

## **RESPONSIBILITY TO PROTECT IN UNITED STATES POLICY TOWARDS IMMIGRANTS IN THE PRESIDENT JOE BIDEN ERA**

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### **ABSTRACT**

This research aims to analyze United States policies towards immigrants under President Joe Biden that reflect Responsibility to Protect through the fulfillment of immigrants rights. Responsibility to Protect advocates an increased role for states and the international community to respect human rights and protect civilian populations of any nationality from mass crimes. Specifically, this research uses Jack Donnelly's concept of Universal Human Rights to look at the fulfillment of immigrants human rights and bridge the concept of Responsibility to Protect, as well as Diane Stone's concept of global public policy to analyze whether the United States' policies towards immigrants heed international rules and norms that have been agreed upon by the world. Using descriptive qualitative research and secondary data from literature studies, this research found that human rights are the main foundation on which Responsibility to Protect is based, and the United States policy towards immigrants in the Biden era shows its commitment to human rights through humanist policies in the form of canceling controversial policies of the previous era, re-enacting old policies, and new pro-immigrant policies, especially towards illegal immigrants who experienced crimes against humanity or violence in their home countries.

***Keywords:** United States, Joe Biden, Immigrants, Responsibility to Protect, Policy*

### **ABSTRAK**

*Penelitian ini bertujuan untuk menganalisis kebijakan Amerika Serikat terhadap imigran di era Presiden Joe Biden yang mencerminkan Responsibility to Protect melalui pemenuhan hak-hak imigran. Responsibility to Protect menganjurkan peningkatan peran negara dan komunitas internasional untuk menghormati hak asasi manusia dan melindungi populasi sipil dengan kewarganegaraan manapun dari kejahatan massal. Secara khusus, penelitian ini menggunakan konsep Universal Human Rights yang dibawa oleh Jack Donnelly untuk melihat pemenuhan hak-hak asasi imigran dan menjembatani konsep Responsibility to Protect, serta konsep kebijakan publik global yang dibawa Diane Stone untuk menganalisis apakah kebijakan Amerika Serikat terhadap imigran mengindahkan aturan dan norma-norma internasional yang telah disepakati dunia. Dengan diolah secara deskriptif kualitatif dan pengambilan data sekunder dari studi pustaka, penelitian ini menemukan bahwa HAM menjadi landasan utama yang darinya terdapat Responsibility to Protect, kebijakan Amerika Serikat terhadap imigran di era Biden menunjukkan komitmennya terhadap HAM melalui kebijakan yang humanis berupa pembatalan kebijakan kontroversial di era sebelumnya, pemberlakuan kembali kebijakan lama, dan kebijakan baru yang pro-imigran, terutama terhadap imigran ilegal yang mengalami kejahatan terhadap kemanusiaan atau kekerasan di negara asalnya.*

***Kata kunci:** Amerika Serikat, Joe Biden, Imigran, Responsibility to Protect, Kebijakan*

## **INTRODUCTION**

The United States (U.S.) has become home to more immigrants than any other country, there has been a influx of immigrants in U.S. over the past few years, with more than 1 million immigrants arriving in U.S. each year (U.S. Census Bureau, 2022). These numbers represent the highest influx of immigrants in U.S. in the last two decades. With the addition of new immigrants, by 2023 the total number of immigrants in the U.S. reach 49.5 million, consisting of about 18 million legal immigrants, 18 million naturalized illegal immigrants, and about 12.3 million illegal immigrants (Camarota & Zeigler, 2023).

Today's new immigrants that entering U.S. are dominated by illegal or undocumented immigrants with the top countries of origin are Mexico and Central American countries (El Salvador, Guatemala and Honduras) also well known as Northern Triangle countries (Migration Policy Institute, 2019). Immigrants from Mexico and Northern Triangle head to U.S. due to various factors, such as the more promising U.S. socio-economic conditions so that immigrants want to look for opportunities, job opportunities, and freedom (Martin, 2021). It is also driven by internal factors such as fleeing from crimes against humanity, violence, poverty, uncertainty, and the threats of dangerous criminal groups in the country of origin.

It is well known that drug cartels in the Mexican region have grown in such a way that the government is struggling to overcome it. The activities of Mexican drug cartels endanger society in a many ways. The cartels engage in high-intensity crime, including wars and conflicts between cartels, and confrontations with the government, which have resulted to widespread violence, corruption and instability in society. This led to a massive migration of Mexicans to the United States to seek asylum and find safer jobs and protect themselves from drug cartels (Eskridge, 2001).

In Central America, more and more people are migrating from their countries to escape extreme violence and poverty, extortion, recruitment and rape by gangs and criminal groups in their countries (UNHCR, 2024). Immigrants from these countries have experienced crimes against humanity and governments have failed to address them, resulting in a huge waves of migration to other countries, including U.S.

The United States signed an international resolution, Responsibility to Protect (RtoP), at the 2005 World Summit, which U.S. has a binding responsibility to implement it. The RtoP itself is a global agreement declared by the United Nations at the World Summit on September 14-16, 2005 at UN Headquarters, New York (United Nations, 2005). This resolution encourages an increased role of countries and the international community in the obligation to protect civilians of any nationality when a country is deemed incapable to provide protection to its population or even become a

perpetrator of violence against its population, especially genocide, war crimes, other crimes against humanity, and ethnic cleansing (Simonovic, 2016).

From the data previously presented, Mexico and the Northern Triangle countries are the largest contributors of undocumented immigrants in the United States. There are indications of complicated crimes against humanity in these countries, so that their citizens choose to migrate to other countries, especially U.S. In relation to RtoP, the U.S. position is as a country or international community that has an obligation to protect immigrants in its territory as a substitute for immigrants home countries that fail to provide protection. The U.S. responsibility to protect will be seen through the implementation of policies that have elements of the fulfillment of immigrants human rights.

The United States in recent years has experienced a change of leaders with different policy directions regarding immigrants. The Barack Obama era has brought pro-immigrant policies with a progressive approach to immigration. Obama introduced the DACA program, a protection from deportation program for adult immigrants who came to U.S. as children, and the CAM program which provides refugee status and the possibility of resettlement in U.S. for child migrants from El Salvador, Guatemala and Honduras who have parents or legal guardians already living in the U.S. (Batalova et.al., 2014). Obama is attempting to offer a solution to illegal immigrants hoping for U.S. citizenship, often referred as Dreamers, by providing them access to legality (The White House, 2014). The Obama administration has been praised by immigrant rights groups for trying to provide protection to the Dreamers.

