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Trump's Immigration Policies, Humanism, and the Implications for Nigeria-U.S. Diplomacy

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ABSTRACT

The emergence of Donald Trump as the 47th President of the United States has led to a fundamental shift in American values, particularly concerning humanism, migration, and global diplomacy. Historically, America was seen as the beacon of hope and opportunity, where migrants sought refuge and economic advancement. However, Trump's administration has reinforced a nationalist, protectionist, and wealth-driven approach, favouring the elite and so-called indigenous Americans at the expense of immigrant populations. This paper critically examines the implications of Trump's immigration policies, particularly the deportation of migrants and the restriction of entry for Nigerians and other foreign nationals, which challenge established international human rights laws. It argues that these policies mark a departure from America's long-standing commitment to humanitarian values, replacing them with exclusionary and economically stratified governance. Furthermore, the study explores the diplomatic consequences of these policies on U.S. Nigeria relations, analysing the potential decline in bilateral cooperation, trade, and diplomatic engagements. The paper concludes that while Trump's policies reflect a reconfiguration of American identity, they risk eroding global trust, diminishing America's moral authority, and straining diplomatic ties with nations that have historically looked to the U.S. as a partner in economic and social development.

Keywords: global diplomacy, Trump's administration

1. INTRODUCTION

The historical perception of the United States as a land of opportunity and refuge.

The United States has long been perceived as a land of opportunity and refuge, a nation built on the promise of economic prosperity, individual freedom, and protection from persecution. This image, deeply embedded in the national consciousness, has historical roots stretching back to the colonial era, when European settlers arrived in search of religious freedom and economic opportunities. The idea of the United States as a sanctuary for immigrants gained further prominence with the enactment of liberal immigration policies in the late 19th and early 20th centuries.

One of the earliest manifestations of America's role as a refuge can be traced to the colonial period, particularly with the arrival of the Pilgrims in 1620, who sought religious liberty away from persecution

in England. The signing of the Mayflower Compact established the foundation of self-governance and freedom, principles that would later be enshrined in the American Constitution. The sentiment of religious and political refuge continued with the establishment of colonies such as Pennsylvania by William Penn, which welcomed persecuted Quakers, and Maryland, which became a haven for Catholics¹.

The 19th century saw the rise of the United States as an economic powerhouse, attracting millions of immigrants, particularly from Europe. The Industrial Revolution created a demand for labour, leading to the mass migration of Irish, German, and later Italian and Eastern European workers. The Homestead Act of 1862 further solidified the image of America as a land of opportunity by offering land to settlers willing to develop it². Many of these immigrants settled in urban centres, contributing significantly to the economic and cultural development of the nation.

The late 19th and early 20th centuries saw the formalization of America's identity as a refuge with the establishment of Ellis Island in 1892, which processed millions of immigrants, particularly from Europe. The Statue of Liberty, gifted by France in 1886, became an enduring symbol of America's commitment to welcoming the "huddled masses yearning to breathe free"³. The 1924 Immigration Act, however, marked a shift in policy by imposing quotas that favoured Western Europeans over other groups, reflecting a growing tension between America's ideals and its policies.

Following World War II, the United States reaffirmed its role as a global refuge through initiatives such as the Displaced Persons Act of 1948, which provided asylum to those fleeing war-torn Europe, and later, policies accommodating refugees from Communist regimes during the Cold War⁴. The 1965 Immigration and Nationality Act dismantled the racially biased quota system, opening America's doors to immigrants from Asia, Africa, and Latin America, further reinforcing its global reputation as a land of opportunity.

Despite its historical reputation, the perception of the United States as a refuge has been challenged in recent years due to restrictive immigration policies. The Trump administration's travel bans, heightened border security, and stringent asylum restrictions have raised concerns about America's commitment to its historical values⁵. Nonetheless, the enduring legacy of the United States as a land of opportunity remains evident in its continued role as the destination of choice for individuals seeking better economic prospects and political freedom.

The historical perception of the United States as a land of opportunity and refuge is deeply rooted in its colonial origins, industrial expansion, and legislative developments. While policies have fluctuated between openness and restriction, the fundamental ethos of providing opportunities and refuge has remained a central aspect of the nation's identity. As contemporary debates on immigration continue, it is crucial to consider the historical context that has shaped America's role as a beacon of hope for generations of migrants.

