

COLECCIÓN CONOCIMIENTO CONTEMPORÁNEO

# Estudios sobre y desde la frontera

**Coords.** Fernando Trujillo Beatriz Cortina-Pérez



ESTUDIOS SOBRE Y DESDE LA FRONTERA



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Fernando Trujillo Beatriz Cortina-Pérez

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#### ESTUDIOS SOBRE Y DESDE LA FRONTERA

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# THE IMMIGRATION POLICY OF THE AMERICAN ADMINISTRATIONS: THE MEXICAN FRONTIER

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## 1. INTRODUCTION

Throughout its history, the US has responded with apparently contradictory and scattered laws and policies to immigration, which have had as a constant a model of pragmatism supported by actions in the face of certain political and economic circumstances without the need for ideological foundations. Based on this pragmatic model, immigration has operated as a hinge that, in times of political stability, economic boom, or in circumstances such as wars, opens to recruit immigrants, while, in times of recession or political crisis, negative perceptions towards immigrants are promoted from power and, with it, restrictive measures whose purpose is to limit the flows of immigrants.

The central issue of the analysis implies that the instances of power of the United States have hardened or relaxed in a pragmatic way (Orozco, 2010) their proposals for laws and policies on immigration, based on the political and economic context that the country is going through, regardless of party or government ideologies, and causing immigration to be valued as necessary and even recommendable, in certain periods and circumstances, as well as excessive and risky in others (Muñoz, 2009).

The "Immigration and Nationality Act" (INA) of 1965, the Hart-Celler Act (Act of 1965, PL 89-236) signed by President Lyndon B. Johnson, marked a fundamental change in the history of migration in the United

States. This law replaced the place-of-origin quota immigration regime that had been in place since the 1920s with an immigration system that was based on family relationships with US citizens or residents and, to a lesser extent, on labour skills. Let's remember that the quotas for each country were set at 2% of the foreign-born population according to the 1890 Census and were designed primarily to favour the population from Northern and Western Europe and limit the entry of people from Asia, Africa, the Middle East, and Eastern Europe.

This new law imposed limits on the number of visas per year per country, although immediate relatives (spouses, children or parents) were exempted from these limits. According to Chishti et al. (2015), the 1965 Act had a profound impact on the ethno-racial composition of the United States by opening the door to a greater diversity in the origin of new immigrants and to an exponential increase in migration to the United States. Therefore, moving away from the traditional myth of the United States as the promised land for immigrants, the S354 (Raise Act) sought to re-propose an ethno-racial bias by establishing a merit or point system where English proficiency, youth, academic degree or recognition, economic income and business investment capacity were valued as the criteria to qualify for a permanent immigrant visa. The bill also proposed eliminating lottery visas, which guaranteed diversity of entry with some 50,000 visas annually, reducing the number of refugee visas, limiting family migration to spouses and children under the age of 21, and creating a new visa category for parents of citizens.

Overall, the current US immigration system is dysfunctional. Originally it derived largely from the 1965 Act but subsequently it mixed with other policies that were developed in subsequent decades such as the 1986 "IRCA", known as the amnesty law, or the 1996 "IIRAIRA", which was highly restrictive and criminalised undocumented migration. Hence, the US immigration system is outdated and in need of a profound reform.

### 2. HISTORICAL REVIEW OF IMMIGRATION POLICIES

The United States is a country made up of immigrants and by immigrants. People from all continents emigrated to this country, either because they were driven out by the living conditions in their countries of origin, or in search of job opportunities and new horizons. Moreover, this country is the product of a long history of multiple migratory phases that resulted in a highly heterogeneous panorama. The first phase, during the change from the 19th to the 20th century, was basically nourished by those displaced by the European Industrial Revolution, the effects of which lasted until the 1930s. And a second, more recent phase, which extends to the present, is mainly made up of Latin Americans, Asians and Caribbeans. And in the specific case of Mexico, as Durand and Massey (2013) note, it is justified by the strong historical links between Mexico and the United States and by its enormous and highly border.

