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A Case for the Right to Self-Determination in Africa's Last Colony

by Ryan Allman

For over 40 years, the Saharawi people of Western Sahara have lived divided by a 1,700-mile sand wall.[1] The wall, or “berm,” built in the 1980s by the Kingdom of Morocco, is the longest defensive fortification in use today, littered with landmines and barbed wire and manned by tens of thousands of Moroccan troops.[2] Dividing the occupied and liberated territories of Western Sahara, the berm is a physical manifestation of Morocco’s unlawful denial of the Saharawi people’s right to self-determination that has resulted in a four-decade long abuse of the Saharawi people’s human rights, including the rights to be free from torture, to freedom of expression, and to peaceful assembly and association. To address this abuse of human rights, the UN must facilitate a referendum for the self-determination of the people of Western Sahara.

In 1975, Morocco annexed Western Sahara, a former Spanish colony.[3] Since then, the Saharawi people have lived in the occupied territory or as refugees in exile.[4] The latest report from the UN High Commissioner for Refugees (UNHCR) estimated 170,000 Saharawi currently live in the Tindouf refugee camps in southwest Algeria.[5] In 1991, a United Nations-brokered ceasefire established the United Nations Mission for the Referendum in Western Sahara (MINURSO),[6] which ended the war between Morocco and the Saharawi liberation movement, the Polisario Front, and left Western Sahara a UN designated “Non-Self-Governing Territory.”[7] Almost thirty years later, the Saharawi people still await the referendum that would allow the people of Western Sahara to freely determine their political future.[8] Despite an opinion from the International Court of Justice in 1975 that Morocco has no valid claim to the territory of Western Sahara,[9] Morocco continues to unlawfully occupy the region and deny the Saharawi people a referendum.[10]

The right to self-determination is the legal right of people to decide their own political future. A core principle of international law,[11] self-determination is enshrined in customary international law[12] and international treaties.[13] Under international law, minority or oppressed groups have the right to self-determination, which protects the ability to freely determine their political fate and form a representative government.[14] The principle of self-determination originated to justify people’s pursuit for independence from colonial governments that did not adequately represent their interests.[15]

Morocco, as the occupying power of the Western Sahara, and as State Party to the International Convention on Civil and Political Rights (ICCPR),[16] the International Covenant on Economic, Social and Cultural Rights (ICESCR),[17] and as a UN Member State, is obligated under international law, to allow the Saharawi people to realize their right to self-determination.[18] Article 1 of the ICCPR and ICESCR enshrine the right to self-determination for a Non-Self-Governing people to “freely determine their political status.”[19] The UN Committee for Economic, Social and Cultural Rights, in its 2015 ICESCR review of Morocco, stated its “concern about the failure to find a solution to the right to self-determination of the Non-Self-Governing Territory of Western Sahara.”[20] Article 2(4) of the UN Charter requires UN Member States to respect territorial integrity,[21] and Article 73 enshrines the right to self-determination.[22]

The non-realization of the Saharawi people’s right to self-determination has prevented their enjoyment of other human rights, including the right to be free from torture. Human rights defenders and human rights monitoring groups report a history of disappearances, torture, intimidations, arrests, detainments, abuse in captivity, grotesque sentences, and denial of fair trials in the occupied Western Sahara.[23] Morocco is required to observe the Saharawi right to be free from torture as a State Party to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture)[24] and under the UN Charter.[25] Torture or cruel, inhuman or degrading treatment or punishment is prohibited by Article 7 of the ICCPR and the Convention against Torture.[26]



SAHARAWI WOMEN IN THE TINDOUF REFUGEE CAMPS VIA CREATIVE COMMONS USER CARLOS NÚES, LICENSED UNDER CC BY-NC-ND 2.0.

In 1993, Morocco ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, requiring the country to abolish and prevent torture or other forms of ill-treatment from undermining the right to a fair trial.[27] Morocco's constitution also forbids torture, and the country's penal code criminalizes torture.[28] Yet, despite laws to the contrary, Moroccan courts had a long-standing record of using torture and coercion to secure evidence to convict civilian prisoners.[29] Until reforms were made in 2015 to end military trials for civilians, Morocco regularly tried civilians in military courts[30] and continues to arbitrarily detain civilians based on military court sentences, as in the case of Mbarek Daoudi, a Saharawi activist held since September 2013.[31] A Moroccan military court sentenced twenty-five Saharawi to prison in 2013, based on confessions allegedly obtained by means of torture.[32] These charges were made in connection to the violent resistance against Moroccan security forces who dismantled the Gdeim Izik protest camps in 2010.[33] In response to protest from human rights organizations, these prisoners were granted a re-trial in a civilian court in 2017.[34] Since the 1960s, over 500 Saharawi

have "disappeared," after being arrested by Moroccan security forces.[35] Today, hundreds of disappeared persons remain unaccounted for, and the Moroccan government denies knowledge of the disappearances.[36] In 2016, the UN Committee Against Torture reported that Morocco breached UN Convention against Torture Articles 1 and 12 to 16,[37] with regard to the treatment of Saharawi activist Naâma Asfari, finding that Moroccan authorities failed to investigate Asfari's allegations of torture and other ill-treatment, protect him and his lawyers from reprisals, and denied him reparations including medical rehabilitation and compensation.[38]

Morocco is required to also observe the Saharawi right to freedom of assembly. In particular, Articles 21 and 22 of the ICCPR[39] and Article 8 of the ICESCR enshrine the right to freedom of peaceful assembly and association.[40] Moreover, Moroccan authorities systematically restrict freedom of expression, association and peaceful assembly in Western Sahara, preventing gatherings supporting Saharawi self-determination, obstructing the work of local human rights NGOs,[41] and threatening and abusing activists and journalists.[42] Human Rights Watch reported that, in June 2018, Moroccan police beat up at least seven activists who organized a pro-independence protest.[43] According to Amnesty International, human rights defenders are intensely surveilled, sometimes amounting to harassment.[44] U.S. journalists reporting for Democracy Now! recently documented heavy surveillance by Moroccan authorities when visiting the occupied territories in 2016.[45] These actions are in conflict with Morocco's responsibility as a State Party to the ICCPR and the ICESCR to protect the Saharawi people's freedom of expression, association and peaceful assembly. Furthermore, human rights abuses in the region go largely under-reported. MINURSO remains the only modern UN peacekeeping mission established since 1978 without a mandate to monitor human rights.[46] This lack of a human rights mandate leaves the conflict region without an independent and impartial mechanism to monitor human rights abuses in both Western Sahara and the Tindouf camps. Moroccan authorities claim that the Moroccan National Council of Human Rights (CNDH) protects human rights in the territory.[47] However, the King of Morocco appoints the president and at least nine of CNDH's twenty-seven members.[48]

The violations of human rights in Western Sahara are a consequence of the Moroccan denial of the Saharawi people's right to self-determination.[49] For the Saharawi people to realize their human rights, the UN must facilitate a referendum. Until the people of the Western Sahara determine their political future, the UN must facilitate international monitoring and observance of human rights in both Western Sahara and the refugee camps to ensure human rights violations do not occur.