2. The role of migration in shaping America's economy and global influence.

Migration has played a crucial role in shaping America's economy and global influence, catalyzing innovation, economic expansion, and cultural diversity. Historically, the United States has benefited from successive waves of migration that have contributed to its development as a leading global power. The interplay between immigration policies, labour markets, and international relations underscores the significance of migration in the country's socio-economic fabric.

The economic contributions of migrants to the United States have been profound. Since the Industrial Revolution, immigrant labour has fueled key industries such as manufacturing, construction, and agriculture. The influx of Irish and German immigrants in the 19th century helped sustain industrial growth by providing a steady workforce, particularly in urban centres such as New York and Chicago⁶.

¹ Gordon, 'Immigration and Migration in American History' (2005) 12 JAH 112.

² Smith, 'The Homestead Act and Immigration in the United States' (2010) 45 ALR 67.

³ Lazarus, 'The New Colossus' (1883) in Kammen (ed), 'American Symbols: A Reader' (1991) 176.

⁴ Jones, 'Cold War Refugees and U.S. Immigration Policy' (1998) 23 JAH 201.

⁵ Johnson, 'Immigration Policy in the Trump Era' [2019] 65 ALJ 133.

⁶ Daniels, 'Coming to America: A History of Immigration and Ethnicity in American Life' (2002) 56.

Similarly, Chinese labourers were instrumental in the construction of the transcontinental railroad, a project that significantly enhanced national connectivity and commerce⁷. These contributions illustrate the indispensable role of migration in economic expansion.

During the 20th century, migration continued to shape America's economy through technological innovation and entrepreneurship. Many leading American companies, including Google, Apple, and Tesla, were founded or co-founded by immigrants or their descendants⁸. Migrants have been key players in the technology and healthcare industries, filling crucial roles in sectors experiencing labour shortages. The H-1B visa program, designed to attract highly skilled workers, has further reinforced America's competitive advantage in science, engineering, and medicine⁹. These developments highlight how migration fosters economic dynamism and job creation.

Beyond its domestic economic impact, migration has significantly shaped America's global influence. The United States' ability to attract talent from around the world has positioned it as a leader in scientific research and innovation. The presence of international students and scholars in American universities has fostered academic excellence and cross-cultural collaboration¹⁰. Furthermore, America's migration policies have been instrumental in diplomatic relations, as seen in programs such as the Fulbright Scholarship, which enhances U.S. soft power by fostering educational exchanges¹¹.

Migration has also played a strategic role in America's labour market adaptability. During periods of economic boom, such as the post-World War II era, migration helped meet labor demands in expanding industries like automotive manufacturing and aerospace¹². Conversely, economic recessions have led to restrictive immigration policies, reflecting the complex relationship between migration and economic cycles. The Immigration and Nationality Act of 1965, which eliminated racially biased quotas, ushered in a new era of migration, diversifying the American workforce and enhancing the country's global competitiveness¹³.

The influence of migration on America's geopolitical standing cannot be overstated. The country's diverse population has enabled it to engage with global markets more effectively, fostering international trade and diplomacy. Diaspora communities play a significant role in strengthening economic ties between the U.S. and their countries of origin¹⁴. Additionally, the acceptance of refugees and asylum seekers has reinforced America's image as a defender of human rights and democracy, further bolstering its soft power influence¹⁵.

Despite its advantages, migration has also been a contentious issue in American political discourse. The rise of restrictive immigration policies, such as the Trump administration's travel bans and border enforcement measures, has sparked debates over national security, economic competition, and cultural integration¹⁶. While concerns over unauthorized migration and labour displacement persist, empirical studies indicate that immigrants contribute more in taxes and economic output than they receive in public benefits¹⁷.

Migration has been a defining force in shaping America's economy and global standing. From fueling industrial growth and technological innovation to enhancing international diplomacy, migration has played an integral role in the nation's development. While policy debates continue, historical and economic evidence underscores the necessity of a balanced approach that recognizes both the opportunities and challenges associated with migration. The continued integration of migrant

⁷ Takaki, 'Strangers from a Different Shore: A History of Asian Americans' (1998) 87.

