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FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest.



July 19, 2016

Policy and Standards Division
Library of Congress
101 Independence Avenue, SE
Washington, DC 20540

Re: Library of Congress to Replace the Subject Headings “Aliens” and “Illegal Aliens”

Dear Policy and Standards Division Members,

The Federation for American Immigration Reform (FAIR) submits the following comments to the Policy and Standards Division of the Library of Congress in opposition to the Library’s proposal to replace the terms “Aliens” with “Noncitizens,” and “Illegal aliens” with two headings: “Noncitizens” and/or “Unauthorized immigration.”

FAIR is a nonprofit, nonpartisan public interest membership organization of concerned citizens who share a common belief that our nation’s immigration policies must be reformed to improve border security, stop illegal immigration, and promote immigration levels consistent with the national interest. Since 1979, FAIR has been the leading voice advocating for true immigration reform, promoting an agenda that serves the interests of the American people.

The Proper Terminology

Under federal immigration law, any non-U.S. citizen is an alien. Aliens who have entered the United States without permission, or who have violated the terms of their admission, are identified under the law as illegal aliens. That is a fact, not an issue for debate.

The term “alien” means any person not a citizen or national of the United States. —8 United States Code §1101(a)(3)

An illegal alien...is any alien (1) whose most recent entry into the United States was without inspection, or (2) whose most recent admission to the United States was as a nonimmigrant and—(A) whose period of authorized stay as a nonimmigrant expired, or (B) whose unlawful status was known to the Government, before the date of the commission of the crime for which the alien is convicted.



—8 United States Code §1365(b)

It is also a fact that, under the Immigration and Nationality Act, it is a crime to enter the United States without permission. The first offense is a misdemeanor, the second, a felony. It is true, however, that most violations of immigration law are dealt with in a civil court and not in a criminal court. An immigration judge is really an administrative adjudicator who has authority under the Department of Justice's Executive Office for Immigration Review (EOIR) to determine whether or not an individual is deportable under U.S. law. This procedure for handling immigration cases is designed to speed up the process of deportation; it should not be interpreted as an indication that illegal immigration is not a criminal violation. Because illegal aliens are not U.S. citizens, they are not entitled to the full panoply of rights and privileges under the Constitution as are citizens. Thus, they can be held subject to a non-judicial ruling instead of a jury trial for their criminal violation of immigration law.

Despite the clarity in the law on proper terminology, open borders advocates are trying to promote inaccurate terms, substituting euphemism for precision. A variety of motivations underlie this effort, but regardless of intent, the goal is the same. Insistence on alternate terms such as "undocumented" represent a deliberate avoidance of the central and inescapable fact that millions of people are illegally residing in the United States, in direct violation of democratically enacted and popularly supported law. Those who object to the use of the term "illegal alien" appear to believe that if they can convince the American public that illegal immigration is not really illegal, then amnesty no longer is amnesty, and enforcing immigration law is unnecessary.

History of the Term

The manufactured controversy over the term "illegal alien" ignores not only federal immigration law, but also historical precedent. The origin of the term dates back to ancient Rome, which had a highly developed concept of citizenship. The modern usage of the term is first found in 14th Century France and was incorporated into Anglo-Saxon common law from which our own legal system is descended. The U.S. government has referred to non-citizens as aliens for over two centuries.

The Immigration Reform and Control Act (IRCA) of 1986 forms the basis of our current immigration enforcement code. IRCA is clear: an alien in the country in violation of immigration law is an "illegal alien." In Title V of IRCA, which deals with law enforcement, there are five references to "illegal alien" while the terms "unauthorized" or "undocumented" are not mentioned once.

Today, a quarter of a century later, there is no ambiguity in the law over the correct term to apply to a foreign national in the United States unlawfully. It is clear that those seeking to change the terms are motivated by an attempt to obfuscate language to minimize the impact of immigration violations.

The Misguided Case Against

There are a few principal arguments made by the student-petitioners against the use of illegal alien. They are simplistic, and easily refutable. The first is that no human being is illegal. However, to identify someone as an illegal alien does not banish that person from the human race; it simply identifies an individual who does not have the legal right to reside in the United States.

Another argument used by the student-petitioners is that illegal aliens just lack the proper “papers,” and so they are not really illegal but instead “undocumented.” The implication is that if illegal aliens somehow obtain these documents they will be right with the law. This is blatantly false. The “undocumented” term is also patently misleading because illegal aliens as a group are certainly not lacking identification documents, only legitimate, legally obtained immigration documents. Often an illegal alien will purchase or manufacture false or stolen documents and, according to the Center for Immigration Studies, as many as 75 percent of illegal aliens in the workforce are using fraudulent Social Security cards.

Why is Maintaining Correct Terminology Important?

The semantic wrangling over the term “illegal alien” goes beyond whether particular words are proper to use. Underlying the Orwellian “newspeak” by defenders of illegal aliens is the question of whether the United States will remain a sovereign, independent nation, governed by the rule of law and subject to constitutional constraints. Our immigration laws were enacted by Congress, and the Executive Branch has the responsibility to enforce them, not to implement them as the President sees fit.

Those who ignore the fact that immigration laws are binding – such as the student-petitioners – are declaring that there should be inequality under the law, where some groups are not only immune from compliance but should be rewarded for breaking our laws.

A fundamental principle of sovereignty is that the people of any country have the absolute right to defend their borders and to admit or deny admittance to others according to their discretion and laws. Foreigners have no right to come to the United States unless granted permission by the U.S. government, which is exercising the power conferred on it by the American people.

Concluding Considerations

There are many words that can be used to marginalize or demean a person. “Alien” and “illegal alien” are not among them. There is nothing insulting or dehumanizing about using the term alien to indicate an individual is a non-citizen. Likewise, it is perfectly fitting to acknowledge that an alien who is residing illegally in the United States has broken the law. It has only been recently, within the political context of the current

immigration debate, that proper and unambiguous language has come under attack as inaccurate or derogatory.

What might appear at first glance to be a minor semantic disagreement is crucial to understanding what is at the very heart of the contemporary debate over illegal immigration and “comprehensive immigration reform.” Referring to an illegal alien as an undocumented immigrant, or any other such euphonious alternative is, ultimately, the denial that a foreigner is in the United States in violation of the law. This is the first step in denying the American people the right to determine who is admitted into their country and under what conditions.

As the preeminent collection of books, recordings, photographs, and manuscripts in America, as well as the largest library in the world, the Library of Congress is an important and dignified institution. However, it is not the Library’s place to bow to the political pressure of the moment and irresponsibly eliminate accurate, historical terms that Congress has exercised its authority to use and deploy in United States Code.

FAIR respectfully urges the Library of Congress to revoke its determination that the headings “aliens” and “illegal aliens” be replaced.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Stein', with a stylized flourish at the end.

Dan Stein
President