

April 26, 2022



Dear Representative,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations committed to promoting and protecting civil and human rights, and the undersigned 205 civil and human rights organizations, we write to encourage your support of the Biden administration's plans to end Title 42 on May 23, 2022.<sup>1</sup> We urge you to reject any and all legislative efforts to extend Title 42 beyond May 23, 2022, including the Public Health and Border Security Act of 2022 (S.4036) and potential amendments to the COVID-19 relief bill. Ending Title 42 is an urgent racial justice, human rights, and civil rights issue, and we encourage you to work in tandem with the Biden administration to change course now.

**Keeping Title 42 in place affects not only immigrant communities, but the country at large.** For more than two years, Title 42 has rendered our Southern border and ports of entry virtually closed to asylum seekers and refugees. The prolonged use of Title 42 has betrayed our country's commitment to the international human rights principle of *non-refoulement*,<sup>2</sup> to our domestic laws governing the right to seek asylum, and to our professed role as a beacon and leader in advancing civil and human rights worldwide. Title 42 represents both a purposeful abandonment of our shared legal and moral principles and a myopic unwillingness to right the wrongs of the last administration. Immigrants continue to make up 1 in 5 essential workers, 1 in 5 health care workers, and 1 in 4 long-term care workers, serving in all of the industries deemed "essential" during the ongoing COVID-19 pandemic.<sup>3</sup> Title 42's prolonged use over the past two years is an odious stain on the Biden administration's still-unfolding legacy. Should Title 42 continue indefinitely, it will spell the virtual end of U.S. asylum and should serve as a dire harbinger of continued civil and human rights rollbacks to come. Such purposeful regression, if met with little to no resistance, will harm not only immigrant communities but all those concerned with the fate of our country.

**Use of Title 42 to prevent people fleeing persecution from applying for asylum is a perverse misuse of a public health law.** It is not surprising that Title 42 has failed to protect public health or stem the tide of COVID-19 in the U.S., and has not reduced the surges emerging variants have caused. There is no

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<sup>1</sup> Centers for Disease Control and Prevention, *Public Health Determination and Termination of Title 42 Order* (April 1, 2022), <https://www.cdc.gov/media/releases/2022/s0401-title-42.html>.

<sup>2</sup> United Nations Office of the High Commissioner for Refugees, *The principle of non-refoulement under international human rights law*, <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>.

<sup>3</sup> Migration Policy Institute, *Immigrant Workers: Vital to the U.S. COVID-19 Response, Disproportionately Vulnerable* (April 2020) [https://www.migrationpolicy.org/sites/default/files/publications/COVID-19-EssentialWorkers-FS\\_Final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/COVID-19-EssentialWorkers-FS_Final.pdf); U.S. Department of Homeland Security, *Advisory Memorandum on Ensuring Essential Critical Infrastructure Workers' Ability to Work During the COVID-19 Response* (August 10, 2021) [https://www.cisa.gov/sites/default/files/publications/essential\\_critical\\_infrastructure\\_workforce-guidance\\_v4.1\\_508.pdf](https://www.cisa.gov/sites/default/files/publications/essential_critical_infrastructure_workforce-guidance_v4.1_508.pdf).

evidence that Title 42 will protect the country from future variants and surges. Epidemiologists,<sup>4</sup> former CDC officials,<sup>5</sup> and public health experts<sup>6</sup> have denounced the junk science<sup>7</sup> underlying the use of Title 42 since its authorization in 2020. The CDC itself now formally agrees that Title 42 does not provide a public health benefit. Furthermore, Title 42 has reinforced ugly, racialized stereotypes about immigrants and the propensity for disease. Recent characterizations of Title 42 as a border management tool belie any reasoning based on science or public health and confirm that it has been used as an immigration policy, not a public health policy. Indeed, the March 11, 2022 memo<sup>8</sup> to Customs and Border Protection officers authorizing an exemption from expulsion under Title 42 solely for Ukrainian nationals demonstrates the flimsiness of any purported public health justification. Such exemptions, narrowly applied, appear inequitable on their face and seem to support allegations that U.S. compassion for asylum seekers and refugees is heavily influenced by race, ethnicity, and nationality. In the end, misuse of a public health law in this way to circumvent due process at the border further undermines the credibility of public health institutions that are already under attack by movements with an anti-science agenda.