In order to meet a growing demand for labour in the construction of the new country, the US constitution reserved the control of immigration mainly to the federal government. Thus, as early as 1790, the first naturalisation law was enacted, reserving the right of residence and subsequent citizenship to any foreigner, provided he or she was a free white person (Adams, 2013). The purpose of this measure was to ensure the supply of slave labour and European immigrants, which was intended to ensure the political balance between the commercial north and the agricultural slave economy of the south.

Throughout most of the 19th and 20th centuries, the United States implemented a policy that encouraged the massive arrival of immigrants. It is estimated that between 1815 and 1970, more than 46 million people entered the country. And since 1920, the date that marks the beginning of the registration of immigrants, about 75 million people entered the United States, according to estimates by Martin (2014).

Other analysts such as Marmona (2002) emphasised that the push for immigration was a central element of the US expansionist economic policy throughout the 19th century. Specifically, the last decades of the 19th century and the first years of the 20th century were characterised by the massive arrival of Mexicans to work in agriculture, mining, railways, and heavy industry even when the United States implemented restrictions on the entry of certain types of immigrants. For example, the Chinese Exclusion Act of 1882 approved by a Republican-majority Congress, during the administration of the Republican president Chester Arthur (1881-1885). The situation did not significantly affect immigrants of Mexican origin, on the contrary, their arrival was encouraged to replace workers of Chinese origin (Hackett, 2016).

During this period, the immigration situation was managed on a dual level. The informal level was governed by the laws of supply and demand imposed by the labour market; the formal level created a federal agency, the "Immigration and Naturalization Service" (INS) in 1891 under the administration of Republican President Benjamin Harrison, as a federal agency to enforce immigration laws. From then on, this agency would be in charge of restricting or allowing the entry of foreigners according to a complex balance between the interests and needs of the country's labour market and various political and economic conjunctures.

Particularly, during the first years of the 20th century, Mexican immigration intensified, since both employers and creators of immigration policies in that country reassessed the advantages offered by hiring Mexicans instead of Europeans. Given the reduction in the number of workers of European and Asian origin, the Mexican labour force was considered the ideal, due to its singular characteristics of flexibility and temporality (Andreas, 2010). To supply the growing demand for Mexican labour, US employers turned to the services of contractors who, through some collaboration with local authorities, went into Mexico to recruit workers, mainly in rural areas. This practice, common between 1900 and 1920, was known as the hitch system (Jiménez, 2011.

In 1917, the first "Immigration Act" was adopted, which integrated the various immigration provisions and whose main objective was to create restrictions in certain geographic areas, prohibiting immigration from most Asian countries and severely limiting immigration from Africa or Latin America. After Congress passed this legislation, the Department of Labour sought ways to establish exceptions to temporarily admit thousands of Mexicans as non-immigrant workers because World War I produced a labour shortage (Durand, 2007).

Following the entry of the United States into the world war, in which more than 1 million citizens were enlisted in the armed forces, various areas of the economy, particularly in the agricultural sector, began to suffer from labour shortages. The administration of Democrat Woodrow Wilson then devised a special programme for immigrant workers, which was called the "Temporary Importation of Mexican Labour Programme". The opportunity to emigrate to the North, as Narváez (2016) explained, was a historic occasion that was not missed by more than 216,000 Mexicans who settled in the United States between 1910 and 1920.

But the end of World War I prompted the US government to redirect its efforts to control the flow of immigrants, particularly Mexicans, thus beginning a policy of alternating periods of large-scale immigration with mass deportations (Mercado and Piña, 2010). The landscape for Mexican immigration changed radically, and although the entry of Mexicans was not formally restricted, thousands of them were deported (Laborde, 2011).

