



Rift grows between Biden and immigration advocates

Rafael Bernal and Rebecca Beitsch

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When images of Border Patrol agents on horseback aggressively corralling Haitian migrants filled the airwaves in September, immigration advocates were shocked to see cruelty that rivaled anything they'd denounced under former President Trump.

What followed was not the reckoning on immigration enforcement that President Biden's allies in immigration advocacy expected, but a top-level push to send immigration to the back burner in favor of other policy issues.

"I never would have predicted this White House, within Year One, would be expelling Haitians to a failed state," said Frank Sharry, executive director of America's Voice, a progressive immigration policy organization.

"In December of 2020 we're talking about a transformative vision. And in 2022, expelling Haitians without a meaningful asylum process. Wow."

The arrival and subsequent expulsion of about 15,000 Haitians in Del Rio, Texas, and its aftermath cemented advocates' fears that Biden's early promises of an optimistic, wide-ranging, humanitarian approach to immigration had devolved into a tactical day-to-day management of a political liability.

A year in to the Biden administration, policy victories have been overshadowed by Trump-era holdovers that together block the majority of migrants from seeking asylum: either immediately expelling them from the U.S. without the chance to apply — the outcome for many Haitians in Del Rio — or forcing them, like under Biden's predecessor, to await their asylum court date in Mexico.

"The administration started very strong and announced a lot of things as on Inauguration Day or shortly thereafter that many of us took as a positive signal of things to come," said Jorge Loweree, policy director with the American Immigration Council, pointing to Biden's reversal of the so-called Muslim travel ban.

But the politics of the border have clouded many of its immigration decisions, he said.

“The issues at the border seemingly made the administration reticent to do much of anything on immigration for fear of the potential consequences, which has been very disappointing,” he said. “Frankly, things could have gone much different.”

Biden administration officials on Wednesday went on a media blitz to defend the administration's accomplishments, with Homeland Security Secretary Alejandro Mayorkas and Esther Olavarria, the deputy director for immigration on the Domestic Policy Council, touting the administration's immigration accomplishments.

“In this first year, we have been building an immigration system that was dismantled by the prior administration. We have had to rescind cruel policies, bring offices back to life, issue new policies, rebuild entire operations,” said Mayorkas.

“At the outset, we established a fundamental principle, and that is the respect for the dignity of each individual,” he added.

Biden has signed nearly 300 executive actions on immigration, many of them reversing Trump policies like the public charge rule, and moved away from an immigration enforcement agenda where any undocumented person was considered a priority for removal.

Still, the administration has placed emphasis on touting economic and social policies — not immigration — in talking points distributed to congressional offices by the White House for Biden's first anniversary as president. In those talking points, there was not a single note on immigration.

Two policies are central to the rift between the administration and advocates: Title 42 and the Migrant Protection Protocols (MPP), also known as “Remain in Mexico.”

“If we look at the whole picture, we've made some progress as policy goals: the plans to boost refugee admissions, the halt to workplace raids, ending enforcement of the public charge,” said Rep. Jesús García (D-Ill.), one of three Democrats who led the charge to keep immigration provisions in Biden's signature Build Back Better (BBB) legislation.

“But of course, I remain alarmed by the number of Trump's worst policies that are still in place — Title 42 and Remain in Mexico,” added García.

The latter is a policy that by the administration's own admission cannot be humanely implemented: It requires prospective asylum-seekers to wait in Mexico while their claims are adjudicated by U.S. courts.

Mayorkas has twice issued memos rescinding MPP, but courts have forced the Biden administration to reimplement it.

While Mayorkas has denounced MPP, the Department of Homeland Security also expanded the program as it sought to fulfill court orders requiring continued implementation of MPP, a program that under Trump only applied to citizens of El Salvador, Guatemala and Honduras.

“This isn't Remain in Mexico as we know it. It's an expansion — the Biden administration policy expands the nationalities subject to forcible returns,” said García.

And Title 42, on paper a pandemic-related sanitary protection that allows U.S. officials to immediately expel foreign nationals caught at the border under the auspices of Centers for Disease Control and Prevention authority, has been even more divisive.