**Efforts to tie the use of Title 42 to the COVID-related Public Health Emergency will harm both immigrants and the most vulnerable U.S. citizens.** The key to ending the pandemic is increasing access to vaccines and preventative measures, not continuing anti-immigrant policies like Title 42. Some in Congress are seeking to reduce or block entirely funding to fight COVID-19, while others proposed tying the continuation of Title 42 to the Surgeon General's authority to declare or end a Public Health Emergency (PHE). Proposals that would prevent the administration from ending the use of Title 42 unless the PHE is also ended are misguided and dangerous, and put undue pressure on officials to lift the PHE prematurely to restore access to asylum. Ending the recently-renewed PHE is expected to result in over 12 million Medicaid beneficiaries losing coverage, along with countless consequences for COVID-19 related programs that serve all Americans. PHEs have a particular purpose: to create flexibility and certainty so the health care system can meet our country's health needs. Especially given that doctors, hospitals, community health centers, and other providers face a sudden lapse of resources to fight the pandemic, it is not time to further tie the hands of the Department of Health and Human Services.

**Title 42 has exposed asylum seekers to chaos and violence, and has exposed Black asylum seekers to disproportionate, anti-Black harms.** Title 42 has not deterred asylum seekers and refugees from

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<sup>4</sup> Columbia University Program on Forced Migration and Health, *Epidemiologists and Public Health Experts Reiterate Urgent Call to End Title 42* (January 14, 2022), <https://www.publichealth.columbia.edu/research/program-forced-migration-and-health/epidemiologists-and-public-health-experts-reiterate-urgent-call-end-title-42>.

<sup>5</sup> CBS News, *Top CDC official told Congress migrant expulsion policy was not needed to contain COVID* (November 12, 2021), <https://www.cbsnews.com/news/cdc-official-told-congress-migrant-expulsion-policy-not-needed-to-contain-covid/>.

<sup>6</sup> Physicians for Human Rights, *Neither Safety nor Health: How Title 42 Expulsions Harm Health and Violate Rights* (July 28, 2021), <https://phr.org/our-work/resources/neither-safety-nor-health/>.

<sup>7</sup> Physicians for Human Rights, *1,300+ Medical Professionals from 49 U.S. States and Territories Call on CDC to End "Junk Science" Border Expulsion Policy* (October 28, 2021), <https://phr.org/our-work/resources/u-s-medical-professionals-demand-cdc-end-title-42/>.

<sup>8</sup> U.S. Customs and Border Protection, *Title 42 Exceptions for Ukrainian Nationals* (March 11, 2022), <https://drive.google.com/file/d/1g1Ee8MnsNWR15BsfQtiaSR75yKBrCuqe/view>.

traveling to the Southern border — it has, instead, increased<sup>9</sup> the number of desperate people fleeing danger who quickly attempt re-entry, because access to safety has been blocked and asylum claims are not being heard. Neither Title 42, nor any other dubious policy of its kind, can deter people who seek protection from persecution. Title 42 has exposed asylum seekers to violence after expulsion — with almost 10,000 reports<sup>10</sup> of kidnapping, rape, assault, torture, and more. Furthermore, Title 42 has had an outsized negative impact on hyper-visible Black asylum seekers from Africa and the Caribbean<sup>11</sup> in particular, including (but not limited to) mass deportations and gruesome violence against Haitian migrants by Customs and Border Protection officials. The Leadership Conference and allied organizations decried<sup>12</sup> this anti-Black violence against Haitian and other Black asylum seekers in Del Rio, Texas last September, and we do so again today. To emphasize the scale of the harm Title 42 has wrought, consider this statistic: the U.S. government has conducted nearly 2 million expulsions in the past two years.<sup>13</sup> With every day that Title 42 remains in place, an ever-growing number of asylum seekers are experiencing heinous harms that alter their lives forever. Seeking to extend this policy sanctions such harms both theoretically and in reality.

**Our nation is fully capable of addressing the potential increase in migrants at the Southern border, but it must adopt a welcoming approach that treats all migrants with the dignity they deserve.**

Ending Title 42 will not automatically lead to chaos at the border. Indeed, the removal of Title 42 is a return to regular order: Asylum claims will once again be processed and heard as authorized by U.S. law. The Biden administration has announced a comprehensive, whole-of-government plan<sup>14</sup> to address potential increases in asylum seekers and refugees at the border, including surging personnel to the area, providing COVID-19 vaccines to those in custody, and reducing crowding in holding facilities. The expected short-term increase in arrivals is smaller than other increases in migration in our country's history, and far smaller than the numbers of migrants that other nations have been able to welcome and process. Chaotic conditions at the border are not a result of "surges", but rather of misguided approaches to enforcement. The transition to an orderly system at the border depends on the adoption of more humane and welcoming policies, and will only be made more difficult if Congress or the Biden

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<sup>9</sup> American Immigration Council, *Rising Border Encounters in 2021: An Overview and Analysis* (March 4, 2022), <https://www.americanimmigrationcouncil.org/rising-border-encounters-in-2021>.

<sup>10</sup> Human Rights First, *Two Years of Suffering: Biden Administration Continues Use of Discredited Title 42 Order to Flout Refugee Law* (March 17, 2022), <https://www.humanrightsfirst.org/resource/two-years-suffering-biden-administration-continues-use-discredited-title-42-order-flout>.

