

Gang Of 8's Path To Citizenship Is Still A Rocky Road

[Benjy Sarlin](#) January 28, 2013, 12:36 PM 5091

While reformers are excited that a path to citizenship for illegal immigrants is the centerpiece of the Senate's new bipartisan immigration deal, it's still unclear just how accessible that path will be for the undocumented population.

Without the proper components, experts warn the Senate plan could be the beginning of a long process to bringing illegal immigrants fully into American society, one that could take not years but decades.

"It's always been understood to be a process that takes some time," Marshall Fitz, director of Immigration Policy at the Center for American Progress, told TPM. "But we want to make sure that it's not a path to citizenship in name only."

Still, there has been real movement. Republican lawmakers are now openly backing a path to citizenship for a significant number of the 11 million people currently in the country illegally. It's a sea change from just a few months ago when advocating "self deportation" was considered the safe position within the party and anything more was dismissed as amnesty. And Fitz added that he did not believe the senators who signed on to the package would have done so if they expected an "epic path to citizenship, akin to climbing the top of Mt. Everest" to be in the final agreement.

But a lingering question is whether the new framework, still only a four-page white paper, would send illegal immigrants on a path through the current system for legal immigration, which remains plagued by delays, limited quotas, and rules that put less educated illegal immigrants at a disadvantage compared to immigrants with advanced degrees in high-demand industries.

Under the [plan](#), undocumented immigrants would receive a probationary status if they pass a criminal background check, pay a fine, and pay any back taxes owed to the government. After that, they'd have to wait to apply for permanent residency - a prerequisite to citizenship - until *after* a series of border security measures go into effect.

None of the new border measures, which will be overseen by a commission of southwestern state officials and community leaders, appear too difficult to implement at first glance (although there are concerns as to how much power conservative state politicians would wield in the process). The big question is what comes next when 11 million newly legal immigrants apply for a green card.

According to the [framework](#), these applicants will then be required to "go to the back of the line of prospective immigrants." But for many of them, a clear line doesn't actually exist at the moment. Individuals can apply for green cards through a number of categories, mostly based on

having family already in the country or on their employment status, which experts say are inadequate to the task of absorbing so many immigrants at once.

On the employment side, only 140,000 green cards are available per year, with no more than 7 percent going to applicants from any one individual country. And within that group, the majority go to people who enjoy elite status in their fields or hold advanced degrees, two categories that enjoy special preference. Even then, there are still often [long waits](#) in those categories and the bipartisan framework calls for an easier visa process for math and science graduates, an idea that's relatively popular across party lines.

But most of the 11 million undocumented aren't engineers applying to Google. Many work in low-skill jobs like agriculture, custodial work, home health care, or in hotels and restaurants. Just 5,000 employment-based green cards are available a year in this category. And family preference visas aren't always a viable path for them either. Some categories of immigrants applying through a relative face decades-long waits and that's before a huge influx of new applicants floods the system. Without major changes, passing several million immigrants through the existing framework could create a naturalization traffic jam extending several decades into the future.

"If you waited under the current system, it meant people couldn't obtain a green card for perhaps 30 years, which is unacceptable for any number of reasons," Mary Giovagnoli, director of the Immigration Policy Center, told TPM.

There's some acknowledgement of this problem in the Senate's early framework. It already suggests that some of these 11 million will have to be put on a newly created path of their own to speed things up. Young immigrants who came to America as children, the estimated 2 million people covered under the proposed DREAM Act, would get their own, still undefined, process. Agricultural workers would also receive their own expedited process.

One possible solution might be a temporary measure to rapidly speed up approval of current green cards in a variety of categories, a component that was included in the failed 2007 immigration bill and could clear the so-called "line" within years instead of decades. Paired with a reformed visa application system that allows for the undocumented population to be processed faster than its current iteration, they might be able to gain citizenship in what reformers consider a reasonable timeline. According to the Senate framework, one goal of the plan is to "reduce backlogs in the family and employment visa categories so that future immigrants view our future legal immigration system as the exclusive means for entry into the United States."

"If you're going to channel through employment or family categories you have to make sure the numbers will meet the needs," Greg Chen, Director of Advocacy for the American Immigration Lawyers Association, said. "You'd have to think about how the existing numeric limits work, which would need to be adjusted to accommodate the undocumented population."

But the details remain vague and there will be pressure on the other side to make that process difficult. Some conservative pundits, like Charles Krauthammer, have [suggested](#) a bill that provides only legal status for undocumented immigrants without a path to citizenship. Rep. Raul

Labrador (R-ID), a popular tea party conservative and immigration lawyer, has offered up [similar proposals](#). And there are [rumblings of concern](#) among Democrats that a final bill might not address the backlog issue as a concession to the right.

Frank Sharry, executive director of America's Voice Education Fund, told TPM that he's encouraged that conservative bellwethers like Sen. Marco Rubio (R-FL) have come out loud and proud in favor of citizenship as the main component of a package, something that Rubio in particular was reluctant to do until recently. But the particulars of that path figure to be a dominant concern moving forward.

"We're going to have a fight over the timeline and criteria [for citizenship], but game on," he said. "It's a much better fight than whether to have citizenship at all."

<http://tpmdc.talkingpointsmemo.com/2013/01/big-questions-remain-on-path-to-citizenship.php>