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The Link Between Tourism and Child Abuse in Cambodian ‘Orphanages’ by Madison Bingle

In February 2019, the U.S. Attorney’s Office in Oregon sentenced Daniel Stephen Johnson to a lifetime in prison for repeatedly sexually abusing children in an unlicensed orphanage that he operated under the guise of a missionary in Cambodia.[1] This case is one of many, and exemplifies the pressing need for the implementation of comprehensive protective policies to safeguard children living in Cambodian orphanages.

The link between child abuse in Cambodian orphanages and tourism is a complex issue stemming from Cambodia’s recent history of war and genocide. In 1992, the United Nations Transitional Authority in Cambodia (UNTAC) and many foreign NGOs en-

tered the country in an effort to aid in Cambodia’s reconstruction.[2] In the process, UNTAC and NGOs expanded the market for Western tourism, as well as highlighted the vulnerabilities of Cambodian people during the post-genocide era.[3] However, as tourists began flocking to Cambodia’s historical memorials and ancient temples, the country also drew two other types of tourists — those looking to volunteer, and those looking to engage in sex tourism.[4] More specifically, “orphanage tourism” became a tourist commodity in Cambodia.[5] While orphanage tourism and sex tourism are different, the prevalence of sex tourism in Cambodia and orphanage tourism has significant overlap.[6] Rising tourism rates coincided with increasing amounts of children living in residential care institutions, commonly known as orphanages.[7] Children in these facilities are particularly vulnerable to abuse and exploitation.[8]

According to UNICEF estimates, the number of orphans decreased substantially between 2009 and 2014.[9] Despite there being fewer orphans, the number of orphanages and children living in orphanages has doubled.[10] In 2005, there were approximately 150 orphanages, and in 2019, there were over 400.[11] Additionally, an inspection by the Cambodian government revealed that out of the 16,000 Cambodian children housed in orphanages, 68 percent have at least one living parent.[12] The problem became so great that UNICEF began referring to so-called orphanages as residential living institutions.[13] Many low income families are persuaded by institution directors to place their children in residential care facilities, thinking that their children will have better lives there, with access to food, education, and medical care.[14] But, the reality is that many children in residential care institutions are subjected to abuse and neglect.[15] Some institutions force children to make handicrafts or force them to perform dances for visiting tourists — making these institutions the means of a type of modern slavery.[16] Thus, the demand for this type of tourism led to an increased number of children in residential care institutions who are significantly more likely to be exposed to physical and sexual abuse, as well as deliberate under-nourishment to solicit more donations.[17]

Cambodia has ratified the UN Convention on the Rights of the Child.[18] Article 20 states that children displaced from their family units “shall be entitled

to special protection and assistance provided by the State.”[19] Additionally, Articles 34 and 39 protect children from physical and sexual abuse and mandate special assistance if exposed to violence.[20] Furthermore, in the 2015 Méndez Report, UN Special Rapporteur on Torture, Juan E. Méndez, illuminated the need to recognize orphanages and residential care facilities as detention centers under international law. [21] In this report, a State party to the UN Convention against Torture (CAT) must ensure specific standards to protect people from torture.[22] As a ratified member of the CAT, Cambodia has duties under Article 11, which requires that detention centers are kept under systematic review by the State. The Mendez Report elaborates that states have an obligation to “prevent torture or other ill-treatment of children, together with their rights to liberty and family life, through legislation, policies, and practices that allow children to remain with family members or guardians in a non-custodial, community-based context.”[23]

As a party to the Convention on the Rights of the Child, the Cambodian government has made significant efforts to comply with the treaty, and it has implemented an Action Plan for Improving Child Care.[24] In 2015, the government initiated the Sub-Decree on the Management of Residential Care Centers, which attempts to map and ultimately regulate the residential care institutions across the country.[25] Additionally, they have introduced a reintegration program working with NGOs, such as the Cambodian Child’s Trust, to provide resources to families who are reintegrating children back into their homes.[26] Since 2015, Cambodia has reduced the number of residential care institutions by 35 percent, and the number of children living in these institutions has decreased by 54 percent. [27] While these numbers are promising, the continued allowance of orphanage tourism and the overall lack of comprehensive legislation fails to adequately protect children in Cambodia.[28] Likewise, Cambodia has failed to provide a network of social workers to aid in rehabilitation efforts for children who have been abused while living in these institutions.[29] Attempting to draw attention to its own citizens’ role in perpetuating the social issue in Cambodia, Australia is the first country to implement legislation identifying the practice of short-term volunteering in orphanages as a form of modern slavery.[30] While this recognition of the issue may impact internal guilt that foreign citizens have in the harming of Cambodian children, the

policy has yet to stop other countries from allowing its citizens to partake in volunteer tourism.[31]

The link between child abuse in Cambodian orphanages and tourism is often overlooked by the good intentions of those volunteering. However, the nature of Cambodia’s tourism, paired with lacking legislative components to protect children in residential care institutions is a violation of the UN Convention on the Rights of the Child — specifically specifically a child’s right to a family and the right to integrate into the community.[32] It also violates obligations under the UN Convention against Torture, under Article 11.[33] The efforts of the Cambodian government to prevent the institutionalization of children as a result of tourism is increasing; however, it still needs to implement policies that prevent unlicensed orphanages and untrained volunteers from working with children to be compliant with its international legal obligations under these two conventions. Finally, the role that foreign governments play in their citizens perpetuating the institutionalization of children in Cambodia must be recognized on a global scale.

