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LETTER FROM THE EDITORS

Aylan Kurdi was born in 2012, two years into the Syrian civil war. Knowing a life of war and violence, Aylan, together with his five-year-old brother, mother, and father, fled his hometown of Kobane, Syria to seek refuge in Turkey. Aylan's father, Abdullah, sought to reunite his family with his sister in the safety of Vancouver, Canada. The Kurdi family, already having fled war in Syria, sought to escape economic peril in Turkey by crossing the Mediterranean in a small boat. Aylan's tragic death caught international media attention in September 2015 when the boat sank, washing Aylan's lifeless body upon the Turkish shores.

Aylan came to represent the real human tragedy of the Syrian war. Although many media outlets have reported on the crushing number of refugees and internally displaced persons created by the war, Aylan Kurdi put a face to those overwhelming numbers. For the first time since the beginning of the war, Syrian refugees were seen as people, not numbers. The millions of people seeking safe refuge in Europe were no longer simply a national security concern, but were families: children, young men and women, and grandparents.

National reactions to the Syrian refugee crisis have varied considerably. In Canada and Sweden, governments are working with private individuals in their countries who have agreed to help sponsor Syrian refugee families, including paying for their flights and inviting them to live in their homes. Germany and France moved to increase the number of Syrian refugees admitted into their countries amidst other European nations closing their doors. In the face of a great tragedy the French government did not degenerate into fear-mongering and politicking over the Syrian refugee crisis, but instead maintained its commitment to helping Syrians resettle in France. To our great disappointment, not all countries have protected the human rights of Syrians or met their international obligations in this regard. Politicians in the United States have called for various bans on Syrian refugees under the guise of national security, including discriminating based on religion. In Denmark, members of parliament passed legislation authorizing the confiscation of valuables from Syrian refugees as they enter the country. Reactions like these are sadly not uncommon.

The Syrian refugee crisis is not the first time that the global community has faced such a tragedy; leading up to and during World War II many countries turned Jewish and other refugees away, effectively sending people back to their ravaged homes to die. In 1948, born out of that great tragedy, and the shame and regret world leaders felt for their actions, the United Nations passed the Universal Declaration of Human Rights (UDHR), outlining the unalienable rights inherent in every person. Protecting each person's right to be treated equally under the law and protected regardless of age, sex, gender, nationality, political affiliation or religion. Significantly, the UDHR also protects the right to freedom of movement and the right to asylum and to change nationality.

Unfortunately, although the Syrian refugee crisis had global consequences, the failure of many states to protect the rights of the Syrian refugees was not the only example of states failing to protect our most basic human rights. The articles in this edition highlight a few of those issues,

including the violation of minority land rights in Brazil, the denial of the right to nationality in the Dominican Republic, domestic violence throughout the world, violence and danger for the LGBTQ community in Kenya, child labor violations, and states failing to protect the right to education.

The ongoing violation of the basic rights of Syrian refugees by an alarming number of states must be highlighted. Unfortunately, Aylan is not the only Syrian child who has died due to a basic lack of compassion among various states and governments. However, in pushing our governments to respect and protect basic human rights, we must include and look beyond the shores of the Middle East. We, as individuals, must work to push our governments to protect the rights of all vulnerable groups. Those facing harassment and persecution must be empowered and we must demand protection from human rights abuses and accountability for such violations.

By looking at both well covered and lesser known human rights abuses that are occurring across the globe, we hope that this issue of the *Human Rights Brief* will encourage individuals, organizations, and states to push for better human rights protections for all vulnerable groups. Only by acting proactively and together can we prevent further abuses. The world should not need to witness a tragedy like Aylan Kurdi to mobilize governments to act in defense of human rights. For current coverage please visit hrbrief.org where we update daily on cutting edge human rights issues.

Chris Keeler & Whitney-Ann Mulhauser
Co-Editors in Chief

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Retaliation: The Abusive Aftermath of Reporting Sexual Assault in the Military

According to a report titled "Embattled," Human Rights Watch (HRW) estimates at least sixty-two percent of military sexual assault victims experience some form of personal or professional retaliation after reporting an assault through standard military channels. The Department of Defense, NGOs, and several initiatives have extensively researched the causes and consequences of retaliation that many survivors face. Although the military has made significant advances in recognizing and reporting sexual assault within its ranks, the U.S. is additionally bound by its obligations under the United Nations (UN) Convention Against Torture to ensure victims receive appropriate protections.

Retaliation can take many different forms, with varying levels of severity, and the military rarely holds accountable those who punish or blame reporting victims. The Department of Defense estimates that only one in four victims report sexual assaults to the appropriate military authorities. Victims' fears about professional and personal backlash weigh significantly on their willingness to report sexual assault.

HRW notes that many victims who do report often state that the abusive aftermath of reporting sexual assault is more dehumanizing than the assault itself. Victims who report often risk their careers within the military, a consequence often not faced by those who perpetrate the assaults. Many survivors recounted major changes in the work assigned to them. Most were moved from high-level tasks that require training and expertise to more menial tasks like collecting garbage. Survivors are regularly passed over for promotions and training. Many tell of how their performance evaluations plummeted. Reporting can also open up a survivor to excessively severe scrutiny in the form of disciplinary actions. The military's disciplinary system exacerbates retaliation against victims by allowing his or her superior to take different administrative actions to enforce "good behavior and discipline." Superiors who retaliate against a reporting victim often use these actions to punish and to discourage a victim from pushing his or her case forward.

As a party to the UN Convention Against Torture, which it ratified in 1994, the U.S. is obligated to comply with its provisions. Moreover, the Committee Against Torture (CAT) is authorized to supervise the implementation of the Convention. In 2014, CAT reminded the U.S. government of its obligation to protect victims and to ensure their rights before and after reporting. CAT recommended that the U.S. ensure the protection of victims who come forward from ill treatment or intimidation throughout the reporting process.

CAT recommends reforming the standards and procedures of military justice and upholding the legal obligations of the Convention Against Torture, steps critical to ending the abuse and victimization of women and men who serve in all branches of the U.S. military. As a party to the Convention Against Torture, the U.S. is obligated to provide "prompt, impartial, and effective" investigations of allegations of sexual violence, ensure complainants and witnesses are protected from retaliation and reprisals, and ensure equal access to compensation for survivors.

In the U.S., Supreme Court precedent prohibits members of the military from bringing claims for any injuries suffered during the course of their service. Sexual violence falls into this category, as do some violations of a service member's constitutional rights. Additionally, federal courts of appeals have barred veterans from bringing gender discrimination claims under Title VII of the Civil Rights Act. Typically, Title VII would hold employers accountable for sexual harassment and misconduct.

In its Sexual Assault Prevention and Response Fact Sheet, the Department of Defense estimates that around 8,500 women and 10,500

men experience unwanted sexual contact while serving in the military. An untold number of these veterans will not report their assaults out of fear for their careers, physical safety, and emotional wellbeing. In order to truly eradicate the pervasiveness of sexual violence within the military, organizations like HRW believe that the U.S. must improve outreach and strengthen whistleblower protection for victims of military sexual assault both before and after reporting.

By Lindsey White, staff writer

The Right to Nationality in the Dominican Republic

Until 2013, anyone born in the Dominican Republic (DR) gained citizenship automatically. In September 2013, the Constitutional Court of the DR (Law 168-13) stripped citizenship of persons who could not prove that at least one of their parents was Dominican. The ruling applied to people born between 1929 and 2010, a group of approximately 240,000 Dominicans, the majority of whom were of Haitian descent. Due to the international condemnation of Law 168-13 in 2014, the DR government passed Special Law 169-14 to reinstate citizenship. This law placed people into two groups: Group A and Group B. Group A applies to those already registered in the Dominican Civil Registry who must go through a process of nationalization implemented by the Central Electoral Board. Group B applies to those born in the DR never registered in the Dominican Civil Registry. They must go through a lengthy process that reclassifies them as foreigners, and after two years, they may gain Dominican citizenship. Human Rights Watch (HRW) reported that many registered still faced discrimination and have difficulty obtaining birth certificates or registering their children in school. Others have faced deportation.

While the DR was sorting out the registration process for stateless Dominicans, the government implemented a National Regularization Plan in December 2013 to grant legal status to migrants so they can obtain citizenship or residency status. As part of the plan, the almost half a million undocumented workers in the Dominican Republic had to register with the government by June 17, 2015 or face deportation. Even though more than two-thirds of undocumented migrants or Dominicans of Haitian decent did register successfully, only two percent gained legal status. However, ninety-six percent of those who have applied for legal status do not have passports or identification documents from their home country. Moreover, many believe that the immigration policy is a xenophobic ploy to rid people of Haitian descent from the DR. As a result, since June 2015, Haitian migrants and Dominicans of Haitian descent, the majority of whom are poor or working class, have fled the DR to neighboring Haiti, either voluntarily or by force. Approximately 66,000 people have gone back to Haiti.

In response, the DR argues that Haiti is using the DR's legitimate effort to fix its immigration problem as diversion away from its social and political problems. The DR states that it is enforcing its immigration laws by deporting those without legal documents, an immigration rule that governs any country that abides by the rule of the law. Jose Tomas Perez, the Ambassador of the DR to the U.S., explains that the policies that the DR has implemented will protect migrants' human rights and give legal status to people of Haitian descent who did not have them to begin with. He vows that the DR will not deport those born in the DR or unaccompanied minors. Furthermore, he promises that indiscriminate deportations will not occur, and that the government will investigate any acts targeting Haitian migrants. Ambassador Perez also emphasizes that the DR's citizenship policies are similar to those of Europe and other Caribbean countries, where citizenship is not a birthright.

Rights groups have called into question the legality of the Dominican Republic's immigration policies, criticizing Laws 168-13 and 169-14 as violating the fundamental right to nationality. The American Convention on Human Rights, which the Dominican Republic has ratified, codifies this fundamental right in Article 20. Article 20 of the Convention provides that "no one shall be arbitrarily deprived of their nationality," and that "every person has the right to the

nationality of the state in whose territory he was born if he does not have the right to any other nationality." Law 168-13 left many Dominicans of Haitian descent virtually stateless, possibly violating Article 20 of the Convention.

Although Law 169-14 attempts to rectify the situation, it does not automatically reinstate citizenship. Moreover, Law 169-14 converts members in Group B, who are Dominican citizens, into foreigners. The DR's National Regularization Plan may also be a violation of fundamental human rights. Under Article 3 of the Draft Articles on the Expulsion of Aliens, it is an inherent right of a state to expel aliens from its territory. However, Article 3 places a limit on expulsion, stating, "expulsion shall be . . . without prejudice to other applicable rules of international law, in particular those relating to human rights." It is a violation of the Universal Declaration of Human Rights for a state to expel an alien arbitrarily from its borders. An arbitrary expulsion is one that is unjust or oppressive based on subjective criteria. Furthermore, Article 14 of the Draft Articles on Expulsion of Aliens prohibits discriminatory expulsion based race, nationality, or ethnicity. Thus, while the Dominican Republic has the right to expel undocumented people from its borders, it does not have the right to expel people for discriminatory reasons, or to deprive people with no other nationality of their Dominican nationality. On October 23, 2015, the Inter-American Commission on Human Rights scheduled a hearing on the Right to Nationality in the Dominican Republic to address the issue.

