

**Passing Immigration Reform: Lessons Learned from the
French Exceptional Regularization of 1981-82**

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Executive Summary

This report aims to understand how policy change happens in immigration policy in order to develop a strategy for change in the United States. In order to do this, the report utilizes comparative analysis methods to examine the single case of the French Exceptional Regularization of 1981-82 in-depth and identify the key factors which led to policy change. Much can be learned from the French case since it was one of the first immigration control policy mixes centered around an amnesty policy tool. The policy change was also during the beginning of a period of time of politicization of immigration policy, which provides a further unique look at the early arguments for and against immigration control policies through a political lens.

The analysis finds that the French Exceptional Regularization was the result of three key factors of change: institutions, political interests, and electoral mandates. Each factor required the conditions set by the previous factor to be affective. The report ends with a proposal of how these factors could be used to develop a strategy for change in the United States. This strategy would require a significant period of time and capacity.

Given that we live in a volatile political era where the topic of immigration is highly contentious it may be challenging to believe immigration reform could be possible. However, the period leading up to the Exceptional Regularization was starkly anti-immigrant, similar to the era we are in today. This is further reason why the French case provides a unique opportunity to learn from abroad and from the past.

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I. Recipients/ Reason for Report

Immigration control policies adopted by many industrialized countries over the past several decades, including the United States, have included amnesty, or regularization policy tools by which a portion of the undocumented immigrant population is awarded a pathway to citizenship (Levinson, 2005). Given the universality of this policy area, it is primed for comparative policy analysis. Cornelius et al conducted a comparative analysis in which they posit a convergence theory of immigration policies across the industrial nations (1992, p. 3). The authors claim these countries tend to choose similar policy instruments among other similarities. Cornelius et al additionally argue that these nations see similar gaps between the intended goal of their immigration policies and their outcomes (p.3).

This paper will take a comparative analysis approach to examine the policy process of passing one of the premier immigration amnesty policies in Europe, the French Exceptional Regularization of 1981-82. Lessons learned from this case can be directly applied to a strategy for immigration control policy change in the United States. While the immigration and refugee crisis of today may differ from that of the early 1980s, much can be learned from this case since it was one of the first immigration control policy mixes centered around an amnesty policy tool. The French case provides an opportunity to learn what Anneliese Dodds calls “free lessons” (2013, p.5) from the strategy used by the French to pass this new form of immigration control policy.

This report finds that the French case shows a combination of French institutions on the local government level, political interests and an electoral mandate were the three primary factors of policy change in 1981. Both Dodds and an Organisation for Economic Co-operation and Development (OECD) study titled “Making Reform Happen” argue for the important role institutions play in the policy process. The important role interests play in the French case is best described by Dodds reference to Ambrose Bierce (1911) who “famously suggested that ‘politics’ referred to the ‘strife of interests masquerading as a contest of principles’” (2013, p. 199).

According to the OECD study the third factor, electoral mandates, can play a significant role in passing reform. The study reports that “it is not enough to win an election or command a parliamentary majority: it also matters a great deal if the government has made the case for reform to the voters ahead of an election” (OECD, 2010, p.3) The issue of immigration is laden with varying values and inevitable contentious view points, thus any strategy will be heavily

dependent on the makeup of the political arena. The French case will show how these three factors coalesced resulting in policy change, providing policymakers in the United States with a guide to potential beneficial environmental factors as well as ways to prepare and catalyze the policy change process.

The following section will define the problem all countries face in choosing immigration control policy, as well as the specific challenges the United States has faced in the past. Next, there will be a detailed account of the events which led to the policy change in 1981, highlighting each of the three key factors. This will be followed by a proposal of how the United States could learn from the French case. Then there is a discussion of the possible challenges with this proposal. The report ends with a summary of the findings and the final takeaways from conducting this comparative analysis. For an analysis of the Exceptional Regularization policy itself, see the following report titled “How the United States Could Learn from France’s Regularization Policy.”

