

President Biden's Immigration Policies: A Pyrrhic Victory?

by Roberto Scarciglia

Abstract: *Le politiche in tema di immigrazione del Presidente Biden: una vittoria di Pirro?* - The immigration issue took centre stage in American politics when Joe Biden ran for the White House in the 2020 election against outgoing Republican President Donald Trump. During his campaign, President Biden had pledged to end Trump administration's draconian policies by building a fairer immigration system. From the outset, presidential measures have been aimed at dismantling Trump's legacy. In the campaign for the November 2024 election of the new president, the issue has returned to fuel the heated debate. This article analyses Biden administration's immigration policies after almost four years in office.

Keywords: Biden administration; Immigration law; U.S.-Mexico border; Federal immigration agenda

1. Preliminary remarks

Immigration is one of the central topics in the public electoral debate in the United States. The scenario in which immigration law develops is often characterized by legislation that openly discriminates against non-citizens, as emerges from the words of the Supreme Court itself, according to which “[i]n the exercise of its broad power over naturalization and immigration, Congress routinely enacts rules that would be unacceptable if applied to citizens”.¹ From this point of view, it is necessary to point out that the Supreme Court in *Chae Chan Ping v. United States* introduced the ‘*plenary power doctrine*’ as a constitutional dogma that gives the federal government unlimited power to regulate immigration and allows Congress to pass discriminatory burdens on noncitizens.² This trend characterised the immigration policies of former President Trump. Far from it, President Biden opposed this policy at the beginning of his term with exceptional activism to guarantee better conditions for immigrants, mainly from Mexico, to enter the United States, and this attitude characterised his policies at least until the mid-term elections.

Joe Biden's presidential term ended without a clear and lasting direction, with alternative measures to open the legal entry of migrants at an early stage, with significant limitations in the last year, given the

¹ *Demore v. Hyung Joon Kim*, 538 U.S. 510, 521 (2003). See E. Hernandez-Lopez, *Sovereignty Migrates in U.S. and Mexican Law: Transnational Influences in Plenary Power and Non-Intervention*, in 40 *Vand. J. Transnat'l L.* 1345, 1347-48 (2007).

² *Chae Chan Ping v. United States*, 130 U.S. 581(1889).

November 2024 elections. Making the situation even more complex in some States – such as Texas on the border with Mexico – has led to restrictive decisions by circuit courts and the Supreme Court. Due to the large number of provisions with regulatory content – including laws of Congress, Executive orders, presidential proclamations, and memoranda – it is challenging to address all these measures in a limited space. As a consequence, we will highlight only a few references, considering that 535 presidential measures were adopted in the first three years of President Biden's mandate.

The immigration issue, which has become central in the political life of many countries of the world, is also a contrasting theme in the United States with which the two challengers, Kamala Harris – nominated as presidential candidate after Joe Biden's retirement – and Donald Trump, have to deal. Both candidates, Biden and Trump, followed separate immigration policies, and the long-term effects on migration policies and relations with other States, especially Mexico, are challenging to determine. The Trumpian doctrine of 'conservative American nationalism', presented to voters in Phoenix, Arizona, on 31 August 2016, was based on the concept of protecting borders and improving national security. The Biden doctrine on immigration is based on the idea that immigration laws passed by Trump were inhumane and that to reduce illegal immigration it was necessary to increase legal entries while intervening in the countries of origin.³ However, neither of the two different presidential doctrines and the resulting regulatory solutions completely stopped the flow of migrants to the United States.

The statistical data on the migratory phenomenon toward the United States are impressive and give an idea of its gravity and complexity. The substantial increase in immigrants from the Western Hemisphere indicates that illegal immigration has played a considerable role in the growth of the foreign-born population since the beginning of 2021.⁴ As we have long known, analyses of foreign law start with indicators.⁵ The Census Bureau's monthly *Current Population Survey* (CPS) shows that the total foreign-born or immigrant population (legal and illegal) in the U.S. hit 47.9 million in 2023 – a record in American history. These impressive data demonstrate the complexity of the problem and the enormous difficulty in finding stable solutions over time, mainly functional to contrast and reduce the number of foreigners illegally entering the United States. During Trump's presidency, the most far-reaching anti-immigration program in almost a century had been implemented, supported by xenophobic attitudes of the most conservative wing of the Republican Party. These restrictive policies had no

³ See L.A. Kuznar and E.C. Kuznar, *Facing a Dangerous World: A Comparison of the Biden and Trump Doctrines*, in S.A. Renshon and P. Suedfeld (Eds.), *Presidential Leadership and Foreign Policy: Comparing the Trump and Biden Doctrines*, Cham, 2024, 249-267; J.M. Vaughan, S.A. Renshon, and P. Suedfeld, *Open Borders and National Sovereignty: The Trump and Biden Immigration Doctrines in Comparative Perspective*, *Ibid.*, 291-312.