By Marie Durané, staff writer

Ayotzinapa Mass Disappearances

September 26, 2015, was the one-year anniversary of the disappearance of forty-three male students in Iguala, Mexico. One year earlier, the Iguala Municipal Police attacked students from the Raúl Isidro Burgos Normal School in Ayotzinapa. Out of the one hundred students, forty-three faced detainment and later disappeared. The Mexican government claimed that the police handed over the forty-three students to the local narco-trafficking gang, Guerreros Unidos, who killed the students and burned their bodies in a trash dump in Cocula. The Ayotzinapa case brought the human rights situation in Mexico under international spotlight. Between 2007 and 2014, over 23,270 persons disappeared; of these, the authorities have only located 102. Human rights organizations are urging Mexico to take the necessary steps to stop enforced disappearances in compliance with the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and the Inter-American Convention on Forced Disappearance of Persons (IACFD). Mexico is a State Party to both treaties.

Ayotzinapa students and the families of the boys who disappeared reacted angrily to the government's version of the incident, claiming that the proffered evidence was inconclusive and insisting that their children were alive. In November 2014, the Mexican government, under growing domestic and international pressure, entered into an agreement with the legal representatives of the students and their families to request technical assistance from the Inter-American Commission on Human Rights (IACHR). In January 2015, the IACHR appointed five renowned experts on criminal prosecution and human rights to form an Interdisciplinary Group of Independent Experts (GIEI). The group had three primary objectives: to draw up plans for searching for the disappeared persons who could still be alive, to provide technical analysis to the investigation to determine criminal liability, and to undertake a technical evaluation of Mexico's Comprehensive Plan for Attention to the Victims (Plan de Atención Integral a las Víctimas), providing general guidelines to ensure compensation and access to information for victims of crimes.

On September 6, 2015, after a six-month investigation, the Group released a report concluding that the Mexican government's version of the events was "wrong and not substantiated by scientific evidence." The report negated the Mexican government's version and focused on the motive behind the attack. The Mexican government claimed that the Guerreros Unidos mistakenly believed that the students were

members of a rival narco-trafficking gang. However, the report suggests that the Guerreros Unidos carried out the attack to block the students from leaving Iguala in a bus used to transport money and heroin to the U.S. The report further claims that no other police force of the state took action to protect the students "in spite of having knowledge of the facts or being present at some of the crime scenes." Experts gave three key recommendations to the Mexican government: to continue the search of the missing forty-three boys, to open new lines of investigation, and to investigate all authorities who obstructed the initial investigation.

The report also addresses the issue of enforced disappearances in Mexico, advising Mexico to pass comprehensive legislation regarding enforced disappearances as required by Article 4 of the ICPPED. Article 4 creates an obligation for every state "to take the necessary measures to ensure that enforced disappearances constitute an offence under the state's criminal law." The GIEI report also urges the Mexican government to satisfy the right to truth for the victims' families, granting adequate access to information. Article 24(2) of the ICPPED establishes the right of the victims "to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person." Finally, the GIEI called for the establishment of protocols to search for the disappeared persons in order to effectively comply with Article 24(3) of the ICPPED, which calls for each state to "take all appropriate measures to search for, locate, and release disappeared persons and, in the event of death, to locate, respect, and return their remains."

Human rights organizations like Amnesty International and the Washington Office of Latin America strongly criticized the government and expressed their concern about "the government's grave mishandling of the case." Human Rights Watch has defined the ongoing situation as the "worst human rights crisis in Mexico since 1968." Moreover, human rights organizations are pressuring the Mexican government to implement the recommendations stated in the GIEI report in order to put an end to mass disappearances. Failure to comply with the IACHR report's recommendations may constitute a violation of Mexico's obligations under the ICPPED and the IACFD.

The U.S. Response to the Universal Periodic Review Recommendations

Following the second Universal Periodic Review (UPR) of the United States, the United Nations Human Rights Council (HRC) adopted its concluding report regarding the U.S.' human rights record on September 24, 2015. The review process allowed Member States of the HCR to assess the U.S.' compliance with its human rights obligations under the Charter of the United Nations, the Universal Declaration of Human Rights (UDHR), and every human rights instrument the United States is party to and to give recommendations. The review resulted in 343 recommendations on human rights issues such as racial discrimination, the closing of the detention center at Guantánamo Bay, the abolition of the death penalty, and the ratification of additional human rights treaties.

Most of the recommendations focused on the issue of racial discrimination. The recent cases of police killing young African-Americans drew the international community's attention to the state of minority relations and discrimination in the U.S. Many states urged the U.S. to take additional measures to fight racial discrimination, such as implementing programs to improve police-community relations and investigating the root causes of police brutality and discrimination. In response, the U.S. pointed to its ongoing work to solve the problem of discrimination. In particular, the American delegation mentioned the Department of Justice's work in bringing criminal charges against police officers, about 400 in the last four years. The U.S. showed its commitment to fight against racial discrimination by accepting almost every recommendation on the subject. In addition, the U.S. made a few important pledges to eliminate racial bias in the administration of capital pun-

ishment.

The review also addressed the detention camp at Guantánamo Bay, with many states urging the U.S. to shut down the facility. The U.S. reaffirmed President Obama's commitment to close the detention center at Guantánamo Bay but rejected the premise that the country was detaining prisoners at Guantánamo illegally.

The U.S. is required to follow the recommendations regarding racial discrimination in police practices under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the UDHR. In particular, Article 5(b) of the CERD requires that States Parties guarantee to everyone, without distinction of race, "the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution." Article 7 of the UDHR states that "all are entitled to equal protection against any discrimination."

The recommendations that call for the closing of the detention facility at Guantánamo Bay resonate with the obligations that the U.S. has under the UDHR, the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT). Article 5 of the UDHR and Article 7 of the ICCPR state that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 10(1) and (2) of the ICCPR require respectively that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" and that "the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation." Article 2(1) of the CAT calls on every State Party to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." Finally, Article 11 of the CAT requires states to "keep under systematic review interrogation rules, instructions, methods, and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture."

Following the formal adoption of the UPR in Geneva, the United States has four years to implement the accepted recommendations. Human Rights Watch criticized the U.S. for not effectively implementing the recommendations accepted in the first UPR in 2010 and expressed its concern that the United States might "use the process more as a way to highlight its current policies than to commit to improving its record on human rights at home." Failure to take adequate steps to comply with the final recommendations may constitute a violation of the United States' obligations under the UDHR, the ICCPR, the CAT, and the CERD. The Human Rights Council will decide on the measures to take in case of persistent non-cooperation by a state with the UPR.

By Chiara Vitiello, staff writer

A *Rebel*utionary Agreement in Colombia

On September 23, 2015, Colombian President Juan Manuel Santos and the top leader of the Revolutionary Armed Forces of Colombia People's Army (FARC-EP), Rodrigo Londoño Echeverri, signed a preliminary agreement in La Habana, Cuba on the issue of transitional justice. The agreement may represent an important step toward ending the conflict that Colombia has endured for many decades. However, potential amnesties for FARC militants and unclear definitions of some key terms within the agreement raise fears among human rights groups and victims that not all human rights abusers will go through an unbiased process of justice.

The agreement provides for the creation of a "Special Jurisdiction for Peace," consisting of a tribunal and special courts, to determine accountability for past human rights violations. The tribunal will primarily consist of Colombian judges, who will have jurisdiction over all the parties to the conflict who are accused of 'grave crimes.' Colombia has not yet established a process of selecting judges, but it has recognized the importance of selecting neutral judges due to the highly politicized nature of the Colombian

judiciary. The agreement further provides that if a defendant acknowledges his or her responsibility for serious crimes, the sentence will be a five- to eight-year 'restriction of liberty' instead of a jail sentence. However, if the defendant denies responsibility and is guilty of the crime, he or she will face a prison sentence of up to twenty years. For those who confess and contribute to truth telling, the courts will give special treatment because of the importance of the rights and needs of victims in this peace agreement.

Furthermore, the agreement establishes amnesty for defendants accused of "political and associated crimes." In support of the agreement, Jose Miguel Vivanco, the Americas director at Human Rights Watch (HRW), stated that HRW "fully supports Colombia's efforts to obtain a peace agreement that would end years of bloodshed." However he said that it was imperative to note that while special treatment may incentivize confessions, it could also allow those responsible for the crimes to avoid a more meaningful form of justice—imprisonment. Although this amnesty law is not available to defendants accused of "grave crimes," the lack of a definition of "associated crimes" creates a fear of injustice among victims. Amnesty International cautions that "[t]he [agreement's] focus on the 'most responsible' [perpetrators] could ensure that many human rights abusers avoid justice since the term has not been clearly defined."

In the early 1990s, the Colombian government could grant pardons to alleged human rights abusers with no restrictions. However, unrestricted pardons ended in 2002 when Colombia ratified the Rome Statute of the International Criminal Court. As a result, the newly signed agreement must include legal prohibitions on the amnesties it grants so that victims are not impeded from obtaining access to judicial remedies and atrocities do not go unpunished. The International Criminal Court (ICC) optimistically noted that "the agreement excludes the granting of any amnesty for war crimes and crimes against humanity, and is designed, amongst others, to end impunity for the most serious crimes." Furthermore, the agreement requires conditioning amnesty benefits on the FARC disarming within sixty days of reaching the final agreement, and FARC must sign the final agreement no later than March 23, 2016.

The comprehensive agreement, which covers more than fifty points, is not yet available in its entirety. However, as far as international law is concerned, if the unpublished points mirror the reasoning of what is currently in the public eye, no objections are likely. Most of the alleged human rights abusers will not be going to jail, but they will also not be wandering on the streets without facing justice. The next steps toward signing and implementing the final agreement will require close monitoring.

Land Rights: Preserving Brazilian Indians' Traditional Ways of Life

It is common knowledge that Brazil is the largest, most populated country in Latin America. It is less common knowledge, however, that Brazil's indigenous population is currently facing a number of critical issues that threaten the future of its people. Even during the first-ever World Indigenous Games—which was recently held in October 2015 to highlight indigenous cultures and values—there was little discussion about issues that impact rights, land ownership, and culture preservation for the Brazilian Indians.

The National Indian Foundation (FUNAI), an executive agency set up to ensure the protection of indigenous interests, currently handles the mapping of indigenous territories in Brazil. A proposed constitutional amendment known as PEC 215 would transfer the power of demarcating indigenous land from the executive branch (FUNAI) to the legislative branch (Congress). This transfer of power could have huge implications on the indigenous people, as many fear it will eventually allow Congress to reduce, reverse, or even deny the demarcation of land to indigenous people. Brazilian indigenous groups, human rights defenders, and environmental activists fear that Congress will cave to pressure from corporations and instead open the land for

their use which may represent a step backwards in the fight to preserve Brazilian Indians' traditional ways of life.