In 1921, as more than 700,000 immigrants, mostly of European origin, entered the United States, Congress passed legislation that became known as the "Emergency Quota Act". This law operated by imposing quotas based on a percentage of immigration according to the country of origin of those applying for entry. It was enacted by Republican President Warren Harding, whose main objective was to limit the number of immigrants arriving in the country each year. At the time, the Republican-majority US Congress stipulated that European immigration should not exceed 3% of the immigrant population of the same origin already in the country, which corresponded to 356,000 people for that year. The Quota Law of 1921 effectively fulfilled the objective of reducing European immigration around 1924, when its quotas decreased to less than half of those that operated during the period from 1905 to 1914 (Rodríguez, 2009).

In May 1924, under the Republican administration of Calvin Coolidge (1923-1929), and with a Republican-majority Congress again, a new immigration law was passed that was even stricter with respect to country and regional quotas. The "National Origins Act" sought to further

limit the entry of immigrants from Asia, Africa, and Eastern Europe. This new law set an entry limit of 150,000 immigrants per year, according to Laborde (2011).

It was not surprising that the severe laws of 1921 and 1924 towards regular immigration have had the consequence of increasing undocumented immigration, particularly from the south, which included people from Europe, who used this route to avoid quota laws or quotas. Faced with the increase in undocumented immigration, the US government responded with the creation of the Border Patrol in 1924 (Serrano, 2010).

With the onset of the Great Depression in the late 1920s, unemployment levels soared. Inevitably, this situation provided the perfect pretext to blame immigrants for economic and unemployment problems. As Massey et al. (2002) reflect, xenophobic reactions at the local level soon followed in some states such as Arizona or California. However, most of the xenophobic reactions and the bulk of the expulsions of Mexican immigrants came from the federal government. It is estimated that, between 1919 and 1935, close to half a million Mexicans returned to their country due to deportation or loss of employment.

However, the severity of the local xenophobic reactions and the bulk of the expulsions of Mexican immigrants corresponded to the actions of the federal government. During the Depression years, it is estimated that there were more than one million undocumented Mexicans in the United States (Bustamante, 2007). It is believed that, between 1929 and 1935, close to half a million Mexicans returned to their country due to deportation or loss of employment.

The outbreak of the Second World War, with the mobilisation of industry to meet the needs of the war and forced military conscription, again led to labour shortages in the United States. This led to the end of mass deportations and a renewed flow of migration from the South. Thus, in 1942, the first bracero agreement was signed between Mexico and the United States. The then Democratic President Franklin D. Roosevelt described it as "an eloquent testimony to the important role played by Mexico in the battle for food production on which the inevitable success of our military programme depends" (Morales, 1989, p. 147).

Despite the extension of this programme after the end of the world conflict, the number of contracted braceros was not sufficient to meet the demand that the post-war economy required. Faced with this situation, the government of Democratic President Harry S. Truman implemented the "dying out" policy in 1949, which established the legalisation of undocumented immigrants or "wetbacks", as irregular Mexican immigrants were pejoratively called.

In 1950 alone, almost 100,000 undocumented immigrants were regularised under the terms of the "dying out", while barely 20,000 new braceros were hired. This policy was a major concession to agricultural employers, who benefited from the depreciation of wages. In the 1950s, with the outbreak of the Korean War, according to Esquivel's data, US agricultural employers succeeded in linking their dependence on Mexican labour to the needs of the warring country. In response to pressure from farmers, "Public Law 78" was passed in 1951 by a Democraticmajority Congress, laying the groundwork for the extension of the bracero programme for the next fourteen years.

