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BIDEN'S DILEMMA AT THE BORDER


America's broken immigration system has spawned a national fight, but Congress lacks the political will to fix it.

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A group of migrants found hiding in a desert cave in Texas is taken into custody by border authorities. Photographs by John Francis Peters for The New Yorker

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Earlier this year, in a helicopter above the Mexican border, a team of Texas state troopers searched for people crossing into the United States. As they flew over a neighborhood west of El Paso, the radio crackled with the voices of Border Patrol agents on the ground below, calling out migrants who were evading them.

“We got four bodies headed north.”

“Five out in the northeast quadrant.”

“Behind you—six bodies.”

While people fled across the landscape, the troopers in the helicopter tracked them and passed their locations to the Border Patrol agents, who

raced after them in trucks. “I got ten bodies to the southwest,” Captain German Chavez, the pilot, said into his radio. “There’s two,” he announced, maneuvering the helicopter above a row of houses, then said, “I lost them.”

All day, groups of migrants rushed to find cover, while federal agents fanned out after them. By nightfall, dozens had been apprehended. But, Chavez said, “for every five or six groups we see, we’ll get one or two—if we’re fast enough.”

The team in the helicopter had been dispatched as part of a campaign to stanch the flow of migrants, who have crossed the border in record numbers in the past two years. The following afternoon, Chavez was flying across the West Texas scrubland when the Border Patrol called again, to report that about a thousand migrants were charging the border at the edge of El Paso. “We need your help,” the agent said.

Within minutes, Chavez was above the Rio Grande. On the Mexican side, a row of railroad cars were parked a hundred yards from the border, and people were rushing out. As they moved toward the river, Mexican guards stepped aside, letting them pass. Then the migrants waded through the water: women with babies, men with duffels, children. On the American side, a couple of Border Patrol agents looked on. The migrants gathered on a thin strip of land along the Rio Grande, sealed off from the rest of El Paso by a high wall. Once in American territory, they began sitting in the dirt. “They’re turning themselves in,” Chavez said.

Broadly speaking, the people who enter the country without permission fall into two groups. The first includes those who sneak in and try to evade capture. The second includes asylum seekers, who either apply at

official ports of entry or make their way across the border and offer themselves up for arrest. Since early 2021, the second group has grown strikingly.

After about an hour, while the helicopter circled overhead, a string of Border Patrol buses arrived, entering through a gate in the wall. A busy highway ran on the city side, and, as the migrants began boarding, drivers streamed by, oblivious; across the highway, kids played basketball. By sundown, the buses and the migrants were gone. Chavez turned his helicopter back to base.

A spokesman for the Border Patrol refused to say what had become of the group that arrived in El Paso that day; given the vagaries of American immigration law, it was difficult to determine with much certainty. But, in the past two years, millions of migrants, spurred by political and economic turmoil in their home countries and by President Joe Biden's welcoming stance, have come to the southern border and crossed into the United States. Though hundreds of thousands have been denied entry, hundreds of thousands more—from countries as far away as China and Tajikistan—have made their way in, often by claiming that they will face persecution or violence if they return home. "People were saying if you made it to the border there's a good chance you'll be allowed in," one migrant from South America told me.

Disastrous conditions in Central and South America and in the Caribbean have helped propel an unprecedented stream of migrants to the southern border.

The influx has transformed towns and cities along a two-thousand-mile frontier, running through California, Arizona, New Mexico, and Texas. Emergency-room doctors struggle to treat new arrivals. Smugglers speed down local roads to take migrants into the interior, and thousands of agents fly helicopters, operate drones, and pursue them over land.

The unrest at the border has become one of the most contentious political issues in a deeply divided United States. Ultimately, it is enabled by an underfunded and antiquated system that Congress—paralyzed by mutual

animosity—has failed to address. But politicians on both sides are eager to blame each other. Greg Abbott, the governor of Texas, accused Biden of abandoning his constituents, saying, “He does not care about Americans. He cares more about people who are not from this country.” Biden argued that the G.O.P. blocked reforms because it believed that turmoil was to its advantage: “Immigration is a political issue that extreme Republicans are always going to run on.”

In recent months, anxieties around the border reached a furious pitch. At the beginning of the COVID-19 pandemic, Title 42, an obscure provision of the Public Health Service Act of 1944, was temporarily revived for use at the southern border, allowing agents to expel migrants in fifteen minutes. Since then, it has been deployed millions of times, becoming the primary means of closing the border. Last month, with the pandemic largely over, Title 42 expired.

Along the border, immigration officials and residents braced for a deluge. “There are thousands of people wanting to come in, bottled up on the other side,” Ruben Garcia, the director of Annunciation House, in El Paso, which has helped resettle tens of thousands of immigrants in the past two years, told me. A political scramble also ensued. The Biden Administration announced measures to make it more difficult to enter without prior permission, along with a series of expanded pathways to come legally. Conservative leaders responded with lawsuits, claiming that Biden was changing the system to flood the country with foreigners. Immigrants’-rights groups also sued, arguing that any attempt to restrict asylum was equivalent to President Donald Trump’s most severe measures; one organization suggested that Biden was pulling his policies from the “dustbin of history.”

Immigration hawks predicted that, when Title 42 lapsed, arrests at the border—a common metric of attempts at migration—would swell to more than ten thousand a day. Instead, they subsided to less than half that. Many observers agree that these numbers are influenced by the spread of news about changes in regulations—that prospective immigrants in the Ecuadorian highlands are as informed about policy as the staff of the U.S. Embassy is. But there are also many other factors, which create fluctuations that no one quite understands. There were, on average, five thousand arrests a day in January and seven thousand in April; the high-water mark of ten thousand was reached not in the days after Title 42 expired but in the days before. As the debate continues in Washington and on cable news, few people in the region believe that the immigration system has been meaningfully fixed. “The border is wide open,” an agent near Comstock, Texas, told me, sitting in his pickup. “We’ve never had enough agents.” He looked out on an expanse of scrubland, fading in the late-afternoon light. “Just wait until the sun goes down.”

