



Policy on Purpose

Episode 1: Professor Ruth Wasem (Part 1)

ANGELA EVANS: My name is Angela Evans and I'm the dean of the Lyndon Baines Johnson School of Public Affairs at The University of Texas, and I want to welcome you to our inaugural podcast called "Policy on Purpose."

My first guest today is Ruth Wasem. Ruth is a clinical professor of public policy practice at the LBJ School. Ruth has for many years studied immigration trends, asylum policy, human rights and unauthorized migration, and I've invited her here to provide insight on the national conversation surrounding DACA and immigration as a whole, and I wanted you to hear her insights on how DACA fits into our current public policy discussions as well as the historical perspective Ruth brings to this important issue. Ruth, welcome.

RUTH WASEM: Thank you so much, Angela. It's a pleasure to be talking to you today, and also on the faculty of the LBJ School, so thank you for inviting me.

EVANS: OK, so let's just get started. We're now in the position of having a president who is turning to the Congress and saying, "I'm looking to you to see what you're going to do about DACA." And Congress is now working on legislation that's trying to determine exactly its role, tied with border security. So we have this issue going on with DACA and in conjunction with border security. Some people think this is a new issue, some people think this has never come up before — we haven't been in a situation like this before. Or some people have never been this involved in this kind of an issue.

Can you tell us from your work with Congress and your historical background on these issues just how DACA fits into the full history of our whole immigration approach to our policy?

WASEM: Well DACA — Deferred Action for Childhood Arrivals — is when President Barack Obama decided, because Congress hadn't acted on what was called the Dream Act legislation, he announced that he was not going to remove young people who had been brought here by their parents if they had met some certain conditions. And in return for meeting those conditions and coming forward, they were giving work authorizations, which has empowered them to be fully engaged in American society. Although people have alleged that this was unprecedented, I have found numerous times when presidents have used their broad discretionary authority and prosecutorial discretion to allow people who don't have a legal immigration status to be present in the United States without fear of removal.

I can take it as far back as President Eisenhower. Our own LBJ provided parole benefits for Cubans who were fleeing Castro's Cuba, and so on. The example that I find the most similar to today's DACA young people happened in the late 1980s when Ronald Reagan was president. And in 1986, after considerable debate, Congress passed the Immigration Reform and Control Act, which substantially increased border security, added a host of immigration enforcement interior requirements, including that was the first time it was illegal to work in the United States without authorization, and in return for those increased enforcement mechanisms, allowed several million foreign nationals in the United States illegally to adjust to legal permanent resident status. So the IRCA legalization program was one of the major accomplishments of the Reagan years. At the time, Congress had made a decision that family members of IRCA beneficiaries, if they did not meet the requirements of IRCA, to legalize, that they could not benefit. That they would stay in an unauthorized status and be subject to removal.

As the old Immigration Nationalization Service, as it was called then, was actually processing these legalization applications, they found that upwards of a million people that were legalizing had family members in the United States. And that this was a real issue. And it was also an issue of people who were afraid to come forward to legalize and get what they were eligible for because maybe their spouse was not going to be eligible. So Reagan, consistent with his position on family values, basically instructed his Attorney General Ed Meese that they were not going to deport these people.

That policy back in the '80s took the name Family Fairness, and then when George H. W. Bush became president in '89, he actually expanded the program, and by that point his commissioner of the immigration service, Gene McNary, told Congress they thought upwards of 1.5 million people may be family members of beneficiaries, but they themselves were in the United States out of status. So we're talking about a population almost double the size of today's DACA population.

EVANS: So let me understand this then. So what happened is, you had a piece of legislation. When they went in to implement it, to executive it, they determined there were 1.5 million people in addition to that. Well Ruth, isn't this the rub, when you really start thinking about it, about family? So when you think about a lot of these historical immigration objectives or policies to try to deal with illegal status, they seem to turn eventually on what do we do about family members who are here beyond the targeted group. That seems to be an historical tension, and so it's going to be coming up in DACA, and it has come up in DACA.

