

# Human Rights First

## Discrimination, Detention, and Deportation: Immigration & Refugees

**<https://www.humanrightsfirst.org/resource/illegal-and-inhumane-biden-administration-continues-embrace-trump-title-42-policy-attacks>**

### Policy Issue Resources

Work With Asylum Seekers

If you are seeking asylum, we can help

Areas of Focus

Current Initiatives

On May 23, 2022, the Title 42 policy was set to end. For more than two years, the Department of Homeland Security (DHS) had used this Trump-era policy to block asylum at U.S. ports of entry and to expel asylum seekers to grave dangers without allowing them to apply for U.S. asylum. However, on May 20, 2022, a federal court in Louisiana preliminarily [enjoined](#) decision by the Centers for Disease Control and Prevention (CDC) to terminate its prior Title 42 orders, and the court directed the U.S. government to continue the Title 42 disaster. At the same time, a [ruling](#) by the D.C. Circuit Court of Appeals prohibiting DHS from using Title 42 to expel asylum-seeking families to places where they will be persecuted or tortured went into effect on May 23.

Despite these seemingly dueling Title 42 judicial decisions, DHS retains clear authority to except individuals from Title 42 and remains obligated under U.S. refugee law and binding treaty commitments not to return anyone whether a family, adult, or child to persecution or torture, as the legal rationale of the D.C. Circuit Court decision confirms.

However, Customs and Border Protection (CBP), the border enforcement arm of DHS, continues to turn away people attempting to request asylum at U.S. ports of entry without screening for asylum, stranding them in Mexico facing life-threatening dangers. DHS also continues to expel people who cross the border between ports of entry to grave danger in Mexico, Haiti, and other countries of persecution from which they fled without allowing them to apply for asylum or asking fear screening questions. The continued use of Title 42 is preventing U.S. immigration laws from being [upheld](#), prolonging disorder at the border, and inflating CBP encounter statistics due to repeat entry attempts by [migrants](#). With access to asylum blocked at ports of entry, some asylum seekers are pushed to take highly dangerous journeys to cross the border away from official border posts to attempt to seek safety, adding to the number of border encounters and the mounting death toll of people who have perished in the crossing.

Despite the well-documented harms of Title 42 and the chaos it has caused to the orderly processing of asylum claims at the border, some members of Congress have [introduced legislation](#) that would extend the policy. If enacted, these provisions would effectively undermine and override the [Refugee Act of 1980](#), which was passed by Congress with overwhelming bipartisan support to create a uniform legal process for asylum and with the aim of bringing domestic refugee law in line with international treaty legal obligations. A recent [report](#) by the U.N. Special Rapporteur on the Rights of Migrants addressing illegal pushback policies, including Title 42, recommended governments put an end to pushback practices, to suspend, cancel and revoke, as necessary, initiatives to legalize pushbacks, and to respect fully the prohibition of collective expulsion and uphold the principle of non-refoulement.

Following the Summit of the Americas in June 2022, the Biden administration [committed](#) to implementing humane border management policies and practices including improv[ing] the efficiency and fairness of asylum at the border as well as pledging to increase resettlement of Haitian and other refugees from the Americas.

This update is based on interviews with 74 asylum seekers conducted by Human Rights First researchers in Ciudad Acua, Nuevo Laredo, and Piedras Negras, Mexico in late May 2022 as well as additional remote interviews in June 2022; information from legal services and humanitarian aid providers across the border region; observations from outside the Del Rio, Eagle Pass, and Laredo ports of entry; publicly available U.S. government data and information; as well as media and other human rights reporting. Human Rights First published prior research on the Title 42 policy in [April 2022](#) (with Al Otro Lado and Haitian Bridge Alliance), [March 2022](#), [February 2022](#), [January 2022](#), [December 2021](#), [November 2021](#) (with Florence Immigrant and Refugee Rights Project), [October 2021](#), [August 2021](#), [July 2021](#) (with Hope Border Institute), [June 2021](#), [May 2021](#) (with RAICES and Interfaith Welcome Coalition), [April 2021](#) (with Al Otro Lado and Haitian Bridge Alliance), [December 2020](#), and [May 2020](#).

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