



Analysis of Executive Action on Immigration and Priorities for Women

November 24, 2014

On November 20, 2014 President Obama took an historic step toward fixing our broken immigration system by announcing several executive actions his administration will undertake. This analysis examines how the [six women's priorities](#) identified by We Belong Together were honored by the President's executive action and highlights the areas in which the struggle for a fair and humane immigration system continues.

Priority 1: Broad Administrative Relief for Undocumented Immigrants

We Belong Together has called for broad and inclusive administrative relief that protects individuals from deportation while granting them authorization to work in the United States. We have urged that this relief must be accessible to immigrant women, including women who work at home or in the informal economy, women who are in abusive relationships and women who may have access to fewer financial resources.

How Obama's Executive Action Addresses This Priority: Through executive action, a new deferred action program, Deferred Action for Parental Accountability (DAPA), is created, providing work authorization and relief from deportation to approximately 4.1 million undocumented parents of U.S. citizens and legal permanent residents. To be eligible for this program, applicants must have resided in the United States continuously since January 1, 2010 and undergo background checks.

Executive action also expanded the current Deferred Action for Childhood Arrivals (DACA) program, by removing age caps and extending relief for those who entered the U.S. before their sixteenth birthday and have lived in the U.S. since January 1, 2010. This expansion results in the protection from deportation and granting of work authorization to approximately 300,000 DREAMers.

What this Means for Immigrant Women: It is estimated that over 4 million undocumented immigrant women live in the United States and the President's deferred action programs will provide many of these women with relief that will allow them to emerge from the shadows and fully contribute their talents. We Belong Together will monitor how these programs are implemented to ensure women are not disproportionately unable to apply because of fees or other documentation requirements. Many undocumented women have diverse family relationships – including children who live in their home countries, children who live in the U.S. but are not citizens or residents and women who do not have children. These women will be unable to qualify for deferred action.

Priority 2: Relief for Families Stuck in the Visa Backlogs

We Belong Together has called for relief for families stuck in the visa backlogs and urged the Obama Administration to parole into the United States family members outside of the U.S. with pending family visa applications, allowing them to live and work here with their families.

How Obama's Executive Action Addresses This Priority: The executive actions announced on November 20th do not specifically address this We Belong Together priority but do indicate some intent to address the backlogs in the future. In a Presidential Memorandum on modernizing the visa system, the President acknowledges the negative impact of long wait

times for millions of families. He calls upon several executive agencies, including the Department of Homeland Security (DHS), to convene and develop within 120 days a plan to streamline the visa system.

What This Means for Immigrant Women: Seventy per cent of immigrant women obtain legal immigration status through the family immigration system but over 4 million people are stuck in the backlogs. Though the President has ordered the convening of an inter-agency group to discuss the backlogs, the mission of the group is not specific to family visas and the group's mandate, as well as funding to carry out its proposals, is unclear. The failure of executive action to grant relief to those stuck in the backlogs disproportionately impacts women, who are waiting to be reunited with family members, often left as sole providers in their home countries. We Belong Together will continue to emphasize the need to offer immediate, meaningful and accessible relief to end the unnecessary separation caused by delays in our immigration process.

Priority 3: Respect for Families and Human Rights

We Belong Together has been extremely concerned about current immigration enforcement practices which needlessly tear children from their parents and compromise important due process protections.

How Obama's Executive Action Addresses This Priority: The President's executive action outlined several enforcement reforms including:

- Designating new enforcement priorities that apply to all DHS actions, including interior and border enforcement. These priorities suggest that DHS will focus resources on removing people with certain criminal convictions or gang affiliations, those who are deemed national security threats, recent border crossers and others who are in the country unlawfully since after January 1, 2014.
- Expanding how the extreme hardship standard is applied to consider familial ties and expanding the availability of provisional waivers of unlawful presence so that relatives who must leave the U.S. for consular processing can safely return without facing 3 or 10 year bars.
- Shifting away from the use of detainers, or immigration holds, which result in the deportation of immigrants after they are arrested but before they are convicted of any crimes and moving toward a process where removal occurs after conviction.
- Additional focus on border enforcement to quickly return recent border crossers.

