Negotiating a Coalition of the Willing: Curt Bramble and the Utah Immigration Fight

Teaching Plan

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Synopsis

The case describes how state legislators in Utah, a very conservative state, assembled a "Coalition of the Willing"—Republican and Democratic representatives alongside religious, civic and business leaders—to negotiate a bi-partisan compromise to address the emotionally-charged issue of immigration reform. The case focuses on Senator Curt Bramble's efforts to develop and shape the negotiating strategy and trajectory of the 2010-2011 immigration legislation. Bramble successfully brings stakeholders to the negotiating table to define the problem and ultimately to craft a compromise—despite strong and vocal opposition within his own party. The case does not focus on the negotiation of the legislation per se, but on how the parties built support while moving from problem definition/framing through development of the Utah Compact (guiding principles developed by external stakeholders) to the drafting of the legislation.

Learning Objectives

The case is designed to facilitate a live, in-class discussion to help students understand how to diagnose barriers to agreement and understand the role of external stakeholders in shaping a negotiation

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This teaching plan was written by Brian Mandell, Senior Lecturer in Public Policy, at the John F. Kennedy School of Government, Harvard University (HKS). Funding for this case was provided by The William and Flora Hewlett Foundation. HKS cases are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

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strategy. Additional learning objectives include how to use problem framing to bring more people to the negotiating table and create the conditions for buy-in of an acceptable compromise solution.

Assignment Questions

Students are asked to consider these questions as they read and reflect on the case:

1. How did Paul Mero and the Sutherland Institute build a coalition to counter the momentum of the enforcement-only advocates? How did he identify and recruit key players?
2. Why did Mero and other moderates feel it was necessary to create the Utah Compact? How did they use the Utah Compact to reframe the debate?
3. What strategies did Luz Escamilla use to shape the debate and work around her position as a below-the-line negotiator (one with fewer levers for influence)?
4. Once he was assigned to build a "Utah Solution" that could become law, what early moves did Bramble make to increase the odds of success?
5. What strategy did the Patrick Henry Caucus take towards Bramble's Coalition of the Willing? What was the result?
6. Why was Bramble eager to work with Bill Wright? How did Wright's involvement increase the credibility and likelihood of success for Bramble's effort?
7. What stakeholders or aspects of the case were unique to Utah? What lessons can be generalized about how to build coalitions, achieve bipartisanship and reframe sacred issues?

Class Plan, 70 minutes

Introduction *5 minutes*

First discussion pasture: Stakeholders *10 minutes*

Second discussion pasture: The Utah Compact *10 minutes*

Third discussion pasture: Setting the Table *15 minutes*

Fourth discussion pasture: Problem Definition *15 minutes*

Wrap-up*, 15 minutes*

Introduction (5 minutes)

This case tells the story of how Utah state legislators, led by Curt Bramble, created the conditions necessary to negotiate and pass a bill to address a highly controversial issue—immigration reform—with bipartisan support.

In 2010, Arizona's recently-passed new immigration legislation took effect. The Support Our Law Enforcement and Safe Neighborhoods Act required state police—if they suspected an individual of being an undocumented immigrant[1]—to try to determine their immigration status during a "lawful" stop or arrest. Residents in neighboring Utah took note of the legislation and when polled, 65% said they favored a similar approach.

The Patrick Henry Caucus, a small but vocal group of far-right leaning Republican state representatives, believed that undocumented immigrants living in Arizona would flee the new law by moving to Utah. The Caucus saw an opportunity to pass similar legislation. The Caucus was founded in 2009 to champion state's rights and its members saw this issue as one where the federal government had failed to enforce immigration law, leaving states to intervene. But Utah's culture differed from that of Arizona and the community and moderate legislators believed they needed to find a "Utah solution" rather than adopt the Arizona legislation.

