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Zika: The New Ebola

March 17, 2016
by Marie Durané

Zika, a virus transmitted to people through mosquito bites, specifically from the [Aedes aegypti](#) mosquito, is [rapidly spreading](#) in Latin America and the Caribbean. Doctors have observed a link between these bites and a rare congenital birth defect called [microcephaly](#), where a baby's brain did not properly develop or stopped growing which causes a [small head](#). However, science has not conclusively [proven](#) the link between the defect and Zika. Much is unknown about the virus, and there is still [no vaccine](#). In Brazil, where the virus originated in [May 2015](#), more than [a million people](#) caught the Zika virus and 4,000 mothers have given birth to children with microcephaly. Since then, [many countries](#) in Latin America and the Caribbean have battled [active mosquito transmission](#) of the Zika virus. As a result, countries in the affected region have recommended that women delay their pregnancies. [El Salvador](#) has asked women to delay their pregnancies until 2018, and Columbia and Ecuador have asked women to [delay their pregnancies](#) for several months or until scientists conduct more research.

Latin American governments' approach to the epidemic has resulted in much backlash. Most recently, the UN High Commissioner for Human Rights, [Zeid Ra'ad Al Hussein](#), criticized the approach of these countries by highlighting that the discussion about men's role in pregnancy has been virtually non-existent. Zeid stated that many women in these countries [cannot control](#) when they get pregnant because sexual violence is so prevalent. Others point out that governments are not instructing [men](#) to prevent pregnancies, as they have an equal role in preventing pregnancies. Another factor is that many Latin American and Caribbean countries outlaw abortion. The region is predominantly [Catholic](#), and five of the seven countries ban abortions under all circumstances. These seven countries are El Salvador, Nicaragua, Honduras, Chile, the Dominican Republic, Malta, and Vatican City. Although illegal, women [still have abortions](#). According to the Guttmacher Institute, in 2008, 4.4. million women in Latin America and the Caribbean had abortions and [ninety-five percent](#) were [unsafe](#) because doctors lacked proper training and conducted them in an environment that did not meet adequate medical standards. Rights groups are concerned that the spread of Zika in Latin America will cause a rise in [unsafe abortions](#). An additional concern is that women do not have readily available [access to contraceptives](#) and information on preventing pregnancies.

In light of the growing concerns about the Zika virus, abortion activists are pushing for [governments](#) in Latin America and the Caribbean to legalize abortion and allow for better access to contraceptives. Many believe women have [reproductive rights](#) which should guarantee them access to safe abortions, contraceptives, and women's healthcare. Activists point to the Universal Declaration of Human Rights ([UDHR](#)), which is binding on all United Nations members including the Latin American and Caribbean countries affected by Zika. Specifically, [Article 3](#) sets out the fundamental right to life, liberty, and security; [Article 5](#), the right to be free from cruel, inhuman or degrading treatment; [Article 25](#), the right to adequate health; and [Article 27](#), the right to the enjoyment and benefits of scientific progress. However, there is [no fundamental human right](#) that explicitly grants women the right to an abortion or

access to contraceptives. Many believe that abortion is a short-sighted solution and countries should focus efforts on [educating people](#) about how the infection is transmitted, mobilizing resources to fumigate areas of mosquitoes, counseling and supporting families, and offering treatment to children who have the [neurological disease](#). In effort to curb the spread of Zika, experts believe that Latin American and Caribbean countries should explore [all options](#) in order to meet the needs of their citizens and uphold human rights principles.

Right to Liberty and Security: Mexico's New Proposed Anti-Torture Legislation

March 18, 2016
by Chiara Vitiello

The [UN Special Rapporteur](#) on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan Méndez, visited Mexico from April 21 to May 2, 2014. The outcome of the visit is a report, released in March 2015, that denounces the dramatic situation of human rights in the country. In the report, Méndez stated that “torture and abuse are [widespread](#) in Mexico.” The [number of torture complaints](#) filed at the federal level more than doubled between 2013 and 2014, from 1,165 to 2,403. Although Mexican president Enrique Peña Nieto did not welcome the UN Report, in December 2015, he signed two bills that will go before Congress representing a “[ray of hope](#),” according to Amnesty International.

