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## Coming to (new) terms with the “I” word

By Larry Kleinman

“The word ‘illegal’ is killing us.”

I didn’t mean it literally when I made that statement to fifty immigrants’ rights leaders at a D.C. conference in April, 2007. We had gathered for training and interaction to sharpen our mainstream mass communications strategies and practice. I looked around the room and saw heads nodding, some apparently in vigorous agreement and others in the slow, side-to-side motion that connotes resignation, rather than disagreement.

“Does anyone have any ideas about how we go at that word head on?” I asked. “I know that I don’t get out very much,” I continued, trying to signal acknowledgement that some—even many—in the room might be well ahead of me on this question. “‘Undocumented’ is righteous, but it just isn’t keeping pace. Is it time to face that and if so, how?”

The room went silent for ten seconds. “Illegal” was apparently killing our conversation. No debate, no ideas. Was I alone in this concern? The discussion turned in another direction but side interactions with my colleagues convinced me that many agreed *and* felt pretty helpless. My purpose was not to be rhetorical. *I* didn’t any have any persuasive answers either about how we could take it on.

The word “illegal” *is* actually killing people. “Illegal” has become well-entrenched as a de-humanizing agent which lowers the moral and political inhibition to committing acts of physical aggression against immigrants who lack—or are presumed to lack—government-authorized immigration status. It’s now the ascendant smear, joining or supplanting others including the previously dominant “wetback.”

“Wetback” may be more specifically demeaning, but I’ve come to view “illegal” as much more damaging, including politically. “Illegal” more directly invokes “dangerous,” “cheating,” “fraudulent,” and “criminal,” a blend that commands a greater potency than anything I’ve encountered in thirty years of immigrants’ rights work. Except “terrorist.”

Xenophobes feel superior and empowered when they brandish “illegal.” That’s repugnant but not unexpected. If they didn’t use that word, they’d come up with another just as odious. More worrisome is the effect “illegal” has on more fair-minded people. It triggers a reflexive recoil, even indignation, about the transgression of the “rule of law.” In this country, every upstanding citizen tightly embraces the notion that “no one is above the law.”

Yet who among us has never violated a law? Let him or her cast the first aspersions. And where, in this growing morass of “illegal,” was the notion lost of loving the sinner and hating the sin? As that Bible passage suggests, we stray onto very shaky moral ground when an *adjective* like “illegal,” describing a category of *behavior*, becomes a *noun*, affixing an *identity*.

As a noun, “illegal” has gained the kind of power that cancels all that is positive about the person to whom it’s applied. “Illegal” has become a political form of “original sin.” In this sense, if you’re “illegal,” you must *undo* that condition. Nothing you’ve done—or will do—that is valuable or mitigating counts. There isn’t even absolution.

Tellingly, “illegal” has not morphed from adjective to noun uniformly. We don’t describe someone who receives a speeding ticket as an “illegal driver.” A jaywalker is not an “illegal pedestrian.” To my knowledge, no one has referred to convicted influence peddler Jack Abramoff as an “illegal lobbyist.” If you violate the federal immigration law, which requires that all who seek entry to the U.S. must present themselves for “inspection,” ICE categorizes you as an “entrant without inspection.” Tens of millions call you simply “an illegal.”

“Illegal” as an identity distorts the application of a sense of fairness by validating the contention that the *only* remedy is a “do-over.” If you entered unlawfully, you have to go back and enter lawfully. Nothing else will suffice. We would find this approach pointless, punitive, or even absurd if applied in other contexts. Would it make sense if, in addition to issuing the speeding ticket with its attendant fine, the officer directed you to go back and drive that stretch of road again, this time obeying the speed limit? Should Jack Abramoff have to re-lobby those he misled and manipulated?

Compounding the power of “illegal” is the stigmatization of the word “amnesty.” The immigrants’ rights movement bears little responsibility for popularizing the word “illegal,” but the same cannot be said for “amnesty.” In the 1970s and early 1980s, I was one of millions who united with the demand for “unconditional amnesty.” Though no longer as numerous, many still do. I still consider it a righteous demand but not a strategic one (was it ever?). Even as recently as 2001, many of us used “legalization” and “amnesty” more or less interchangeably.