⁴ See <https://map.americanimmigrationcouncil.org/locations/national/>, accessed October 10, 2024.

⁵ See M. Siems, *Comparative Law*, 3rd ed., Cambridge and New York, 373-376 (2022); M. Infantino, *Numera et impera. Gli indicatori giuridici globali e il diritto comparato*, Milan, 2019.

strong public or congressional approval, not even from the substantial majority of Americans who opposed Trump's immigration agenda. From this point of view, Trump promised that if he wins the election in 2024, he will proceed with mass deportations of migrants who have illegally entered the US.⁶ Based on these considerations, this article outlines the main stages of President Biden's immigration policy, from taking office to his withdrawal from the electoral race on July 21, 2024. We must ask ourselves whether President Biden's immigration policies have been a Pyrrhic victory or have been successful.

2. Initial hyperactivity and the first regulatory measures

During his 2020 election campaign, Biden promised radical change, with policies that were more attentive to human rights and would re-establish the United States's image as a country open to refugees and asylum seekers. These included ending the national emergency at the southern border, halting border wall construction, and removing discriminatory travel restrictions imposed primarily on Muslim-majority countries.⁷ So, immediately after taking office on 20 January 2021, he sent an immigration bill to Congress as part of his commitments to modernise and restore "humanity and American values" to the immigration system. By doing so, he would end the national emergency declared by the Trump administration in February 2019 by blocking construction of a wall on the U.S.-Mexico border. This proposal aimed to build a path to citizenship for approximately 11 million undocumented immigrants in the United States. The plan, which would have immediately protected millions of foreign nationals from deportation, marks a radical departure from President Trump's policies.

On the same day, Biden signed Presidential Proclamation n.10141, ending Trump's discriminatory bans on entry to the United States for 14 foreign nationals, most of them Muslim.⁸

⁶ At <https://map.americanimmigrationcouncil.org/locations/national/>, accessed October 10, 2024. See also E. Spagat, *Trump's goal of mass deportations fell short: But he has new plans for a second term*, September 22, 2024, at <https://apnews.com/article/trump-mass-deportations-immigration-844f3050ba99552b900ed9f3a1dec22d>, accessed October 2, 2024.

⁷ See, e.g., G. Russonello, *Biden Rolls Back the Trump Legacy*, in *New York Times*, January 20, 2021; N. Narea, *Biden is already rolling back Trump's immigration legacy*, in *Vox*, January 20, 2021, at <https://www.vox.com/policy-and-politics/2021/1/20/22240549/biden-executive-actions-immigration>, accessed October 5, 2024.

⁸ At <https://www.presidency.ucsb.edu/documents/proclamation-10141-ending-discriminatory-bans-entry-the-united-states>, accessed October 5, 2024. President Biden revoked Executive Order 13780 of March 6, 2017 (*Protecting the Nation From Foreign Terrorist Entry Into the United States*); Proclamation 9645 of September 24, 2017 (*Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats*); Proclamation 9723 of April 10, 2018 (*Maintaining Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats*); Proclamation 9983 of January 31, 2020 (*Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats*).

Proclamation n.10141 contained the following preamble: “The United States was built on a foundation of religious freedom and tolerance, a principle enshrined in the United States Constitution. Nevertheless, the previous administration enacted several Executive Orders and Presidential Proclamations that prevented certain individuals from entering the United States – first from primarily Muslim countries, and later, from largely African countries”. In enforcement of Proclamation n.10141, President Biden directed the State Department to submit, within 45 days, a report containing a recommendation for individuals whose immigrant visa applications were denied under Proclamations n. 9645 or n. 9983 to reconsider their applications. Additionally, the Department of Homeland Security had to suspend deportations of migrants for 100 days.

However, the paradigm shift in state immigration policy has encountered legal obstacles. A federal judge in Texas suspended Biden administration’s moratorium after a lawsuit from the attorney general of Texas, Ken Paxton, who argued that the moratorium would cause financial damage to his State, given the potential costs to provide health care and education for undocumented immigrants. Texas is one of the States leading the effort to crack down on illegal immigration,⁹ and its Governor, Abbott, has taken several measures to counter illegal immigration across the border into Mexico. These policies include *Operation Lone Star* (OLS), which began on March 6, 2021, along the US-Mexico border in South Texas and is still in place, coordinated by the Department of Public Safety and the Texas Military Department.¹⁰ Since 2022, Abbott has bused thousands of migrants to sanctuary cities – e.g., New York, Washington, D.C., Chicago, and Philadelphia – through the *Lone Star* program.

