

Merrimack College

Merrimack ScholarWorks

Criminology Student Work

Criminology

Summer 2021

U.S. Immigration Policy

Glenda Nieves

Follow this and additional works at: https://scholarworks.merrimack.edu/crm_studentpub



Part of the [Criminology and Criminal Justice Commons](#)

U.S. Immigration Policy

Glenda Nieves

Master of Science in Criminology & Criminal Justice

Merrimack College

August 2021

U.S. Immigration Policy

From the onset, it would be prudent to point out that as Hanson (2005) observes, immigration is controversial in the US because so many persons are divided as to how to view it, in as far as, the formulation and implementation of immigration policy is concerned. Although there may be economic rationales to support immigration, there is no clear consensus as to whether the economic benefits flow to all; in fact, the opposite appears to be the case. Hanson (2005) argues that in order for the debate on immigration to move forward in a constructive and meaningful way, there has to be some consensus on immigration on four fronts. To begin with, there is the issue of what level of immigration should be acceptable or tolerated, what immigrants should be allowed in, how many, for how long, and so on (Hanson, 2005). Secondly, there is also the issue of composition, especially owing to the fact that there are many immigrants from around the world seeking to enter the US (Hanson, 2005). Third, we also have the concern about what rights should be granted to new immigrants (i.e. should they be treated as long-term residents? Should they be eligible for welfare programs?) Fourth, there is the enforcement issue. For instance, how illegal immigration should be handled in the US (Hanson, 2005).

Historically, America has been viewed as a welcoming place, where the world's tired and worn and poor and persecuted could come to find a new home. As a matter of fact, in the words of Koven and Gotzke (2010, p. 104), "the United States prides itself on being a *nation* of immigrants, and the *country* has a long *history* of successfully absorbing people." It should, however, be noted that according to Ogletree (1999), this view is largely illusory. American immigration policy has been nothing if not prejudiced and discriminatory. Rather than

welcoming immigrants from all countries, America has historically been intent on using some people of certain ethnic backgrounds for cheap labor, whether they were Asian, African or Mexican (Ogletree, 1999). Once they were used for labor, they were often denied rights as equal citizens. This is the very same notion advanced by Alarcon (2017). Indeed, in the words of the author, immigration has all along been considered “a “nation-building instrument” and that it is also something that has been regulated throughout the country’s history (Alarcon, 2017, p. 188). The trend continues to date. Today, visas are granted with a high degree of discrimination; it is not a case in which visas are available to one and all, whoever wants them.

Over time, immigration policies have been adapted to suit the interests of the administrations in power. For instance, the immigration policies of the Trump administration were markedly different from those of the Obama administration (Cox & Rodriguez, 2020). In both rhetoric and policy, the Obama administration attempted more positive and welcoming attitudes toward immigrants compared with President Trump. On the other hand, many analysts, commentators, and scholars have pointed out that the policies by the Trump administration appear to have been rather aggressive, inconsiderate and inhumane. In the words of Davis and Shear (2020, p. 144), “while past administrations also oversaw an immigration system that caused unnecessary suffering, Trump’s approach was markedly different... unfair and harmful treatment was no longer a side effect of these policies—it was the policy itself.” This is the very same point of view advanced by Epstein (2019), who happens to be the American Civil Liberties Union’s deputy director. According to Epstein (2019), although the Trump administration came across as being more aggressive in as far as brutal immigration enforcement is concerned, the said administration was only advancing an agenda seeded by the administrations that came

before it. According to the author, most of what President Trump did was rely “on longstanding enforcement practices and on laws passed by Democrats and Republicans in the decades before he came into office” (Epstein, 2019). It is for this same reason that President Obama has had both his detractors and his supporters regarding immigration policy. According to one critic, Kristina Campbell (2010), professor at the University of the District of Columbia David A Clarke School of Law, although policies toward immigration throughout the 21st century as a whole have been highly problematic for immigrants, the Obama Administration’s actions still leave much to be desired, in terms of how immigrants were actively detained at the border and a lack of meaningful legislation to protect immigrants and the children of immigrants.

The all-important question on this front remains, who are most affected by the said policy shifts? Various scholars have had their say on this issue. According to Kandel (2021), some of those most impacted by the policies are children. Heidbrink and Statz (2017) conclude that far too many young migrants are faced with exaggerated misperceptions that adversely affect their ability to achieve their full personal and professional capabilities in the Land of Opportunity. Baum and colleagues (2012) argue that federally detained minors face deportation or continued detention unless the Office of Refugee Resettlement (ORR) finds a willing sponsor for their release. The situation is further complicated by the fact that immigrant families tend to have low incomes and are relatively poorer (Androff, Ayon, Becerra, & Gurrola, 2011). There have been diverse proposals floated in an attempt to secure the wellbeing of these minors. Lloyd (2005) concluded that there is a need to determine the jurisdiction of the state family court and that of the federal government, especially regarding the determination of juvenile dependency. By

having this determination, there will be clear guidelines on what each court does and who can best determine the best interests of a minor (Lloyd, 2005).

Apart from having an impact on the immigrants, policy adaptations also do affect diverse aspects of the country's economy and a host of other internal affairs of a nation. Gomberg-Munoz and Nussbaum-Barberena (2011) look at the way immigration enforcement policy impacts labor policy in the US. They found that the enforcement of immigration policy through instruments like E-Verify and No-Match letters, as well as through federal-state-municipal law enforcement collaboration, have a significant effect on the labor of immigrants and the unions that work with these immigrants. Gomberg-Munoz and Nussbaum-Barberena (2011) show that there is a push and pull effect between immigration enforcement and immigration reform because of the effect that enforcement has on the labor market.