First Discussion Pasture: Stakeholders (10 minutes)

The case describes a broad spectrum of stakeholders, ranging from legislators to faith-based organizations, law enforcement, and business groups. The instructor can call on students to name each stakeholder/stakeholder group and describe their interests (see **Exhibit 1**) prior to the formation of Mero's Utah Compact group. *What was each stakeholder's position on how the state of Utah should treat undocumented immigrants?* Ask students to note the similarities and differences between the stakeholders' interests. Some may note that stakeholders seem polarized—either strongly "pro"-immigration or "anti"-immigration. They may also note some stakeholders emphasize their concerns about the impact of Arizona-type legislation on immigrant families; others worry that businesses might suffer if enforcement-type legislation is passed. The instructor can ask students, *Does political affiliation appeared to be correlated with either pro- or anti-immigration sentiment?* Students may note that while the case makes clear that Democrats were largely pro-immigration and the Patrick Henry Caucus seemed anti-immigration, other constituencies, while largely Republican, were mostly moderates who seemed motivated less by political ideology than by niche interests.

Second Discussion Pasture: The Utah Compact (10 minutes)

By August 2010, the Patrick Henry Caucus was working on pro-enforcement legislation and Paul Mero and Luz Escamilla were starting to craft a legislative response in the form of a worker's permit program that would allow undocumented immigrants to apply for a permit to stay in the state to work. Members of the business and religious community began to take note and the director of Salt Lake City's Downtown Alliance convened a group to work on defining common principles, which became the Utah Compact.

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[1] Note that U.S. federal law required that non-U.S. citizens older than 14 years of age who stayed in the United States for longer than 30 days register with the U.S. government and those older than 18 were required to be in possession of "proper identification" at all times; violation was a federal misdemeanor crime.

The instructor can ask students, *Who was invited to participate in the Utah Compact drafting and why?* The Downtown Alliance invited a broad array of stakeholders (law enforcement, faith based, business) to participate in crafting the Compact but intentionally omitted legislators. *Why, when they acknowledged that the purpose of articulating the principles was to advance a legislative agenda?* This was a way to build public support for the principles—which were a direct reflection of Utahns' values—and force legislators who might oppose the principles to articulate their opposition.

Why was it important to focus on defining common principles? Wesley Smith of the Chamber of Commerce noted that most Utahns "don't get involved in policy"[1] and that finding common ground on principles would be a way to build support for what would be seen as a liberal position on immigration.

Why was it difficult for the opposition to oppose the principles? Absent a policy application, the principles were well-aligned with Utah values. Even the Patrick Henry Caucus found it difficult to undermine the principles. As Chris Herrod noted, "In general, I agree with the principles but they're applied dishonestly."[2] Smith said, "When those on the other side of the issue talk negatively about these principles, how can they possibly win?"

Once the Utah Compact was written, the governor encouraged the legislature to follow the Compact's principles when crafting legislation. Why? Students may say that politically, the Governor wanted a moderate solution. Or, they may note that as a Mormon, the Governor was influenced by the LDS Church's support for the Utah Compact. Some students, looking ahead, may point out that when the Governor later signed the legislation he praised the "thoughtful, rational approach" that led to the stakeholders finding "common ground." They may also say that the Governor (and other legislators) saw the focus on principles as a way to develop a framework for a national conversation about immigrations and as a means to engage the federal government. Indeed, the Governor later praised the legislation, saying, "Once again, Utah leads the nation in finding solutions and making tough choices."[3]

Third Discussion Pasture: Setting the Table (15 minutes)

Soon after the Utah Compact is signed, Bramble is tapped by Utah's Senate leadership to reconcile the pro- and anti-immigration forces to find a Utah Solution. *Why is Bramble selected?* Students may note Bramble's past successes in shepherding immigration-related legislation or his emphasis on championing evidence-based legislation. They may also note his statement that he enjoyed a reputation for bringing stakeholders together and navigating difficult issues as well as his ability to "get things done." *Why did the Senate president find it necessary to engage Bramble if Escamilla and Sandstrom already had bills in the works?* Students may answer that these bills and/or players had little chance of success—or too much chance. Escamilla, as a Democrat (and Latina), would not be allowed to lead on such an important issue and would be unlikely to gather enough Republican votes to prevail. But Sandstrom possibly could win enough support with enforcement-only provisions—an ominous possibility that would clearly not support the Utah Compact principles.

