

Supreme Court to rule on Obama immigration program

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The US Supreme Court announced Tuesday that it will decide on a Texas case that has blocked the Obama administration's implementation of an executive decree that would have temporarily shielded a fraction of the estimated 11 million undocumented immigrants in the US from deportation.

The high court will hear arguments in the case in April and likely issue a decision in late June. This ensures that immigration, which has been the subject of right-wing demagogic appeals in the Republican presidential nomination contest, will remain at the center of the 2016 election.

The court's announcement came in the midst of rising anger and fear within immigrant communities over the Obama administration's launching of nationwide Immigration and Customs Enforcement (ICE) raids aimed at rounding up and deporting Central American refugees, most of them women and children.

The *Washington Post* reported Tuesday that Department of Homeland Security officials have "told immigrant rights advocates that they are considering expanding the raids to include minors who entered the country on their own, a move to further boost deterrence efforts." In other words, the government will send out agents to raid homes in the middle of the night and drag away children for deportation in the hopes that the resulting terror will dissuade other children from fleeing the lethal violence prevailing in Central America.

Despite the government's attempt to intimidate undocumented immigrants, there has been a renewed upsurge in the number of families crossing the Southwest US border, which tripled in the last three months of 2015 compared to the same period in 2014.

In addition to sowing terror among undocumented immigrants, the raids have also led to an acrimonious

debate within the Democratic Party. As the *Post* noted, "A group of 140 House Democrats sent a letter to Obama demanding that he halt the operations, and the three major candidates for the Democratic presidential nomination, including Hillary Clinton, have denounced the raids."

In point of fact, in 2014, with a growing number of Central American refugees arriving on the US border, Clinton wholeheartedly endorsed mass deportations of children. "We have to send a clear message: Just because your child gets across the border, that doesn't mean the child gets to stay," she said then.

If the Democrats are chafing over the Obama administration's deportations today it is because they fear that it will undercut their attempts to posture as friends of immigrants in a bid to win a larger share of the Latino vote in 2016.

For his part, Obama has become known in immigrant communities as the "deporter in chief." His administration has set the record for any presidency in the number of people deported, which reached over 400,000 a year during his first term and still stood at 231,000 in 2015.

Even as it has denied Central American women and children refugee status, the administration announced on Monday that it is suspending the Peace Corps program in El Salvador because of "security concerns." A similar suspension of the program in Honduras was announced in 2012. The latter country has the highest homicide rate in the world and El Salvador has the sixth highest, conditions that are the product of decades of US military interventions and support for right-wing dictators and death squads.

The Supreme Court ruling, whichever way it goes, will not resolve the problems faced by the majority of the 11 million undocumented immigrants living and

working in the US. The program unveiled by Obama in November 2014, after the failure of Congress to pass an immigration reform bill, would have temporarily deferred the deportation of up to 4 million people, the majority of them undocumented immigrants whose children are US citizens.

The program elaborated in Obama's executive order, known as Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), is founded on the reactionary premise that undocumented workers are criminals who are merely being granted a temporary reprieve. Deportation is deferred for three years, subject to renewal. The deferral can be abolished at any time by a new administration, with those immigrants who joined the program identified and subject to summary deportation.

Given distrust of the government, the required documentation of continuous residence in the country since January 1, 2010, a \$465 filing fee, together with thousands more for those who go through an attorney, and the mandatory payment of back taxes, it is likely that only a fraction of the 4 million eligible would apply for the deferral. Moreover, any immigrant convicted of a felony, a serious misdemeanor or three minor misdemeanors is disqualified.

A federal court in Texas issued a preliminary injunction blocking Obama's implementation of the plan after the Republican administrations in Texas and 25 other states filed suit against it. They argued that Obama had overstepped his constitutional bounds in changing immigration policy without the approval of Congress and had violated federal procedures for making rule changes that require the government to give prior notice and seek comments.

While the lower court ruling, which was upheld by the federal appeals court in New Orleans, did not deal with the constitutional issue, the Supreme Court has made an unusual request that both sides in the case address it.

The question centers on the so-called "Take Care Clause" of Article II of the US Constitution, which establishes the executive branch of the federal government. It states that the president must "take care that the laws be faithfully executed," a provision that has been interpreted as denying the president constitutional authority to suspend the enforcement of laws legislated by Congress.

The Obama administration has argued that DAPA does not suspend enforcement, but rather merely sets priorities as to whom the government should hunt down for deportation, given that the money appropriated for this purpose allows for "only" about 400,000 a year out of the 11 million undocumented to be deported.



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