



# Title 42 Border Expulsions: How Biden and the CDC's Misuse of Public Health Authority Expels Asylum Seekers to Danger

A year after the Trump administration introduced a specious order using public health as a pretext to end asylum at the border, President Biden and the Centers for Disease Control and Prevention (CDC) continue to use the order to expel hundreds of thousands of asylum seekers to danger. Carried out under a provision of U.S. health law – section 265 of Title 42 – these expulsions cause extensive suffering and harm under the guise of public health. The Title 42 order was issued despite widespread objections from epidemiologists and health experts, who have refuted its public health justification and issued detailed recommendations on safely processing asylum seekers during the COVID-19 pandemic. At this moment, we have an opportunity to right the wrongs of the past by following science-based public health policies and ensuring the safety of children, families, and adults seeking asylum. The Biden administration must end this expulsion policy, restore asylum at the border, and welcome asylum seekers with respect.

## **What is the Title 42 order and how is it being used to block asylum seekers?**

Early in the pandemic, the Trump administration exploited the emergency to completely close U.S. doors to asylum seekers at the border, while continuing to allow many other, non-asylum-seeking travelers across. On March 20, 2020, the CDC issued an order citing section 265 of U.S. Code Title 42 (U.S. health law), allowing the U.S. federal government to immediately turn away and expel people arriving at the border seeking asylum protection. Such actions constitute violations of U.S. and international law. The order, which can be rescinded at any time, has been used by the Department of Homeland Security to carry out more than [750,000 expulsions](#) and to essentially eliminate asylum at the border, resulting in dire humanitarian consequences, such as the severe overcrowding of families in migrant shelters and encampments in northern Mexico.

## **There is no public health rationale to categorically exclude asylum seekers while millions of other travelers cross the border without testing or contact tracing.**

The Title 42 order is not based on public health rationale or data. It was implemented despite [objections](#) from senior CDC medical experts and it has been widely criticized by [public health and medical experts](#), who state that the order has [no scientific basis](#) as a public health measure. International borders remain largely open to other travelers. People fleeing persecution are protected under U.S. and international law, and the United Nations Refugee Agency (UNHCR) has [confirmed](#) that countries must not deny entry or discriminate against asylum seekers solely because of the COVID-19 pandemic.



However, in spite of promising to bring humanity to the immigration system, President Biden has yet to repeal the Title 42 order; on May 19, 2020, it was [extended indefinitely](#), with the CDC director stating the order will continue “until I determine that the danger of further introduction of COVID-19 into the United States has ceased to be a serious danger to the public health, and continuation of the Order is no longer necessary to protect the public health.” More than [70 million pedestrians and vehicle passengers](#) were permitted to enter the United States through ports of entry on the U.S.-Mexico border from April to December 2020 without testing or tracing, while a much smaller number of asylum seekers have not even had the chance to have their case heard.

Banning only asylum seekers asking for protection in the United States is discriminatory, racist, and puts thousands of lives at risk.

### **The harsh consequences for children, families, and adults**

The Biden administration has used the Title 42 order to block or expel asylum-seeking families and adults from Burkina Faso, Cameroon, Cuba, El Salvador, Ethiopia, Ghana, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Nigeria, Russia, Somalia, Venezuela, and Yemen. According to reports, there have been at least [492 violent attacks, including kidnappings, rapes, torture, physical assaults, and verbal threats](#), against asylum seekers turned away or stranded in Mexico during the current administration. Since February 2021, the U.S. government has put the lives of Haitians in direct danger by sending 27 airplanes with more than [1,400](#) adults and children, including asylum seekers, directly back to Haiti despite the political instability and violence there.

Shortly after children were [exempted](#) from the order due to pressure and litigation, parents stranded in northern Mexico were forced to make the difficult decision [to send their children to the United States alone](#), as that was the only way they could ensure their safety, effectively causing new family separations and increasing the number of unaccompanied children in custody.

Although the Biden administration has started to accept [250 asylum seekers a day](#), effectively exempting them from the Title 42 order as part of negotiations in a federal court case, the Title 42 order must be revoked completely.

### **What is the alternative?**

Instead of unlawfully shutting down access to asylum, the Biden administration must uphold U.S. values and refugee laws, listen to the guidance from public health and refugee experts, and welcome migrants with respect.

Scientific and medical research continues to show that social distancing, wearing masks, and home isolation are the most effective measures to limit the spread of the outbreak. [Science-based public health measures](#) can be implemented at U.S. borders that both protect the health of the American public, U.S. border officers, and communities on both sides of the border, as well as safeguard the lives of those seeking refuge and safety.



## How you can take action

The Title 42 order relies on the justification that denying asylum access is good for public health. As such, the expertise of health professionals is crucial in correcting the narrative and demanding an end to the Title 42 border expulsions and this systematic violation of human rights. Here's how you can take action:

- **Sign our petition:** [Tell Biden that the Trump administration's weaponization of the pandemic to expel asylum seekers under the guise of public health must be rescinded now.](#)
- **Tweet or share resources** on your social media accounts.
  - [Share the reports "The Invisible Wall: Title 42" from Haitian Bridge Alliance](#) and ["Failure to Protect" from Human Rights First](#)
- **Write an op-ed or letter to the editor** of your local newspaper to share your perspective, as a health professional, on the importance of restoring asylum.
- **Raise** the misuse of Title 42 in relevant professional forums such as conferences, association meetings, and webinars.
- **Volunteer** as a clinician or non-clinician with [Refugee Health Alliance](#) in Tijuana.