American immigration laws are among the world’s most generous. In a typical year, Germany, with a population of eighty-three million, grants citizenship to about a hundred and twenty thousand people. The U.S. welcomes some eight hundred thousand new citizens a year, and gives temporary residency to millions more, from Silicon Valley tech workers to university students to tourists. But the number of people who want to come still vastly exceeds the number of legal slots. This is especially true for those without special skills or high levels of education, who face long and difficult legal pathways into the country. Each year, hundreds of thousands, if not millions, of people try to enter the U.S. illegally, nearly all of them at the southern border.

For much of the past century, the people crossing over were largely Mexican nationals seeking work; many settled in the U.S., while others took temporary jobs and regularly returned home. Policing the border was often not a priority. That began to change after the attacks of September 11, 2001, when security concerns prompted American Presidents—first George W. Bush and then Barack Obama—to build walls and to greatly expand the number of guards. The newly created Department of Homeland Security and its subsidiary Immigration and Customs Enforcement took on significant roles.

Obama acted aggressively to stop illegal immigration. During his time in office, agents intercepted more than three million people trying to cross the southern border. More than two million were sent back. His Administration also deported some three million others who had already entered the U.S. While activists derided him as the “deporter-in-chief,” Obama argued that generous immigration policies should be balanced by vigorous enforcement. “Families who enter our country the right way and play by the rules watch others flout the rules,” he said in 2014. “All of us take offense to anyone who reaps the rewards of living in America without taking on the responsibilities.”

Determining who is playing by the rules has proved extraordinarily difficult when it comes to asylum seekers, who now represent a substantial proportion of migrants at the border. Like most Western countries, the U.S. has pledged to consider the plea of any foreigner who fears that he will be persecuted if he returns home—a policy that began after the Second World War, as the international community reckoned with the responsibility of aiding people living under brutal regimes. But this moral imperative has created an administrative impossibility.

The process of applying for asylum was designed to be straightforward. Applicants would be given a brief interview to establish that their case had merit, and transferred from Border Patrol custody to Immigration and Customs Enforcement; ICE maintains a network of detention centers, where applicants could be kept until a full hearing was held before an immigration judge. But a series of administrative and judicial orders have complicated this process. In 2009, an ICE directive declared that migrants who demonstrated a credible fear of persecution or torture could be released into the U.S. until their case was heard. Other decisions forbade detaining children, as well as many adult migrants, for more than a few weeks.

These changes were followed by a surge in asylum seekers—including families and unaccompanied children, who were often dispatched by their parents to live with relatives in the U.S. Obama officials, convinced that many such people were gaming the system, ordered border agents to detain children with their families. “The idea was that people would think twice about coming if they had to sit in a detention center while they waited for their cases to be resolved,” Leon Fresco, a Deputy Assistant Attorney General for immigration enforcement under Obama, told me.

That policy didn't last. In 2015, a federal judge in California named Dolly Gee ruled that no migrant family with children could be detained for more than twenty days. The following year, the number of families crossing the border nearly doubled. About four hundred thousand people arrived in all, and two-thirds of them were released into the U.S. "It's legally mandated chaos," Andrew Arthur, a fellow at the Center for Immigration Studies, which advocates stricter border controls, told me.

Amid the influx, there weren't enough agents on the border, or cells to hold migrants, or judges to preside over asylum hearings. Detention centers had no more than fifty thousand beds, and hundreds of thousands of people were arriving. Courts were so overwhelmed—with a backlog that now exceeds two million cases—that a typical migrant could expect to wait five years for a hearing to determine his status. If he lost his case, he could appeal, and the wait time for that was similarly long. This process often allowed migrants to stay in the country as long as ten years before their case was even decided. "Once you're in, you're in," Fresco said.

Still, migrants frequently found themselves confused and demoralized. Paul Lee, a lawyer at Steptoe & Johnson in Washington, told me that many of his clients have remained in limbo for years, unsure if they will be allowed to remain in the U.S. In immigration courts, there is no right to counsel; Lee said that many asylum seekers with compelling stories of persecution fail because they are forced to argue their own cases. "I have seen children—six, seven, and eight years old—have to stand up in front of a judge," he said. A considerable proportion of migrants—this year, it was about a third—drop out before a decision is reached in their case. "Many of them just disappear," he said.

The dysfunction in the immigration system is widely acknowledged, but

Congress has come close to significant reforms only once in the past two decades. In 2013, the Senate passed an ambitious bill that would have increased funding for border security and added fencing along the frontier, while also expanding legal pathways to citizenship. In the face of opposition from Tea Party conservatives in the House, the bill died. Republicans campaigned fiercely on immigration in the next year's midterms. "The message, in essence, was that shadowy, ISIS-controlled, Ebola-carrying people disguised as Central American children were flooding across the border," Michael Bennet, a Democratic senator from Colorado who helped write the bill, told me. "It was incredibly effective."

Beginning in 2015, Trump built his Presidential campaign on securing the southern border. He often couched his plans in inflammatory language, disparaging immigrants as "rapists" and "criminals," or, reportedly, as undesirables from "shithole" countries. In office, Trump moved to rein in immigration of all types. He and his aides, led by his senior adviser Stephen Miller, drastically scaled back such policies as the Refugee Admissions Program, which had allowed in tens of thousands of people. The infamous "Muslim ban" restricted migration from several Muslim-majority countries. Aside from his efforts to build a wall, Trump cut funding throughout the immigration system, insuring that it would function even more slowly than before. "They tore the system down to its bare minimum," a senior Biden Administration official told me.

Trump and his officials argued that many asylum applicants were exaggerating their persecution. “There are tens of thousands of people a month who are filing fraudulent claims just so they can get into the country,” Mark Morgan, Trump’s head of Customs and Border Protection, told me. The Administration imposed a “transit ban,” which required applicants to show that they had been denied asylum in one of the countries they passed through on the way to the U.S. It also imposed a policy known as Remain in Mexico, which required most asylum seekers to wait across the border while their claims were considered. When the pandemic arrived, in early 2020, the Trump Administration invoked Title 42, which allowed new arrivals to be expelled before they could even ask for asylum.

