

DEMOCRACY AND HUMAN RIGHTS

# THE RED WAVE THAT WASN'T

Why the 2022 U.S. Midterm Elections  
Broke the Mold

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Democrats defied the tides of history which tells us that the incumbent president's party suffers heavy losses in Congress in midterm elections. Despite the dire forecasts, the Democrats expanded their Senate majority and far outperformed expectations in the House.



The pre-election "shellacking" narrative was driven by numerous factors such as the president's low approval rating, economic concerns, and an increasingly out-of-control crisis at the southern border.



A combination of confounding variables energized the Democratic base as well as independent voters to turn out for the president's party and softened the widely predicted midterm blow.



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## 1

## INTRODUCTION

The 118<sup>th</sup> Congress is off to a rocky start as Representative Kevin McCarthy of California, the House Republicans' presumptive leader, struggles to clinch the nomination for the speakership. Thanks to a rebellion spearheaded by a small coterie of ultraconservative lawmakers, the House remains at a stalemate, unable to conduct its inaugural business such as swearing in a new cohort of legislators, forming committees, or adopting rules. The reason for the current dysfunction is twofold. First, Kevin McCarthy is no longer seen as sufficiently aggressive to appease the far right of his conference. And second, the Republicans hold but a razor-thin majority of just 9 seats. Hence, as long as Democratic lawmakers oppose McCarthy unanimously, there is little room for intra-party defection. Even former President Trump has weighed in on the revolt to made the case for unity on his Twitter-style site [Truth Social](#), urging Republicans riven by internal dissension not to "TURN A GREAT TRIUMPH INTO A GIANT & EMBARRASSING DEFEAT."

McCarthy's desperate scrounging for votes was not supposed to happen. In fact, in early 2020, when this research project began, it appeared to be a foregone conclusion that Republicans would deliver Democrats a rout that would rival Obama and Clinton's first midterm losses of 63 seats in the House and 6 seats in the Senate and 54 seats in the House and 10 seats in the Senate, respectively.<sup>1</sup> According to [David Crockett](#), a political scientist at Trinity University in San Antonio, Texas, those years were only outliers in the sense that the party in power lost more seats than expected, with the historical average being about 30 seats (26 in the House and 4 in the Senate). In January of last year, [NBC's](#) and [Politico's](#) election analysts predicted a shellacking for Democrats, akin to the losses experienced by the party in 2010 and 1994, citing three primary factors: a widening enthusiasm gap favoring the Republicans, Biden's low standing in the polls, and surveys showing overwhelming majorities saying that the country was headed on the wrong track. By contrast, the [University of Virginia's Center for Politics](#) predicted an outcome that would amount to a decisive defeat, but not quite the "shellacking" that NBC and other media outlets forecast. However, the "red wave" that commentators and electoral experts alike predicted

never materialized. In this article, we will consider the factors from January to November of last year that affected expectations regarding the Democratic Party's chances in a crucial midterm election and that ultimately led to the "red wave that wasn't."

<sup>1</sup> It must be noted the highest post-WW2 losses occurred in 1946

## 2

## LET US REVIEW THE MATH

Given the historical trends and the Democrats' razor-thin majorities in the House (+9) and the Senate (+0),<sup>2</sup> the math was supposed to favor the Republicans overall. Nevertheless, while Democrats were widely expected to lose control of the House, predictions about last year's Senate races were always more moderate. According to the Constitution's staggered electoral design, one third of the senators (33 or 34) are up for election every two years. Additionally, due to Senator Inhofe's (R-OK) early resignation, Oklahoma held a special Senate election, bringing the number of contested seats to 35. While the historical data predicted the loss of 4 Senate seats this midterm; in actuality, the Senate math slightly favored the Democrats. This was owing to the fact that only 14 of the 35 seats in play were Democratic and only 4 of them appeared to be at significant risk (AZ, GA, NV). By contrast, Republicans were defending 21 seats, at least three of which were very competitive (NC, PA, WI). Several days before the election, Nate Silver's polling aggregation website, *FiveThirtyEight*, put the Democrats at a 55 percent to 45 percent advantage in the Senate, a statistical dead heat. Although Minority Leader Mitch McConnell all but [conceded defeat](#) in mid-August, citing the quality of the party's candidates, as the race neared the finish line, the Democratic party appeared [less likely to maintain control](#) of the Senate.

While Democrats were seen at least capable of bucking the historical trend and finishing out the midterm without losing seats in the Senate, election forecasters were all but certain that Kevin McCarthy (R-CA) would assume the leadership of the lower chamber when the new congressional session began in 2023. Based on Crockett's calculus, House Democrats were supposed to lose approximately 26 seats, but predictions as to the severity of Democrats' losses [fluctuated](#) wildly in the months prior to the election. According to *FiveThirtyEight's* [projection](#) roughly a week before the election, Republicans' chances to win control of the House of Representatives were pegged at 81 to 19. The president's party was expected to win at least 203 seats in the 118<sup>th</sup> Congress, while Republicans had 219 seats firmly in their column. The remaining 13 of the lower chamber's 435 seats were tossups, a number that remained stable since

late summer when we began tracking the relevant data. Thus, it was widely expected that Nancy Pelosi would lose the speakership, with her party going from having a 9-seat majority to being in the minority in the 2023 to 2024 congressional session.

In the final tally, the GOP did retake control of the House, with Democrats losing 9 seats and Republicans picking up 9. Thus, the president's party was able to buck the historical trend by beating Crockett's average loss of 26 seats in the House by 66 percent. In the Senate, Democrats picked up a seat formerly held by Pat Toomey (R-PA) who announced his retirement at the end of 2020. In the Pennsylvania race, Lieutenant General John Fetterman defeated the Trump-backed candidate and former television personality Mehmet Oz, outperforming Biden's 2020 results in all but three counties (Pike, Monroe, and Chester). With incumbent Raphael Warnock winning the Georgia runoff election held on December 6, Democrats eked out a narrow majority in the upper chamber, bringing the final seatcount to 51-49. However, Kyrsten Sinema's announcement on December 9 that she would switch her party affiliation to Independent effectively returned the balance of power to the 50-50 split of the past two years, even as the Arizona senator is expected to caucus with the Democrats.

Why does the math matter? With his party holding only a wafer-thin majority in the 117<sup>th</sup> Congress, President Biden's ambitious legislative program was beset by delays and curtailments. As the minority party in the lower chamber, Democrats have lost the ability to advance bills on a party-line vote, leading to stalemate and foreclosing substantive legislative activity in the 118<sup>th</sup> Congress. Naturally, this will impact not only the quantity but also the quality of legislation. With Republicans retaking the majority, the House's attention is set to diverge from crucial pressing issues such as climate change, the state of our democracy, and voting rights, among others. Specifically, the House Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol will be either [disbanded or repurposed](#) by the incoming leadership; further, since not one House Republican voted for the Inflation Reduction Act with its healthcare cost-capping, clean energy, and fair taxation-related provisions, it is unlikely that a Republican-led Congress will pursue similar much-needed reforms.

<sup>2</sup> The Senate splits 50–50, with the Vice President, so Democrats need Vice President Harris's vote to break a tie.

In sum, even if the 2022 midterm results were not quite as punishing for the Democrats as the historical data predicted, an almost evenly divided Senate coupled with the loss of the party's majority in the House means more gridlock, and a dim legislative outlook for the rest of President Biden's first term in office.

## A) AMERICA ON THE WRONG TRACK VS. REPUBLICANS AS A THREAT TO DEMOCRACY

To understand the “shellacking” doom-and-gloom narrative that dominated much of the media reporting as well as many academic studies prior to the midterms, let us first consider public opinion polling leading up to November 8. In opinion polls conducted by [Monmouth University](#) and [The Associated Press-NORC Institute](#) in June and July of last year, between 80 and 90 percent of Americans (or roughly 92 percent Republicans and 78 percent of Democrats) stated that the country was on the wrong track; up 10–20 percent from January. Moreover, according to a mid-August NBC [News poll](#), these numbers appeared to hold relatively steady, clocking in at a whopping 74 percent; up nearly 20 percentage points from NBC's April 2021 survey.

Pre-election polling also showed that the single most important issue that Americans were concerned about in 2022 was inflation, which has caused consumer prices to rise. People across the United States saw a Consumer Price Index (CPI) increase of 9.1 percent in July, the largest in 40 years, according to the [Bureau of Labor Statistics](#). From July to September, the CPI decreased slightly to [8.2 percent](#), as overall consumer price increases were offset by a 4.9 percent decline in the gasoline index. The greatest 12-month percentage changes were reported in the expenditure categories of energy, fuel, and household utilities, disproportionately impacting low-income voters who [are considerably more likely](#) than those in the middle and high income brackets to vote Democratic. Hence, due to a combination of internal and external factors such as the over-stimulation of the economy during the first year of the pandemic, disrupted supply chains, and delayed – but expected – consequences of decreased economic activity during 2020 and 2021, Americans have been experiencing diminished purchasing power, as [inflation has far outpaced nominal wage growth](#).

Other important midterm issues reported in [Monmouth University's](#) survey released on July 5, 2022 were abortion, guns, and COVID, all three of which were thought to help Democrats at the polls; however, they came in as distant 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> among the respondents, with only 5, 3, and 1 percent marking them as their top concerns. Nevertheless, in a sign that the midterms could go down to the wire, [NBC's polling](#) from August 12–16 indicated that, for the first time in the election season, concerns over “threats to [American] democracy” outstripped economic worries as the survey respondents' choice for the most important issue facing the country – notably, [October polling data](#) confirmed this

finding. According to NBC's last pre-election poll, cost of living came in 3<sup>rd</sup>, immigration 4<sup>th</sup>, abortion 5<sup>th</sup>, and crime 6<sup>th</sup> with 16, 10, 9, and 5 percent marking them as their number one concern. Lastly, an [NPR/PBS NewsHour/Marist poll](#) conducted between August 29<sup>th</sup> and September 1<sup>st</sup> indicated that while the economy remained a salient concern, abortion was also a driving factor in this year's midterms, with 22 percent of the respondents identifying it as their top issue, only trailing inflation by 8 points.