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PHOTO OF CAMBODIAN CHILDREN OUTSIDE THE KHMER LITERACY SCHOOL VIA WIKIMEDIA COMMONS USER CAMBODIA4KIDS, LICENSED UNDER CC-BY-2.0

Indonesian Government Proposes Legislation Attacking Anti-Corruption Agency, Brutally Cracks Down on Student Protesters

by Hailey Ferguson

Anti-corruption protests have been a growing trend around the world as citizens increasingly are rising up to oppose government activity that has led to systemic and endemic corruption. In the past two months, Indonesian students have led peaceful protests op-

posing such human rights abuses. The protesters' grievances are directed toward President Joko Widodo and his government, stemming primarily from the government's support of legislation recently passed in Parliament that would curb the power of the nation's anti-corruption apparatus.[1]

The Corruption Eradication Commission (KPK) was formed in 2002 with the primary goal of internally prosecuting corrupt government actors in Jakarta, but it is now in danger of being prevented from carrying out that purpose by the current government.[2] Indonesia has been plagued with corruption throughout the Widodo administration.[3] Independent corruption reports suggest rampant bribery within the public service sector and a judicial system that is independent in name but is largely influenced by political interests.[4] It is not just the KPK that is in trouble; the Widodo administration is both scrutinizing those within the government less and attacking personal and economic freedoms more by revising the Criminal Code.[5] Students and young people throughout the country have grown energized and have been demonstrating against these extreme legislative changes over the past

few months. As of September 2019, Jakarta police have injured over 300 protesters, killing one.[6]

As a member of the United Nations Human Rights Council, Indonesia is under an obligation to uphold the "promotion and protection of civil rights around the globe," and within its own borders.[7] Admittedly, a seat on the Human Rights Council does not necessarily guarantee that a state upholds human rights obligations, as several of the states on the Human Rights Council have extensive records of human rights violations. However, recently Indonesia has recently taken action to permit itself to be held accountable for human rights violations. In 2006, Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR), agreeing to undertake specific responsibilities to uphold civil and political freedoms under Article 2.[8] Additionally, the right to peaceful assembly is protected under Article 21 of the ICCPR and Article 20 of the UDHR.[9] In essence, Indonesia has agreed that all people whose rights have been violated will have access to a fair remedy issued by "competent judicial, administrative, or legislative authorities," even if the violator of rights comes from within the state itself.[10] By crippling the internal accountability and anti-corruption organs within its own government, the current Indonesian administration is directly skirting those duties. Not only will there be no free and independent judiciary to deal with internal corruption, but any subsequent changes in the laws would likely infringe on the rights of Indonesian citizens.

In a sharp diversion from what many hoped would be a period of progressive reforms under Widodo, his administration has used the legislature in order to bolster its own powers.[11] The executive is effectively supporting abuses being carried out by the security forces against peaceful protesters, ultimately quashing the Indonesian people's freedom of expression.[12] Even after Human Rights Watch issued formal concerns to Widodo in writing, international or internal pressure will not force the government to abide by the agreements that Indonesia has signed.[13]

The extreme use of force against peaceful demonstrators in Jakarta and other major cities in Indonesia is particularly disturbing. After the hundreds of casualties in these protests and those in the August Papua protests, the Indonesian government has experienced increased scrutiny by human rights groups as of late.



PROTESTERS IN JAKARTA ON SEPTEMBER 24TH DEMONSTRATE AGAINST THE WIDODO GOVERNMENT VIA WIKI-MEDIA COMMONS USER JAHLILMA, LICENSED UNDER CC BY-SA 4.0.

[14] There are videos and images circulating on social media showing the police using excessive force on the protesters, mostly young university students.[15] A representative from Amnesty International in Indonesia notes that the security forces' actions are "not in accordance with standard [security] procedure," and it is written into law that the police force "must follow human rights principles while on the job." [16] Not only this, but this disturbing activity by the security force is endangering the Indonesian citizens' right to peaceful assembly clearly protected by the ICCPR and the UDHR.[17]

Human rights abuses perpetrated by state security forces against peaceful student protests in Jakarta continue a concerning trend of violent responses by police that result in civilian casualties.[18] Last year saw mass protests from citizens in Chile, Lebanon, Hong Kong, and more, demanding a change in leadership when they felt the so-called democratic systems in place had failed. Some of these protests, such as in Beirut, were also a referendum on the central governments as we saw in Jakarta, but all had a similar response from state police causing widespread injury or death.[19] There is evidence of security forces in other absolutist states systemically using torture and sexual violence against detainees arrested at peaceful protests in order to quell rising populism.[20] Additionally, many police are simply not trained to handle the large scale public movements that are increasingly common globally. Tactics such as using live ammunition to clear protesters will only cause more casualties to those asserting the rights afforded to them and contest government's claims that their security forces are there to protect citizens. Unfortunately, since these incidents are so widespread amongst countries that are experiencing populist movements similar to Indonesia, it is unlikely to see an international referendum on security force human rights abuses promptly.

With the lack of pressure against other states suffering from similar protester abuse and government corruption issues, there is little hope that other states simply condemning such issues will be effective. However, often governments are forced to make changes when faced with economic pressure from partners in the market. The Association of Southeast Asian Nations (ASEAN) established the ASEAN Economic Community (AEC) in the early 2000s, which plans to connect individual Southeast Asian markets to increase equi-

table development, and eventually integrate the region into the larger global marketplace.[21] This organization has already taken great strides, and only stands to become more lucrative as the region develops further. If ASEAN utilizes sanctions or regional trade freezes to block Indonesia from lucrative economic opportunities with the AEC, the Widodo government would be forced to make reforms to the administrative actions that have placed public freedoms at risk. Regional organizations with meaningful influence, economic or otherwise, are responsible for pressuring Widodo to uphold the laws that Indonesia is a signatory to in order to halt any further actions that would unduly strengthen the government at the expense of Indonesian citizens' freedom.