The United States in the next era which is Donald Trump era, had a tougher approach to immigration. Trump emphasized America's First campaign with a focus on U.S. worker protection and reducing illegal immigration (Kaba, 2019). Trump started a new border wall project on the U.S. southern border, which was budgeted million dollar to prevent illegal immigrants from entering U.S. (Aljazeera, 2017). Trump started the Remain in Mexico policy, which forced many U.S. asylum seeker to stay in Mexico during their immigration process (Breuninger & Higgins, 2018). Trump also started the controversial Zero Tolerance program that separates immigrant children from their parents while being held at the border (Breuninger & Higgins, 2018). RtoP has no space in Trump's policies. Trump focused more on national security and interests, resulting in stricter law enforcement and immigration restrictions during his administration.

Meanwhile, the United States under Joe Biden indicates commitment to RtoP and will accommodate it through policies that restore immigrant rights. In fact, immigration is one of the 7 top priorities during the Biden-Harris cabinet (The White House, 2021). The attention to immigration in the Biden era is shown by his focus on reforming the existing immigration system. Biden wants to bring a fair and orderly immigration system that is more welcoming to immigrants, unites separated families,

and allows both newly arrived immigrants and those who have lived in U.S. for generations to be fully involved in the country. Joe Biden, in a speech on the White House in January 2023 said "We can secure our borders, fix the immigration system to be orderly, fair, safe, and humane" (The White House, 2023).

The extreme policies of the previous era drove many immigrants cancelled heading to the United States, prompting large numbers of immigrants to U.S. in the Biden era. Immigrants heading to the U.S. have reached high record over the past two decades and are often dominated by illegal immigrants fleeing from violence in their home countries. The Biden era also had to deal with an influx of immigrants since the beginning of his administration, showing a considerable burden for the U.S. to handle immigrants. Meanwhile, U.S. has signed RtoP resolution, and Biden from campaign period to the early days as U.S. Biden has shown indications of concern for immigrants through various speeches and policy promises. Therefore, it is interesting to examine how U.S. policy towards immigrants in the Joe Biden era reflects the RtoP in the form of pro-immigrant policies, especially towards illegal immigrants who experience crimes against humanity or violence in their home countries.

#### **ANALYTICAL FRAMEWORK**

The concept of Universal Human Rights (Donnelly, 2013) is used as a main model that covers the policies adopted by Biden in this research. This concept is used to find out the definition and principles of human rights that individuals have and analyze the protection of immigrant rights through policies, as part of the United States' responsibility to protect human rights.

Jack Donnelly presents a list of rights contained in the Universal Declaration and Agreement known as The International Bill of Human Rights. From the list of rights outlined, it can be identified as rights that may later be associated with immigrants: (1) The right to life, freedom, and personal security; (2) The right to freedom of movement within the country, the right to leave any country, and the right to return to the country itself; (3) The right to seek asylum from persecution; (4) The right to find a family; (5) The right to work; (6) The right to a worthy working conditions.

These rights reflect human rights principles that can help protect the rights of immigrants, especially those fleeing crimes against humanity in their home countries. This concept can also help to bridge the elaboration of the Responsibility to Protect in this research.

The current Responsibility to Protect (RtoP) doctrine originated from 3 paragraph in the UN General Assembly resolution document A/RES/60/1 World Summit Outcome 2005 (United Nations, 2005), where paragraph 139 has characteristics that are quite aligned to see how the United States as an international community focuses on fulfilling the human rights of immigrants who experience crimes against humanity in

their home countries. This clause is also the basis for the U.S. to play an active role in humanitarian issues by designing solutions to immigrant problems through policy.

Paragraph 139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

Overall, the paragraph calls for protection responsibilities by the international community in relation to immigrants, refugees and displaced persons (Evans, 2008). The international community can be said to be a substitute framework to replace sovereign states that should carry the central role of this concept, on the basis of the principle of complementarity, to restore obligations to the concept of RtoP (Rimmer, 2010).

This research also adopted the concept of global public policy (Stone, 2020), where Diane Stone defined global public policy as a set of cooperative and deliberation processes between state-based and international organizations that seek to establish common norms and common policy agenda to addressing transnational issues. The concept of global public policy made it possible to see how international treaties and global norms influence U.S. policy toward immigrants. In this research, the influence will be examined as United States adheres to international resolutions through its policies towards immigrants under President Joe Biden that reflect the RtoP, which contains pro-immigrant policies that are aligned with the norms and rights recognized in The International Bill of Human Rights.

## **RESEARCH METHOD**

This research uses descriptive qualitative research methods that aim to describe and explain in detail a certain phenomenon on the basis of data that is described descriptively. The descriptive approach is carried out to make a systematic explanation of the phenomenon under study by describing the relevant variables based on reality, field facts, and actions taken by research subjects (Bakry, 2016).

The data collected in this research is secondary data conducted by literature study so that the main data obtained comes from scientific literature such as books, journals, and reports. There are also official websites of U.S. government, international organizations, independent research from experts, and well-known international news sites, as well as other sources related to the topic that considered appropriate as supporting data in this research.

With the findings of data from various sources, this research aims to describe the policies of the U.S. government towards immigrants in the Joe Biden era, which are then analyzed and identified more deeply with the support of concepts so as to obtain policies that contain elements of fulfillment of immigrants' human rights.

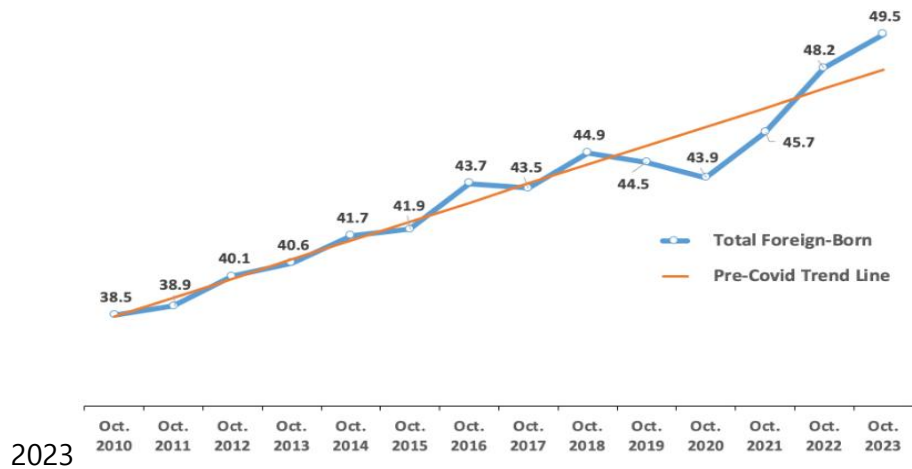
## **RESULT AND DISCUSSION**

### **The Dynamics of Immigrants in the United States**

The dynamics of immigrants in the United States are characterized by significant waves of immigration that impact policy development in the U.S. The arrival of international immigrants to the U.S. each year has added to the immigrant population already living in the U.S. The total population of both legal and illegal immigrants in U.S. continues to increase post-Covid-19. As shown in graph 1, by October 2023 the total legal and illegal immigrant population in U.S. reached 49.5 million (Camarota & Zeigler, 2023).

