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Title 42 and the Impact on Asylum Seekers: Exploring the Effects of its Termination and its Changes on the US Immigration System

TÓTH, SZIMONETTA*

ABSTRACT The repeal of Title 42, an emergency immigration restriction, represents a significant policy shift in how the United States treats migrants who arrive at the southern border, particularly those seeking asylum. For over three years, U.S. border officers used Title 42 to deport hundreds of thousands of migrants to Mexico or their home countries, claiming that their presence could contribute to the spread of the coronavirus. While Title 42 is allegedly a public health policy, it has been utilized to regulate and prevent unauthorized border crossings. Democrats and campaigners have denounced title 42 because it prevents refugees from obtaining asylum, a legal right they normally have once they reach US territory. Republicans described it as an effective border control tool, requesting that Title 42 should be codified into law so that it may be utilized outside of the pandemic setting. The period of Title 42 ended, which created more obstacles than solutions for asylum seekers. As the US ends Title 42, the rules for asylum seeking are changing once again, the United States will revert to Title 8 under the new standards. The Title 8 Code outlines a strict asylum policy which makes it harder for immigrants to file claims and to seek asylum. Under this new regulation everyone coming from Latin-America, except for Mexico, has to face the harsh reality that the requirements of Title 8 make most of them ineligible for asylum. How does the repealing of Title 42 affect the US immigration system and how will it influence the 2024 elections as the termination was introduced at a critical time, when Biden is seeking a second term?

KEYWORDS *immigration, USA, asylum seeking, Title 42*

1. Introduction

In the intricate tapestry of US immigration policy, the repeal of Title 42 stands as a pivotal juncture, signaling a significant departure from the norms that have shaped the nation's approach to migrants arriving at its southern border. Title 42, a provision that came to prominence in the wake of the COVID-19 pandemic, was initially framed as an emergency immigration restriction

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grounded in public health concerns. Its implementation allowed for the rapid deportation of hundreds of thousands of migrants, primarily targeting those seeking asylum. However, as the policy evolved, its purported public health rationale became intertwined with broader immigration control objectives, giving rise to a complex set of debates and consequences. The subsequent repeal of Title 42 reverberates across multiple dimensions, influencing the treatment of migrants, re-calibrating the nation's immigration system, and casting a looming shadow over the upcoming 2024 US presidential elections.

Title 42 emerged as a response to the global COVID-19 pandemic, embodying the United States' endeavor to safeguard its borders against the potential spread of the virus. Essentially, it empowered U.S. border officers to deport migrants promptly, often within hours of their arrival at the southern border, under the pretext that their presence might contribute to the transmission of the virus. Seemingly a public health measure, Title 42 granted unprecedented authority to immigration officials to bypass standard due process procedures and swiftly return migrants to Mexico or their home countries. While the primary focus was ostensibly the containment of the pandemic, the policy's underpinnings extended into the broader realm of immigration control.

The repeal of Title 42 marks a significant moment, shifting the trajectory of how the United States engages with migrants arriving at its southern border, particularly those seeking asylum. No longer can the policy be used to immediately expel migrants on the grounds of public health alone. This repeal reopens the discourse on immigration and re-frames it around notions of human rights, and the rule of law. With Title 42 being revoked, the treatment of migrants becomes an indication of the nation's values and its commitment to the principles of international refugee protection.

The evolution of Title 42 from a public health emergency measure to a multifaceted instrument of immigration control necessitates a nuanced understanding of its implications. Beyond its immediate impact on migrants, this policy change also intertwines with the political landscape, particularly in light of the approaching 2024 elections. Immigration has historically been a polarizing issue in American politics, capable of swaying public opinion and influencing election outcomes. As the nation emerges from a period of heightened polarization and grapples with questions of identity, security, and humanitarian values, the repeal of Title 42 adds another layer of complexity to an already charged political environment.

The 2024 elections provide a backdrop against which the consequences of the Title 42 repeal will be played out. The timing of this policy shift places it squarely within the realm of electoral considerations, as candidates and parties vie for the support of an increasingly diverse and engaged electorate. The stance taken on immigration policy, shaped by the legacy of Title 42 and the subsequent repeal, is likely to become a defining factor in candidates' platforms, shaping the discourse on border security, humanitarian obligations, and the nation's role on the global stage.