Most notoriously, Trump sought to deter migrant families by detaining parents and handing their children over to sponsors in the U.S. The policy, known as family separation, was widely criticized as inhumane, even by people in the White House. John Kelly, Trump’s chief of staff, told me, “You couldn’t make a humanitarian argument with the big guy or his people—forget it.” Trump withdrew the policy only after images of children in cages inspired protests.

During Trump’s term, agents apprehended some 2.4 million migrants at the border, and turned back nearly nine hundred thousand; they initiated deportation proceedings for more than a million others from within the U.S. His officials claimed a victory. Tom Homan, the director of ICE in 2017 and 2018, told me, “We had a forty-year low in illegal immigration.” As with most such trends, the causes are arguable and complex. If Trump’s rhetoric and his policies dissuaded migrants, then so did the arrival of the

pandemic. Still, when he and his staff argued that migrants were making insupportable asylum claims, they were not necessarily wrong. Most years, more than half of the claims that make it to a final decision are denied.

Last October, July Milena Olarte, a twenty-eight-year-old from Bogotá, Colombia, decided to flee to the United States. Olarte, who is gay, told me that she had often been denied jobs because of her sexual orientation and that she had been regularly beaten by her partner's family members. Advocates of restricting immigration argue that granting asylum for oppression on the basis of gender or sexual orientation creates an unmanageably large pool of applicants; pro-immigration groups argue that the number of claimants only proves the urgency of the problem.

Olarte knew people who had made the journey to the U.S., and she found a smuggler to help her follow them. She borrowed money from her mother and her friends and took out a bank loan, securing about five thousand dollars—enough to bring along her girlfriend, Victoria, and her eight-year-old daughter, Valeria. “I was thinking, I want the American Dream,” she said.

Olarte's smuggler told her that Mexican officials are often reluctant to grant visas to those who might be contemplating a trek to the border, so Olarte and Victoria booked a stay at a resort in Cancún and spent three days posing as tourists. Afterward, they boarded a bus north. In Mexico, foreigners suspected of being migrants are frequently preyed upon. “We were robbed so many times, sometimes by mafia, sometimes by the cartel, sometimes by police, sometimes by men in black masks,” Olarte said. “I was talking to God the whole trip.” By the time they reached Hermosillo, in northern Mexico, she was out of money for the smuggler, so they stayed

a few days, calling friends for help.

After scraping together enough cash, they took a bus to Mexicali, on the border, to meet the smuggler. At a ranch outside of town, they joined a dozen other migrants. In the darkness, with guides leading the way, Olarte's group arrived at a high steel fence, with a ladder set against it. "I knew my cell phone wouldn't work on the other side, so I called my mom one last time," Olarte said. One by one, the migrants climbed to the top, then slid down a rope to American soil. After crossing a canal, they found themselves in front of a Border Patrol station, where they knocked on the door and surrendered to the agents inside. "We knew they were deporting a lot of people, but our plan was always to turn ourselves in and hope," Olarte said.

Biden had encouraged these kinds of hopes ever since the early days of his Presidential campaign. "We're a nation that says, 'If you want to flee, and you're fleeing oppression, you should come,' " he said, during a Democratic primary debate. (The event was co-hosted by Jorge Ramos, of Univision, a network watched throughout Latin America.) Biden described his predecessor's positions as fundamentally indecent. "We're going to immediately end Trump's assault on the dignity of immigrant communities," he said, as he accepted the Democratic nomination. "We're going to restore our moral standing in the world and our historic role as a safe haven for refugees and asylum seekers."

A former senior Administration official told me that these campaign messages were linked to larger political maneuvering: "After Biden wins the nomination, you see something you never see—he shifts to the left. He needed the lefties to come out and support him." To help forge a new vision, Biden invited immigrants'-rights advocates into the upper ranks of

his Administration. “A lot of idealistic pro-immigration groups were brought in, many of whom are far to the left of the center of the Party,” Theresa Cardinal Brown, an immigration expert at the Bipartisan Policy Center, told me. Many such advocates had been galvanized by four years of battling with Trump. “Extremists beget their opposite,” she said. “Trump radicalized a lot of them.”

The new team’s vision differed markedly from that of previous Administrations, both Republican and Democratic. The goal was not just to stop penalizing asylum seekers. It was to reorient policy toward “managing the flow” of migrants—bringing order to the influx, rather than restricting it. “We set out to create more legal pathways for people to come from the hemisphere,” a former Biden official told me. Some argued that Trump’s policy of exclusion was not only inhumane but impractical. “We are living in an unprecedented time of people coming to the border—you can’t just keep them all out,” Angela Kelley, another former Biden official, told me. “We need to offer them meaningful access to humanitarian protection.”

Much of the migration to the United States in recent years has been driven by profound developments in Central and South America and in the Caribbean, where economic turmoil, natural disasters, and drug-related violence have brought many states to the brink of collapse, and where gangs and drug cartels often operate beyond state control. It’s not just the U.S. that is besieged by migrants but also countries throughout the region, Biden officials pointed out; unrest in Venezuela has produced at least seven million refugees, most of whom have fled to Colombia and other countries nearby.

In office, Biden submitted a sweeping legislative plan to overhaul the

system, proposing to increase funding for border security and to allow more legal immigration. But, with congressional Republicans threatening to filibuster any Democratic proposal, Biden effectively needed sixty votes in the Senate, and he didn't have them. Like Trump and Obama, he was reduced to making policy by executive order. That made his measures vulnerable to legal challenge; it also virtually guaranteed that they would be opposed by large portions of the electorate.

Biden swiftly began terminating several of Trump's most stringent measures: he suspended Remain in Mexico, and some thirteen thousand migrants who had been waiting for hearings were allowed in. He halted construction of the border wall, forbade separating children from their parents, and sought to declare a moratorium on deportations.