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In Morocco, Her Body is Not Her Choice

by Arielle Kafker

Hajar Raissouni is a writer for Akhbar Al Yaoum, an independent Moroccan newspaper. The twenty-eight-year-old was arrested on August 31, 2019 on charges of engaging in premarital sex and having an abortion. [1] She was apprehended outside her gynecologist's office alongside her fiancé, doctor, nurse, and a medical secretary, all of whom faced ancillary charges. [2] Raissouni claimed she was visiting her gynecologist because of a blood clot. [3] On September 30, 2019, a court convicted Raissouni and sentenced her to one year in prison for violating statutes on extramarital sex and prohibited abortion. [4] Officials interrogated Raissouni during her pre-trial detention and forced her to submit to a medical examination because of the alleged abortion. [5] Details of her private life were also shared with the public. Raissouni's conviction is a microcosm

of Morocco's systematic violations of sexual and reproductive rights. [6]

Morocco criminalizes abortion except when a pregnancy is life-threatening to the mother. [7] Pregnancies resulting from rape and incest must be carried to term according to the law. [8] Additionally, sex before marriage is expressly prohibited: thousands of people were tried for premarital sex in 2018. [9] These prohibitions are codified in Articles 454 and 490, respectively, of Morocco's penal code. [10] Shortly after Raissouni's arrest, hundreds of women signed a manifesto proclaiming their participation in illicit premarital sex and abortion; they also took to the streets in solidarity with Raissouni and in protest of the anti-premarital sex laws. [11]

Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which Morocco ratified in 1979, guarantees the right to physical and mental health. [12] The United Nation's Economic and Social Council clarified the full scope of Article 12 in Agenda item three of its meeting in the Spring of 2000: it "may be understood as requiring measures to improve...sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information." [13] A country that surveils medical offices to ensure they are not providing abortions is actively inhibiting access to reproductive health services. [14] The law forces hundreds of women to seek dangerous "back-alley" abortions every day. [15] Not only is Morocco in violation of the ICESCR, but it is leaving women with only hazardous options for terminating pregnancies.

Morocco's laws on premarital sex and abortion also contravene the premise of the Convention to End All Forms of Discrimination Against Women (CEDAW), of which Morocco is a State Party. [16] Part I Article I of CEDAW asserts that "marital status" cannot be a vehicle for discrimination. [17] Regulating sex solely amongst those who are unmarried is therefore a prohibited practice. Furthermore, Article 12 states: "state parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning." [18] Equality between

the sexes cannot exist in healthcare when men have complete agency over their medical care and women do not. Morocco must better integrate family planning and women's healthcare generally as protected rights. Monitoring doctors' offices restricts forms of care women seek: when a woman is put in jail because she sought treatment for a blood clot, all women become too afraid to seek medical care for any reason. Though Morocco's policy does not directly inhibit women's access to medical services unrelated to abortion, it is the inevitable consequence of surveilling gynecological offices and penalizing women they suspect of engaging in premarital sex or abortion. To combat the diminishing of women's health—as Morocco is obligated to do under CEDAW—it must enact policies, stopping its surveillance of medical offices and its punishment of women exercising their bodily autonomy.

Morocco is also in violation of international law for its treatment of Hajar Raissouni. Parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Morocco ratified in 1993, are obliged to stop torture within their borders.[19] According to the CAT, torture is defined as a public official inflicting, or consenting to, severe pain or suffering.[20] When Raissouni was taken into custody, she was brought to a hospital for a forced gynecological exam.[21] A procedure as invasive as a gynecological exam would likely result in both physical and emotional pain and suffering when done without consent.[22] This examination was intentionally executed at the bequest of the Moroccan government because it occurred while Raissouni was in the custody of the State.[23] The alleged purpose of the exam was to gain information: to discover whether an illegal abortion had occurred, which is inherently discriminatory because it stems from legislation discriminating on the basis of sex.[24]

Once the exam was complete, Raissouni was returned to detention, where she was questioned about her sexual and reproductive behaviors.[25] The information gathered by law enforcement was disseminated to the public.[26] Both are invasions of privacy that contravenes Article 12 of the Universal Declaration of Human Rights, which guarantees a right to privacy.[27] The Article espouses a general right to privacy, and specifically, that a person's reputation is protected.[28] In publicizing such socially taboo allegations, Raissouni's reputation was harmed.[29] Additionally, the

International Covenant on Civil and Political Rights (ICCPR), which Morocco ratified in 1979, protects the right to privacy inclusive of reputation.[30] The ICCPR allows exceptions only when the interference is as unintrusive as possible and when there is a legitimate necessity; neither circumstance was met in this case. [31] Morocco has historically illegally interfered with the protected right to privacy of journalists through surveillance.[32]

On October 16, 2019, King Mohammed VI issued a pardon to Raissouni, and she was released from jail. [33] The state should be held accountable in terms of reparations for Raissouni, as well as for enacting policy ending the discrimination in women's healthcare provision.

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Combating Femicide in France

by Adrian Lewis

“Femicide” is defined in France as the death of a woman at the hands of her partner or ex-partner.[1] More than 130 women were killed by their partners in 2019, exceeding the government’s count of 121 victims of femicide the previous year.[2] Though not the highest among western European countries, France’s rate of femicide is higher than that of many neighboring countries, including Spain, Italy, the Netherlands, and the UK.[3] A steady increase of domestic violence deaths in recent years has sparked outrage and calls for legislative change to combat the growing trend.[4] As a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), France’s failure to adequately address violence against women is a violation of its obligations under Article 12 of the Convention, as elaborated in CEDAW General Recommendation 19, which requires states to take all appropriate measures to ensure women have equal access to healthcare and related services, including those that protect against a known or suspected threat of physical violence.[5]

Illustrative of the worsening trend was the September 2019 murder of a 27-year old mother of three from northern France.[6] She was in the process of separating from her 37-year old husband when, following an apparent dispute, he stabbed her fourteen times as their three young children looked on. Law enforcement had been called to the woman’s home only the previous week, after she reported to police that her husband was threatening her with a knife. A common thread running through so many tragic accounts of femicide is victims’ repeated outreach to local police



GAVEL AND MOROCCAN FLAG VIA FLICKR USER, MARCO VERCH PROFESSIONAL PHOTOGRAPHER AND SPEAKER, LICENSED UNDER CREATIVE COMMONS 2.0

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in the days and weeks preceding their murders. Such pleas repeatedly elicited responses from law enforcement officers claiming there was not enough evidence to detain a violent abuser or to confiscate a partner's weapon.[7] The experiences of numerous victims of femicide have been shared in the press, often made public by family members only after the women's worst fears were realized.[8] Such stories recount women's harrowing struggles to seek help from police and to secure protection for themselves and their children. Increasingly, such delays are costing women their lives.[9] And with each death, calls for government action and legislative change have grown louder.[10]

In September, France's secretary for gender equality called civil society representatives together with actors from government, politics, and the healthcare sector to participate in a three-month consultation on how best to confront the challenge.[11] Results of the multi-sector initiative included plans for the widespread implementation of electronic bracelets to monitor the location of offenders in relation to their victims and the suspension of child visitation rights for offenders already separated from their former partners.[12] While the conference served to increase public awareness of the issue, activists note that no additional funding was earmarked to combat violence against women, which was one of civil society's primary demands of government in undertaking the three-month conference.[13]

