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## Immigration Policy In Biden's First 100 Days

**D**uring his first 100 days, President Joe Biden has implemented a much more humane immigration policy than his predecessor's hardline, anti-immigrant position. We could suppose that Biden might easily reverse Donald Trump's changes to the immigration system, given that most of them were made through executive orders. However, that could happen slowly and with a lot of stumbling blocks, mainly because, for the moment, the bureaucracy loyal to the previous president is an obstacle.

From the start, Biden, too, signed several executive orders on immigration issues. The following are the most important policies flowing from them, as well as the promises and actions they imply:

1. He stopped construction on the border wall. In its place will be a "virtual wall" and "intelligent borders," using latest-generation technology for surveillance. It should be pointed out that his predecessor redirected funds for rebuilding and completing a 453-mile stretch of wall, one of the costliest of his mega-projects, coming to approximately US\$15 billion. Biden has proposed that the US\$14 billion still unspent be used to repair the environmental damage the project caused.<sup>1</sup>
2. Biden declared a 100-day moratorium on deportations, instructing U.S. Customs and Border Protection (CBP) that it should only deport undocumented migrants with criminal records or those considered a danger to national security. This means that arrests and detentions have decreased 62 percent, dropping from 5,119 to an average of 2,000 from February to March.<sup>2</sup>

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Among the factors that significantly increased migrant flows are the feeling that the risk due to the pandemic in the U. S. has shrunk and some of Biden's promises that, intentionally or not, incentivated migration.

3. The president eliminated the travel ban that limited the issuance of visas to foreigners from thirteen African countries with majority Muslim populations.
4. He rolled back the ban on immigration and temporary work visas implemented by Trump during the pandemic. In the case of Mexicans, visas for non-agricultural workers dropped from 72,000 in 2019 to 46,000 in 2020. Visas for highly skilled workers also dropped 50 percent, from 2,700 to 1,500, as did those for intra-company employees, from 5,000 to 2,400, and NAFTA TN visas, from 21,000 to 13,000. By contrast, visas for agricultural workers increased from 188,000 to 197,000, compensating for the drops in the others.<sup>3</sup> In 2020, Central Americans from what is known as the Northern Triangle (El Salvador, Guatemala, and Honduras) were issued a total of 5,811 temporary visas, while Mexicans received 265,333.<sup>4</sup>
5. President Biden promised to reinstate the DACA and TPS policies suspended by Trump, which negatively affected approximately 700,000 Dreamers, most of them Mexican.
6. He reinstated the Central American Minors (CAM) program, also eliminated by Trump, which allows Central American children to receive refugee status together with a mother or father living legally in the United States.<sup>5</sup>
7. He promised to stop expelling unaccompanied minors, although they continue to be apprehended and most are handed over to adults and families in accordance with public health law Title 42.<sup>6</sup>

Among the promises President Biden made that have not yet been fulfilled are the following:

1. He committed to quadrupling the ceiling on the number of refugees to be admitted for fiscal year 2021. That is, from Trump's infamous 15,000-person limit, Biden would increase it to 62,500. This has not

happened due to issues related to the previously approved budget, which means that goal will be difficult to reach.

2. He has gradually let the Migrant Protections Protocols (MPP) or "Remain in Mexico" program lapse. This policy requires asylum applicants to wait in Mexico until their cases are resolved, regardless of their nationality. The MPP forced a total of more than 71,000 asylum-seekers to wait in Mexico until their cases could be considered by U.S. immigration judges; 40,000 of them have already being denied asylum. About 2,200 have been admitted so far; the rest are still waiting in Mexico with pending court cases.<sup>7</sup>
3. The government has begun family reunification of approximately 1,000 of the 5,000 families separated by Trump's zero-tolerance policy since 2017.

In the short term, we can suppose that Biden's problems have increased regarding the Mexico-U.S. border because migratory flows have risen significantly. From November 2020 to March 2021, apprehensions came to 674,330, 60 percent of whom were Mexican citizens. This figure is more than half of all the detentions for 2019 (1,148,000), but a very similar number to those logged in 2020 (646,822), when the pandemic made them drop drastically.<sup>8</sup>

Among the factors that have contributed to the significant increase in migrant flows and therefore of apprehensions since January are, on the one hand, seasonal migration, and, on the other, the feeling that the risk due to the pandemic in the United States has shrunk, as well as Biden's actions or promises that, intentionally or not, have increased the incentive to migrate.