Article 231 of the Brazilian Constitution recognizes indigenous peoples and guarantees them permanent possession and exclusive use of their traditional lands including the "riches of the soil, [and] the rivers and the lakes existing therein," but excluding subsoil such as mineral resources. Demarcating land as "indigenous" secures the Brazilian Indians' rights as recognized in the Brazilian Constitution of 1988. Under President Dilma Rousseff, there have been fewer demarcations granted than under any other government since 1988. This is largely because legislative proposals from congresspeople representing large agri-businesses, mining corporations, and the dam industry—all of whom intend to take the land from indigenous peoples and open it to development—have obstructed the demarcation process. To date, FUNAI has mitigated the problem somewhat because it is less hostile to indigenous interests and holds more distant relationships with the private corporations.

The land rights and cultural interests of the Brazilian Indians stand to change dramatically with the shift in power that is proposed by PEC 215. Within Brazil's Congress, there is a faction known as the Bancada Ruralista, a group of legislators who have transferred jurisdiction over private multinational companies to the legislative branch. Since the Bancada Ruralista today dominates Congress, it is highly unlikely that Congress would grant new demarcations if the PEC 215 passes. As Brazilian indigenous activist, Narube Werreria from the Karaja nation states, "[s]oon, there will be no more indigenous peoples, no more forest, no more animals." If PEC 215 becomes law, Congress is likely to decrease the establishment of indigenous lands and protected areas, which would create major deterrent for Brazil to meet its commitments to international agreements and cause irreparable environmental destruction.

Human rights defenders and environmental activists are concerned that political considerations will lead lawmakers to ignore Brazil's obligations under international law regarding indigenous peoples' rights, and to base their decisions instead on economic expediency. Fiona Watson, the research director for Survival International, stated that "many Indians consider PEC 215 a move to legalize the theft and invasion of their lands by agri-businesses. It will cause further delays, wrangling, and obstacles to the recognition of their land rights." Furthermore, Watson compared this situation to "put[ting] the fox in charge of the hen-house."

As a Member State of the Organization of American States (OAS), Brazil is subject to the jurisdiction of the IACHR and bound by the obligations established in the OAS Charter and the American Declaration of the Rights and Duties of Man. Moreover, Brazil has ratified International Labor Organization (ILO) Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries, as well as the United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP). International Labor Organization Convention No. 169 links the rights of indigenous peoples to social, economic, and cultural rights, specifically as to their relationship to the land. Similarly, Article 26(1) of the UNDRIP states that "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired." Under Article 41 of the UNDRIP, states have an obligation to ensure indigenous peoples' participation in all of the measures that may affect them.

On October 27, 2015, a parliamentary committee for demarcation of native areas approved the proposed constitutional agreement, PEC 215. Now, it must make its way through the House of Representatives, the Senate, and President Dilma Rousseff must sign it for it to become law. Opponents may appeal the amendment to the Supreme Court, which could reject the newly created amendment if it believes that it is unconstitutional and violates the rights of indigenous peoples. If PEC 215 is not closely monitored or if the rights of Brazilian Indians are not appropriately represented, it may cause tribal cultures to disappear, and Brazil could lose an irreplaceable part of its heritage.

By Jazmin Chavez, staff writer

The Primary Education Struggle in Pakistan

The ratification of several human rights treaties over the past two-and-a-half decades seems to serve as evidence that Pakistan is working towards providing millions of children the opportunity to attend school. In 2010, Pakistan's legislative body amended the constitution by inserting Article 25A, which mandates the government "provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." The amendment reflects the country's ratification of two major human rights treaties. In 1990, Pakistan ratified the United Nations (UN) Convention on the Rights of the Child (CRC). Under Article 28, States Parties must "[m]ake primary education compulsory and available free to all." Pakistan took this commitment further in 2008 by ratifying the International Covenant on Economic, Social, and Cultural Rights, which also recognizes the necessity of affording compulsory education to all children with the view that education "shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms."

While Pakistan's ratification of these treaties and its subsequent constitutional amendment are positive steps towards the full realization of the right to primary education, the country continues to face many challenges. According to a report by United Nations Educational, Scientific, and Cultural Organization (UNESCO) Institute for Statistics, Pakistan had the world's second largest number of children out of school in 2012, with 8.3 million Pakistani children accounting for one in twelve of the world's out-of-school children. The report further revealed that one out of every four school-aged children in Pakistan had never attended any school, with girls comprising half of those children. According to Aamir Latif of Pakistan Press International Reports, the situation is more alarming in rural regions, such as Baluchistan, where the female literacy rate stands between three and eight percent.

Providing adequate educational resources for Pakistani children is preconditioned on assuring their safety. According to a report by the Global Coalition to Protect Education from Attack, the total number of reported militant attacks on schools in Pakistan between 2009 to 2012 "was at least 838 and could be as high as 919."

While these existing challenges depict a very difficult road for Pakistani children in reaching their dreams of attending school, the relevant treaties offer some mechanisms at the government's disposal that can lead to positive outcomes. Article 44 of the CRC requires States Parties to submit their periodic reports to the CRC Committee every five years. This helps human rights experts fully assess the domestic measures affecting the rights recognized in the convention. The government of Pakistan has been adhering to this obligation since its submission of initial report in 1993, but it has failed to strictly follow the general guidelines of the Committee regarding the form and content of periodic reports. In fact, in its last Concluding Observation on Pakistan's combined third and fourth periodic reports, the Committee expressed regret that the government did not "fully comply with [its] revised general guidelines regarding the form and content of periodic reports."

Furthermore, the Pakistani government has the opportunity to take full advantage of the Optional Protocol to the CRC on a communications procedure. By ratifying it, the government not only provides its citizens the right to submit complaints arising out of the convention, it can also benefit from resources offered within the protocol. Under Article 15, the Committee with the consent of the State Party concerned can transmit its views and recommendations to "United Nations special-

ized agencies, funds and [programs] and other competent bodies" in order to provide further technical advice or assistance.

Similar to the CRC, Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights also mandate States Parties submit reports, but in stages. Pursuant to Article 16, the country must submit reports to the UN Secretary-General, who must then transmit copies to the Economic and Social Council and other specialized agencies. This mechanism creates a collective platform for addressing issues raised in the reports. Regrettably, since its ratification of the convention in 2008, Pakistan has not submitted a report.

Pakistan could gain substantial support by observing treaty standards. The treaty-based committees may assist with specific challenges such as terrorism, insurgency, and lack of sufficient economic resources that Pakistan is currently facing as it tries to provide adequate primary education to all its children. These issues continue to deprive many Pakistani children of their dreams of going to school; but, the government can help to bring these obstacles into international spotlight and seek assistance by fully adhering to its treaty obligations.

By Jessica McKenney, staff writer

Cambodia – UN Reports New NGO Law Falls Significantly Short of International Human Rights Standards

On July 24, 2015, the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) released a statement expressing grave concern over a new law ratified by the Cambodian Senate and National Assembly, which could greatly restrict the freedoms of Cambodia's non-governmental organizations (NGOs). According to a UN press release, the new law, the Law on Associations and Non-Governmental Organizations (LANGO), will enable authorities to deregister and prevent registration of local and international associations, as well as NGOs deemed to threaten "political security, stability, and order." LANGO's provisions further dictate that if any of the roughly 5,000 local associations or NGOs should operate in Cambodia without registration, such groups will be immediately subject to criminal liability. Prior to the Senate vote, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, Mr. Maina Kiai, urged senators to reject the proposed law on the basis that it would allow the government to shut down groups advocating for human rights, basic freedoms, or good governance. In an attempt to express their displeasure and withdraw the legislative measure, many of the NGOs themselves, including several of the local civil society organizations as well as internationally renowned groups such as Human Rights Watch, came together and wrote a series of letters to the President of the National Assembly, Heng Samrin; Prime Minister Hun Sen; and even King Norodom Sihamoni. The National Assembly ratified LANGO on July 13 and the Senate ratified the draft law with little opposition on July 24. Now the Constitutional Council will review LANGO before submitting it to King Norodom Sihamoni for final approval.

Cambodian authorities maintain that LANGO is justified and necessary because there is currently no legislation overseeing the thousands of NGOs and organizations operating within its borders. Additionally, the law will aim to eliminate illegitimate NGOs and prevent illicit organizations from receiving financing from terrorists. Government spokesmen insist that neither citizens nor the international community should fear the law's provisions.

Yet, despite government reassurances, letters from the NGO contingents and local reports cite that many Cambodian citizens do not support LANGO. In their letter, Amnesty International and nearly forty other organizations point to multiple efforts by the Cambodian authorities to delegitimize and dissolve peaceful protests against the draft law. Moreover, the letter notes that the majority Cambodian People's Party (CPP) promised, but failed to hold any parliamentary consultation

with NGOs. The CPP rescheduled discussions on three separate occasions, and ultimately passed the law without any civil society input. The coalition of NGOs noted that appropriate legislation is already in place to regulate NGO activities and that LANGO will impose impermissible restrictions on the rights and freedoms of civil society.

In its review, the Constitutional Council will evaluate LANGO's provisions and rule on the law's constitutionality under Cambodia's national charter. In a recent report, the Observatory for the Protection of Human Rights Defenders (ODS) found that numerous provisions of LANGO contradicted key constitutional principles. ODS cited that articles 8 and 9 of LANGO imposed "mandatory and highly discretionary" registration procedures for NGOs. These regulations could conflict with Article 35 of Cambodia's Constitution, which grants all citizens the right to "participate actively in the political, economic, social, and cultural life in the nation." Additionally, ODS found that Article 24 of LANGO asks NGOs to ensure their operations are consistent with skewed and dangerously vague standards of "political neutrality." Such an inequitable policy seems to contravene the right to freedom of opinion guaranteed in Article 41 of Cambodia's Constitution.

Cambodia has also signed and ratified a number of international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). Article 22 of the ICCPR guarantees the right to freedom of association and dictates that a state may only restrict the right when prescribed by a law that is clear, accessible, and in pursuit of a legitimate interest. Under Article 22, the government must prove that any limit on freedom of association is absolutely necessary. Additionally, Article 42 of Cambodia's own Constitution guarantees the right to free assembly. In April of 2015, the Human Rights Committee (CCPR), the body that monitors implementation of the ICCPR, met with Cambodian delegates in Geneva and gave its concluding observations on the Southeast Asian state's compliance. In the CCPR's review, committee members voiced concerns similar to those of ODS regarding Cambodia's pending NGO-targeted legislation. The committee urged the Cambodian delegates to thoroughly evaluate the new law's prospective incongruence with Articles 22 and 19 of the ICCPR, which collectively guarantee the right to hold opinions without interference.

OHCHR spokesperson, Ravina Shamsadani, expressed concern that the criminal liability imposed on any NGO operating without registration, alongside LANGO's broadly-worded provisions, would have a "chilling effect" on the work of NGOs. Moving forward, the OHCHR urged the Constitutional Council to reject the bill, thus allowing NGOs to carry out their crucial work, while preserving and fulfilling Cambodia's human rights obligations under international law, particularly with regards to freedom of association.