Several international legal instruments exist for the protection of women who are vulnerable to the kind of domestic violence that too often ends in femicide.[14] Most notably, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) obligates member states to take positive measures to eliminate all forms of violence against women, including domestic violence.[15] Such measures are outlined in Article 2, which stipulates that signatory states "agree to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination." [16] Growing rates of femicide suggest France must take additional action to establish its commitment to CEDAW. The convention's 16 articles aim to end discrimination at the root of violent crimes against women and demand active measures on the part of member states to advance this objective.[17]

In addition, France recently strengthened its commitment by adopting the Optional Protocol to CEDAW aimed at more effectively monitoring member states' compliance with the Convention.[18] On a more fundamental level, France is a party to key treaties and conventions that form the foundation of the modern international human rights framework, including the International Covenant on Civil & Political Rights (ICCPR), the International Covenant on Economic, Social & Cultural Rights (ICESCR), and the Convention Against Torture.[19] Legal analysis based on the principles in the Convention Against Torture has illustrated how acts of domestic violence can be interpreted as acts of torture.[20]

The European Union (EU) has been at the forefront of efforts to enshrine into law the equal rights of women by prioritizing them in the Strategic Engagement for Gender Equality 2016-2019 framework.[21] The Council of Europe, the EU's human rights body, took the latest step toward realizing an end to violence against women in 2011 with the ratification of the Istanbul Convention, the formal title of which is the "Council of Europe Convention on preventing and combating violence against women and domestic violence." [22] Its primary objectives are embodied in Article 3(a) of the convention; "violence against women" is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.[23]

France's obligation to end violence against women within its borders is thus enshrined in both regional legislation like the Istanbul Convention, as well as in international agreements like CEDAW and those listed above.[24] In fulfilling its relevant obligations, France should follow the example of neighboring countries and invest additional resources into ensuring local law enforcement agencies are equipped with the training and resources to effectively aid women who report domestic violence.[25] In Spain, the government has established a separate system comprised of 100 specialized courts that hear only cases of sexual violence against women.[26] This additional measure has helped reduce the country's annual rate of femicide by



“RAPISTS, KILLERS, ABUSERS – IT’S YOUR TURN TO BE AFRAID” GRAFFITI IN RENNES, FRANCE VIA FLICKR USER ALTER1FO.COM. (CC BY-NC-ND 2.0)

one third.

In addition to providing legal remedies, Article 20 of the Istanbul Convention states that the provision of shelter and physical protection from immediate threats must always be available to victims seeking assistance and redress.^[27] Under Article 15, France is obliged to take active steps to provide or strengthen appropriate training for professionals interacting with victims and to introduce training on coordinated multi-agency cooperation to enable comprehensive handling of cases involving violence against women.^[28]

France’s progress toward ending femicide within its borders is dependent on the implementation of the policies outlined above, as well as those detailed in the regional and international human rights conventions that have been ratified by its legislature. France’s government and law enforcement agencies are afforded sufficient means within the text of such agreements to end femicide in France.^[29] All that remains is a national commitment to operationalizing the legal instruments at their disposal to protect women from the threat of violence.

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Arbitrary Detention in Jammu and Kashmir by Maya Rose Martin

Early in August 2019, the Indian government stripped Jammu and Kashmir of their special status under the Indian constitution.[1] Since then, nearly 4,000 residents of Jammu and Kashmir were arrested and detained without trial.[2] These arrests were justified by the Public Safety Act (PSA), which allows arrests to ensure public order.[3] However, these detentions violate the Indian Constitution and the International Covenant on Civil and Political Rights (ICCPR).[4] India is not fulfilling its obligations to ensure of the right to freedom from arbitrary detention and the right to a fair trial.

Since the partition of India and Pakistan, the disputed status of Jammu and Kashmir (Kashmir) has led to decades of violence in the region.[5] Kashmir has held special autonomous status protected by Article 370

of the Indian Constitution for over fifty years.[6] This status was also protected by UN Security Council Resolution 47 in 1948.[7] Since 1989, various groups have protested for Kashmir's right to self-determination, leading to a rise in violence and approximately 77,000 killed in the region over the past thirty years.[8]

On August 5, 2019, the Indian Prime Minister, Narendra Modi, controversially decided to remove Kashmir's autonomous status under Article 370.[9] Subsequently, India shut down access to internet and mobile communication in the region.[10] Adding further tension, on August 6, 2019, the President of India, Ram Nath Kovind, ordered that Jammu and Kashmir be reorganized into two separate union territories.[11] This designation eliminates representation in the federal government and gives the central government of India direct control over the region.[12]

During the lockdown, roughly 3,800 Kashmiris were detained without charge or trial.[13] According to the Indian government, as of September 6, 2019, over 1,000 remain in prison.[14]

However, most journalists have been barred from entering the region to verify data.[15] Many of those arrested have been beaten or tortured by security forces.[16] Some detained Kashmiris have been transported to prisons more than 1,000 kilometers away from Kashmir.[17] The government has not disclosed the reasons for these detentions. Those arrested include local politicians, journalists, lawyers, or suspected political dissidents, including the former chief minister of Kashmir.[18] However, the government has not provided reasons for the detention of other civilians without political influence, including children.[19]

International human rights standards do not allow for prolonged, arbitrary detention. Article 9 of the ICCPR, which India has ratified, states that no one shall be arbitrarily arrested or detained without trial.[20] The Indian security forces are obligated to inform detained individuals of the reason for their arrest and to allow them access to a trial in a timely manner. If the detention appears to be unlawful, detainees are entitled to take proceedings to court and be fairly compensated, according to ICCPR Article 9(4) and (5).[21] The Kashmir PSA violates these rights. The PSA allows civilians to be arrested for "acting in any manner prejudicial to the security of the State." [22] This contro-

versial law has been broadly applied by Indian security forces; India argues that the law protects citizens from militants.[23] In one month, 250 habeas corpus petitions were filed in the region by prisoners challenging their detention, a number that would likely increase but for the fact that there is a lack of legal representation for criminal defendants in the region.[24] However, this number does demonstrate that a large number of detainees have been imprisoned without trial.