Biden eventually moved to rescind Title 42. In the meantime, the Administration discouraged border officials from detaining asylum seekers while their requests were processed. It also pulled back enforcement within the United States. In 2021, the Homeland Security Secretary, Alejandro Mayorkas, sharply limited the discretion of immigration officers to apprehend and remove undocumented migrants living in the country, of whom there are thought to be close to eleven million.

Some former officials told me that they cautioned senior decision-makers about loosening strictures too rapidly, lest they attract an influx of migrants. "We told them over and over again that they would create a deluge," Rodney Scott, the chief of the Border Patrol in the early months of the Biden Administration, told me. "They did not want to listen."

Scott, who had previously worked as a senior official under Trump and supported his vision of a border wall, routinely clashed with the Biden Administration over immigration. In August, 2021, the White House forced him out. By then, some sixty-seven hundred migrants were being caught crossing over each day.

Determining the exact number of migrants who have entered the U.S. and

how many were sent back is remarkably difficult. The statistics are spread across government agencies, in categories that overlap and shift; the totals can be inflated by individuals who tried multiple times to cross. But it is clear that the numbers have risen considerably under Biden. Since the start of the Administration, there have been more than five million apprehensions of migrants trying to cross the southern border—almost as many as in the previous twelve years combined. About half that number were turned back.

People who work at the border speak of push and pull factors: those that make migrants leave their home countries and those that attract them to the United States. The Biden Administration and its allies argue that the surge was caused by the push of disastrous conditions abroad. Critics blame the pull of Biden’s campaign rhetoric and of his more lenient policies. “If you’re not detaining people, and people think the system is gameable, then many, many more people are going to come,” the former senior Administration official told me.

Del Rio, Texas, a city of about thirty-five thousand on the Rio Grande, has been one of the principal crossing points on the border. In September, 2021, the mayor, Bruno Lozano, got a call from the local Border Patrol chief, informing him that ten thousand migrants were expected to cross into the city in the next few days. Lozano, a flight attendant for Delta Air Lines, was elected in 2018—a Democrat who was the city’s first openly gay mayor. He grew up in Del Rio, so he was used to migrants wading across the river. Still, he was astonished by the estimate. “I was, like, ‘What do you mean, ten thousand migrants by the end of the week?’ ” he said. “ ‘No, no, no, no—this can’t be. We only have four or five agents here.’ ”

In the next few days, some sixteen thousand migrants, most of them Haitian, gathered underneath Del Rio's main bridge. "At one point, a thousand people an hour were wading across," Lozano said. Officials said that most believed they would be admitted if they claimed that they'd face persecution if they returned home. But few among the group had actually arrived from Haiti; most had come from Central America and Chile, in many cases after living there for years.

Lozano told me that he worked frantically to organize food and sanitation, but there were too many people coming. The Border Patrol put in porta-potties, which were quickly overwhelmed: "They're not being cleaned fast enough, so people are defecating in the river. It was chaos." At Lozano's request, the federal government dispatched physicians and nurses. Agents helped deliver a dozen babies. Some of the sick were sent to the emergency room at Val Verde Regional Medical Center, a hospital with forty beds. "We provide the same level of care to any patient who comes into our hospital, so it was a challenge," Linda Walker, the C.E.O., told me. As with many of the migrants who come into the hospital's emergency room, the hospital paid for the care, she said. "We don't get reimbursed."

Grappling with a sense of crisis, Lozano called Raul Ortiz, the recently appointed chief of the Border Patrol, who also grew up in Del Rio. "Raul told me they would try to send some resources down to us in ten to fourteen days," Lozano said. "Ten to fourteen days? We have an entire city living under a bridge." Lozano began organizing local restaurant owners to donate food; they responded so enthusiastically that many had little left for customers. He also helped enlist a nonprofit called World Central Kitchen; within days, the group began serving the first of tens of thousands of meals.

Lozano reserved most of his ire for Biden officials. “The Administration is saying, ‘Oh, there’s no problem, there’s no crisis, we’re doing the best we can, we’re sending you this, we’re sending you that’—and we’re not getting anything,” he said. “The situation here is burdening all the border towns and communities and you’re saying everything is fine. It’s just bullshit.”

After a week and a half, the Haitians were mostly gone. D.H.S. says that eight thousand of them crossed back over the river. A Republican official in the area told me that roughly two thousand were returned to Haiti, and that the rest were released into the U.S. while their asylum claims were examined. “Most of them went to Miami,” he said.

In Del Rio, the migrants kept coming, in even greater numbers. When Lozano’s term ended, last year, he chose not to run for reelection. “I could no longer govern the city,” he said. “I was so enraged with the policies and the politics of the federal government and what was happening here that I was no longer, in my mind, capable of moving forward. I was just drained.”

During the surge, the scenes at the border could be both tragic and absurd: enormous groups of migrants, sometimes numbering in the thousands, turning themselves in to Border Patrol agents and asking to be arrested. The majority qualified for immediate removal under Title 42, but in a huge number of cases it was waived. “First, it was unaccompanied children who were exempted from Title 42, then it was families—and then it was even more,” Scott told me. Some of this was the result of policy and some the result of ad-hoc decisions.

Immigrants’-rights advocates also sued the government to secure access to the asylum system. During negotiations between the two sides, Scott said,

senior officials repeatedly informed him that they had agreed to allow migrants to cross the border. “We would get an e-mail from someone at D.H.S., or a political appointee at C.B.P., telling us that a busload of people would be taken to the port by an N.G.O. in Mexico, and that they needed to be processed—which meant they would be let in,” Scott said. “I had no idea who they were. Nothing like this had ever happened to me in my career.” (The White House disputes this account.)

The most significant exception to Title 42 was largely beyond the Administration’s control. Some of the biggest groups were coming from four countries—Venezuela, Cuba, Nicaragua, and Haiti—with which the U.S. maintained troubled relations. Typically, when such migrants arrived at the southern border, Mexico would not take them back—and the countries they fled wouldn’t take them, either, often forcing the U.S. to allow them in. “Those countries are a real challenge,” Scott told me. Other countries in the region would accept only a limited number of migrants per month.

