One of President-elect Donald Trump's promises — or threats, depending upon the perspective — is to begin mass deportations on day one. Whether he will actually order this, and if so, who will be targeted and how it will be done are just some of the policy dilemmas plaguing immigration lawyers.

Issues such as whether DACA is ended, family separation is restarted, how deportations are conducted, and what new policy directives are ordered will determine the policy path of the immigration legal community.

On a good day, immigration attorneys are over-stressed. The good days may be over.

Immigration lawyers, of course, are individuals; some will follow all new commands while others may choose to quit. Still others, according to one Seattle immigration attorney who works for Homeland Security, feel they need to remain in their positions in order "to find a solution if there is one, to treat respondents with dignity and respect, and to ensure that rights and policies currently in place to protect human constitutional rights are still upheld."

This lawyer discussed her own views and does not speak for either her fellow attorneys or the immigration enforcement community in general and therefore requested anonymity. She assumes that, based on Trump's 2016 election, the president-elect's new administration will "try to erode policy-based protections currently in place."

She says that, "He (Trump) decided that anyone who was out of status or did not have a visa was an enforcement priority." Under the Biden administration, non-citizens with records or criminal histories are higher priorities than law-abiding residents.

Trump's threat to deport 11 million people is unrealistic, according to this lawyer. "There are not enough planes or people. If Trump gutted social programs, won lotteries, and tomorrow had a hundred billion dollars, he still wouldn't have enough people or planes by the end of four years."

Of course, it is unclear if, and how, his mass deportation plan would unfold; whether children are pulled out of school, field workers yanked from harvest fields, and parents handcuffed in front of their children remain unknowns.

And there is the labor issue. According to the U.S. Department of Labor's National Agricultural Worker's Survey, approximately 44% of farm field workers are undocumented immigrants. Americans don't want these jobs, which involve low wages, hard, physical labor in hot temperatures and long, grueling and inconsistent hours — sometimes up to 80 or 90 hours a week.

In 2022, according to USA Facts.org, 30% of the construction industry consisted of immigrants. Service fields, such as hospitality, auto repair, hair salons, and religious organizations were almost 23% immigrant, and 21% of business and professional services, such as legal and medical, were immigrant.

It is possible --even likely -- Trump will impose new regulations and possibly instruct immigration lawyers to litigate every case. There is currently a backlog of 1.3 million cases and a four-plus year wait for hearings, which include lingering COVID cases, closed cases that reopened due to criminal activity, and new cases.

However, presidential dictates to increase litigation will not increase caseloads. "We can't do two cases simultaneously," says the Seattle lawyer. "There aren't any more judges. If I have a case dating back to 2019, and the person presents no threat, there is no criminal case, and it's not a priority, then I don't need to spend government money and resources on legal proceedings to remove a person when he's just living his life."

Once a person is no longer at risk of deportation, he/she can apply to USCIS, which can take another eight years to adjudicate, or continue to live undocumented. This action does not alter the person's status; it simply removes the risk of deportation.

"You can only be put on a plane and removed if there is a removal order," says this lawyer. "If this is no longer a risk, then go live your life and don't commit any crimes."

The Obama administration deported more than 1.18 million migrants in its first three years; however, a majority were expedited, meaning that deportees were still at the border and not already embedded into American society.

This lawyer says that how individual lawyers react will depend "on what laws are eroded in whatever scenarios come up so respondents still are treated as people and treated fairly. We are assuming constitutional rights will be eroded."

She feels a personal responsibility to treat asylum-seekers as individuals, regardless of their country of origin. If a judge denies a claim, "at least I can still ensure those constitutional rights are respected and upheld, even if respondents don't get the claims they want. They are human, and therefore entitled to basic human rights."

Of course, all of this assumes that current laws will be upheld. If the Trump administration decides to impose unconstitutional, authoritarian regulations, then immigration officials will need to rethink and revamp their strategies.

As will the rest of us.

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