This is the highest number in U.S. history, and represents an increase of 4.5 million (larger than the individual populations of 25 U.S. states) since President Biden first took office in January 2021. More than half of this increase, about 2.5 million, is new illegal immigration, with an average influx of 137,000 immigrants per month (Facchini & Steinhardt, 2011). This means that, based on graph 1, the Joe Biden era has had to deal with a influx in immigrants, especially illegal immigrants, since his first year in office.

**Graph 1.** Total Immigrants in the U.S. From 2010-



Source: Camarota & Zeigler, 2023

The estimated number of illegal immigrants in the United States in 2021, based on data below is approximately 11.2 million (Warren, 2021). Of this total, illegal immigrants from Mexico, El Salvador, Guatemala, and Honduras occupy the top 4 out of a total of 10 countries according to table 1. Immigrants from Mexico and Central America in total make up around 66% of the total illegal immigrants in the United States by region of birth with a total of 7,426,000 people. This means that from the data, the large number of illegal immigrants plays an important role in U.S. immigration dynamics.

**Table 1.** Top 10 Countries of Origin of Illegal Immigrants in the U.S. in 2021

	Number of Unauthorized Immigrants	Share of Overall Unauthorized Immigrant Population (%)
Mexico	5,203,000	46
Guatemala	780,000	7
El Salvador	751,000	7
Honduras	564,000	5
India	400,000	4
Philippines	309,000	3
Venezuela	251,000	2
China	241,000	2
Colombia	201,000	2
Brazil	195,000	2
<b>Total</b>	<b>11,217,000</b>	<b>100</b>

Source: Van Hook et. al., 2023

Illegal immigrants have various reasons for migrating that dare to make the dangerous journey to U.S. Therefore, we will further discuss the profile and reasons for illegal immigrant migration in the U.S. focusing on immigrants from Mexico, El Salvador, Guatemala, and Honduras who are the highest donor to illegal immigrants in the U.S.

today, and are indicated to have experienced crimes against humanity or violence in their home countries.

### **Immigrants Profile and The Reasons of Migration**

Illegal immigrants from Mexico, El Salvador, Guatemala and Honduras migrate to escape violence in their home countries (Diaz, 2022). Representative of the International Committee of the Red Cross, Jordi Raich, said in an interview with Reuters that the wave of migration from Mexico and Central American countries will continue to increase due to the high level of violence in the region (Diaz, 2022). He also added that violence is increasingly causing disaster and that is why there are more and more migrants, and this situation is not expected to improve or slow down in the years ahead. These countries are the largest contributors of illegal immigrants to the U.S., and geographically they are located close to the U.S. as shown in figure 1.

**Figure 1.** Map of United States Boundaries



*Source: A Journey Toward Hope, 2015*

Mexico faces serious security challenges, especially related to narcotics cartels involved in illegal activities such as drug trafficking, kidnapping, and street violence (Eskridge, 2001). Security, health and economic challenges in the country over the past few years have driven mass migration towards U.S. Mexico is still the largest immigrant group in U.S., the Covid-19 pandemic has also played a role to the increase in the number of new immigrants from Mexico in the U.S. The main gateway for Mexican immigrants to enter U.S. is the U.S.-Mexico border.

Migration from El Salvador, Guatemala and Honduras has increased significantly in recent decades. These countries dominate the number of immigrants at the U.S. southern border. The number of immigrants in the U.S. from that region increased threefold to reach more than 3 million in recent years (Faret, 2020). Immigrants from this region mostly take land routes (the U.S.-Mexico border), maritime routes (The Gulf



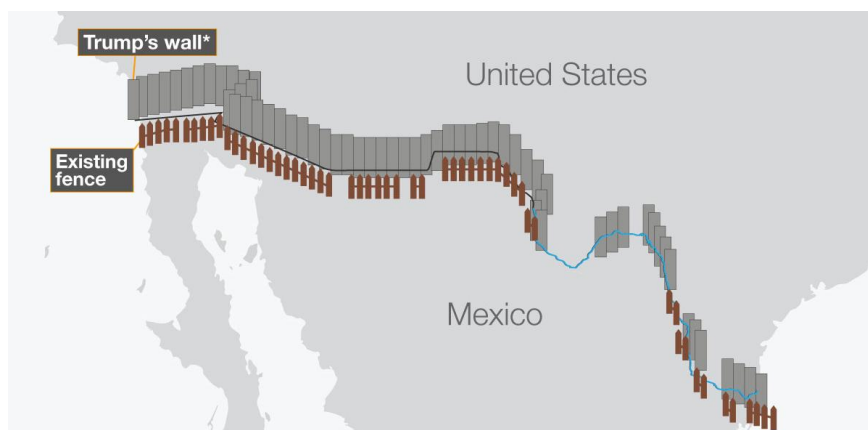
of Mexico and the Rio Grande River), and taking routes through tropical rainforests on the Panama-Colombia border to reach U.S. (Seelke, 2013). Migration from those countries is rooted in situation of resource scarcity and cannot be separated from the armed group violence and civil wars that are part of the region's history (Taft-Morales, 2019). International emigration rates from those region continue to increase, and crime has reached unprecedented levels. Honduras, El Salvador and Guatemala are among the countries with the highest murder rates in the world (Meyer, 2019). There were murders per 100,000 inhabitants in 2018 (Faret, 2020). This reflects the reality of the region, where poverty and various manifestations of insecurity are at the root of population displacement.