With a barrage of polling data often pointing in opposite directions, the question for the midterms was whether, come November, voters would feel strongly enough about the issues of democracy and the protection of fundamental rights (such as the right to privacy, which, according to *Roe v. Wade* included abortion) to sway them toward Democrats at the polls. A notable special election held on August 23 in New York's 19<sup>th</sup> congressional district served as a bellwether for things to come: first, as a testing ground for the effectiveness of Democratic messaging focused on abortion; and second, as an indicator of the enthusiasm gap that sharply favored Republicans before summer 2022. In fact, NY-19 has long been seen as a barometer for the national mood: President Biden won the district by 2 points in 2020, whereas Donald Trump carried it by 7 points 2016; in 2008 and 2012, Barack Obama won by 8 and 6 points, respectively; and George W. Bush prevailed in NY-19 both times he ran. In a competitive special election to fill the seat of former incumbent Antonio Delgado (D) widely expected to be won by Republican Marc Molinaro; Pat Ryan, a Democrat, carried the district piloting a message of protecting “the foundations of our democracy... under threat” and making the election “[a referendum on Roe](#).” Ryan, who was outspent by nearly \$1 million on TV advertising according to [AdImpact](#), exceeded Biden's margin of victory in 2020, giving congressional Democrats hope that their candidates could outrun Biden's unpopularity and capitalize on the abortion issue.

## 3

## DEMOCRATS' MIXED RECORD

### A) CONGRESS' INSTITUTIONAL CHARACTERISTICS ARE PARTLY TO BLAME

The primary factor contributing to the Democrats' depressed approval ratings among their own voter base and the enthusiasm gap between Democratic and Republican voters was disappointment with the government's performance. To wit, throughout the 117<sup>th</sup> Congress, Democrats were often unable to vote as one block, even on issues that the base appears to care deeply about. With both houses of Congress and the presidency in Democratic control, President Biden was *technically* presiding over what is called "united government." However, the Democrat's unity was undermined by the party's lack of ideological coherence – internecine within the party caused legislative proposals to stall in the Senate, with Senator Joe Manchin of West Virginia and Senator Kyrsten Sinema of Arizona [holding up key pieces](#) of Biden's legislative agenda.

Of course, Democratic disunity was not the only factor that delayed, pared back, or outright scuttled Biden's ambitious legislative program; Republican obstructionism played a role as well. In May 2021, [Mitch McConnell](#), the Senate minority leader, made it clear that "one-hundred percent of [his party's] focus [was] on stopping [the Biden] administration [from] turn[ing] America into a socialist country." It is worth mentioning, however, that obstructionism is not unique to Republican members of Congress. For example, both parties have availed themselves of a legislative maneuver called the filibuster<sup>3</sup> to stop the majority from being able to enact legislative proposals into law; in fact, thus far, Democrats used this tool most frequently in a single congressional session, during 2019–2020. The [history of cloture motions](#) to break the filibuster, which requires a supermajority of 60 votes, tells a compelling tale of the high threshold that senators must clear to usher a bill through the lawmaking process. As a point of comparison, the filibuster has been used almost twice as frequently in the past eight congressional sessions alone (2007–2022) than in the previous 45 sessions taken together (be-

tween 1917 – when the cloture rule was adopted – and 2006). One explanation for the frequent use of the filibuster is party polarization. Since the 1970s, both parties have grown more ideologically cohesive, and they have moved further away from the ideological center. According to [Pew Research](#), while Democrats have become somewhat more liberal over time, Republicans have become much more conservative; meanwhile, members of Congress in the "middle" have all but disappeared. To illustrate the impact of ideological polarization, let us consider the percentage of bills that successfully survive the Senate's legislative gauntlet: at the end of World War II, about 25 percent of all bills introduced in the chamber eventually became law; however, as party polarization increased, legislative productivity decreased, and obstructionism became endemic to the U.S. Senate. To wit, by the 113<sup>th</sup> Congress (2013–2015), the percentage of bills that successfully made it through the upper chamber was as low as [2.8 percent](#). Hence, Biden's wave of legislative proposals was always going to break against the Republicans' filibuster wall, especially in the post-Trump hyper-partisan political environment.<sup>4</sup> In light of the way things are, it is little wonder that 48 Democratic senators have been clamoring for the "nuclear option," i.e., changing the filibuster on a party-line vote; either scrapping the procedure altogether, or creating exceptions for certain policy areas such as voting rights. The two Democratic moderates, Manchin and Sinema, however, have [refused](#) to get on board, making filibuster reform impossible.

### B) BIPARTISAN ACCOMPLISHMENTS IN AN ERA OF HYPER-PARTISANSHIP

Despite the increased ideological polarization, bipartisanship is not yet dead in the water. In fact, the 117<sup>th</sup> Congress boasted a surprisingly [extensive list of bipartisan legislation](#). Here, we will recall some of the most notable pieces.

In July 2022, Congress enacted the [CHIPS and Science Act](#), a \$250 billion investment package with \$52 billion in incen-

<sup>3</sup> According to the website of the United States Senate: "The Senate tradition of unlimited debate has allowed for the use of the filibuster, a loosely defined term for action designed to prolong debate and delay or prevent a vote on a bill, resolution, amendment, or other debatable question."

<sup>4</sup> The most productive Congress in the 20<sup>th</sup> century was during the one and a half-term presidency of Lyndon B. Johnson, when Congress enacted major piece of landmark legislation such as the Voting Rights Act, Medicare, Medicaid, etc., as part of the president's Great Society program. Importantly, however, during this time period (1963–1969), Democrats enjoyed filibuster-proof majorities of 66, 68, and 64 seats in the Senate.



tives to rebuild, expand, and modernize domestic manufacturing of semiconductors, and boost semiconductor-related research and development. Given the supply chain issues that American tech companies have experienced due to the pandemic, the bipartisan nature of this new law makes eminent sense. Moreover, as Senator [John Cornyn](#), one of the lead sponsors of the original bill has pointed out, the new law has important national security implications since, “these chips [] go into everything from... the F-35, to the Javelin and Stinger missiles that we send to Ukraine to defend their country from Russian aggression.” Some opponents of the legislation have derided it as “corporate welfare” for companies that already make billions of dollars in profits. Yet, as the former Speaker of the House, Tip O’Neill, famously pointed out, “all politics is local;” hence, we should look for the motivation behind individual members of Congress’s decision to vote for or against a particular piece of legislation in the interests of the constituency that they represent. Senator John Cornyn, for example, hopes that the law will create new jobs in his home state of Texas. As that state’s governor, Greg [Abbott](#), put it unequivocally: “The federal incentives in the CHIPS Act of 2022 will help Texas leverage our investments in the semiconductor industry, and the tax provisions will benefit the semiconductor-related companies already operating in the state, while attracting others that are looking to expand and grow.” Intel, which is seen as the biggest beneficiary of the CHIPS Act, is building a semiconductor fabrication plant (or “fab”) in Ohio and expanding operations in Arizona and New Mexico. Unsurprisingly, the Senate delegations of [the four states](#) most likely to benefit from the new legislation’s grants and incentives voted in favor of the bill almost uniformly, with the notable exception of Cornyn’s junior colleague Ted Cruz, who criticized the “direct corporate subsidies” for microchip manufacturers. For his part, Senate Majority Leader Chuck Schumer, whose state is also [poised to benefit](#) from the legislation’s incentives, [lauded](#) the law as “the most significant, long-term-thinking bill[] we’ve passed in a very long time.” The bill passed the senate in a 64–33 vote.

The passage of the Infrastructure Investment and Jobs Act followed a similar logic of what political scientists refer to as “pork barrel politics.” In the final votes cast for the bipartisan infrastructure bill, 19 Senate Republicans voted together with the Democrats, all representing [states that stood to receive the largest local share of the federal spending](#). As the political scientist David Mayhew has famously observed, members of Congress are “single-minded seekers of reelection.”<sup>5</sup> Hence, reelection “has to be the proximate goal of everyone, the goal that must be achieved over and over if other ends are to be entertained.” Pork barrel politics or bringing federal funds to a legislator’s state or electoral district furthers this all-important goal and potentially helps to overcome the ideological paralysis that cripples effective legislation.

At times, however, legislators simply do the right thing without necessarily advancing their reelection prospects; or at least not directly. The Bipartisan Safer Communities Act, the most significant federal gun restriction in decades, for example, passed the Senate in a 65–34 (filibuster-proof) vote and the House with a 41-vote margin (234–193) as members of Congress scrambled to take legislative action following a string of mass shooting incidents that shook the United States. Although the new law does not go quite as far as some Democrats would have liked – it includes no weapons bans or universal background checks – it represents, according to Senate Minority Leader Mitch [McConnell](#), “a commonsense package of popular steps that will help make these horrifying incidents less likely while fully upholding the Second Amendment rights of law-abiding citizens.” Yet, as the adage goes, good policy is not always good politics; and Senate minority whip John Cornyn’s efforts to forge bipartisan gun legislation in the wake of the Robb Elementary School shooting in Uvalde, Texas reflect this truism. According to the University of Texas’ Texas Politics Project, for the first time in his four-term Senate career, Cornyn’s [approval rating tanked](#) following the passage of the Safer Communities Act, with 50 percent of Texans disapproving, and only 24 percent approving of his job performance. In an interview with the [Texas Tribune](#), Cornyn stated that Congress’ very credibility to get thing done in the face of unspeakable human tragedy was on the line in his endeavor to shepherd the bill through the lawmaking process: “This was fundamentally important to the country at a time when things are so polarized and people are so intolerant of others that have different points of view... I thought it was important to demonstrate the Senate could work.”