The repeal of Title 42 unfolds as a pivotal chapter in the ongoing narrative of US immigration policy. Its transformation from a public health measure into a

tool of immigration control has wide-ranging implications that stretch beyond the treatment of migrants at the southern border. As the nation navigates this transition, the upcoming 2024 elections loom large on the horizon, serving as a stage on which the repercussions of the Title 42 repeal will be keenly felt. To comprehend the full import of this policy shift is to engage with questions of national identity, security, and compassion, ultimately shaping the contours of both immigration policy and the American political landscape in the years to come.

2. The Cross-Roads of Public Health and Immigration Laws

Concern about potential contamination by non-citizens has been a driving force behind US immigration policy since the opening of Ellis Island in the second half of the 19th century. These concerns have masked nativist and xenophobic sentiments as valid worries regarding public health hazards. The reaction to this has often involved the widespread exclusion of specific categories of non-citizens from entering the United States of America.

The history of immigration legislation in the United States demonstrates a growth of health-based exclusions for non-citizens. Beginning with a statute in the mid-19th century to restrict certain groups from entering, such as criminals and the mentally ill, the exclusion of those with physical and mental abnormalities became a fundamental component of immigration legislation by 1882.¹ Concerns over worldwide pandemics such as the Bubonic Plague resulted in the Immigration Act of 1891, which established health-based exclusions.² This legislation required noncitizens entering the United States to undergo medical examinations, including "loathsome or dangerous contagious diseases" as grounds for expulsion. More health-related inadmissibility reasons were introduced by the Nationality Act of 1952.³

The AIDS epidemic in the 1980s and 1990s further fueled xenophobia and led to the exclusion of groups. Although HIV-related exclusion was removed in 2010⁴ ⁵, federal immigration law still renders those with communicable diseases or certain physical or mental disorders inadmissible. However, from the beginning of March 2020, these health-based exclusions were longer the exclusive grounds for rejecting non-citizens seeking admission to the United

¹ Douglas C. Baynton, "Defectives in the Land: Disability and American Immigration Policy, 1882-1924," *Journal of American Ethnic History* 24, no. 3 (Spring 2005): 31–32.

² *Immigration Act of 1891*, Pub. L. No. 51-551, 26 Stat. 1084 (1891).

³ *Immigration and Nationality Act of 1952*, Pub. L. No. 414, § 212(a) (6), 66 Stat. 163, 182.

⁴ 42 C.F.R. § 34.

⁵ Final Rule: Medical Examination of Aliens - Removal of HIV Infection from Definition of "Communicable Disease of Public Health Significance," *Ctrs. for Disease Control and Prevention*, <https://perma.cc/Z72C-6ZUP>.

States. The Trump Administration's interpretation of federal quarantine power⁶ as the right to exclude and expel is now the law of the country.

The 1944 Regulations to Control Communicable Diseases⁷ solidified the federal government's quarantine authority. Unlike previous conflicts between federal, state, and local quarantine powers, the 1944 Act explicitly granted the Surgeon General the ability to establish and enforce regulations for preventing the spread of communicable diseases from foreign countries and across states. It also empowered the Surgeon General, under Section 265 of the Act,⁸ to halt the entry of foreign nationals if there was a significant risk of introducing a communicable disease.

During the COVID-19 pandemic, President Trump and his Administration enacted the Title 42 process (Section 265) to prohibit the entry of many coming from outside of the United States without US citizenship. This practice was continued by President Biden until May 2023 when changes were administered. Although Title 42 of the United States Code has various parts dealing with public health, social welfare, and civil rights, the phrase "Title 42" came to refer primarily to expulsions under Section 265.