II. Immigration Control Policy – the challenges facing sovereign nations

Immigration control policy is not unique to the United States, all countries must answer the question, what will the state do to enforce and protect its sovereignty? Most often there is no consensus on the answer to this question, which makes passing reform a challenging task. Brochmann et al argue the choice of reform “will be influenced by administrative and management systems; traditions in relation to immigration; national history generally speaking, particularly with respect to civil political culture, collective identity and ideology of nationhood” (p. 6, 1999). Policymakers must take into consideration additional factors such as the economy, security, the welfare of its citizens, and international norms and standards for human rights. Moreover, given the varied dependence on immigration for foreign labor or for population growth, policymakers must choose a delicate balance of either external or internal control policies or a combination of the two.

With each variation in policy tool there is a constituency for and against. Policymakers will inevitably encounter stakeholders from the labor market, industry, local government officials, immigrant and human rights advocates, just to name a few. Therefore, the simple act of choosing a tool is a political one. External immigration control policy may take many forms with policy outcome goals to either restrict or encourage immigration. Some example policies include

open or heavily enforced borders, country of origin quotas, or recruitment of foreign workers. Similarly, internal control policy may take many forms along a spectrum, for example restrictions on ability to work, policies determining offenses worthy of deportation or detention, housing and integration policies, education policies, pathways to citizenship through jus soli or accumulation of years spent in the country, or regularization/amnesty programs.

a. Immigration Reform Challenges in the United States

The United States has struggled for decades to develop and pass comprehensive immigration reform. The Immigration Reform and Control Act of 1986 (IRCA) could be characterized as an all angles approach to immigration control utilizing policy tools such as amnesty, increased border protection and employer sanctions. IRCA thus consisted of a diverse set of policy tools to address immigration in the United States, which inevitably meant a diverse set of stakeholders at the table. The stakeholder interests however were not uniform, on the contrary the legislation was debated over fifteen years in Congress, which was partially due to the structure and institution of the United States Congress, as well as the seemingly intractable interests of the parties involved. Some argued special interests tore apart the legislation, resulting in an illusion of harmony in the end (Calavita, 1989, p. 40).

The events of September 11th changed the focus on immigration control policy greatly, as well as the process by which we change the policies. Since 9/11 immigration policy and national security policy became linked, this was codified in the administrative reorganization of the Immigration and Naturalization Service (INS) under the newly created Department of Homeland Security (DHS) in 2003. The embedded nature of homeland security into immigration control has significantly altered the policy change process for immigration policy and it has made the prospect of major immigration reform challenging.

With an estimated 11 million undocumented immigrants living in the country today, comprehensive immigration reform seems more like a mirage than a real possibility. Given the complexity of this problem it is helpful to study how the policy process worked in the past, allowing us to focus on important factors we may have lost along the way. Dodds explains how “comparing policy in different nations can also provide us with a deeper and richer understanding of the fundamental drivers of policy-making and how it impacts on the world” (2013, p. 5).

III. The French Case – Exceptional Regularization, 1981-82

Between 1981-82, France ran what was called the Exceptional Regularization, which was one of several liberal immigration control policies implemented in the early months of a new socialist administration. This regularization was not the first in French history, however it was the largest in its history thus far and the most broad reaching. According to the circular issued on August 11, 1981 the purpose of the Exceptional Regularization was “to put an end to the precariousness suffered by many immigrants” (DeLey, 1983, p. 206).

The Exceptional Regularization was a notable shift in France’s approach to immigration control policy. In the decade prior, French immigration control was more aggressively anti-immigrant. This policy change in 1981 can be attributed to two primary factors: 1) French institutions specifically the institution of local governance structures; 2.) the political interests of the Socialist party during an election year; and 3.) the electoral mandate won by the Socialist party in the 1981 presidential and legislative elections. Before the election, most immigration policy was typically implemented on the local level, therefore local governments were intimately aware of the increasing need for reform. The message that reform was needed eventually trickled up to the national government level through local government officials’ dual seat in local and national governing bodies. Meanwhile, the Socialist party had been a quiet supporter of immigration rights in the country leading up to the election, and with the dramatic electoral mandate the new government was provided with a period of unobstructed policymaking.

