

WAITING FOR REAL REFORM: HOW HALF-WAY MEASURES LEAVE IMMIGRANTS IN LIMBO AND DEPRIVE AMERICA OF THEIR TALENTS

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According to the American Dream, success and security should follow from hard work, educational achievement, and responsible conduct. Daniel Estrella – not his real name, but that is what we can call him – has followed this path. Thirty-three years old, he has lived in New York City for over fifteen years, without a criminal record. Daniel has earned a Bachelor’s degree from Columbia University, built his own business, and become a mentor for Mexican-American high school students. But Daniel lacks a working permit and has not been able to attain his full potential. He has been waiting for fifteen years for his application for legal residency to be processed – by a bureaucracy that currently has wait-times of two decades for someone from Mexico who is the immigrant “adult child of a legal U.S. citizen.”

Daniel grew up in the state of Puebla in central Mexico. His older siblings lived in the United States and eventually became citizens. They successfully applied for permanent residency “green cards” for their parents. Daniel visited on a tourist visa in 1998, and stayed on to care for his sick and aging parents. His mother applied for a green card for him, and Daniel hired a lawyer, filled out the necessary paperwork and paid all required fees. But that just started the bureaucratic clock for a long wait.

In the meantime, Daniel was able to acquire a student visa that allowed him to pursue higher education in the United States. But after he obtained degrees from Pace and Columbia, he ran into hard times. As Daniel explains, in 2008 “there was a big economic crisis... Since a lot of people were looking for work ... that had more education and experience than me, it was hard to convince anyone to hire me and to sponsor me to get my work visa... I lost my student visa, and was not able to find a job... I am... what people call undocumented... unable to work and use my degree.” Eventually, Daniel’s entrepreneurial spirit allowed him to start his own business and by now, as he explains, “I am doing quite well for myself financially, but I am still sad that no one would recognize my college credentials. I wish I had been given the opportunity to apply to American corporations to get some experience even if I would have later started a business.” Daniel is an American success story, but he remains in legal limbo. He cannot visit relatives in Mexico or work for a U.S. corporation or non-profit organization.

Patchwork Reforms Fail to Help Many

Most Americans might be surprised by Daniel’s story, because they assume that reforms have been put in place to help worthy immigrants. But, in fact, current directives from the Obama administration leave many worthy migrants facing, at best, years more of waiting to become legal residents on the path to citizenship. Proposals for a so-called comprehensive reform have not included a clear solution to processing backlogs.

- The “Dream Act” was first introduced in Congress in 2001, aiming to provide legal residency for immigrants who came to the United States as children or teenagers, if they have no misdemeanors and are either enrolled in an institution of higher learning or serve in a branch of the Armed Forces. Although this approach is popular with the general public, it now lacks support from Congressional Republicans, including some who supported earlier versions.
- Given the legislative impasse on the Dream Act, President Obama signed the Deferred Action for Childhood Arrivals directive on June 15, 2012. He ordered federal immigration officials to halt the deportation of immigrants with clean criminal records under the age of 31 who “came to the United States before reaching their 16th birthday; have continuously resided in the United States since June 15, 2007” and “are currently in school, have graduated or obtained a certificate of completion from high school, ...or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.” These young undocumented immigrants can now apply for temporary work permits.
- Congress is currently debating a comprehensive immigration reform that might extend legal residency to most of the 11 million undocumented migrants living and working in the United States, and perhaps offer a lengthy path toward possible citizenship after a decade or so. Nevertheless, many undocumented residents could continue to fall between the cracks even if reform is passed by Congress and signed into law.

Although Daniel’s parents became lawful permanent residents, he is too old to fit the criteria for Obama’s new regulations. He would not be helped by the Dream Act either. Perhaps a new immigration law could help Daniel, but more likely he will remain in the long line of people waiting for green cards, if Congress does not address the backlogs and processing times.

Why is the Wait So Long – And What is the Cost?

Since 1965, U.S. immigration policy has favored the reunification of families – so Daniel’s application to join his parents and siblings stands a good chance to be approved eventually. But waiting periods for many kinds of family applicants are very long if they fall into the wrong categories or come from countries with huge backlogs. Currently there are 4.3 million people waiting for their family-reunification immigration applications to be reviewed. Normal waiting times are shorter for relatives of U.S. citizens originally from China and India, but much longer for those from Mexico or the Philippines. For adult children of Mexican background, the applications now being processed were filed two decades ago, in 1993. Facing complex rules and long waits, many people fall victim to dishonest lawyers and advisors who prey on hopeful immigrants, repeatedly charging outsized fees while failing to correctly file applications.

Individuals and families are hurt by bureaucratic complexity and incredibly lengthy backlogs. The harm is compounded by Congress’s failure to enact comprehensive immigration reform. The United States as a whole also suffers because it fails to benefit from the full talents of people like Daniel. Social and tax contributions are diminished if immigrants’ with professional training and scientific skills have to work off the books in the informal economy. Daniel’s story is actually happier than those of many others, yet even though he has become a successful entrepreneur who mentors young people and creates community ties, Daniel – like many other undocumented students, business people, and workers – could put his energies to even more productive uses if he did not have to spend so much time and effort fighting for the right to stay in the country that has become his one true home.