## **U.S. Policy Toward Immigrants Under President Joe Biden That Reflecting the Responsibility to Protect**

### **Cancellation of Previous Era's Controversial Policies**

After being inaugurated as President of the United States, Joe Biden immediately took action to cancel the controversial policies of the previous era, the Trump era. Biden stopped the construction of U.S.-Mexico border wall expansion. As is known, the expansion of construction of U.S.-Mexico border wall began on a massive scale during the Trump era and is known as the Trump Wall (The White House, 2018). Through this policy, a new wall was built on the U.S.-Mexico border, 732 km long, when previously the area did not have a wall. Figure 2 presents a comparison map of the U.S.-Mexico border wall in the Trump era with the previous era. It can be seen in the figure that the new wall built in the Trump era is tighter and has minimal gaps, and there is a new wall in a location where there was no wall before, and the construction of the wall even crossed through the Rio Grande River which is shown by the blue line in the figure.

**Figure 2.** The Comparison Map of U.S.-Mexico Border Wall in the Trump Era With the Previous Era



*Source: Aljazeera, 2017*

A wall will not address the root causes of migration such as poverty and violence in migrants' home countries, instead it will worsen the humanitarian crisis at the border and have significant negative impacts on the environment and local communities. In January 2021, U.S. President Joe Biden discontinued construction of the wall, and by April 2021, the Biden administration had canceled all border wall projects and working to reunite families separated at U.S.-Mexico border (Bredemeier, 2021). The cancellation policy taken by Joe Biden is considered a positive step by immigration advocates and environmental groups. Through this step, the U.S. government in Joe Biden era has provided an opportunity for illegal immigrants to enter U.S. more safely and humanely. Without a wall, illegal immigrants fleeing violence can easily enter U.S. without endangering themselves.

The Joe Biden era also ended the Trump-era Remain in Mexico policy. The Remain in Mexico policy sent immigrants seeking asylum at the U.S. southern border to wait in Mexico until immigration checks are completed. Before this policy, immigrants seeking asylum could wait for their immigration process in U.S. More than 67,000 migrants have been targeted by this program and many are still awaiting screening in camps along the U.S.-Mexico border (U.S. Department of Homeland Security, 2021). With Biden ending this policy, no new individuals will be affected by this policy and illegal immigrants who flee to the border can stay in U.S. as long as their immigration status is checked.

On February 12, 2021, Biden allowed tens of thousands of illegal immigrants who were forced to stay in Mexico under the Remain in Mexico policy to enter the U.S. On March 3, 2021, the U.S. Department of Homeland Security launched a website to provide up-to-date information regarding the termination of the Remain in Mexico program and the U.S. plan to admit individuals to the U.S. while they complete their immigration process. By May 2021, a total of 10,000 illegal immigrants seeking asylum who were previously enrolled in the Remain in Mexico policy have been admitted to U.S. (U.S. Department of Homeland Security, 2021).

The Joe Biden era also canceled the Zero Tolerance policy. The Trump-era Zero Tolerance policy emphasizes the arrest, detention, and criminal prosecution of any adult immigrant who enters the United States illegally (Amalia et.al, 2023). The impact is the forced separation of child immigrants from their parents or guardians who enter the U.S. together without clarity on when their families will be reunited. Child migrants are often placed in federal prisoners, while their parents are detained or deported to their home countries. The policy also attracted criticism because it was deemed to violate international human rights principles, such as children's rights, freedom, and protection from violence. This policy has been ended by President Biden through the

signing of an executive order revoking the policy (The White House, 2021). Biden's decision to end Trump's policy is an important step in erasing Trump's controversial legacy on immigration.

Controversial policies in the previous era seemed to limit illegal immigrants trying to seek asylum in the United States. The expansion of the wall has been proven to endanger immigrants, Remain in Mexico forces immigrants seeking asylum to the U.S. to wait in Mexico without certainty of immigration status, and Zero Tolerance forcibly separates immigrant families. The Universal Human Rights concept brought by Donnelly states that policies are part of the U.S. responsibility to protect human rights. Biden's cancellation of the previous era's controversial policies has indirectly protected the human rights of immigrants contained in The International Bill of Human Rights, namely the right to life, liberty, and personal security, the right to leave any country, the right to seek asylum from persecution, and the right to find a family.

### **Re-enacting Old Policies**

There are several old policies towards immigrants that Joe Biden has re-enacted during his administration. The old policies are policies that were implemented during the previous administration or policies that are routinely implemented by U.S. in every period of government. The first policy to be reinstated was Deferred Action for Childhood Arrivals (DACA), which was introduced in 2012 during the Obama administration. This policy provides 2-year temporary and renewable protection from deportation and work permits to adult illegal immigrants who came to the U.S. as children, as well as other protections such as social security cards and driver's licenses (The White House, 2021).

In 2021, Joe Biden issued an executive order renewing DACA and introducing several changes, including extending the validity period of residence and work permits from 2 years to 4 years and removing the age limit for DACA eligibility. During the Biden administration, the DACA program has continued to play an important role in protecting eligible illegal immigrants who arrived in U.S. as children. Biden directed the federal government to maintain the DACA program, which faced the threat of repeal under the Trump administration. As of December 31, 2022, there were a total of approximately 580,310 active DACA recipient immigrants in the U.S. with the top countries of birth being Mexico, El Salvador, Guatemala, and Honduras based on data from U.S. Citizenship and Immigration Services shown in table 2 below.

**Table 2.** Top 10 Countries of Origin for DACA Recipients In 2022

Country of Birth <sup>1</sup>	Count (Rounded) <sup>2</sup>	Country of Birth <sup>1</sup>	Count (Rounded) <sup>2</sup>
<b>TOTAL</b>		<b>580,310</b>	
Mexico	469,070	El Salvador	22,630
Guatemala	15,400	Honduras	14,100
Peru	5,450	Korea, South	5,390
Brazil	4,410	Ecuador	4,120
Colombia	3,570	Argentina	2,870