In this regard, it is necessary to underline that since President Biden took office, the State of Texas has countered his administration’s immigration agenda with continuous legal actions. From this contrasting attitude emerges the use of justice by the Governor of the State and by the Attorney General, Paxton, to block federal policies on immigration, forcing officials to maintain the restrictions put in place by former President Trump’s previous restrictive policy. The enforcement of immigration law has historically been considered an exclusive federal government power. With the territorial application of federal laws, the courts have been the arbiters of judicial clashes between the federal and sub-federal States.¹¹

This kind of regulatory intervention by sub-federal governments in the field of immigration opens the unresolved issue of the legitimacy of state laws that differentiate between classes of immigrants, given the state’s obligation to enforce federal immigration standards and the incompatibility with the Supremacy Clause of creating their standards. The proliferation of state and local measures has been brought about by the criticality of the functioning of the asylum application mechanism by the vast number of refugees and the lack of physical space in detention centres. Added to this is

⁹ See *Texas v. Biden*, “21-10806”, No. 21-10806, (5th Cir. Dec. 13, 2021), at <https://casetext.com/case/texas-v-biden-2>, accessed October 10, 2024.

¹⁰ At <https://gov.texas.gov/operationlonestar>, accessed October 11, 2024.

¹¹ See, e.g., C. Rosenbaum, *Sub-Federal Enforcement of Immigration Law: An Introduction to the Problem of Pretextual Enforcement and Inadequate Remedies*, in 3 *Laws* 61 (2014).

the problem of the large number of unaccompanied minors to be cared for while waiting for court decisions that take several years to be made. President Biden signed another Executive Order, n. 13993 of January 20, 2021, about *Revision of Civil Immigration Enforcement Policies and Priorities*, pointing out that “[t]he task of enforcing the immigration laws is complex and requires setting priorities to best serve the national interest”.¹² Biden made clear that he wanted to support and welcome asylum seekers. A significant part of that effort must effectively re-orient the *U.S. Citizenship and Immigration Services* (USCIS) to its original humanitarian mission.¹³

3. The U.S. Citizenship Act of 2021

The *U.S. Citizenship Act* of 2021 is one of the most sweeping immigration reforms in the US in 30 years. It includes some essential provisions to improve several existing immigration rules.¹⁴ One of the main issues addressed in the legislation concerns the labour status of immigrants who entered the US illegally and without documents and how to initiate a process for their regularisation. The law establishes a five-year path to temporary legal status, or a green card, for those living in the United States as of January 1, 2021, if they pass background checks, pay taxes, and meet other basic requirements under the law. The requirement of residence in the United States starting from this date may be waived in some instances for reasons of family reunification. The subjective scope of the measure encompasses the protection of more than 11 million undocumented workers in the United States, including those under *Deferred Action for Childhood Arrivals* (DACA), known as ‘dreamers’, those under *Temporary Protected Status* (TPS), and migrant farm workers. Dreamers are long-term undocumented residents who first came to the US as children.¹⁵

Regarding this *Action*, one can point out that it protects against deportation and allows some undocumented immigrants who arrived in the United States as children to be granted a work permit.¹⁶ In addition, it establishes a subsequent 3-year period for transition from green cards to naturalization, pending further screening and application for citizenship. The language through which illegal immigrants have been defined changes from ‘alien’ to ‘non-citizen’ in immigration laws, particularly in the *Immigration and Nationality Act* of 1952 (INA). The adjective ‘alien’ might be considered offensive. This term encompasses several subjects, including aliens who entered the United States illegally, temporary visitors, and lawful

¹² At <https://www.federalregister.gov/documents/2021/01/25/2021-01768/>, accessed October 10, 2024.

¹³ See L.M. Harris, *Asylum Under Attack*, in 67 (1) *Loyola Law Rev.* 55 (2021).

¹⁴ H.R.1177- *U.S. Citizenship Act*, at <https://www.congress.gov/bill/117th-congress/house-bill/1177>.