The policy, framed as an emergency response to the pandemic, enabled U.S. Customs and Border Protection (CBP) to bypass standard immigration processes and swiftly deport anyone trying to come in the United States. Title 42 lacks explicit identification of the individuals it applies to⁹, granting agencies the authority to expel, reject, or send back individuals to their original countries. Since Title 42 was invoked, its main target groups were irregular migrants and asylum seekers. However, the implementation of Title 42's public health measures was not without controversy, as it intersected with broader immigration control objectives, raising concerns about the balance between health and human rights considerations. The application of Title 42 demonstrated the intricate challenges governments face in reconciling health emergencies with immigration dynamics and human rights obligations.

3. Donald Trump's Presidency and the Implementation of Title 42

Throughout Donald Trump's presidency, the majority of his executive measures regarding immigration directly affected the operations of the US Citizenship and Immigration Services and the Department of Labor. These actions had notable consequences for both immigration enforcement and the movement of people for humanitarian reasons. As the pandemic emerged in 2020, Trump

⁶ 42 U.S.C. § 265.

⁷ Public Health Service Act, ch. 373, § 361, 58 *Stat.* 682, 703–04 (1944).

⁸ 42 U.S.C. § 265.

⁹ 42 U.S.C. § 265.

leveraged the COVID-19 situation as a justification to uphold and intensify limitations on different forms of immigration.¹⁰

Donald Trump initially issued travel bans in 2017, and when the pandemic began in 2020, they imposed Geographical COVID-19 Travel Bans.¹¹ At the beginning of 2020, with the global dissemination of the virus, the Trump Administration implemented extensive immigration limitations. While several of the measures were appropriate and sufficient given the circumstances, some changes had far-reaching implications that could have been driven by the Administration's ongoing immigration objectives rather than solely aimed at containing the virus's transmission.

The response to the pandemic impacted every facet of the United States' immigration framework and encompassed some of the Administration's most audacious immigration policies. These included the imposition of travel bans affecting thirty-one nations, the halting of immigration for the majority of family- and job-based visa categories, the temporary suspension of four worker programs, and the utilization of the Title 42 process, which enabled the U.S. government to expel migrants at the border without granting them access to the asylum process. These measures played a pivotal role in the Administration's accomplishment of its pre-pandemic objectives. Through rigorous efforts spanning over two years, the Trump Administration effectively heightened the hurdles for attaining asylum and placed tighter constraints on the eligibility criteria for those seeking it. Enforcing the president's travel restrictions, which encompassed measures tied to efforts against the COVID-19 pandemic aimed at preventing visa issuance to financially vulnerable immigrants prone to relying on public assistance, along with the integration of new stages into the visa application procedure and the stipulation of supplementary information from applicants, represented the foremost alterations introduced by the State Department. While these initiatives were ostensibly geared toward enhancing security screening, they inadvertently raised barriers for certain foreign individuals seeking visas.

While Title 42's initial purpose was framed within the context of public health, its application rapidly expanded to encompass broader immigration control objectives. The policy became a focal point for the U.S. government's efforts to regulate unauthorized border crossings, particularly at the southern border. The rapid expulsion of migrants under Title 42 allowed U.S. Customs and Border Protection (CBP) to circumvent standard immigration processes, including those associated with asylum claims. The immediate expulsion of migrants under this provision prevented them from having their cases heard, raising concerns among legal experts and human rights advocates regarding due process violations. This utilization of Title 42 highlighted the intersection

¹⁰ Jessica Bolter, Emma Israel, and Sarah Pierce, *Four Years of Profound Change: Migration Policy During the Trump Presidency*, Migration Policy Institute, Washington DC, 2022, 2, <https://www.migrationpolicy.org/sites/default/files/publications/mpi-trump-at-4-report-final.pdf>.

¹¹ Bolter, Israel, and Pierce, *Migration Policy During the Trump Presidency*, 10–12.

between public health concerns and the broader immigration control agenda, leading to contentious debates surrounding the balance between these objectives and the protection of individuals' rights.

The implementation of Title 42 faced fervent criticism from Democrats and human rights organizations and many campaigned in favor of it from the Republican party. As for the history of Title 42, we can say, that after enacting it in 2020 and creating a backlash; the result of the US presidential elections of 2020 gave a chance to create and build a new perspective of immigration to the US. The question still stands: what will Biden do?

