

The Biden Era and the US Immigration Policies to Central America and Mexico

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Introduction

Eleven million undocumented migrants, thirty thousand asylum seekers, and four hundred thousand immigrants under temporary protection status ^[1] (SEMOTIUK, 2020); a total of 11,430,000 people living in the United States have their future directly affected by US immigration policies. It is not exaggerated to say that the result of the 2020 US presidential election marked their destiny: in the dichotomy between Donald Trump and Joe Biden, there were, above all, opposing views on the migratory phenomenon. Such views would abruptly define the lives of many migrants in the United States.

Biden's victory ended years of Trump's attacks against migrants and gave them a sigh of relief. For approximately four years, Trump's administration dismantled the US migration system, making it extremely difficult to migrate to the US – or to live as an immigrant in the country. Narratives of fear, abuse, and sadness are not unusual: there have been exponential increases in the number of deportations, detentions, border control policies, and family separations. During Trump's government, 545 migrant children were separated from their parents and their families have not yet been located (DICKERSON, 2020) – of a total of 5400 children split at border during the trump administration (MORE..., 2020).

Immigration policy was elementary on Joe Biden's electoral agenda, offering possible changes in face of previous Trump's policies. There are promises related to the reduction of deportations, the reactivation of humanitarian programs revoked by the Republican, and the creation of processes to offer citizenship opportunities for immigrants who have lived in the United States for a long time. It is a fact that such statements by the president-elect bring an optimistic view regarding the renewal of the immigration system, giving hope to the various migrants living in the US, such as Geraldine Chinga, a migrant

[1] As the number of undocumented migrants is based on estimates, the total value may be underestimated

who arrived in the country as a child and said in an interview with CNN that “(...) I was thanking God and the people who helped us to vote. And they gave us a voice. We cannot vote, but now, I just want to hug each voter” (ALVAREZ, 2020).

However, all optimism must walk side by side with caution. The changes proclaimed by the Biden-Kamala coalition during the electoral period were positive, but it is necessary to compare them not only with those of the Trump administration but also with Joe Biden’s past positions as Senator and Vice President on migration. That can lead to some uncertainties on how he is going to move forward now. In this sense, this text seeks to analyze the possible impact of Biden’s election on the US immigration system, especially addressing the likely response to migratory flows from Central America and Mexico. Finally, the resistance that the president-elect may face to implement such changes will be briefly analyzed.

The analysis is intended to compare Trump’s and Biden’s views on the issue, also touching on the second’s political background as Senator and Vice President, especially regarding topics related to migration. It is notable that Biden intends to finalize Trump’s policies, but it is necessary to see his intentions to reactivate many immigration policies that were in effect during the Obama administration, and which were discontinued in Trump’s government (WASHINGTON, 2020).

The United States Immigratory System

Extremely complex and confusing, the United States Immigratory System has been structured by The Immigration and Nationality Act (INA) since 1952 and is based on four pillars: the reunification of families, the admission of migrants with skills valuable to the country, the protection of refugees and the promotion of diversity. The INA stipulates both a limit of 675,000 permanent immigrant visas per year and a number set by Congress for the admission of refugees (USCIS, 2019). Permanent immigrant visas make it possible

to apply for citizenship.

All in all, the principles listed by the INA direct migration policies gave rise to immigration modalities^[2], such as family-based immigration, employment-based immigration, per-country ceilings, refugees and asylees, diversity visa program, and other forms of humanitarian relief (AMERICAN IMMIGRATION COUNCIL, 2019). Migratory flows from Central America and Mexico involve refugees and humanitarian relief programs, like the Deferred Action for Childhood Arrivals (DACA), the Temporary Protected Status (TPS), and the Deferred Enforced Departure (DED). For this reason, they were chosen to be noted in this analysis, in addition to the factors that underline the situation of undocumented migrants.

The Deferred Action for Childhood Arrivals (DACA) Reinstatement, The Temporary Protected Status (TPS) Extension and The Deferred Enforced Departure (DED)

In 2012, the Deferred Action for Childhood Arrivals (DACA) program was implemented during the Barack Obama administration, without legal correspondence with immigration status or regulation dictated by the Administrative Procedures Law (RIES, 2020). The program granted temporary authorization to undocumented immigrants to reside, work, and study in the country for a minimum period of 2 years ^[3].