In another sign that good policy is not necessarily good politics, Republicans refused to engage in across-the-aisle negotiations about the Biden administration’s crowning legislative achievement, the Inflation Reduction Act (IRA). To simplify a massive legislative package, a revived iteration of the president’s “Build Back Better” agenda, the [IRA](#) invests nearly \$440 billion over ten years in measures intended to reduce carbon emissions, increase climate resilience, expand Medicare benefits, lower healthcare costs, create new jobs, and close tax loopholes. On the other hand, thanks to a combination of a new corporate minimum tax, prescription drug pricing reform, and enhanced enforcement and compliance capabilities for the Internal Revenue Service, the law is also supposed to generate upward of \$735 billion in revenue over the same time period. The House voted 220–207 to advance the bill with no Republican voting in favor; while the Senate version cleared the upper chamber through a parliamentary maneuver called reconciliation, which sidesteps the filibuster, and allows passage on a simple majority. Vice President Harris cast the tie-breaking vote.

Party polarization and the concomitant increase in obstructionism is also illustrated by the number of times Vice President Harris cast tie-breaking votes in the Senate. In fact, Kamala Harris cast tie-breaking votes more times than any vice president (VP) other than John Calhoun (1825–1832) and John Adams (1789–1797). While Calhoun and Adams, both

5 Mayhew, David. R. 1974. *Congress: The Electoral Connection*. New Haven, CT: Yale University Press.



of whom served two terms as VP, broke 31 and 29 ties, respectively; Harris has done so 26 times over a single congressional session in a Senate evenly split between Republicans and Democrats. To be sure, her tiebreakers stand out not just quantitatively, but also qualitatively: Twenty of her votes, nearly 80 percent, were cast to advance the consideration of presidential nominations that require Senate confirmation.<sup>6</sup> This indicates that nominations, once relatively uncontroversial run-of-the-mill affairs, now draw significant partisan opposition. The rest of Harris' tiebreakers involved primarily reconciliations (such as the IRA), a special parliamentary maneuver that allows budget-related legislation to pass with a simple majority. Given the evenly divided Senate, this is another sign that the political middle has hollowed out and the two parties tend to vote as blocks with little-to-no ideological overlap on most issues; hence, any intra-party dissension effectively dooms legislative proposals.

### C) THE SENATE'S REPRESENTATION PROBLEM

Finally, it is worth noting that the rank partisanship and pervasive obstructionism of the Senate are likely to get worse over time. Why is this the case? During the Constitutional Convention, the delegates faced an important dilemma of representation: Should states be represented proportionately to their population, or should they have equal representation in the new Congress of the United States? The final deal – called the Connecticut Compromise – created a bicameral legislature in which representation in the lower house is based on population, while each state is equally represented in the Senate. And therein lies the rub. By the year 2040, according to the University of Virginia's Weldon [Cooper Center for Public Service](#), 67 percent of the U.S. population will live in the 15 most populous states. In turn, those states will be represented by 30 senators. To put it differently, based on the [Census Bureau's](#) population projection, about 255 million people will be represented by 30 percent of senators, while 125 million Americans will be represented by 70 percent (a filibuster-proof majority). But we do not have to wait eighteen years to see real-world evidence of this lopsided representation. In today's Senate, 50 Democratic senators (half of the chamber's membership) represent approximately 41.4 million more Americans than their Republican counterparts – about 12.5 percent of the U.S. population. That percentage equals roughly the population of California, or the 21 smallest states put together. And the Senate's off-kilter representation has very real consequences in the lawmaking process. As the *Washington Post's* [Philip Bump](#) has pointed out, recent congresses – from the 115<sup>th</sup> onwards – have seen numerous bills and nominations passed with the support of less than half of the U.S. population (calculated based on the supporting senators' votes). As we noted above, the Senate's filibuster rule empowers a minority of the chamber's membership – potentially representing a

small fraction of Americans – to block legislative proposals from becoming law; by the same token, senators representing a minority of the population can confirm high-stakes presidential nominations to, for example, the U.S. Supreme Court. Let us consider Neil Gorsuch's senate vote count: The 54 senators that voted in favor of Trump's nominee represented only 44.4 percent of Americans, according to Bump's calculus. Finally, there is something to be said about high-density population centers and leaning toward the political left. Out of the 15 most populous states, 11 voted for Biden and only 4 voted for Trump in 2020.<sup>7</sup> Whereas the 10 most solidly blue states are home to 93.4 million Americans, only 22.3 million of their fellow citizens live in the 10 most reliably red states – regardless, both groups are represented by 20 senators.

In conclusion, given the outsized expectations for his presidency, Joe Biden and his party necessarily disappointed many in the Democratic ranks. However, as we explained above, the Democrats' difficulties in enacting an unusually ambitious legislative program stemmed from the structural characteristics derived from Congress's institutional design that produced collective action problems exacerbated by ever-increasing partisanship – nevertheless, the same structural characteristics also yielded unexpected bipartisan accomplishments.

### D) IMMIGRATION: THE WEAPONIZATION OF A HUMANITARIAN CRISIS

Upon taking office, President Biden took unilateral executive action – in the form of executive orders – to undo Trump's signature “zero tolerance” approach to immigration. In what appeared to be a dramatic reversal of his predecessor's border enforcement priorities, the 46<sup>th</sup> president made the issue of immigration a central pillar of his agenda. Despite Biden's early momentum, the public's perception is that, in the face of a record-high number of irregular border crossings at the U.S.-Mexico frontier, the current administration has botched immigration policy. Below, we will revisit some of the key actions taken by the Biden administration to determine the cause of Americans' discontent.

First, Biden ordered the establishment of an Interagency Task Force on the Reunification of Families to remedy the controversial child separation policy of the Trump era. According to the Southern Poverty Law Center, 2,248 children had been reunited with their parents in the U.S. by November 2021; while 1,703 were in line to be rejoined with their families. A more recent [Monthly Report on Separated Children](#) submitted to the U.S. Congress by the Department of Health and Human Services (HHS) in May 2022, indicates that the agency had discharged 4,121 of the 4,143 separated children referred for processing to the Office of Refugee Resettlement: 2,321 had been reunited with their separated

<sup>6</sup> In 2013, Democrats changed Senate procedure and eliminated the filibuster for most nominations.

<sup>7</sup> California, Texas, Florida, New York, Pennsylvania, Illinois, Ohio, Georgia, North Carolina, Michigan, New Jersey, Virginia, Washington, Arizona, Massachusetts

parents, while 1,800 had been discharged to other appropriate circumstances, “including [] to sponsors where the parent was ineligible for reunification.” While family separation may no longer be the government’s official policy, as the National Immigration Justice Center (NIJC) [reported](#) in January 2022, the practice has not fully discontinued. Often, [parents send their children to the United States as “unaccompanied”](#) in order for them not to have to wait for processing in dangerous encampments on the Mexican side of the border when they are expelled based on Title 42 authority.

This brings us to the second point. In February 2021, President Biden ordered the review and overhaul of the asylum process in the [executive order](#) titled “Creating a Comprehensive Regional Framework to Address the Causes of Immigration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border.” As part of that order, Biden did away with the Migrant Protection Protocol (MPP – also called the “Remain in Mexico” policy) which forced asylum seekers to [wait for U.S. immigration proceedings to unfold in open-air refugee camps in Mexico](#). Immigrants’ rights groups lauded the president’s decree. In fact, they had called for the rescission of the program during the Trump administration, arguing that it caused immense human suffering. However, as the Department of Homeland Security began processing those asylum applicants – while also seeking additional resources to carry out the process in an expedited and orderly fashion – the Trump-appointed U.S. District Judge Matthew Kacsmaryk in Amarillo, Texas ordered the administration to reinstate the MPP. Under the revived policy, the Department of Homeland Security (DHS) returned 7,112 asylum seekers to Mexico to await their court hearings. Meanwhile, the government appealed the judge’s order, ultimately scoring a rare victory in a five-to-four ruling by the U.S. Supreme Court that allowed the policy to end. Nevertheless, the Biden administration was criticized for not ending “Remain in Mexico” immediately after the Court’s decision came down. In fact, it was not until August 9, nearly six weeks after *Biden v. Texas* was decided, that [DHS](#) committed to ending the program “in a quick, and orderly, manner.”

With the Supreme Court’s blessing, the Biden administration was finally able to put an end to the “Remain in Mexico” policy; however, much to the chagrin of immigration advocates, Title 42, a Trump-issued pandemic-related public health order, which allows border agents to summarily expel migrants caught crossing the border, has been indefinitely extended.<sup>8</sup> Human rights organizations have cautioned that Title 42 represents a misuse of public health authority and violates refugee law and the United States’ treaty obligations. Although the Biden administration sought to end Title 42 following the Centers for Disease Control’s decision in May that the program was “no longer necessary,” a federal court blocked the policy’s termination. After a

lawsuit was brought by Louisiana, Missouri, Arizona, and 21 other states, Judge Robert Summerhays, a Trump appointee, blocked the revocation of the rule arguing that the government acted in violation of the Administrative Procedure Act by skipping the formal notice and comment process that bureaucratic agency decisions must go through. Whereas the MPP negatively impacted the lives of 70,000 migrants during the three and a half years of the program’s lifetime, Title 42’s effect has been of a different order of magnitude. According to figures published by [Customs and Border Protection](#), in 2021, the agency invoked Title 42 to remove more than 1 million migrants, and 2022 has seen roughly the same number of expulsions.<sup>9</sup> Consequently, migrants continue to suffer inhumane conditions in [overcrowded shelters](#), according to the Strauss Center for International Security and Law. As stated in a May 26 report issued by the [Kaiser Family Foundation](#), at least 10,000 cases of murder, rape, torture, kidnapping, and other violent assaults against asylum seekers have been recorded. Moreover, close to 80 percent of those treated by Doctors without Borders are described as experiencing depression, severe anxiety, and post-traumatic stress. Lastly, Title 42 contributes to family separations, as numerous migrant parents prefer to send their children to the United States as “unaccompanied minors,” who are exempt from the public health order’s expulsion requirement, rather than expose them to unsafe conditions in Mexico.