Additionally, Shihadeh and Barranco (2010) examined the unintended consequences of US immigration policy and concluded that the correlation between Latino immigration and black violence is as a result of a shift in low-skill job markets towards Latino labor. To begin with, they observe that there is a direct, general association between Latino immigration and black crime (Shihadeh & Barranco, 2010). Secondly, Latino immigration increases black crime through the shifting of the ethnic composition of low-skill labor markets in favor of Latino (Shihadeh & Barranco, 2010). Third, the macro-social mechanism plays a pivotal role in every fundamental industrial sector, including construction, agriculture, manufacturing, and others (Shihadeh & Barranco, 2010). Fourth, Latino immigration causes a decrease in black income, increases black unemployment, eradicates blacks from the labor force completely, and augments blacks to high-skill jobs (Shihadeh & Barranco, 2010).

Department of Homeland Security: Immigration & Customs Enforcement (ICE)

Immigration has become an especially polarizing and contentious issue within the United States. The primary catalyst for such visceral responses on both sides of the argument often relate to illegal immigration. President Donald Trump also caused social unrest due to his racist and often divisive characterizations of immigrants. His overwhelmingly negative stance, which was heavily echoed by his supporters caused widespread disagreement on how to handle illegal immigration. Trump's rally cry, and what was a heavy influence to his successful election was to build a wall on the Mexican/US border. The opposition vehemently believed that a wall was very "anti-American" and an inefficient use of taxpayer funds. In addition to disagreement regarding the border, disagreements also arose on how to properly deter illegal immigration in the first place. Disagreements ranged from the manner in which to detain illegal immigrants, how to identify family members, how to properly repatriate immigrants back to their homeland, and so forth.

The Department of Homeland Security (DHS), and specifically, Immigration and Customs Enforcement (ICE) played a major role in this regard. Here, the department needs to adequately protect the border from illegal and unwarranted entry for foreign communities. It must do so in a manner that reflects the American ideals of freedom and justice, while also being mindful of the political elements of their actions. The U.S. Immigration and Customs Enforcement's mission is to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. Because the issue of immigration has become such a politicized concept, ICE has a much more complicated position of implementing and adhering to this mandate (Ronald, 2016).

The U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement provides insights into how ICE has looked to initiate policies that are humane and respectful to the rights of illegal immigrants. The first significant change occurred with the implementation of the Draft Language Access plan. This Language Access Plan sets forth the standards, principles, and guidelines through which ICE will provide and improve meaningful access to agency programs and activities to external limited English proficient stakeholders. The ICE Office of Diversity and Civil Rights is responsible for coordinating, overseeing, and providing guidance to ICE program offices to ensure compliance with this plan and to assist in the overall improvement of language access services to external LEP stakeholders. This plan is particularly important as it first alleviates the critical communication barriers which impeded progress of ICE agents during the apprehension process (Roger, 2002).

Proper communication is critical within the overall border patrol process. First, proper communication allows ICE agents to eliminate the language barrier that so often impedes progress in communication. This is essential as proper communication allows ICE agents to quickly process and repatriate immigrants who come to America illegally. Here, agents can quickly identify the individual, update systems, call parents in the case of children, or even provide accommodations for them to return to their respective countries. When this is not in place, we have seen the horrors that often take place. Without proper communication, children are maintained in concentration camp-like environments often unable to find or locate their parents. Lack of processing procedures does not allow ICE with enough time to quickly identify the family of the original home of the immigrant. Due to these significant delays in processing and communication, many immigrants are left idle in conditions that are not reflective of the

values of America. We recently witnessed this event first hand as caravans of illegal immigrants arrived at the U.S-Mexico border where they were properly apprehended and detained.

Unfortunately, lack of proper communication, processing delays and lack of manpower ultimately created a political firestorm in which many thousands of humans were stuck in cages and other inhumane circumstances. Further complicating the issue was COVID-19. As the caravans that approached the United States were so dense, many were forced to live, sleep, and eat within very close quarters. Thousands of illegal immigrants were therefore subjected to the COVID-19 virus, adding further political commentary on the part of the world news. Due to political pressure, the Vice President of the United States along with her trusted aides were sent to mitigate the entire situation. Here, a lack of processing power, lack of communication, and the simply the sheer volume of illegal immigrants created an unwieldy circumstance for ICE.

To alleviate these concerns, the language access plan will provide language services to illegal immigrants in over 70 languages. Although the primary language spoken for immigrants is overwhelming Spanish, these services extend to 69 languages all designed to mitigate the influences of lack of manpower or a large influx of illegal immigrants to the country. The program will also be extended to US Citizens who are a victim of a crime from an illegal immigrant. Here, staff operators will provide services for those who are U.S. Citizens but may not use English as their primary language. Detainees will also be afforded the service to ask applicable questions and resolve any concerns related to their detention. In addition, ICE is looking to expand the service to other state and local law enforcement jurisdictions who are also subject to illegal immigration.

Mission and Purpose

The mission of ICE is twofold. First, the mission of ICE is immigration enforcement. This has become a contentious issue of late due to a massive influx of immigrants across the southern border of the United States and Mexico. In addition, antagonistic rhetoric by President Donald Trump has made border relations much more combative. In response, ICE has nearly doubled its employee base over the last eight years. Immigration enforcement is also a national security concern as illegal immigration has also began to increase in recent years. Economic uncertainty in many undeveloped nations combined with a perceived lack of control at the America border has incentivized caravans traveling to the border. While ICE has significant assets near the border, the majority of its immigration enforcement mission takes place in the interior of the country. To accomplish ICE's important immigration enforcement objectives, the agency coordinates closely with law enforcement partners within the U.S. and around the world. Due in part to the sophistication and cyber networks of potential terrorists, many uses illegal immigration as a means to obtain a toehold within the country. Through proper immigration enforcement ICE aims to mitigate the impacts of terrorism on the domestic security of the United States (Gabbatt, 2018)

The second mission of ICE relates to combating transnational crime. Here, ICE is charged with dismantling international crime networks that threaten American society, its industry, and its financial systems. The primary conduit for this is narcotics smuggling, money laundering, customs fraud, and gang violence. The perpetrators of these crimes have large and sophisticated networks that leverage various international partners to conduct their criminal

activities. ICE is tasked with mitigating the efforts of these organizations as they typically have long lasting implications for society at large.

