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Opinion: Path to information first

By William D. Siegel - 04/08/13 05:00 AM ET

Recent congressional actions — ObamaCare, TARP, economic stimulus, the GM bailout, among others — have surely taught us that we suffer when we do not know the facts that should be the foundation of good and productive legislation.

The recent Senate Gang of Eight immigration plan has highlighted that even "border security" is not properly understood, much less coherently defined. However, another leg of immigration reform — the nature and treatment of the illegal/undocumented immigrant population in the U.S. — is even less-known. While sweeping proposals concerning this shadow population have been jawboned for decades, tautologically, we are in the dark.

The number 11 million (down from a previously fantasized 12 million) is often bandied about without any credible basis. Instead, a number is insinuated by one or more "authorities" and taken as fact and repeated without question.

Studies that attempt to estimate our homeless population are notoriously disputed and arrive at grossly varying conclusions. Methodologies for estimating the shadow population of illegal/undocumented are, by definition, even more dubious. Results can only be more questionable as innumerable unfounded assumptions about the group's makeup are added.

Instead of guesswork, Congress should consider an interim approach to get the facts before it crafts comprehensive legislation. It should qualify a new class of immigrants — let's call them "Q-1s"— who, within six months of the law's enactment, come out of the shadows and truthfully file information that will enable us to understand them.

This would include facts about their entry into the country, job history, race, religion, likelihood of assimilation, taxes paid and unpaid, health data, family members here or looking to enter, and so forth. In exchange for truthfully coming forth, these Q-1s will be immune from prosecution for their illegal entry pending a comprehensive reform. This may be considered a temporary, conditional amnesty by some, a start down the road to resolution by others.

Proactively creating this group would accomplish much. First, it would allow lawmakers to more fully understand the population they seek to address. Presumably, a different treatment would, and should, be afforded a group of 4 million than one of 11 million or even 25 million. Similarly, specific age dispersion, health status and education levels should command more cost-efficient and better targeted features in any final legislation.

The Q-1 filing would give the illegal/undocumented greater responsibility for deciding his future by requiring him to make a critical choice: whether to cooperate with Congress or to again evade laws and stay in the shadows. The population afforded any benefits is self-determined; those who receive benefits are those who helped. While their coming forward won't assuage the anger of all citizens who wish to see existing laws fully enforced, it would give the Q-1 deserved recognition for courageously acting first.

Further, once the Q-1 group has been capped, there is no excuse for any illegal presence (other than failed border security). Having now violated our laws at least twice, the non-Q-1 should logically lose any legitimate claim on victimhood. Furthermore, no one has asserted that the country owes a future illegal entrant anything. From this point on, if an illegal/undocumented is not a Q-1, compassion ceases as an excuse for not diligently enforcing our laws.

Heading down this road also promotes more bipartisan cooperation. Currently, the debate has been paralyzed because of vastly different narratives describing the population. To over-generalize, the left paints a picture of oppressed victims — hard workers who came to work in the shadows, are taken advantage of by greedy employers and denied basic "rights" that must be remedied through some fast track to citizenship.

The right, alternatively, tends to subordinate any consideration of the nature of the population to its obvious lack of respect for the law. Establishing a Q-1 population creates one well-understood group, narrowing points of difference between the sides.

Additionally, nothing prohibits a simultaneous negotiation in Congress for comprehensive legislation. And, because the group has in good faith transformed itself from passive illegal entrants to active participants in their destiny, more legislators will feel pressured to move toward resolution.

Various political considerations have encouraged inaction and paralysis. Some on the left, for example, prefer to hold onto the "protector of the oppressed" stature, knowing that Latinos may favor conservatives once the issue is resolved. Some on the right believe anything remotely resembling amnesty will only hurt candidates. This interim proposal should peel off many who hold fast to these notions.

Ultimately, it should be much easier to negotiate whether final amnesty, deportation, a guest-worker program, a path to citizenship, a specialized status, or even a simple change to NAFTA permitting workers to freely work throughout North America should apply and how.

It should be much easier to assess the real future costs of benefits, prospective tax revenues, effects on our labor and capital markets, the real burdens to be borne by the Q-1 population, and whether the group will easily assimilate or (as with, for example, Hispanic La Raza or certain Muslim communities) generate political tensions. It should be easier to engineer a policy that emphasizes desirable, pro-innovative, legal immigration. Finally, it should be much easier to focus upon true border security.

Alternatively, Congress can choose to generate out of its ignorance another unsatisfactory piece of legislation.

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