What This Means for Immigrant Women: Details about these reforms are still emerging and it will take time to determine if they result in fewer families being separated and the human rights of immigrant women being honored. The overall budget for enforcement and target number of annual removals remain the same so it is unlikely the reforms will result in fewer deportations. The message of these enforcement reforms is that discretion should be used before separating families, particularly those who are not involved in the criminal justice system. Immigrant women or their family members caught in the criminal justice system may have access to certain due process safeguards. For immigrant women living at the border these executive actions could mean more militarization and surveillance of their neighborhoods and communities. For women and children fleeing violence against women and forced gang recruitment in Mexico and Central America, executive action is likely to undermine due process and result in the speedier return of individuals to the very violence they fled.

Priority 4: Protections for Women Workers

We Belong Together has called for immigration policies that protect women workers on the job and recognize the qualifications and abilities of all immigrant women in the United States.

How Obama's Executive Action Addresses This Priority: According to the executive action announcement, the Department of Labor (DOL) will begin providing certification for visas to protect victims of human trafficking (T visas) and increase the crimes for which it will certify U visa applicants seeking protections as crime victims. The announcement also creates a new interagency working group to devise plans for ensuring workers can assert their labor rights without fear of

retaliation and receive immigration protections. The President called on DHS to finalize a rule that would allow certain dependent visa holders to receive work authorization and keep intact guidance for exercising prosecutorial discretion for victims of workplace abuse or those seeking to enforce their labor rights.

What This Means for Immigrant Women: Immigrant women earn less in the labor force than any other demographic and undocumented women workers face significantly higher rates of wage and hour violations. Domestic workers are also among the most highly trafficked groups. More expansive DOL visa certification can help women workers access U and T visas. We Belong Together hopes to raise important immigrant women workers issues with the new interagency task force and work with allies to ensure immigrant women seeking to assert their labor rights can access prosecutorial discretion. Finalizing the rule that grants work authorization to certain H-4 visa holders is an important step, especially since three-quarters of dependent visa holders are women. We Belong Together, however, continues to call for expanding work authorization to all individuals with H-4 status.

Priority 5: Enhanced Protections for Survivors of Violence Against Women

We Belong Together has called for an end to the growing entanglement of state and local law enforcement agencies with immigration authorities, which makes survivors of violence less likely to access safety and justice.

How Obama's Executive Action Addresses This Priority: Executive action recognizes the threat to community policing and trust-building created by Secure Communities and discontinues the program, replacing it with the Priority Enforcement Program (PEP).

What This Means for Immigrant Women: The end of Secure Communities is a major victory for immigrant women, particularly survivors who feared going to the police for help and safety. Immigrant women are three to six times more likely to experience domestic violence than U.S.-born women because immigration status is often used as a tool to control women in violent relationships. We Belong Together will monitor the new PEP program and its impact on immigrant women's ability to seek assistance from law enforcement. Though Secure Communities will be discontinued, other programs that require partnership between state and local police and immigration agents, such as 287(g) and the Criminal Alien Program, are still intact.

Priority 6: Due Process for Detained Women and Ending Family Detention

We Belong Together has called for DHS to use release or alternatives to detention rather than immigration detention and an end to the detention of families.

How Obama's Executive Action Addresses This Priority: The President's executive action limits the detention of pregnant or nursing women, primary caretakers of children or infirm persons and persons who are physically or mentally ill, disabled or elderly and delineates a process for obtaining approval from leadership of local field offices when such a person is detained.

What This Means for Immigrant Women: Unfortunately, the President's executive action does not change the current framework of immigration detention, which is based on the erroneous premise that 34,000 individuals must be detained each day because Congressional appropriations authorize up to that amount. Immigrant women will still have to bear the burden of immigration detention and being left behind when primary earners are detained and deported. Immigrant women in detention can benefit from the directive limiting the detention of certain groups of individuals, if it is properly implemented. Unfortunately, executive action does not address family detention and DHS continues to increase bed capacity for families, many of who are women and children escaping violence in Mexico and Central America.