Now turn to a discussion of how Bramble moved forward. The instructor may ask students: *How did Senator Bramble attract key players and how did he frame the issues to optimize his chances for success?*

Students will note that Bramble convened a "Coalition of the Willing," offered them the senate majority caucus room and personally invited most of the Utah Compact stakeholders to participate. He also invited the Patrick Henry Caucus. *Why?* Bramble notes that If he didn't invite them, it would fuel their rhetoric. He also said that he invited them to understand their arguments so he could craft a response. He also said that there may even be a chance they would find common ground. Bramble welcomed everyone who wanted to engage—anyone "whose heart was open to being persuaded by others."[4]

Bramble also invited Stuart Reid and Bill Wright to join the Coalition and become sponsors in the Senate and House, respectively, of the bills the Coalition would write. Why didn't Bramble personally sponsor the legislation? Students may say that a better, more neutral role for Bramble was as a convener and that in this role he was able to build trust. Others will note that Reid, a former LDS church lobbyist and Wright, a self-described "far-right conservative who did not believe in open borders" were well-positioned to champion moderate legislation within the Republican Party.

Fourth Discussion Pasture: Problem Definition (15 minutes)

Now the instructor can move to a discussion of problem definition. *Senator Bramble was tasked with finding a "Utah Solution," but what was the problem he was trying to solve?* Paul Mero, head of the Sutherland Institute, defined the problem as "what do we do about immigrants already here illegally?" Practically, the question of whether undocumented immigrants are allowed to remain in Utah was a matter reserved to the Federal government—though Utah citizens were required to bear some of the costs (education, medical) of their residency. If Utahns believed that undocumented immigrants should be deported, they either had to wait for the federal government to do so or offer to assist the federal government in its efforts. A third option was to use state law to make living in Utah so unattractive that undocumented immigrants would chose to leave of their own accord. In the words of Paul Mero: "Enforcement first . . .is simply an extension of their sentiments about federal border policy: remove every external economic incentive for those people to come to Utah or stay here—no jobs, no welfare benefits, no reason to be here, no illegal immigrants, problem solved."[5]

Ultimately, Bramble was able to gain agreement from all stakeholders on a problem statement: Undocumented immigrants place a financial burden on the state of Utah. The problem Senator Bramble was trying to solve, then, was how to use state law to minimize the negative financial impact of undocumented immigrants on the state. The challenge was to craft a legislative solution that would adhere to the principles in the Utah Compact.

It becomes clear that although the problem that has been defined is one of how to minimize the economic impact of undocumented immigrants, only the Chamber of Commerce and, to a lesser degree, Bill Wright, are primarily concerned about this issue. Most stakeholders have focused on concerns about enforcement: on the pro-enforcement side, how to support additional enforcement efforts; on the other side, how to keep families together—which means, withholding support for enforcement.

Though Bramble is known for taking an evidence-based approach to drafting legislation, this issue is very emotionally charged. Sandstrom and Herrod dropped out of the Coalition early. *Why?* Students will

note the reason they gave was that the bill was "going to be an amnesty bill from the very beginning" and that they were doing *their cause* harm by participating. But Reid said the Patrick Henry Caucus members held an "all or nothing" position which Evans described as "emotion, not intellectual." He asked rhetorically, "How do you change something that's so deep inside someone that it can't be reasoned with?"[6] Some students may then point out that Bramble Coalition was meant to include those whose "hearts were open to being persuaded" and therefore it was no surprise that the Caucus members would eventually leave the Coalition.

Wrap-up (15 minutes)

Bramble deftly addressed bureaucratic and institutional barriers to successfully pass legislation with bi-partisan support. His Coalition, which included stakeholders across the political spectrum, offered wins for both sides. He took care to recruit stakeholders beyond political parties and by gaining support of the LDS church and business communities, turned a political issue into a moral and economic one. Bramble believed in the aphorism, "keep your friends close, but your enemies closer," and approached the Patrick Henry Caucus members first, making it difficult for them to mount a blocking case. He also knew that his choice of messenger mattered: the optics of amending the bill submitted by Representative Wright as the final vehicle eliminated the opportunity to discredit it. Finally, Bramble got the problem right. His focus on clearly defining the problem helped illuminate the needs of the solutions.