¹⁵ Presidential Mem., 86 Fed. Reg. 7,053 (Jan. 20, 2021). From a diachronic point of view, see V.C. Romero, *All the Presidents’ Dreamers: Immigration Reform that Biden and Trump Can Agree on (and Why that Reform May Be Elusive)*, in 9 (2) *Belmont Law Rev.* 317 (2022).

¹⁶ See L.M. Harris, *Asylum Under Attack*, in 67 (1) *Loyola Law Rev.* 55 (2021).

permanent residents.¹⁷ Changing these two terms would erase these distinctions, although the *Citizenship Act* needs to address this order of problems. The Biden administration also appealed court decisions that denied establishing the *Deferred Action for Childhood Arrivals* (DACA) program and terminating *Migrant Protection Protocols* (MPPs). Nevertheless, the same administration changed previous policies, such as doubling the refugee-cap by 2022, expanding a program that allows some children from Northern Triangle countries to apply for refugee status, and reopening U.S. borders to most vaccinated travellers. After the 2020 presidential election, the Biden administration was anxious to address the large backlog of asylum claims and to accelerate the timeline for introducing new rules. More than forty years after the passage of the *Refugee Act*, the procedures originally envisaged had shown their ineffectiveness in adequately dealing with a vast and growing number of asylum claims. From this perspective, administrative law was a litmus test for agencies interpreting legislative and non-legislative immigration rules.¹⁸

A few weeks after entering office, Biden issued an Executive Order requiring the Department of Home Security (DHS) Secretary to “begin a review of procedures for individuals placed in expedited removal proceedings at the United States border”, and within four months to report “recommendations for creating a more efficient and orderly process that facilitates timely adjudications and adherence to standards of fairness and due process”.¹⁹ In its first months in office, the Biden administration followed up with several essential reversals of Trump administration policies that had imposed significant barriers to asylum. However, changing agency policy often requires more than just the presidential transition. The moratorium on deportations never went into effect due to a federal court order in a lawsuit filed by the State of Texas.²⁰

Biden administration did not change its policy to remove the migrants under Title 42 of the U.S. Code at the beginning of the presidential term. The Code deals with public health, social welfare, civil rights and, in this case, with the deportation of migrants. This provision prevents entry into the United States of persons from certain countries because a contagious disease in a foreign country provokes a danger of introducing such disease into the United States. Suspension is necessary for the interest of public health. Despite widespread recognition that deportations of asylum seekers without due process are unfair and violate the Refugee Act of 1980, the Biden administration has relied on Title 42 to deport many of these migrants. At the southern U.S. border, the number of migrants passed from around 69,000 to 75,000 during the last months of the Trump administration to over 169,000 in March 2021 under the Biden presidency. The administrative

¹⁷ The term “illegal alien” appears in only six provisions of the *Immigration and Nationality Act* (INA). Still, the Act does not use the term to define the categories of persons subject to deportation. See J.L. Koh, *Rethinking Removability*, in 65 *Fla. L. Rev.*, 1805, at n. 4 (2013).

¹⁸ About this relation, generally see J.E. Family, *Administrative Law to the Lens of Immigration Law*, in 64 (3) *Adm. L. Rev.* 565 (2012).

¹⁹ See Biden-Harris, *The Biden Plan for Securing our Values as a Nation of Immigrants*, October 2016, at <https://perma.cc/WXE8-ANA5>, accessed November 10, 2022.

²⁰ J.L. Koh, *The Rise of the ‘migrants-as-Injuriy’*, in 72(3) *Am. Univ. L. Rev.* 885 (2023).

procedures related to granting asylum to immigrants highlight how discretion is only sometimes congruent with the principles governing administrative action. Courts, public officials, and legal scholars have rarely distinguished between regulatory and protective discretion. The first facilitates excluding and removing non-citizens, while the second safeguards their reliance interests.²¹

On February 2, 2021, Biden issued another Executive Order, the n. 14,010 on “*Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border*”.²² The order aimed to “review and determine whether to terminate or modify” the MPP, a program whereby asylum seekers from third countries arriving at the U.S. border remained in Mexico while processing their asylum claims.²³

The Biden administration succeeded in ending another Trump-era policy known as *Migrant Protection Protocols* (MPPs), which required asylum seekers to wait in Mexico for an immigration court to hear their case. Those already registered with the MPP and staying in Mexico can enter the US for their next hearing and will not have to return to Mexico. On 31 May 2022, the administration began implementing a change in handling specific asylum claims. The new guidelines aim to streamline the asylum process and send fewer cases to the US immigration courts, which are already full of backlogs. US asylum officials would have adjudicated the asylum claims of migrants subject to expedited removal procedures after May 2022. The Biden administration returned to focus on protecting asylum seekers, issuing guidelines on applying the INA and a final rule on DACA.