However, there were requirements to participate in DACA: being between 16 and 31 years old – in June 2012 (AMERICAN IMMIGRATION COUNCIL, 2019) –, living continuously in the USA since June 15, 2007, not having a significant criminal record, and, at last, having completed high school or college – or having an equivalent diploma. Approximately 825 thousand individuals were covered by the program (NUNN; O'DONNELL; SHAMBAUGH, 2018)

DACA ended in 2017 during the Donald Trump administration, although, due

[2] To learn more about all types of migration to the USA, visit the link: <https://bit.ly/3n3xL2P>

[3] DACA does not provide any path to permanent citizenship. Also, it requires renewal every two years

to court orders, beneficiaries are still allowed to renew their work permit and protection against deportation. The end of the program has impacted the lives of thousands of migrants, mostly children. Minors, without guarantee of protection, stopped attending schools for fear of identification and deportation (UNESCO, 2018). In 2020, Joe Biden affirmed the reinstatement of DACA in his political campaign. The democrat claims that “he will explore all legal options to protect families from inhuman separation” (IDB, 2020a).

Another humanitarian relief program, the Temporary Protected Status (TPS), is conceded to people who are in the United States but cannot return to their country of origin due to external factors, essentially natural disasters, extraordinary temporary conditions, or ongoing armed conflicts. The TPS extends over a period that varies between six, twelve, or eighteen months and can be extended in situations where unsafe conditions in the country of origin persist. The TPS does not confer any other immigration status (AMERICAN IMMIGRATION COUNCIL, 2019).

Since the early 2000s, Hondurans, Nicaraguans, and Salvadorans have been eligible for TPS due to a series of earthquakes in El Salvador, Honduras, and Nicaragua (O’CONNOR; BATALOVA; BOLDER, 2019). Nonetheless, in 2017, the Trump administration stated that it would not renew this eligibility. This decision was contested by a series of actions and did not take effect until the final moments of Trump’s term. On the other hand, Biden has already spoken out about the program, defending not only the extension of the TPS to Venezuelans (BIDEN, 2020c) but also the creation of a process that provides citizenship to long-term holders (BIDEN, 2020d).

Finally, the Deferred Enforced Departure (DED) is a program that protects individuals whose country of origin is experiencing (political, social, etc) instability – which makes their return dangerous. Contrary to the TPS, which is authorized by the State, the DED depends only on the discretionary choice of the President. For similar reasons than the ones stated for the TPS, Biden also reaffirms that he will not support deportation to unsafe places and affirms the creation of the same process to enable citizenship to those

who have been part of the DED for a long time (BIDEN, 2020d).

The Changes Targeted by Biden in Other Migration Policies

Another point besides the humanitarian relief programs is related to the policies regarding refugees and undocumented migrants, including the legal procedures for their internal regularization and the procedures carried out in case of denial of stay – mainly deportation. At first, the Refugee Statute (1951) states refugees as a person who has been forced to leave their country for reasons of a well-founded fear of persecution due to their religion, nationality, race or ethnicity, social group, or political opinions. The US admits refugees under those terms.

Nevertheless, what most varies concerning refugees is the number of admissions, since as mentioned earlier, each year Congress, together with the President, sets a “numerical ceiling” for the number of refugees to be accepted in the country. According to the American Immigration Council, during the Obama administration, the “ceiling” had a stable limit, but during the Trump administration, it fell from 110,000 in 2017 to 30,000 in 2019, with a decrease of more than 50% per year (AMERICAN IMMIGRATION COUNCIL, 2019). In the election race, Joe Biden stated that he wants to raise the ceiling to 125,000 admissions in his first year in office (BIDEN, 2020d).

Besides increasing the numerical ceiling for refugees, Biden has already shown an interest in reducing the high numbers of deportations. Furthermore, on the electoral agenda, he affirmed relevant changes in the US immigration system, in particular the temporary suspension of deportations, the creation of a process of legalization of the more than 11 million undocumented migrants, and an end to the separation of families and prolonged migratory detentions. He also defended the end of the Migrant Protection Protocol (MPP). The MPP, popularly known as Remain in Mexico, is an institute created by Trump that pressures migrants pending regularization to stay outside of the United

States (BIDEN, 2020a).

In other words, the democrat intends to reactivate many immigration policies that were in place during the Obama administration and were discontinued in the Republican government (WASHINGTON, 2020). But it is necessary to be cautious, since the Obama administration's migration policies also had its controversies, such as the exorbitant number of deportations that, in turn, exceeded the numbers registered in the first three years of Trump's administration (WASHINGTON, 2020).

A Probable New Vision About the US-Mexico Border

First of all, it is worth remembering that in 2016, Trump's electoral agenda was built around securitarian, border control, and immigration issues. The slogans of the Republican campaign "Make America Great Again" and "America First" justified, using superiority and xenophobic, the proposal to build a wall in the US-Mexico southern border to militarize and securitize routes used by unauthorized migrants and drug smugglers.