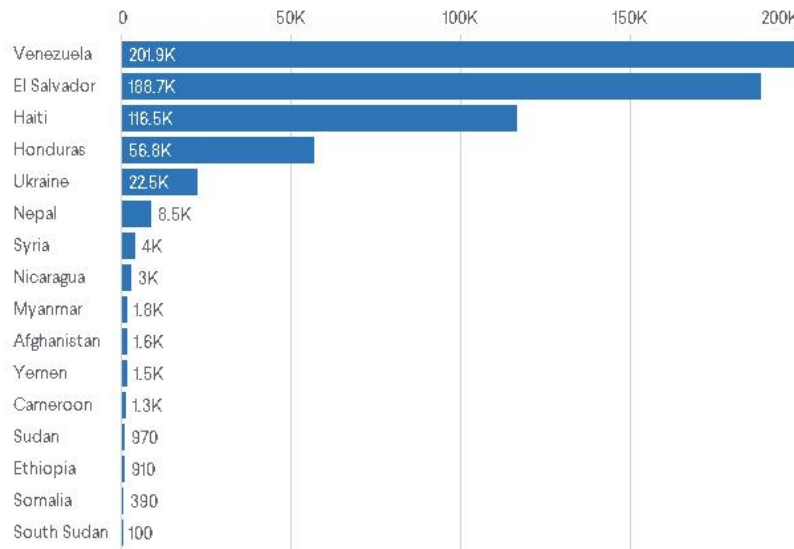
*Source: U.S. Citizenship and Immigration Services, 2022*

Joe Biden's executive order in a memorandum titled Preserving and Fortifying DACA dated January 20, 2021 stated that through the DACA program, illegal immigrants should not be targeted for deportation for humanitarian and other considerations, and that the work permits granted through the DACA program will allow immigrants to support themselves and their families, and contribute to the U.S. economy (The White House, 2021).

The next policy is Temporary Protected Status (TPS) which since 1990 has given special status to illegal immigrants in the United States whose conditions in their home countries are unsafe or unable to properly handle the return of their citizens, to live and work in U.S. for a temporary period of about 18 months and can be extended indefinitely if immigrant's country of origin is still unable to accept its citizens back safely (U.S. Citizenship and Immigration Services, 2023). TPS is reserved for immigrants from countries facing armed conflicts that poses a serious threat to personal safety, environmental disasters, or other extraordinary and temporary humanitarian conditions that make it impossible for their citizens to return safely. During the specified period, illegal immigrants who are TPS recipients will not be deported from U.S. They will receive work permit documents, can be granted travel permits, and cannot be detained based on their immigration status.

At least 93% of current TPS holders are from Latin American countries, especially Venezuela, El Salvador, Haiti, and Honduras where the worsening humanitarian crisis has caused more than 7 million people to flee these countries (Roy & Klobucista, 2023). Graph 2 below shows the list of countries receiving the TPS program in 2023. TPS for immigrants from the countries on this list is continuously extended by the U.S., and in the Biden era it is valid until 2025 that can still be extended depending on immigrants' home countries conditions (Wilson, 2023).

**Graph 2.** List of TPS Recipient Countries as of March 2023



Source: Wilson, 2023

The addition of TPS recipients resulted in the highest TPS holders immigrants population ever in United States history, where the number of TPS recipients reached 697,530 in September 2023. TPS recipients are spread across all U.S. states, with the largest immigrant populations living in California, Florida, New York, and Texas. Other states such as Washington, Utah, Virginia, Georgia, North Carolina, Indiana, Illinois, Pennsylvania, Ohio, Tennessee, Maryland, New Jersey, and Massachusetts also have quite large numbers of TPS recipients immigrants, with an average of 6,000-20,000 TPS recipients for each state in September 2023.

The Biden administration has also restarted the Central American Minors (CAM) policy which provides an opportunity for migrant children from El Salvador, Guatemala, and Honduras who have parents or legal guardians living in the United States to be granted refugee status and possible resettlement in U.S. (U.S. Citizenship and Immigration Services, 2023). The program was first introduced in 2014, but was discontinued in 2017 under the Trump administration. The Biden administration revived the program in March 2021 and renewed the program in April 2023. The CAM program has been expanded in the Biden era by opening registration to new applicants.

The CAM program provides a safe, legal, and orderly immigration and citizenship alternative for illegal child migrants fleeing persecution in Central America to the United States. In addition, the program provides applicants with access to legal work in U.S. The program is also recognized as an important safety net for many Central American children who are at risk of persecution or other violence.

On March 10, 2021, the U.S. Departments of State and Homeland Security announced the reopening of the CAM program in two phases (U.S. Department of State, 2023). The first phase began on March 15, 2021 by reopening cases that were closed without an interview. At this stage, U.S.-based resettlement agencies began contacting

families whose applications were closed after January 31, 2018, to give them the opportunity to reopen their cases. On June 15, 2021, the second phase began of expanding eligibility and providing new information about the CAM program application process. On April 11, 2023, the U.S. government announced it was opening registration for new applicants to the CAM program.

The Biden administration also reinstated the United States Refugee Admissions Program (USRAP). Biden has taken steps to rebuild and improve USRAP by issuing an executive order, which aims to expand the resettlement program appropriate with global needs and humanitarian goals. The USRAP program aims to help individuals in need of assistance and protection in U.S. These individuals are foreign citizenship whose countries are unable to provide protection from fear, persecution, war, instability, and violence (U.S. Department of State, 2023).

The definition overlaps with immigrants, as immigrants are also foreign nationals who often migrate to escape violence. In fact, the U.S. Refugee Admissions list of countries of origin for refugees in 2022 includes El Salvador, Guatemala, and Honduras as well as countries such as the Democratic Republic of Congo, Syria, Myanmar, Afghanistan, and Ukraine. Biden's target for refugee immigrant admissions to the USRAP program in 2022 and 2023 was increased to 125,000, which is the highest target in decades. The number of refugee immigrant admissions has increased compared to previous eras since the start of Joe Biden's administration. Accepted refugee immigrants starting to increase from 2021 onwards, reached 25,465 in 2022, and reached 60,014 in 2023 (Migration Policy Institute, 2023).

Another policy reinstated in the Biden era is the Migrant Child Shelter, where on February 27, 2021 the Biden administration expanded the government's capacity to accommodate child migrants by reopening the Migrant Child Shelter, temporary shelter facility for children that had been closed in Carrizo Springs, Texas, in an effort to respond to the increasing number of unaccompanied minors crossing U.S. border illegally (VOA, 2019). This facility managed by U.S. Department of Health and Human Service was built to accommodate up to 1,600 child migrants. An overview of the facility is shown in Figure 3.