Goals and Responsibilities

According to the 2021-2025 ICE Strategic Plan, the agency has five primary goals over the next five years. These goals are as follows:

1. Empower the workforce that powers the mission
2. Counter threats and protect the homeland
3. Safeguard the integrity of the immigration system
4. Combat organizations that exploit lawful trade, travel and financial systems
5. Strengthen and expand partnership to advance the mission

These goals each align with the strategic mission of ICE as described above.

Interestingly, ICE continues to recruit and hire a much larger workforce. Criminals, due in part to technology, are becoming much more sophisticated in their ability to find weaknesses within the national security efforts of the United States and exploit them. Recently, illegal immigrants with technology expertise have been able to hack critical industries, such as oil and gas pipelines, ride sharing companies, and even ports with ransomware attacks. Depending on the severity of the attack, society overall can suffer. For example, the recent pipeline hack caused oil and gas prices to spike rapidly while also limiting available supply.

In addition to further counter criminal behavior, not only is ICE increasing its internal employee base, but it is also strengthening partnerships with federal, state, and local agencies. This is particularly important when combined with the strategic goal of increasing international coordination. Due in part to globalization, criminal behavior in one nation can have severe consequences for those in others nations. This is particularly true for customs and other cross border trade systems. Through coordinated effort, partnership can mitigate international crime syndicates more effectively.

As noted above the responsibilities of ICE are very complex and multifaceted. They are responsible for protecting the border from illegal immigration while also upholding the integrity of the legal immigration system. The agency must coordinate with other law enforcement agencies to protect society from transnational crime. This responsibility is further segmented in various other mandates, such as stopping narcotics smuggling, human trafficking, and gang violence.

The Obama Administration's Immigration Policy

The Trump Administration's immigration policies have been so devastating for immigrants, it is easy to idealize the past Obama Administration's attitudes towards legal and illegal immigrants. In both rhetoric and policy, the Obama Administration attempted more positive and welcoming attitudes to immigrants compared with President Trump. However, according to legal scholars, it is important to contextualize Obama's executive outreach in a wider frame of history and not to excessively idealize them.

President Obama has had both his detractors and his supporters regarding immigration policy. According to one critic, Kristina Campbell (2010), professor at the University of the District of Columbia, David A. Clarke School of Law, although policies toward immigration throughout the 21st century as a whole have been highly problematic for immigrants, the Obama Administration's actions still leave much to be desired, in terms of how immigrants were actively detained at the border and a lack of meaningful legislation to protect immigrants and the children of immigrants. However, according to Professor Michael Kagan (2016) of University of Nevada, Las Vegas, William S. Boyd School of Law, the Obama Administration's record is not as problematic as it might seem to be, but rather the result of political and bureaucratic forces and wrangling for power and control.

Specifically, Kagan (2016, p. 655) argues that by using a mixture of executive actions and prosecutorial decisions, Obama's "aim has been to focus enforcement against immigrants caught at the border or with criminal records while easing the path toward integration for others." Critics have alleged this creates a divide between so-called good and bad immigrants in a manner which is not helpful, while Obama's supporters argue that he is the first president in recent memory to take aggressive action to protect the rights of at least some immigrants who came to the country illegally yet who have made a meaningful contribution to America.

Part of the difference in these views of different professors in the field of immigration law may lie in the degree to which they view the federal government as powerful in influencing immigration policy. Campbell (2010) argues that the federal government has a unique role in setting immigration policy for the nation. Despite the fact that the US Constitution does not explicitly discuss immigration in its wording, other than to establish rules for nationalization,

federal courts have established a so-called plenary power to regulate immigration on the part of federal officials (Campbell, 2010). Thus, Campbell (2010) suggests that a failure to act compassionately towards immigrants lies squarely in federal hands.

Kagan (2016) suggests that the bureaucratic and political reality is far more complicated than this summary. Firstly, President Obama, a child of an immigrant himself, was vocal in advocating for the expansion of DACA (Deferred Action for Childhood Arrivals) and DAPA (Deferred Action for Parental Accountability). These actions were promoted by the Obama Administration as stopgap measures in and of themselves as a result of Congressional inaction regarding the DREAM Act (Development, Relief, and Education for Alien Minors), which offers more sweeping amnesty for children who were brought to the country by their parents while minors and lack the technical qualifications for citizenship. DACA was “built on the pre-existing legal mechanisms of deferred action, by which beneficiaries of prosecutorial discretion have been formally told that the government had decided not to deport them” (Kagan, 2016, p. 681). Not only would passing such executive actions have been an important first step in assisting the unintentional victims of immigration policy, as many children were unable to act in regards to or unaware of the ramifications of parental actions (crossing the border or concealing immigration status) but also ensure a more consistent response to immigration, versus simply allowing such decisions to remain in the hands of prosecutors or other officials to act in an arbitrary fashion.

Kagan (2016) also believes that President Obama’s first significant immigration policy change from the Bush Administration was in regards to transparency. The Morton Memos, named for the director of ICE (Immigration and Customs Enforcement), brought forth the policies governing immigration decisions that had previously been opaque, including how past

criminal records, the existence of children in the country, and the likelihood of asylum were examples of factors taken into consideration when making immigration decisions (Kagan, 2016). No single fact was particularly controversial in the publicly released memos. What was debatable, was the degree to which one factor would be prioritized over other factors was almost entirely arbitrary. “Because the Morton Memos did not prescribe how to make these decisions, they left much in the hands of frontline ICE officers to decide how to evaluate individual cases” (Kagan, 2016, p.678).