Joe Biden, in June 2020, during an interview with National Public Radio said that "there will not be another foot of wall constructed in my administration" (\$11 BILLION..., 2020). Furthermore, he pointed out that Trump's obsession with building walls will not solve the US border security issues, and it costs billions of dollars to taxpayers since the wall is being built in remote areas, which requires difficult and expensive logistics. Thus, Biden announced that he would stop the construction, although it's still unclear if the 400 miles that were built during Trump's government will be brought down (ROGERS, 2020).

As, for the undocumented migrants, contrasting common sense – and former President Donald Trump –, Biden points out that the majority of them do not enter the country illegally, nor across the border with Mexico; in fact, they enter the US territory legally, possessing some type of visa and remain in the country even after the legal term

has expired. The families fleeing violence in Central America, on the other hand, are mostly volunteering to present themselves to border patrol officials, seeking to enter legal processes to obtain a visa (BIDEN, 2020b). Therefore, restrictive border control does not achieve a relevant result in migratory flows, being, above all, a larger space for numerous human rights violations.

A Possible Rapprochement with Central America and Mexico: a comparative between Biden's agenda and his past policies

Regarding international cooperation and governance of migration, Joe Biden criticizes the idea that migration policies are unilateral and strictly national. According to his official campaign agenda, the democrat intends to restructure action plans with Central American countries and Mexico, aiming to establish multilateral cooperation networks to contain the flows of undocumented migrants and human trafficking that are directed to the United States (BIDEN, 2020b).

For Biden, “nowhere will this be more important than in the immediate neighborhood in the United States that extends from Canada to Central America, a region where some of the greatest migratory pressures exist” (MEISSNER; MITTELSTADT, 2020). With that in mind, Biden's agenda discusses measures to be taken by his administration to strengthen regional ties, for example: holding regional meetings with leaders of nations in the North Triangle of Central America (El Salvador, Guatemala, and Honduras) and Mexico, in addition to identifying the causes of migration of individuals and managing migration.

It is a fact that Biden's position on migration is coated with humanitarian rhetoric, especially regarding Central America; for this reason, the democrat often links the “solution to migration” to economic aid to countries of origin and sees violence and poverty as the main causes of migration. This perspective brings to light a series of ineffective policies

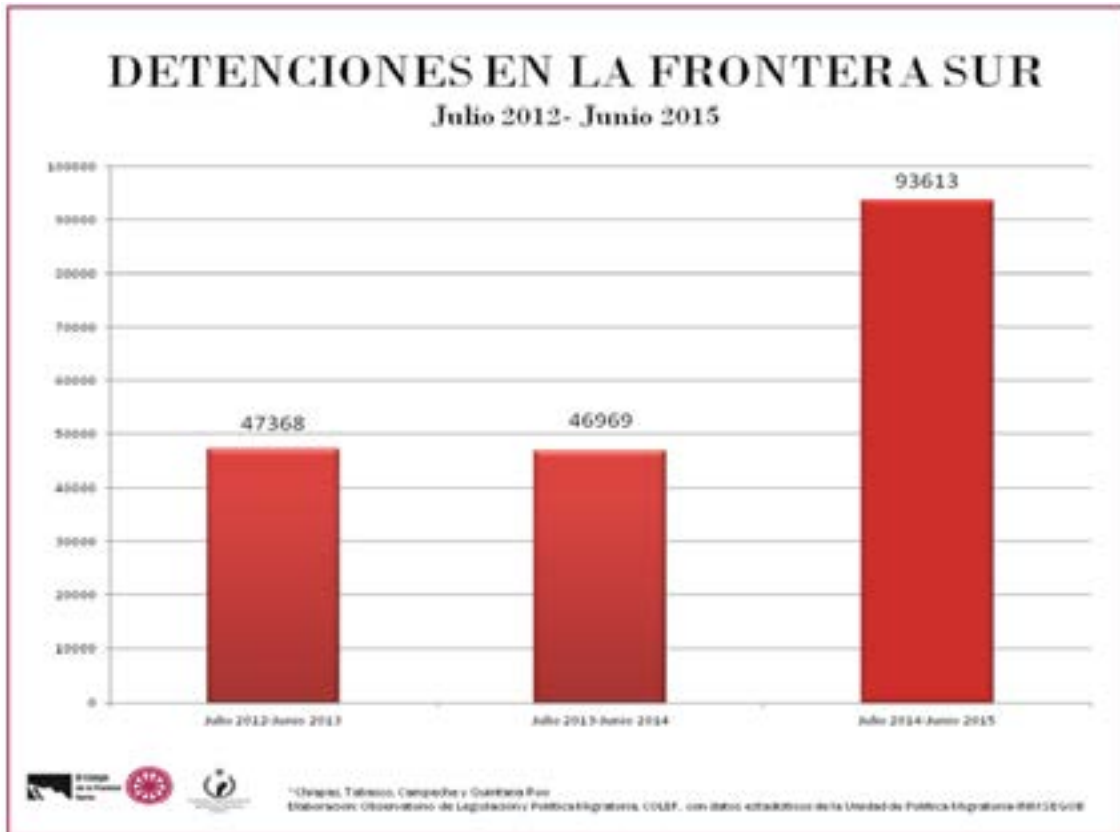
and strategies during his tenure as Senator (1973-2009) and, later, as Vice President (2009-2017).