If children have been detained in Kashmir, as some journalists have suggested, this would violate Article 37 of the Convention on the Rights of the Child (CRC). [25] Article 37 protects children from arrest and detention except as a measure of last resort. There are reports of children as young as nine being detained, but this has been disputed by the Indian government.[26] India is also violating its own constitution, as Article 22 of the Indian Constitution protects against arbitrary detention.[27] Article 22 also states that individuals are to be informed of the grounds of their arrest in a timely manner. However, Article 22(3)(b) does allow for arrests and detention on a basis of preservation of public order, but those arrests are to be held to a strict standard.[28]

Thousands of arrests have been confirmed since August 5, 2019, and few of the imprisoned have had a trial due to the PSA.[29] The High Court of Jammu and Kashmir has ignored or prolonged proceedings for the petitions of habeas corpus filed by detainees.[30] These actions directly contradict Article 9(3) of the ICCPR, intended to give individuals who are unjustly detained access to trial.[31] The situation is complicated as most attorneys in Kashmir are boycotting the court following the arrest of the leaders of the Jammu and Kashmir Bar Association in August.[32] The lack of due process and access to attorneys is preventing detainees from seeking justice.

NGOs, such as Amnesty International, have called on India to stop abusing the PSA and release detainees. [33] At the UN General Assembly in September 2019, Pakistani Prime Minister Imran Khan also called on the world to sanction India and not allow such human rights abuses in Kashmir, making a point to mention the targeting of Muslim and non-Hindu Kashmiris. [34] Few nations besides Pakistan have made diplomatic or economic efforts to condemn India.[35] The UN Human Rights Council has already condemned



PHOTO OF A ROAD IN KASHMIR'S ANCHAAR AREA AFTER YOUTH PROTESTERS CLASHED WITH POLICE FORCES VIA FLICKR USER IPS INTERPRESS SERVICE NEWS AGENCY, LICENSED UNDER PD.

India's actions in the Kashmir crisis, with seemingly little effect.[36] The most effective result may be from India's courts. Attorneys from other regions of India should be allowed to counsel detainees.[37] If petitions from Kashmir are allowed to proceed in court, the detentions may be found unconstitutional under Indian law.[38]

On October 31, 2019, Kashmir's constitution was nullified, the state was split into two territories (Jammu and Kashmir, Ladakh) and the Indian government took more direct control over the region.[39] Increased international condemnation over the crisis in Kashmir may spur the Indian government to change its actions in Jammu and Kashmir. India's judicial system should take action to curb the President and Prime Minister's actions regarding Kashmir. India is violating international human rights standards in Kashmir and should immediately give detainees access to fair and impartial legal counsel and trial.

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Xenophobia in South Africa

by Salim Rashid

In September 2019, looters and protestors targeted foreign-owned businesses in Johannesburg, killing and displacing several South African residents and immigrants.[1] These recent attacks are some of the many acts of anti-immigrant violence that have plagued business owners for the past few decades.[2] South African leaders have attempted to address these issues through a series of initiatives following South African independence in 1961. For example, the South African Human Rights Commission (SAHRC), the UN High Commissioner for Refugees (UNHCR), and the National Consortium on Refugee Affairs (NCRA) created the Roll Back Xenophobia Campaign (RBX), South Africa's first attempt at recognizing xenophobic rhetoric.[3] Unfortunately, the campaign lost funding in 2002 and never realized its goal, with xenophobic violence becoming more common in the years following.[4]

South Africa's improving economy invites unique opportunities that are imperative to the success of the continent as a whole. South Africa has the second

largest economy in Africa based on its gross domestic product.[5] Its economy attracts immigrants from around the continent who are seeking refuge from poverty and persecution in their home countries.[6] Many South Africans blame immigrants for hardships they face. A Wits University study on forced migration found that sixty-four percent of South Africans believed that immigrants were "generally untrustworthy," and a similar percentage thought that South Africa would be better off if immigrants left the country.[7] Unemployment in South Africa is between twenty and forty percent; however, foreign-born residents are only three to five percent of the total population.[8] Over time, this rhetoric has evolved into violence. The South African Human Rights Commission stated that attacks against immigrants in 2008, which claimed fifty-six lives, exposed the "vulnerability of [immigrants], particularly from other African countries." [9]

Harmful rhetoric starts at the top. Reputable Government officials perpetuate negative stereotypes about immigrants.[10] Violence against immigrants and negative stereotypes reinforced by South African leadership are clear violations of South Africa's international human rights obligations. Although President Cyril Ramaphosa has condemned South African citizens, this ideology is unique among South African leadership.[11] Former President Jacob Zuma stated that the South African government cannot ignore that immigrants commit the most violent crimes.[12] Gauteng Province Police Commissioner Lieutenant, General Deliwe De Lange, claimed that "illegal" immigrants are responsible for sixty percent of "violence" in his province.[13] De Lange prefaced this comment by ensuring he is "not xenophobic." Yet, the African Institute for Security Studies found that law enforcement does not release data on nationalities of persons they arrest.[14] Intentional distortion of facts by trusted government representatives fuels distrust towards immigrants and justifies the violence that they endure. This rhetoric constitutes the government inciting violent acts against a race or group of persons of another ethnic origin.

The International Bill of Rights — consisting of the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and International Covenant on Economic, Social, and Cultural Rights (ICESCR) — is considered a hallmark declaration drafted in order to form inalienable standards amongst nations around the world.



ANTI-XENOPHOBIA SIGN FOUND AT HAROLD CRESSY HIGH SCHOOL, CAPE TOWN, SOUTH AFRICA VIA WIKIMEDIA COMMONS USER HELEN RIDING, INCLUDING CC BY-SA 4.0.

In 1948, South Africa was one of four African nations that initially abstained from signing the UDHR, partly due to the apartheid state.[15] But, on the 70th anniversary of the UDHR's creation, the Constitution of the Republic of South Africa was signed into law by former president Nelson Mandela.[16] Chapter 2 of the Constitution of the Republic of South Africa — also known as the “Bill of Rights” — contains similar principles found in the UDHR.[17] In fact, the South African Parliament considers the UDHR as a predecessor to its own Bill of Rights.[18] The history of apartheid in South Africa has shaped the strategies intended to protect South African residents from violence and discrimination; however, the application of domestic and international declarations aimed to protect human rights has gone astray.