In 1952, Congress passed the "Immigration and Nationality Act" (INA), also known as the "McCarran-Walter Act", which was the first comprehensive statute on immigration issues in the United States. This new legislation made harbouring, transporting, and harbouring undocumented persons illegal. But with the Korean War over, the need for immigrant labour once again drove pragmatic immigration policy, and the administration of Republican Dwight Eisenhower set the mass deportation machine in motion. The extension of the Bracero Program and the parallel implementation of mass deportation operations, in opinion of Alberti (2012), satisfied all those interested in the issue. During these years, the Border Patrol played a double role: expeller and recruiter of immigrants. The undocumented immigrants were intercepted by Border Patrol agents, who escorted them to the border with Mexico and, once there, sought to take them back, already "legally", as part of the Bracero Program (Andreas, 2010).

According to data obtained by Alarcón (2009), between 1951 and 1960, almost 300,000 Mexicans obtained permanent residency in the United States, a strong indication that the real objective of "Operation Wetback" was to control flows while ensuring a sufficient supply of immigrant labour. In the early 1960s, liberal coalitions lobbied the then Democratic-dominated Congress and succeeded in getting a new law passed in 1961 that required employers to offer local workers the same wages as immigrants and to refrain from hiring braceros for up to a year. The administration of Democrat John F. Kennedy then began to consider the existence of the bracero programme as a clear disadvantage. Thus, as Verea (2003) reported, the number of braceros in the United States was reduced in 1962 until, in 1964, under the presidency of Democrat Lyndon Johnson, the administration extinguished the Bracero Program.

Beginning in the second half of the 1970s, the United States began to experience an economic recession characterized by high inflation and unemployment rates, as well as a significant drop in wages. From this perspective, the issue of the undocumented once again became a national political problem. The apprehensions of undocumented immigrants by the INS began to increase and operations like the wetback developed, with aggressive campaigns in the media, where the Government tried to present the problem of undocumented immigration as a national crisis (Castles and Vezolli, 2009).

By the late 1970s and early 1980s, the US economy reached a severe economic contraction. This period coincided with the last years of the presidency of Democrat James Carter and the beginning of Republican Ronald Reagan. Both administrations witnessed an era in which the political landscape towards immigration became deeply conservative. The issue of undocumented immigrants has been labelled a national security problem since then (Cornelius, 1989).

The enormous expansion of the INS during the period from 1978 to 1988 was clear evidence of the sense of urgency given to the problem of undocumented immigration in those years. Congressional debates on a new immigration reform culminated in 1986 with the passage of the "Immigration Reform and Control Act" (IRCA). This law allowed, in little more than a decade, to almost 2.5 million immigrants who resided

mainly in California, Texas and Illinois, to regularise their situation and become legal residents (García, 2007).

The IRCA authors argued that the supply of newly regularized workers would saturate domestic demand for immigrant workers, while employer sanctions would stop the hiring of undocumented immigrants. With this combination, it was expected to substantially reduce the entry of future migratory flows. However, in practice, the new law did not have the expected effects. Paradoxically, the main beneficiaries of the sanctions against employers, provided for by the IRCA, were the employers themselves, since the sanctions increased the fear of being deported among the undocumented, which made it impossible for them to defend their rights.

The immigration policy implemented by the United States during the 1970s and 1980s served to replace the legal inflow of immigrants with an ever-increasing flow of undocumented immigrants. But during the 1990s, the US political environment once again turned against immigrants. The severe economic recession the country went through during the early 1990s strengthened an anti-immigrant current in the Republican Party, which took control of both houses of Congress. The then president, Democrat Bill Clinton, continued this trend despite acknowledging the important contributions of immigrants to US society. Clinton called his immigration control proposal "the most aggressive and comprehensive plan to fight illegal immigration ever produced by any administration" (García and Urea, 1998, p. 113).