The Biden-Harris administration has also terminated Trump’s national emergency with respect to the southern border and the redirection of funds diverted to border wall construction. According to a [presidential proclamation](#) issued on January 20, 2021, the government has also “pause[d] work on each construction project on the southern border wall.” Instead, the new administration has proposed [“smart” border enforcement efforts](#) such as cameras, sensors, x-ray machines, and, potentially, facial recognition – a change to be sure, albeit one that is not without controversy.

As a sign of increasingly tense federal-state relations in the post-Trump era, on October 21, 2021, the attorneys general of Texas and Missouri filed a lawsuit in the U.S. district court in Victoria, TX, to force resumption of the construction of the U.S.-Mexico border wall. According to Texas attorney general [Ken Paxton](#), “[t]he Biden administration’s flat refusal to use funds that have already been set aside by Congress to build the border wall is not only illegal and unconstitutional... It’s also wrong, and it leaves states like Texas and Missouri footing the bill.” Indeed, Congress had appropriated roughly [\\$1.4 billion](#) to construct barriers along the southwest border for FY 2021, and President Biden’s decision not to spend those funds was on shaky legal grounds – specifically, in violation of the Congressional Budget and Impoundment Control Act of 1974 which definitively removed the president’s power of impoundment, i.e., the ability not to spend money approved by Congress.

<sup>8</sup> In December, the US Supreme Court ordered the Biden administration to continue enforcing the program while the petitioners are preparing their legal arguments.

<sup>9</sup> As the American Immigration Council points out, “nearly half of those expulsions were of the same people being apprehended and expelled back to Mexico multiple times.”

Nevertheless, as the [Intercept](#) reported in September 2022, border wall construction “that began under Trump is revving back up under Biden.” As the CBP disclosed on September 14, the Department of Homeland Security had held an extensive comment period between January and September of 2022 and incorporated the public’s views and concerns with regard to border structure construction. According to the [CBP’s online presentation](#) “DHS intends to prioritize remediation projects that are needed to address life and safety, including the protection of the public, USBP agents, and nearby communities from potential harms, and avert environmental damage or degradation.” While Homeland Security has not unveiled plans to erect new border fencing, related operations will resume in order to repair gates and roads and to fill those gaps that were left after the administration announced the suspension of wall construction.

President Biden’s task to effectively, legally, and ethically manage a worsening border crisis was always going to be an uphill battle. The administration’s job has been immensely complicated by a global pandemic, natural disasters, poverty, violence, and corruption that constitute the [push factors](#) driving desperate individuals to seek a better life in the United States. According to [Customs and Border Protection](#), more than 1.7 million land border encounters were registered at the nation’s southern frontier in 2021, and that number increased to nearly 2.4 million in 2022, the highest ever recorded.

Republicans were quick to seize on the increase in the number of migrants arriving at the southern border for political gain. By conflating the push factors driving migrants to the United States with President Biden and President Obama’s arguably more lenient immigration policies, Republicans have managed to weaponize the border situation for their midterm strategy. For example, a minority report of the Senate Committee on Foreign Relations titled “[Biden’s Border Crisis: Examining Policies that Encourage Illegal Migration](#)” dubbed President Obama’s Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents programs “pull-factors,” i.e., incentives for massive waves of illegal migration that has overwhelmed law enforcement’s resources and contributed to the humanitarian crisis at the border. As the CBP reported 241,136 encounters along the Southwest land border in May 2022, the highest number ever recorded, the conservative [Heritage Foundation](#) charged that “not just Ecuadorians, Haitians, and Cubans, but also Cameroonians, Bangladeshis, and Chinese have received the message from the Biden administration that the border is wide open to illegal crossing without credible repercussions.” Overall, Republicans’ immigration-focused messaging paid off: According to an [NBC News survey](#) conducted between September 9–13, 56 percent of respondents trusted Republicans to handle border security better than Democrats, who received only 20 percent, according to the polling data. [Reuters](#) found Republicans with an 8 percent edge, while [Pew Research](#) pegged the GOP’s advantage at 29 points.

## 4

## MITIGATING FACTORS

Although Republicans were generally favored to win control of the House in November, there were several factors that appear to have blunted the “shellacking” that commentators and analysts predicted in the first half of the year. Here, we will consider three of those mitigating factors: (i) the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, (ii) Biden’s domestic legislative successes, (iii) and the administration’s foreign policy accomplishments. Taken together, these confounding variables seem to have softened the midterm blow and put the Democrats below the median losses calculated by Crockett.

### A) THE “DOBBS EFFECT”

The Supreme Court’s decision on June 24 ushered in a sea change not only for women’s health but arguably also for the looming midterm’s electoral dynamics. The High Court’s decision to overturn *Roe v. Wade* (410 U.S. 113), the nearly fifty-year-old landmark case granting federal protection to a woman’s ability to control her reproductive destiny, marked a turning point for citizens concerned about states’ [restrictive policies](#) that would follow. As soon as *Dobbs* came down, pre-*Roe* “trigger bans” sprung into effect in eleven states (Alabama, Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Dakota, Tennessee, Texas), outlawing abortion in all or most circumstances. In at least eight of those states, the law does not recognize exceptions for rape nor for incest. Ohio and Georgia have enacted six-week bans, Florida disallows abortions after 15 weeks of pregnancy, Utah after 18, and North Carolina 20. Indiana’s near-total ban, the first post-*Dobbs* non-trigger prohibition went into effect on September 15, however, it remains on hold while legal challenges are making their way through the courts. Likewise, in nine other states (Arizona, Iowa, North Dakota, Michigan, Montana, South Carolina, West Virginia, Wyoming, and Utah) judicial orders are temporarily blocking highly restrictive abortion laws from going into effect. Additionally, in Wisconsin, an 1849 abortion prohibition was revived after *Roe* fell; however, many Wisconsinites had the chance to weigh in on whether to keep the 173-year-old ban in place in referenda on the November ballot.

With abortion restrictions enacted or waiting in the wings in twenty-six states, *Dobbs* undoubtedly affected the 2022 midterm election. In fact, the Court’s decision appears to

contradict what most Americans see as a settled right. A poll conducted by [NPR/PBS NewsHour/Marist](#) in mid-2019 is a case in point: according to the findings, three-quarters of American wanted to see *Roe v. Wade* upheld by the Supreme Court; and post-*Dobbs* surveys have been similarly lopsided: [Pew Research](#) found 61 percent of U.S. citizens to be in favor of legal abortion in all or most cases, while only 37 percent considered that it should be illegal. Hence, to quote President Biden’s statement from the day that the Supreme Court handed down the *Dobbs* decision: in November, *Roe* was on the ballot.

Prior to the election, both opinion polls and analysts were split as to the impact that *Dobbs* was going to have on the midterms; however, the consensus that emerged was that its effect would likely be limited. Few predicted that *Dobbs* would lead to an upswell of party-switching in favor of the Democrats come November – even though surveys consistently showed that even [38 percent of Republicans](#) were concerned about women’s access to safe and legal abortions. Analysts doubted that it [would provide sufficient incentive](#) for Republicans to change their vote in the midterms seeing as it was [not one of their highest-ranked concerns](#). At best, [analysts argued](#), the Supreme Court’s decision could [narrow the enthusiasm gap](#) between Republican and Democratic voters. By late summer, however, there was some evidence emerging that suggested that Democrats might indeed benefit from a possible “Rovember.”

First, as the Washington Post’s [Jennifer Rubin](#) pointed out, a “*Dobbs* effect” could be noted in increased voter registration across the country, especially among women. And this effect was not limited to blue states. Instead, it was most prevalent in states such as Idaho and Wyoming which now have some of the most restrictive policies concerning access to abortion. Second, on August 2, Kansans rejected by a wide margin a constitutional amendment that would have allowed a legislatively imposed ban on abortions. Finally, special elections in New York’s 19<sup>th</sup> and 23<sup>rd</sup> congressional districts in late August also pointed toward a wave of post-*Dobbs* pro-Democratic enthusiasm. As we noted above, in a race in which the Democratic candidate doubled down on the abortion message in NY-19, he defeated his Republican opponent favored to win. Moreover, as [Politico](#) reported, in both New York’s 19<sup>th</sup> and the 23<sup>rd</sup> districts, the candidates outperformed Biden’s vote share by sizable margins: In NY-

19, Pat Ryan received 51.1 percent of the vote vs Marc Molinaro's 48.7 percent, a 2.4 percent margin. By contrast, President Biden carried the district by just 1.5 points. In NY-23, Joe Sempolinski, a Republican, won the district's special election by 53.1 percent, defeating his Democratic challenger, Max Della Pia, by 6.5 percent. Although the Republican carried the district, just as Trump did in 2020, Trump's margin of victory was 4.5 points higher than Sempolinski's. Still, analysis cautioned that one should be careful when drawing far-reaching conclusions from special elections. Namely, they tend to be low-turnout events, in which only a fraction of the November electorate participates. Even so, they provided Democrats with a ray of hope that *Roe* did, in fact, shift the political landscape in their favor by closing the enthusiasm gap that favored Republicans during the first half of the year.

On Election Day, Kentucky, California, Vermont, Michigan, and Montana also voted in referenda to decide whether to enshrine or proscribe abortion in their constitutions – and the results bore out the conventional wisdom that a sizable majority of Americans support legal access to abortion. As CNN [reported](#) the day after the election, “voters deliver[ed] a ringing endorsement of abortion rights on midterms ballot initiatives across the U.S.” Two states rejected proposals to limit abortion access or criminalize healthcare providers. First, Montana voters rejected a law that would have required healthcare providers to treat infants “at any state of development” born alive due to induced labor, cesarean section, attempted abortion, or other method as a legal person entitled to medical care. Caregivers that did not comply with the law would have faced a fine of up to \$50,000 and/or up to 20 years in state prison. Kentucky voters also rejected a ballot measure that would have amended the state's constitution to specify that nothing in the founding document should be interpreted so as to create a right to abortion or a requirement on the part of the government to provide funding for abortion. In three states – California, Michigan, and Vermont – voters decided to amend the founding documents to prohibit the state from interfering with or denying an individual's personal reproductive autonomy such as the use of contraceptives or the decision to terminate their pregnancy.

