

The Feeling of Freedom

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The United States of America is a country of opportunity, “home of the brave.” From all over the world, people are coming here to better their lives, seek refuge for political or religious reasons, escape from wars or simply fulfill their dreams to become an American citizen. Legal immigration to the United States is limited. The rigorous laws determine the categories that allow a person to legally enter the country and later gain permanent resident status. One of them is family-based immigration, and another common category is work-based immigration. It is also possible to gain legal status through asylum. There are various non-immigrant Visa categories that allow a person to come and stay legally for a period of time. However, non-immigrant Visa holders are not eligible for permanent resident status or citizenship.

Illegal immigration is a reoccurring problem in this country because of the strict laws that govern it. The last major overhaul of immigration law was in 1986. Since then, despite various executive actions, more than ten million people are currently living illegally in this country either after staying beyond their permissible date or by having entered without permission. In the last eight years, politicians have been talking about a comprehensive immigration bill. Congress, however, did not pass a law; thus President Obama was faced with the same problem as his predecessors - how to resolve the status of ten million people. He responded to the issue with an executive action.*

On November 20, 2014, President Obama announced a series of executive actions, which included expanding DACA (Deferred Action for Childhood Arrivals) to include individuals of any age who came to this country before turning 16 years old and who have been present since Jan. 1, 2010. The other major components of the action include 1) if the individual has been in America for more than five years; 2) if the individual has children who are American citizens or legal residents; 3) if the individual registers, passes a criminal background check, and is willing to pay his/her fair share of taxes. If the individual meets these criteria, he/she will be able to apply to stay in this country temporarily, without fear of deportation. The original DACA eligibility requirements required that the individual:

1. Was under the age of 31 as of June 15, 2012;
2. Came to the United States before reaching his/her 16th birthday;
3. Had continuously resided in the United States since June 15, 2007, up to the present time;
4. Was physically present in the United States on June 15, 2012, and at the time of making the request for consideration of deferred action with USCIS;
5. Had no lawful status on June 15, 2012;

6. Was currently in school, had graduated or obtained a certificate of completion from high school, had obtained a general education development (GED) certificate, or was an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
7. Had not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and did not otherwise pose a threat to national security or public safety.
8. The individual must be at least 15 years old to request DACA, unless he/she is currently in removal proceedings or has a final removal or voluntary departure action.

The executive action extended the original DACA, while the other part of the action stopped removal of those parents who came here illegally but have American citizen children less than 21 years of age.

The executive action will not provide legal status for undocumented immigrants; it is, however, a three-year delay to the deportation proceedings. These actions will provide a temporary protected status for millions of unauthorized immigrants and grants them employment authorization.

The action is being contested in Court but to little avail due to problems with standing and other Constitutional issues. Further, the Presidential action could be reversed by the next president and will surely be if it is a Republican. What is the problem with the action? It is not a solution - - it is a band aid. It gives an opportunity for about five million people to work and be a part of our society. Critics state that the action encourages people to immigrate illegally.

President Obama himself announced that “a decision to shield millions of immigrants from deportation without an act of Congress would amount to nothing less than the dictates of a king, not a president.” In September 2013, President Obama said he was proud of having protected the “Dreamers” — people who came to the United States illegally or stayed illegally as young children — from deportation. But he also said that he could not apply that same action to other groups of people. “If we start broadening that, then essentially I’ll be ignoring the law in a way that I think would be very difficult to defend legally,” President Obama told Jose Diaz-Balart in the interview. “So that’s not an option.”¹

After all, the moment is bittersweet; it is a victory, but it is a partial victory. The ideal would be if Congress passes a bill that would resolve the problem of all 10 million illegal immigrants residing in this country, and would be able to regulate future immigration.

Stay tuned to the next article about employment issues raised in other parts of the executive action.