4. Joe Biden's Presidency and the End of Title 42

Trump's Administration has radically altered America's long-held views on immigration. The idealized picture of immigrants arriving by boatload in the United States has given way to images of barriers, detention facilities, and families being separated. Thousands of immigrants, though, remain hopeful of entering the United States one day. And, over his four years as president, Trump and his Administration did everything imaginable to make the immigration process as tough as possible. Every legal migration route was made more difficult in some way, while illegal immigrants were exposed to trauma and separation, and in the case of asylum seekers, potentially even death. And, with the COVID-19 pandemic spreading as it was, it offered the perfect justification for the execution of regulations that went beyond medical need to achieve the Administration's objective. This has put Joe Biden in a difficult situation, as he must balance his aims with overturning the policies of the previous government, which he vowed to do if elected. Progress has been slow thus far, and many are wondering how long this condition will last. And this is undoubtedly felt by the hundreds of immigrants who, despite everything, are still attempting to make it to America.

As for his presidential campaign, Biden emphasized the fact that he was going to end several policies enacted by the previous Administration. It was expected, that following upon his promises, the core of Joe Biden's immigration strategy was going to revolve around the reversal of numerous immigration policies that were enacted during the preceding Trump Administration. However, he plans to do so at a slower pace than previously stated in order to avoid flooding the border with migrants. Biden favored immigration over other critical issues such as the pandemic, the economy, racial justice, and environmental concerns. Biden's advisors made it clear that the incoming administration will need time to repair the damage done to the immigration system by the previous administration and to execute changes in a way that avoids unforeseen consequences. They said that, while Biden would utilize executive authority to push his immigration agenda, sudden changes might increase in border

crossings.¹² In this part, we are analyzing whether he kept his promises in terms of the Title 42 process.

After being elected in 2022 Biden kept the Title 42 process, resulting in thousands of expulsions at the US border. Many statistics say that the Biden Administration expelled more people than the Trump Administration, but we have to take the elections, and the peak of COVID-19 into consideration. The answer to the question already posed could be a simple yes, based on the first sentence of the paragraph, however the solution is not that simple. As for his first 24 hours in the White House, he signed seven executive orders on migration¹³ and also drafted a bill introduced by Senator Mendez¹⁴, which aims to establish a pathway to citizenship for undocumented individuals, along with numerous other substantial modifications. Other than focusing on undoing his predecessor's policies, Biden tried to reach a bipartisan agreement, so in February 2021 Rep. Linda Sanchez and Senator Bob Menendez introduced the U.S Citizenship Act of 2021.¹⁵ The focus of legislation was on creating an alternative route to citizenship for undocumented individuals. Additionally, it was designed to substitute the term "alien" with "non-citizen" in immigration statutes and also to tackle various associated concerns. Even though this act did not pass Sanchez introduced the U.S. Citizenship Act of 2023 which is under review by the House Committee.¹⁶ Based on the drafts that were handed in and his previous actions in reference to his immigration policy, we can say that Biden is trying to introduce a more humane way of immigration while also

¹² Nick Miroff, and Maria Sacchetti, "Biden says he'll reverse Trump immigration policies but wants 'guardrails' first," *The Washington Post*, December 22, 2020, https://www.washingtonpost.com/national/biden-immigration-policy-changes/2020/12/22/2eb9ef92-4400-11eb-8deb-b948d0931c16_story.html.

¹³ Proclamation No. 10,141, Ending Discriminatory Bans on Entry to the United States, 86 Fed. Reg. 7005 (Jan. 20, 2021); Proclamation No. 10,142, Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction, 86 Fed. Reg. 7225 (Jan. 20, 2021); Exec. Order No. 13,993, Revision of Civil Immigration Enforcement Policies and Priorities, 86 Fed. Reg. 7051 (Jan. 20, 2021); Exec. Order No. 13,988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, 86 Fed. Reg. 7023 (Jan. 20, 2021); Exec. Order No. 13,986, Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census, 86 Fed. Reg. 7015 (Jan. 20, 2021); Memorandum on Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA), 86 Fed. Reg. 7053 (Jan. 20, 2021); Memorandum on Reinstating Deferred Enforced Departure for Liberians, 86 Fed. Reg. 7055 (Jan. 20, 2021).

