Immigration: Learn before you Legislate

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Passage of “the 1986 Immigration Reform and Control Act” or “IRCA” as it was euphemistically called, and its companion legislation, “The Immigration Act of 1990”, or “IMMACT 90” brought talk about immigration reform in America to a screeching halt. After years of give and take, on both sides of the issue, legislation was finally in place, which would solve our immigration woes, or so most of us believed. Yet, two and a half decades later debate on Capitol Hill has again turned to immigration reform. How can this be?

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In September 1996, President Clinton enacted a far-reaching immigration bill, which he hailed as “landmark reform legislation”. In 2003 the Department of Homeland Security was created to protect the nation from the varied threats we face including immigration. Yet, nothing seems to be working. What’s gone wrong?

Since passage of the 1996 legislation and creation of the Department of Homeland Security, most indicators of change have been in decline, even though the size of the Homeland Security budget has increased from $584 million in FY 86 (former Immigration and Naturalization Service budget) to more than $59 billion in FY 2010. During the same period, full-time equivalent staffing increased from approximately 30,000 to more than 230,000 today. So, before we are asked to accept more “get tough” legislation, our lawmakers should try to understand why their previous efforts failed.

One of the major problems faced by Congress stems directly from their inability to fully understand the definition of the term “immigrant”. According to The American Heritage dictionary, generally speaking, an immigrant is a person who comes to a foreign country to reside permanently. For purposes of security, the Department of Homeland Security has amplified this definition. They define an immigrant as a person who has been legally admitted to the United States as a Lawful Permanent Resident (LPR). The subtle, but clear implication from the government is that if you have not been “lawfully” accorded the privilege of residing permanently in the United States, you have not immigrated; ergo, you are not an immigrant.

Yet, President Obama, Congress, and the Immigration Elite make almost daily references to the evils of “illegal immigration” and “illegal immigrants”. Immigration is a lawful process, it can’t be illegal! The use of these bureaucratic oxymoron’s only further obfuscates the problem and keeps the average American confused and agitated about immigration, which isn’t the problem! Our immigration program is fine.

What’s wrong is that using terms like immigrant and non-immigrant as though they were synonyms creates the false impression that reforming our immigration system is somehow going to stop people from coming and staying here illegally. 80% of the people here illegally never used our immigration program. They simply entered illegally, so reforming that program won’t solve the problem!

By providing a more precise definition for the term immigrant, the Department of Homeland Security moved in the right direction. However, in and of itself, this amplification is not enough. While this definition of immigrant may pass legal muster, to be useful in understanding today’s immigration woes, it must be expanded to include the immigrants mind set. Here is why.

As Americans, we are justifiably proud of our immigrant stock. We proudly proclaim that much of the credit for what is good about America today belongs to those hardy souls who committed their brains, brawn and bravery to the development of this great Nation. But, let us not forget, that when our forefathers immigrated to this country, they arrived not only physically, but they also arrived psychologically. In other words, they not only came here to reside permanently, but more importantly, they came here to become Americans.

This decision, to burrow into the fabric of America, embodies the principal characteristic, which distinguishes immigrants from non-immigrants. Non-immigrated residents are here physically, but psychologically they remain wedded to the

sending countries. They didn't come here to become Americans. Is it any wonder then that assimilation doesn't appeal to them? Clearly then, immigrants and non-immigrated residents are as different as apples and oranges. And the terms should not be used synonymously.

Further, what this should be telling our lawmakers is that not everyone here illegally is clamoring to be an American, so let's stop acting like they are. And better yet, let's stop passing laws, which expect non-immigrants to display the same patriotic zeal as immigrants. They won't. That expectation is doomed to frustration along with all legislative efforts, which mistakenly cleave to this misguided notion.

The practical problems presented by use of these slipshod definitions are real and far more serious than may be readily apparent. For example, most Americans who supported the 1986 legislation believed passage of the "Immigration Reform and Control Act" was actually going to reform our immigration laws once and for all. After all, the title promised reform and control of immigration. However, as it turns out the legislation had little to do with immigrants. It was a "non-immigrant" bill, masquerading as immigration reform, but the Congress, so confused by its own imprecision, didn't know it.

Think about it, IRCA had three main components; enhanced enforcement, employer sanctions and a legalization program, none of which has anything to do with immigrants. Enhanced enforcement more than doubled the size of the Border Patrol so we could regain control of our borders. This has nothing to do with immigrants. The Border Patrol does not apprehend immigrants, they can't. Immigrants are here legally. They only detain persons here illegally, or those who are attempting to enter the country in contravention of our immigration laws.

Employer Sanctions made it illegal to hire anyone not authorized, by the Department of Labor, to work in America. This also has nothing to do with immigrants. All immigrants are authorized to work here. People who work without authorization do so because they are here illegally. In other words, they are not immigrants!

The legalization component promised to adjust the status of certain residents from illegal to legal if they applied for enrollment in the Legalization Program and if they met the same conditions that other immigrant have to meet. This has nothing to do with immigrants. Immigrants don't require legalization.

Congress duped us into believing that reforming our immigration system would somehow solve the problems created by folks who completely by-passed the immigration program. No wonder it failed. Here are further examples of how Congressional confusion and imprecision adversely affect us.

Under the Legalization provisions of IRCA, Congress made it possible for roughly 4.5 million persons residing here illegally to obtain immigrant status. They were given the following option; become immigrants or go home. Most of these non-immigrated residents didn't come here with assimilation in mind. Renouncing their national character in favor of an American identity was not something they ever contemplated. So accepting LPR status suited them perfectly. It conferred immigrant status on them, which meant that they could reside here permanently without having to act like they wanted to become Americans.

The unintended result of this congressional action is that now another large group of individuals reside here legally with no intention of becoming American or assimilating. Their hearts now, as when they arrived, remain firmly wedded to their homelands. The problem here is that our legislators, confused by their own ambiguity actually believed these non-immigrated residents actually had an immigrant's mindset. Of course they didn't. Immigrants, is something they had no intention of becoming. Our reform legislation mistakenly foisted that status on them.

When Congress denied immigrants access to federally funded programs, the former INS was deluged with applications for citizenship. This drove them crazy since it overloaded an already beleaguered agency. However, the real tragedy here is that most citizenship applications were filed for the wrong reason. Instead of asking to become citizens because they wanted to be Americans, most of these applications were filed in order to continue eligibility for federally funded programs, which is understandable. Here too, the law of unintended consequences was in play. Congress caused one of our most cherished rights, citizenship, to be trampled on in the misguided name of immigration reform.

Congress still exhibits no understanding of the dangers inherent in using the terms immigrant and illegal immigrant interchangeably. However, this need not spell defeat for current attempts to develop coherent policy. After all, if

Americans were smart enough to realize that immigration and naturalization are two different concepts how difficult can it be to see immigrants and non-immigrants as two different concepts? Hopefully, Congress and the American people are now sufficiently dissatisfied with the pathetic results of previous attempts at immigration reform to take this message seriously. Further, now, when we are asking Congress to do more with less, it is more important than ever to “learn before you legislate”.