The instructor may wrap-up the class by offering students these key lessons for negotiating bi-partisan agreements:

- **Do:**
    - Understand the importance of finding overlapping and underlying interests.
    - Deal with the other side's back table by helping them get to yes.
    - Manage the transition from willingness to readiness.
    - Overcome the challenge of collaborating with the other side.
- **Don't:**
    - Stay at the surface of the issue; Bramble was the master of the issue.
    - Ignore the potential influence of outside stakeholders like the LDS church.
    - Overestimate the barrier of playing a weak hand.

Exhibit 1: Stakeholders

Stakeholder(s)	What do they want?
Paul Mero, President, Sutherland Institute (conservative public policy think tank)	An "authentic conservative approach" to illegal immigration. One that "not only respects the rule of law . . .but must be humane…err on the side of freedom, not punishment."
Senator Luz Escamilla (D)	Status quo: state government does not enable enforcement of federal immigration laws; families are not separated.
Patrick Henry Caucus: Utah State Representative Chris Herrod (R), Stephen Sandstrom (R)	Arizona-style legislation that would support the deportation of all undocumented immigrants; no "amnesty." State laws designed to allow local officials to assist in enforcing federal immigration laws.
Bill Evans, Community Relations Director, Church of Jesus Christ of Latter-Day Saints (LDS)	If new legislation was inevitable, LDS church wanted to ensure it would not separate families of undocumented immigrants.
Wesley Smith, Salt Lake City Utah Chamber of Commerce	The business community had ongoing labor shortages that would be made worse if undocumented immigrants left the community. Undocumented immigrants were also customers of local businesses. The Chamber preferred the status quo.
Representative Bill Wright (R)	Legislation that would allow undocumented immigrants to continue to work within Utah; legislation that would be acceptable to the LDS church
Utah State Senator Stuart Reid (R)	Legislation that would support the LDS church's position
Utah State Senator Curt Bramble (R)	Evidence-based legislation that will pass

Exhibit 2: Utah Compact

A Declaration of Five Principles to Guide Utah's Immigration Discussion

FEDERAL SOLUTIONS: Immigration is a federal policy issue between the U.S. government and other countries—not Utah and other countries. We urge Utah's congressional delegation, and others, to lead efforts to strengthen federal laws and protect our national borders. We urge state leaders to adopt reasonable policies addressing immigrants in Utah.

LAW ENFORCEMENT: We respect the rule of law and support law enforcement's professional judgment and discretion. Local law enforcement resources should focus on criminal activities, not civil violations of federal code.

FAMILIES: Strong families are the foundation of successful communities. We oppose policies that unnecessarily separate families. We champion policies that support families and improve the health, education and well-being of all Utah children.

ECONOMY: Utah is best served by a free-market philosophy that maximizes individual freedom and opportunity. We acknowledge the economic role immigrants play as workers and taxpayers. Utah's immigration policies must reaffirm our global reputation as a welcoming and business-friendly state.

A FREE SOCIETY: Immigrants are integrated into communities across Utah. We must adopt a humane approach to this reality, reflecting our unique culture, history and spirit of inclusion. The way we treat immigrants will say more about us as a free society and less about our immigrant neighbors. Utah should always be a place that welcomes people of goodwill.

Source: Utah Compact website, https://the-utah-compact.com, accessed October 16, 2017.

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[1] Casewriter interview with Wesley Smith, August 15, 2017, Salt Lake City, Utah.

[2] Casewriter interview with Chris Herrod, August 17, 2017, Orem, Utah.

[3] "Governor Herbert Signs Immigration Reform Legislation," Utah.gov website, March 15, 2011, https://www.utah.gov/governor/news_media/article.html?article=4435, accessed October 17, 2017.

[4] Casewriter interviews with Curtis Bramble, August 15 and August 17, 2017, Salt Lake City, Utah.

[5] Casewriter interview with Paul Mero, August 16, 2017, Herriman, Utah.

[6] Casewriter interview with Bill Evans, August 15, 2017, Salt Lake City, Utah.