The new White House immigration experiment was based on two main strategies. On the one hand, a substantial increase in the resources of the "Naturalization and Immigration Service" was ordered, especially those dedicated to border control. The second tactic implemented by the Clinton administration was the policy known as prevention through persuasion. The objective was to reformulate the operation model of the Border Patrol, which for decades had focused its efforts on expelling all irregular immigrants who had just entered the country, or those who had already resided in the country for some time. Now, the efforts would focus on deterring immigration by blocking the main border crossing routes. In 1996, Congress passed new immigration laws totally contrary to the integrationist spirit such as the "Illegal Immigration Reform and Immigrant Responsibility Act" (IIRIRA) and the "Personal Responsibility and Work Opportunity Reconciliation Act" (PRWORA). The first, IIRIRA, sought to achieve greater control of illegal immigration by expanding the powers of the Immigration and Naturalisation Service (INS) to detain and deport suspected illegal immigrants. The second, PRWORA, decoupled welfare assistance and created strict work requirements for welfare recipients. The measures mainly affected the most vulnerable immigrants such as single mothers, children, and the elderly, due to cuts in social assistance and health services.

The purpose of IIRIRA was to control irregular immigration and to make access to public services more difficult for immigrants in general. It represented a radical change in the US immigration law, especially with regard to the human rights of undocumented immigrants and their families (Lonegan, 2007). This law broadened, refined, and deepened the provisions of the previous law and it was aimed at removing obstacles that limited the detection and prosecution of undocumented immigrants.

Although laws such as the IIRIRA did little to reduce migratory flows, they did have serious consequences that made the border between Mexico and the United States a more dangerous and violent place, increasing the economic costs and physical risks for those who intended to cross the border. The new border control strategy implemented also increased the economic costs of "illegally" crossing the border.

# 3. IMMIGRATION POLICIES IN THE 21ST CENTURY

With the arrival of the new millennium and after 11 September 2001, for the administration of Republican George W. Bush, the debate on immigration and border control ceased to be an economic and political issue and became primarily a matter of national security. The events of 11 September triggered a moment of uncertainty and economic slowdown that hardened the attitude of the government and public opinion, which consequently generated a predominantly anti-immigration

climate. With the passage of the "Patriot Act" (2001) and the "Enhanced Border Security and Entry Visa Reform Act" (2002), the federal government's powers in the areas of surveillance and detention of suspected criminals in border areas were significantly strengthened.

The terrorist attacks imposed a new global paradigm, the era of national security or securitization (Verea, 2006), taking two essential forms: the war against terrorism, which led to the massive deployment of US military forces abroad, particularly in Iraq and Afghanistan; and inland, where this offensive manifested itself with the implementation of a border security policy, placing special emphasis on control of the southern border. Hence, a new stage arose for the situation of the border between the United States and Mexico because this new period was distinguished by the emphasis that began to consider the border as a source of threats to national security and for freezing the debate on immigration reform.

In 2002, the "Homeland Security Act" was also approved, which created the homeland security area with the purpose of integrating the 22 federal agencies with responsibility for security within the borders, seeking to reduce the vulnerability of the United States to terrorism (Heyman and Ackleson, 2009). The Department of Homeland Security has been the fastest growing government office, posting a dramatic increase in homeland security spending, nearly tripling its allocated resources in less than a decade, from \$19 billion in 2002 to \$55 billion in 2010.

In January 2004, Republican President Bush unveiled his immigration reform proposal that established a temporary worker programme that undocumented immigrants working in the United States could apply for. Bush's immigration reform opposed granting amnesty to undocumented immigrants, claiming that it would encourage irregular immigration and unfairly compensate those who had violated the law. But border security, not immigration reform, was the priority for the Bush administration. It was in this context that the initiative for "The Border Protection, Antiterrorism and Illegal Immigration Control Act" emerged in December 2005, known as "HR4437" or the "Sensenbrenner Act".

This new law sought to criminalise not only the undocumented but also anyone who helped or supported them in any way, whether they were family members, friends, neighbours or civil or religious organisations. Among the most pernicious points of the Sensenbrenner proposal was to criminalise the entry of undocumented migrants and those who protected or helped them enter US territory. As Pérez Duperou summarised, "the Sensenbrenner Act has been the most controversial because it contains greater restrictions on migration and establishes that irregular migration is not part of a bilateral labour market that needs to be regulated. The main provisions of the law are the criminalisation of migration and the strengthening of border security" (2007, p. 168).