During the surge, the amount of detention space was not nearly sufficient.

Nevertheless, the Biden Administration ultimately cut the number of beds from the fifty thousand maintained by the Trump Administration to thirty-four thousand. Some of this was philosophical. The senior White House official told me, “We think that there are more humane alternatives to detention.” These include requiring migrants to check in with immigration officials or to wear ankle bracelets that track their movements. In any case, Biden officials contend, the difference between fifty thousand and thirty-four thousand beds was negligible, given the millions of migrants who were arriving. Advocates of restricting immigration argue that even a fairly small number of detentions can dissuade people from crossing the border illegally. “If you detain twenty per cent, you deter eighty,” Andrew Arthur, of the Center for Immigration Studies, said. Pro-immigration groups argue that most migrants, fleeing difficult circumstances, will not be dissuaded by the risk of being detained. Kerri Talbot, of the Immigration Hub, noted, “You’re talking about a number of beds equal to about two per cent of the number of people trying to cross.”

Rather than focus on deterrence, the Biden Administration implemented “parole” policies, which gave border officers the discretion to allow migrants to enter the country without a court date, as long as they agreed to present themselves to ICE for processing. In March, a U.S. District Court judge in Florida largely invalidated these initiatives. In a hundred-and-nine-page order, Judge T. Kent Wetherell II, who had been appointed by Trump, found that the Administration had imposed an illegal “non-detention” policy. “The evidence establishes that defendants have effectively turned the southwest border into a meaningless line in the sand,” Wetherell wrote. “The dramatic increase in the number of aliens being released at the Southwest border was attributable to changes in

detention policy, not increases in border traffic.” The Biden Administration requested a stay of Wetherell’s decision, but the request was recently denied by an appeals court. Biden officials say that they will continue to fight.

In an interview on NBC, Mayorkas pointed out that his predecessors had also allowed asylum seekers into the country: “The procedure that we were executing is something that other Administrations have done.” In the first twenty-six months of Biden’s term, D.H.S. officials allowed in some two and a half million people. This is a striking number—more people than the Trump Administration admitted in four years. But the number of migrants coming to the border has also been much larger, so the Biden Administration has arguably turned people back at a higher rate.

Other categories are less arguable. Migrants who cross over without encountering any officials are known in Border Patrol parlance as “gotaways.” Using data from cameras, drones, motion sensors, and other methods, Border Patrol agents estimated that there were roughly 1.4 million gotaways in those twenty-six months—far more than under Trump or Obama. This was partly an unintended consequence of the push to keep the asylum process open. Expelling a person under Title 42 takes fifteen minutes, but releasing someone into the United States can take as long as two hours. The process was so laborious that legions of Border Patrol agents were pulled away from their posts to help. The result, Scott said, was that “long stretches of the border were effectively left open for long periods of time.” At the same time, deportations were down significantly. Under Biden, about half a million people have been placed into deportation proceedings, compared with about seven hundred thousand in the same period under Trump.

Biden officials suggest that the only long-term solution to exploding migration is to strengthen the economies and the political systems of countries that migrants are fleeing. In 2022, the United States and nineteen other countries signed the Los Angeles Declaration on Migration and Protection, intended to stem the migrant crisis. The U.S. agreed to take in some twenty thousand more refugees from Latin America and to expand work visas for people from the region. In addition, Biden officials said, they secured commitments for more than three billion dollars of private investment in the area. “We are trying to do our part, too—we can’t ask our neighbors to do everything,” a senior White House official who works on immigration issues told me. “We realize the effects will not be felt overnight.”

Other officials make the case that limiting immigration harms the economy, because the U.S. needs vast numbers of new arrivals to fill jobs of all kinds. “If you’re a physicist, you can come to the United States,” the former Biden official said. “But if you don’t have those kinds of skills you can’t get in.” Evidence suggests that, in general, expanding the pool of cheap labor can hold down wages for some workers, especially those with few skills. But in the current American market the demand for workers far outstrips the supply. “The job openings are all over the map,” Dane Linn, a senior vice-president at Business Roundtable, said. “They’re for individuals working on our farms and in the hospitality industry, and working in retail—and for individuals in research and development, in some of the highest-skilled jobs that we have.”

The footage of huge crowds of migrants—often broadcast on Fox News—rendered such arguments politically difficult to make. Mayorkas, the Homeland Security Secretary, was summoned repeatedly before Congress, where Republicans assailed him for what they said amounted to an open

border. When the G.O.P. took control of the House of Representatives last fall, Party leaders indicated that they were preparing to impeach him. For his part, Mayorkas denied that the border was open and pointed out the obvious: only Congress could provide a lasting fix. In May, testifying before the Senate, he said, “Everyone agrees that the immigration system is broken.”

In April, Representative Tony Gonzales, a congressman whose district includes eight hundred miles of the Texas-Mexico border, took a day to drive around Del Rio and meet with constituents. “I’m driving all the time—my district is so big,” he said. Gonzales was raised by his grandparents in Camp Wood, outside San Antonio, and grew up selling newspaper subscriptions door to door. (“I was really good at sales,” he said.) As a Navy cryptologist, he tracked insurgents in Iraq and Afghanistan; he’s now forty-two years old, the father of six. Gonzales is a Republican in a closely divided district that includes El Paso, a largely Democratic city. One of his close allies in Congress, Henry Cuellar, is a Democrat. In 2020, Gonzales won his first term by a narrow margin. Two years later—thanks in part to his peripatetic efforts to meet his constituents—he won by seventeen points.

Gonzales is sharply critical of Biden’s immigration policies. “It’s an open border,” he told me. “During his campaign, he invited the world to come.” But he has refused to endorse the more draconian proposals put forth by his Republican colleagues. He also voted for the Respect for Marriage Act, which required all fifty states to recognize gay marriages. And, after the mass school shooting in Uvalde last year, he was one of just a few Republicans to support a gun-safety bill that was approved by Congress. “Uvalde is in my district,” he said. “There’s no way I’m not supporting

that bill.”

