

Obama Eyes Limits of Executive Power in Immigration Move

By Roger Runningen and Lisa Lerer Aug 4, 2014 11:01 PM CT

President [Barack Obama](#) is surveying the boundaries of his power after repeatedly promising to act on his own to address the nation's immigration policy.

As he considers whether to expand his earlier directive easing deportations or move to let some undocumented immigrants in the U.S. get work permits, Obama won't be able to make the fundamental changes he's been pushing for since taking office.

"There are limitations that are under -- within -- the confines of the current law," White House press secretary [Josh Earnest](#) said at a briefing yesterday. "Congress can do more to address this problem than the president can."

Obama has asked Attorney General [Eric Holder](#) and Homeland Security Secretary [Jeh Johnson](#) to review his options for executive action on immigration, in the absence of legislation from Congress, which left last week for a five-week summer recess. Earnest said Holder and Johnson would report back by "the end of summer" and expects to act "relatively quickly."

Among the actions being considered is granting some of the 12 million immigrants in the U.S. illegally work permits that would allow them to stay in the country, according to a Democratic Senate aide and immigration advocates.

That's sure to reignite Republican accusations that Obama exceeding his constitutional authority, one of their main campaign themes for November's midterm elections. The Republican-controlled House last month voted to sue Obama over implementation of his signature health-care law.

'Skirting' Laws

Senator [Orrin Hatch](#), a Utah Republican, said Obama would be "skirting the laws" by taking executive action on immigration.

"It's one thing to want to be kind and decent and honorable and treat these folks with a great deal of respect and dignity," Hatch said last week. "But it's another thing to break our laws in doing so, and the president doesn't seem to care about that."

The president's legal power to hold off deportations is "really quite broad," said Hiroshi Motomura, a law professor at the University of California at Los Angeles who outlined the legal rationale for a 2012 decision by Obama to defer deportations of some immigrants brought to the U.S. as children, in a letter signed by nearly 100 top legal scholars.

"He's going to hit political constraints before he will hit legal constraints," he said. "He has the legal power to decide who's going to be at the top of list for deportation and who's going to be at the bottom of the list."

Deportation Decisions

The president, said Motomura, could easily decide not to deport the parents of minors with legal status, a proposal that's popular with immigration advocates.

While Obama has argued he can decide how to prioritize categories of immigrants targeted for deportation -- for example, focusing on criminals first -- he doesn't have the legal standing to simply not enforce the law, said former aides.

In March, Obama said that the 2012 order "already stretched my administrative capacity very far."

"At a certain point, the reason that the deportations are taking place is Congress said you have to enforce these laws," he said at a town hall hosted by Telemundo, Univision and La Opinion-impreMedia in Washington.

Administration officials also worry that a broader action would invite a greater number of court challenges, potentially threatening the entire program including the legal status of the Dreamers.

Another potential pitfall, say advocates, is a future Republican president. Anything Obama does could be easily overturned by his successor.

"All the president can do is a stop gap measure," said Eliseo Medina, secretary-treasurer of the SEIU. "He's gone in three years so whatever he puts in place can disappear with him."

Immigration Standoff

The standoff on immigration has lasted for years and predates Obama's presidency.

Lawmakers left town last week without settling on funding to deal with a wave of migrant children on the U.S. southern border. Republicans have said there's almost no chance for more comprehensive immigration legislation this year.

There are both legal and financial issues at stake. The Homeland Security Department already is juggling its books to deal with the influx of unaccompanied minors, mostly from Honduras, Guatemala and El Salvador, who've arrived in the Rio Grande Valley. Obama originally sought \$3.7 billion in emergency funding and now faces shifting money among government accounts to temporarily house and process the migrants.

"I'm going to have to act alone because we don't have enough resources," he said at an Aug. 1 news conference. "We've already been very clear -- we've run out of money."

<http://www.bloomberg.com/news/2014-08-04/obama-may-find-executive-powers-limited-on-resolving-immigration.html>