¹⁴ "January 20, 2021, Mendez to Lead Biden-Harris Immigration Legislation in the Senate," *Senator Bob Menendez*, <https://www.menendez.senate.gov/newsroom/press/menendez-to-lead-biden-harris-immigration-legislation-in-the-senate>.

¹⁵ H.R. 1177 (117th): U.S. Citizenship Act, <https://www.govtrack.us/congress/bills/117/hr1177/text>.

¹⁶ H.R. 3194: U.S. Citizenship Act, <https://www.govtrack.us/congress/bills/118/hr3194/text>.

trying to solve the pre-existing issue of the millions of undocumented people residing within the borders of the USA.

As we already know, the Title 42 process was enacted in March 2020. In January 2021, the new president, Biden had the chance and the power to end it which did not happen until 11 May 2023. Up until 2022, the Biden Administration did not say anything about terminating the Title 42 order.¹⁷ At the end of 2020¹⁸, and in February 2021¹⁹ changes were made in terms of exemptions of unaccompanied minors. On May 20, 2022, a federal district court approved a preliminary injunction that halted the Administration's move to revoke Title 42. A federal judge appointed by the Trump Administration determined that the Administration had breached Administrative procedural regulations by neglecting to institute a public comment period before terminating Title 42—a process that typically takes several months. The Biden Administration issued a statement²⁰ disagreeing with the district court's decision and declared that the Department of Justice would contest the ruling. Additionally, the Administration's intentions to lift Title 42 have encountered resistance in Congress,²¹ as certain policymakers have expressed reservations about the Administration's readiness to manage the anticipated surge in immigration activity that could result from ending the order. The Supreme Court recently opted not to deliberate on arguments concerning Title 42.²² In January 2023, the Biden Administration announced its intention to terminate the Public Health Emergency (PHE) declaration on May 11, 2023, subsequently bringing an end to the Title 42 border restrictions.²³ Biden upheld and supported

¹⁷ CDC Public Health Determination and Termination of Title 42 Order, *Ctrs. for Disease Control and Prevention*, <https://www.cdc.gov/media/releases/2022/s0401-title-42.html>.

¹⁸ American Civil Liberties Union, “District Court Blocks Trump Administration’s Illegal Border Expulsions,” <https://www.aclu.org/press-releases/district-court-blocks-trump-administrations-illegal-border-expulsions>.

¹⁹ Centers for Disease Control and Prevention, “Public Health Reassessment and Immediate Termination of Order Suspending the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists with Respect to Unaccompanied Noncitizen Children,” <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/NoticeUnaccompaniedChildren-update.pdf>.

²⁰ The White House, “Statement by White House Press Secretary Karine Jean-Pierre on the District Court Ruling on Title 42,” <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/20/statement-by-white-house-press-secretary-karine-jean-pierre-on-the-district-court-ruling-on-title-42/>.

²¹ NBC News 25, “Growing number of lawmakers, officials concerned about lifting Title 42,” <https://nbc25news.com/news/connect-to-congress/growing-number-of-lawmakers-officials-concerned-about-lifting-title-42/>.

²² Adam Liptak, “Supreme Court Cancels Arguments in Title 42 Immigration Case,” *The New York Times*, <https://www.nytimes.com/2023/02/16/us/politics/supreme-court-title-42-immigration.html>.

²³ EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET. “STATEMENT OF ADMINISTRATION POLICY: H.R. 382 – A bill to terminate the public health emergency declared with respect to COVID-19; H.J. Res. 7

in legal battles one of Trump's most extensive border limitations, the Title 42 emergency.