The release of the memos highlighted a significant problem related to justice and jurisdiction on the federal level. The lack of clarity regarding decision-making meant that individual officials, rather than actual federal authority, were guiding everyday decision-making. Justice arbitrarily applied is, in effect, justice denied. Kagan (2016) adds resistance was almost immediate to Obama’s reform initiatives within ICE because of a perceived loss in bureaucratic power regarding making such individualized decisions, regardless of the positive or negative effects upon families coming to the US or already within its borders.

ICE official opposition further played into conservative opposition to the Obama Administration as a whole. In 2016, twenty-six states obtained an injunction against DACA on procedural grounds that Obama’s actions were a usurpation of congressional power and an act of overstepping executive authority (Kagan, 2016). Campbell (2010) also adds that the previous failures of Congress to pass comprehensive immigration reform are one of the most frequently cited reasons for states being able to take up the breach in policy and pass more restrictive measures. Both administration critics and advocates noted how certain states have been the most vocal opponents of immigration reform, and conservative governors ironically found themselves

in the position of supporting unelected federal bureaucrats in the form of ICE officials as a way of curtailing even more hated federal authority under the auspices of a liberal president.

The reasons for state opposition to immigrant reform are numerous. First, many politicians have made such opposition a foundation of their election campaigns, given the lack of popularity of immigration among certain segments of the population. Immigrants, both legal and illegal, are often framed as threatening to jobs. In the past, immigration reform has proven unpopular in both the House and Senate (Campbell, 2010). This, in and of itself, has been an argument for the types of sweeping executive actions attempted by the Obama Administration. Arguably, only a president capitalizes upon the value of a so-called bully pulpit, particularly in the second administration tenure when reelection is no longer a factor.

Unsurprisingly, many immigration officers, deprived of the arbitrary power which they had been able to exercise previously, before the Obama Administration began to take a more aggressive hand in setting policy, were upset with the loss of their power. Kagan (2016) notes that the opposition of the ICE union was not atypical in such circumstances, where self-restraint is called for on the part of officials, in exercising their power. On the other hand, he notes that it is not entirely true that all immigration officials are heartless and intent upon separating families (Kagan, 2016). There is always a strong bureaucratic element in any type of such resistance, in the desire of officials to protect their power and the perceived importance of their work—in this instance, the perceived importance of detaining immigrants.

Thus, rather than stating that the Obama Administration was either good or bad in regards to immigration, it is more important to view its policies in the context of an America where the

political landscape was often solidly opposed to using executive authority to pass reforms. Although the Administration's record may still be problematic in some regards, it did make efforts to pass significant legislation that was stymied both by conservative state governments as well as ICE officials.

The Trump Administration's Immigration Policy

According to Kandel (2018), the zero tolerance immigration policy of the Trump Administration is a marked shift in immigration enforcement from previous administrations. Under Trump, all illegal aliens apprehended attempting to cross the border were prosecuted without exception. Typical exceptions in the past would include those seeking asylum or those with small children. In the past, illegal border crossings were only infrequently prosecuted. The big challenge for the DOJ of the Trump Administration was how to handle the prosecution logistics. Those apprehended had to be detained and, if applicable, separated from their children. If caught crossing with children, the adults and children would be separated; children could only be held for 20 days, moreover (Kandel, 2018). If the adults were still to be detained, the children would then have to be placed with the Department of Health and Human Services Office of Refugee Resettlement.

The zero policy approach was meant to cut down on the number of attempted illegal crossings. The effect was the possible separation of more than 3000 children from adults (Kandel, 2018). As public outrage grew over this separation, Trump gave a new order to keep families together in custody. However, this caused logistics issues as well, which resulted in

Customs and Border Protection simply relaxing on border prosecution and no longer referring cases for prosecution.

Family unit apprehensions had climbed nearly seven times from 2012 to 2018, so it was evident that something needed to be done and that a strong message needed to be sent—which was Trump's original intention. By showing illegal immigrants that anyone caught crossing illegally would be prosecuted and children taken, the message was clear; it was the outrage of the American public that caused the policy to buckle. However, the Trump Administration stood by its policy and argued that it was necessary to have a zero tolerance approach because there was no other way to discourage illegal immigration. Advocates of immigrants, on the other hand, have argued that most illegal immigrants should be given asylum because they are fleeing other countries where there are many problems for people who want to live in safety or find shelter from gang violence. Advocates have viewed the zero tolerance policy approach as cruel for not having a plan for family reunification. Critics see it as wasteful of resources and an inferior option to other less expensive alternatives. The Trump Administration has nonetheless stood by its argument for zero tolerance.

The problem has been politicized, as much of the criticism has come from the left of the political spectrum, whereas the right is still in favor of a tougher immigration policy. Although the Trump Administration has adopted a zero tolerance approach, it is not the first to have to deal with the separation of children from adults. It is the first, however, to receive such scrutiny from the media and from a segment of the American public that objects to the Trump Administration's general approach to politics and government. In the end, without a tougher immigration policy, enforcement will not work because there will be no prosecution and no message sent to those

seeking to cross illegally. The temporary problem of what to do with children may have to be suffered short-term, but longer term it should be seen whether a zero tolerance policy achieves the desired effect.

The Biden Administration's Immigration Policy

President Joe Biden's immigration policy is based on reversing the majority of the immigration policies of Trump's administration on the same. Joe Biden's first day in the office involved a reversal of most of the former administration's policies under former president Trump. Together with the Department of Homeland Security under Alejandro Mayorkas' leadership, Biden's administration intensely reined immigration and customs enforcement (ICE) deportation practices and prioritized national security. Immigration has been a significant source of cultural change and population growth in the United States. This has made it have a significant immigrant population compared to other countries. The following are the policies under Biden's Immigration Bill (Hiestand, 2021).

