
RHETORIC VS REALITY: End Dangerous Narratives and Failed Policies, Restore Asylum at Ports of Entry

Due to the continued use of the [Title 42](#) policy during the summer of 2022, U.S. ports of entry along the southern border remain closed to people who try to approach U.S. immigration officials there to seek asylum. Unable to seek asylum at ports of entry and stranded in danger in Mexico, some families and adults are pushed to undertake [increasingly](#) deadly border crossings between ports of entry to seek refuge in the United States. Many are fleeing countries plagued by escalating repression, and violence, and large numbers have already sought refuge in other countries such as [Colombia](#), [Costa Rica](#), and [Mexico](#). Title 42 is a [failed attempt](#) at border policy that has also spurred repeat crossings by other migrants who have been repeatedly expelled under the policy which evades actual immigration law; these repeat entries have in turn led to [inflated border statistics](#).

Rather than insisting on restoration of immigration and refugee law and an end to the counterproductive Title 42 policy, some politicians and pundits are using video of these arrivals or visits to the border to fearmonger and falsely paint arrivals as an “invasion,” [stoking](#) the “great replacement” conspiracy theory that has [fueled](#) extremist attacks. Following an escalation in this dangerous rhetoric, Governor Greg Abbott of Texas issued an [order](#) on July 7, 2022 purporting to authorize Texas police and National Guard troops to “return” asylum seekers and other migrants to ports of entry.

Instead of pushing dangerous narratives and the continuation of policies that cause disorder, U.S. officials should take steps to ensure the swift restoration of asylum at U.S. ports of entry and an end to the counterproductive Title 42 and similar policies. The Biden administration should do all that is within its authority to restore asylum access and mitigate the harms of Title 42 while it remains in effect.

The Title 42 policy and its use to ban asylum at ports of entry has contributed to border crossings. It is not a solution to them.

Policies that block or reduce asylum processing at ports of entry drive crossings of the border away from ports of entry by asylum seekers who are unable to access protection at official border posts, as [reports](#) by the Department of Homeland Security (DHS) Office of Inspector General have [confirmed](#). Prior to the restrictions

at ports of entry, more than 99 percent of asylum seekers from Cuba and Haiti, for example, sought to enter the United States at ports of entry, as the Cato Institute has [noted](#). But with Title 42 still in place largely blocking access to request asylum at ports of entry, in FY 2022, [government data](#) shows that just 0.2 percent of Cubans and 14 percent of Haitians have managed to arrive through a port of entry. The number of Haitians processed at ports of entry began to rise in recent months and [NBC News](#) found that “[s]ince more [Haitians] began being admitted at ports of entry in June, the number of Haitians apprehended between ports of entry has fallen from 7,694 to 130, according to internal Customs and Border Protection data.”

Many of the people crossing into the United States are refugees fleeing persecution.

Far from a threat, many of those arriving in the United States are themselves fleeing repression, persecution, and torture in their home countries. For instance, in May 2022 (the last month with available government [data](#)), 47 percent of people encountered by the Border Patrol in the Del Rio sector, 29 percent in the Rio Grande Valley sector, and 26 percent in the Yuma and El Paso sectors were from Cuba, Haiti, Nicaragua, and Venezuela. These and others have fled countries from which many refugees are escaping political persecution, anti-LGBTQ violence, repression of journalists and peaceful protestors, armed attacks by non-state forces that exercise territorial control, and other forms of persecution.

Asylum seekers stranded in Mexico by Title 42 face deadly dangers.

The continuation of the Title 42 policy condemns asylum seekers and migrants expelled to or blocked in Mexico to grave dangers. As of June 16, 2022, Human Rights First has tracked more than [10,318](#) reports of murder, kidnapping, rape, torture, and other violent attacks against people blocked in or expelled to Mexico due to Title 42 since January 2021. They include [Jocelyn Anselme](#), a Haitian asylum seeker, murdered in Tijuana while blocked from seeking asylum due to Title 42; a [19-year-old transgender asylum seeker](#) from Honduras who was expelled by DHS three times to Mexico where she had been raped and her long hair cut off by transphobic assailants; and a Nicaraguan couple and their nine-year-old child [kidnapped](#) in Reynosa in June 2022.