WASEM: Of course. It's come up in DACA in the context of there are two proposals now that are before Congress — two major approaches. The Dream Act proposal, which has been around since, well, this century, would put the young people on, if they met the criteria, to become legal permanent residents. That's kind of what we associate as what we call the Dream Act. The rub, as you say, with them are their parents, who when the Dreamers become U.S. citizens, they can petition for their parents to become legal permanent residents. Opponents to the Dream Act say, "We can't reward bad behavior." And even if they're willing to say, well, the young people came through no fault of their own, their parents knowingly brought them here.

So they would want to put restrictions and treat the parents of the Dream Act beneficiaries differently than any other parent of a legal permanent resident. So that raises some really thorny issues. The other big legislative proposal that's out there would be to do statutorily through something called the Bridge Act, what President Obama did through executive action.

And that is for Congress to say, if young people meet these criteria, which are essentially the criteria of the Dream Act, they are allowed to stay here for three years. Now it doesn't resolve their futures –

EVANS: It sort of kicks the can down the road in some ways.

WASEM: Yeah.

EVANS: We're still faced with this issue that most Americans from polling — and I know you have some recent poll numbers there; most Americans do not oppose the Dreamers staying in the United States. What was different then, than what was different now in terms of, is it, one of the problems is that they're tying this, the DACA, to the border security issues? Were there border security issues tied to the past experiences folks had with folks who were here illegally?

WASEM: To a lesser extent. I think they actually thought when they passed the '86 act, which in addition to legalizing, it ratcheted up border security and added very stringent employer sanctions provisions. So Congress thought — and the administration thought — in the '80s, they had addressed the policies that would deal with future flows of unauthorized migrants. What's different today is whether or not there's ways to partner DACA with other bills. It took the Family Fairness legislation could not pass on its own; it was part of a much broader package of reforming legal immigration.

One of the things that has come up with the Dream Act legislation — that's the DACA individuals who are frequently called the Dreamers — is that the Dream Act legislation needs to be passed as part of, with other things along the way. Both people that want more border security see it as a sweetener to get votes for border security, but also individuals who want more sweeping, comprehensive immigration reform don't want the Dream Act to pass alone because that removes one of the most popular elements. So in a way it's kind of interesting that members on both sides of the aisle are very sympathetic and supportive of the Dream Act — it's almost because of its popularity that it's held hostage to other agenda items in immigration and immigration enforcement that keep it from happening.

Now, there was a lot of attention recently about whether or not the president had struck a deal with the Democratic leaders about increased enforcement, and whether or not there would be money for building a wall, and to me, linking the Dream Act with the wall is disproportionate. Because the wall is a lot of money and there's a whole lot of important other issues it raises well beyond the Dream Act. And a lot of issues particularly for people that live in Texas. Texas has a lot of mixed feelings about the wall and for good reason, because it's in our state. If you recall, when I talked about the Family Fairness, that was packaged in a much bigger bill that reformed legal immigration. So does it make sense to think about putting the Dream Act with other pieces of immigration legislation where there's a natural fit, so that you can bring more people to the table and get the bill across the finish line. And there are certainly ways to do that.

You could package that with, um, there's a lot of interest in STEM — students who study here in STEM degrees, business is very interested in them and creating visas for them, that's a natural. There's another very compelling population of agricultural workers that are here out of status and employers in agriculture are very interested in making sure they have an adequate workforce to bring crops from the field to the markets. There's a whole host of different things that have bipartisan support. Agricultural workers, STEM visas, those are not partisan issues that could be added to the Dream Act, as well as if

people think they need to do additional enforcement measures, that could be something that would be on the table.

I mean, it could pass on its own, but let me give you a sense of one of the problems of passing it on its own. There's a common base on both sides, in both parties, that would support the Dream Act. But there are people, as I mentioned before, that think it rewards illegal behavior that would be opposed to it. As well as people that want some of these other immigration reforms made and they realize that the dream act is an important negotiating piece. So because of its very popularity, it makes it harder to pass alone because people see it as a natural and important partner to putting together a legislative package on immigration.

EVANS: That's why I think when we talk about this podcast being "Policy on Purpose," people often don't see the nuances. They see very simplistic binary choices. And when you think about all the different factors involved here, all the different possible coalitions, all the different possible implications, this becomes extremely difficult and complex. So Ruth, I want to thank you so much for helping us understand this, and we will invite you back as we continue to work on this important issue. Thanks so much, Ruth.

WASEM: It's been a pleasure.