In a Del Rio restaurant, Gonzales sat down with two ranchers, John King and Bill Cooper, to talk about the border. The ranchers complained that their properties were often traversed by migrants, who cut through their livestock fences, and who sometimes left clothing, guns, and narcotics behind. Cooper said that he regularly found smugglers and migrants sleeping in his barns. “My property is being overrun,” he said. “I have to carry a gun on my own property.”

Gonzales listened politely but didn’t offer much more than sympathy. He has proposed his own border-security legislation, which would boost funding for local law enforcement, but, like every other immigration bill in Congress, it has gone nowhere. “It’s a broken process,” Gonzales said. The ranchers said they had grown tired of such explanations. “No one sees anything happening,” King said. “I want results.”

Gonzales’s ally Cuellar, a fellow-Texan, told me that local constituents wanted a congressman with a practical approach to the job. “When I met Tony, he walked across the House floor and came up to me and said, ‘Let’s work together,’ ” Cuellar recalled. “That’s the way it should be.” In principle, a legislative compromise on immigration is not difficult to imagine: tougher security on the border, a Republican priority, in exchange for expanded legal immigration, a Democratic priority. But the prospect of a deal has dissolved in the mutual hostility that typifies congressional politics. “When you get in the room with Republicans on immigration reform, there’s just no audience for that anymore,” Michael Bennet, the Colorado senator, said.

Immigration officers pursue undocumented migrants along a two-thousand-mile border. "We've never had enough agents," one said.

It wasn't always so. Congress passed its last major overhaul of the immigration system in 1986. It granted amnesty to millions of people who were in the country illegally but also imposed penalties on employers

who knowingly hired undocumented immigrants. The bill was shepherded by Senator Alan Simpson, a Republican from Wyoming. But Simpson, who is ninety-one, told me that it would never have been enacted without the support of Senator Ted Kennedy, of Massachusetts, a liberal Democrat. “I didn’t agree with all of his stuff at all, but if he told me he was with me, then I knew he was with me,” Simpson said. “In Congress, the coin of the realm is trust. Now it’s gone. They threw that away.”

Gonzales, in an effort to encourage support for his bill, has taken more than a hundred members of Congress, most of them Republicans, on tours of the border. “When they see it with their own eyes, they all appreciate the urgency of the situation,” he said. I was in town for one of his tours, and minutes after it ended I watched a group of men scale a border fence and cross unmolested into the U.S. But fixing the problems would involve more than just beefing up security, Gonzales said; it would mean hiring enough immigration officials to rapidly process asylum requests before anyone was allowed in.

In an ideal scenario, courthouses would be erected on the border, with hundreds of employees. To build such a system is daunting, Fresco said: “You could do it, but it would be very, very expensive”—billions of dollars a year, for many years, all of which would need congressional approval.

Gonzales told me that he’s had discussions with senators and with White House officials about a possible compromise. But his party has strayed far from its historical center. “The sense used to be that everyone, including immigrants, had to abide by the rules,” David Axelrod, a former senior adviser to Obama, told me. “It’s much more virulent now. Trump and Tucker Carlson have been arguing that immigrants are dangerous, and

that they are part of the ‘great replacement’ ”—the notion that unchecked migration, enabled by Democrats, is changing the country’s racial balance. Earlier this year, Representative Chip Roy, another Texas Republican, put forth a bill that would dramatically reduce the possibilities for people seeking asylum. Under the legislation, migrants would be placed in U.S. detention facilities until their cases were resolved; once those facilities were full, all new applicants would have to wait outside the country. Every Republican member of the state delegation supported the proposal, except Gonzales. He told me, “I do not want to do away with the concept of asylum, which the bill would effectively do.”

In February, Gonzales was censured by the Texas Republican Party, which cited his refusal to support Roy’s bill, as well as his votes on gay marriage and gun control. In a statement, the Party discouraged him from seeking reelection; two challengers have already entered the race. Gonzales isn’t backing down. “I’ve already fought in two wars,” he told me. “I’m not super worried about these guys.”

Several other Republican congressmen—including Cuban American legislators, many of whose constituents have been granted asylum—also opposed Roy’s bill. Gonzales noted that, as long as the Senate and the White House were controlled by Democrats, the bill had no chance of passing; supporting it was mostly an empty exercise. The same was almost certainly true of the effort to impeach Mayorkas. “A lot of these people aren’t trying to get anything done,” Gonzales said. “They just want to make statements.”

One afternoon in Del Rio, three men leaned against the wall of a Stripes convenience store, smoking cigarettes. Locals told me that migrants who had forded the river could sometimes be found at Stripes

waiting for a bus out of town, but these men were not new arrivals; they were Americans, drawn to the region by the money to be made in helping migrants evade border controls.

“We just got out of jail,” one of the men said. He was Javar Robinson, a twenty-four-year-old from Grand Rapids. Earlier that day, he said, he and the other two had been released from a prison in Dilley, Texas, where they had been held for several weeks on charges of human smuggling and participating in organized crime. They told me that they were still awaiting trial.

Two years ago, Governor Abbott formed Operation Lone Star, a task force dedicated to pursuing immigration-related crimes. Because crossing the border is a federal offense, state police have no jurisdiction to make arrests, so Lone Star’s officers pursue crimes like trespassing and human smuggling. Since 2021, Texas police have made thousands of arrests for such offenses, many of them after high-speed chases.

The three men at Stripes insisted that they were innocent of human smuggling, but they demonstrated intimate knowledge of the trade. Robinson told me he’d seen trafficking jobs advertised on TikTok and Facebook: “There’s even an app for it.” A former high-school football player, he said that he encountered the ads while looking for a way to support his children. The jobs pay as much as three thousand dollars to drive a single person across the country, or even just across Texas, he said. The networks are vast: “They got people everywhere.”