Australia / Papua New Guinea–Asylum Seekers Detained at Manus Island File Class Action Suits

A group of twenty-five asylum seekers from Manus Island Regional Processing Center filed suit in Papua New Guinea's (PNG) Supreme Court last March. The refugees—from Iran, Myanmar, Pakistan, Syria, and Lebanon—will argue that their ongoing detention breaches PNG's constitutionally guaranteed rights of liberty and access to legal representation. The suit comes after another Iranian asylum seeker on Manus Island, Majid Karami Kamasaei, initiated a class action against the Australian government for failing to uphold its duty to take reasonable care of detainees. Manus Island, located in northern Papua New Guinea, has been home to one of Australia's two offshore immigrant-processing centers (OPC) since 2001. After falling into disuse, the government formally closed the Manus Island center in 2008, but a significant rise in the number of maritime refugees in 2012 led the Australian government to re-open the facility. As recently as February 2015, approximately 1,004 refugees

occupied the detention center, many of whom had lived at the facility since November of 2012. The United Nations High Commissioner for Refugees (UNHCR) has made multiple inquiries into the treatment of asylum-seekers at Manus Island since the detention center reopened its doors; it has expressed concern that the facility's cramped living conditions coupled with open-ended refugee assessments and placement times frequently result in arbitrary detentions.

The PNG class action suit's named plaintiff, thirty-four-year-old Iranian refugee Majid Karami Kamasaee, spent eleven months in the Manus Island detention center before the government transferred him to Melbourne for medical treatment after health workers confiscated his medication on the island. In his suit against the Australian government, which includes all asylum seekers held on Manus Island between November 2012 and December 2014, Kamasaei states that the standard of care provided by the Australian Commonwealth at the island's detention facilities fell far below the standards required by Australia's Migration Act. Court documents show that the medical providers on the island, the International Health and Medical Services (IHMS), instructed asylum seekers to drink a minimum of five liters of water per day due to the hot climate of PNG. However, reports show that as recently as December of 2014, many asylum seekers had access to only 500 milliliters of water per day. Court documents from the case, *Kamasaee v. Commonwealth*, also state that accommodations were dire and asylum seekers were often exposed to the elements with no appropriate shelter from the high heat and humidity. The court will consider whether the Australian government has effective control over the detention center, since the majority of those working at facilities are private security companies contracted by the government. Lead plaintiff Kamasaee commenced the class action in the Australian Supreme Court of Victoria on May 15, 2015, and the Court will hear the case for the first time July 17, 2015.

Article 42 of the PNG Constitution once guaranteed all people the right to liberty unless they were suspected of a criminal offense or unless they entered the country illegally. However, in early 2014 the PNG Parliament amended the Constitution so that "no person shall be deprived of liberty except . . . under purposes of holding a foreign national under arrangements made by PNG with another country or an international organization that the Minister responsible for immigration matters, in his absolute discretion, approves." In their class action suit, the group of asylum seekers will argue that, since their detention predated the amendment, Article 42's new language should not apply.

In addition to the domestic mechanisms protecting asylum-seekers, both PNG and Australia are parties to similar international agreements. For example, Article 31 of the 1951 Convention and Protocol Relating to the Status of Refugees (1951 Refugee Convention), to which both PNG and Australia are signatories, forbids contracting states from imposing penalties on refugees who are present in their territory without proper authorization. The UNHCR, in accordance with Article 35 of the 1951 Refugee Convention, requires refugee cases be brought promptly before a judicial or other independent authority for review. Furthermore, Article 9 of the International Covenant on Civil and Political Rights (ICCPR) decrees that "no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

In May of 2014, the UNHCR publicized that, as a matter of international law, the physical transfer of asylum-seekers from Australia to PNG does not eliminate the commonwealth nation's international or domestic responsibilities for the protection of asylum seekers. The Australian Parliamentary Joint Committee on Human Rights echoed the UNHCR and found that regardless of whether Australia established official effective control, government officials and contractors had sufficient involvement in Manus Island's operations to implicate the commonwealth nation as responsible for any

violations of refugee standards under international law.

In addition to the delays in establishing legal frameworks for refugee status determination, UNCHR Director of International Protection, Volker Türk, noted that harsh conditions for asylum seekers were punitive and did not provide safe or humane conditions as required by the 1951 Convention. Tensions also seem to be mounting at Manus Island with a 700-person hunger strike in January of this year, alongside increased reports of deadly violence. Moving forward, the UNHCR considers it imperative that the more than 18,000 asylum seekers, who arrived in Australia by boat since 2012, be provided with just and effectual asylum procedures as soon as possible. These obligations should endure, regardless of whether the asylum seeker remains in Australia or is subsequently transferred to PNG.

Philippines: UN Experts Call for Probe into Killings of Indigenous Rights Defenders

The United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, and the United Nations Special Rapporteur on the Situation of Human Rights Defenders, Michael Forst, urged the Philippine Government to launch a "full and independent" inquiry into the killings of three human rights defenders in Surigao del Sur on the southern Philippine island of Mindanao. One of those killed was the director of the Alternative Learning Center for Agriculture and Development (ALCADEV), a school that provides education to children of the Lumad people, an indigenous group living in the mountainous Caraga region. The shooting occurred immediately after members of the regular Philippine Army and government-supported paramilitary forces occupied the school grounds, detained the director, and allegedly executed him in one of the classrooms. In their report, the Special Rapporteurs reiterated that "military occupation of civilian institutions and killing of civilians . . . are unacceptable, deplorable and contrary to international human rights and international human rights standards." They noted that locating such violence in schools, "which should remain safe havens for children," is particularly egregious.

The Surigao del Sur territory has long been afflicted by armed conflicts between the government and indigenous groups—particularly the Moros and Lumad peoples—regarding issues of self-determination and land rights. Despite the fact that the Lumad peoples never formed a unifying revolutionary group, unlike the Moros, the government has stationed military and state-backed paramilitary forces in Lumad lands since May of this year. This occupation has increased tensions between the Lumads and the State, particularly with military forces interfering with the lives and livelihoods of the indigenous peoples by blocking access to farms and ancestral gravesites and conducted a string of civilian killings. Government actions in Surigao del Sur have compelled some 3,000 Lumads to evacuate to Tandag, the provincial capital, where they continue to stay in provisional shelters.

The Indigenous People's Rights Act of 1997 is national legislation that promotes and protects the rights of indigenous peoples and their cultural communities. Section 13 of the Act recognizes the inherent right of self-governance and self-determination. Additionally, Section 14 of the Act explains that the state is required to continue to strengthen and support the various autonomous regions, which include the Lumad regions of Mindanao. In addition to these domestic obligations, the Philippines is a State Party to the International Covenant on Civil and Political Rights (ICCPR). Article 1 of the ICCPR ensures that all peoples have the right of self-determination; by virtue of that right, such peoples are free to determine their political status and to pursue their economic, social, and cultural development. This language mirrors Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the Philippines has also ratified. The Philippines also voted in favor of, and ultimately helped pass the United Nations Dec-

laration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007.

Amidst allegations that the military has been staging the Lumad killings, Philippine President Benigno Aquino publically assured citizens, in a nationally televised address, that there is no government-sponsored campaign to kill Lumads or any indigenous peoples in the region. Delegates from the Philippines announced at the Human Rights Council in Geneva last September that an internal, government-led investigation is underway. Additionally, in October of last year, the Philippine Senate Committee on Justice and Human Rights, in partnership with the Committee on Cultural Communities, held a two-day probe into the killings and evacuations within the southern province. Local officials, resident witnesses of the killings, members of the army, and members of government-affiliated militias attended the Senate inquiry. The Senate probe also included a visit to the refugee camp that now occupies the Tandang City Provincial sports complex to talk to the approximately 3,000 individuals who fled the killings in Surigao del Sur.

The Special Rapporteurs recognized and felt encouraged by the government's announcement of an investigation at the Human Rights Council. Yet they also urged Philippine authorities to verify that independent investigators are not only identifying and bringing the perpetrators to justice, but also ensuring a safe return and proper redress for the indigenous peoples displaced by these events. The Rapporteurs expressed pressing concern about the increasing insecurity and ascent of unlawful killings in the region. In particular, Mr. Forst, the Special Rapporteur on the Situation of Human Rights Defenders, called on the Philippine government to finally accept his requests to visit the country and assess the context in which human rights defenders operate in the Philippines.

by Wilson Melbostad, staff writer

Domestic Violence in Kyrgyzstan

One night, after Asya's partner severely beat her, she called the police in desperate need of help. Expecting some kind of response, she was shocked when the police asked her if her partner had tried to stab or kill her. According to Human Rights Watch (HRW), when she told them no, the police responded, "Okay, you call me when he tries to kill you, because we have more important things to do."

Asya's story is common in Kyrgyzstan. Women and girls in Kyrgyzstan suffer high rates of domestic violence, yet many cases go unreported. According to Kyrgyzstan's 2012 Demographic and Health Survey, twenty-three percent of women age fifteen to forty-nine have experienced either physical or sexual violence. However, the problem is bigger than mere prevalence. Police and the judicial system often fail to prosecute perpetrators, as detailed by HRW.

HRW issued a report on October 9th documenting what it describes as the government's failure to provide sufficient support, protection, and remedies to domestic violence survivors. The report includes ninety interviews with survivors, police, lawyers, and shelter staff members. These accounts describe cases of severe physical and psychological domestic abuse of women, including concussions and skull fractures, broken jaws, stab wounds, severe beatings to the point of miscarriage, and numerous other acts of violence.

This report serves as an update to an earlier report issued in 2006, which highlighted the systemic problems of violence and bride kidnapping in Kyrgyzstan. Since the release of that report, the government has introduced several amendments and publicity campaigns highlighting the need for social change and greater protection for women.

In 2013, the government increased penalties for bride kidnapping. The next year, Kyrgyzstan entered into a "Partnership for Democracy" with the Parliamentary Assembly of the Council of Europe, which affirmed its commitment to international human rights and to combating violence against women. In

2015, the United Nations Trust Fund to End Violence against Women awarded a large grant to Kyrgyzstan's Ministry of Social Development to fund improved responses to reported cases. Kyrgyzstan has also ratified several international human rights treaties that require the government to protect women from violence and discrimination, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW outlines what constitutes discrimination against women, as well as the specific obligations of States Parties to eliminate such practices. Kyrgyzstan ratified CEDAW in 1997, and the current gap in the legal system is potentially in contravention of its obligations thereunder. Furthermore, the state has not ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, which provides detailed guidance on measures to address domestic violence.

Kyrgyzstan's current efforts to end violence against women are insufficient, according to HRW. Its report describes how women in Kyrgyzstan continue to face barriers to equality, such as limited assistance, protection, or justice for acts of domestic violence. Cultural attitudes still play a significant role in the prevalence of violence and the reluctance of police to pursue perpetrators. One view is that charging perpetrators of domestic violence would lead to social upheaval due to the disillusion of families by separating husbands from their wives and children. Women who want to leave abusive relationships struggle to do so because of the limited access to shelters and other services. Furthermore, many victims feel trapped because they depend on their abuser or their abuser's family for food and shelter, according to the recent HRW report.