South African officials have violated Article 2, paragraph 2 of the ICESCR by threatening the safety of people from different “national or social origin” by qualifying commonly held and inaccurate accusations. [19] Comments similar to Police Commissioner De Lange’s erroneous claims victimize foreigners without any consideration of how the rhetoric influences the

society at large. Additionally, Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) prohibits governments from inciting any violent acts against “any race or group of persons of another . . . ethnic origin.”[20] Lastly, Chapter 2, Article 9 of the Constitution of the Republic of South Africa states that the government may not unfairly discriminate against a number of protected classes.[21] However, subsection 5 of the same Article allows for “fair” discrimination, leaving room for injustices against migrants face.

Leaders of other African countries have become unsettled with South African leadership’s complacency in this matter. Following the September 2019 attacks in Johannesburg, Nigerian President Muhammadu Buhari met with President Ramaphosa to discuss their shared concerns about the administration’s commitment to a safe environment for immigrants.[22] Other leaders have taken a more abrasive approach. Nigeria’s former Minister of Foreign Affairs, Bolaji Akinyemi, requested that the Nigerian government to take South Africa to the International Criminal Court for alleged violations of international treaties. He also claimed that the South African government violated Article 2, paragraph 2 of the ICESCR for escalating violence between South African citizens and residents. As Nigeria urges the African Union to step in and enforce these various international obligations, immigrants look for ways to safely flee the country or defend their property. [23]

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Vieques, Puerto Rico: U.S. Ecological Militarism and Climate Change

by María Alejandra Torres

Before Hurricane Maria, a category four hurricane that hit Puerto Rico on September 20, 2017, Vieques, Puerto Rico was already dealing with over fifty years of ecological devastation.[1] The hurricane caused massive damage, increased poverty levels, and accelerated mass migration, particularly at the Superfund Site in Vieques.[2] The government designates the most hazardous waste sites as Superfund Sites.[3] The EPA labeled the site a Superfund Site because of the U.S. Navy’s activities, which hindered Viequesenses’ right to the enjoyment of a safe and clean environment, a right considered at the Thirty-Seventh Session of the Human Rights Council.[4] Moreover, Vieques’ complex history with the U.S. Navy and the Environmental Protection Agency (EPA) reflects Puerto Rico’s colonial status and lack of self-determination according to the UN Special Committee on Decolonization. The EPA represents the U.S.’s dedication to the protection of internationally recognized rights, but it has unsuccessfully protected these rights; yet, Puerto Rico’s territorial status impedes the island’s ability to enforce internationally recognized environmental law.

From the 1940s until 2003, the United States Navy commandeered about three-quarters of Vieques, an insular Puerto Rican municipality.[5] During World War II, the federal government evicted thousands of residents from their homes and placed them in “re-settlement tracts” in razed sugar cane fields.[6] The government then used this land to create a U.S. naval base. The naval base used the eastern side of the island, called the “Atlantic Fleet Weapons Training Facility,” for ground warfare, maneuver training, and live impacts.[7] On the western side of the island, the base used an area named the “Naval Ammunition Support Detachment (NASD)” as storage for ammunition and vehicles. In 1961, President John F. Kennedy blocked

the Navy's secret plan to displace the entire Viequense civilian population, including digging up the dead from their graves.[8]

The local resistance movement, opposing the Navy's occupation, expanded after April 19, 1999, when a U.S. F-18 fighter jet accidentally dropped two 500-pound bombs on an allegedly safe area, killing civilian David Sanes Rodriguez.[9] Due to continued protests, the U.S. Navy shut down the naval base and withdrew from Vieques in 2003, but not without leaving environmental destruction.[10]

Vieques still faces the detrimental consequences of U.S. ecological militarism, such as unexploded artillery, and monumental pollution released from the heavy metals and toxic chemicals caused by the heavy use of munition dropped on the island.[11] The Navy's militarism has worsened health conditions for locals.[12]

Consequently, and almost ironically, on February 7, 2005, the EPA placed Vieques on the National Priority List, a list of sites throughout the U.S. and its territories that contain hazardous substances or pollutants requiring further investigation, at the request of former governor, Sila María Calderón.[13] The EPA subsequently labeled the "Atlantic Fleet Weapons Training" area in Vieques a Superfund Site, recognizing it as a contaminated site, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980.[14] Such action demonstrates that the U.S. recognizes its obligation to manage chemicals and waste, which have severely impacted Viequenses' human right to a healthy and sustainable environment. [15] Indeed, throughout the clean-up process, the Navy and EPA must ensure community participation by meeting with residents and issuing public notices. [16]

However, the method of clean-up, carried out by the U.S. Navy itself, has been problematic for residents. The EPA and the Navy have not involved the people of Vieques in the Superfund Site decision-making process. At one point, the Navy held community meetings only in English with highly technical information not understandable by the average Viequense person. [17] Further, the Navy uses an open detonation technique that eliminates old bombs by blowing them up, and open-air burning of vegetation to find cluster bombs.[18] These methods subject locals to a cycle of

ecological militarism and health issues while giving Vieques little say in the matter.[19] Vieques' lack of decision-making power contradicts the EPA's objective to rely on community involvement to understand local priorities and the goal of providing technical assistance to increase community understanding of the clean-up process.[20] The Navy is trying to fix the damage caused by decades-long activity by employing similar tactics to what created this precarious situation in the first place.

As of 2019, the EPA affirms that hazardous substances may still be present at the site, additionally stating that clean-up is not complete, human exposure is not under control, and the site is not ready for redevelopment due to contamination issues.[21] This is especially troublesome because Hurricane Maria, as well as Hurricanes Harvey and Irma, caused Superfund Sites in Puerto Rico to experience inundation, potentially widening the toxic footprint of the Vieques Site.[22] Inundation spreads toxic chemicals into waterways, communities, and farmlands, which is in contrast to the goals of the Thirty-Seventh Session of the Human Rights Council. [23] Contamination has caused heightened cancer



PHOTO OF VIEQUES, PUERTO RICO VIA FLICKR BY KATIE WHEELER, LICENSED UNDER CC BY-NC 2.0.

rates among Vieques' residents, and because there are still unexploded bombs all over the small island, Judith Enck, the former EPA administrator for Region 2, stated concern that the bombs on land washed into the sea after Hurricane Maria, further spreading contamination.[24] Indeed, if the environmental threat that Vieques faced was already perilous due to toxic pollution, and if Hurricane Maria exacerbated that level of peril with inundation, then Vieques warrants particular attention from the U.S. government. Puerto Rico is, after all, a U.S. territory subject to U.S. laws and fiscal budget — a fact that the EPA has been accused of overlooking in other scenarios.[25] These accusations may increase given President Trump's proposed 2020 fiscal budget, which would cut funding for the EPA by 31%, yet the Navy plans to complete the clean-up on land by 2026 and the underwater clean-up by 2036.[26]