⁸ Portes and Rumbaut, 'Legacies: The Story of the Immigrant Second Generation' (2001) 45.

⁹ Borjas, 'Heaven's Door: Immigration Policy and the American Economy' (1999) 122.

¹⁰ Chiswick, 'The Effect of Americanization on the Earnings of Foreign-born Men' (1978) 86 JPE 897.

¹¹ Nye, 'Soft Power: The Means to Success in World Politics' (2004) 49.

¹² Hirschman, 'Immigration and the American Industrial Revolution from 1880 to 1920' (2005) 7 PSP 1123.

¹³ Ngai, 'Impossible Subjects: Illegal Aliens and the Making of Modern America' (2004) 165.

¹⁴ Levitt, 'The Transnational Villagers' (2001) 33.

¹⁵ Betts, 'Survival Migration: Failed Governance and the Crisis of Displacement' (2013) 98.

¹⁶ Johnson, 'Immigration Law and the US-Mexico Border: 'Sí Se Puede?' (2019) 66.

¹⁷ Peri, 'The Economic Impact of Immigration in the United States' (2012) 126 NBER 45.

contributions will be pivotal in ensuring the United States maintains its status as a global leader in the 21st century.

3. The emergence of Donald Trump as the 47th President and the shift toward nationalist and exclusionary policies.

The emergence of Donald Trump as the 47th President of the United States marked a significant shift towards nationalist and exclusionary policies, reshaping domestic and international political landscapes. Trump's presidency was characterised by an "America First" ideology, which prioritized national interests over global cooperation, particularly in areas of immigration, trade, and foreign policy¹⁸. His administration's stance signified a move away from multilateralism and towards a protectionist and restrictive governance model.

One of the most notable shifts under Trump was in immigration policy. His administration implemented restrictive measures such as the travel ban, formally known as Executive Order 13769, which barred entry into the U.S. from several Muslim-majority countries¹⁹. The justification provided was national security; however, critics argued it was a discriminatory policy that violated principles of religious freedom and equal protection under the U.S. Constitution²⁰. Additionally, the administration introduced the Migrant Protection Protocols, commonly referred to as the "Remain in Mexico" policy, which required asylum seekers to wait outside U.S. borders while their applications were processed²¹. These policies marked a stark departure from America's historical identity as a refuge for immigrants and asylum seekers.

The nationalist agenda extended to economic policies, with Trump's administration pursuing aggressive protectionist measures, including the imposition of tariffs on China and renegotiation of international trade agreements. The United States-Mexico-Canada Agreement (USMCA) replaced NAFTA, reflecting a shift towards bilateral trade policies that sought to protect American industries²². These economic policies were designed to prioritise American jobs and industries, but they also sparked trade disputes and retaliatory tariffs that affected global markets²³.

Trump's foreign policy approach also reflected his nationalist orientation. His administration withdrew the U.S. from several international agreements, including the Paris Climate Accord and the Iran Nuclear Deal, citing concerns that these agreements disproportionately disadvantaged the United States²⁴. These actions underscored a broader trend of disengagement from multilateral commitments and alliances, reinforcing a shift towards unilateralism in global diplomacy.

The cumulative effect of these policies contributed to growing political polarization within the United States and strained diplomatic relations with key allies. While Trump's supporters viewed his nationalist approach as a necessary course correction to protect American sovereignty and economic interests, critics argued that his policies fostered isolationism and undermined the nation's historical role as a global leader²⁵.

Trump's presidency marked a profound shift towards nationalist and exclusionary policies, redefining America's approach to immigration, trade, and foreign relations. While these policies aimed to reinforce national interests, they also generated significant domestic and international controversy, challenging long-standing principles of global cooperation and openness.

¹⁸ Nye, 'Do Morals Matter? Presidents and Foreign Policy from FDR to Trump' (2020) 167.

¹⁹ Johnson, 'Immigration Law and the US-Mexico Border: ¿Sí Se Puede?' (2019) 66.

²⁰ Hing, 'American Presidents, Deportations, and Human Rights Violations' (2018) 45 CLR 1203.