Once you agree to a job, you’re sent G.P.S. coordinates for the migrant’s location. “They don’t tell you what you’re doing, but you can figure it out,” Robinson said. After you make the pickup, you get another set of

coordinates, for the destination. Robinson told me he was arrested on a stretch of U.S. Highway 90 near Uvalde, on his way to Houston, with three men whom he described as “illegals” in the car with him. (He maintains that he wasn’t driving.)

Marcos Garcia, leaning against the wall next to Robinson, had a tattoo on his back of Santa Muerte—Holy Death, a common insignia among drug traffickers. He told me that the migrant networks were operated by organized crime. “The cartels run everything,” he said. “They make the money. We’re the ones who get locked up.” American officials also believe that the cartels largely control human smuggling on the Mexican side, and that few people cross the border without paying them. In pursuit of profits, the cartels increase the flow of migrants; smugglers have every incentive to tell their clients that they can get into the U.S. They also help facilitate the trade in fentanyl and other drugs.

Suzanne West, the district attorney of Val Verde County, told me that her office—which includes her and three other prosecutors—handled four thousand cases of migrant smuggling last year. “We’re just a little tiny town here,” she said. West wants the state government to quadruple her

staff, but she bristles at suggestions that such prosecutions are motivated by anti-immigrant bias. “Del Rio has been multicultural for a long time—we live the culture,” she said. “We live here because we like it.” Most of the smugglers are American citizens, she said.

In the past two years, more than seventy thousand migrants, twice the population of Del Rio, have passed through the city. Even so, if you spend time in Del Rio—or in El Paso or Eagle Pass or any other city on the border—you rarely see any. Few migrants stay longer than it takes to make a phone call or to buy a ticket out of town. “If it wasn’t part of my job to know that thousands of migrants were moving through here, I don’t think I would notice them,” Karen Gleason, a reporter for the *830 Times*, the local newspaper, told me. Carlos Rios, the superintendent of schools, couldn’t recall a single migrant child who had enrolled in the past two years. “They’re just passing through,” he said.

In the Del Rio area, most of the migrants whom the Border Patrol releases into the U.S. are driven to the Val Verde Border Humanitarian Coalition, a nonprofit run mostly by volunteers. It was founded four years ago, in a vacant cinder-block building owned by the city. The center, which has no beds, is designed not as a long-term residence but as a way station—“a respite for them on their journeys,” Tiffany Burrow, the director of operations, told me. When the migrants arrive, they’re offered water and a snack and shown a map of the U.S. to help them chart the final leg of their trip. Then they’re given access to a phone bank, to make arrangements to leave. Last year, close to fifty thousand migrants passed through the Coalition’s doors. “Everyone who comes through here knows someone in the United States, and they are all going somewhere else,” Burrow said.

Last spring, Governor Abbott began busing thousands of migrants to cities run by Democrats. On Christmas Eve, busloads of migrants were dropped, shivering, outside the gates of Vice-President Kamala Harris's residence in Washington, D.C. Others went to New York, Denver, and Chicago. Abbott didn't bother to announce that he was sending them. "We didn't know what was happening," Fabien Levy, the press secretary for New York's mayor, Eric Adams, told me. When Democratic leaders complained, Abbott dismissed them, replying, "More to come." Jared Polis, the Democratic governor of Colorado, also bused migrants out, claiming that he was sending them where they wanted to go. Most theatrically, Governor Ron DeSantis, of Florida, orchestrated the transport of several dozen migrants to the exclusive island of Martha's Vineyard.

Many liberal cities welcomed migrants during the surge. A number of them were brought by programs like Abbott's, but the majority came of their own volition; some were aided by nonprofit groups that operate on the Mexican border, with funding from the federal government, to relieve the buildup of migrants there. Jully Olarte, the migrant from Colombia, arrived in New York this past January, at the end of a circuitous trip. After handing herself over to border officials, Olarte had been given a brief interview, then told to report to an ICE office near Kissimmee, Florida, where her cousin lived. There, Olarte was informed that she should expect to wait at least three years for an initial asylum hearing. A few weeks later, Olarte, Victoria, and her daughter made their way to New Jersey, where Victoria's sister lived. Another migrant told them that New York City, just across the river, was a good destination.

Olarte and her two companions soon joined the seventy-two thousand

migrants who have come to New York since last summer—an influx so rapid that city officials set up a reception area at the Port Authority Bus Terminal. Anne Williams-Isom, the deputy mayor for health and human services, told me that it took time for officials to grasp the scope of the situation. “Nobody picked the phone up and told us this was coming,” she said.

New York, almost uniquely in the U.S., has a “right to shelter” law, which has entitled the new arrivals to free housing for an indefinite period. Migrants arriving in New York are typically taken to a homeless shelter, but the deluge of people has forced the city to rent seven large hotels, along with rooms in about a hundred and fifty others. Olarte and her partner and child settled in the Paul Hotel NYC, near the Empire State Building, where the rooms listed for two hundred and eighty-nine dollars a night. They get two meals a day and health care, as well as clothes and food donated by local churches. Valeria attends second grade at Public School 361, in the East Village. She is one of about eighteen thousand students, most of them migrants, who have been given temporary housing in New York in the past year.

Michael Mulgrew, the head of the United Federation of Teachers, told me that although New York schools have a long history of accepting immigrant children, the rapid influx has strained everyone. The city supplies funding for each new arrival, but it doesn’t begin to cover the extra costs. “I need bilingual social workers, I need classrooms, I need teachers,” he said. Many of the children have been through difficult journeys and have witnessed violence and death. “The kids have varying levels of trauma,” he said. “Don’t even think about teaching them—you’ve got to get them stabilized.”

P.S. 361, which took in sixty new migrant children this year, seems as welcoming a place as a child could imagine. The principal, Maria Velez-Clarke, told me that she and her teachers were happy to take the newcomers, even with the added work. Most of the children, she said, arrive dazed and withdrawn, without proper clothes. But once she starts speaking to them in their native language—usually Spanish—the children brighten. “The journey is their story,” Velez-Clarke said. The school offers breakfast in the cafeteria, and maintains a food bank in its basement, mostly stocked by Trinity Church downtown.

