



Rapid Expulsions at the U.S.-Mexico Border and their Consequences

What are rapid expulsions?

In 2020, shortly after the onset of the COVID-19 pandemic, the U.S. government issued a public health order, commonly known as “Title 42”, which suspended the introduction of individuals who were from a country impacted by COVID-19 and who would be placed in a congregate setting.¹ Title 42 specifically targeted individuals entering the United States from Mexico and Canada who would normally be placed in U.S. Customs and Border Protection (CBP) detention after arriving at the border, including individuals seeking asylum. Title 42 authorized U.S. immigration officials to immediately expel such individuals to Mexico and other countries, bypassing regular immigration proceedings and denying vulnerable individuals the right to seek protection under U.S. law. The legality of such expulsions was challenged in a number of courts.² Though Title 42 is no longer in effect, some have called for legislative changes that would normalize such expulsions as a permanent part of federal law, independent of the prior public health rationale used.

What were the effects of these rapid expulsions previously?

Pursuant to U.S. and international law, individuals in the United States have a right to seek legal relief if they have been persecuted, or have a well-founded fear of persecution, on the basis of race, religion, nationality, membership in a particular social group, or political opinion in their country of origin. This form of humanitarian protection— asylum—makes it possible for individuals to remain in the United States while their protection claim is adjudicated. The practice of rapid expulsions curtails regular asylum proceedings and undermines due process rights by denying vulnerable persons the opportunity to present their asylum claims before immigration officials.

The implementation of rapid expulsions under Title 42 led to dangerous conditions for migrants expelled to Mexico and other countries. For instance, asylum seekers expelled to Mexico were targeted by criminal organizations and were victims of violence and extortion. In 2022, there were nearly 10,000 documented reports of violent acts against individuals expelled back to Mexico.³

¹ U.S. Conference of Catholic Bishops, Catholic Charities USA, & Catholic Relief Services, *Why We Oppose Title 42 As a Form of Immigration Enforcement*, <https://justiceforimmigrants.org/webinars/why-we-oppose-title-42-as-a-form-of-immigration-enforcement/> (last accessed Jan. 25, 2024).

² See AMERICAN IMMIGRATION COUNCIL, A GUIDE TO TITLE 42 EXPULSIONS AT THE BORDER (May 2022), https://www.americanimmigrationcouncil.org/sites/default/files/research/title_42_expulsions_at_the_border.pdf; see also Memorandum Opinion, *P.J.E.S. v. Wolf*, 1:20-cv-02245-EGS-GMH (D.D.C. Nov. 18, 2020), injunction stayed *P.J.E.S. v. Mayorkas, et al.*, No. 20-5357 (D.C. Cir. Jan. 29, 2021); Memorandum Opinion, *Huisha-Huisha v. Mayorkas*, No. 1:21-cv-00100-EGS (D.D.C. Sept. 16, 2021).

³ AMERICAN IMMIGRATION COUNCIL, *supra* note 2.

Other asylum seekers were expelled to the very countries from which they fled persecution.⁴ It is critical to note that international human rights law prohibits returning an individual to a country where he or she would face “torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm.”⁵ Further, while this process was viewed as a “deterrent” policy, it led to a significant increase in encounters at the U.S.-Mexico border, given that many expelled individuals would attempt to reenter the United States after an initial expulsion.⁶ It also prompted families to “self-separate,” given exceptions for unaccompanied children and the alternative of waiting for an indefinite period of time in Mexico before being able to make a protection claim.

How do rapid expulsions differ from expedited removal?

Expedited removal provides an accelerated procedure to formally remove certain noncitizens from the United States without full consideration of their case. This procedure generally provides an exception for those who express a credible fear of persecution in their home country, though due process concerns remain. For rapid expulsions carried out under Title 42, there were no formal removal orders, virtually no oversight, no appeal process, and inconsistent application, some of which was alleged to be motivated by discrimination on the basis of race and nationality.⁷

What has the USCCB said about rapid expulsions?

The USCCB expressed significant concerns about rapid expulsions under Title 42 and has opposed legislative proposals to enshrine these sorts of expulsions as a normal part of immigration law. In 2023, the USCCB submitted an [amicus brief](#) in the U.S. Supreme Court case *Arizona v. Mayorkas*,⁸ arguing for the end of Title 42 by highlighting its harmful consequences and reminding the Court of the moral imperative to respect human life and dignity. Further, in a recent [letter to Congress](#) regarding supplemental funding, several bishop chairmen of the USCCB stated, “[w]hether curtailing due process through rapid expulsions and nationwide expedited removal, mandating harmful and excessive detention, or making it even more difficult to attain humanitarian relief through heightened legal standards, we implore you to reject these counterproductive proposals and instead pursue bold and forward-looking solutions.”⁹

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⁴ *Id.*

⁵ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, THE PRINCIPLE OF NON-REFOULEMENT UNDER INTERNATIONAL HUMAN RIGHTS LAW, <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>.

⁶ John Gramlich, *Key Facts about Title 42, the Pandemic Policy that Has Reshaped Immigration Enforcement at U.S.-Mexico Border*, PEW RESEARCH CENTER (Apr. 27, 2022), <https://www.pewresearch.org/short-reads/2022/04/27/key-facts-about-title-42-the-pandemic-policy-that-has-reshaped-immigration-enforcement-at-u-s-mexico-border/>.

⁷ See Catherine E. Shoichet, *As the U.S. Rolls Out the Welcome Mat for Ukrainian Refugees, Some See a Double Standard at the Border* (Mar. 29, 2022), CNN, <https://www.cnn.com/2022/03/29/us/ukrainians-us-mexico-border-ccc/index.html>.

⁸ Available at https://www.usccb.org/sites/default/files/about/general-counsel/amicus-briefs/upload/2023-0208_FINAL_Title_42_Brief_USCCB%20CLINIC.pdf.

⁹ Available at <https://www.usccb.org/resources/USCCB%20Letter%20on%20National%20Security%20Supplemental%20Funding%2012.14.2023.pdf>.