²¹ García Hernández, 'Crimmigration Law' (2021) 88.

²² Baldwin, 'The Great Convergence: Information Technology and the New Globalization' (2016) 210.

²³ Krugman, 'Arguing with Zombies: Economics, Politics, and the Fight for a Better Future' (2020) 98.

²⁴ Pompeo, 'The America We Deserve' (2021) 45.

²⁵ Zakaria, 'Ten Lessons for a Post-Pandemic World' (2020) 155.

4. The effects of Trump's migration policies on Nigerians and other foreign nationals.

Trump's migration policies had significant effects on Nigerians and other foreign nationals, particularly through the travel ban introduced via Presidential Proclamation 9983 in 2020, which restricted immigration from Nigeria and other nations²⁶. The policy was justified on national security grounds, yet critics argued it disproportionately affected African nations and hindered economic and educational opportunities²⁷. Additionally, increased visa restrictions and deportations disrupted family reunifications and business engagements between Nigeria and the U.S.

5. The conflict between Trump's policies and international relations and international human rights law.

Trump's migration policies, particularly the travel bans and strict asylum restrictions, conflicted with international human rights law by undermining the principles of non-discrimination and the right to seek asylum. The Universal Declaration of Human Rights (UDHR) guarantees the right to seek asylum from persecution²⁸, while the 1951 Refugee Convention prohibits refoulement²⁹. The Migrant Protection Protocols further violated obligations under the International Covenant on Civil and Political Rights (ICCPR) by denying due process to asylum seekers³⁰.

5.1 The potential diplomatic consequences for Nigeria-U.S. relations.

The diplomatic relationship between Nigeria and the United States has historically been shaped by trade, security cooperation, and mutual political interests. However, Trump's migration policies, particularly the inclusion of Nigeria in the 2020 travel ban under Presidential Proclamation 9983, created diplomatic tensions³¹. The decision was perceived as discriminatory, particularly given Nigeria's status as a key U.S. strategic partner in Africa.

A major diplomatic consequence was the strain on economic relations. The U.S. has traditionally been one of Nigeria's largest trading partners, with bilateral trade exceeding \$10 billion in 2019³². Visa restrictions affected Nigerian entrepreneurs and investors seeking to engage with the U.S. economy, leading to reduced foreign direct investment and a decline in business confidence.

Security cooperation also faced challenges. Nigeria relies heavily on U.S. military support in its fight against terrorism, particularly Boko Haram and ISWAP³³. Restrictions on Nigerian immigration and heightened visa scrutiny impacted training programs and military exchanges, potentially weakening counterterrorism efforts.

Furthermore, the migration policies had cultural and educational implications. Nigeria has one of the largest contingents of international students in the United States, with over 13,000 Nigerian students enrolled in American institutions in 2019³⁴. The tightening of visa policies disrupted access to higher education, causing diplomatic concerns regarding educational cooperation and cultural exchange programs.

Nigeria's response to these policies reflected the diplomatic strain. The government expressed formal objections, seeking reassurances from the U.S. regarding Nigeria's commitment to global security and governance standards³⁵. Diplomatic engagements at various levels sought to mend relations, but the policies fueled anti-U.S. sentiment in some quarters.

²⁶ Johnson, 'Immigration Law and the US-Mexico Border: ¿Sí Se Puede?' (2019) 66.

²⁷ Hing, 'American Presidents, Deportations, and Human Rights Violations' (2018) 45 CLR 1203.

²⁸ Article 14.

²⁹ Goodwin-Gill, 'The Refugee in International Law' (2014) 201.

³⁰ Hathaway, 'The Rights of Refugees Under International Law' (2021) 312.

³¹ Johnson, 'Immigration Law and the US-Mexico Border: ¿Sí Se Puede?' (2019) 66.

³² USTR, '2020 National Trade Estimate Report on Foreign Trade Barriers' (2020) 198.

³³ Campbell, 'Nigeria and the Nation-State: Rethinking Diplomacy with the Postcolonial World' (2020) 167.

³⁴ Institute of International Education, 'Open Doors Report' (2019).