However, the then President George W. Bush pushed through a proposal for comprehensive immigration reform in March 2006. This proposal included border security aspects, but also proposed the regularisation of a temporary worker programme and recognised that immigrant labour contributed to sustaining the US economy. In the Senate, the "Comprehensive Immigration Reform Act" (CIRA) was sponsored by Senator Arlen Specter and subsequently passed for consideration in May 2006.

The year 2007 would mark the beginning of a deep economic recession in the United States that resulted in a stagnation in the growth of the undocumented population due to lack of employment and increasingly strict border controls. Given that the origin of the crisis occurred in the mortgage sector, the construction industry was the first economic activity to show signs of exhaustion, with great repercussions on the income and employment of the Mexican immigrant community.

Thus, between 2007 and 2008, a tough battle was waged to pass an immigration reform that could resolve the situation of millions of unauthorised immigrants. In opinion of Hastings (2013), an atmosphere of conservative anti-immigrant effervescence rather consolidated, leading to a proliferation of laws and proposals aimed at limiting the labour and social spheres of action of the undocumented population.

The then candidate Barack Obama supported the immigration reform proposal "S1033", also called "Secure America and Orderly Immigration" in 2005. This proposal contained an increase in work visas and the regularisation of undocumented immigrants, and included strengthening border control and the suspension of those who hire immigrants.

Paradoxically, in September 2006, Obama supported the draconian, anti-immigrant Sensenbrenner proposal. In the 2008 presidential elections, Barack Obama stated that in his first year in office he would try to regularise the stay of undocumented immigrants in the United States. However, by 2009, when the Obama administration began its first term in office, this discourse faced serious difficulties as both houses of Congress had a Republican majority, which, together with the recession the country was experiencing, were factors that made it difficult to move forward with immigration reform (Rosenblum, 2009).

Other legislative initiatives related to this anti-immigrant scenario in the United States have been S203, which sought to eliminate English language learning programmes for immigrant students in public schools; SB1308 and SB1309, which sought to deny citizenship to children born in the United States whose parents could not prove their legal stay in the country; or SB1405, which prohibited medical attention in hospitals to people who lacked residency documents. According to Rodriguez's data (2009), in 2012 at the end of the first Obama administration, more than 1,600,000 people had been expelled from the country.

In June of 2012, Obama sought to reconcile with Latino voters by announcing his Executive Order for the temporary protection of undocumented minors, called "Deferred Action for Childhood Arrival" (DACA). This presidential order made it possible to begin issuing temporary stay permits for hundreds of thousands of undocumented young people, mainly Latinos. However, the policy of deportations and border enforcement continued during the second Obama administration. Even more so with the approval, in June 2013, of bill S744 or the "Border Security, Economic Opportunity, and Immigration Modernisation Act", which implied dedicating 42.5 billion dollars to reinforcing the border with Mexico, which included continuing the construction of a wall in the border area.

Notwithstanding the broad support that Obama received from Latinos, the policy of deportation and border enforcement continued during his second administration. Even more so with the message sent by the Senate, with the approval in June 2013 of the proposed law S.744 or "Law for Border Security, Economic Opportunities and Immigration

Modernization", which implied dedicating 42.5 billion dollars for the reinforcement of the border with Mexico, which included continuing the construction of a wall in the border area, as well as the intensive use of technology for the location of people who tried to cross irregularly, through the implementation of a system of radars and drones and the provision of at least 20,000 more border agents (Moreno, 2013).

On the other hand, in November 2014, President Obama granted a new executive action, the "Deferred Action for Parental Accountability" (DAPA), which envisaged granting 3-year work permits and temporarily suspending deportation, mainly for those who have lived in the US for at least 5 years and had US citizen or legal resident children. However, Obama also went down in history as the US chief executive who carried out the largest number of deportations of undocumented immigrants. The Obama administration was more effective in deporting undocumented immigrants than any previous administration, Democrat or Republican.