At the international level, Mexico has ratified the [Convention against Torture](#) and the Inter-American Convention to Prevent and Punish Torture ([IACPPT](#)). The governing domestic law in Mexico against torture is the [Federal Act on the Prevention and Punishment of Torture](#). Although the Federal Act contains important safeguards, it contains [several limits](#) that narrow the scope of the legislation. First of all, the definition of torture in Article 3 of the Federal Act does not meet the standards of Article 1 of the Convention against Torture and Article 2 of the IACPPT. The Federal Act, in fact, fails to mention torture committed [based on discrimination](#) of any kind. Moreover, according to the definition, the victims of torture must be [detainees](#), thus limiting the Act’s applicability, while the international definition only requires proof of intent to cause suffering. In addition, despite the fact that the Mexican Constitution prohibits the consideration of evidence obtained under torture, judges occasionally [admit such evidence](#) or postpone a decision on its admissibility to the final sentencing stage, while the accused generally remains in pretrial detention. This practice breaches [Article 15](#) of the CAT and [Article 10](#) of the IACPPT. Finally, Mexico lacks a [comprehensive national registry](#) that keeps record of both federal and state torture cases, making it impossible to calculate the exact number of torture episodes happening daily in the country. The creation of a [national registry](#) has always been one of the UN CAT recommendations to countries with a high number of torture cases, such as Peru.

The new anti-torture bills aim at bringing Mexico in line with its international obligations. The bills will reclassify torture and inhumane treatment or punishment as separate crimes, and the definition of torture will match the [international human rights standard](#). Moreover, the bills include a series of [measures to ensure prosecution](#) of torture crimes in compliance with Article 2 of the CAT. A legal authority will be able to initiate a torture investigation [without a formal complaint](#) filed by the victim, and the investigation will not be subject to a statute of limitations. A [public official](#) in a superior position to the torture suspect, who is aware of the torture and does nothing to prevent it, will be subject to prosecution. The bills create [special units](#) to work under federal prosecutors to investigate torture cases and attend to victims. Finally, the proposed legislation creates a [national register](#) of torture and cruel treatment crimes to effectively monitor torture cases.

Although the bills contain some promising provisions, human rights organizations are still concerned about the efficacy of the pieces of legislation. NGOs, in fact, have [strongly criticized](#) the decision of President Enrique Peña Nieto in presenting drafts of the bills to Congress without consulting the organizations that had been accompanying the development of the bills. Human rights organizations, such as [Amnesty International](#) and [the Comité de Defensa Integral de Derechos Humanos](#), argue that the bills [lack some pillar elements](#). First, the bills [do not prohibit](#) the use of confessions or proof secured via torture. Second, the bills do not set up a [framework](#) to ensure independent and expert investigations of torture allegations. Third, the bills do not contain a provision to prosecute and punish [high-ranking officials](#) who condone torture. Finally, human rights organizations expressed concern about the fact that the National Mechanism for Prevention of Torture would operate under the Ombudspersons Office, which, according to human rights organizations, has done little to stop the spread of torture practices. Failure to improve the anti-torture legislation might, therefore, constitute a violation of Mexico's obligations under the CAT and the IACPPT. The Mexican Parliament will discuss the bills during its [Second Ordinary Session](#) that started on February 1, 2016.

Female Genital Mutilation on the Rise in the United States

March 18, 2016
by Jazmin Chávez

Female genital mutilation/cutting (FGM/C) is most prevalent in Sub-Saharan Africa and is not commonly associated with the United States. However, according to the [Centers for Disease Control and Prevention](#) (CDC) and the [Population Reference Bureau](#) (PRB), more than half a million females are at serious risk or have already undergone FGM/C in the U.S.

In 1997, the United Nations described [FGM/C](#) as “all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural, religious, or other non-therapeutic reasons.” The [World Health Organization](#) (WHO) adds that FGM/C is recognized internationally as a human rights violation, torture, and an extreme form of violence and discrimination against women and girls.

In 1996, the United States outlawed genital cutting. In 2013, it criminalized the transport of girls under the age of eighteen out of the country for the purpose of genital removal—a practice known as “[vacation cutting](#)” — because it is frequently undertaken during summer breaks or school holidays.

According to a study from the [CDC](#), the exact number of women and girls in the U.S. who have undergone FGM/C is unknown due to unreliable data. The current study used data from [2012](#)—the most recent year for which it was available—and concluded that 513,000 women and girls were at risk in that year. This estimate is approximately [three times greater](#) than the 168,000 at-risk the last time the CDC counted in 1990. The majority of at-risk women and girls are concentrated in [eight states](#): California, Maryland, Minnesota, New Jersey, New York, Texas, Virginia, and Washington. [According to PRB](#), the increase of at-risk women and girls reflects an increase of U.S. population originating from countries where FGM/C practices are more common and not from increases in FGM/C prevalence in those countries. While U.S. mutilations are less common, the very troubling fact remains [that more than 125 million](#) girls and women alive today have been cut in the 29 countries in Africa and Middle East where FGM is frequent.