Courts tend to emphasize that reconciliation is the best outcome for the family. Additionally, there is a significant amount of victim blaming and stigma attached to domestic violence. One victim reported to HRW that, after attempting to get a divorce, the judge refused and asked, "Why would he beat you? You were not doing the housework? Or are you sleeping around?"

The most recent HRW reports notes that, in some cases, police refer victims who have been seriously injured to community elders' courts, called "aksakals," in an attempt to reconcile the couple and preserve the social dynamic. Kyrgyzstan's current domestic violence laws allow police to issue temporary or long-term orders that specify protective measures for victims. The laws also prevent the perpetrator from contacting the victim for fear of penalty. In many of the cases documented by HRW, the police did not issue a protective order and often the police did not inform victims that the option exists. Furthermore, lawyers and judges told several victims that they did not meet the criteria for long-term protection services, despite having sustained significant injuries.

Prosecutors often treat domestic violence as a minor offense. According to government data for 2013, fewer than half of registered domestic violence complaints went to court. Of those cases, only seven percent constituted criminal offenses. The rest resulted in small penalties that were often not designated as domestic violence.

Survivors who do come forward, despite harsh social pressures, often feel trapped due to a lack of social services. There are few local organizations that can provide services, such as basic food and shelter, if the abuser's family refuses to do so. Staff at nongovernmental crisis centers told HRW that they are struggling to remain open and are forced to eliminate programs due to lack of funding.

Proposed legislation is currently under review that would build on the 2003 law to expand and clarify the responsibilities of the state when dealing with domestic violence. HRW has called on the government to ensure that police, prosecutors, and judges fulfill their duties under the domestic violence laws and that all officials who fail to comply face discipline. It has called for the establishment of clear protocols with specific guidelines and mandatory training curriculums in line with international standards on domestic violence response.

By Summer Woods, staff writer

Democratic Republic of the Congo: Holding FDLR Leaders Accountable for War Crimes

Following the 1994 Rwandan Genocide, Rwandan Hutus fled the country and many settled in neighboring Democratic Republic of the Congo (DRC). The rebel group Democratic Forces for the Liberation of Rwanda (FDLR) formed from this displaced population. Human Rights Watch reports that since 2000, the group has targeted civilians and is responsible for ethnic massacres, summary executions, abductions, mass rapes, and forced recruitment of children.

The Armed Forces of the Democratic Republic of the Congo (FARDC), in conjunction with the United Nations (UN) Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), launched a joint military mission against the FDLR in 2009. Since then, the FDLR has progressively lost control of many eastern DRC villages, according to the Secretary General of the United Nations. As membership has decreased, the rebel group has migrated out of villages and into more remote areas. Yet nearly 2000 fighters remain active, and HRW reports that FDLR fighters continue to commit human rights abuses. On November 9, 2015, the UN Security Council called for resumption of joint military efforts, voicing concern about the FDLR's "persistently high levels of violence and human rights abuses."

As the Congolese government and MONUSCO have worked together to eliminate the FDLR threat through military action, the International Criminal Court (ICC) has separately sought to hold FDLR leaders accountable for war crimes through the Court. The ICC's Office of the Prosecutor (OTP) opened an investigation into the situation in the DRC in June of 2004 after the Government of the DRC referred the situation to the Court pursuant to its rights and responsibilities under the Rome Statute, which the DRC ratified in 2002. Since the initial investigation, OTP has brought six DRC cases before the ICC, two of which involved FDLR members. Although other groups have assumed prominence recently in the ongoing violent conflicts in the country, officials still consider the FDLR "one of the most important hindrances of peace in eastern DRC."

The international community may be hopeful that the judicial process will effectively prosecute FDLR leaders, but the ICC continues to face challenges in its attempt to hold these leaders accountable for their actions in the DRC. In September 2010, the ICC issued an arrest warrant for FDLR Executive Secretary Callixte Mbarushimana, the first issued by the ICC for an FDLR leader. French authorities arrested Mbarushimana a month later and transferred him to The Hague. But, in December 2011, the Pre-Trial Chamber of the ICC decided not to confirm the charges. The Prosecutor's case failed in large part for lack of direct evidence and questionable interview techniques. The Pre-Trial Chamber found the case's investigator did not conduct interviews with impartiality and instead asked leading questions and expressed disappointment and impatience with witnesses when their answers did not conform to his hypothesis. Some international commentators have gone so far as to allege the OTP's evidence was an "almost wholesale copying of Human Rights Watch's work and other international organizations' field reports." The OTP's second warrant for an FDLR leader, Supreme Commander Sylvestre Mudacumura, faced similar setbacks when the Court initially rejected the application because the allegations were too vague. After amending the request, the Court issued a warrant for Mudacumura's arrest in July of 2012. Mudacumura is sought for nine counts of war crimes but remains at large.

International support for holding FDLR leaders accountable for war crimes appears strong and unified. The DRC, UN, ICC, HRW,

and countries such as the United States and Germany, have all demonstrated a commitment to the effort. While the ICC has not fared well in its attempt to hold FDLR leaders accountable for war crimes, other nations have had more success. On September 28, 2015, a German court sentenced the President and Vice President of the FDLR to thirteen and eight years in a German prison, respectively.

Yet, much work remains, and the arrest of Mudacumura is a top priority. HRW and other commentators have criticized the DRC and MONUSCO for their failure to arrest and turn over Mudacumura to the ICC, who is said to be hiding in a remote area of the DRC. One human rights organization believes the most imperative and immediate need is improved dialogue between the DRC and the ICC stating "[O]nly together can they facilitate the difficult process of bringing the indicted to light." From there, Human Rights Watch asserts, "the ICC prosecutor has a key role to play in ending this impunity and making sure the cases proceed efficiently." The OTP will need to build a strong case against him and avoid the evidentiary and investigative mistakes of the Mbarushimana case.

By Laura Collins, staff writer

47 Years of Swaziland Independence Reveals Continuing Human Rights Abuse

"[T]he true and real enemies of Swaziland, and its people, are those who are opposed to democracy…those who undermine the rule of law . . . and [those who] abuse the fundamental human rights, basic freedoms, and civil liberties of . . . our people." –From the prison letter of Swazi Human Rights Lawyer Thulani Rudolf Maseko.

In March 2014, the government of Swaziland charged Thulani Maseko and Bheki Makhubu with contempt of court after publishing two articles in The Nation magazine criticizing Swaziland's Chief Justice Michael Ramodibedi for judicial misconduct and financial corruption. On May 1, 2014, police arrested and detained Maxwell Dlamini of the Swaziland Youth Congress (SWAYOCO) and Mario Masuku, President of the pro-democracy People's United Democratic Movement (PUDEMO), after allegedly attempting to instigate an unlawful protest at a Labor Day rally in Manzini, Swaziland. In another controversial incident on August 6, 2014, Swaziland's Prime Minister, Sibusiso Barnabas Dlamini, hurled threats at human rights defenders Sipho Gumedze, a member of Lawyers for Human Rights (Swaziland) and Vincent Ncongwane, the Secretary General of the Trade Union Congress of Swaziland (TUCOSWA), for their role in highlighting obstacles to freedom of expression in Swaziland during a human rights rally in Washington, DC.

While Swaziland celebrated its forty-seventh independence anniversary on September 6, 2015, stories like those detailed above seem to demonstrate the country's ongoing struggle to ensure basic human rights and protect the freedoms of its citizens. Rights groups argue that repressive laws such as the 1938 Sedition and Subversive Activities Act and the 2008 Suppression of Terrorism Act allow the Swazi Government to continue to stifle any opposition or criticism of King Mswati III and his regime. Critics contend that the two acts are not only unconstitutional, but they also infringe on the right to free expression, association, and peaceful assembly as enshrined by the Universal Declaration of Human Rights (UDHR).

The British colonial government, which ruled the country from 1903 through 1963, passed the Sedition and Subversive Activities Act in 1938. The act criminalized any criticism of the monarchy by making it illegal to "excite disaffection," therefore silencing any political opposition who advocate for multi-party democracy. King Mswati's father, King Sobhuza, banned public protests and political parties in 1973 after declaring a "state of emergency," which remains in effect today. "It is ironic that as Swaziland celebrates 47 years of independence from Britain . . . it continues to use legislation to shut down dissenting voices used by

the colonial regime for the same purpose" said Amnesty International's Director for Southern Africa, Deprose Muchena.

Amnesty International argues that King Mswati III, who took power at the age of 18, has further rooted the country in oppressive rule. In 2008, Mswati passed the Suppression of Terrorism Act, drawing inspiration from the United States Patriot Act, which critics say "suppress[es] freedom of expression . . . often violently and with absolute impunity." Critics argue the definitions of "sedition" and "terrorism" are vague and overbroad.

Nevertheless, Jeffrey Smith of Robert F. Kennedy Human Rights, who played a large part in advocating for the release of Maseko and Makhubu, says the majority of Swazis support and revere the institution of the monarchy, and it is only a small segment of the country that calls for its removal. Still, he clarifies that Swazis are yearning for democratic rights like that of nearby Lesotho, which is a constitutional monarchy that guarantees the freedom to assemble in public and freedom of expression. According to Smith, the rights enshrined in Swaziland's constitution exist on paper only. He describes two systems of power that prevail in the kingdom: one that looks like a democracy with elections and a seemingly functioning legal system, and the other he calls the "true system of power," in which the king issues unilateral orders that keep him and his advisors rich and powerful through fear and intimidation. "Despite Swaziland's outward veneer as a peaceful enclave of traditional African values," Smith wrote, "the kingdom is home to widespread culture of fear that pervades every conceivable facet of society."

While the Swaziland's High Court was set to hear challenges to the Sedition and Subversive Activities Act and the Suppression of Terrorism Act in early September, the Court adjourned the case to October 8th—a date that came and went resulting in yet another adjournment. According to The International Commission of Jurists (ICJ), a group of sixty judges and lawyers from around the world, any meaningful change within Swaziland's judiciary can only take place through reexamining the procedure of appointing members of the Judicial Service Commission, since it is ultimately the judiciary who will decide whether the two acts are constitutional. Either way, Swaziland faces pressure from the interntional community. It is one of only three countries to have its African Growth and Opportunity Act eligibility withdrawn because of ongoing human rights concerns.

Ultimately, Smith remains skeptical that any positive legal changes will take place, and he believes that only through pressure from the international community will Swaziland find a way to both respect the country's rich traditions, as well as the inherent human rights of the people. According to Smith, the King "banks on the presumption that the world will not notice, or make a fuss about, the widespread human rights abuses taking place under his direction." Smith hopes that with an increasingly brighter spotlight on the country, King Mswati will ultimately be compelled to uphold and duly respect the basic human rights of all his people, regardless of political affiliation or the views they may hold.

