idea Of Delaying Immigration Actions”](#), BuzzFeed, November 6, 2014.
- <sup>27</sup> Susan Ferrechio, [“Obama won’t wait until Jan. on immigration”](#), *Washington Examiner*, November 7, 2014. See also Roberta Rampton and David Lawder, [“Sea bass with humble pie? Obama hosts lunch with Congress”](#), Reuters, November 7, 2014; and Kristina Peterson and Michael R. Crittenden, [“Obama, Republican Leaders Spar Over Immigration at Lunch”](#), *Wall Street Journal*, November 7, 2014.
- <sup>28</sup> The White House, [“Remarks by the President on Border Security and Immigration Reform”](#), Rose Garden, June 30, 2014.
- <sup>29</sup> [Written testimony of DHS Secretary Jeh Johnson](#) for a Senate Committee on the Judiciary hearing titled “Oversight of the Department of Homeland Security”, June 11, 2014.
- <sup>30</sup> CBS, [“Obama’s Lawyers Crafting Legal Rationale For Executive Actions On Immigration That Will Survive Court Challenges”](#), August 28, 2014.
- <sup>31</sup> Mark Hugo Lopez, Ana Gonzalez-Barrera, and Jens Manuel Krogstad, [“Latino Support for Democrats Falls, but Democratic Advantage Remains: Immigration Not a Deal-Breaker Issue for Half of Latino Voters”](#), Pew Research Center, October, 2014, p. 36.
- <sup>32</sup> Elise Foley, [“Obama Tells Lawmakers He Won’t Cave On Deportation Review”](#), *Huffington Post*, July 16, 2014.