French immigration policy in the decades prior to the Exceptional Regularization varied. Between 1945 and the 1960s it could be described as liberal with active recruitment of foreign workers through both formal and informal mechanisms. By 1968, immigration was “out of control,” with 82 percent of the foreign workers that year having entered illegally (Delay, 1983, p. 199). However the need for the foreign labor was still valued and therefore the policymakers did not find the large undocumented population a concern (p. 199). However, with the economic downturn in the early 1970s, this perception greatly changed.

The 1970s immigration control policies were a combination of external and internal controls, and similarly were characterized as both pro-immigrant and anti-immigrant in nature. The government conducted a small regularization campaign in 1972, (40,000 immigrants), anti-racism measures were passed, as well as measures permitting immigrants more access to workers’ committees. But by 1974 the regularization program ended and all immigration was

closed, except for family reunification which led to the immigrant population continuing to increase over the next decade (Ambler, 1985, p. 170).

a. Institutions – French Local Governments

It was during this period as well that France was undergoing urban renewal projects which spurred a phenomenon called the “tolerance threshold” similar to the “tipping point” in the United States. The tolerance threshold occurred when French citizens would leave neighborhoods once a threshold of immigrants was met (Horowitz, 1992, p. 25). The terminology of the tolerance threshold was used by public officials in the public realm, and was “employed for the justification of policy” (Grillo, 1985, p. 126). While it might have started as a description of a phenomenon, it eventually “‘trickled down’ into administrative and political circles in a perspective form” (p. 138).

The immigration problem was thus defined by local government primarily as one of integration, the white French citizenry appeared to be most concerned with how to fold the immigrant population into the French culture. (Horowitz, 1992, p. 218). This concern was not solely targeted toward the undocumented population, but at the immigrant population as a whole (p. 218). The local government measures took on a characteristic of exclusion, creating quotas for immigrant children in schools, restricting them from summer camps, or limiting housing to “native families” due to already having too many foreign families in public housing (p. 218). In fact, in 1975-76 a list was created which consisted of those regions which could be classified as at capacity with immigrant families, allowing them to outright refuse to accept more (Grillo, 1985, p.126). These policies greatly restricted and essentially limited where immigrants could live. As a result immigrant families were forced to live in concentrated areas and at times in institutional accommodations (p. 138).

Opposition to these anti-immigrant measures was restricted by the institutions in which policy was made. Many of the exclusion policies were made at the administrative level, not the political level, therefore public debate over these measures was not common (Horowitz, 1992, p. 419). Moreover, it was illegal for immigrants to form political associations until 1982 (p. 419). Therefore, these restrictions meant the immigrant community was not consulted for input or they were outright denied the chance to provide input. This issue of access to the political process through freedom of speech was noted in a study conducted in the mid 1970s regarding the

relationship between immigration issues and the ideologies and institutions of urban France. The author wrote “an elementary justice might be seen to be done if the ordinary immigrant were enabled to speak directly and unaided in the public arena” (Grillo, 1985, p. 280).

Much of the effects of immigration were felt at the local level, which is why the local governments were the primary creators and implementers of policy. On the national level it was not common for national politics to cover immigration issues. The national policy traditionally covered areas such as “entry, expulsion and general treatment of immigrant workers” (Ambler, 1985, p.182). However, local politicians lived in two political worlds, one local and one national. “Over 80 percent of the deputies in the National Assembly [held] local office at the same time (about half these [were] mayors), and the Senate [was] elected by an electoral college that consists overwhelmingly of local office holders” (Horowitz, 1992, p. 421). As a result towards the end of the 1970s and early 1980s the issue of immigration began to permeate the national political realm (Ambler, 1985, p. 182).

b. Interests – the Socialist Party

In the run up to the 1981 presidential and legislative election immigration control policy had reluctantly made it onto the national political agenda. This election would mark the beginning of “the politicization of immigration issues” in France (Feldblum, 1999, p. 38). On the one side both the Communist and the conservative National Front parties came out vehemently against immigration. The Communist party opened the presidential campaign by declaring that “‘there was too strong a concentration of immigrants in the population’ in France (p.173). Providing immigrants the right to vote was also being discussed during this time, to which the National Front argued passing such legislation would lead to “the process of defrancisation of France” (p. 38).