In 2014, [news articles](#) brought to light cases of [American girls](#) from FGM/C-prevalent countries undergoing FGM/C either when they were on vacation in their parents’ countries of origin or when circumcisers came into the U.S. to cut girls. It seems very likely that second-generation women and girls are the most at risk for FGM/C or its consequences (i.e., women and girls born to parents already living in the U.S.). The PRB report shows that women and girls originating from [Egypt, Ethiopia, and Somalia](#) have the highest risk for FGM/C.

The government’s duty to take action against FGM/C is founded in the provisions of international human rights treaties, such as Article 2(1) of the [International Covenant on Civil and Political Rights](#), which requires states “to respect and to ensure” rights guaranteed therein

such as the right to life and the right to be free from torture or cruel, inhuman or degrading treatment “without distinction of any kind, such as race, color, sex, language, religion...” Furthermore, the right to health is defined in Article 25(1) of the [Universal Declaration of Human Rights](#), which states that “[e]veryone has the right to a standard of living adequate for the health and well-being of [herself] and of [her] family”

On Zero Tolerance Day, February 6, 2016, [President Obama issued a statement](#) speaking out against the practice. “Today, we stand with communities here and around the globe working to prevent FGM/C,” he said. “Some people say that FGM/C is a rite of passage—something families do to help prepare girls for adulthood or marriage.” However, although it is true that tradition and culture are important aspects of any society, some traditions and cultural beliefs and practices like FGM/C are harmful and must be abolished. “It’s time to put an end to this harmful practice, and to allow communities everywhere to meet their full potential by enabling women and girls to meet theirs.” The challenge, however, is that the U.S. cannot end FGM/C while a majority of the public remains unaware that the practice persists within its borders.

While enacting and enforcing laws that prohibit FGM/C is key, it is critically important to involve communities and organizations in the fight against these crimes. It is generally established that, to be effective, approaches to ending FGM/C must be [holistic](#) and include education components as well as measures for legal protection. The more educated, informed, and socially active a woman is, the more she is able to understand the dangers of FGM/C and refuse to subject her daughters to such an operation.

Have US-Cuba Diplomatic Ties Improved Cuban Human Rights?

January 20, 2016
by Marie Durané

After more than [fifty years](#) of isolation, President Obama unilaterally [restored](#) diplomatic ties with Cuba on December 17, 2014. The new [US policy](#) toward Cuba is meant to [expose](#) the Cuban people to American values such as freedom of speech and assembly. The United States established the policy in part to foster [human rights in Cuba](#).

However, human rights violations—specifically arbitrary arrests and detentions—have [increased](#). The Cuban government has relied more on [short-term arrests](#), rather than long-term sentences, to punish those who publicly criticize the government. Security officers threaten dissidents with criminal charges, detention, or official warnings [to discourage criticism](#) of the government, and arrests are almost always warrantless. [Detainees](#) are abused, threatened, and cut off from others for hours or even days. [The Cuban Commission](#) for Human Rights and National Reconciliation reported 882 [political arrests](#) in September 2015, 1,093 in October 2015, and 1,447 in November 2015. Given the magnitude of the problem, in early December, around 100 former political prisoners sent letters to President Obama insisting [he reassess the US policy](#) towards Cuba.

According to [Freedom House](#), Cuban law severely limits freedom of speech. The Constitution [prohibits](#) privately-owned media outlets and restricts speech to statements that “conform to the aims of a socialist society.” Also, Law 88 for the Protection of Cuba’s National Independence and Economy [forbids acts](#) “aimed at subverting the internal order of the nation and destroying its political, economic, and social system”; violations carry up to a twenty-year prison sentence. Likewise, the Law of National Dignity provides a [prison sentence](#) of three to ten years for “anyone who, in a direct or indirect form, collaborates with the enemy’s media.” The government uses the Law of National Dignity to target independent news agencies distributing internationally. Other laws make it illegal to disseminate “enemy propaganda” and “unauthorized news” on grounds of [state security](#). Similarly, the Criminal Procedure Code of Cuba [permits warrantless arrests](#) of people who have committed a crime against Cuba’s security or anyone that has “produced alarm or has been committed frequently in the municipal territory.” The Code also allows police and prosecutorial authorities to [detain a person](#) for a week without any court review.