All this leads us to think that the expectation of a comprehensive immigration reform in the United States that contemplates the regularisation of most of the undocumented immigrant population, at least in the short term, is certainly utopian. Especially if we consider Donald Trump's immigration proposals, such as the construction of a border wall or the mass deportation of the undocumented population.

The objective of Donald Trump's immigration reform was not so much the legalization of unauthorized aliens as the fulfilment of his campaign promises, which included the construction of the wall on the southern border and the deportation of 11 million undocumented immigrants. The primary threat of illegal immigration lied, for Trump, in its exponential growth in the United States. In this sense, Trump pointed out the following: "the number of families that have crossed the border so far this year exceeds the total number of 2017 and some of these illegal immigrants have murdered or committed other crimes against thousands of US citizens" (Brooks, 2018, p. 20).

To implement his harsh immigration policy, Trump didn't require the support of Congress, even though both Houses were controlled by Republicans. The reason was that not all of them supported the president's ideas. Some, such as Senators Jeff Flake and John McCain (Arizona), Lindsey Graham (North Carolina) or Cory Gardner (Colorado), openly rejected Trump's proposals. However, the objections and support of some Republicans to bipartisan immigration reform proposals were dismissed by some White House advisers.

As a corollary to these immigration policies, Trump legally materialized his immigration plan in the Executive Order "Improvements in the Enforcement of Border Security and Immigration" (Border Security and Immigration Enforcement Improvements) of January 25, 2017, and the Executive Order "Improving Public Safety in the Interior of the United States" (Enhancing Public Safety in the Interior of the United States), on measures for the detection and deportation of immigrants within the country.

The immigration bill S.354 "Reforming American Immigration for a Strong Economy", (RAISE Act) sought to put, in Trump's own words, American workers first. His new immigration plan had 2 very specific objectives to reduce legal immigration by up to 50% in the next decade and to promote the entry of more educated and better-prepared immigrants to obtain well-paid jobs in the United States.

Finally, on his first day in office, the current Democrat President Joe Biden announced sweeping plans to reform immigration laws, undo many of the restrictive policies of the predecessor Trump administration and provide a pathway to legal status for the nation's estimated 11 million unauthorized immigrants. However, two years later, few of those ambitions have been realized and the administration presents an image of one struggling to find its footing on immigration. Still, from January 20, 2021, through January 19, 2023, the Biden administration took 403 immigration-related actions, putting it on track to soon overtake the 472 immigration-related executive actions counted for all four years of the Trump administration.

Biden entered office amid heightened tension between immigration enforcement authorities empowered by the Trump administration and his Democratic base, parts of which had called for "abolishing" U.S. Immigration and Customs Enforcement (ICE). While Biden distanced himself from more radical demands, he directed the Department of Homeland Security (DHS) to target its enforcement resources towards recent border crossers and migrants who present threats to national security or public safety.

Midway through its term, the Biden administration has notched some significant advances. The quiet transformation of immigration enforcement in the U.S. interior, the use of parole and other mechanisms to grant humanitarian protection, and the restoration of legal immigration to prepandemic levels will have a legacy. Yet overall, its work appears unfinished. The record numbers of arrivals at the border have become a constant challenge that have prevented the administration from focusing on other efforts.

Finally, we should also highlight an important event that took away by mid-May 2023 when thousands of migrants were awaiting a new era between the U.S. and Mexico at the border once the Title 42 was over. Title 42, the temporary measure decreed by Donald Trump to stop the advance of the pandemic that allowed the hot deportation of migrants to Mexico without due process, finally fell.

In its place, Title 8 will remain in force, with which it operated jointly in these three years and which in practice means a tightening of the conditions to achieve asylum.

