

Executive power on trial

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Undocumented immigrants are often not sure how public their lives can be. Photo by Theo Stroomer.

The immigration case that the Supreme Court will rule on this month is technically not about immigration. It is about the limits of executive power and the relations between Congress and the executive branch. If the administration prevails, however, it can expand a program that has already given hundreds of thousands of young immigrants—who have lived most of their lives in this country—the right to work, obtain a driver’s license, go to school with in-state tuition, and other freedoms that add up to an almost normal existence ([see Amy Frykholm, “Deferred dreams”](#)). If the administration loses, or if the Supreme Court splits 4-4, the future of these young people (and that of some of their parents) will be more fragile.

United States v. Texas will decide the fate of President Obama’s Deferred Action for Parents of Americans and the expanded Deferred Action for Child Arrivals (known as DACA+). President Obama issued the original version of DACA in 2012 to allow certain undocumented immigrants who entered the country before age 16 to receive a renewable two-year work permit and temporary exemption from deportation. Critics complained then that he was reforming immigration policy by fiat. When Obama expanded the categories of DACA in 2014 to cover even more young immigrants and extend their work permits to three years, and issued DAPA to allow the undocumented parents of DACA recipients and children born in the United States to have temporary legal standing of their own, 26 states charged the administration with overstepping its authority.

Obama's executive actions would not have been taken if Congress had passed comprehensive immigration reform, so in that sense Obama is doing what should be done by Congress. But given the presence of 11 million undocumented immigrants, the administration has to have some scheme for prioritizing who is slated for deportation and how to use government resources. Even without an executive action, an administration could defer the deportation of young people who had been in the United States since childhood—that much lawyers for the objecting states have admitted. What plaintiffs are objecting to is not the right of the president to defer deportation, but that he has systematized the process so as to provide clear relief to some people.

Ultimately, even if DACA and DAPA are upheld, substantive reform has to come from Congress. DACA and DAPA provide only temporary relief, not a path to citizenship. In the absence of such reform, they are legitimate efforts to make family unity and young people's futures a priority in immigration policy.