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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Edmund Rice International Limited, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[6 February 2023]

* Issued as received, in the language of submission only.



The Rights of Migrant Children in Brownsville, Texas, the United States Of America

Introduction:

1. This submission of Edmund Rice International (an NGO in special consultative status with ECOSOC) is made on behalf of the Mission Frère program, a program of the Edmund Rice Christian Brothers North America Province that was created in 2015 to raise awareness of and advocate for a variety of human rights and social justice concerns.
2. The Edmund Rice Christian Brothers North America Province has a consortium of 24 schools that stretch from Canada to Argentina. One of these schools is Guadalupe Regional Middle School, a tuition free Catholic middle school located in Brownsville, Texas. Each year since 2016, a number of the consortium members schools have travelled to Brownsville, Texas and participated in a service-immersion program, which allows visiting students to connect with community members at Guadalupe Regional Middle School, and participate in a program that gives visiting students an opportunity to serve and advocate for the rights of asylum seekers and refugees at the United States of America- Mexico border.
3. On this immersion, students have the opportunity to learn about human rights concerns and serve with a number of faith based and non-profit organizations that provide services to and advocate for asylum seekers and refugees who are awaiting resettlement in the United States. These organizations include: Catholic Charities of the Rio Grande Valley; Proyecto Juan Diego; ARISE Adelante; Brownsville Good Neighbour Settlement House and La Posada Providencia. Many of these organizations serve the needs of families and children who have endured treacherous conditions while fleeing political oppression, violence, natural disaster and other challenges in their home states.
4. Through participation in the immersion program, one of the most pressing human rights concerns that has been most evident is the protection of children's rights, which are often violated throughout the process of fleeing their home state, and upon arrival and processing at the United States of America border. Perhaps most concerning is the continued practice of the separation of families, and the detention of children that continues to persist at the United States of America - Mexico Border under the Migrant Protection Protocols (MPP), commonly referred to as "Remain in Mexico," as well as the ongoing COVID-era Title 42 policy. Upon returning home from these immersion trips, students from various schools have created programs and campaigns to raise awareness of this problematic policy, and have also written letters to the United States of America Representatives for a call to end these policies.

Remain In Mexico:

5. The "Remain in Mexico" program, implemented in January 2019 by the United States of America Department of Homeland Security (DHS), outlines "procedures under which the United States of America government will return certain asylum-seekers to Mexico to wait through the duration of their cases pending in the United States of America immigration court system."⁽¹⁾ Through the "Remain in Mexico" program under the Trump Administration, the United States of America sent approximately 21,300 people seeking asylum to unsafe locations in Mexico.⁽²⁾ Of these 21,300 asylum seekers, 30 percent were children.⁽³⁾ While in Mexico, these children were at a higher risk of violence, kidnapping, sexual violence and rape, and were often denied basic services such as healthcare and education.

Detention of Children at the United States of America Border

6. Despite being one of the states that was most involved in helping to draft the United Nations Convention on the Rights of the Child (UNCRC), the United States of America remains the only state that has not yet ratified it.(4) While the previous United States of America regime under the Trump Administration did escalate the inhumane treatment of families and children at the United States of America-Mexico border, it is often incorrectly blamed for being the first to carry out such treatment. In fact, the United States of America has had a sustained record of violating international law and failing to uphold the provisions of the UNCRC long before this escalation of inhumane treatment of children by the Trump Administration.(5) As such, the violation of children's rights and inhumane treatment has been a common practice for many years.
7. Article 9 of the 1989 UNCRC prohibits the separation of children from families, except in a "particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence." (6) Under the provision of the 2002 Homeland Security Act, the United States of America Departments of Health Service and Human Services (HHS) are tasked with sharing responsibility for unaccompanied children.(7) Under a 2015 codification of certain provisions from the 1997 Flores Settlement, and the 2008 William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA), standards of care for all children fall under the care of DHS and HHS. (8) These provisions include access to basic services, which in many cases have not been provided at standard levels.
8. While the Biden Administration terminated the program between February and August 2021, a December 2021 federal court order mandated the program be restarted.(9) Under "Remain in Mexico" and other related United States of America policies such as Title 42, asylum seeking families have been forced to separate, often sending their children unaccompanied to the United States of America to seek protection and safety. According to data from the Transactional Records Access Clearinghouse (TRAC) Immigration Project, less than 1% of all children in the Migrants Protection Protocols (MPP) program since 2019 have been granted asylum.(10) Under such policies, there have been countless reports of violations of children's rights, including safe shelter, access to education, adequate healthcare, sufficient parental care, etc.

Recommendations:

It is recommended that the State:

1. Ratify international conventions on human rights, including the Convention on the Rights of the Child (26.19, A/HRC/46/15).
2. Increase its efforts to protect migrants, especially those in vulnerable groups, including by seeking alternatives to detention for migrant children and ensuring access to basic services (26.335, A/HRC/46/15).
3. Stop incarcerating migrants, including migrant children, and guarantee the rights of migrants (26.338, A/HRC/46/15).
4. Protect the rights of children who arrive in the United States of America and seek alternatives to the current detention system for migrant children, both unaccompanied and part of family groups, and allow them to remain under the protection of their parents (26.340, A/HRC/46/15).
5. Fully guarantee the human rights and fundamental freedoms of migrant children and adolescents regardless of their immigration status (26.341, A/HRC/46/15).
6. Ensure that detention centres for migrants and refugees and the treatment they receive meet the basic conditions called for under international human rights law and standards (2342, A/HRC/46/15).
7. Devise and implement programs to provide detained children with basic rights such as healthcare and education.

8. Swiftly bring an end to the Title 42 policy, and pass bipartisan legislation that both protects the rights of asylum seekers and refugees, and creates pathways to citizenship for recent immigrants.

Edmund Rice Christian Brothers North America Province Mission Frère program, NGO(s) without consultative status, also share the views expressed in this statement.

- (1) “Frequently Asked Questions: “Remain in Mexico” Policy.” Justice for Immigrants, April 21, 2021, available <https://justiceforimmigrants.org/what-we-are-working-on/asylum/frequently-asked-questions-remain-in-mexico-policy/>
- (2) “US: Border Program’s Huge Toll on Children- Data Analysis of ‘Remain in Mexico’ Shows Impact.” Human Rights Watch, February 4, 2022, available <https://www.hrw.org/news/2022/02/04/us-border-programs-huge-toll-children>
- (3) IBID
- (4) “Convention on the Rights of the Child.” Treaty of November 20, 1989, United Nations General Assembly, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
- (5) Fass, Paula S. “If You’re Shocked by Reports on Children at the Border, You Haven’t Paid Attention to American History,” Time, July 11, 2019, available at <https://time.com/5624256/american-history-protecting-migrant-children-border/>
- (6) “Convention on the Rights of the Child.” Treaty of November 20, 1989, United Nations General Assembly, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
- (7) “Homeland Security Act of 2002.” November 25, 2002, United States Department of Homeland Security, available https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf
- (8) Cheatham, Amelia and Roy, Diana. “U.S. Detention of Child Migrants.” December 21, 2021, Council on Foreign Relations, available <https://www.cfr.org/backgrounder/us-detention-child-migrants>
- (9) “US: Border Program’s Huge Toll on Children- Data Analysis of ‘Remain in Mexico’ Shows Impact.” Human Rights Watch, February 4, 2022, available <https://www.hrw.org/news/2022/02/04/us-border-programs-huge-toll-children>
- (10) “MPP (Remain in Mexico) Deportation Proceedings—All Cases.” TRAC Reports, November 2022, available <https://trac.syr.edu/phptools/immigration/mpp/>