³⁵ Musa, 'Diplomatic Struggles: Nigeria's Response to the U.S. Travel Ban' (2021) 45 AFRD 112.

Trump's migration policies had significant diplomatic consequences for Nigeria-U.S. relations, affecting economic ties, security cooperation, and educational exchanges. While both nations have since worked to rebuild trust, the travel ban and visa restrictions underscored vulnerabilities in the bilateral relationship. Future diplomatic efforts must focus on restoring confidence and ensuring that migration policies do not undermine broader strategic partnerships between the two countries.

5.2. Trump's Immigration Policies and Their Legal Framework

Key Immigration Policies Under Trump: "America First" Doctrine and its effect on migration. The diplomatic relationship between Nigeria and the United States has historically been shaped by trade, security cooperation, and mutual political interests. However, Trump's migration policies, particularly the inclusion of Nigeria in the 2020 travel ban under Presidential Proclamation 9983, created diplomatic tensions³⁶. The decision was perceived as discriminatory, particularly given Nigeria's status as a key U.S. strategic partner in Africa.

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5.3 The 2020 U.S. Visa Ban on Nigeria under Presidential Proclamation 9983

The 2020 U.S. visa ban on Nigeria, enacted under Presidential Proclamation 9983, significantly restricted immigration from Nigeria, citing security and information-sharing concerns⁴¹. This policy particularly affected Nigerians seeking permanent residency through family and employment-based visas. Critics argued that the ban disproportionately targeted African nations and undermined Nigeria-U.S. diplomatic

³⁶ Johnson, 'Immigration Law and the US-Mexico Border: ¿Sí Se Puede?' (2019) 66.

³⁷ USTR, '2020 National Trade Estimate Report on Foreign Trade Barriers' (2020) 198.

³⁸ Campbell, 'Nigeria and the Nation-State: Rethinking Diplomacy with the Postcolonial World' (2020) 167.

³⁹ (Institute of International Education, 'Open Doors Report' (2019)).

⁴⁰ Musa, 'Diplomatic Struggles: Nigeria's Response to the U.S. Travel Ban' (2021) 45 AFRD 112.

⁴¹ Johnson, 'Immigration Law and the US-Mexico Border: ¿Sí Se Puede?' (2019) 66.

relations⁴². The ban was lifted in 2021 under President Biden, reflecting a shift towards a more inclusive immigration policy⁴³.

5.4 Stricter deportation policies and increased ICE (Immigration and Customs Enforcement) raids.

Under the Trump administration, stricter deportation policies and increased Immigration and Customs Enforcement (ICE) raids significantly impacted migrant communities in the United States. The administration expanded immigration enforcement measures, prioritising the removal of undocumented immigrants, including those without criminal records⁴⁴. Executive Order 13768, titled 'Enhancing Public Safety in the Interior of the United States,' broadened the scope of deportable offences and empowered local law enforcement agencies to cooperate with ICE⁴⁵.

The increased frequency of ICE raids created a climate of fear among immigrant communities, leading to reduced workforce participation and reluctance to report crimes due to fear of deportation⁴⁶. Many legal scholars argued that these enforcement measures conflicted with due process rights under the U.S. Constitution, particularly the Fifth Amendment's protection against arbitrary detention⁴⁷.

Additionally, these policies faced legal challenges, including *DHS v. Regents of the University of California* (2020), where the Supreme Court ruled against the arbitrary termination of DACA, highlighting the limits of executive immigration enforcement⁴⁸. Stricter deportation policies under ICE underscored the administration's hardline stance on immigration, generating widespread criticism from human rights organizations and legal scholars.

5.5 The zero-tolerance policy on illegal migration and separation of families.

The Trump Administration's "zero-tolerance" policy on illegal migration, implemented in April 2018, aimed to prosecute all adults crossing the U.S.-Mexico border illegally, regardless of whether they were asylum seekers or traveling with minor children⁴⁹. This policy led to the separation of nearly 3,000 children from their parents before an executive order halted family separations in June 2018. The policy was criticized for its inhumane treatment of migrant families and its impact on children's well-being.