By Andrea Flynn-Schneider, staff writer

Pervasive Violence Against Kenya's LGBTQ Community

Human Rights Watch (HRW) has recently reported on neighborhood mobs in Kenya's coastal region attacking community members they suspect of being homosexual. Accusations of homosexuality have resulted in brutal attacks, sexual assault, arbitrary arrests, and degrading tests such as anal exams. HRW recounted the stories of victims such as Adam, who was walking home when a group of men attacked him with a broken glass bottle, slicing open his neck, collarbone, and chest. Think Progress reported on an incident where a group of police officers attacked Marion, a female sex worker, forcing her to a secluded area where they beat and raped her. Marion's attackers did not use condoms. Neither Adam nor Marion filed a police report. Human Rights

Watch recently released an extensive report on violence against the LGBTQ community in Kenya. The report highlighted these pervasive acts of violence and human rights abuses as well as Kenya's failure to uphold its obligations under both international and domestic law to protect these individuals and prosecute their offenders.

Prejudice against the LGBTQ community is embedded within Kenya's Penal Code, which characterizes homosexuality as an offense against morality. The Code considers anal sex "carnal knowledge against the order of nature," a crime punishable by up to fourteen years in prison. Individuals who are victims of violence based on their sexual orientation fear reporting will lead to retaliation and punishment under the Penal Code, according to HRW. As violence against the LGBTQ community increases, the discussion surrounding these issues has become more public. Several NGOs and international actors are pushing the national dialogue and highlighting human rights abuses. In July of this year, U.S. President Barack Obama visited Kenya, forcefully speaking out against the inequality present in Kenya's legal system. "I believe in the principle of treating people equally under the law," President Obama stated, "and [members of the LGBTQ community] are deserving of equal protection under the law." Kenya's President Kenyatta responded, "the issue of gay rights [in Kenya] is really a non-issue."

Various mechanisms of international law require Kenya to protect individuals against violence and torture, as well as to ensure the rights to equality, non-discrimination, and privacy. According to the HRW report, both the African Commission on Human and Peoples' Rights (ACHPR) and the International Covenant on Civil and Political Rights (ICCPR) obligate member nations to protect citizens generally from arbitrary violence based on discrimination. Resolution 275 passed by the ACHPR explicitly calls on member states to provide the LGBTQ community legal protection from violence. The resolution requires implementation of laws that effectively investigate and prosecute perpetrators who target individuals based on their sexual orientation or gender identity. Similarly, the ICCPR obligates member states to "protect all persons . . . including members of marginalized groups, from violence, in upholding their rights to life and to security and freedom from cruel, inhuman, or degrading treatment." The United Nations (UN) Committee Against Torture considers anal exams degrading treatment prohibited under the Convention against Torture and the ICCPR. Further, the ACHPR and the ICCPR prohibit discrimination and inequality before the law, specifically on the basis of sexual orientation.

HRW reports Kenya is bound as well through its constitution: Article 29 provides the right to freedom and security of the person and specifically prohibits "torture and cruel, inhuman, or degrading treatment"; Article 27 establishes the right to equality and non-discrimination; Article 28 protects the right to dignity; Article 31 provides the right to privacy; Article 33 provides the right of expression; and Article 56 "extends specific protections to 'minorities and marginalized groups.'"

The Kenyan government has a responsibility to do more for the LGBTQ community to prevent and punish violence, according to HRW. However, victims of mob violence have expressed concern over taking their complaints to police, fearing that reporting could worsen matters. After attacking Adam in the street, police later arrested him under Kenyan Penal Code §162 and §165; both prohibit "unnatural offenses" including "carnal knowledge against the order of nature" and the act of "gross indecency" between males. Thereafter, a Kenyan court approved an order to have Adam subjected to a forced anal exam. The Kenyan government has not arrested or charged any of Adam's attackers.

The mob attacks in Kenya's coastal region seem indicative of both the injustices and inadequacies of Kenya's current judicial system. Reports indicate that LGBTQ individuals face attacks without recourse, discriminatory prosecution, torture at the hands of police, and

constant fear, simply because of their sexual preferences. Repealing the Penal Code laws that criminalize same-sex relations may be the first step in preventing injustice.

Hurdles to Accessing Education for Children with Disabilities in South Africa

South Africa has a reputation for having one of the most progressive and nondiscriminatory constitutions in the world. Ratified in 1996 after the fall of Apartheid, the Constitution seemed to promise an end to a dark era of discrimination in South Africa. However, twenty years later, rights groups claim its promises have failed to protect certain vulnerable populations. A recent report by Human Rights Watch estimates that the government is neglecting 500,000 children with disabilities, turning them away from public schools and denying them their right to education. The report claims that South Africa's refusal to educate these children has the long-term effect of denying them full integration into society, keeping them from socializing with their peers and learning necessary life skills.

South Africa's Constitution promises equal protection under the law regardless of disability, and it includes the right to basic education. The United Nations (UN) Conventions on the Rights of the Child (CRC), ratified by South Africa in 1995, and the UN Convention on the Rights of Persons with Disabilities (CRPD), ratified by South Africa in 2007, require children with disabilities have access to an "inclusive, quality, and free" public education. Both call upon states to take necessary measures to ensure the preservation of this right. Under Article 24 of the CRPD, states are responsible for providing education through employing teachers who understand disability issues and by training educational staff in disability awareness and alternative methods of communication and teaching. Articles 8, 19, and 24 of the CRPD hold states accountable for raising public awareness and acceptance of disability, ensuring people with disabilities can participate within their communities, and facilitating learning environments that foster the development children with disabilities' talents and abilities to their maximum potential.

According to Human Rights Watch, South Africa's government is failing to meet its obligations under the CRC and CRPD. Public schools often reject children with disabilities or force their parents to pay extra school fees, consequently making a quality education inaccessible for the country's poorest children. These children are not learning the fundamental skill sets they will need to become independent, productive members of society. They often remain dependent on caretakers and become isolated from their communities due to lack of access to opportunities to learn social and life skills.

The South African educational system also lacks the resources to include children with disabilities in educational settings appropriate to their special needs. Even when children with disabilities are accepted into mainstream schools, the state usually does not provide teachers enough training to be sensitive to their disabilities and to use alternative teaching methods in order to include them in the classroom. Therefore, many children suffer neglect and sometimes even abuse in their schools, resulting from a combination of reduced ability to communicate when others mistreat them and frustration on the part of teachers who lack the tools needed to properly address their needs.

Sometimes these students, after mainstream schools have mistreated them, are unable to enter new schools for several years due to lack of options provided by the state. Consequently, children with disabilities fall behind. These children lose out on more than an education; they lose out on the ability to develop socially because they are isolated from their peers, they lack the life skills that a child normally learns in an educational environment, and they are unable to participate in the community. In the long run, this can lead to lack of preparedness for standard work environments, leaving people with disabilities largely dependent upon

their families, other caretakers, or the state.

Despite the many hurdles to receiving an education, the plight of children with disabilities in South Africa is not hopeless. Human Rights Watch's report and other coverage has brought attention to the human rights violations children with disabilities experience and could potentially prompt the South African government to consider focusing its resources on training teachers to adequately address disability and education rights. The South African government has already responded to the report by stating that its education department is working to "improve data-gathering and screening" in order to better understand the obstacles in accessing education and to place children in educational settings appropriate to their needs. Furthermore, HRW has recommended solutions to the government such as "[r]etrofitting existing mainstream schools" to accommodate children with special needs as opposed to building new schools that would segregate them from their peers. In addition to being more cost-effective, retrofitting would free up funds to train teachers and foster a more inclusive learning environment. While the obstacles to education remain great for children with disabilities, South Africa has many options to remedy the situation in choosing to acknowledge the problem the nation's children face.

Rwandan Rehabilitation Center May Detain Society's Most Vulnerable Without Due Process

According to The Telegraph, Rwanda is known for its immaculately clean streets. However, clean streets come at a high price for the country's poorest and most vulnerable. A Human Rights Watch (HRW) report from April 2015 revealed the practices Rwandan police use to keeps the nation's capital, Kigali, clean. The report detailed the forced removal of the homeless, sex workers, and other members of society's "undesirable" populations and their detainment at the Gikondo Transit Center, alternately known as the Gikondo Rehabilitation Center. Rwanda's Justice Minister explained that the government founded the center to provide emergency assistance to the nation's poor as an alternative to incarceration. However, HRW researchers who interviewed fifty-seven of the Center's former residents found that the Center does anything but "rehabilitate." HRW explained that the police held all of the former detainees interviewed at the Center without charging them with any legally recognizable crimes. Detainees held there also described horrific conditions within the Center.

The conditions and treatment of the detainees at Gikondo may violate both Rwandan and international law. Article 2 of the African Charter on Human and People's Rights, which Rwanda ratified in 1983, prohibits discrimination based on social origin, fortune, and status and guarantees all citizens equal protection under the law. Articles 5 and 6 guarantee freedom from degrading treatment and arbitrary arrest and detention, while Article 7 protects the right to due process, stating that a person cannot face punishment for something not legally recognized as a crime. Article 15 of the Rwandan Constitution also recognizes the right to bodily integrity and freedom from physical abuse and degrading treatment. Article 18 guarantees further due process, requiring police officers to inform arrested persons of the charges against them and to provide them a chance to defend themselves against those charges.

Before many detainees even reach the Center, arresting officers may have already violated their rights against discrimination based on the detainees' social and economic status. Police arrest many detainees for behaviors and characteristics associated with their poverty. The Rwandan Penal Code defines homeless people, beggars, or "vagrants," as people who do not have homes or regular employment, and who, as a result, "impair public order." According to the Penal Code's definition, the detainees' poverty is criminal, which seems to contradict the Article 2 nondiscrimination guarantee of the African Charter. Former detainees have explained to HRW that police arrested them for prostitution or vagrancy, despite the fact

that many of the women were not sex workers. HRW suspects that many women face arrest based on the assumption that they are sex workers.

After the police arrest detainees without charging them with legally recognizable crimes, in possible violation of their right to due process under the Rwandan Constitution and the African Charter, the government places detainees in crowded cells with little space, food, water, or sanitation facilities. The police assign certain inmates as "counselors," but the government requires the counselors to beat their fellow inmates as a way of "maintaining order." Some former female detainees stated their counselors beat them when their children defecated on the floor, even though the detainees were allowed use the toilet only twice a day. Similarly, many detainees reported the toilets were filthy and did not have doors, forcing many to relieve themselves on the floor in front of others after guards prohibited them from using the bathroom facilities. Beatings and deprivation of basic necessities may violate detainees' rights to bodily integrity and freedom from physical punishment and degrading treatment under the African Charter and the Constitution. Lack of food and proper sanitation may violate rights by withholding necessary sustenance for physical wellbeing and subjecting inmates to disease.

In response to the Rwandan government's denial that Gikondo is anything but a rehabilitation center, HRW stands by its conviction that grave human rights abuses continue to occur there. HRW recommends the government shut the Center down, investigate detainees' allegations of abuse, stop the police from arbitrarily discriminating against the poor and arresting people who have not committed any crimes, and prosecute the workers committing these abuses.