The Border Wall

This involved the proclamation in terminating the emergency regarding the United States Southern Border, and the funds shifted to the border's construction wall redirected. Soon after Joe Biden's inauguration, he halted the construction of the Mexican border wall, stating that the funds would be reallocated. The main strength of this policy is a remedy to the cultural and environmental destruction brought about by the wall construction since borderland, including sacred sites, had been dried and destroyed during the construction. The main weakness of this policy is that the United States, without the construction of the border wall, will be left insecure

and open to threats (Hiestand, 2021). This would potentially happen since the border would be left open for non-citizens of the United States, including those whose primary interest is criminal activities such as human and drug trafficking. The two administrations have varying approaches regarding this policy. According to Biden, as much as the US needs to protect its citizens from threats and secure its borders, the wall's construction is not a serious policy solution. Trump's administration's argument mainly came from an economic and the United States security perspective.

Travel Ban

This constitutes the ending of the discriminatory bans on individuals entering the United States, lifting certain travel restrictions on immigrant visas for individuals from countries including Tanzania, Syria, Eritrea, Iran, and Venezuela, among other nine countries, mainly of the Muslim religion. The strength of this policy is that it allows the selected countries to resume processing visas for their nationals and ensure pending waivers and visa applications are not discriminated against. This could have positive impacts, particularly on the country's economic growth. The main weakness of this policy is the impact it would have on the United States treasury since the immigrants coming into the United States would also have access to benefits including earned income tax credit, Medicaid, food stamps, and public education. This treasury would need to cater for this extra expense on individuals who are not United States citizens. Therefore, it is recommended that while the ban is lifted, the economic impact should be weighed thoroughly, and a determination made if the pros outweigh the cons and vice versa.

Furthermore, there should be strategies to ensure that an immigrant does not overstay to lower the economic impact on the treasury. Looking at the two administrations regarding this policy, Biden considers this ban a stain on the national consciousness. This opinion varies with that of Trump, who seemed to feel the Muslim community a threat judging from a statement he issued (Hiestand, 2021).

Immigration Customs Enforcement (ICE)

On January 20, 2020, Biden gave the executive order about revising the ICE policies and priorities. This revised the previous order by Trump that prompted the removal of every undocumented immigrant and a withdrawal of federal funding from the sanctuary states. The main strength of the revision under Biden's Administration is that it forbade and restricted the importations based on the less severe offenses and instead prioritized violent behavior and properly documented gang memberships and other rape, murder, child abuse records, among other serious crimes. The implementation of the policy would also relieve the mixed-status families and lower the economic burden on them. This policy's weakness is that it has not been strong enough to gain approval and has been hit by several blockage efforts, including a restraining order by the Supreme Court. The recommendation is that the policy is established clearly so that every stakeholder understands what it entails in detail and its repercussions. Comparing the two administrations regarding this policy, Biden looks at it from the humane point of view, considering even the families affected by the immediate deportations based on the offenses of smaller magnitudes and the children immigrants who come unaccompanied. Biden also places a priority on the major crimes, while Trump's Administration effectively sets no priority.

Deferred Action for Childhood Arrivals (DACA)

This concerns the preservation and fortification of DACA. The Attorney General and the DHS Secretary had been directed to take every action necessary and align with the United States law to preserve and fortify DACA. This program is meant to relieve individuals from advance parole, work authorization, and deportation for unauthorized migrants who got into the US when they were children. The main strength of this policy preservation is that it upholds. It considers the recipients who have been integrated into the United States communities and have contributed positively to their growth and access to various opportunities. The direct beneficiaries reap the benefits. Weaknesses of the policy include it not being a guarantee or pathway to legalization and its limited reach. Many beneficiaries have parents or relatives who lack access to the same access and protection. The imbalance creates burdens and strains to the young beneficiaries, especially those who contribute to the family expenses. The recommendation is that the beneficiaries' families are also offered the same or almost similar access to the resources and protection to relieve them of the stress, strain, and burden. According to former president Trump, many DACA beneficiaries are hardened criminals, portraying his negative opinion about immigrants. Biden's approach is that the beneficiaries who are immigrants should at least receive better opportunities, and the policy should therefore be upheld.

Deferred Enforced Departure (DED)

This is about the reinstatement of the DED for Liberians through 2022 and restoring the DED for the previously protected individuals before it expired on 10th January this year. This program provides immigrant work authorizations and protection against deportations to citizens

of the selected countries as authorized by the president, giving them time to apply for permanent residency. The memorandum further directs the Department of Homeland Security Secretary to ensure that the nationals experience timely adjudication to apply the LRIF benefits and ease of application. The strength of this policy is that the nationals of the designated countries are offered protection from deportation and are also allowed to work, thereby contributing towards the economic growth by the provision of labor and directly contributing to the economy by purchasing goods and services (Hiestand, 2021). However, the limitation of this policy is that the nationals are not automatically allowed to make trips abroad and can only do so with advance parole. Even though the president may give directives, including travel authorization, the DED holders must have advance parole approval if they seek to travel abroad. A recommendation is that the DED holders be extended the timeline as they seek permanent residence and possibly a policy that can allow them to travel abroad without advance parole. Again, the former administration's approach to immigration based on this policy differs from that of Joe Biden's Administration, especially since Trump moved to terminate this policy considering immigrant humanitarian protection and relief. The policy is further considered "a life-saving immigration program." Biden's decision to reinstate the program indicates his belief in humanity extended to immigrants.