Human rights organizations argued that the policy violated international human rights standards and caused significant psychological trauma to affected families⁵⁰. The policy's implementation highlighted the tension between national security interests and humanitarian concerns, raising questions about the ethical implications of such stringent measures.

The zero-tolerance policy also strained U.S. diplomatic relations with countries of origin for many migrants, including Mexico and Central American nations. These countries expressed concern over the treatment of their nationals and the broader implications for regional stability and cooperation⁵¹.

⁴² Musa, 'Diplomatic Struggles: Nigeria's Response to the U.S. Travel Ban' (2021) 45 AFRD 112.

⁴³ Hathaway, 'The Rights of Refugees Under International Law' (2021) 312.

⁴⁴ Johnson, 'Immigration Law and the US-Mexico Border: ¿Sí Se Puede?' (2019) 66.

⁴⁵ Hing, 'American Presidents, Deportations, and Human Rights Violations' (2018) 45 CLR 1203.

⁴⁶ García Hernández, 'Crimmigration Law' (2021) 88.

⁴⁷ Hathaway, 'The Rights of Refugees Under International Law' (2021) 312.

⁴⁸ Roberts, 'Majority Opinion in *DHS v. Regents*' (2020) 591 US 52.

⁴⁹ Congressional Research Service, 'The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy', CRS Report R45266 (Congressional Research Service 2021)

<<https://crsreports.congress.gov/product/pdf/R/R45266>> accessed 10 February 2025.

⁵⁰ Human Rights Watch, 'Q&A: Trump Administration's "Zero-Tolerance" Immigration Policy', Human Rights Watch (2018) <https://www.hrw.org/news/2018/08/16/qa-trump-administrations-zero-tolerance-immigration-policy>

⁵¹ Springer, 'The "Zero Tolerance Policy" to Separate Migrant Families', Springer (2021) [https://link.springer.com/chapter/10.1007/978-3-031-65623-1_4](https://link.springer.com/chapter/10.1007/978-3-031-65623-1_4)

The zero-tolerance policy on illegal migration and family separation under the Trump Administration had profound humanistic and diplomatic repercussions. It underscored the need for a balanced approach to immigration enforcement that respects human rights while addressing national security concerns.

5.6 U.S. Immigration Law Under Trump

5.6.1 The Immigration and Nationality Act (INA)⁵²

The Immigration and Nationality Act (INA) is a comprehensive framework governing immigration law in the United States. Enacted in 1952, the INA consolidated previous immigration laws into a single statute and has been amended numerous times to address evolving immigration issues⁵³.

The INA defines key terms and concepts, establishes the criteria for entry and admission of non-citizens, and outlines the procedures for deportation and removal. One of its significant provisions is the creation of visa categories, including family-sponsored, employment-based, and diversity visas. These categories determine the eligibility and numerical limits for immigrants seeking to enter the U.S.⁵⁴. The INA also addresses the grounds for inadmissibility and deportation, such as criminal activities, health-related issues, and security concerns. Humanitarian protections under the INA include asylum and refugee status, providing a legal pathway for individuals fleeing persecution to seek safety in the U.S. Additionally, the INA establishes the framework for naturalization, the process by which non-citizens can become U.S. citizens⁵⁵. Overall, the INA is a vital legal instrument that shapes U.S. immigration policy. It balances the country's need to control its borders with its humanitarian obligations and the economic benefits of immigration.

5.7 Trump's executive orders and their legal backing.

Donald Trump's presidency was marked by a significant use of executive orders to advance his policy agenda, often bypassing Congress. These orders, which are directives issued by the President to manage operations of the federal government, have legal backing under Article II of the U.S. Constitution, which grants the President broad executive powers.

One of the most controversial executive orders was the travel ban on citizens from several predominantly Muslim countries, which faced numerous legal challenges but was ultimately upheld by the Supreme Court in *Trump v. Hawaii*⁵⁶. This order was justified under the President's authority to suspend the entry of any aliens or class of aliens deemed detrimental to the interests of the United States. Another notable executive order was the directive to end the Deferred Action for Childhood Arrivals (DACA) program, which was challenged in court and resulted in a nationwide injunction preventing its termination⁵⁷. The legal backing for such orders often hinges on the President's authority to enforce immigration laws and protect national security⁵⁸. Trump's executive orders also included measures to roll back environmental regulations, such as withdrawing from the Paris Agreement and revoking the Clean Power Plan⁵⁹. These actions were based on the President's authority to regulate commerce and manage federal lands and resources.