And the prospect of its end has thrown the dividing line between the two countries into a 3,200-kilometre-long line armoured these days with 24,000 agents. It is hard to overstate how much is at stake for President Joe Biden on this issue, which will be key during the 2024 presidential campaign in which he is running for re-election. It is undoubtedly one of his weakest flanks in the face of Republican attacks, which paint an apocalyptic picture under his administration.

# 4. CONCLUSIONS

Traditionally, the US immigration policy debate has oscillated between two perspectives. On the one hand, a restrictive policy that criminalises undocumented immigration, promoted by the conservative sectors of the Republican Party. On the other hand, a policy of openness to the regularisation of immigrants, promoted by the liberal sectors of the Democratic Party. Just to take a recent example, the former would be represented by the Trump administration, while the latter would be represented by the Obama administration. Historically, the US authorities have made their foreign policy decisions unilaterally, without basing them on international law or considering bilateral and multilateral agreements.

Throughout the 19th century, and during the first years of the 20th century, the United States considered the need to control immigration irrelevant, since it had become a structural element of its economy. Mexican immigration, which practically began with the independence of Texas in 1836, continued to arrive during the 19th and 20th centuries, reinforcing colonies of Mexican immigrants both in the industrialized North, as well as in the Midwest and in the Southwest region.

Starting in the 1920s, the United States applied a policy that consisted of alternating periods of large-scale immigration with mass deportations. World War II caused Mexico to sign the bracero agreements in 1942 at the request of the United States. This program legally took, for 22 years, close to 5 million Mexican workers. A similar number would cross the border without documents, because the strong demand for labour in the US could not be covered by the immigration agreement.

Driven by a situation of economic recession, since the 1970s, an intense debate began in the US Congress to reform immigration laws, which later culminated in the approval of the "Immigration Reform Act" (IRCA) in 1986. The IRCA considerably increased the budget of the Department of Immigration, while it established sanctions against employers of undocumented immigrants and an amnesty that regularized the situation of nearly 3 million people, mostly of Mexican origin.

Over the past 3 decades, presidential administrations and the US Congress, whether controlled by Republicans or Democrats, have shared multiple draconian proposals against illegal immigration. In the 1990s, the American political environment became even tenser about the presence of this group. In 1993, military-style dissuasive policies began, with various actions that received names such as Operation Blockade, Guardian, and Safeguard, among others. And in 1996, the US Congress passed repressive laws such as IIRIRA and PRWORA that sought to deprive immigrants, irregular or legal, of the right to free federal services, such as medical and food assistance.

With the events of September 11, 2001, the United States Congress further strengthened immigration control laws and measures, while responding to and exacerbating xenophobic and nativist attitudes on the part of certain groups of American society. Immigration laws and policies that criminalize undocumented migration, paradoxically, have encouraged the consolidation of migrant communities in the United States and have only caused the division and suffering of families and the increase in the number of deaths when crossing the border.

Biden's biggest immigration proposal would allow more new immigrants into the country while giving millions of unauthorised immigrants who are already in the country a pathway to legal status. The expansive legislation would create an 8-year path to citizenship for the estimated 10.5 million unauthorised immigrants, update the existing family-based immigration system, revise employment-based visa rules and increase the number of diversity visas.

From the review of the historical context of the immigration policy of the United States, we can conclude that it was based on a mixture of puritanical moral values and economic interests of the founding elites, which led to laws and policies based on racism, as well as pragmatic economic and geopolitical interests. Analysing the historical context, in which immigration laws and policies are formulated and applied in the United States, can help us understand why there is currently no consensus towards the development of a comprehensive immigration policy that is consistent with the economic, social, and cultural reality of that complex country. Throughout history, regardless of the political party that occupies the White House or has the majority in Congress, this model of pragmatism has been followed, which agrees the formulation and modification of bills or application of migration policies, to the political conjunctures or prevailing economic circumstances, sometimes ignoring the strict application of the laws in force.

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