In hindsight, the Democratic Party appears to have benefited from an upswell of abortion rights activism after the Supreme Court's decision in *Dobbs*. In states where abortion was on the ballot, voters invariably decided in favor of reproductive autonomy and against giving state legislatures the right to limit abortion access or to criminalize healthcare providers. Importantly, while the “Rovember” phenomenon caused Republicans to lose some of their high inflation-driven momentum, the Supreme Court appears to have lost something much more significant, namely, “most important [base of its power,] the unique legitimacy attributed to its interpretations of the Constitution.”<sup>10</sup> According to an [NBC](#)

[News poll](#) conducted after *Dobbs*, only 27 percent of Americans have a “great deal” or “quite a bit” of confidence in the High Court, an 11 percent drop compared to the average of the preceding twenty years; meanwhile, the percentage of respondents who have no confidence at all in the Court has jumped by a whopping 9 percentage points compared to the twenty-year average of NBC's polling data, an unprecedented increase.

## B) SWIMMING AGAINST THE TIDE: THE DEMOCRATS' IMPRESSIVE LEGISLATIVE RECORD

Despite the structural hurdles built into Congress and exacerbated by partisanship and obstructionism, the two years of President Biden's unified government boast an impressive record. According to James Thurber, founder of American University's Center for Congressional and Presidential Studies, Biden has been able to manage an uncooperative environment with remarkable success. “What he's gotten is, in my opinion, significant,” Thurber [explained](#) to CBC New in August. According to the congressional expert, President Biden has achieved more in two years than either Trump – whose crowning achievement was tax reform but failed to deliver on infrastructure or an alternative to Obamacare – or George W. Bush – whose single landmark legislation in the 2001–2002 congressional session was the Patriot Act.

While substantial portions of the administration's massive Build Back Better agenda were pared back or outright scuttled due to internecine within the Democratic caucus and a largely antagonistic Republican opposition, Biden's early legislative wins compare favorably with those of Ronald Reagan, Bill Clinton, or Barack Obama.

### I) THE INFLATION REDUCTION ACT OF 2022

In August of 2022, President Biden signed into law the Inflation Reduction Act (IRA), whose main objective was to reduce the inflation that had burdened the American economy throughout the year, specifically promising to lower “[prescription drug costs, health care costs, and energy costs](#).” According to a White House Fact Sheet published August 19, 2022, the IRA will make the tax code more progressive by ensuring that “millionaires, billionaires and corporations... [contribute] their fair share” while exempting those who earn under \$400 thousand a year from paying higher rates. The IRA also focuses on deglobalization and reshoring by incentivizing the buildup of a domestic clean energy manufacturing base and related supply chains, the production of U.S.-sources products, and the creation of “good-paying union jobs in energy communities.” Lastly, the law seeks to lower healthcare costs by reducing the cost of prescription drugs. According to an analysis conducted by the nonpartisan [Congressional Budget Office](#), the bill is projected to reduce the current deficit by \$305 billion between 2022 and 2031. Furthermore, it will increase gross revenue by \$200 billion through enhanced tax enforce-

<sup>10</sup> Robert Dahl. “Decision-making in a Democracy: The Supreme Court as a National Policy-maker.” *Emory Law Journal*, vol 50, iss. 2 (Spring 2001): 563–582.



ment, according to the [Committee for a Responsible Federal Budget](#). Nevertheless, the IRA's impact is not likely to be seen for at least a year to come. Hence, in an election year dominated by economic concerns, a consumer price index (CPI) clocking in 7.1 percentage points higher in November than at the same time in 2021 served as a political scourge punishing the party in power.

## II) INFRASTRUCTURE

In November 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA), commonly known as the "Bipartisan Infrastructure Law," formulated with the intention to rebuild America's crumbling infrastructure. Before the enactment of the milestone legislative achievement, the American Society of Civil Engineers, the United States' oldest engineering society, gave the American infrastructure a grade of C- in its [quadrennial report card](#). The grade reflected the state of America's aging infrastructure, which, as exemplified by the recent bridge failure and collapse in [Pittsburgh Pennsylvania](#), had reached critical condition. In fact, [VICE](#) raised the alarm as far back as 2015 (two years before President Trump would declare "infrastructure week" at least seven times during his single term in office, to no avail), stating that "America's infrastructure is slowly falling apart," and highlighting several examples of roads, bridges, levees, dams, and clean water and sewer systems in dire need of repair. Through a once-in-a-generation investment in physical assets and enhanced access to public goods, the law promises to [address an increasingly pressing issue](#). Furthermore, the trillion-dollar package also takes aim at [expanding broadband coverage](#), a crucial weakness in America's critical infrastructure that was thrown into sharp relief during the COVID-19 pandemic. Although as of May 2022, the government had only distributed around [\\$100 billion](#) under the auspices of the IIJA, the bill, reminiscent of the policies of the New Deal to lift America out of the economic crisis of the Great Depression, is sure to reduce unemployment and strengthen supply chains. However, as the [Brookings Institute](#) pointed out in November 2021, "it will often take years to start seeing the IIJA's projects in our communities." Hence, the generation-defining infrastructure legislation of New Deal proportions will not alleviate Americans' economic woes anytime soon.

## III) GUN CONTROL

Following numerous mass shooting incidents around the country, including the tragic murder of nineteen students and two teachers at Robb Elementary School in Uvalde, Texas, a [public outcry](#) for gun reform ensued. The horror that shook the country ultimately brought together a bipartisan group of lawmakers (65 senators and 234 representatives) to negotiate a narrow compromise on gun safety. The law that President Biden signed on June 25, 2022 is the "first major [gun safety legislation](#) passed by Congress in nearly 30 years." The [Bipartisan Safer Communities Act](#) aims to protect America's children and to reduce the threat of violence

throughout the country. It introduces gun safety regulations such as enhanced background checks for people under the age of 21 who wish to buy firearms, provides a clarified definition of "licensed firearm dealer," creates incentives for States to pass red flag laws that temporarily remove weapons from people who are considered to be a threat themselves or to others, and also includes investment in mental health services and increased funding for schools. As Nancy Pelosi [pointed out](#), "this bill doesn't do everything we would like to do," but, the Speaker added, "[i]t is a necessary step to honor our solemn duty as lawmakers to protect and defend the American people."

## IV) MEDICAL CARE FOR VETERANS EXPOSED TO TOXIC BURN PITS

In the aftermath of 9/11, [first responders, cleanup crews, and survivors](#) started sounding the alarm about the harmful effects that the post-attack cleanup had had on them, due to the inhalation of carcinogenic building materials, gasses, and jet fuel. Likewise, [veterans](#) from the Iraq and Afghanistan wars have long suffered the destructive consequences of living by "jet-fuel soaked trash fires in Iraq and Afghanistan," commonly called burn pits. As [The Associated Press](#) reported in March, the U.S. military "routinely used open burn pits set ablaze with jet fuel to dispose of tires, batteries, medical waste and other material" in armed interventions in the war on terror. According to the [Department of Veterans Affairs](#), burn pit smoke may affect the "skin, eyes, respiratory and cardiovascular system, gastrointestinal tract and internal organs." The VA has also [acknowledged](#) that exposure to burn pits and other airborne hazards can cause numerous types of cancer and respiratory illnesses such as asthma and COPD. After years of inattention by the U.S. government and refusal of health benefits by the Veterans Administration, on August 10, 2022, President Biden signed the [PACT Act](#) into law. The new law creates a \$280 billion federal funding stream to finance the medical benefits of those exposed to toxins during their service. As President Biden [pointed out](#), "[t]his is the most significant law our nation has ever passed to help millions of veterans who are exposed to toxic substances during their military services." The president also acknowledged the bipartisan nature of this legislation, noting that while "[t]his law is long overdue... We finally got it done, together."

## V) JOB GROWTH, UNEMPLOYMENT, AND DEFICIT REDUCTION

President Biden has repeatedly [stated](#) that the American Rescue Plan Act (ARPA), a \$1.9 trillion stimulus package aimed at accelerating economic recovery following the challenges posed by COVID-19, can be credited for the creation of 10 million jobs by the end of 2022. According to the Congressional Budget Office, however, this claim inflates ARPA's impact. Based on the agency's projections from February 2021, labor force participation would have organically risen by 5.5 million in 2021 even without the stimulus package.

Nevertheless, the president's claim is accurate in that non-farm payroll employment has grown at a pace higher than expected. According to Christian E. Weller, an economist and Senior Fellow at the Center for American Progress, the bill has led to the creation of 1 to 4 million excess jobs. As [Weller](#) points out, as the economy bounced back after COVID-19, Biden oversaw the "fastest start in terms of jobs growth for any president since Jimmy Carter's first year." The last in a string of stimulus measures enacted by Congress, ARPA addresses the economic slowdown caused by the pandemic in [several ways](#): (i) it expands unemployment benefits and the child tax credit; (ii) aids small businesses; (iii) provides additional funding to state and local governments (iv) as well as schools (K-12), colleges and universities; (v) among several others such as (vi) healthcare, housing and transportation.

In the short and medium term, ARPA, in combination with reinvigorated public health measures put in place by the Biden administration, resulted in quick and equitable labor market recovery. With monthly job growth averaging 562,000 in 2021 and 420,000 in 2022, unemployment rates returned to [pre-pandemic levels](#) by August. According to the September 2022 report issued by the [U.S Bureau of Labor Statistics](#), civilian unemployment rate stood at [3.5 percent](#), equal to that of February of 2020. Nevertheless, despite historically high labor market participation, American households have been experiencing increased financial strain due to consumer price increases of approximately 7.1 percent, the highest since 1981. As inflation hit a 40-year high in June 2022, President Biden [acknowledged](#) that the economic scourge was not only "the no. 1 problem facing families today" but also his "top domestic priority." Although many [economists](#) believe that the United States has passed peak inflation – and prices have begun to [decline](#) in several sectors such as gas, used cars, and apparel from a 9.1 percent overall reading in June to 7.1 percent in December – post-pandemic price hikes are unlikely to go away anytime soon. Ultimately, as Americans continued to experience decreased purchasing power in an election year, Republicans had a strong card as they pinned the inflation on Democrats' economic policies.