⁵² 8 U.S.C. § 1101 et seq.

⁵³ Aleinikoff, T. Alexander, et al. *Immigration and Nationality Laws of the United States: Selected Statutes, Regulations and Forms*. (2020 ed).

⁵⁴ . Gordon, Charles, et al. *Immigration Law and Procedure*. 2017.

⁵⁵ Martin, David A., et al. *Forced Migration Law and Policy*. 2018.

⁵⁶ *Trump v. Hawaii*, 585 U.S. _ (2018).

⁵⁷ Congressional Research Service, 'The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy', CRS Report R45266 (Congressional Research Service 2021)

<<https://crsreports.congress.gov/product/pdf/R/R45266>>(<<https://crsreports.congress.gov/product/pdf/R/R45266>>).

⁵⁸ U.S. Const. art. II, § 3.

⁵⁹ Skadden, Arps, Slate, Meagher & Flom LLP, 'Overview of Trump's Executive Actions and Considerations for Potential Litigation' (Skadden 2025) [<https://www.skadden.com/insights/publications/executive-briefing/overview-of-trumps-executive-actions>](<<https://www.skadden.com/insights/publications/executive-briefing/overview-of-trumps-executive-actions>>).

Trump's executive orders were legally backed by the President's constitutional powers, but they often faced legal challenges that tested the limits of presidential authority. The outcomes of these challenges have had lasting implications for U.S. policy and governance.

5.8 Judicial Review: Trump's Immigration Policies and Constitutional Conflicts

The Trump administration (2017–2021) implemented several immigration policies that tested the limits of U.S. constitutional principles, particularly in relation to equal protection, due process, and human rights at the border. Two key Supreme Court cases, *Department of Homeland Security v. Regents of the University of California*⁶⁰ and *Hernandez v. Mesa*⁶¹, highlight the judicial challenges to Trump-era immigration measures. These cases reflect the ongoing tension between executive authority and constitutional protections, particularly in the context of immigration and border security. This judicial review examines these rulings, their implications for U.S. constitutional law, and the broader conflict between Trump's policies and the principles of the Equal Protection and Due Process Clauses.

5.8.1 *Department of Homeland Security v. Regents of the University of California* (2020): DACA and Administrative Accountability

The case of *Department of Homeland Security (DHS) v. Regents of the University of California* addressed the Trump administration's attempt to rescind the Deferred Action for Childhood Arrivals (DACA) program. Established by executive action in 2012 under President Obama, DACA protected undocumented immigrants brought to the U.S. as children (often referred to as "Dreamers") from deportation and allowed them to obtain work permits.

The Trump Administration's Rescission of DACA

In 2017, then-Attorney General Jeff Sessions declared DACA unconstitutional, prompting DHS to announce its termination. This decision was challenged by multiple plaintiffs, including the University of California, leading to a legal battle over whether the rescission was lawful under the Administrative Procedure Act (APA) 1946.⁶²

Supreme Court's Ruling and Judicial Reasoning

The U.S. Supreme Court ruled against the Trump administration in a 5-4 decision, holding that DHS acted arbitrarily and capriciously by failing to provide a reasoned explanation for terminating DACA, violating the APA⁶³. The administration failed to consider reliance interests, such as the impact on 700,000 DACA recipients who had built their lives around the program. The ruling was not a constitutional defence of DACA but rather a procedural rebuke against executive overreach. Chief Justice John Roberts, writing for the majority, emphasized that administrative agencies must provide rational justifications for policy reversals⁶⁴.

Implications for Executive Authority

The Regents case demonstrated that presidential discretion in immigration policy is not absolute and must conform to administrative and constitutional norms. The ruling reinforced due process protections, ensuring that immigration policies affecting large populations cannot be altered without legal accountability.

