

Are We Witnessing a Southern Invasion?



By Paul Engel

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- Does an influx of illegal aliens constitute an invasion?
- If this is an invasion, what does the Constitution require the federal government to do?
- What are the consequences of referring to the masses of illegal aliens as invaders?

A reader sent me an email about the influx of illegal aliens on our southern border. The question of whether or not this constituted an invasion and thereby requires a response by the federal government under Article IV, Section 4, is one which is worth our taking a closer look. Not only the question of does this constitute an invasion, but what are the consequences of such a point of view?

INVASION

Under Article IV, Section 4 of the U.S. Constitution, the United States is required to guarantee to the states certain things, including the protection against invasion.

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

U.S. Constitution, Article IV, Section 4 (emphasis added)

The first thing we need to determine is, does the influx of a large number of illegal aliens constitute an invasion? We start by defining an invasion:

INVA'SION, noun

1. *A hostile entrance into the possessions of another; particularly, the entrance of a hostile army into a country for the purpose of conquest or plunder, or the attack of a military force. The north of England and south of Scotland were for centuries subject to invasion each from the other. The invasion of England by William the Norman, was in 1066.*

Invasion: Webster's 1828 Dictionary

Are the people illegally crossing our border hostile? Some of them are, but the vast majority don't appear to be so.

HOS'TILE, adjective

1. *Belonging to a public enemy; designating enmity, particularly public enmity, or a state of war; inimical; as a hostile band or army; a hostile force; hostile intentions.*

Hostile: Webster's 1828 Dictionary

While their presence is problematic, that does not make them a public enemy.

EN'EMY, noun [Latin inimicus.]

1. *A foe; an adversary. A private enemy is one who hates another and wishes him injury, or attempts to do him injury to gratify his own malice or ill will. A public enemy or foe, is one who belongs to a nation or party, at war with another.*

[Enemy: Webster's 1828 Dictionary](#)

The vast majority do not belong to a nation or party that is at war with the United States, neither do most of them make up a hostile band or army. Regardless of their size, these people do not constitute an invasion as our Founding Fathers defined it when they wrote the Constitution. Neither, by the way, do they meet the legal definition of an invasion:

INVASION. The entry of a country by a public enemy, making war.

Invasion: [The Free Legal Dictionary](#)

So if this dramatic influx of illegal aliens doesn't meet either the Constitutional or legal definition of an invasion, what is it?

Incompetence

Let's start at the beginning, constitutionally speaking. Article I, Section 8, Clause 4 gives Congress the power:

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[U.S. Constitution, Article I, Section 8, Clause 4](#)

Notice, Congress has the power to set rules for naturalization (the act of becoming a citizen), but not for immigration or visitation. Immigration is becoming a permanent residence, while visitation is a temporary one. This means that according to the [Tenth Amendment](#), the power to regulate immigration or visitation is retained by the states. Therefore, this should be primarily a state issue. However, decades ago, the states allowed the United States to usurp their control over immigration into their states. Which leads us to the next point on our journey.

Since the states now expect the United States to regulate immigration, Congress has passed numerous laws to do so. Why is this important? Because each and every member of Congress has been hired by the American people to represent them, either in the House of Representatives or for their state in the Senate. Whether you like our country's immigration laws or not, they were created by employees of the people, who represent them and exercise their sovereign power in the peoples' name. Congress, though, is not the only branch of the federal government responsible for this mess.

While Congress is tasked with making the laws of the United States, the President is required to faithfully execute those laws. Since the state legislatures have decided to allow their citizens to determine who their state should vote for in the Presidential election based on their political party affiliation, the men who have held the office of President in the last several decades got there by the will of the American people.

So, there are two branches of the federal government that are part of this mess: Congress for the laws they have passed and the Presidents who have failed to execute those laws. The fact that millions of people have violated those laws without consequence is not their fault. Yes, the illegal alien is responsible for the laws they have broken, but Congress is responsible for the bureaucratic nightmare that anyone who wishes to come here legally must go through. Also, the President is responsible for the incentive many of these aliens see, since there are effectively few consequences for breaking American law.