**Figure 3.** Children's Migrant Shelter Carrizo Springs, Texas



*Source: Target Hospitality, 2021*

Most child migrants cross the border with or without parents to escape violence and corruption in Central America, and are housed in holding facilities while waiting for U.S. authorities to examine their sponsors, family members, or relatives of the children who have already entered U.S. The Biden administration took policy steps to protect minors from expulsion, and a U.S. court decision authorized the plan. The Biden administration is fully aware of the situation of humanitarian concern at U.S. southern border, so in dealing with child migrants, the government is trying to prevent as much harm as possible (Galvez, 2021). While waiting for sponsors to pick them up, child migrants stay at the Carrizo Springs, Texas shelter and receive various facilities there. The facilities provided are medical services, mental health services, 3 heavy meals and 2 snacks a day, telephone access, and daily scheduled activities such as learning, arts, and sports (Galvez, 2021).

The RtoP resolution in paragraph 139 advocates the responsibility of the international community to use diplomatic, humanitarian and other peaceful means to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Elements of RtoP are reflected by the U.S. through the re-enacted old policies such as DACA, TPS, CAM, USRAP, and Migrant Child Shelter. These policies demonstrate U.S. commitment to protecting immigrants, especially immigrants who have suffered crimes against humanity.

Basically, according to the list of immigrant rights, immigrants have the right to leave any country, the right to seek asylum from persecution, the right to find family, and the right to work. Through these re-enacted old policies, the Biden era provides certainty of residence permits, work permits, social security and freedom for immigrants to build their lives in the U.S. either on a temporary and renewable or permanent basis.

### **New Policies in the Biden Era**

There are also new policies towards immigrants in Joe Biden era, namely policies that have just been introduced and are initiatives of the Biden administration. The first policy is the executive order Established an Interagency Task Force for Family Reunification passed on February 2, 2021. Biden's executive order seeks to reunite families who were separated when entering U.S.-Mexico border due to the previous era's Zero Tolerance policy. It is a policy to respect and value the integrity of families wishing to enter the U.S. (The White House, 2021). Through this policy, the Biden administration will protect family unity and ensure that child immigrants entering U.S. are not separated from their families. The task force under this policy consists of the heads of the U.S. Department of Homeland Security, the U.S. Department of State, the Department of Health and Human Services, the Attorney General, and other officials from these departments.

The task force is tasked with (1) identifying all child migrants separated from their families at U.S.-Mexico border between January 20, 2017-January 20, 2021; (2) to the maximum extent possible, facilitating and enabling the reunification of each identified child with his or her family; (3) consult with children, their families and other representatives or stakeholders regarding family preferences, parental rights, and the welfare of children; (4) provide regular reports to the President: an initial progress report no later than 120 days after the policy is established, an interim report every 60 days thereafter, a report that the federal government will not repeat the policies and practices that lead to family separation at the border, and a final report when the Task Force has completed its mission. On May 3, 2021, the Biden administration announced that 4 migrant families separated under the previous administration's Zero Tolerance policy would be reunited. The 4 parents, who were deported without their children, were granted parole on humanitarian grounds, allowing them to return to the U.S. Another 30 deported migrant parents were reunited with their children in the U.S. in May and June 2021.

In the Biden era, there was a declaration called Los Angeles Declaration on Migration and Protection in June 2022 which became a collective policy with other countries from across the Western Hemisphere (a nickname often given to the American Continent). This policy builds on existing efforts and international commitments and advances the vision set out in the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration as contained in the Sustainable Development Agenda 2030 (The White House, 2022). This policy seeks to increase cooperation and shared responsibility of countries in the Western Hemisphere in managing migration and protection in a way that is based on human rights, transparency, non-discrimination and state sovereignty.



This policy aims to mobilize the entire Western Hemisphere to take bold actions that will change the approach to managing migration in the Americas and is structured around 4 key pillars: (1) stability and assistance for communities; (2) expansion of legal channels; (3) humane migration management; and (4) coordinated emergency response. Through this declaration, countries support efforts that enable all migrants, refugees, asylum seekers, and people in vulnerable situations to enter destination countries and access legal identity, regular status, dignified employment, public services, and international protection, or to rebuild their lives and contribute to the country of destination. States in this declaration agree to make efforts to address the root causes of irregular migration, improve conditions and opportunities in migrants' home countries and increase respect for human rights.

In response to record-breaking migration, the Biden administration in early 2023 also introduced the Safe Mobility Offices (SMO) policy. This program collaborates with partner countries in Latin America by opening Safe Mobility Offices designed to provide safe and humane migration pathways for eligible migrants, by minimizing dangerous journeys and illegal arrivals at the border (U.S. Department of State, 2023). As of June 2023, SMOs have opened in Colombia, Costa Rica, Ecuador, and Guatemala, run jointly with IOM and UNHCR. SMO serve migrants who are eligible to enter the U.S. through existing pathways such as family reunification, humanitarian parole, employment sponsorship, or refugee resettlement.

Through the SMO program, the Biden administration revealed a family reunification plan for immigrants from Colombia, Guatemala, Honduras, and El Salvador. This family reunification allows immigrants who already have a family sponsorship application to travel to U.S. on parole and get in line for a green card. Unlike other parole programs, this SMO program provides a pathway for illegal immigrants to permanent residency status in U.S. A total of about 3,000 immigrants have arrived in U.S. through SMO program, and another 9,000 immigrants have been approved for entry into U.S. SMO reflects a paradigm shift in U.S. approach to migration in the Western Hemisphere. This policy addresses humanitarian interest as well as U.S. national security itself. SMO is one of the tactics to meet the needs and challenges of managing illegal migration in the 21st century (De Pena & Guerra, 2023).

Through family reunification policy, the United States in Biden era has reunited dozens of illegal immigrants with their separated families. In this case, U.S. has fulfilled the list of immigrant rights, namely the right to find a family. Stone's concept of global public policy states that global public policy is a set of processes of cooperation and deliberation between state-based officials and international organizations that seek to establish shared norms and policy agendas for achieving common goals or overcome transnational problems. The Los Angeles Declaration on Migration and Protection policy strengthens Stone's concept, because it is a declaration agreed by U.S. together

with countries in the Americas to achieve common goals on the issue of migration, namely trying to achieve more humane migration management and provide access to residence permits and other population facilities for immigrants, asylum seekers, or refugees from all over Americas.

There is also the SMO program which also strengthens Stone's concept, where the SMO program is run by U.S. together with IOM and UNHCR to achieve common goals such as providing safe migration routes for immigrants and addressing migration vulnerabilities. The program has accommodated the list of immigrants' rights: the right to life, freedom, and personal security; the right to leave any country; the right to seek asylum from persecution; and the right to find a family.