"Rocket Docket" Policy

The Biden Administration has made very subtle but impactful changes to the immigration policy of the United States. For one, the administration's "rocket docket" policy reduces the amount of time immigration judges in 10 cities across the country can have before they make a decision on asylum seekers (Vera Institute, 2021). The reduction under this policy is 300 days as compared

to the 365 days policy during the Trump Administration. This is an even further reduction when compared to the Obama Administration two-year policy (Vera Institute, 2021).

This is a much harsher stance as compared to the Trump and Obama policies as it does not allow asylum seekers proper time to defend themselves. For one, the immigration system is very complex and esoteric to begin with. By reducing the days in which a decision must be made, immigrants are now forced to learn and navigate a complex legal system that they are not aware of. In addition, it limits the amount of time in which asylum seekers can gather resources in which to defend themselves in court. The administration has noted that these accelerated timelines will allow for a much more efficient procession of cases (Vera Institute, 2021). However, pundits have noted that the policy will instead give cover to any immigration judge to fast-track asylum-seeking families to deportation. Under the Trump Administration 75% of families in immigration court did not have a lawyer, which makes a very large difference in the overall outcome of the case (Vera Institute, 2021). As a result, the Biden Administration policy may only exacerbate an already alarming trend within the immigration space.

Crisis in Immigration Detention Centers at the Border

From the onset, it is important to note that as Heyman, Slack, and Guerra (2018) point out, the situation in border detention facilities can only be described as pathetic. As a matter of fact, the authors observe that in the past, some secret photos taken in some of the facilities such as the South Texas detention centers show the difficult and inhuman conditions that those detained therein – including children and women - live in. Although, as Heyman, Slack, and Guerra (2018) indicate, the leaked photos could have had a political dimension, it would be prudent to

note that they offer us a sneak preview of the situation in some of the said facilities. As a matter of fact, in recent times, more photos and videos have emerged indicating the terrible conditions in which those held in the detention facilities have to put up with. For instance, as recently as March, Rep. Henry Cuellar released photos of people being held in what appeared to be overcrowded makeshift pods at the Donna Processing Center (Neuman, 2021). As the author in this case points out, the said pods only had plastic sheathing as separators – effectively meaning that the occupants of the said pods were not effectively shielded from harsh environmental elements. Overcrowding was also a prominent feature in this case – with shelters designed to hold approximately 260 persons holding almost double the said capacity (Neuman, 2021). What is even sadder, children were also being housed under similar conditions. According to Robbins (2015), there are thousands of unaccompanied children who have in the past been detained in the said centers.

Others who have had access to the immigration detention centers at the border describe what they witnessed as heartbreaking. Investigative features have also indicated that disease happens to be rampant in the said centers (Anderson, 2021). As Anderson (2021) further points out, sexual abuse has also been reported. More specifically, in the words of the author, “findings from the BBC's investigation include allegations of sexual abuse, COVID and lice outbreaks, a child waiting hours for medical attention, a lack of clean clothes and hungry children being served undercooked meat” (Anderson, 2021). Where there are those who are convinced that we indeed have a problem given reports and findings such as these, there are of course those who are of the opinion that immigration detention center crisis has been overblown in some instances. For instance, according to Heyman, Slack, and Guerra (2018, p. 774), spotlighting the pathetic

state of border detention facilities, and the suffering of children and women therein, could have helped evoke “feelings of service and solidarity.” On the other hand, the sheer number of immigrants detained in the facilities could appear to others as an invasion crisis involving “disease-bearing, gang-ridden Latin American border migrants” (Heyman et al. 2018, p. 774). In my opinion, however, whether the crisis is overblown or not, we indeed have a problem that calls for the involvement of all the relevant stakeholders so as to successfully resolve.

The successful resolution of the crisis would call for the involvement of multiple agencies and organizations at both the federal and local levels. This is more so the case given that in addition to being a humanitarian crisis, the issue also tends to have legal and political ramifications. For instance, more needs to be done to hasten the pace of deportation proceedings. According to Robbins (2015), the Obama administration attempted to advance this agenda through the establishment of a juvenile platform in immigration courts. The relevance of ensuring that children are accorded fair hearing cannot also be overstated. This is often difficult to achieve owing to the sheer number of cases presented to the courts and human resource constraints. Amongst those detained at the detention facilities are individuals with genuine reasons for seeking asylum – and hence should not be deported. It should be noted that as Robbins (2015) observes, asylum – which happens to be rather difficult to secure – remains one of the most viable ways for persons facing persecution to “win relief from deportation.” However, to a large extent, winning the said relief from deportation happens to be a rather complex journey that would ordinarily call for proper guidance, especially for unaccompanied children in detention facilities.

In the final analysis, it should be noted that although the crisis is far from being resolved, significant progress has been made in recent times. This is more so the case since the Biden administration took over. The first few days of the administration were marred by confusion – which made the situation in the detention facilities even worse. However, at present, things appear to be headed in the right direction. For instance, according to Alvarez (2021), thanks to federal entities such as the Department of Health and Human Services, the wellbeing of children in detention facilities is being addressed in a more systematic and deliberate manner. For instance, the agency has established numerous shelters to help in the accommodation of children. In the words of Alvarez (2021), “that's allowed for an increasing number of children being transferred out of border facilities to spaces equipped to care for them at a quicker pace.” The present administration has promised to fix some of the problems that were prevalent during the Trump leadership. Only time will tell whether this is mere political rhetoric or genuine commitment on the part of the present administration to solve the crisis in immigration detention centers at the border.

Discussion

Immigration policies in the US are quite harsh for newcomers into the country. In contrast, it should be lenient enough to accommodate them and ease their burden of transference from one country to another unknown region. Although the constantly growing influx of immigrants within a country causes political and economic pressure on the host country, the host government should still understand that there is an influx of new skill and knowledge into the country that the government can make use of efficiently to run the economy for a better future for all.