Our current border crisis should be a surprise to no one. History is replete with examples of what happens when laws are not enforced. The rate of illegal aliens entering our country is directly correlated to the leniency shown by the Presidential administration in office at the time. You would think after over 50 years of observing this correlation, the

American people would have figured it out. Apparently not, even though this cause and effect has been readily observed throughout the United States. Currently, there are two district attorneys in California facing recall because their failure to prosecute crime has led to an intolerable increase in those crimes. Business in these cities are closing because of the level of theft they are forced to endure without any redress, because prosecutors have decided to be derelict in their duties, and not prosecute crimes they don't think are worth it. While many in California, and in fact America as a whole, are rightly angered by the current state of what is laughably called our "justice system", there is one point they seem to have missed.

Indifference

Neither of the District Attorneys currently facing recall in California made any secret of their stance on prosecuting what they often referred to as "petty crimes". President Biden campaigned on the idea of allowing people into the country illegally, then dealing with them after the fact. He promised to suspend deportations, end detention of migrant families, and reduce room for "immigrant detention". So why is anyone surprised that millions are taking advantage of the promises to be lax on enforcement of U.S. law? Before you start pointing your finger at President Biden and his administration, there is one very important point you need to consider.


Knowing what President Biden planned to do when he entered office, tens of millions of Americans voted for him. The current state of our border crises is a direct result of the choices made by the American people. In other words, both President Biden and our alleged "invasion" are our fault.

Conclusion

I believe there are two primary reasons behind this call to

declare what is happening on our southern border an invasion.

First, there are those who want to use the term “invasion” to prod the federal government to act under Article VI, Section 4. I have seen some go “dictionary shopping” to find a definition that will promote their cause, ignoring the fact the the sense of the word they are basing their claim on in not its primary sense, even in the dictionaries they quote. I expect this approach to be an utter failure, since it is basically trying to shame the the President into doing what he’s already said he would not do. If the President won’t enforce current immigration law, what makes you think he’s going to do so because you call it an invasion? He has paid no political price for his position, so why should he change just because you altered the language?

Second, and of even more concern to me, is this attempt to  define the surge of illegal border crossings as an invasion is an unconscious attempt to redirect the blame onto someone else. If this truly were an invasion, those entering the country would be considered hostile. There are many in this country that would use such a designation as an excuse to blame the alien for all of their problems. This is already the case in many locations. The lack of jobs, overflowing of our schools, hospitals, and medical clinics are blamed on the influx of illegal aliens. While in many cases that may be true, it’s rather like blaming the Titanic itself for its sinking rather than its crew. Most Americans drive faster than the speed limit because they know there is little chance of actually getting pulled over. If you knew there was very little risk that you would actually be punished, how many of you would turn down the chance to rob a bank, cheat on your taxes, or even assault that idiot who cut off off in traffic and gave you the finger? Or what if you could earn 10, 20, even 30 times more than you do today, and all you had to do was cross a border without permission or consequence, would you do it? Yet there are some Americans eager to blame the

illegal alien not just for violating our laws, but for the fact those laws are not being enforced.

A law that is not enforced is a waste of time and energy. So who is ultimately responsible for the fact that our border crossing laws are not being enforced? Is it the alien who breaks those laws? Is it the criminal who takes advantage of the lax enforcement of those laws? Or is it the federal agent on the border? No, there are only two groups of people responsible for the fact that our border laws are not being enforced. The first group is the politicians, both in Washington, D.C. and in our state houses, who are either refusing to fulfill their duties to enforce the laws of the United States or are willing to stand by and do nothing while it happens. The second is the American people who put them there. President James A. Garfield said:

[N]ow more than ever before, the people are responsible for the character of their Congress. If that body be ignorant, reckless and corrupt, it is because the people tolerate ignorance, recklessness and corruption. If it be intelligent, brave and pure, it is because the people demand these high qualities to represent them in the national legislature

[James A. Garfield, A Century of Congress](#)

What was true of Congress in the 19th century is also true of all of our state elected officers today: We are responsible for their character. That means we are responsible for how we respond to their actions as well. We have chosen Presidents who tried to enforce our border laws and others who did not. We chose the Representatives and Senators that not only wrote those laws, but funded their enforcement. And when those in the judicial branch acted badly by illegally meddling with the enforcement of the Constitution and laws of the United States, it was the responsibility of those we placed in Congress to deal with their bad behavior.

So if you're looking for someone to blame for the current state of our border, look no farther than your mirror. Rather than blaming the alien who broke the law, take responsibility for your choices that led to the fact that those laws aren't being enforced in the first place.

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