New York officials speak proudly of their treatment of immigrants, but they also acknowledge the cost. Since last summer, the city has spent more than \$1.2 billion caring for new arrivals; in the coming year, the total is expected to increase to \$4.3 billion. “We have set up a whole human-services safety net for more than seventy thousand people, and we have done so with grace and commitment and fortitude and a determination to treat these people with dignity,” Williams-Isom said. “But we don’t have the money.”

Around the country, leaders have faced similar crises. “Unchecked immigration places a tremendous burden on our cities,” Francis Suarez, Miami’s mayor, told a gathering of mayors. In Chicago, which was housing some eight thousand migrants, Mayor Lori Lightfoot said, “We simply have no more shelters, spaces, or resources.” In January, Mayor Adams toured the border in El Paso and called on Biden to help bail out New York. “There is no more room,” he said. Officials from both parties criticized the Administration for allowing the surge and for not providing enough help to local governments. “At the end of the day, all politics is local,” David Axelrod told me. “And when these problems begin to become visible locally, in cities and towns, it hardens attitudes.”

In 2018, Gustavo Hernández, a twenty-eight-year-old living in Chivacoa, Venezuela, decided to flee his country. For most of his life, Venezuela had been in a state of turmoil, as President Hugo Chávez and his successor, Nicolás Maduro, presided over an increasingly desolate economy and increasingly authoritarian governments. Hernández told me that he'd been denied graduation from high school after refusing to join a Chávez-backed youth club. When people began marching against Maduro in Caracas, the capital, he drove five hours to join them. Later, he helped organize other demonstrations, even as many of his fellow-protesters were arrested. One day, he noticed a car parked outside his house, with two men inside, who sat watchfully for several hours before pulling away. A few days later, the car returned. "There's no doubt it was the police," he said. "I figured it was only a matter of time before they got me."

Hernández took his wife, Marielis, and their four-year-old daughter, Ana Paula, by bus to the Colombian border, joining an exodus of millions of other Venezuelans. The family stayed for a while in Colombia, but the political situation seemed volatile, so they headed on to Peru. In Lima, Hernández found a one-bedroom apartment in a gritty part of town and began working odd jobs, selling plantain chips and lollipops on the street. The family stayed for a few years, and had a second daughter, Ariana. But Lima was proving dangerous, too, and Hernández yearned for something better. "All I could think about was giving my daughters greater opportunities," he said. Hernández told me he'd heard that getting into the U.S. without permission was difficult, but it didn't matter. "Nothing was going to stop me," he said.

In late 2021, the family set out again, riding buses as far as their money

would take them, then stopping to earn a little more. Hernández told me that they walked or rode through nine countries before reaching northern Mexico in March, 2023, nearly five years after he'd left home. He was examining ways of crossing the border when he discovered that American immigration rules had suddenly grown stricter.

In the preceding months, the Biden Administration had initiated a series of changes. Migrants who arrived at the southern border to apply for asylum would have to sign up for an appointment at an official port of entry, using a mobile app called CBP One; failing that, they would likely be turned away. Those who had passed through other countries on the way would have to prove that they had been denied asylum there first.

At the same time, the Biden Administration expanded a program that offered migrants a legal pathway into the U.S.: each month, it would give work permits to thirty thousand citizens of the four most problematic countries—Venezuela, Cuba, Haiti, and Nicaragua. To make the rules stick, the Administration secured an agreement by which the U.S. could send an equal number of deportees from those countries to Mexico.

These policies marked a dramatic reversal. Two years before, the Administration had come into office with talk of “managing the flow” of migrants. Now it appeared determined to keep as many from the border as it could. “Do not, do not just show up at the border,” Biden said in January. “Stay where you are and apply legally from there.”

One catalyst was the expiration of Title 42. But the former senior Administration official told me that the changes were also prompted by public criticism from Democratic governors and mayors: “When it was just Republicans complaining, they could ignore them. They could say

they were just being partisan, or racist. When the Democrats started complaining, they had to listen.”

For Biden, the changes had a political cost. Conservatives argued that both the work permits and the CBP One app were attempts to provide legal cover for allowing large numbers of migrants into the country. “Biden is just legalizing what was previously illegal,” Mark Morgan, the former head of Customs and Border Protection, told me. Morgan, who is now a fellow at the Heritage Foundation, argues that the Administration’s unspoken strategy is to use the programs to accommodate whatever number of foreigners appear. “Both programs are infinitely expandable,” he said. Twenty Republican-controlled states sued to block Biden’s parole program.

Meanwhile, immigrants’-rights advocates, who once held sway in the White House, complained that Biden’s new policies looked remarkably like Trump’s old ones. The CBP One app resembled Remain in Mexico. Biden’s “third-country rule,” whereby people seeking asylum at the border had to prove that they had been denied it somewhere else, resembled Trump’s transit ban. “They are trying to look tough,” Kerri Talbot, of the Immigration Hub, told me. “We think it’s inhumane.”

Administration officials told me they were confident that the new procedures would help limit the number of unauthorized people trying to cross the border. And they declared the work-permit program a resounding success: illegal immigration from Venezuela, Cuba, Haiti, and Nicaragua had dropped dramatically. White House officials said they were so encouraged by the results that they were thinking of expanding the program to other countries. But, according to Homeland Security documents obtained by CBS News, the work-permit system has a wait

list of more than one and a half million applicants. “If too many people come, the system will be overwhelmed, and we’ll be back to where we were before,” Theresa Cardinal Brown, of the Bipartisan Policy Center, told me.

For now, though, the numbers are down, even as migrants continue to make their way to the border. In March, Hernández, the Venezuelan migrant, made an appointment on the CBP One app. He and his family were admitted to the U.S. five days later, and given a summons to appear before ICE in December, in Portland, Oregon, not far from where they are staying with a friend. He’s already thinking of whom he might help come to the United States. “I have two sisters and a brother in Argentina, and a cousin in Venezuela,” he told me. “They all want to come.” ♦

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