4. 1 Impacts of the Termination of the Title 42

Title 42, a broad coronavirus-era provision that permitted officials to easily turn away hundreds of thousands of migrants seeking refuge at the US-Mexico border, has been phased down by the Biden administration. The removal of the public health restriction has prompted thousands of people to travel to the border. The policy, which has been in effect since March 2020, expired on Thursday, May 11, 2023. Many would think that the new immigration policies being introduced after this period would make the lives of asylum seekers easier. In 2022, the Biden administration attempted to gradually eliminate Title 42, but their efforts were thwarted by a lawsuit initiated by Republicans. When the policy eventually ceased due to the conclusion of the COVID-19 public health emergency, government data indicated that Title 42 had been employed to expel migrants over 2.7 million times from the U.S. southern border.²⁴

After its expulsion, Secretary of Homeland Security, Alejandro Mayorkas issued a warning, stating “People who arrive at the border without using a lawful pathway will be presumed ineligible for asylum.”²⁵ From his words, it is visible, that the government is taking the issue extremely seriously. However, Biden has replaced Title 42 with an arguably stricter and more restricted regulation. His Administration began enforcing a regulation on 12 May, 2023 that prevents migrants from seeking asylum if they do not seek refugee status first in a different country before entering the United States. Many argued that this clause was just the same implementation of the Trump-era policies. This restriction, “re”-introduced by Biden eliminates all non-Mexicans from seeking asylum. The end of Title 42 means a return to Title 8, which permits migrants to apply for asylum but also results in official deportations to their country of origin for those who do not qualify, as well as the prospect of criminal prosecution for a second entrance within five years. The Biden administration issued a new regulation requiring migrants to seek asylum by scheduling an appointment at a port of entry using a web app, and it creates a presumption of ineligibility for asylum for individuals who attempt to pass between ports of entry.

– A joint resolution relating to a national emergency declared by the President on March 13, 2020,” <https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf>.

²⁴ “Nationwide Encounters,” *U.S. Customs and Border Protection*,” <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

²⁵ Secretary Alejandro Mayorkas (@SecMayorkas), “Starting tonight, people who arrive at the border without using a lawful pathway will be presumed ineligible for asylum. We are ready to humanely process and remove people without a legal basis to remain in the U.S. (1/4),” <https://twitter.com/SecMayorkas/status/1656871849244884992>.

Thousands of people arrive at the 3000-kilometer-long border with Mexico, in order to lawfully seek asylum in the United States, but many face hardships when using the asylum claim app.²⁶ As the Guardian's report states,²⁷ most of the time the app does not work, or if it does, it sends the applicants miles along the border for their appointments with the authorities. This app is known to be the only way to access the asylum system. And not only is the app the sole way in, but many have also lost their phones on the way or cannot afford to buy one that is compatible with the government's application. As part of their solution, the CBP announced changes to the app, such as increasing the number of appointments available per day,²⁸ with those having had a longer wait time getting earlier appointments.²⁹

The changes put pressure not only on the US government but also on Mexico's federal system. Mexico's system is not prepared and does not have enough resources to maintain the enormous amount of people coming from the Americas waiting to enter the United States of America. However, as early as May 2023, the United States and Mexico announced a joint humanitarian plan³⁰ on migration, with Mexico agreeing to continue accepting thousands of deportees from the US.

Title 42 is now replaced by Title 8,³¹ which contains immigration legislation, and lays forth procedures for dealing with people at the border. While this part of the United States Code mandates faster deportation procedures, it often affords migrants more time to file asylum claims than Title 42 did. The Biden administration has been seeking to expedite Title 8 proceedings by sending hundreds of asylum officers to the border in order to judge humanitarian claims more swiftly while administering the repercussions that Title 42 did not. The biggest difference between Title 42 and Title 8 is that under Title 42 migrants are not subjected to the five- and 10-year bars on reentry.

Both sections of the U.S. Code are outdated, and not able to deal with the current migrant situation. An urgent reform is necessary to fix the flaws of the system and is also already required from top officials across administrations, including Mayorkas, but Congress has so far not passed any reform.

²⁶ CBP One™ App

²⁷ Justo Robles, "‘We only got errors’: migrants struggle with asylum claim app at US-Mexico border," *The Guardian*, May 6, 2023, <https://www.theguardian.com/us-news/2023/may/06/us-mexico-border-cbp-one-app-migrants>.

²⁸ They raised the number from 740 to 1000.

²⁹ "CBP Makes Changes to CBP One™ App," U.S. Customs and Border Protection, <https://www.cbp.gov/newsroom/national-media-release/cbp-makes-changes-cbp-one-app>.