## **CONCLUSION**

Human rights become a main foundation from which there is a Responsibility to Protect so that the United States has a strong commitment to uphold human rights. The Joe Biden era also shows its commitment to human rights through humanist policies, which were expressed in 3 forms of policy: First, the cancellation of controversial policies of the previous era. Second, re-enacted old policies. Third, new policies in the Biden era.

These policies can be said to reflect the Responsibility to Protect because after being identified, they contain elements of protection and fulfillment of the human rights of immigrants contained in The International Bill of Human Rights elaborated by Donnelly in his Universal Human Rights concept: the right to life, freedom, and personal security, the right to freedom of movement within the country, the right to leave any country, the right to seek asylum from persecution, the right to find a family, and the right to work and worthy working conditions. Some policies have also strengthened Stone's concept of global public policy because it is a collective policy between U.S. and other countries in the Americas and also works with international organizations in its implementation to achieve common goals in addressing migration issues.

Stone's concept of global public policy says that international norms that have been mutually agreed upon to achieve common goals or address transnational problems can influence a country's policies. In making policies, U.S. has considered applicable international norms, especially norms, principles, or resolutions that have been approved by U.S., in this case the RtoP and the International Human Rights Law. It can be said that in the Joe Biden era, the United States returned to its identity as a pro-immigrant country because U.S. policies towards immigrants in Biden era have had a positive impact on immigrants so that they can rebuild their lives in the U.S.

## **REFERENCES**

- A Journey Toward Hope. (2015). Home Countries. 25 January 2024, retrieved from <https://www.ajourneytowardhope.com/new-page>.
- Aljazeera. (2017, 30 March). Trump's Border Wall Explained. 20 April 2024, retrieved from <https://www.aljazeera.com/features/2017/3/30/trumps-border-wall-explained>
- Amalia, A. R. Noor, S.M. Magassing, A. M. (2023). Kebijakan Zero Tolerance Amerika Serikat Di Era Donald Trump: Perspektif Hukum Internasional. *Jurnal Risalah Kenotariatan*, 4(1), 324-333.
- Bakry, U.S. (2016). *Metode Penelitian Hubungan Internasional*. Yogyakarta: Pustaka Pelajar.
- Batalova, J. Hooker, S. Capps, R. Bachmeier, J. D. (2014). *DACA At The Two-Year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action*. Washington D.C: Migration Policy Institute.
- Bredemeier, K. (2021, 02 February). Biden Signs Executive Orders Reversing Trump Immigration Policies. 16 February 2024, retrieved from [https://www.voanews.com/a/usa\\_biden-signs-executive-orders-reversing-trump-immigration-policies/6201520.html](https://www.voanews.com/a/usa_biden-signs-executive-orders-reversing-trump-immigration-policies/6201520.html).
- Breuninger, K. Higgins, T. (2018, 8 November). Trump Unveils Hard-line Immigration Policy That Limits Asylum. 19 October 2023, retrieved from <https://www.cnbc.com/2018/11/08/trump-unveils-hard-line-immigration-policy-that-limits-asylum.html>.
- Camarota, S. A. Zeigler, K. (2023, 30 November). In October 2023, The Foreign-Born Share Was The Highest in History. 29 January 2024, retrieved from <https://cis.org/Report/October-2023-ForeignBorn-Share-Was-Highest-History>.
- De Pena, K. Guerra, G. (2023, 20 September). Managing Mixed Migration in The 21<sup>st</sup> Century Through The Safe Mobility Offices Initiative. 24 February 2024, retrieved from <https://www.niskanencenter.org/managing-mixed-migration-in-the-21st-century-through-the-safe-mobility-offices-initiative/>.
- Diaz, L. (2022, 25 March). Violence To Spur More Migration From Mexico, Central America-Red Cross. 30 January 2024, retrieved from <https://www.reuters.com/world/americas/violence-spur-more-migration-mexico-central-america-red-cross-2022-03-24/>.
- Donnelly, J. (2013). *Universal Human Rights in Theory and Practice*, Edisi Ketiga. New York: Cornell University Press.
- Eskridge, C. (2001). Mexican Cartels and Their Integration Into Mexican Socio-Political Culture. *U.S Department of Justice Report*. Retrieved from

<https://www.ojp.gov/ncjrs/virtual-library/abstracts/mexican-cartels-and-their-integration-mexican-socio-political>.

Evans, G. (2008). *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All*. Washington DC: Brookings Institution Press.

Facchini, G. Steinhardt, M. F. (2011). What Drives U.S. Immigration Policy? Evidence From Congressional Roll Call Votes. *Journal of Public Economics*, 95(7), 734-743.

Faret, L. (2020). Migration of Violence, Violence in Migration. The Vulnerabilities of Central American Populations Going North (translated by Katherine Booth and Alexandra Pomeon O'Neill). *Revue Européenne Des Migrations Internationales Journal*. 36(1), 1-20.

Galvez, C. M. (2021, 01 March). Biden Administration Scrambles To Expand Housing Space For Migrant Children Amid Sharp Increase In Border Apprehensions. 24 February 2024, retrieved from <https://www.cbsnews.com/news/biden-administration-scrambles-to-expand-housing-space-for-migrant-children-amid-sharp-increase-in-border-apprehensions/>.

Isacson, A. (2023, 25 August). Weekly U.S.-Mexico Border Update: July Migration, Texas Buoys on Trial, Matamoros Encampment. 23 September 2023, retrieved from <https://www.wola.org/2023/08/weekly-u-s-mexico-border-update-july-migration-texas-buoys-on-trial-matamoros-encampment/>.

Kaba, A. (2019). United States Immigration Policies in the Trump Era. *Sociology Mind*. Vol.9, 2019, 316-349.

Martin, S. F. (2021). *A Nation of Immigrants*, Edisi Kedua. Cambridge: Cambridge University Press.

Meyer, P. J. (2019). Honduras: Background and U.S. Relations. *Current Politics and Economics of South and Central America*. 12(2), 227-271.

Migration Policy Institute. (2019). Profile of The Unauthorized Population: United States. 05 January 2024, retrieved from <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>.

Migration Policy Institute. (2023). U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present. 24 February 2024, retrieved from <https://www.migrationpolicy.org/programs/data-hub/charts/us-refugee-resettlement>.

Pew Research. (2006, 22 May). Modes of Entry for the Unauthorized Migrant Population. 19 October 2023, retrieved from

<https://www.pewresearch.org/hispanic/2006/05/22/modes-of-entry-for-the-unauthorized-migrant-population/>.