<sup>11</sup> Robert F. Kennedy Human Rights and Haitian Bridge Alliance, *Beyond the Bridge: Documented Human Rights Abuses and Civil Rights Violations Against Haitian Migrants in the Del Rio, Texas Encampment* (2022), <https://rfkhr.imgix.net/asset/Del-Rio-Report.pdf>. The Quixote Center and Haitian Bridge Alliance, *The Invisible Wall: Title 42 and its Impact on Haitian Migrants* (2021) <https://www.quixote.org/wp-content/uploads/2021/03/The-Invisible-Wall.pdf>.

<sup>12</sup> The Leadership Conference on Civil and Human Rights, *Biden Must Pause Deportation of Haitians, Respect Due Process* (September 24, 2021), <https://civilrights.org/2021/09/24/biden-must-pause-deportation-of-haitians-respect-due-process/>.

<sup>13</sup> U.S. Customs and Border Protection, *Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions 2022* (last modified April 8, 2022) <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

<sup>14</sup> U.S. Department of Homeland Security, *FACT SHEET: DHS Preparations for a Potential Increase in Migration* (March 30, 2022), <https://www.dhs.gov/news/2022/03/30/fact-sheet-dhs-preparations-potential-increase-migration>.

administration adopts a punitive, enforcement-only approach. In the post-Title 42 world, the U.S. must welcome asylum seekers with dignity. We urge Members of Congress, instead of pursuing avenues to extend Title 42, to work with the Biden administration to enhance and improve these plans in meaningful ways, and to encourage the Biden administration to reject an enforcement-only approach to managing the Southern border, which would have disastrous, disorderly results.

**Conclusion.** The misuse of Title 42 is one of the most urgent civil and human rights issues of our day, and we urge you to stand with immigrants and welcome all with dignity. All Members of Congress should reject legislative efforts to extend Title 42 or continue tying this wholesale policy failure to the essential public health funding needed to end the pandemic. Congress must take a step in the right direction to establish a humane asylum system.

If you have any questions or concerns, please contact Breanne Palmer, Immigration Policy Counsel, at [palmer@civilrights.org](mailto:palmer@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights  
32BJ SEIU  
Advocating Opportunity  
AFL-CIO  
African American Ministers In Action  
African Communities Together  
Al Otro Lado  
Alianza Americas  
America's Voice  
American Civil Liberties Union  
American Friends Service Committee (AFSC)  
American Gateways  
American Humanist Association  
American Immigration Lawyers Association  
American-Arab Anti-Discrimination Committee (ADC)  
Americans for Democratic Action (ADA)  
Andrew Goodman Foundation  
Anti-Defamation League  
Arizona Justice For Our Neighbors  
Asian & Pacific Islander American Health Forum (APIAHF)  
Asian American Legal Defense and Education Fund (AALDEF)  
Asian Americans Advancing Justice | AAJC  
Asian Americans Advancing Justice | Chicago  
Asian Americans Advancing Justice | Los Angeles  
ASISTA  
Association of Asian Pacific Community Health Organizations (AAPCHO)

Asylum Seeker Advocacy Project (ASAP)  
AsylumConnect  
AsylumWorks  
Austin Border Relief  
Autistic Self Advocacy Network  
Beacon Presbyterian Fellowship  
Bend the Arc: Jewish Action  
Bridges Faith Initiative  
Bridges Faith Initiative  
Brooklyn Defender Services  
Buen Vecino  
California Collaborative for Immigrant Justice  
Cameroon Advocacy Network  
Catholic Charities of SW Kansas  
Center for Disability Rights  
Center for Gender & Refugee Studies  
Center for Law and Social Policy (CLASP)  
Center for Popular Democracy (CPD)  
Center for Victims of Torture  
Central American Resource Center  
Central American Resource Center of Northern California - CARECEN SF  
Centro Legal de la Raza  
Chinese Mutual Aid Association  
Christian Reformed Church Office of Social Justice  
Church World Service  
Clearinghouse on Women's Issues  
Cleveland Jobs with Justice  
Coalition for Humane Immigrant Rights (CHIRLA)  
Coalition on Human Needs  
Columbia Law School Immigrants' Rights Clinic  
Community Change Action  
Comunidad Maya Pixan Ixim  
Cooperative Baptist Fellowship  
Disability Rights Education and Defense Fund (DREDF)  
Disciples Immigration Legal Counsel  
Disciples Refugee & Immigration Ministries  
Doctors for Camp Closure  
Envision Freedom Fund  
Equality California  
Esperanza Immigrant Rights Project  
Esperanza United (Formerly Casa de Esperanza National Latin@ Network)  
Fair Immigration Reform Movement (FIRM)  
Faith-Immanuel Lutheran Church