While the Communist party and the National Front were outwardly declaring their views on immigration control policy, the presidential candidates, Socialist François Mitterrand and conservative incumbent Giscard D’Estaing agreed not to debate the issue at all “during their televised debate (p. 38). However, the Socialist party soon took the opportunity to use the immigration issue to distance themselves from their opponents and to isolate them in their “radical anti-immigrant stances” (p. 38). “The Socialists’ pursuit of policy convergence necessarily led to its retreat from earlier support of differentialist policies. The process of

changing directions and interactions propelled those on the Left, as it did those on the Right, to elaborate their own views on the French national identity” (p. 42). Thus, in a political move the Socialist party took a stand in support of more inclusive immigration policy, quite possibly as a strategy to win the election.

Mitterrand made the commitment to inclusive immigration policies when he added the right for foreigners to vote onto his platform (p. 42). In fact, the Socialist Party Manifesto in 1981 included a strong stance on improving immigrants’ lives in France. “Discrimination against them would be dealt with, undocumented workers would be more carefully controlled at the frontiers, and legal rights for immigrant workers would be reinforced and expanded” (Ambler, 1985, p. 183).

c. Electoral Mandate – Socialist Party Wins Historic Election

In May 1981, France underwent a political revolution ending decades of conservative rule with the election of the Socialist candidate François Mitterrand as president followed by the landslide success of Socialist party in the parliament in June (Criddle, Bell, 1981). During the summer of the Socialist party electoral mandate, tensions were at a breaking point in those urban areas which had been struggling with their immigrant population. Urban riots broke out in Lyon. The riots as well as the long standing issue caused by immigrant concentrated areas led to the creation of an Interministerial Commission which recommended among other things, “more long-term national support for efforts at the local level” (Horowitz, 1992, 420).

Thus, the pathway to the Exceptional Regularization included first the institutional structure of local government, with its front line position in addressing immigration. Frustrations at this level eventually trickled up to the national political realm in search of broad reaching policy change. Meanwhile the second factor was the political interests of the Socialist party, using the immigration issue to gain a foothold in the election. Their strategy was successful, and the Socialist party won both the presidency and swept the National Assembly. With an electoral mandate the government was able to quickly use their early days in office to pass several liberal immigration control policies, including the Exceptional Regularization.

IV. Proposal

The United States has struggled to develop and pass immigration reform over the years. The last immigration reform with an amnesty tool built in was the Immigration Control and Reform Act of 1986, which included a great amount of stakeholder input, which inevitably slowed the process down and according to some made the policy ineffectual. The French case provides us with a unique opportunity to learn from a moment in time when immigration policy became politicized for the first time and a major reform successfully passed. The three factors identified above which led to policy change in France in 1981 are institutions, interests and electoral mandate. All three of these factors can be applied to a long term strategy for immigration reform in the United States.

The first and most important lesson from the French case was the role local government institutions played in developing and implementing immigration policy. These local governments are on the front lines of immigration, having to figure out ways to house, educate, integrate foreigners into their communities, as well as develop a supportive labor market for foreign workers. These government officials eventually brought the issue of immigration to the national agenda because it was extremely pressing for them to do so. The same is true in the United States to a large extent. Despite the fact that immigration policy in the United States largely rests in the Federal executive branch, local governments are currently taking a large role in deciding immigration policy across the country. If policy change is likely to happen in this domain then one requirement will be the involvement of local government officials in developing the policy.