The events of 9-11 changed that, and “amnesty” no longer accurately described the policy we advocated. “Earned legalization,” popularized via the Immigrant Worker Freedom Ride campaign in 2003, posited that recipients accept a set of obligations: pay a stiff fine and application fees, continue to work or

study, learn English, pay taxes, pass security and medical screenings, etc. By contrast, “amnesty” is what President Jimmy Carter’s 1977 executive order granted to Vietnam War era draft resisters. They were pardoned and free to return to the U.S.; nothing further was required of them.

I think “earned legalization” has the right content, but is the wrong label. Just as “illegal” has overpowered “undocumented,” “amnesty” continues to eclipse “earned legalization.” One key reason, I’ve concluded, is that “earned legalization” does not convey a direct response to “illegal.”

Therefore, I propose that we consider “**civil compromise**” as the new term for the road to absolving and resolving “illegal” status.

Civil compromise is a longstanding legal term. It describes a process used to dispose of (usually) minor criminal charges without recourse to criminal sanctions like jail and a record of conviction. It is most often employed in cases like shoplifting, harassment, simple assault, criminal mischief (destruction of property), and trespass. The culpable party agrees to pay some kind of restitution and the victim withdraws any criminal charge.

What “civil compromise” offers—and “earned legalization” does not—is a more explicit acknowledgement of having violated the law. That acknowledgement can help shift the focus back to the behavior and to the proportional and practical consequences for that behavior. The essential terms of “earned legalization,” described above, become the terms of civil compromise. Polling shows that, even after several years of non-stop anti-immigrant demagoguery, the public by wide margins find those terms equitable. The word “earned” has been an important element and I concede that we do lose something by moving away from it.

In short, “civil compromise” could serve as a more durable frame, one which might withstand the kinking effect of “illegal.” If so, it could better represent the middle path the immigrants’ rights movement has sought, the path between defiance and surrender. How exactly do those three paths compare?

“Surrender” sounds something like “I’m illegal and have no rights or claim to anything.” While it’s true that the government didn’t invite or authorize millions of immigrants to come to the U.S., powerful economic interests *did*. That’s only one consideration of many, rooted in equity and human rights, which justifies our rejection of surrender and our resolve to continue to resist surrender’s proponents at all costs.

The phrase most expressive of “defiance” might be “*¡Yo soy ilegal y que!*” —I’m illegal and what about it?. It has the “so what?” quality that has largely neutralized the word “queer” as a homophobic slur and transformed it, for some, into an affirmative and proud identity. In the current climate of fear and escalating repression, I don’t think that stage has yet arrived in the immigrants’ rights struggle. In any event, adopting “civil compromise” could actually be a step not inconsistent with that direction.

“Civil compromise,” in sum, combines acceptance and redress: “I violated the law: I offer a civil compromise.” If “amnesty” is on its way to being demonized to the extent that same-gender marriage has been, perhaps “civil compromise” could find the affirmation which “civil union” or “domestic partnership” have received.

Linguistically, “civil compromise” evokes reasonableness, both in tone (civil) and strategy (compromise). Even in Spanish (*compromiso civil* or *arreglo civil*), it suggests a dignified purpose and outcome.

Even if “civil compromise” somehow manages to de-fang “illegal,” that still leaves “terrorist” as the most explosive epithet hurled at immigrants. As we search for the most artful and penetrating response to that canard, here’s a slogan we could employ: “Don’t confuse 9-11 with 7-11.”

I’d be proud to have thought of it but I can only claim to have read it in a *Washington Post* article reporting on the November, 2007 legislative elections in Virginia. The *Post* described anti-immigrant politicians there who sought to score points by railing against the day laborers who congregated in suburban convenience store parking lots. The story quoted one unnamed voter who sounded the rallying cry “don’t forget who was responsible for 9-11.” Another voter, also unnamed, responded: “Don’t confuse 9-11 with 7-11: the guys at 7-11 just came here to work.”