³⁰ The White House, "Mexico and United States Strengthen Joint Humanitarian Plan on Migration," <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/02/mexico-and-united-states-strengthen-joint-humanitarian-plan-on-migration/>.

³¹ 8 U.S.C.

5. 2024 Presidential Elections in the Shadow of the End of Title 42

It is clear that President Biden is getting hammered on immigration from all sides of the political realm. President Biden undoubtedly, finds himself caught in the crossfire of immigration debates from various political factions. However, it remains uncertain whether the termination of Title 42 and the implementation of stricter immigration policies can place him in a clear "win situation." While the end of Title 42 might be seen as a step towards more compassionate immigration policies, the introduction of stringent rules could also draw criticism for contradicting his pledges for progressive change. Balancing the demands of his base, the complexity of immigration challenges, and the broader political landscape poses a formidable challenge. Ultimately, the impact on Biden's political standing will depend on how well he navigates the intricate web of immigration dynamics, resonating with both his supporters and his detractors in the lead-up to the 2024 elections. Will the introduction of harsher rules and immigration policies, along with the end of Title 42 put him in a "win situation"?

Three months passed since the end of Title 42 and we can say that the situation left him in a no-win mess, which might affect the results of the next presidential election. The "war on illegal immigration" started in the early 20th century and got more attention after every election. The previous two elections have placed immigration and the protection of the nation form the "other" as a central issue within the political landscape. Biden's opponent, ex-president Donald Trump, said the following: "You're gonna have tens of thousands of people pouring into our country...We don't want them being in our country. We have enough problems right now."³² It is not a surprise that Trump objected to the President's decisions, but Biden also received criticism from progressives,³³ emphasizing the fact that Biden's new rule is extremely similar to the one previously enacted by Trump, since it is somewhat limiting the access to the asylum system.

As the 2024 presidential election approaches the expulsion of title 42 may sway the results either way. It is clear that immigration is still one of the hot topics that can decide between the two opponents. Biden seems to be living up to his words, however, he was left in a difficult position, having to balance his own goals along with undoing the previous administration's decisions, which he promised to do if he got elected. With one year left from his presidency, it is

³² Donald Trump, "Transcript of CNN's town hall with former President Donald Trump," interview by Kaitlin Collins, Saint Anselm College in Goffstown, New Hampshire, CNN, May 11, 2023.

<https://edition.cnn.com/2023/05/11/politics/transcript-cnn-town-hall-trump/index.html>.

³³ U.S. Senators Bob Menendez, Ben Ray Luján, and Alex Padilla, "Menendez, Luján, Padilla Joint Statement Ahead of the End of Title 42," press release, May 10, 2023, <https://www.menendez.senate.gov/newsroom/press/menendez-lujan-padilla-joint-statement-ahead-of-the-end-of-title-42>.

visible that the progress has been slow, and many are left wondering whether he can pass new immigration regulations.

6. Conclusion

In conclusion, the termination of Title 42 has marked a significant shift in the landscape of US immigration policy, inviting complex consequences and debates that extend beyond the immediate treatment of migrants. As the policy transformed from a public health measure to an instrument of immigration control, it became a focal point for discussions on human rights, national security, and the balance between health concerns and humanitarian obligations. The repeal of Title 42 coincided with President Biden's efforts to overturn the immigration policies of the Trump-era, but its replacement with arguably stricter rules demonstrates the intricate challenges of reforming a complex immigration system. The impacts of this policy shift resonate not only with the treatment of asylum seekers but also with the political atmosphere leading up to the 2024 presidential elections. Immigration has consistently proven to be a decisive factor in shaping public opinion and influencing electoral outcomes. The Biden Administration's approach to immigration, shaped by the legacy of Title 42, will undoubtedly be a key aspect of the political discourse in the run-up to the elections. The end of Title 42 has placed President Biden in a complex position, navigating between his aspirations, the demands of his base, and the broader societal debates surrounding immigration. As the nation grapples with its identity, security, and humanitarian values, the echoes of Title 42's repeal will continue to reverberate in the years to come, shaping the contours of immigration policy and the political landscape in a nation at the crossroads.