Using Title 42 to expel refugees to danger without access to the U.S. asylum system is wrong, illegal, and inhumane.

Some [politicians](#) and the Border Patrol [union](#) want even more people to be illegally expelled under Title 42 without access to asylum. But as DHS officials and experts have pointed out many—such as individuals from Cuba, Nicaragua, and Venezuela—cannot be expelled to their home countries due to logistical and diplomatic reasons, including the refusal of some (repressive) governments to accept their nationals back. Even if the U.S.

government *could* physically expel more people directly to their home countries without access to asylum, doing so would return yet more refugees to life-threatening danger and continue to violate U.S. law and treaty obligations that prohibit the return of individuals to persecution or torture.

Indeed, U.S. government human rights reports, conclusions by international experts, and investigations by respected authorities on human rights confirm the conditions that have forced many to flee their homes in Cuba, Haiti, Nicaragua, and Venezuela continue to escalate:

Cuba:

- Freedom House 2022 [report](#): government “outlaws political pluralism, bans independent media, suppresses dissent, and severely restricts basic civil liberties”
- Human Rights Watch 2021 [report](#): “a wide range of human rights violations against well-known government critics and ordinary citizens, including harassment, arbitrary detention, abuse-ridden prosecutions, beatings, and other cases of ill-treatment that in some cases constitute torture”
- 2021 U.S. State Department [report](#): “extrajudicial killings, by the government; forced disappearance by the government; torture and cruel, inhuman, and degrading treatment of political dissidents, detainees, and prisoners by security forces; . . . arbitrary arrests and detentions; political prisoners; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; reprisals against family members for offenses allegedly committed by an individual; [and] serious restrictions on the freedom of expression”

Haiti

- 2021 U.S. Department of Homeland Security [designation](#) of Temporary Protected Status (TPS) for Haitians in the US: “currently grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses,” including “violations and abuses of international human rights, including some involving the alleged use of deadly forces against protesters and reported arbitrary arrests and detentions”
- 2021 U.S. State Department [report](#): serious human rights abuses including “lack of investigation of and accountability for sexual and gender-based violence,” “gangs believed to have ties to the government” attacked journalists and “issued threats against antigovernmental protestors” and reports that “police condoned violence against lesbian, gay, bisexual, transgender, and intersex (LGBTQI+) individuals”
- May 2022 U.N. High Commissioner for Human Rights [statement](#): “armed violence has reached unimaginable and intolerable levels in Haiti”

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- National Human Rights Defense Network [statement](#): powerful gangs challenging Haitian government territorial control target “seniors, children, babies, and people with reduced mobility or disabilities”

Nicaragua:

- November 2021 White House [briefing](#): denouncing Nicaraguan government’s “repressive and abusive acts” and “politically motivated arrests and detentions of individuals exercising their human rights”
- 2022 Freedom House [report](#): deaths, surveillance and monitoring of antigovernmental activists, and “extrajudicial detention, disappearances, and torture,” with the national police and armed allied groups operating with “total impunity”
- 2021 U.S. State Department human rights [report](#): “several reports that the government or its agents committed arbitrary or unlawful killings,” as well as “forced disappearances; torture and cases of cruel, inhuman, or degrading treatment or punishment by prison guards and parapolice; harsh and life-threatening prison conditions; and arbitrary arrest and detentions”

Venezuela:

- July 2022 DHS [Re-Designation](#) of TPS for Venezuelans in the United States: citing Independent International Fact-Finding Mission that “pro-government groups and high-level authorities, including [President] Maduro, . . . committed [human rights] violations amounting to crimes against humanity”
- Freedom House 2022 [report](#): regime political opponents “have long been harassed, attacked, imprisoned, and otherwise impeded from participating in political processes or leading political parties in peaceful activities;” journalists also continue to “face government pressure and arrest,” including 213 other press freedom violations by the Maduro regime in the first half of 2021
- U.S. State Department’s 2021 human rights [report](#): “unlawful or arbitrary killings, including extrajudicial killings by regime forces” and that security forces inflicted “torture and cruel, inhuman, and degrading treatment”
- 2021 Amnesty International [report](#): security forces “carry out extrajudicial executions,” and torture and arbitrarily detain “political activists, students, military personnel, human rights defenders and others perceived as opponents of the Maduro government”