Administration officials had signaled they would wind down Title 42, but that initiative lost steam with the emergence of the Delta variant and nonstop press coverage of Del Rio and monthly border apprehension numbers.

“We kept hearing Title 42 is going to be taken down in late 2020, or at least rumors of that and they were making arrangements,” said Sharry, of America's Voice.

“But they didn't stick with it. They didn't follow through. Instead of going forward, they decided to go back and take the heat. I just think that as a policy matter, it's a short-term reaction that will solve nothing in the end, and as a political matter, I think it's trying to placate those who hate you instead of deliver for those who back you,” he added.

The Biden administration's sensitivity to press coverage and criticism from the right has become a major point of frustration for immigrant advocates throughout the political spectrum.

“I think the key decision makers in the Biden administration are of the position that migrants who are already here are beneficial and should be integrated and should get citizenship,” said David Bier, an immigration policy expert at the Cato Institute.

“But future immigration is not seen as an opportunity to be harnessed to the benefit of a country, it's seen as a detriment. It's seen as a problem to be managed, rather than an opportunity to grow and improve the country,” added Bier.

Faced with a wide array of domestic and international challenges, the administration and its closest Democratic allies have become hypersensitive to criticism on immigration, choosing instead to publicly address other policy priorities.

“The hypersensitivity could be coming either from Republicans that are trying to project, I think wrongfully, that everything that's wrong with our country is directly connected to the migration patterns on the southern border, or the hypersensitivity could also come from that guy on a horse with a whip,” said Rep. [Adriano Espaillat](#) (D-N.Y.).

That risk-averse approach has made the administration stingy when called upon to expend political capital on immigration bills in Congress.

After an initial proposal that laid out the administration's immigration wish-list, including a pathway to citizenship for 11 million people, the pledge to pass systematic immigration reform through Congress never materialized.

Discussions in Congress to include immigration in the BBB proposal whittled away the number of immigrants that it would help, as the Senate parliamentarian repeatedly rejected proposals that she said stretched the bounds of procedures needed to pass legislation with just 50 votes.

García, along with Espaillat and Rep. [Lou Correa](#) (D-Calif.), threatened to vote against both BBB and the bipartisan infrastructure deal if immigration provisions were discarded.

Ultimately, the House passed a bill that would provide up to 10 years of work authorization for those already in the U.S., a status that could be used as a springboard to citizenship for up to 3 million people. The Senate has yet to take up the measure.

“The administration obviously deserves credit for very early on sending a broad immigration reform package to Congress. But we've also seen a lack of leadership from the administration during the legislative debates that followed. It was at many moments unclear what the administration supported and believed to be priorities, which complicated matters on the Hill,” Loweree said.

The failure to legislate — hardly exclusive to the Biden administration — was preceded by Biden's high-flying campaign promises and the pain of unfettered immigration enforcement during the Trump administration.

In the whiplash between a president who'd promised a wall and mass deportations and a president with the most liberal immigration platform in decades, advocates saw an opportunity for a realistic shot at reform, whether legislative or through executive action.

“We have not seen the president really step up to the plate on those more politically challenging issues. And he needs to do that to deliver on his promises and to uphold his own vision and principles on immigration,” said Greg Chen, director of government relations for the American Immigration Lawyers Association.

Sen. Bob Menendez (D-N.J.), who led the Senate push to include immigration in BBB, put the onus on the administration to keep the issue alive.

"In 2022, when immigration policy and border management will be focal points of national debate, the Biden-Harris administration cannot run away from immigration policy," Menendez said.

"Instead, it is the time for them to work in lockstep with Congress on any and all options to achieve inclusive and humane reform," he added.

And some Democrats saw the opportunity to build base loyalty to rival Trump's, or the risk of alienating immigrant-friendly voters.

“I probably represent the largest number of Dreamers in the country, and my community is certainly immigrant and not only Latino, but from around the world. People are saying, you know, we've had it with Democratic promises,” said Correa.

“So this is a very precarious position right now for the Democratic Party. If nothing is done on immigration reform, there's going to be some difficult challenges for the Democrats next election cycle,” he added.