Therefore, the first proposed strategy for anyone pushing for more liberal and inclusive immigration policy, is to start at the local level. Do this by first supporting elected officials who support your position on the issue, then make sure you continue to urge them to act once they are in office. In the French case the local officials were pushing for exclusionary policies, and eventually these policies led to further problems, at which point they turned to the national leaders for support. In the United States, if one is pushing for inclusive policy, it is wise to begin implementing these types of policies on the ground in your local communities. Just as in France, the effects of these policies will be felt, whether good or bad. The goal is to have inclusive policies lead to more stable and prosperous communities. These outcomes will then be used as examples of what works, and can then be pushed up to the national level.

The United States political system is not exactly like that in France, where local officials sit in two worlds, one local and one national. However, local officials often run for national office, essentially serving the same purpose. Therefore, the strategy should include urging those officials who support your policy agenda to move into the national political arena, and ensure they are pushing for the immigration agenda while they are there.

The second factor which led to the success of policy reform in France was the political interests of the Socialist party. During the election campaign the Socialist party took the opportunity to use immigration to gain a foothold and separate themselves from the more extreme points of view on the topic. For this to work in the United States the national political field must be primed accordingly through the first strategy listed above. If local officials have brought with them their positive experience with immigration policies on the community level up to the national political arena, then it will be beneficial to come out in support of these measures.

Furthermore, it is important to realize the value the opposition provided the Socialist party in their campaign. The Socialists party broke away from the Communist party by taking a stand for inclusive policy. This divided the field to the Socialist benefit. Furthermore, the conservative National Front was a small party that expressed radical views, which the Socialist party used as a way of showcasing their more even handed moderate approach. Opposition will of course always be present, the strategy is to use the opposition to highlight the good qualities of ones own party. Again, this will only be successful if the first step of the strategy is successful, where the both the national and local political field have been filled with officials supporting the inclusive immigration policy agenda.

The third and final factor for a successful policy change in this area is the electoral mandate. It should be clear by now that each one of these strategies builds on the previous one. In order for there to be an electoral mandate, there must be adequate support from the political arena. However, if the support is there then the likelihood of an electoral mandate is much larger. With this mandate, policy change is possible, primarily during the first few months of a new government.

V. Uncertainty, Tradeoffs, Durability

One significant drawback to the strategy explained above is the need for time. A second and related challenge is the need for broad reaching capacity. In order to get to the electoral mandate, the strategy requires coordinating an overhaul of the current political arena. This is a daunting task that will take several if not numerous election cycles, not to mention the expense both in time and money in running mobilization campaigns. This strategy however was used by the Republican party, and the Tea Party in particular, to a large extent after the election of Barack Obama in 2008, which resulted in a political arena dominated by Republicans from the local to the national level eight years later.

Given that we live in a volatile political era it may be challenging to believe such a contentious issue as immigration reform could be possible. However, the period leading up to the Exceptional Regularization was starkly anti-immigrant, similar to the era we are in today. The borders were closed and deportations increased. It is possible it was this anti-immigrant policy era filled with anti-immigrant rhetoric which led to a party standing out by defending the immigrant community and declaring their commitment to ending their precarious life situation.

VI. Summary

This report showed that comparative policy analysis can provide lessons from abroad and from the past. The French Exceptional Regularization was the result of three key factors of change: institutions, political interests, and electoral mandates. Each factor required the conditions set by the previous factor to be affective. These three conditions can be used in the development of immigration reform in the United States. This strategy will take a significant period of time and capacity to plan in order to be successful. However the grassroots model of change has been shown to work and should be used in catalyzing policy change. In France the urgent need for reform was pushed up from the local level due to poor living conditions and urban conflicts. In the strategy proposed here, inclusive immigration policies at the local level may have the same effect by sharing the positive outcome of the policies and thus urging for their adoption or consideration at the national level. Furthermore, by filling the local government offices with like minded officials, the path to an electoral mandate is more likely.

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