Although U.S. domestic environmental law serves to protect rights that are codified within the international human rights framework, the EPA has failed to properly protect the environmental and health rights of the people of Vieques. Yet, because of Puerto Rico's status as an unincorporated territory, Puerto Rico has not been able to directly enforce U.S. environmental law. The inadequate response to the crisis in Vieques demonstrates how the federal government has violated Puerto Rico's inalienable right to self-determination and independence because the United States abstained from voting in the UN General Assembly resolution 1514 (XV).[27] According to the UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples ("UN Special Committee on Decolonization"), despite the majority of Puerto Rican people rejecting its current status as a U.S. territory on November 6, 2012, the United States has failed to set in motion a decolonization process for Puerto Rico.[28]

The United States' political control of Puerto Rico denies the island sovereign decision-making power to address the crisis caused by the U.S. Navy's training site and Hurricane Maria in Vieques. The United States and the political representatives of Puerto Rico must begin a decolonization process immediately, which is not only long overdue but necessary for the Viequeses to adequately combat the effects of the environmental damage and ensure the protection of their fundamental human right to a clean and healthy environment.

[29] Unless the United States relinquishes its grip on Puerto Rico and places it on the path to decolonization and independence, it will be difficult for Puerto Rico to properly confront its challenges given that the federal government has not enforced the Navy's cooperation and neglected the leadership of Viequesese people in the operation.

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Kazakhstan: Neglects and Abuses Against Children with Disabilities

by Courtney Veneri

Kazakhstan has nineteen state-controlled institutions for children with mental illnesses or developmental disabilities.[1] The children in these institutions are marginalized and live apart from society in poor conditions, where they are subjected to neglect and abuse. [2] Kazakhstan must improve conditions for children living with disabilities in state-controlled institutions in order to properly implement its own legislation and to comply with its international obligations.

People living with disabilities in Kazakhstan are generally not considered to be valuable members of society, and they face discrimination and isolation.[3] There-

fore, parents are sometimes reluctant to register their children as having a disability — around three percent of children in Kazakhstan are registered as having a disability, as opposed to the global average of ten to fifteen percent.[4] Children who are registered as having a disability are excluded from society and kept locked away in institutions.[5] The State does not provide these children with a proper education, and they often remain in institutions for the rest of their lives, as the state moves them to an adult institution when they turn eighteen.[6] Children living with disabilities who are not in institutions are often homeschooled or put in inadequate, segregated schools.[7] These schools do not facilitate any socializing with other children, increasing the marginalization of children living with disabilities. Further, the teachers working to teach the children rarely show up, stunting their progress and preventing them from progressing in their education and knowledge.

Furthermore, the conditions of the state facilities are prison-like.[8] Children are sedated — sometimes for up to twenty-four hours.[9] They are beaten, forced to work, and made responsible for the younger children. [10] Children are crammed into rooms — up to twenty children may share a room, and those who are unable to walk are kept in beds or cribs.[11] The children living in these institutions are unable to participate in society or go to school, and are rarely given an education within the institution.[12] They are subject to physical restraints and forced sedation.[13]

In 2019, Human Rights Watch conducted in-depth interviews with children living in state-controlled institutions and published a report detailing the issues the children were facing.[14] They recommended that children should be integrated into society and that institutionalization should be ended in Kazakhstan to the furthest extent possible — by encouraging children with disabilities to be taken care of by their families and communities.[15] Children should be supported by their communities rather than forced to live in neglect.[16]

Kazakhstan is a party to both the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), and it has federal law focused on disabilities — Law No. 39/2005. [17] The general international standard for a state's responsibilities for people living with disabilities is



BEDS FOR CHILDREN WITH DISABILITIES LIVING IN A STATE-RUN INSTITUTION IN KAZAKHSTAN VIA HUMAN RIGHTS WATCH, LICENSED UNDER CC BY-NC-ND 3.0 US.

set forth in the CRPD. Article 7 requires that all the provisions set forth in the CRPD be applied to children as well.[18] States are required to ensure that people living with disabilities are able to participate in their communities and are protected from inhumane or degrading treatment.[19] Article 23 of the CRC provides the international basis for the rights of children with disabilities.[20] Article 23 requires states to provide the means for children with disabilities to live a full life, such as education, social services, and adequate medical care.[21] Further, Article 23 specifically states that these practices are all intended to allow children “active participation in the community.”[22] Kazakhstan has its own law to implement the rights of people living with disabilities.[23] Article 4 requires people living with disabilities to be integrated into society, and Article 5 prevents discrimination or violation of their human rights.[24]

Kazakhstan’s treatment of children who have disabilities falls short of both international law and their own legislation. Keeping children isolated from their communities directly violates the CRPD and the CRC.[25] Article 20 of the CRC requires that any child sep-

arated from the family environment be given special protection — keeping the children isolated in beds and preventing them from getting an education is directly contrary to that provision.[26] Children living with disabilities should be able to interact and participate in their communities and access education as laid out in these international covenants.

Further, the way children are treated in the state-run institutions is also not consistent with both the CRPD and the CRC.[27] Children who live in institutions must be treated with respect — abusing children or sedating them for days on end is illegal under both Conventions. This sort of abuse, such as being beaten and restrained for hours at a time, conflicts with Article 15 of the Convention for Persons with Disabilities and Article 19 of the CRC.[28] The state must treat these children with respect and provide opportunities within these institutions, such as access to education.[29] The children are entitled to the same opportunities as children living outside of institutions.[30]

Finally, Kazakhstan needs to comply with its own internal law. Kazakhstan provides its own legal framework for ensuring compliance with its international obligations, but it has failed to enforce the law on a consistent basis.[31] There needs to be an overhaul of the state-run institutions for children living with disabilities and social education to reduce the levels of societal discrimination those children are exposed to. For example, Kazakhstan could more strictly enforce rules against the abuse of children by institutional staff and begin public information campaigns to push for a better public understanding of people living with disabilities, along with creating opportunities both in institutions and outside of them to provide an education to children with disabilities. By showing that abuse will not be tolerated while also creating more community awareness and education, children living with disabilities will have more opportunities to live full lives. Kazakhstan is not compliant with its international legal obligations, nor its internal national law. It must provide better facilities for children living with disabilities in institutions, and it must start providing opportunities for these children to be included in their communities so they may benefit from education and proper care.

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