In 1999, Biden was involved in issues related to Central and Latin America through Plan Colombia (1999), a US economic and military aid plan for Colombia to combat international drug trafficking and the paramilitary power of Revolutionary Armed Forces of Colombia (FARC). By 2008, the United States had transferred more than US\$ 1.3 billion to the Colombian government, with approximately 75% of that amount being used for reinforcements by the armed forces and the police and 25% being used in assistance projects for populations victimized by conflicts (WASHINGTON, 2020). The plan was discontinued in 2016. It had little effect in combating trafficking and it resulted in increased use of militarized responses to the problem of drug trafficking in the region.

Biden also served on the Alliance for Prosperity (2014) program, created during the Obama administration. The program sent about US\$ 750 million to El Salvador, Honduras, and Guatemala, in order to provide conditions for these countries to develop assistance, security and social development policies in the North Triangle of Central America. The program was the target of several criticisms and allegations that this economic package resulted only in the growth of militarized police forces, involved in several human rights violations, and in the strengthening of anti-democratic governments (WASHINGTON, 2020).

Directly linked to the theme of migration, and with Joe Biden as its Vice-President, the Obama Administration created the Frontera Sur Program (2014). It was responsible for putting pressure on the Mexican government in the repression of Central American migrants in southern Mexico, preventing them from reaching the border with the United States. The number of deportations and detained migrants increased exponentially and cases of international human rights violations were not uncommon (WASHINGTON, 2020).

Figure 5: Detentions on the Southern Border July 2012 - June 2015 (2014)



Source: Observatorio de Legislación y Política Migratoria, 2015

Moreover, Biden's policies for Central America have always prioritized reducing migratory flows instead of creating policies related to safe, orderly and regular migration. It is evident that Biden's criticisms toward Trump's immigration policies are well-founded. However, it is essential to visualize that the Obama administration (with Biden as vice-president) adorned some similar policies. Furthermore, as mentioned above, the number of people deported during the Obama administration was exorbitant, even when compared to the Trump administration.

Conclusion

As explained in the previous sections, Joe Biden, when compared to Donald Trump, is conventionally seen as a moderate politician, having a broader modus operandi towards issues such as human rights, multilateralism, the environment, and immigration policies. However, the Democrat has been part of the traditional Beltway's foreign policy circle ^[4] for more than 40 years. In other words, Biden also plays the American political game. Thus, bringing back the presented arguments, it is clear that Biden's electoral agenda to immigration policies preaches against his past political actions, which on many occasions were similar to Trump's modus operandi, based on imperialist, unilateral and human rights threatening actions.

Biden's game of supporting his immigration policies in an anti-Trump dynamic is not enough to change an old-fashioned immigration system and to promote bold reforms (MEISSNER; MITTELSTADT, 2020). The idea of a 100-day as a plan to resolve issues that have persisted for years seems extremely optimistic and, possibly, will not correspond to the reality found by Biden.

Despite Biden's progressive agenda, it is necessary to point out that the fulfilling of the government's immigration plans will be especially difficult for the Democrat, not only due to its complexity, but also due to the probable resistance by part of the population, which has always been complicit with the Trump's ideas on immigrants, and by the Senate, which has a habit of financial contention regarding immigration policies.

Finally, it is positive to see the space given by Biden to the discussion on migratory flows from Central America and Mexico, what may not be politically enough to enable a total reform of the immigration system, but small changes that, at first, may be essential for an optimistic future of the migrants in the USA, especially because those are far from the extremes committed by Trump.

[4] The term "Beltway" is used to refer to matters relevant to the United States Federal Government (presidency, senators, deputies), lobbyists, multinationals, suppliers and corporate media. The term refers to Interstate 495 (Capital Beltway), a federal highway that forms a circle (belt) around Washington, D.C., the US federal capital (THE DISTRICT POLICY GROUP, 2020).

[5] To learn more about the 100-day plan, visit the link: <https://n.pr/3gxzevL>

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