Given the implicit challenge in the significant increase in migratory flows, Biden has committed to building more shelters, quickly transferring children to new facilities, doing what is possible to reunite them with their relatives or U.S. sponsors, and speeding up the review of asylum applications, which currently can take years to reach a final decision. This implies overturning qualitative and quantitative changes made in infrastructure and personnel during the Trump years.

Some Central Americans read these promises to mean that it was time to plan their long, costly journey through Mexico, where they would also be exposed, in addition to the abuses by the coyotes (people smugglers), to differ-

ent kinds of violence and theft. They do this in order to surreptitiously cross over the U.S. border or request asylum, escaping from unstable, corrupt governments, fragile economies with no growth at all, poverty, the excessive criminal gang violence, and the devastation left in the wake of hurricanes.

The notable increase of the number of Mexicans crossing the border in recent months has to do, among other things, with the fact that sectors of the population have been affected by a pandemic managed, in my opinion, terribly by the government of Andrés Manuel López Obrador. It is also due to the 8.5-percent decline in Mexico's economy in 2020, added to the fact that in 2019 saw no growth either due to a lack of confidence and reduced investment, causing the loss of thousands of jobs.

We could say that the contrast between Trump's and Biden's policies is amazing. Now, after many years, there is talk of immigration reform, one we Mexicans both here and in the United States have been dreaming of. The Democratic majority in the House of Representatives, supported by Biden, presented a bill called the U.S. Citizenship Act. Introduced by Senator Bob Menendez (D-NJ) and Representative Linda Sanchez (D-CA), among many other measures, it would create a path to citizenship for undocumented migrants, 55 percent of whom are of Mexican origin. The Farm Workforce Modernization Act and the American Dream and Promise Act, both passed in the House, have bipartisan support. The former would provide permanent residency to approximately 1.1 million mainly Mexican undocumented agricultural workers, as long as they can show they have worked 400 days in agricultural activities over the last five years. The latter bill would allow the Dreamers and TPS holders and their families (almost 1.85 million people) to remain in the country legally and eventually apply for citizenship.

All of this is great news for Mexicans, even though we know that without Republican support in Congress, it will be very difficult to get these bills passed. Some Democrats think that comprehensive immigration reform does not have much of a chance of passing and that instead, a piece-meal approach is more feasible.

We also hope they include bills to increase the number of visas for temporary Mexican workers; as mentioned above, their numbers declined in 2020 due to the pandemic. Politically speaking, it is difficult to find the perfect moment for pushing immigration reform through because

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there is no quick, easy solution. Biden's big challenge will be to generate a bipartisan consensus for his immigration reform, whether it is piece-meal or comprehensive.

With regard to migratory relations, Biden and López Obrador came to an agreement to slow the flows of Central American migrants. Although it was not a matter of *quid pro quo*, it resulted in an exchange: the loan of 2.7 million doses of the AstraZeneca vaccine conditioned on our southern border closing for non-essential trips and the deployment of approximately 10,000 National Guard troops to our southern border in addition to those already deployed under pressure from Trump throughout the country in 2019. They have acted as border patrols, even though they had no experience in that capacity. It is important to underline that in the bilateral Remain-in-Mexico accord signed in 2019, President López Obrador accepted the return of asylum-seekers to Mexico without hearings. For some of these people, this meant living in vulnerable and even dangerous conditions, without access to immigration lawyers, which constitutes a violation of their rights. Today, we do not receive children returnees, but we do receive many adults and families.

At the Leaders' Summit on Climate, President Andrés Manuel López Obrador proposed expanding the Sowing Life program to Central America, concretely to the Northern Triangle. The citizens of these countries would receive incomes in exchange for sowing fruit trees and loggable timber on their own land to help them put down roots and avoid poverty-based migration. He proposed to Biden that the peasants participating in this extended Sowing Life program in Central America would have the right to apply for a temporary work visa in the United States after three years. Three years after getting those visas, they would be eligible to become naturalized U.S. citizens and, if they so desired, maintain dual nationality.<sup>9</sup> From my point of view, this is a whim and shows his ignorance about how the U.S. immigration system works. In addition, with a Trump-like contention approach, Biden has

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already come to agreements similar to the one with Mexico with the Central American governments to increase surveillance of their respective borders.