In a last-ditch effort to sway the outcome of the election, on October 21, President Biden delivered remarks on what the White House called [historic deficit reduction](#). "Today, my administration announced that this year the deficit fell to \$1.4 trillion – the largest one-year drop in American history," the president stated. According to [FRED Economic Data](#), the debt-to-GDP ratio has, indeed, begun to decline; however, at 121 percent of GDP, it still far outstrips the highest level recorded prior to the pandemic – at the end of World War II. By contrast, at the height of the COVID crisis, public debt as a percentage of Gross Domestic Product reached nearly 135 percent or \$3.1 trillion. Indeed, with a rise of [5.2 percent of the GDP](#), former President Trump presided over the third highest deficit increase in U.S. history, only behind George W. Bush (11.7 percent) and Abraham Lincoln (9.4 percent). While President Biden deserves credit for reducing the budget deficit, it is debatable whether his administra-

tion's thrifty economic policies are fully, or even primarily, responsible for the shrinking red ink. As the [Washington Post](#) and the [New York Times](#) have pointed out, the gradual decrement in the deficit is chiefly attributable to the phasing out of pandemic-era relief spending such as the American Rescue Plan, or the Trump-era CARES Act and Paycheck Protection Act. Despite the narrowing disparity between how much the government spends and how much revenue it has coming in, the national debt now totaling [\\$31 trillion](#) remains to be unsustainable in the long term. With interest payments on the debt estimated to be about \$400 billion for fiscal year 2022, the cost of borrowing claims about 7 percent of the federal budget. And, as mandatory (or non-discretionary) spending such as Medicare and Social Security continues to outpace investment (or discretionary spending) nearly 5:1, it is increasingly challenging to pull the country out of the ditch of indebtedness.

All things considered, is also unlikely that the national debt played a significant role in last year's congressional elections. While a mid-2021 Ipsos poll found that 75 percent of Americans worried about "the national debt and that too much federal debt could hurt the economy," a Monmouth University Poll published on October 3, 2022 found that 82 percent of respondents marked inflation as their top concern in the 2022 midterms followed by jobs and unemployment at 68 percent. Importantly, however, across all major pre-election opinion polls, Republicans held double-digit leads over Democrats on these pivotal issues that fundamentally affected the outcome of the election. Hence, it was improbable for Democrats to receive a boost from the deficit reduction messaging, regardless of how much credit the Biden administration truly deserved.

## VI) OUT OF CONTROL GAS PRICES

Several factors such as low oil production due to reduced demand during the pandemic, the ban on Russian oil imports following Putin's invasion of Ukraine, and refinery outages caused gas prices in the United States to soar to new heights over the course of 2022. After gas prices hit a record average of above \$5.00 in June, Biden doubled down on his attempt to lower the price Americans pay at the pump. Namely, the president authorized the release of 180 million barrels from the Strategic Petroleum Reserve (SPR) in order to increase supply. The U.S. reserve, the world's largest stockpile of emergency crude oil, was established in the aftermath of the 1973 energy crisis and it contains [approximately 600 million barrels](#). The president has the authority pursuant to the Energy Policy and Conservation Act to sell SPR reserves to offset disruptions in the supply of petroleum products. According to the Department of the Treasury's estimates, President Biden's actions have [reduced gasoline prices](#) by about 40 cents per gallon. Just before the election, average U.S. gas prices stood at [\\$3.78](#), about 7 cents higher than in September, and 40¢ higher than a year prior. As [Reuters](#) reported on October 18, citing an unnamed source familiar with the White House deliberations: "The administration has a small window ahead of [the]midterms to try to



lower fuel prices, or at least demonstrate that they are trying... The White House did not like \$4 a gallon gas and it has signaled that it will take action to prevent that again.”

## VII) REDUCTION IN COVID-RELATED DEATHS

Although a comprehensive analysis of the Biden administration’s COVID-19 response is far beyond the scope of this analysis, we will briefly revisit some of the most important decisions and advances of the past two years. In sharp contrast to former President Trump’s contradictory and erratic response to the COVID-19 flu outbreak, the Biden administration hit the ground running with a detailed plan to guide the United States’ response to the pandemic, emphasizing the importance of science-based public health decisions. In a document titled National Strategy for the Covid-19 Response and Pandemic Preparedness, the administration outlined seven primary goals to bring the disease under control, mitigate the economic damage, and drive inclusive and sustainable recovery: (i) restore trust with the American people; (ii) mount a safe, effective, and comprehensive vaccination campaign; (iii) mitigate the spread of the virus through expanding masking, testing, treatment, data, workforce, and clear public health standards; (iv) immediately expand emergency relief and exercise the Defense Production Act; (v) safely reopen schools, businesses, and travel, while protecting workers; (vi) protect those most at risk and advance equity, including across racial, ethnic and rural/urban lines; (vii) and restore U.S. leadership globally and build better preparedness for future threats.

Biden’s plan to tackle the pandemic resulted in important victories such as “unprecedented coordination between federal, state, local health authorities and pharmacy partners” to vaccinate the American population. This led to the administration of 500 million COVID-19 shots during President Biden’s first year in office. By the election, more than 613 million jabs had been administered in the United States - 263 million Americans (78.6 percent of the population) had received at least one shot, 225 million had completed a vaccination regimen (68 percent of the population), and 109 million had received boosters, according to [Bloomberg’s](#) and the [New York Times’](#) COVID-19 trackers.<sup>11</sup> Likewise, the invocation of the [Defense Production Act](#) allowed the administration to direct the national industry to address the scarcity of essential materials and supplies such as Personal Protective Equipment (PPE) needed to effectively combat the pandemic.

In an interview with *60 Minutes* on September 18, 2022, the president declared the COVID-19 pandemic to be over. Following Biden’s controversial remarks, Dr. Anthony Fauci, Chief Medical Advisor to the President and director of the National Institute of Allergy and Infectious Disease, [affirmed](#)

<sup>11</sup> According to the latest data, nearly 633 million have been administered in the United States, which makes 68 percent of Americans fully vaccinated, 80 percent with at least one dose, and 34 percent with a booster.

that thanks to vaccines and antivirals the United States has entered a new phase “in which even as case counts and hospitalization numbers fluctuate, death tolls hold fairly constant... [and] the risk of serious illness has declined dramatically.” Fauci also [emphasized](#) that “[w]e are not where we need to be if we are going to [] ‘live with the virus,’” and that the government must be “aware of how unusual this virus is and continues to be in its ability to evolve into new variants which defy the standard public health mechanisms of addressing an outbreak.” Nevertheless, epidemiological data indicate that Biden’s COVID strategy has been highly effective. For one, the daily rate of new cases (roughly 40,000 at the end of October) declined steadily from the Omicron epidemic in January of 2022.<sup>12</sup> [Hospitalizations](#) also declined by 60 percent between the summer peak and the end of October and by 89 percent compared to January’s Omicron surge. [Intensive care unit \(ICU\) admissions](#) were 45 percent lower in late October than at the same time one year prior and 63 percent lower than at the start of the pandemic. Finally, according to the Centers for Disease Control’s [COVID Data Tracker](#), COVID-related weekly average deaths (2,566 on October 19, 2022) were some of the lowest reported since the pandemic began in earnest in the United States in April of 2020.

From an electoral perspective, as a senior administration official stated to [Politico](#) before the midterms, “Covid is probably not the biggest issue at this moment.” Although Americans consistently gave Democrats higher marks on tackling health care and the [pandemic](#), according to a [Morning poll](#) released on October 26, 2022, only 11 percent of all U.S. adults still viewed COVID-19 as a “severe” health risk – that figure was slightly higher among Democrats (16 percent) and slightly lower among Republicans (7 percent). According to another [Morning poll](#) released on October 25, only 33 percent of voters considered Coronavirus as a “very important” factor when deciding whom to vote for in this year’s midterms. Of the top eight categories considered to be very important by the respondents, COVID came in last behind the economy (80 percent), crime (61 percent), abortion (53 percent), gun policy (52 percent), education (50 percent), immigration (50 percent), and Russia’s invasion of Ukraine (34 percent).

## C) FOREIGN POLICY

Decades of political science research has shown that foreign policy does not decide elections. As George H. W. Bush [said](#) in 1991 at the height of his popularity following the Gulf War, “[t]he common wisdom is that I’ll win in a runaway, but I don’t believe that. I think it’s going to be the economy.” In this vein, we do not contend that foreign policy was a decisive factor in the 2022 midterms; nevertheless, we will consider some salient issues below and analyze their likely impact on the outcome of the election.

<sup>12</sup> At the time of writing, there has been an uptick in the 7-day average of weekly new cases.

As we showed above, on the domestic front, Biden's legislative agenda was an overall success, albeit on a smaller scale than the administration had initially hoped. The president's triumphs, however, have not been limited to the domestic sphere. Indeed, President Biden ran on returning the United States to the traditional leadership position that it has occupied since the end of World War II as the guarantor of the liberal rules-based international order. Whether Biden can reestablish credible long-term U.S. leadership on the world stage has yet to be seen; nevertheless, the president has reclaimed much ground lost under his predecessor's "America First" policies. For example, the Biden administration has rejoined the WHO, made critical contributions to the global fight against COVID-19, continued to effectively wage the war against terrorism (even after the United States' withdrawal from Afghanistan), demonstrated its commitment to international partners, and stood up against non-democratic regimes.

Three points are worth considering here in some detail: (i) COVID leadership, (ii) the Biden administration's over-the-horizon counterterrorism strategy in the "forever war" against terrorism, and (iii) the United States' proxy war to counter Russia's territorial aggression in Ukraine.