Freedom of speech and the right to be free from arbitrary arrests and detentions are fundamental human rights guaranteed by the Universal Declaration of Human Rights ([UDHR](#)). As a member of the United Nations, the UDHR is binding on Cuba. Therefore, Cuba may be [violating its obligations](#) under the UDHR by arbitrarily arresting nonviolent dissidents who speak out about the government.

The Other Refugee Crisis

January 3, 2016
by Marie Durané

While many are focusing on the Syrian refugee crisis, there is another refugee crisis in Central America. Since 2014, an unprecedented number of migrants have fled Honduras, Guatemala, and El Salvador to cross the southern border of the United States to [seek asylum](#). Many of these migrants are fleeing violence in their home countries.

Unaccompanied minors fleeing [gang-related violence](#) and women fleeing gender-based violence make up the great majority of refugees from Honduras, El Salvador, and Guatemala. Their governments are unable to resolve these problems which leads them to take the risky journey to the U.S. in search of a better life. Increased murders due to street gang violence is [a major contributing factor](#) to children fleeing their homes, as is [drug trafficking in the region and impunity for those causing the violence](#). Some [children](#) flee without support, while others try to [reconnect](#) with their families in the U.S. Since October 2013, [80,000 unaccompanied minors](#) fled to the U.S., compared to 16,000 in 2011. Similarly, women in these Central American countries face [gender-based violence](#), threats of violence, murder, rape, and assault. Honduras, Guatemala, and El Salvador have some of the highest rates of [femicide](#) in the world. In August of 2015, the [U.N. High Commissioner for Refugees](#) (UNHCR) conducted an [interview](#) of 160 women fleeing violence in Central America and found that the majority of them, sixty-nine percent, attempted to relocate internally, but ended up fleeing to the U.S. because they were not safe.

In response to the 2014 refugee crisis, the [United States](#) expanded fast-tracked deportations. Fast-tracked deportation means migrants are unable to apply for asylum as they typically would, and the U.S. [deports them back to Central America](#) quickly where they often face imminent threat of violence. In fact, gangs [murdered](#) three men sent back to Honduras shortly after their deportation. Last year, [Human Rights Watch](#) (HRW) interviewed Central American refugees detained in the U.S. and later deported. HRW found that many expressed fears of returning home to the U.S. Border Patrol, but the Border Patrol [assessed](#) less than half of them to determine the credibility of their fears of returning to Honduras. According to The Guardian, an impending study is likely to show that approximately [eighty-three deportees](#) have been murdered within several days or months of returning to their home countries in Central America.

Although the U.S. deports some children immediately like adult refugees from Central America, Border Patrol apprehends many unaccompanied minors and places them in Border Patrol shelters, then shelters run by the Office of Refugee Resettlement, and then with relatives while they wait for their immigration hearing. However, most children do not have [legal representation](#) and miss their court dates, triggering an automatic deportation order.

The number of Central Americans crossing into the US has [declined](#) since the summer of 2014. The decline is principally a result of the [Obama administration](#) “outsourcing its refugee problem.” The administration has sent tens of millions of dollars to Mexico to [block](#)

[migrants](#) from reaching the U.S. border and seeking asylum. Between January and July of 2015, Mexico apprehended [93,000 Central American migrants](#). According to [the Migration Policy Institute](#), Mexico will likely apprehend approximately seventy percent more Central Americans than in 2014, while United States will likely cut those that it apprehends by half.

Under international law, it is permissible for people fleeing persecution [to seek protection](#) as an asylee or refugee in another country. Specifically, the 1951 Refugee Convention (the Convention) and its additional 1967 Protocol (the Protocol) are the [leading instruments](#) on international refugee law. The U.S. is not a party to the Convention but is a party to the Protocol. Article 1.2 of the [Protocol](#) recognizes the definition of refugee in Article I of the Convention as someone who is outside of their home country and unable to avail themselves of [protection](#) from that country due to a well-founded fear of persecution, and the persecution is due to their race, political opinion, membership in a particular social group, nationality, or religion. Furthermore, [Article 1 of the Protocol](#) binds the U.S. to Article 33 of the Convention which obligates states not to deport those who meet the definition of refugee back to their home countries. This state obligation is the [principle of non-refoulement](#). Therefore, the United States may be violating its treaty obligation to the 1967 Protocol by deporting migrants from Central America seeking to gain refugee status or asylum by way of its fast-track deportation process. A [fast-tracked deportation](#) process may not allow authorities to properly screen and assess those fleeing persecution, resulting in the return of many with legitimate fear of persecution or death to their countries, in violation of their human rights.