Rimmer, S. H. (2010). Refugees, Internally Displaced Persons and The Responsibility to Protect. *UNHCR Research*. No.185, 1-21.

Roy, D. Klobucista, C. (2023, 21 September). What Is Temporary Protected Status. 22 February 2024, retrieved from <https://www.cfr.org/background/what-temporary-protected-status>.

Seelke, C. R. (2013). El Salvador: Political and Economic Conditions and U.S. Relations. *Current Politics and Economics of South and Central America*. 6(1), 53-84.

Simonovic, I. (2016). The Responsibility to Protect. 25 September 2023, retrieved from <https://www.un.org/en/chronicle/article/responsibility-protect>.

Stone, D. (2020). *Making Global Policy*. Cambridge: Cambridge University Press.

Taft-Morales, M. (2019). Guatemala: Political and Socioeconomic Conditions and U.S. Relations. *Current Politics and Economics of South and Central America*. 12(2), 173-206.

Target Hospitality. (2021). Texas Immigration Facility. 24 February 2024, retrieved from <https://www.targethospitality.com/texas-immigration-facility-tx/>.

The White House. (2014, 21 November). Taking Action on Immigration: President Obama is Taking New Steps to Fix America's Broken Immigration System. 19 October 2023, retrieved from <https://obamawhitehouse.archives.gov/issues/immigration>.

The White House. (2018). Immigration. 16 February 2024, retrieved from <https://trumpwhitehouse.archives.gov/issues/immigration/>.

The White House. (2021, 02 February). Executive Order on The Establishment Of Interagency Task Force on The Reunification of Families. 23 February 2024, retrieved from <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-the-establishment-of-interagency-task-force-on-the-reunification-of-families/>.

The White House. (2021, 20 January). Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize Our Immigration System. 19 January 2024, retrieved from <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.

- The White House. (2021, 20 January). Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA). 22 February 2024, retrieved from [https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/preserving-and-fortifying-deferred-action-for-childhood-arrivals-daca/?ct=t\(AgencyUpdate\\_012120\)](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/preserving-and-fortifying-deferred-action-for-childhood-arrivals-daca/?ct=t(AgencyUpdate_012120)).
- The White House. (2021). The Biden-Harris Administration Immediate Priorities. 21 September 2023, retrieved from <https://www.whitehouse.gov/priorities/>.
- The White House. (2022, 10 June). Los Angeles Declaration on Migration and Protection. 24 February 2024, retrieved from <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/>.
- The White House. (2023, 05 January). Remarks by President Biden on Border Security and Enforcement. 05 January 2024, retrieved from <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/01/05/remarks-by-president-biden-on-border-security-and-enforcement/>.
- UNHCR. (2024). El Salvador, Guatemala and Honduras Situation. *UNHCR Report*. Retrieved from <https://reporting.unhcr.org/operational/situations/el-salvador-guatemala-and-honduras-situation>.
- United Nations. (2005, 14 September). World Summit, 14-16 September 2005, New York. 24 September 2023, retrieved from <https://www.un.org/en/conferences/environment/newyork2005>.
- United Nations. (2005, 24 October). World Summit Outcome, GA Res. 60/1, U.N. Doc. A/Res/60/1,24. 05 September 2023, retrieved from [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_60\\_1.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf).
- U.S. Census Bureau. (2022). United States Census. 19 October 2023, retrieved from [https://data.census.gov/profile/United\\_States?g=010XX00US](https://data.census.gov/profile/United_States?g=010XX00US).
- U.S. Citizenship and Immigration Services. (2022, 31 December). Count of Active DACA Recipients. 22 February 2024, retrieved from [https://www.uscis.gov/sites/default/files/document/data/Active\\_DACA\\_Recipients\\_Dec\\_FY23\\_qtr1.pdf?ftag=MSF0951a18](https://www.uscis.gov/sites/default/files/document/data/Active_DACA_Recipients_Dec_FY23_qtr1.pdf?ftag=MSF0951a18).
- U.S. Citizenship and Immigration Services. (2023). Central American Minors (CAM) Program. 23 February 2024, retrieved from <https://www.uscis.gov/CAM>.
- U.S. Citizenship and Immigration Services. (2023). Temporary Protected Status. 21 April 2024, retrieved from <https://www.uscis.gov/humanitarian/temporary-protected-status>.

- U.S. Department of Homeland Security. (2021, 20 January). DHS Statement on The Suspension of New Enrollments in The Migrant Protection Protocols Program. 23 February 2024, retrieved from [https://www.dhs.gov/news/2021/01/20/dhs-statement-suspension-new-enrollments-migrant-protection-protocols-program?ct=t\(AgencyUpdate\\_012120\)](https://www.dhs.gov/news/2021/01/20/dhs-statement-suspension-new-enrollments-migrant-protection-protocols-program?ct=t(AgencyUpdate_012120)).
- U.S. Department Of State. (2022, 15 September). The Responsibility to Protect Focal Points. 24 September 2023, retrieved from <https://www.state.gov/the-responsibility-to-protect-focal-points/>.
- U.S. Department of State. (2023). Central American Minors (CAM) Program. 23 February 2024, retrieved from <https://www.state.gov/refugee-admissions/central-american-minors-cam-program/>.
- U.S. Department of State. (2023). Refugee Admissions. 13 February 2024, retrieved from <https://www.state.gov/refugee-admissions/>.
- U.S. Department of State. (2023). Safe Mobility Initiative. 23 February 2024, retrieved from <https://www.state.gov/refugee-admissions/safe-mobility-initiative/>.
- Van Hook, J. et. al. (2023). A Turning Point For The Unauthorized Immigrant Population in The United States. 25 March 2024, retrieved from <https://www.migrationpolicy.org/news/turning-point-us-unauthorized-immigrant-population>.
- VOA. (2019, 07 June). AS Buka Fasilitas Massal Baru di Texas Untuk Migran Anak. 24 February 2024, retrieved from <https://www.voaindonesia.com/a/as-buka-fasilitas-massal-baru-di-texas-untuk-migran-anak/4949547.html>.
- Warren, R. (2021). MPI Methodology In 2019, The US Undocumented Population Continued a Decade-Long Decline and The Foreign-Born Population Neared Zero Growth. *Journal on Migration and Human Security*. 9(1), 31–43.
- Wilson, J. H. (2023). Temporary Protected Status and Deferred Enforced Departure. *Congressional Research Service Report*. Retrieved from <https://sgp.fas.org/crs/homesec/RS20844.pdf>.