## I) COVID LEADERSHIP

In 2020, the world confronted a pandemic influenza outbreak on a scale not seen since the beginning of the 20<sup>th</sup> century, when the Spanish Flu ran rampant across the globe. While the intervening decades saw the rise of ever-greater global interconnectedness and the advent of an intricate web of global health governance, the system failed to produce effective results when a new pandemic appeared. There are at least two crucial reasons for the system's failure, according to [Stewart Patrick](#) of the Council on Foreign Relations: the behavior of China and that of the United States. First, not only did China hide evidence of the outbreak and fail to share vital scientific information such as epidemiological and virological data, but it also used its position as the rotating president of the Security Council to block consideration of a pandemic-related resolution. Second, President Trump also failed to provide much-needed leadership in the midst of the crisis. Not only did the former president spread misinformation and peddle baseless conspiracy theories, but his administration also opted for a hardline "America First" approach to the coronavirus pandemic. With the global community's two most powerful nations missing in action, a cooperative international response was effectively crippled. Instead, states chose to pursue nationalist approaches to the pandemic, forsaking "opportunities for consultation, joint planning, and collaboration," and abandoning their commitment to multilateral institutions (such as the WHO), established regulatory frameworks (such as the WHO's International Health Regulations), and pandemic strategies (such as Obama's Pandemic Playbook).<sup>13</sup> In-

stead, the atomistic response to COVID-19 was characterized by travel restrictions, border closures, limits on the sharing of PPE, and limited data sharing and scientific cooperation – all in direct contravention of previous pandemic flu game plans, such as the Bush administration's substantive and farsighted 2005 [avian flu strategy](#).

With the presidential transition complete, some early developments out of the Biden White House were promising. For example, the U.S. promptly rejoined the WHO, reversing the profoundly ill-conceived decision of the Trump administration to withdraw from the international public health organization. Moreover, in contrast to his predecessor's choice not to participate in COVAX, Biden asserted a leadership role in the global multilateral platform and pledged \$4 billion to the initiative – in sharp contrast to China's \$100 million contribution.

Yet, when the first effective vaccines became widely available, nationalism reared its ugly head once again, and Western countries (among them the United States) were being seen as [hoarding](#) much-needed supplies. Meanwhile, Russian and Chinese pharmaceuticals filled the gaps left by Pfizer, Moderna, Johnson, and Astra Zeneca. Indeed, Presidents Putin and Xi sought to expand their global political influence using vaccine diplomacy as a soft power tool, with the Chinese premier calling his country's COVID-19 shot a "[global public good](#)." Just like China and Russia, the U.S. had an enormous opportunity for global leadership by acting promptly to supply low-income countries with vaccines, especially with elections looming in Colombia, Brazil, and India, to mention just a few with high stakes for the sustainability of global American leadership.

As late as mid-2021, the United States lagged several months behind Russia and China in its vaccine largesse. Yet, [as President Biden put it](#) in March 2021, "[w]e're not going to be ultimately safe, until the world is safe." Still, as the administration pledged surplus doses "to help the rest of the world," its priorities remained clearly focused upon domestic vaccination goals. In fact, it was not until June 2021 that the Biden White House unveiled plans for the [first 25 million vaccine doses to be shared globally](#). Ultimately, the administration was forced to face the fact that the longer the virus circulated in other parts of the world, the more risk there was of new variants developing and jeopardizing the health of even vaccinated Americans. Moreover, since vaccine-nationalism would inevitably stymie global growth, and seeing as American growth is inextricably tied to such growth, the administration correctly decided that the United States must become the great arsenal of vaccines in the fight against the pandemic.

Eventually, the Biden administration did catch up to China and Russia and has long since outdone its non-democratic competitors.<sup>14</sup> In early 2022, the president pledged that the United States would share over 1.2 billion COVID shots with

<sup>13</sup> Stewart Patrick. "When the System Fails." *Foreign Affairs*.

<sup>14</sup> Dorian Kantor. "The case for U.S. vaccine diplomacy in Latin America." *FES Washington, D.C.* (November 15, 2021). <https://dc.fes.de/news-list/e/the-case-for-us-vaccine-diplomacy-in-latin-america>

countries around the world. According to the Department of State's [vaccine donation tracker](#), by September 23, 2022 the last reported data point before the midterms, America had shipped 623,871,260 jabs of the coronavirus vaccine.<sup>15</sup> Through coordinated efforts with [Gavi, the Vaccine Alliance](#) as well as bilateral agreements, the United States has shared jabs with a total of over 115 countries worldwide. Based on the latest figures reported by the State Department, the number one recipient of the U.S.'s vaccine largesse has been Bangladesh – the South Asian country has received over 101 million doses of COVID-19 vaccines. Bangladesh is followed by Pakistan with 79 million doses. Overall, the United States has distributed 223.6 million jabs to 10 countries of South and Central Asia, 194 million to 44 countries in Sub-Saharan Africa, nearly 132.5 million to 15 countries in East Asian and the Pacific, over 72.5 million to 30 countries in the Western Hemisphere, in excess of 39 million to 9 countries and the Palestinian Territories in the Middle East and North Africa, and nearly 9 million to 6 countries in Europe and Eurasia.

Based on data from the [New York Times' Global Vaccination Tracker](#), approximately 5.51 billion people have received at least one dose; nearly 72 percent of the global population. At the time of writing, about 66 percent of people worldwide are fully vaccinated. As an indication of the extensive efforts of the Biden administration to control the virus, of the global total of those who have received at least one jab, U.S. vaccine donations alone account for approximately 5 percent.<sup>16</sup>

In sum, as the Biden administration is slowly winning the battle against the COVID-19 pandemic at home, it has made significant contributions to the war against the pandemic internationally. Meanwhile, President Biden has proven that "America is back," and that open and democratic societies can deliver solutions to the pandemic, effectively competing with Russia and China. While Democrats may not have derived direct electoral advantage from the administration's vaccine diplomacy abroad, the U.S. government's efforts have borne tangible results. First, global deaths are at an all-time low since the pandemic began, indicating that the disease is finally coming under control. Second, with more people vaccinated, the virus has limited ability to evolve into newer, potentially more dangerous variants. Lastly, higher levels of vaccination also translate into lower hospitalization rates, contributing to the perception that the current administration has managed the COVID crisis better than its predecessor.

## II) OVER-THE-HORIZON COUNTERTERRORISM STRATEGY

As former Vice President Richard Cheney famously said, "9/11 changed everything." Indeed, in the wake of the most devastating terrorist attack in history, the Bush ad-

ministration implement a radical paradigm shift in its efforts to hunt down the perpetrators and declared a "global war" on terrorism (GWOT). President Biden is the third president to inherit the "forever war" against al Qaeda and its affiliates such as ISIS, al Qaeda in the Arabian Peninsula (AQAP), and Al-Shabaab. While each one of Bush's successors took over a *fait accompli* GWOT on a largely path dependent trajectory, it was not until Joe Biden arrived in the White House that America finally ended a 20-year engagement in Afghanistan, the first target of the United States' post-9/11 ire.

With the Afghanistan mission officially over, there was an upswell of uncertainty as to whether the United States would be able to keep the country, once again under Taliban rule, from reverting to a safe haven for terrorists. After announcing the United States' withdrawal, President Biden stated that the U.S. national security establishment had developed so-called *over-the-horizon* counterterrorism capability that would "allow us to keep our eyes firmly fixed on any direct threats to the United States in the region and to act quickly and decisively if needed." In different [remarks](#), Biden claimed that the new strategy would enable the Armed Forces to "strike terrorists and targets without [] boots on the ground – or very few, if needed." The president also pointed out that the United States has successfully used the strategy elsewhere, emphasizing that "[we] conduct effective counterterrorism missions against terrorist groups in multiple countries where we don't have a permanent military presence."

Republicans were quick to criticize the administration. Senator Marco Rubio of Florida, for one, [reproached](#) President Biden for not having anything "that resembles a real plan because over-the-horizon is rhetoric, not strategy." Senator Lindsey Graham of South Carolina struck a similarly [skeptical tone](#): "If over-the-horizon worked, there'd be no ISIS in Iraq and Syria. We were told the same thing then... we could use drones and over-the-horizon capability to stop terrorists building up." Various counterterrorism experts also expressed doubt, noting that a strategy had numerous weaknesses: the lack of intelligence assets on the ground, a hostile regime in Kabul, and less-than-ideal relations with Afghanistan's neighbors that could serve as a launching pad for UAV (or drone) executed precision strikes. As General Kenneth McKinzie, the former leader of the U.S. Central Command, [put it](#): "[Post-withdrawal] [w]e're probably at about 1 or 2 percent of capabilities we once had to look into Afghanistan." Tore [Hamming](#), a fellow at King's College's International Centre for the Study of Radicalization, also warned that "technological acumen [could not] adequately compensate for on-the-ground involvement" and that overreliance on signals intelligence would ultimately prove inadequate as terrorist cells have learned to eschew electronic communications in order to avoid detection and targeting.

In spite of the disbelief and harsh critique, the successful Reaper drone strike on August 1, 2022, that took out the most wanted terrorist leader in the world, Ayman al-Zawa-

<sup>15</sup> At the time of writing (updated on December 14, 2022), the United States has donated 671,485,090 vaccines to countries around the world.

<sup>16</sup> As of December 12, 2022, the total number of doses administered worldwide is 13,017,593,396.

hiri, in the heart of Kabul, vindicated the Biden administration's over-the-horizon strategy. It is unclear whether U.S. intelligence agencies used technical (signals) intelligence or on-the-ground human intelligence to locate and kill Osama bin Laden's successor, the emir of al Qaeda. What is clear, however, is that the United States continues to effectively project its counterterrorism capabilities to carry out remotely controlled leadership decapitation strikes with little-to-no collateral damage and without putting the lives of American personnel in danger.