By Chloe Canetti, staff writer

Morality, Marriage, and Morocco: The Criminalization of Extra-Marital Relations in Rabat

The sultry storylines of worldwide soap operas and movies often tell torrid tales of men and women moonlighting outside of their relationships. While much of society considers adultery objectionable, governments typically view the actions of two consenting adults as private and not criminal. In Morocco, however, perfidy could be a path to prison. The Moroccan law on adultery, combined with an allegedly unfair court system, has caught the attention of human rights defenders. According to a Human Rights Watch report, a recent criminal prosecution of adultery reflects Morocco's failure to respect the fundamental rights to fair trial and privacy guaranteed in its 2011 Constitution, and under Article 14 (right to fair trial) and Article 17 (right to privacy) of the International Covenant on Civil and Political Rights (ICCPR), which Morocco ratified in 1979.

In April 2015, a Moroccan court sentenced Hicham Mansouri, age 34, along with his female companion, age 30, to ten months in prison for adultery. On May 27, 2015, the Appeals Chamber of the Rabat Court of First Instance confirmed the verdict without considering evidence that placed significant doubt on the creditability of the police report. Additionally, Human Rights Watch expressed concern as to whether the prosecution of Mansouri for adultery was politically motivated by his status as a journalist with the Moroccan Association for Investigative Journalism, an organization whose activities, according to some sources, the government has "systematically blocked."

Freedom of press remains limited in Morocco. The government tightly controls television and journalists are at risk of imprisonment for criticizing the monarchy. As of 2015, Morocco is ranked 130th out of 180 countries in the Reporters Without Borders Press Freedom Index. According to critics, despite the promises of reform by King Mohammed VI of Morocco in light of the Arab Spring uprisings, Moroccan citizens have not yet fully realized fundamental freedoms.

Mansouri's prosecution has also raised questions about the fairness of Morocco's judicial proceedings. According to Reporters Without Borders, after arresting Mansouri without a warrant, police undressed him and then began beating him. He was also deprived of access to his lawyers within the first twenty-four hours of his arrest. According to the 2014 Report of the United Nations (UN)Working Group on Arbitrary Detention, Section 66 of Morocco's Code of Criminal Procedure allows a detainee to access a lawyer during the first twenty-four hours of arrest only "upon the authorization of the Prosecutor's Office, for only thirty minutes and in the presence of an investigator."

Also, at Mansouri's trial, the judge refused to hear defense witnesses. Another Human Rights Watch report, examining the prosecution of six criminal cases between 2008 and 2013, found strong evidence of unfair trial proceedings in Morocco. According to the report, the use of confessions forced from defendants by police officers served as a main justification for the convictions. It also found that the judges failed to investigate claims by defendants that the government forced them, sometimes through torture or falsification, to confess to their crimes, including fraud and terrorism. The report concluded that the courts' lack of oversight and investigation encouraged law enforcement personnel to use coercive measures to obtain confessions from potentially innocent defendants.

Rights groups claim the case of Mansouri is clear evidence of Morocco's failure to fully respect the fundamental rights guaranteed under the ICCPR, including the right to privacy, freedom of expression, and the right to fair trial. The United Nations Working Group on Discrimination Against Women in Law

and Practice condemns the criminalization of adultery. It notes that when courts punish adultery, they often do so disproportionately against women. While acknowledging that in some cultures, adultery may be a ground for civil actions, the group stresses that it should never be a criminal offense punishable by fines, incarceration, flogging, or death.

Rights groups believe that if Morocco is not living up to its human rights obligations, including guaranteeing the rights to privacy, freedom of expression, and fair trial, it should move swiftly to implement necessary reforms. The UN Special Rapporteur on Torture, Juan E. Méndez, has recommended the country "monitor penalty enforcement and verify its validity," and "strengthen the right to appeal for those affected by disciplinary measures." Other rights experts have called for the end of laws criminalizing adultery because of their disproportionate impact on women. Finally, many believe King Mohammed should resume the political reforms he promised in 2011.

By Andrew F. Mutavdzija, staff writer

Saudi Arabia and Its Role in the United Nations Human Rights Council

In late September 2015, the United Nations (UN) Human Rights Council and Saudi Arabia came under scrutiny for electing the Kingdom's UN Permanent Representative Faisal Bin Hassan Trad to the Council's Consultative Group, which is in charge of proposing a list of independent human rights experts. This criticism comes two years after Saudi Arabia's highly contentious election to the Council, in which allegations arose that it traded promises and financial support with the United Kingdom in exchange for mutual support in its bids to secure membership to the Council.

The most prominent aspect of the recent criticism facing Saudi Arabia and the Council is the apparent disconnect between electing a representative from a country with a long history of human rights violations to such a key position in the U.N. body responsible for monitoring human rights across the world.

Critics cite Saudi Arabia's sentencing of Raif Badawi to 1000 lashes for blogging about free speech and its indiscriminate attacks on civilians during the recent military coalition against Houthi rebels in Yemen as the two recent examples of human rights violations. Furthermore, on September 9, 2015, Amnesty International submitted a report to the Council detailing grave concerns over Saudi Arabia's justice system, such as passing death penalty sentences without sufficient legal safeguards.

Under Paragraph 47 of the Annex to Human Rights Council Resolution 5/1, the Consultative Group must "propose to the President, at least one month before the beginning of the session in which the Council would consider the selection of mandate-holders, a list of candidates who possess the highest qualifications for the mandates in question and meet the general criteria and particular requirements." Mandate-holders, also called special rapporteurs, are independent human rights experts who "report and advise on human rights from a thematic or country-specific perspective." While Paragraph 39 of the resolution considers the general criteria of independence, impartiality, and objectivity as "of paramount importance" in nominating, selecting, and appointing mandate-holders, there are concerns that Saudi Arabia's appointment runs counter to the Council's creation in 2006 to replace the widely-criticized UN Human Rights Commission. Hillel Neuer, the Executive Director of UN Watch organization, also criticized the appointment, calling it "scandalous" as the country has "beheaded more people this year than ISIS." Ensaf Haidar, blogger Raif Badawi's wife, described the appointment as "a green light" for Saudi Arabia to start flogging her husband again.

In response to mounting criticism, the Council issued a press release on September 24, 2015, describing the condemnation as "a highly distorted narrative." It emphasized that the Consultative Group is comprised of five ambassadors "who are not elected by the Human Rights Council, or any other UN body, but

appointed by the five regional groups and serve in their personal capacity." It also refuted the suggestion that an ambassador can unilaterally select a mandate-holder, calling it "patently untrue." This allays concerns over Saudi Arabia's position in the Council and the Consultative Group, but it does little to assuage concern that politics are undermining the Council's stated purpose. The UN General Assembly Resolution 60/251, which established the Council, states that the organ should be focused on addressing human rights violations and that it should do so in a non-politicized system.

Contrary to those criticisms, the U.S. Department of State's Deputy Spokesperson Mark Toner said that the U.S. "would welcome" the appointment. In his statement, Toner took the position that while the U.S. government continues to support Saudi Arabia, there would be a strong dialogue whenever human rights concerns arise. He further expressed hope that the leadership position would be "an occasion for [Saudi Arabia] to look at human rights around the world also within [its] own borders."

While Saudi Arabia's appointment to the Council has raised concerns in the international community, UN leaders have argued against the notion that the Council will regress to the behavior that typified the ineffective Human Rights Commission. As Secretary General Kofi Annan stated in an address to the Commission, the Council will be "be more accountable and more representative" than its predecessor. However, he also stated, "The Council will not overcome all the tensions that accompany our handling of human rights [because a] degree of tension is inherent in the issues." Some of the tension with the Saudis is a product of the competing goals of holding the country accountable for its violations in some areas of human rights while acknowledging its progress in others. Such progress, while slow, is present in Saudi Arabia, with previous Saudi King Abdullah appointing thirty women to the Shura Council and giving women the right to vote and participate in municipal elections beginning this year. Although there are fears that the new king, Salman bin Abdulaziz, is slowing progress, the country's leadership position in the Council may serve as a signpost indicating not only recognition of human rights progress, but also an increased responsibility to uphold human rights.

Kuwait's Recent Efforts in Recognizing the Rights of Domestic Workers

On June 24, 2015, Kuwait passed legislation to promote the rights of over 660,000 migrant workers within its borders, seeking to address the abuses that many of those individuals face. The legislation comes five years after the government passed Law No. 6 on labor law in the private sector, which specifically left the rights of domestic workers out. Although the new legislation falls short of the standards under the International Labor Organization's (ILO) Domestic Workers Convention, many consider it the most progressive piece of domestic workers' labor law among the Gulf States.

Kuwait's recent legislation signals an awareness of the criticism that the Gulf States have been facing due to their failure to prevent and redress well-documented abuse of domestic workers. According to Kuwait's 2015 Universal Periodical Review submitted to the United Nations (UN) Human Rights Council, foreign workers amount "to more than two-thirds of the population, representing more than 164 different nationalities," many of whom perform domestic work. The abuse of domestic workers is frequently attributed to the kafala sponsorship system, which grants employers "substantial control over workers." Under this system, practiced by the majority of Gulf States, a migrant worker's sponsor directly controls his immigration status and freedom to change employment for the duration of the employment contract. Such a framework is contrary to Article 3 of the Domestic Workers Convention, which calls on the States Parties to respect, promote, and realize domestic workers' "freedom of association and the effective recognition of the right to collective bargaining" and to eliminate "all forms of forced or compulsory

[labor]." Kuwait has yet to ratify the Convention. According to the Migrant Forum in Asia, the kafala system "often leads to the securitization of migrants should they attempt to challenge its restrictions or escape from abuse and exploitation." In response, the ILO Committee of Experts in 2014 urged the government of Kuwait to ensure that its labor laws do not "place or maintain the workers concerned in a situation of increased vulnerability to discrimination and abuse, as a result of disproportionate power exercised by the employer over the worker."

A 2010 Human Rights Watch Report documented some of those abuses which included the non-payment of wages, long working hours with little or no rest, physical and sexual abuse, and no judicial venues to seek legal redress. Recently, those abuses prompted India's Ministry of External Affairs to issue a statement regarding the treatment of the 90,000 Indian workers in Kuwait, warning others to be careful in seeking employment in the country.

While a number of other Gulf States, including Bahrain and Saudi Arabia, have joined Kuwait in adopting similar legislative measures on domestic workers' rights in order to mitigate the abusive system of kafala, Qatar, the United Arab Emirates, and Oman continue to completely omit domestic workers from their labor-related protective laws. However, there are indications that Kuwait's efforts have begun a move towards progress, with the United Arab Emirates enacting an initiative to protect migrant workers which will take effect in January 2016. While this initiative will not address domestic workers' rights in particular, it will allow migrant workers to seek more effective means of addressing situations in which they lack compensation, suffer abuse, or wish to terminate their employment.

While Kuwait's new legislation seems to represent a positive step, the country still retains the kafala system. Another significant concern about the law is its existing ambiguity that can adversely affect migrant domestic workers. Despite the fact that the legislation provides a number of previously nonexistent protections, it is unclear how this information will reach uninformed workers or those currently living in abusive situations. Furthermore, even if workers are aware of the safeguards, it is unclear what legal venues they will have to report violations of the new legislation.

