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# Immigrants Living ‘On Pause’ Fear Obama’s Leniency Will Not Outlast Election

By CAITLIN DICKERSON NOV. 4, 2016



Bianca walked her 6-year-old son, Anthony, to the bus stop before sunrise on Wednesday. She and her family decided to return to the United States from Honduras after being threatened by gang members there. Credit Justin T. Gellerson for The New York Times

HERNDON, Va. — During the 10 hours a day that Bianca spends stretching and massaging patients at the chiropractic clinic where she works, she allows her mind to rest. But around 8 p.m., as she drives home to her husband and three children, her fear comes rushing back:

When a new president steps into office, will she be sent back to Honduras?

A rapt 11-year-old when she first entered the United States illegally, Bianca, 27, was nearly deported this year after making herself known to the American government by applying for asylum. When a judge explained that he did not have sufficient evidence to let her stay, a government lawyer offered to pause the proceedings rather than deport her immediately — something the Department of Homeland Security has done with increasing frequency under [President Obama](#).

As a result of the agreement she made, known as administrative closure, Bianca is not legally allowed to live in the United States, but she is not forced to go, either.

“You can’t have a normal life,” she said in barely accented English, “We just don’t know what’s going to happen.”

Bianca, who asked to be identified only by her first name because she could be called back into court at any time, is one of about 24,000 immigrants this year who have accepted the government’s offer to put their deportation cases on hold. Government figures show nearly

80,000 immigrants have done so since 2012, hoping that a route to legal status will materialize while they wait.

Their uncertain status reflects a chronic enforcement problem in the absence of new immigration laws that could offer protection to some immigrants here illegally. Attempts at reform have stalled throughout the Obama presidency. Instead, the application of current laws has been guided by a series of memos and informal policies that can shift with the political winds.

With administrative closure, for example, no specific laws or rules dictate who qualifies.

Government lawyers have been instructed by the Department of Homeland Security to consider factors such as the length of time immigrants have lived in the United States, their family ties and any criminal records. But immigrants and their lawyers say that it is difficult to anticipate who will be offered prosecutorial discretion, and that the application of the policy can feel random.



Mayra Lopez with her son Justin, 6, at their home in Herndon, Va. She declined an offer to pause her asylum case and is hoping for an outcome that will allow her to work in the United States legally. Credit Justin T. Gellerson for The New York Times

They add that while those who have accepted administrative closure are not being actively pursued for expulsion, they have few rights or protections. Some qualify for work permits depending on the details of their cases; none are allowed to come back if they leave the country. And the government could reactivate their cases at any time without stating a reason.

Some report feeling more vulnerable than before because immigration officials know who they are and where to find them. But their main concern is over what, if anything, the next administration will decide to do with their cases.

“People are increasingly frightened about how secure they are with this status,” said Judy London, a directing attorney at Public Counsel, a pro bono law firm that serves immigrants in Los Angeles. “And the answer to that question is, there is no answer.”

For both Bianca and her husband, Bairon, who live in a small two-bedroom apartment in Virginia, the end of the Obama era brings enormous risk. Both lack legal status.

Bairon, 27, also Honduran, works as a mechanic. He came to the United States when he was a teenager — the two met at the repair shop where he worked.

In 2012, Bairon was deported after being caught driving without a license. Bianca and the couple's only child at the time went, too, planning to rebuild their lives in Honduras.

But she was unsettled by the sounds of gun shots that woke them in the middle of the night. And when gang members started threatening the family directly, she said, they decided to return to the United States and apply for asylum.

Immigration lawyers have struggled with how to advise clients like Bianca. Turning down a temporary reprieve is risky, but a successful immigration case can yield much greater rewards — including permanent legal status and the ability to apply to bring family members to the United States.

Those odds convinced Mayra Lopez in April to decline an offer to pause her asylum case. Ever since, she has spent much of her time inside the bare-walled apartment in Herndon, where she rents a room for her three children and herself. She has stopped letting her children play outside, almost superstitiously afraid of drawing attention to their family until their cases are resolved.

Ms. Lopez said that she fled her home country, El Salvador, because her partner was physically abusive to her children and her, and threatened their lives. She is not legally allowed to work in the United States while she awaits an immigration judge's decision, so her two brothers — one who is 18 and works at Chipotle, the other 28 and a restaurant manager — split her \$800 rent. She uses food stamps to pay for groceries.

“I want to walk freely in the streets. I want to be able to drive my kids to school,” she said in Spanish. She had been tempted by the government's offer, but ultimately could not settle for a life spent in limbo with the constant fear of being deported.

“It's like I'm not of here, or of there,” she said.

But Bianca and many other immigrants — some who know their claims to stay are not strong, and others who don't feel the need to find out — have chosen to settle for that lack of belonging.



Ms. Lopez has stopped letting her children play outside. She is almost superstitiously afraid of drawing attention to their family until their cases are resolved. Credit Justin T. Gellerson for The New York Times

The administrative closure agreements, which fall under a broad category known as prosecutorial discretion, have already increased 35 percent since last year, and 160 percent since 2012, according to data from the Justice Department.

Those immigrants who have accepted administrative closure are temporarily shielded from deportation — the same protection that Mr. Obama sought to offer millions of immigrants through an expansion of his deferred action policies, which was blocked by a federal appeals court. Since then, the administration has been doling out protection on a case-by-case basis.

Donald J. Trump's hard-line statements against immigrants throughout his presidential campaign have made clear that if he wins, this kind of leniency would most likely end.

Hillary Clinton has provided few specifics around her plans for overhauling immigration laws. "Theoretically, a new president could come in and stop it tomorrow," Ms. London, the immigration lawyer, said.

On the drive back and forth to work, Bianca clenches the steering wheel of her S.U.V. as she retraces the same route. Even when she is running late, she never drives above the speed limit, acutely aware that the break she was given can just as easily be taken away.

Her lawyer has offered to file a motion to reopen their asylum case, and try again to obtain legal status. Bianca has resigned herself to the temporary fix. It feels safer, for now at least.

"I'm just going to wait and see if something else happens," she said.

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