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I'm an immigrant and a reform advocate. Obama's executive actions are a disaster for the cause.

The president is poisoning the movement.

By Ilya Shapiro

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Last week's ruling in the 26-state challenge to President Obama's immigration actions should have come as no surprise given how poorly last month's hearing went for the government. But regardless of what anyone thinks about this ruling, the administration's maneuvers represent an unfortunate setback for those who seek lasting immigration reform.

That may seem counterintuitive. Isn't it better to do something, to at least get relief for up to 5 million people and worry about a larger fix when the political winds are more favorable?

The answer is "no" for two big reasons. First, the "executive discretion" at issue can be reversed by any future executive. While it would be hard to claw back whatever tangible benefits will have been extended in the meantime—or the money states spend issuing drivers licenses, which is why the temporary injunction prevents "irreparable harm"—there's no guarantee that the granted residence and work permits will be renewed.

In other words, the millions who would be eligible for temporary status under the Deferred Action for Parents of American Citizens and Lawful Permanent Residents may move "out of the shadows," but they're still under a legal cloud. Perhaps that's why an underwhelming number of those eligible for the earlier Deferred Action for Childhood Arrivals (DACA, the expansion of which was also put on hold by Judge Hanen's ruling) have registered for that program. Why make it easier for the government to deport you in the future?

Second, and more significantly, Obama has short-circuited any chance at a legislative solution. There's a reason that we've all heard how the president has "poisoned the well." By resorting to executive actions—right after the Republicans won the election running against just that style of governance—Obama ensures that Congress will never see him as an honest broker (and that includes any Democrats who remember their position on presidential unilateralism in the Bush years).

Moreover, while it's true that it would be difficult for this president to get any legislation through this Congress, he didn't even try when his party controlled both chambers. And there are certainly reforms that would have easily gained majorities in the new Congress had Obama not acted as he did, such as expanding high-tech visas and employment-based green cards. Even a comprehensive reform that would give legal status to those here illegally was possible, turning mainly on the scope of a guest-worker program and the "pathway to citizenship."

In short, Obama picked a big (or bigger) political fight that mires immigration reform in uncertain litigation rather than pushing for real change. And if, as is more likely than not, the Supreme Court follows Judge Hanen's lead and blocks the "piecemeal" executive action, reformers will be even worse off for having lost time and opportunity.

It's all so unfortunate, because everybody knows that our immigration system is a mess, quite possibly the worst part of the federal government.

That's quite a statement, I know—particularly coming from someone at the Cato Institute, and especially from a constitutional lawyer who spends quite a bit of his time on Obamacare. But it's true: far from merely advancing bad policy, our current immigration system lacks a coherent policy that it purports to implement in the first place. Instead, it's a compilation of various half-baked "reforms" going back decades, a schizophrenic set of laws and regulations.

And the solution is rather straightforward: expand the ways to be here legally, then crack down on those who ignore them. If you commit a crime, or you go too long without a job, you lose your visa. But give people a chance to earn an honest living. As long as we screen for criminal records, terrorism, and public health, America should stand for the idea of letting people in who seek a better life, in an orderly way: a funnel, not a necessarily leaky wall.

I say this as an immigrant myself, who could be expected to be least sympathetic to those who came here illegally. After all, I navigated the bureaucratic morass—finally became a citizen last year after living here my entire adult life—so why shouldn't everyone? Why should we "amnesty" people, even legislatively, who didn't play by the rules I painstakingly followed?

The answer there is simple, too: I care about my new country and about giving people the opportunity I got only through some rather fortuitous twists of fate. And I also care about the rule of law, one of the reasons people want to come here in the first place. That's why it saddens me that Obama's executive actions are so beyond the constitutional pale that Saturday Night Live parodies them as violating the Schoolhouse Rock instruction on "how a bill becomes a law."

The fact that DACA and DAPA have stymied chances for legislative reform is doubly sad because our immigration laws themselves undermine the rule of law. If you brainstormed a process for how foreigners enter the country, how long they can stay, and what they can do while here, it would be hard to come up with something worse than our current hodgepodge of often contradictory rules. This immigration non-policy serves nobody's interest—not big business or

small, not the rich or the poor, not the economy or national security, and certainly not the average taxpayer—except perhaps immigration lawyers.

The rule of law means changing the laws we now have rather than paying lip service to the idea that we should spend a trillion dollars enforcing them (thereby also harming the economy and social order). Creating a line for people to get into—skilled and unskilled—isn't "amnesty" but "parole." That's why President Reagan's 1986 reform failed: not because we didn't follow an amnesty with border enforcement, but because we didn't follow the parole we granted to those already here with a workable line (or funnel) for future immigrants.

Alas, the current president has never been willing to spend political capital on the cause of immigration reform—unlike his predecessor, who came very close to attaining that elusive goal. Given how little trust Obama now inspires, it's clear that this challenge now falls to his successor.

In the meantime, immigration activists are doing themselves no favors by claiming that an obvious violation of both administrative law and the separation of powers helps those who need real reform.

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