Biden's claim that *over-the-horizon* is a tested and true strategy is no exaggeration. The United States has carried out over one thousand drone strikes in Yemen, Pakistan, and Somalia – outside of official war zones – against terrorist and militia targets without American boots on the ground. In fact, as Audrey Cronin pointed out in [Foreign Affairs](#), as the lynchpin of the United States' counterterrorism operations, drones have been the tactic driving America's strategy in the war on terror. After all, UAV-conducted lethal operations are cheap, highly accurate, and pose no risk to the lives of American soldiers. Yet, it has gone mostly unnoticed that President Biden has dramatically scaled back the number of drone strikes [compared to his predecessor](#). This in line with his administration's putative [reinstatement](#) of some iteration of the Obama-era [legal and policy frameworks](#) regarding drone attacks. While Biden's new directives have not seen the light of day, Obama's presidential policy guidance emphasized that UAV-executed lethal strikes would be used against targets who continue to pose a continued and imminent threat to U.S. persons and interests, whose identification is nearly certain, when capture is infeasible, and when no civilians will be harmed in the process.

Despite the success of the operation that killed al-Zawahiri, Joe Biden did not enjoy an appreciable approval boost as a result. According to Quinnipiac University's [opinion poll](#), Biden's handling of foreign policy improved by just two points from July 20 to August 31; NBC News also reported a slight uptick in Biden's overall approval from May to August 2022, however, on the specific question regarding the president's handling of foreign policy, his numbers declined slightly from a net -9 (42 approving, 51 disapproving) to net -14 points (39 approving, 53 disapproving). It is worth pointing out that Obama's approval numbers rose sharply after the killing of Osama bin Laden; by 11 percentage points, according to a [New York Times/CBS News poll](#) conducted after the al Qaeda leader's death. By contrast, there are some confounding variables at play that limited Biden's approval gains. First, Ukraine is clearly first on Americans' minds, while 9/11 is now 21 years in the rearview mirror. Second, bin Laden's killing served as the cathartic moment of post-9/11 national vindication, whereas al-Zawahiri was a more obscure figure. Ultimately, in an election year in which inflation, the economy, women's rights, and the state of our democracy dominated, the president's foreign policy accomplishments could only move the needle so much in favor of his party.

### III) UKRAINE

On February 24, following a year of military buildup along Russia's border with Ukraine, President Putin initiated what his regime [characterized](#) as a "special military operation" intended to "demilitarize" and "denazify" its western neighbor. Over the past ten months, Russia's war of aggression has claimed over 16,000 civilian casualties according to [UN data](#) – this includes 6,595 people killed and 10,189 injured. Nonetheless, as [Matilda Bogner](#), head of the UN Human Rights Monitoring Mission in Ukraine, has remarked "the actual numbers are likely considerably higher." Russia's invasion of Ukraine has also precipitated the largest refugee crisis since World War II, with nearly 8 million having left the country and over 6.4 million internally displaced, according to the office of the [United Nations High Commissioner for Refugees](#). Not only do Russia's irredentist imperial aspirations fly in the face of the liberal rules-based international order created after World War II, but Putin's troops have also committed flagrant violations of international law. To wit, Russian forces have indiscriminately attacked [civilian targets](#) and there is ample evidence of [massacres](#) amounting to violations of the laws of armed conflict at the least, but potentially also to [genocide](#).

Although neither the United States nor any other NATO country has directly engaged in the Russo-Ukrainian War for fear of nuclear escalation, they have provided both lethal and humanitarian assistance to the Ukrainian people. Using [Presidential Drawdown Authority](#) under the Foreign Assistance Act to quickly "deliver[] defense articles and services from the Department of Defense stocks to foreign countries," the United States has committed approximately [\\$21.8 billion](#) in security assistance to Ukraine since the brutal and unprovoked invasion began. The U.S. government has given Ukraine numerous types of [equipment and weapons](#) including portable anti-tank Javelin Missiles, anti-air Stinger Missiles, High Mobility Artillery Rocket Systems (HIMARS), howitzer guns, mortar systems, tactical unmanned aerial systems such as "kamikaze" drones, armored personnel carriers, Humvee vehicles, helicopters, grenade launchers and small arms, tens of millions of rounds of small arms ammunition, radar systems, and communications and intelligence equipment. Secretary of State Anthony Blinken has [vowed](#) that the United States and its allies would "continue to exert [] pressure until the [Russian] aggression ceases and Ukraine is fully sovereign and independent."

While the United States sees the aid provided to Ukraine as effective, defense officials are cautiously optimistic. The fortunes of war began to shift in early September when Ukrainian forces made a breakthrough offensive against the invaders, forcing the Russian military into retreat. As a result, Ukraine has [recaptured](#) several thousand square miles of its territory. In a statement delivered on September 15, Pentagon press secretary Brig. Gen. [Pat Ryder](#) sounded a note of caution: "Ukraine has made some progress, but there's still a very tough fight, and a tough fight ahead." An unnamed defense official echoed a similar sentiment in an interview with [CNN](#), warning that the "Russians still have a



tremendous amount of firepower, manpower and equipment... and the victories [in September] of the Ukrainian military have not sealed the outcome of the war.” Whatever the fortunes of war may be, however, as Secretary of State Blinken unequivocally [declared](#), “[t]he United States’ commitment to Ukraine’s independence, sovereignty, and territorial integrity is ironclad.”

Although the data is [not unanimous](#), the majority of recent polling has found that Americans remain committed to supporting Ukraine. According to a [Reuters/Ipsos opinion poll](#) released on October 5, 2022, 73 percent of Americans agree that the United States should continue its support for Ukraine (81 percent of Democrats and 66 percent of Republicans), an increase of 15 percent since [August](#). A [Gallup poll](#) released on September 15 also found that two in three Americans prefer that the United States support Ukraine in reclaiming its territory, even if the conflict becomes more prolonged. Nevertheless, an [NBC New survey](#) conducted from October 14–18 indicates that only 46 percent of Americans approve of President Biden’s handling of the war between Russia and Ukraine (a 5-point uptick from May), while 46 percent disapprove (a 2-point drop).

Unfortunately for the Democrats’ midterm hopes, America’s involvement in the war in Ukraine did not cause a “[rally-round-the-flag](#)” effect, i.e., a “sudden and substantial increase in public approval of the president... in response to certain kinds of dramatic international events involving the United States.” Whereas President George W. Bush’s approval rating soared in the polls to 86 percent after 9/11, compared to 51 percent on September 10, President Biden did not get a similar bump due to Ukraine. To complicate matters further, the initial bipartisan rally behind the president’s efforts to stand up to a non-democratic aggressor and to defend Ukraine’s democracy and territorial integrity has gradually fizzled out. Republican voices have grown critical of the administration’s unconditional support for Kyiv, and concerns about the massive weapons transfers’ effect on [American military readiness](#) have also grown louder. Minority Leader Kevin McCarthy, for one, has warned that Ukraine would not get a “[blank check](#)” in a Republican-controlled House. Indeed, since Republicans have retaken the House majority on November 8, we can expect a return to Donald Trump’s “America First” approach to foreign policy and a stark challenge to the wisdom of unbridled spending abroad while Americans suffer the consequences of record-high inflation at home.

# 3

## CONCLUSION

On November 8, 2022, Americans went to the polls to elect a new House and to decide which party should control the Senate. The crushing weight of historical patterns pointed toward a Republican victory in the midterms, and polls appeared to bare out those predictions. Several factors indicated a likely Democratic defeat: the president's low approval, high inflation, rising prices, and an increasingly complicated immigration situation at the southern border. Nevertheless, as we showed above, there were some mitigating factors that, in hindsight, blunted a shellacking: from the public's reaction to the Supreme Court's ruling in *Dobbs*, to the administration's numerous accomplishments at home and abroad, as well as worries about the future of American democracy. Ultimately, Democrats stifle the "red wave." In the Senate, they expanded their razor-thin majority, while in the House they denied Republicans the sweeping victory they expected.

Despite the Democrat's unanticipated strong performance, once House Republicans quell the palace revolt and decide on the speakership, they will officially take over the reins of the lower chamber. Hence, Joe Biden will preside over a divided government for the rest of his (first) term in office. Divided government will necessarily reduce Washington's legislative productivity, and we can expect hyper-partisan battles over things both small and large: from the confirmation of presidential nominations to the future of the January 6<sup>th</sup> Committee, from the handling of the lingering economic crisis to America's continued involvement in Ukraine's war against Russian invaders. And, while Republicans may be gridlocked over McCarty's role in the party's future, they appear united in one thing: investigative revenge. The new majority has promised to weaponize congressional investigations into [aid provided for Ukraine](#), [Hunter Biden's](#) business dealings, and a range of [other matters](#) such as the U.S. withdrawal from Afghanistan and the administration's COVID response. In fact, the right-wing crusade is unlikely to stop there. Many Republicans have indicated that even an [impeachment process](#) is not off the table – both of the president and his cabinet secretaries. Nevertheless, if Republicans intend to succeed in the 2024 elections, they must offer a coherent program for governing beyond mere naysaying and grandstanding. They could, for instance, take a page out of the president and the Senate minority leader's book. The two leaders, often at loggerheads, appeared together in Kentucky on January 4 to feature new funding

through the Infrastructure Investment and Jobs Act for the Brent Spence Bridge which connects Cincinnati and Covington. Against the backdrop of Republican chaos in Washington, the president presented the moment as a metaphor for bipartisan cooperation and compromise: "A bridge to the vision of America I know we all believe in, where we can work together to get things done."

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# THE RED WAVE THAT WASN'T

## Why the 2022 U.S. Midterm Elections Broke the Mold



Democrats defied the tides of history and bucked the conventional wisdom which tells us that the incumbent president's party suffers heavy losses in Congress in midterm elections. Despite the dire forecasts, the Democrats expanded their Senate majority (for the first time in a midterm since 1962) and far outperformed expectations in the House by ceding only 9 seats to Republicans.



The pre-election "shellacking" narrative was driven by numerous factors such as the president's low approval rating, economic concerns, and an increasingly out-of-control crisis at the southern border.



A combination of confounding variables including the Dobbs effect, concerns about democratic backsliding, and the foreign and domestic policy accomplishments of Biden's unified government energized the Democratic base as well as independent voters to turn out for the president's party and softened the widely predicted midterm blow.

Further information on the topic can be found here:  
[dc.fes.de](https://dc.fes.de)