

Obama's Immigration Nuclear Option: Stopping Deportations Unilaterally

By Molly Ball

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The biggest obstacle facing immigration reform may be [not opposition](#) but inertia. Leaders of the House of Representatives have said they plan to act, but with the coming months likely to be consumed by budget drama, immigration could [fall by the wayside](#).

If that happens, advocates of immigration reform have another idea: They'll push Obama to press the button on the immigration-reform nuclear option.

The option commonly referred to by immigration reformers as "Plan B" would see the president take executive action to prevent undocumented immigrants from being deported -- along the lines of the deferred-action program the administration created for "Dreamers" last year. It wouldn't be a panacea, and it wouldn't give them citizenship. But such an action could at least spare some from the constant threat of deportation. And perhaps just as important, it could exact major political revenge on Republicans, galvanizing the Hispanic electorate against them and further hurting their image with the fastest-growing segment of voters.

The idea gained some prominence earlier this month, when Republican Senator Marco Rubio [mentioned it in a talk-radio interview](#): "I believe that this president will be tempted, if nothing happens in Congress, to issue an executive order as he did for the Dream Act kids a year ago, where he basically legalizes 11 million people by the sign of a pen," Rubio said.

Opponents of immigration reform howled that Rubio's implied threat was [a form of blackmail](#). But that's exactly how reformers see the executive-order possibility -- as the potential penalty if Congress does nothing. And as the legislation's congressional prospects get ever dimmer, the buzz about Plan B gets louder. "Some people feel like we need to cut our losses, legalize as many people as we can," Juanita Molina of Humane Borders recently [told National Journal](#).

Richard Morales, director of deportation prevention for the [PICO National Network](#), confirmed that activists are prepared to turn their sights on the White House. "Organizers think long term, so they know that legislation is one way, but that DACA" -- the June 2012 Deferred Action for Childhood Arrivals program -- "has proven that the administration can provide another way," he told me in an email. The faith-based network's "targeted deportation actions" highlighting the plight of individuals have already gotten five undocumented immigrants released from detention or spared deportation.

The *Washington Post*'s Brad Plumer recently [examined the potential mechanics of a broad executive action](#) halting deportations. A large number of legal experts endorsed DACA, though some conservatives [argue it was unconstitutional](#). Depending on the extent of a broader action, a

similar rationale -- assigning certain cases lower-priority status based on prosecutorial discretion -- could apply, but it would only give the undocumented a temporary reprieve and the ability to work legally, not permanent residency or citizenship.

Advocates say DACA proved that executive action to halt deportations is both legal and politically beneficial. Prior to Obama's June 2012 announcement, his advisers knew he needed to rally a Latino community that largely felt he'd failed to keep his word to them and resented his administration's record pace of deportations. But the Obama camp worried about a backlash from independent voters. Such a backlash never materialized; meanwhile, Hispanic voters [turned out for Obama in record numbers](#).

Republicans who favor immigration reform [have argued that their party needs to back reform](#) to compete for the fast-growing Hispanic vote and become more viable nationally. But even those who agree with that analysis and back reform on policy grounds -- such as, by all indications, House Speaker John Boehner -- see little upside in forcing a politically difficult vote, and little downside in letting reform die a slow death. Republican Rep. Bob Goodlatte, the chairman of the Judiciary Committee, heightened reformers' fears of inaction [at a recent town hall, saying](#), "Even if [reform legislation] doesn't go all the way through to be signed by this president ... it doesn't mean we shouldn't at least show the American people that we are interested in solving this very serious problem that we have in our country." The threat of executive action would create a disincentive for such inaction, reformers say. If Republicans refuse to act, Obama can take action -- and get all the credit from a grateful Hispanic community -- without them.

Still, the rumbles about Plan B in immigration-reform circles have yet to reorient reformers' strategy toward a new goal. The topic is still somewhat taboo, as the official strategy remains focused on winning the legislative fight. "Our goal is legislation that will put the 11 million [current undocumented immigrants] on an eventual path to citizenship. That's permanent protection for millions of people," said Frank Sharry of America's Voice.

But some liberals, like *TPM's* Josh Marshall, are [already saying](#) it's time to "stop pretending that this bill is going to pass" and start blaming Republicans for killing it instead. And immigration reformers are prepared to change their tune if things get to that point. "In the final analysis, if Republicans block it in the House, of course we're going to look at all of our options, including pressing the president," Sharry said.

The big question is whether Obama would consider such a move, and that is something no one seems to know. His official position is that he is not considering it: "The only solution to this problem is for Congress to fix the broken immigration system by passing comprehensive reform," [a spokesman said](#) earlier this month. Advocates say that is also what they are told behind the scenes: "The White House cuts off the conversation whenever it comes up. They want to keep the pressure on Republicans to pass legislation, as do we," Sharry said.* If Obama pulled the trigger, though, Sharry believes that would spell disaster for Republicans: "They are both going to be blamed and open the door to Obama being seen as the Great Emancipator."

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