4. A change of course after mid-term elections

The result of the mid-term elections in November 2022 and the Republican majority in the House of Representatives made it more difficult for President Biden to effectively pursue his immigration policy, forcing him to change his pace. Biden’s primary goal has been to promote, on the one hand, legal immigration through tools controlled by his administration and, on the other, to discourage illegal immigration in every way. One of the measures announced by the President was the *Humanitarian Parole Program* aimed at accepting immigrants from Haiti, Cuba, Nicaragua, and Venezuela. This program, which was part of Biden’s broader immigration policy, allowed migrants from these countries to legally live and work in the U.S. for two years under the condition of having financial sponsors and passing background checks. Since its inception, more than 530,000 migrants have used the program to fly into the U.S. and obtain temporary legal status legally. In early October, however, the Biden administration announced it would not renew a two-year humanitarian parole program for migrants from

²¹ Among others, see P. Margulis, *The Boundaries of Executive Discretion: Deferred Action, Unlawful Presence, and Immigration Law*, in 64(3) *Am. Univ. L. Rev.* 1183 (2015).

²² Executive Order 14,010, in 86 *Fed. Reg.* 8, 267 (2021).

²³ See K.E. Eichenseher (ed.), *Contemporary Practice of the United States Relating to International Law*, in 115 (2) *Am. J. Int’l L.* 344 (2023).

these countries.²⁴ On June 3, 2024, Proclamation ‘*Securing the Border*’ temporarily suspended and limited the entry of aliens at the southern border, with exceptions for U.S. persons and aliens with lawful permission to enter. The Mexico to United States corridor is the largest globally, with nearly 11 million people. Between January 2021 and January 2024, more than 7.2 million illegal migrant crossings along the US-Mexico border. That same month, on June 18, 2024, the Biden administration announced the *Keeping Families Together* program to protect mixed-status families nationwide, launched on August 19. The new initiative aimed at providing green card access to eligible spouses and stepchildren, bypassing the administrative process that could leave potential beneficiaries stranded abroad, separated from their families, for years or indefinitely.

5. President Biden’s latest regulatory initiatives

However, during President Biden’s term, his policy changed significantly. Consequently, from May 12, 2023, to May 1, 2024, the Biden Administration returned more than 720,000 noncitizens with no legal basis to remain in the United States, most of whom had crossed the Southwest land border. The electoral campaign influenced the most recent measures on immigration: let us look at some measures adopted in this regard.

Several measures have been taken to combat illegal immigration, e.g., the sending of 1,500 troops to the southern border,²⁵ coinciding with the termination of the Centers for Disease Control and Preventions public health order under Title 42 of U.S. Code – dealing with public health, social welfare, and civil rights – and the return to processing all noncitizens under immigration authorities under Title 8, which covers “Aliens and Nationality”. On May 11, 2023, the Department of Justice (DOJ) issued a rule Titled *Circumvention of Lawful Pathways*.²⁶ This rule, intended to promote legal immigration to the United States, and improve the management of high migration rates, raised several legal and humanitarian questions. Moreover, the authorisation granted by the Department of Homeland Security (DHS), which introduced the *Targeted Parole Programs* for specific nationalities, was numerically limited, not accessible to everyone, and only partially solves the problems it is aimed. In this regard, the subsequent *Interim Final Rule* of June 4, 2024, determines that failure to schedule an appointment due to technical difficulties resulting from computer problems or language barriers could effectively impede the granting of asylum. In addition, the new interim rule adds additional restrictions for applicants crossing southwestern or adjacent coastal borders

²⁴ At <https://www.uscis.gov/humanitarian>, accessed October 5, 2024.

²⁵ See N. Bertrand, P. Alvarez, and H. Britzky, *Biden admin to send 1,500 troops to southern border for support roles ahead of expected migrant surge*, CNN, May 2, 2023, at <https://edition.cnn.com/2023/05/02/politics/us-troops-border-migrant-surge/index.html>, accessed October 5, 2024.