In an effort to deal with the situation, Biden put Vice-president Kamala Harris in charge of border issues and designated her the representative before the Mexican and Central American governments to try to come to a regional agreement. This definitively contrasts with Trump's view; far from supporting them, he drastically cut back annual aid to Central American countries. In the context of the U.S.'s commercial distancing with China, now is the moment when Mexico, its main trade partner, can come to an agreement to create jobs through the supply chains and production for export.

Until now, bilateral measures have sought to unilaterally contain migratory flows. In the short run, it is indispensable that a shared plan be created in the region to handle the processes of migratory outflows, to discourage mass caravans, and to institutionalize the return and integration of thousands of migrants who have been turned back and expelled to settle them in their destination towns or cities. It is also indispensable that the disastrous conditions in the shelters on both of Mexico's borders be dealt with. If it were not for help from NGOs and international agencies, they would be in even worse conditions than they currently are.

The changes Biden has made have been truly transformative in the broadest sense of the word. And we hope that he can change the anti-immigrant rhetoric that prevailed during the Trump era to a more humane, sensible, realistic one that speaks to the economic benefits that immigrants contribute to the U.S. economy and society, as well as takes into account that their labor is absolutely necessary. That would be a discourse that would change the approach to the phenomenon with real prospects for transformation.

As a region, we have to explore the role Canada could play with its greater acceptance of refugees and temporary

workers. I think that today we must think about a reality based on the rules imposed by the eventual post-pandemic world, a scenario that would include distance jobs and education using digital resources, in order to support Mexicans and Central Americans. It is essential that legal channels be opened in the U.S. market for Central Americans to enter; that is, an increased number of temporary work visas for agricultural and non-agricultural jobs. Finally, we hope that the US\$4 billion Biden has proposed as aid to Central America is approved and sent, even though its results will be felt only in the long run. ■■■

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Notes

- 1 Niv Elis, "Biden Cancels Military-funded Border Wall Projects," *The Hill*, April 30, 2021, <https://thehill.com/homenews/administration/551227-biden-cancels-military-funded-border-wall-projects>.
- 2 Trac, "Immigrant Detention Numbers Fall under Biden, but Border Book-Ins Rise," Newhouse School of Public Communications and the Whitman School of Management, Syracuse University, New York, March 15, 2021, <https://trac.syr.edu/immigration/reports/640/>.
- 3 U. S. Department of State-Bureau of Consular Affairs, "Nonimmigrant Visa Statistics, Nonimmigrant Visa Issuances by Visa Class and Nationality, fiscal years 1997-2020," <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/nonimmigrant-visa-statistics.html>.
- 4 Data obtained by the author after reviewing different documents.
- 5 The 2,700 children approved to travel prior to CAM's termination will be the first group eligible to come to the country, and the program will then be expanded to new applicants. Muzaffar Chishti and Jessica Bolter, "Border Challenges Dominate, but Biden's First 100 Days Mark Notable Under-the-Radar Immigration Accomplishments," *Reliefweb*, Migration Policy Institute, Washington D. C., April 26, 2021, <https://reliefweb.int/report/united-states-america/border-challenges-dominate-biden-s-first-100-days-mark-notable-under>.
- 6 See "A Guide to Title 42 Expulsions at the Border," American Immigration Council, [https://www.americanimmigrationcouncil.org/sites/default/files/research/title\\_42\\_expulsions\\_at\\_the\\_border.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/title_42_expulsions_at_the_border.pdf). [Editor's Note.]
- 7 Lomi Kries, "The People We Left behind: How Closing a Dangerous Border Camp Adds to Inequities," *The Texas Tribune*, March 18, 2021, <https://www.texastribune.org/2021/03/18/asylum-mexico-border-migrants/>.
- 8 U. S. Customs and Border Protection, "CBP Enforcement Statistics Fiscal Year 2021," May 2021, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.
- 9 This program began in 2019. See "Arranca 'Sembrando Vida' en El Salvador, estrategia de México para atender la migración," Gobierno de México, <https://presidente.gob.mx/arranca-sembrando-vida-en-el-salvador-estrategia-de-mexico-para-atender-la-migracion/>; and "¿Cómo funcionaría el plan de visas a jornaleros de Sembrando Vida que AMLO propondrá a Biden?" *El Financiero*, April 19, 2021, <https://www.elfinanciero.com.mx/nacional/2021/04/19/como-funcionaria-el-plan-de-visas-a-jornaleros-de-centroamerica-que-amlo-propondra-a-biden/>. [Editor's Note.]