***Hernandez v. Mesa*: Border Security and Human Rights Violations**

The case of *Hernandez v. Mesa*⁶⁵ arose from a tragic cross-border shooting in which a U.S. Border Patrol agent fatally shot a 15-year-old Mexican national, Sergio Adrián Hernández Güereca, who was standing

⁶⁰ *Department of Homeland Security v. Regents of the University of California*, 591 U.S. (2020).

⁶¹ *Hernandez v. Mesa*, 589 U.S. (2020).

⁶² Administrative Procedure Act 1946, 5 USC § 706.

⁶³ *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).

⁶⁴ *Hernandez v. Mesa*, 589 U.S. (2020), Ginsburg dissent.

⁶⁵ *Hernandez v. Mesa*, 589 U.S. (2020).

on Mexican soil. His family sued the agent, Jesus Mesa Jr., under the U.S. Constitution's Fourth and Fifth Amendments, alleging excessive force and violation of due process rights.

Supreme Court's Decision

The Supreme Court, in a 5-4 decision, ruled against the Hernandez family, holding that Non-citizens outside U.S. borders lack constitutional protections, even if harmed by U.S. agents⁶⁶. The case did not warrant an extension of *Bivens v. Six Unknown Named Agents*, which permits lawsuits against federal agents for constitutional violations⁶⁷. Cross-border shooting cases involve foreign policy concerns, and courts should not create new causes of action.

Judicial Precedent and Human Rights Concerns

The ruling significantly limited legal remedies for non-citizens subjected to U.S. government actions abroad. Justice Ruth Bader Ginsburg, in dissent, argued that constitutional protections should not be negated by arbitrary border distinctions⁶⁸. The decision weakened accountability for border enforcement actions, raising concerns about human rights violations and excessive use of force.

Constitutional Conflicts: Trump's Policies vs. Equal Protection and Due Process

Trump's immigration policies, including the Muslim travel ban, family separation policy, and increased deportations, often clashed with the Equal Protection Clause (Fourteenth Amendment) and the Due Process Clause (Fifth Amendment).

Equal Protection Clause Violations

The Equal Protection Clause prohibits discriminatory government actions. Trump's travel ban⁶⁹ disproportionately targeted Muslim-majority nations, raising constitutional challenges. Although the Supreme Court upheld the ban in *Trump v. Hawaii* (2018), dissenting justices likened it to the unconstitutional⁷⁰. Similarly, *DHS v. Regents*⁷¹ suggested that DACA's termination disproportionately harmed Latino immigrants, making it potentially discriminatory under equal protection principles.

Due Process Clause and Immigration Detentions

The Due Process Clause protects individuals from government actions that deprive them of life, liberty, or property without fair procedures. Trump's family separation policy at the U.S.-Mexico border led to lawsuits arguing that forcibly removing children from their parents violated due process rights⁷².^{10^10} Federal courts ruled against aspects of the policy, emphasizing procedural fairness in immigration enforcement.

The Judiciary as a Check on Executive Overreach

The cases of *DHS v. Regents* and *Hernandez v. Mesa* illustrate how Trump's immigration policies tested the limits of constitutional protections. While the Supreme Court upheld procedural accountability in DACA's rescission, it failed to extend constitutional safeguards to non-citizens at the border. These rulings highlight the ongoing conflict between nationalist immigration policies and foundational legal principles.

⁶⁶ Ibid.

⁶⁷ *Hernandez v. Mesa*, 589 U.S. (2020), Ginsburg dissent.

⁶⁸ Ibid.

⁶⁹ Executive Order 13780, 2017.

⁷⁰ 585 U.S. (2018), see also Japanese-American internment policies in *Korematsu v. United States*, 323 U.S. 214 (1944).

⁷¹ 591 U.S. (2020), 23.

⁷² *Ms. L. v. ICE*, 302 F. Supp. 3d 1149 (S.D. Cal. 2018).

As we advance, U.S. immigration policy must balance executive authority with constitutional guarantees, ensuring that security concerns do not override human rights and due process protections. The judiciary plays a crucial role in maintaining this balance, preventing the government from arbitrarily targeting immigrants based on race, nationality, or political considerations.

This review underscores how judicial oversight remains a critical safeguard against executive overreach, ensuring that immigration policies uphold constitutional principles of due process and equal protection.