There are several benefits of immigration accompanied by an entry of skills and expertise from a different region. Along with this comes the diversity and innovation of another geographic region, which the host country might need (Orrenius, 2016). The greasing of labor market wheels is competently done by the new growth and the gaps filled by new workers from another region. The productivity increases and economic wheels are better turned with an economic increment, equally beneficial for all races and ethnicities. The high-tech jobs and their vacancies could be filled by professionals from other parts of the world. Technological jobs, housing, and construction, which generally contribute to the entire infrastructure, would be improved immensely. Since the immigrants themselves are looking for jobs to provide to their families in dire times of need when they have traveled to a new country, the government should accommodate them in suitable positions for their good. The costs associated with the immigrants' support are not to be overlooked; however, they could be outweighed by their services to the host country. The economy has a natural tendency to adjust to the new coming labor, wages, and the profit gains from their services.

The current paper looks to outline a position on immigration and its importance to the United States. Trends in immigration will likely not abate within the near future and are more akin to a "natural migration." As a result, the current paper looks to weigh the benefits of a more accommodative immigration policy with the negative attributes that can occur in American society. These negative attributes are further segments against the backdrop of the moral duty of America. American citizens typically have a morally rigorous feeling about following the rules and the laws. If immigrants are deemed illegal, then they are typically viewed in negative terms. The contentious nature of immigration is very polarizing as there is no "correct" answer that

appeases all parties involved. The overall complexity of the issue makes it very burdensome as it relates to its impact on labor, wages, employment, taxes, society costs, and even education.

The immigration policy of the Obama Administration, compared to the Trump regime, was much more welcoming and positive towards immigrants. Here the administration cited many of the more positive statistics related to immigrants. Many do work that Americans are not willing to do. In addition, they use wages to buy goods and services to stimulate the economy. In addition, a vast majority are law abiding people in the sense that they do not commit crimes that detract from society at large such as theft, vandalism, and violence. However, when compared to Biden it appears that Obama was much more aggressive. Here Obama occupies a middle ground between Trump and Biden. Unlike Trump, President Obama was very vocal in advocating for the expansion of DACA (Deferred Action for Childhood Arrivals) and DAPA (Deferred Action for Parental Accountability). Although Trump did advocate for these policies, his stance often switched depending on his audience. These actions offered amnesty for children who were brought to the country by their parents while minors and lacked the technical qualifications for citizenship. This was seen as a net positive as these children often grew up to be very productive, tax paying members of society. This allowed protections for victims who had no control over their parent's behaviors while also streamlining immigration policy decisions related to children. However, on the negative side, Obama restricted the ability for ICE to enforce their duties on the border. Through legislation, the Obama Administration limited the ability and flexibility of ICE agents to make decisions related to illegal immigrants that were detained.

All three administrations had very unique and often conflicting strategies when approaching the immigration conundrum. The most aggressive policy was by far that of Donald

Trump and his administration. The Trump Administration argued that it was necessary to have a zero-tolerance approach because there was no other way to discourage illegal immigration. Advocates of immigrants, on the other hand, have argued that most illegal immigrants should be given asylum because they are fleeing other countries where there are many problems for people who want to live in safety or find shelter from gang violence. Here the Trump administration was very aggressive in discouraging illegal immigration. This discouragement comes both in the administration's rhetoric and its policies. From the wording standpoint, Trump was on record in numerous circumstances discouraging many of the immigrants from Mexico. He famously called many of these immigrants, rapists and drug dealers, in numerous speeches. In response, a large swath of Americans agreed with his policies related to immigration, in large part due to fear from Trump's very contentious rhetoric. This resulted in a large amount of controversy related to inhumane conditions for those seeking asylum, the construction of a physical border wall throughout the southern border, and a significant increase in ICE agents. Trump also made changes to the legal system to make it quicker to deport illegal immigrants.

In contrast, President Joe Biden's immigration policy is currently based on reversing the majority of the immigration policies of the Trump's administration. Joe Biden's first day in the office involved a reversal of most of the former administration's policies under former president Trump. Here, Biden has made many of the immigration policies much more flexible as it relates to how it handles immigration policies. For one, the administration limited the ability to deport illegal immigrants with the major exceptions being national security concerns. He has also enacted legislations related to DACA to help increase the likelihood of talented immigrants being retained in the country.

There are several implications as a result of these policies, namely that they will change heavily depending on the party in power. The overall variability in immigration policy every four years makes it very difficult for immigrants to actually seek citizenship. Changing rules, regulations, and procedures require very well-intentioned immigrants to acquiesce to a number of different policies. This can be very confusing and ultimately delay the citizenship of many desirable candidates. Even more important is the rhetoric surrounding immigration during the Trump administration. Much of the rhetoric, unequivocally, was racist and not based on factual information. As a result, the public at large was misled, further alienating and ostracizing immigrants. For one, many immigrants are looking to flee persecution for a change at a better life. In contrast to Trump, many are not murderers, rapists, and drug dealers. Instead, many are hardworking individuals simply looking for a better way of life. The negative rhetoric by the Trump administration not only went against the ideals of America, but it also caused the public at large to fear immigrants in a manner not seen in decades. Many immigrants were persecuted, left in inhumane conditions, and even had children separated from their parents with no ability to locate them. These policy decisions, although they help abate the rise of illegal immigration, did not subscribe to the ideals and beliefs of the American system at large.

The Biden Administration appears to be doing damage control as it relates to the disastrous policies of the Trump administration by reversing nearly all of the previous policies set in place. This is somewhat confusing to immigrants as they are surely not aware of all the policy changes and shifts. As a result, it appears that many immigrants are confused as to how to proceed as it relates to their application for citizenship within the United States. Likewise, those

in charge of border security such as ICE and other immigration agencies must also adapt to rapidly changing policies.