²⁶ At <https://www.dhs.gov/news/2023/05/11/fact-sheet-circumvention-lawful-pathways-final-rule>, accessed October 11, 2024.

in their aid applications. Again, the question is whether these limitations impede the implementation of international refugee law.²⁷

Restrictive measures continue. On May 16, 2024, the Biden administration repatriated a group of Haitian citizens to a country plagued by instability and violence despite the recommendations of the United Nations High Commissioner for Refugees (UNHCR) against any forced repatriation. Another Proclamation, the '*Securing the Border*' of June 3, 2024, temporarily suspended and limited the entry of aliens at the southern border, with exceptions for U.S. persons and aliens with lawful permission to enter. As mentioned above, the Mexico to United States corridor is the largest globally, with nearly 11 million people. Between January 2021 and January 2024, more than 7.2 million illegal migrant crossings along the US-Mexico border. As the November 2024 presidential election approaches, a Democratic Party-initiated bipartisan border security bill has been blocked twice in the Senate by Republicans in February and May 2024. The second time, senators reached an agreement, but former President Trump opposed it, arguing that passage of the bill would improve Joe Biden's chances of re-election.²⁸ That same month, on June 18, 2024, the Biden administration announced the *Keeping Families Together* program, launched on August 19, to protect mixed-status families nationwide. The new initiative aims at providing green card access to eligible spouses and stepchildren, bypassing the administrative process that could leave potential beneficiaries stranded abroad, separated from their families, for years or indefinitely. The approaching elections sharpen the political conflict between Democrats and Republicans, as emerged during the vote of July 25 on a Republican resolution in the House condemning the Biden administration, and, in particular, Vice President Kamala Harris, for their handling of the Southern border, six Democratic congressmen voted alongside the Republicans just in the days when Joe Biden was deciding whether to withdraw as a presidential candidate and simultaneously endorse Kamala Harris.²⁹

6. Concluding remarks

In the twenty-first century, migration has become a global phenomenon, above all, because no region or country in the world is unaffected by migratory flows, and all countries are involved either in emigration, immigration or as transit countries. President Biden and his predecessors have grappled with the complexity of the migration problem, a global

²⁷ For the dissonant jurisprudence of several circuit courts on refugee law, see C.S. Ellison, *The Toll Paid When Adjudicators Err: Reforming Appellate Review Standards for Refugees*, in 38(2) *Geo. Immigr. L.J.* 143 (2024).

²⁸ See L. Gambino, *Senate Republicans block bipartisan border security bill for a second time*, in *The Guardian*, May 25, 2024.

²⁹ H. Res.1371 — 118th Congress (2023-2024). The text of the Resolution is: "The House of Representatives, (1) strongly condemns the Biden Administration and its Border Czar, Kamala Harris's, failure to secure the United States border; (2) affirms that the American people deserve elected officials who understand the gravity of the crisis at the border and who will execute the policies to fix the border crisis; and (3) clearly and firmly states that the continuation of the Biden, Harris border policies would be disastrous for both the United States and the American people".

phenomenon, without being able to control it. Immigration impacts American society in cultural, fiscal, economic, demographic, and political terms, and its effects are directly related to the magnitude of the phenomenon itself. The most recent data show that the scale of immigration into the country is enormous. Suppose regulatory measures to guarantee the human rights of immigrants better characterised the administration of Biden on a formal level. In that case, one has to ask how these measures worked on an operational level. In this respect, criticism from the Republicans is particularly aggressive, especially from Vice-President Kamala Harris.³⁰

We cannot also overlook the use, e.g., of the Public Health Act or Title 42, to deport migrants or the inhuman conditions of thousands of people under the International Connecting Del Rio Bridge with Ciudad Acuña. In conclusion, if most recent measures strengthen, from one side, legal entry procedures, from the other, strict limits should be placed on immigrants who enter the country illegally. This approach is an evident paradigm shift in American immigration policy, but it does not solve the problems associated with it in the short term. The sole management of migratory flows dampens easy enthusiasm even in cases where it is helpful for the family reunion³¹ or forms of simplifying administrative procedures. All this leaves us thinking of ‘Pyrrhic victories’ rather than lasting solutions that only Congress, with a bipartisan majority, could effectively formulate, balancing the positive and negative aspects of immigration policies. However, this possibility will depend on the outcome of the next presidential elections.

Roberto Scarciglia
Dipartimento di Scienze Politiche e Sociali
Università degli studi di Trieste
roberto.scarciglia@dispes.units.it

³⁰ J. Barnes, *Kamala Harris has presided over ‘worst invasion in US history’*, in *The Telegraph Online*, July 23, 2024.

³¹ See Supreme Court, *Department of State v. Munoz*, 602 U.S. (2024), at <https://supreme.justia.com/cases/federal/us/602/23-334/>, accessed October 13, 2024. The Court accepts the principle that a citizen does not have a fundamental liberty interest in their noncitizen spouse's admission to the country.