Faith in Public Life  
Families for Freedom  
Farmworker Justice  
Fellowship Southwest  
Feminist Majority Foundation  
Florence Immigrant & Refugee Rights Project  
Florida Immigrant Coalition  
Forging Opportunities for Refugees in America  
Free Migration Project  
Freedom Network USA  
Garcia & Anderson, LLP  
Government Accountability Project  
Growing Together  
Haitian Bridge Alliance  
Her Justice, Inc.  
HIAS Pennsylvania  
Hispanic Economic Development Corporation  
Hispanic Federation  
Hope Border Institute  
Human Impact Partners  
Human Rights Campaign  
Human Rights First  
Human Rights Initiative of North Texas  
Human Rights Observation/Honduras  
Illinois Coalition for Immigrant and Refugee Rights  
Immaculate Heart Community Commission on Justice for Immigrants and Refugees  
Immigrant Defenders Law Center  
Immigrant Legal Resource Center  
Immigration Center for Women and Children  
Immigration Equality Action Fund  
Immigration Hub  
Impact Fund  
Indivisible  
Institute for Justice & Democracy in Haiti  
Instituto de Educacion Popular del Sur de California  
Inter-Faith Committee on Latin America  
International Refugee Assistance Project (IRAP)  
InterReligious Task Force on Central America  
Japanese American Citizens League  
Jewish Activists for Immigration Justice Western MA  
Jewish Voice for Peace, Atlanta Chapter  
Justice Action Center  
Justice for Our Neighbors El Paso

Justice in Motion  
Kids in Need of Defense  
Labor Council for Latin American Advancement (LCLAA)  
Lambda Legal  
Latin Advocacy Network (LATINAN)  
Latin America Working Group (LAWG)  
Latino Outreach Committee for the Maricopa County Democratic Party  
Lawyers for Good Government (L4GG)  
Lawyers' Committee for Civil Rights Under Law  
League of United Latin American Citizens (LULAC)  
League of Women Voters of the United States  
Legal Aid at Work  
Long Beach Immigrant Rights Coalition  
Louisiana Advocates for Immigrants in Detention  
Maryland Against ICE Detention  
Michigan Immigrant Rights Center  
Mississippi Center for Justice  
MomsRising  
Muslim Advocates  
NAACP Legal Defense and Educational Fund, Inc. (LDF)  
NARAL Pro-Choice America  
National Action Network (NAN)  
National Association for Latino Community Asset Builders (NALCAB)  
National Center for Parent Leadership, Advocacy, & Community Empowerment (National PLACE)  
National Center for Transgender Equality  
National Council of Churches  
National Council of Jewish Women  
National Council on Independent Living  
National Education Association  
National Employment Law Project  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project (NIPNLG)  
National Partnership for New Americans  
National Urban League  
NETWORK Lobby for Catholic Social Justice  
New Mexico Immigrant Law Center  
New York Immigration Coalition  
Next100  
Northwest Immigrant Rights Project  
Orlando Center for Justice  
Oxfam America  
Partnership for the Advancement of New Americans (PANA)



PFLAG National  
Physicians for Human Rights  
Presente.org  
Project Lifeline  
Project On Government Oversight  
Public Counsel  
Public Law Center  
Puentes de Cristo, a Presbyterian Border Ministry  
Quixote Center  
Rabbinical Assembly  
RAICES  
Rainbow Bridge Asylum Seekers  
Refugee Congress  
Refugees International  
Reproaction  
Respond Crisis Translation  
Revolutionary Love Project  
Robert F. Kennedy Human Rights  
Rocky Mountain Immigrant Advocacy Network  
Save the Children  
Service Employees International Union (SEIU)  
Silver State Equality  
Sisters and Brothers of Immigrants  
Sisters of Mercy of the Americas Justice Team  
Sisters of St. Dominic of Blauvelt, New York  
Sanctuary DMV  
Sojourners  
Southern Border Communities Coalition  
Southern Poverty Law Center  
Student Clinic for Immigrant Justice  
T'ruah: The Rabbinic Call for Human Rights  
Tahirih Justice Center  
The Advocates for Human Rights  
The Workers Circle  
The Young Center for Immigrant Children's Rights  
U.S. Committee for Refugees and Immigrants (USCRI)  
UCSF Health and Human Rights Initiative  
UndocuBlack Network  
Union for Reform Judaism  
Unitarian Universalist Service Committee  
United Stateless  
UNWLA National  
Vecindarios 901





Voice for Refuge Action Fund  
Wallingford Indivisible  
Washington Office on Latin America (WOLA)  
Wayne Action for Racial Equality  
Wilco Justice Alliance (Williamson County, TX)  
Win Without War  
Witness at the Border  
Women's Refugee Commission

CC:

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