



Elaine Martin has been practicing US immigration law since 1997. She is an immigrant herself (from Ireland), so has a special understanding of the legal and emotional challenges involved in relocating to a new country.

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US Immigration under President Trump: What to Expect.

So..... the unimaginable has happened and Donald Trump will be the next President of the United States. A key element in Trump's candidacy was immigration reform, including his oft-repeated promises to build a wall along the US southern border, and to deport 11 million undocumented immigrants.

Trump's [position paper on immigration](#) states that his vision is to:

- *Prioritize the jobs, wages and security of the American people.*

Establish new immigration controls to boost wages and to ensure that open jobs are offered to American workers first.

- *Protect the economic well-being of the lawful immigrants already living here by curbing uncontrolled foreign worker admissions*
- *Select immigrants based on their likelihood of success in the U.S. and their ability to be financially self-sufficient.*
- *Vet applicants to ensure they support America's values, institutions and people, and temporarily suspend immigration from regions that export terrorism and where safe vetting cannot presently be ensured.*
- *Enforce the immigration laws of the United States and restore the Constitutional rule of law upon which America's prosperity and security depend.*

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In speeches, Trump has called for tighter controls on foreign nationals entering the US, increased enforcement of employers' obligations to check work authorization, and prioritizing the hiring of US workers. He also states that he would immediately reverse President Obama's Executive Actions.

The Wall

[Many commentaries](#) have pointed out the financial and logistical problems with the plan to build a wall. The cited article, for example, calculates that the wall would cost at least \$25 billion and require 40,000 people working for at least 4 years to construct. Although Republicans have a majority in Congress, it will be a long time - if ever- before they would approve the cost of a wall. Yes, Trump says Mexico will pay for the wall but, even if that were to happen, they would hardly pay in advance! In addition, there are the inevitable lawsuits against the taking of private property for the wall, environmental concerns, ongoing maintenance, etc. Many news outlets have analyzed the Wall proposal in much more detail, and I recommend these articles, among others: [BBC](#), [IB Times](#).

Deportations

Equally expensive and difficult is the prospect of rounding up 11 million people and removing them from the country. The

[New York Times](#) has an article that explains the impracticability of the deportation in more detail.

Trump initially estimated that it would take 2 years to complete the task of deporting 11 million people. However, there are now 400,000 deportations a year under the Obama administration, so how could this increase to 5.5 million annually?

In recent days, Trump has backtracked on this plan, and he now says that he would focus on those immigrants (not necessarily undocumented) that have criminal convictions. Trump estimates that there are 2-3 million of these immigrants – still a huge number to find and remove from the country. Hiring and training enough federal agents to find these immigrants would take months or years, and most immigrants are entitled to due process of law, not summary dismissal from the United States (only convicted criminals who also have deportation order can be removed quickly. This is about 183,000 people).

Many cities have said that they will not allow their law enforcement officers to help with immigration enforcement, since this is not their job. Therefore, add the time to recruit new immigration agents, get security clearance (6-12 month delay) for each agent, train the agents, track down the immigrants and then process each one through the (already-backlogged) immigration court system, and you have some idea of the many years that this would involve.

DACA

Deferred Action for Childhood Arrivals (DACA) is one program that will almost certainly end with the new administration. This program grants permission to certain young people (sometimes called "Dreamers") to stay in the US and work even though they are undocumented. These people were brought to the US as children by their parents, have no criminal history and have attended school.

The deferred action is a result of an Executive Order by President Obama, and has granted relief to over 700,000 young people. Trump could repeal this Executive Order, immediately ending the program. In addition, each DACA applicant had to file forms with the US government providing their personal information, including addresses. There is a real fear among immigration lawyers that this information could be used to track down and deport these young people.

Treaty-Based Visas.

Donald Trump has made no secret of his disdain for trade deals - including NAFTA - that the United States has made with other countries. If he dismantles NAFTA, it could mean an end to the TN visa category, which allows Mexican and Canadian professionals to apply to work in the US temporarily.

Other treaty-based visa categories include E-1, E-2 and E-3,

and the H-1B1 (NOT the well-known H-1B). These result from treaties between the US and individual countries. The impact of these treaties is small and unlikely to be the target of a Trump attack.

Other Business Visas

Trump has criticized the H-1B worker program in the past and may seek to impose further restrictions. These restrictions could include raising the required salary and requiring that H-1B employers prove that they could not find a US worker for the position. However, the H-1B political lobby is well-funded and very powerful, so there would be considerable opposition to this. In addition, there is bipartisan support for the H-1B program. Finally, any change to our immigration laws (compared to enforcing existing laws or rescinding Executive Orders, as discussed above) would require a Congressional approval and the lengthy rule-making process.

Family Immigration

As above, any change to existing laws would be a long and difficult process. The only clear comment that Trump has made in this area is to state that he would abolish birth-right citizenship. This grants US citizenship to any child born in the US. The right is granted by the 14th amendment to the US Constitution, and [most legal scholars](#) believe that ending it would require another constitutional amendment. A small

minority of scholars consider that an Act of Congress would be sufficient, but that's still an Act of Congress!

USEFUL LINKS

****Avoid Immigration Scams****

<https://www.uscis.gov/avoid-scams>

<http://www.stopnotariofraud.org/>

Know Your Rights

<https://www.aclu.org/know-your-rights?topics=270>

(immigration)

[https://www.aclu.org/know-your-rights/what-do-when-](https://www.aclu.org/know-your-rights/what-do-when-faced-anti-muslim-discrimination)

[faced-anti-muslim-discrimination](https://www.aclu.org/know-your-rights/what-do-when-faced-anti-muslim-discrimination)

US Government Sites

<https://www.uscis.gov/>

<https://www.cbp.gov/>

<https://www.ice.gov/>

Advocacy Groups (there are many more)

<http://aila.org/> (American Immigration Lawyers Association)

<https://www.splcenter.org/> (Southern Poverty Law Center)

<https://www.nilc.org/> (National Immigration Law Center)

<https://cliniclegal.org/>

ABOUT THE AUTHOR

Elaine Martin is an experienced immigration lawyer, with a background in US and global corporate immigration law. Her practice focusses on employment-based and family immigration, helping companies hire and keep the staff they need, and uniting families. Elaine is particularly interested in helping entrepreneurs establish businesses in the US.

Elaine has advised companies of all sizes from Fortune 100 corporations to sole proprietorships and start-ups. Elaine guarantees (a) her personal attention to each case; and (b) rapid responses to inquiries.

Elaine is recognized as a leading figure in the immigration community, with many speaking engagements and journal articles to her name. Elaine has been practicing immigration law since 1997, including nine years with the world's largest immigration firm.

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