As it relates to recommendation for the future, the first priority should be to have bi-partisan immigration policy that is not subject to rapid change every election cycle. The policy should be understandable and concrete so that all stakeholders involved know how to handle particular circumstances. This heavily reduces ambiguity, makes the system much more efficient, and provides a concrete foundation by which future immigrants can rely on. The legislation will be somewhat complex due to the issue of DACA, asylum, deportation, and the response to those already in the country. However, through a bi-partisan approach, the country can fulfil all the obligations in which Americans continue to clamor for. First, Americans, by and large, want a secure border. They differ in the manner in which to secure it, but most do want to have a border that is protected from foreign threats. Second, most Americans are accepting of legal immigration as a majority of its citizens are immigrants (Hirschman, 1999). Finally, American typically want to mitigate illegal immigration. As a result, policy recommendations in the future should take account of these three elements.

References

- Alvarez, P. (2021). *Number of children held in Border Patrol facilities dropped 84% since peak last month*. <https://edition.cnn.com/2021/04/29/politics/border-patrol-unaccompanied-minors/index.html>
- Anderson, H. (2021). *'Heartbreaking' conditions in US migrant child camp*. Retrieved from <https://www.bbc.com/news/world-us-canada-57561760>
- Androff, Ayon, Becerra, Gurrola, Salas, Krysik, Gerdes, & Segal, E. (2011) U.S. Immigration Policy and Immigrant Children's Well-being: The Impact of Policy Shifts. *The Journal of Sociology & Social Welfare*, 38(1).
- Campbell, K. (2010). Imagining a more humane immigration policy in the age of Obama: The use of plenary power to halt the state balkanization of immigration regulation. *St. Louis University Public Law Review*, 415.
- Cox, A. & Rodríguez, C.M. (2020). *The President and Immigration Law*. Oxford University Press.
- Davis, J.H. & Shear, M.D. (2020). *Border Wars: Inside Trump's Assault on Immigration*. Simon and Schuster.
- Shihadeh, R. & Barranco. (2010). Latino Employment and Black Violence: The Unintended Consequence of U.S. Immigration Policy, *Social Forces*, 88(3), 1393–1420, <https://doi.org/10.1353/sof.0.0286>
- Epstein, R. (2019). *The Immigration System Is Inhumane. The Next President Must Dismantle It*. <https://www.aclu.org/blog/immigrants-rights/immigration-system-inhumane-next-president-must-dismantle-it>
- Gabbatt, Adam (July 6, 2018). "The growing Occupy Ice movement: 'We're here for the long haul'". *The Guardian*. ISSN 0261-3077.
- Gomberg-Munoz, R. & Nussbaum-Barberena, L. (2011). Is Immigration Policy Labor Policy? Immigration Enforcement, Undocumented Workers, and the State. *Social Justice*. 1. https://ecommons.luc.edu/social_justice/1
- Hanson, Gordon. 2005. "Challenges for U.S. Immigration Policy," in C. Fred Bergsten, ed., *The United States and the World Economy: Foreign Economic Policy for the Next Decade*, Washington, DC: Institute for International Economics, 343-372

- Heyman, J., Slack, J. & Guerra, E. (2018). Bordering a “Crisis”: Central American Asylum Seekers and the Reproduction of Dominant Border Enforcement Practices. *Journal of the Southwest*, 60(4), 754-786.
- Hiestand, E. Pinochet as a Fourth Critical Juncture. *Beyond Politics 2021 Editorial Board*, 90.
- Hirschman, Charles, Philip Kasinitz, and Josh DeWind, eds. *The Handbook of International Migration: The American Experience*. New York: Russell Sage Foundation, 1999.
- Jurado D, Alarcón RD, Martínez-Ortega JM, Mendieta-Marichal Y, Gutiérrez-Rojas L, Gurpegui M. (2017). Factores asociados a malestar psicológico o trastornos mentales comunes en poblaciones migrantes a lo largo del mundo. *Rev Psiquiatr Salud Ment (Barc)*. 10:45---58.
- Kagan, M. (2016). Binding the enforcers: The administrative law struggle behind Pres. Obama’s immigration actions. *Scholarly Works*, 937. <https://scholars.law.unlv.edu/facpub/937>
- Kandel, W. (2018). *The Trump Administration’s “Zero Tolerance” Immigration Enforcement Policy*. Washington, DC: CRS.
- Kandel, W.A. (2021). *The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy*. Independently Published.
- Koven, S.G. & Gotzke, F. (2010). *American Immigration Policy: Confronting the Nation's Challenges*. Springer Science & Business Media.
- Neuman, S. (2021). *CBP Defends Conditions At Border Detention Centers Amid Upsurge In Migrants*. <https://www.npr.org/2021/03/23/980290448/cbp-defends-conditions-at-border-detention-centers-amid-upsurge-in-migrants>
- Ogletree Jr, C.J. (2000). America's Schizophrenic Immigration Policy: Race, Class, and Reason, 41 *B.C.L. Rev.* 755. <http://lawdigitalcommons.bc.edu/bclr/vol41/iss4/1>
- Orrenius, P. (2016). *Benefits of immigration outweigh the costs*. Bush Center. <https://www.bushcenter.org/catalyst/north-american-century/benefits-of-immigration-outweigh-costs.html>
- Robbins, R. (2015). *Immigration Crisis Shifts from Border to Courts* <https://www.nytimes.com/2015/08/24/nyregion/border-crisis-shifts-as-undocumented-childrens-cases-overwhelm-courts.html>
- Roger Daniels (2002). *Coming to America: A History of Immigration and Ethnicity in American life*. Harper Perennial.

Ronald Bayor, ed., *The Oxford Handbook of American Immigration and Ethnicity* (Oxford University Press, 2016)

Vera Institute of Justice. "The Biden Administration Is Trying to Speed Up Deportations." *Vera Institute of Justice*, Noora Barakat, 3 Aug. 2021.