



SILVER LINING ON IMMIGRATION AFTER THE NOVEMBER 2010 MID-TERM ELECTIONS

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Now that the Republican party controls the House, what does it portend for immigration? There is a sense of foreboding and pessimism. Most fear that any prospect for Comprehensive Immigration Reform is dead, although it never got jump started even though the Democrats controlled both the chambers of Congress from 2006 until now. Instead, we will see enforcement oriented measures being passed. FAIR has already issued a statement of what it considers immigration reform, which obviously is all enforcement and no sensible expansion of visa categories that would provide for a more orderly flow of legal immigration and stem illegal immigration, <http://ht.ly/33QoA>. AILA's President David Leopold worries that Rep. Lamar Smith, the expected chair of the House Judiciary Committee and Rep. Steve King, the slated chair of the House Subcommittee on Immigration will pass mean spirited immigration legislation, like HR 4437, which would have criminalized the undocumented, or to use their subpoena powers to investigate harass the President or other leaders of the immigration agencies, <http://ailaleadershipblog.org/2010/11/03/the-morning-after/>.

An article in Bloomberg BusinessWeek also suggests that businesses may not even see any changes in the immigration system for skilled workers, such as an expansion of H-1B visa numbers or an expansion of the employment preferences, where some applicants must wait for at least a decade or more before they can get green cards, <http://bit.ly/cDVMcD>. Rep. King has stated in this BusinessWeek article that he would first want to pass measures that would crack down on illegal immigrants before considering proposals that business want regarding much needed expansion in visa categories. But what has skilled immigration, which is mostly legal, have to do with cracking down on illegal immigration and closing the borders? In August 2010, Senator Schumer's

border security bill substantially raised the H-1B and L visa fees on companies that had more than 50% of their workforce on H-1B and L visas (all legal workers to boot) to pay for border security, including deploying a couple of drone aircrafts on the US-Mexico border that are used in Pakistan and Afghanistan,

<http://blog.cyrusmehta.com/2010/08/the-world-according-to-senator-schumer-if-its-not-a-chop-shop-its-a-body-shop.html>.

Let's hope that our pessimism is off the mark, although I admit that I might be dreaming given that Rep. King's anti-immigration rhetoric is shriller than most even among other enforcement oriented Republicans, <http://bit.ly/a6S0ac>. There might be common ground between the President, Democrats and Republicans to pass incremental measures, which is now the new mantra if anything can ever be achieved. The Economist also feels that it might be premature to write off any prospect for immigration reform, <http://www.economist.com/node/17366155>. Indeed, there is precedent for this. Some of the most innovative ameliorative immigration legislation such as the American Competitiveness in the 21st Century Act and the Child Status Protection Act got passed in a Republican controlled Congress. One common ground between the Administration and the new Congress, at least in the short term, is to work together to pass more business friendly immigration measures, such as more H-1B visas for skilled workers and an expansion in the employment-based preferences, with perhaps adding new categories for business entrepreneurs and those with advanced skills in the sciences and technology. Even Rep. King in the BusinessWeek article seems to be inclined to pass measures "for higher-skilled workers only if the potential employees meet criteria to boost the U.S. economy." All these proposals should be appealing to the new Republican leadership at the helm in the House who believe in the spirit of personal responsibility, hard work and enterprise, without relying on the government for a handout. Immigrants best exemplify this ideal.

Finally, even though Republicans gained a lot in the mid-term elections, beware that an overtly anti-immigration agenda will see you go down in flames like Sharon Angle in Nevada who demonized immigrants in her election campaign commercials or Meg Whitman whose hypocritical attitude towards her immigrant nanny was telling on the voters, <http://bit.ly/cZX2Zo>. Indeed, it is likely that the reason why the Democrats still control the Senate is because of Latino voters who either rewarded or punished candidates based on their

attitude towards immigrants. Barbara Boxer, as an example, was the recipient of this reward.

In the past, one of the reasons for lack of support from Republican leaders, who traditionally supported immigration, was that the Democrats would take credit. This is no longer true after the recent Republican election gains. Now is the time for both the Democrats and the Republicans to work together in Congress, along with the President's support, to pass immigration friendly measures so that both parties can claim credit among voters in future election cycles.