Despite its shortcomings, the law reflects Kuwait's effort to stand by its ratification of the International Covenant on Economic, Social and Cultural Rights by enacting what will be the most progressive legislation in the Gulf States on the rights of domestic workers. Although it may not rise to the standards set forth by the ILO, it will afford domestic workers significant protections, such as a twelve-hour working day, a day off once a week, thirty-day paid leave, and overtime pay. There is still work for the Kuwaiti Parliament to take in ensuring the dignity of domestic workers, but its most recent legislation signals not only the willingness, but also an initiative to ensure that the country's domestic workers equally enjoy the fundamental human rights, particularly the freedom of movement and compensation for work performed.

By Isaac Morales, staff writer

Holding the Free Syrian Army Accountable for Its Use of Child Soldiers

Over the past four years, the Free Syrian Army, a coalition of non-state militias, has been fighting against both the Assad regime and Islamic extremist groups. Recently, human rights groups have criticized the army for its use of child soldiers. Even amidst severe human rights abuses committed by its rivals, the Free Syrian Army is not exempt from accountability. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict obligates its States Parties to "take all feasible measures" to prevent armed groups from recruiting or using children under the age of eighteen in hostilities. The Rome Statute of the International Criminal Court (ICC) makes it a war crime to "conscript or enlist children

under the age of fifteen years into the national armed forces or using them to participate actively in hostilities." The Additional Protocol II to the Geneva Conventions of 1949 also stresses that "children who have not attained the age of fifteen years shall neither be recruited in the armed forces . . . nor allowed to take part in hostilities." The critical question here is whether any of the three treaties can help hold the Free Syrian Army accountable for its actions, given its status as a non-state actor.

According to its 2014 report, Human Rights Watch interviewed Syrian boys and girls as young as fourteen years of age who acknowledged joining and assisting the Free Syrian Army with a range of different duties such as carrying supplies, loading ammunition, informing on enemy movements, or even fighting on the frontlines. While factions and affiliates of the Free Syrian Army have entered into agreements to eliminate the enlistment of children into their ranks, leaders within those entities told Human Rights Watch that the practice continues.

In October 2013, the Syrian government ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. It declared that it does not "permit any person under [eighteen] years of age to join the active armed forces." While the prosecution of alleged violations of the protocol is theoretically in the hands of the government, the nature of the ongoing civil war precludes the regime from exercising this power over the Free Syrian Army. In addition, the international community has strongly condemned the regime for its gross human rights violations, including its use of children in hostilities. As such, the Assad regime does not seem to be in a position to hold the Free Syrian Army accountable.

Another avenue to justice, the Rome Statute, imposes individual criminal responsibility on war criminals. Pursuant to its Article 25, a natural person is criminally responsible, if he or she commits an enumerated crime, "whether as an individual, jointly with another or through another person." Under Article 12, however, in order for the ICC to exercise its jurisdiction over an individual who is not a national of a State Party, the country concerned must first accept the ICC's jurisdiction over the conduct at issue. As Syria is not a party to the Rome Statute, and as the international community has already accused its armed forces of a slew of atrocities, it seems highly unlikely Syria will invite the ICC to prosecute its rebel groups.

A third option, Article 6 of the Additional Protocol II to the Geneva Conventions, calls for the prosecution and punishment of criminal offenses occurring in non-international armed conflicts, including the recruitment of children under the age of fifteen by non-government forces. In fact, Article 8(2)(e) of the Rome Statute implicitly refers to this measure; it considers the act of "[c]onscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities" as a serious violation "of the laws and customs applicable in armed conflicts not of an international character." Furthermore, according to a study conducted by the International Committee of the Red Cross, the prohibition against the recruitment of children in hostilities "is a norm of customary international law applicable in both international and non-international armed conflicts." However, the ongoing civil war in Syria coupled with alleged gross human rights violations by the Assad regime and extremist militia groups makes the prospect of holding the Free Syrian Army accountable in the near future a remote one.

As the civil war continues to devastate Syria, human rights organizations will continue to document gross violations on all sides of the conflict. But it is critical for the future of any post-war nation to hold accountable the perpetuators of gross human rights violations and to recognize the power of international human rights and humanitarian law in doing so.

Palestinian Child Labor in Israeli Settlements

In November of 2015, the European Commission issued new guidelines related to goods made in Israeli settlements. The Commission reiterated the European Union's position of not recognizing Israel's sovereignty over the occupied territories, including the Golan Heights, the Gaza Strip, the West Bank, and East Jerusalem, under international law. In response to a demand for clarity as to the source of products from the areas annexed by Israel, the new guidelines require the goods to have labels stating the word "settlement" and the geographical origins of the products. But one crucial issue lost in the discussion of the product-labeling regulations is the employment of hundreds of Palestinian children in Israeli settlements.

In April 2015, Human Rights Watch published a seventy-eight-page report detailing the employment of Palestinian children in Israeli settlements, particularly in the agricultural sector. It documents "rights abuses against Palestinian children as young as [eleven] years old who earn around $19 for a full day of working in the settlement agricultural industry." It also finds many children do not attend school and work in hazardous conditions with pesticides and dangerous equipment. Some children interviewed described "vomiting, dizziness, and skin rashes after spraying pesticides with little protection, and experienced body pain or numbness from carrying heavy pesticide containers on their back."

While the dispute over the occupied territories and Israel's annexation of the West Bank remains a highly contested issue both domestically and internationally, the respect for the rights of the child, including the prohibition of child labor, is well settled. Article 32 of the United Nations (UN) Convention on the Rights of the Child (CRC), to which Israel is a party, requires states to "recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development." The provision also mandates that states establish a minimum age of child employment along with appropriate hours and proper work conditions. In 1998, the Israeli government amended the country's Youth Employment Law in an effort to implement the CRC. The law prohibits the employment of children under the age of fifteen. It also forbids children from work that would adversely affect their physical, mental, and educational development, including "potentially hazardous mechanical, physical, chemical, and biological elements." Yet the Human Rights Watch report indicates that Israel has failed to equally apply the law to Palestinian children working in the settlements. The CRC Committee, in its 2013 Concluding Observations on Israel, highlighted the government's "persistent refusal to provide data and to respond to the Committee's written questions on children living in the [occupied territories]."

Furthermore, Article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) imposes a similar obligation on Israel. It underscores that "[c]hildren and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law." According to Human Rights Watch, twenty-one of the children who were working full-time on the farms had dropped out of school in tenth grade or earlier. Schoolteachers and administrators told Human Rights Watch that many students drop out to work in the settlements. Under impoverished conditions, severely restricted access to water, and with limited agricultural development in the West Bank, Palestinian families often permit their children to work for settler-employers who pay them well below the minimum wage for minors in Israel in order to help support the family. In its last Concluding Observations of 2011, the ICESCR Committee particularly recommended the Israeli government "intensify its efforts to lower the high dropout rate for Arab Israeli

and Bedouin children."

Israel is also a State party to the Minimum Age Convention of the International Labour Organization (ILO). Pursuant to Article 2 of the Convention, the minimum age of employment "shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than [fifteen] years." In addition, under Article 3, "The minimum age for admission to any type of employment . . . likely to jeopard[ize] the health, safety or morals of young persons shall not be less than [eighteen] years." Article 7, however, allows the employment of minors between the ages of thirteen to fifteen on "light work" that would not adversely affect their health and educational development. In 2012, the ILO Committee requested the Israeli government "take the necessary measures to bring its national practice into conformity with the Convention by permitting employment in light work only for children who have reached the age of [fourteen] years."

While the overarching issue remains the legality of the Israeli settlements in the occupied territories, violations of international child labor laws raise serious human rights concerns. Under the relevant international treaties, the financial hardship of Palestinian families does not give license for allowing children to work in a way that would adversely affect their health and educational development.

By David Weinstein, staff writer

Iranian Women's Right to Work in Public Sector

According to rights groups, Iranian women have been taking two-steps forward and one step back in their push for equality, particularly the right to equal employment opportunities and to hold public office. Prior to the 1979 Islamic Revolution, women could serve as judges, elected representatives to the Iranian Parliaments, and even members of the Cabinet. But when Iranians took to the streets in opposition to the Pahlavi Dynasty, women saw the future of Iran as even more promising. Young female students in particular viewed the Shah's regime as a monarchy heavily influenced by Western Powers that had no tolerance towards alternative political parties or ideologies. The Islamic Revolution was indeed a message of change for many Iranian women. Yet soon after Ayatollah Ruhollah Khomeini became Supreme Leader of the country, the hope for more civil liberties quickly dissipated, particularly the evolution of women's right to equal employment opportunities.

The existing legal framework of the Islamic Republic may deny women the ability to hold high decision-making positions. Under Iran's Constitution, many of those positions are "exclusively tailored for Shi'ite fuqaha (jurists) and mujtahids (Islamic jurists who are capable of an independent derivation of Islamic rules from the primary sources)." For example, Article 99 of the Constitution gives Iran's Guardian Council the authority to supervise the elections of "the Assembly of Experts for Leadership, the President of the Republic, the Islamic Consultative Assembly [Parliament], and the direct recourse to popular opinion and referenda." The Law No. 1234 of 1991 interpreted that provision to give the Council a sweeping power to monitor public elections, including the rigorous process of vetting candidates. According to Majlis Monitor, an Iranian watchdog organization, "[t]his aggressive vetting, which at times has prevented entire political groups from running in elections, persists today and has been a cornerstone of continued conservative dominance of Iran's parliament." This process in effect has barred many women candidates from participating in the decision-making process of the country. Although Article 115 of the Constitution does not expressly bar women from running for president, the Council in 2004 declared that it "has not changed its interpretation of Article 115 and women still may not be elected as President." According to the United Nations Statistics Division, since 1997, Iranian women have held less than five percent of parliamentary seats. Specifically, during the course of nine parliamentary terms, out of 2700 members of Parliament, only seventy-three were women.

Women's right to participate in Iran's judiciary system is also limited. Although women may acquire a legal education, the existing laws bar them from serving as judges. Under Article 163 of Iran's Constitution, the conditions and qualifications to serve as a judge must be in accordance with "the criteria of fiqh [Sharia law or Islamic law]." Soon after the 1979 Revolution, conservative clerics made a series of religious pronouncements removing women, including Shirin Ebadi, the recipient of the 2013 Nobel Peace Prize, from their positions as judges. While an amendment to the Process of Appointment of Judges Act of 1982 recognized the possibility of women "as counselors and investigators," the role of judicial decision-making continues to remain exclusively with men.

Iran has ratified multiple international treaties relevant to women's rights. It is currently a State Party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Under Article 25 of the ICCPR, every citizen "shall have the right and the opportunity . . . without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; [and] (b) to vote and to be elected at genuine periodic elections." Similarly, Article 6 of ICESCR calls on States Parties to recognize "the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts."

In response to Iran's third periodic report on the implementation of the ICCPR, the Human Rights Committee expressly requested Iran explain why the country continues to exclude women from decision-making positions including the Guardian Council, the Expediency Council, and the judiciary. The government of Iran replied to the Committee by claiming that "there is no gender limit stipulated for membership on the Guardian Council and the Expediency Council." With respect to judicial opportunity for women, it provided statistics indicating that in 2003, "there were exactly 161 women judges and 4 women deputies of Judicial Complexes." According to Iran Human Rights Documentation Center, however, the "so-called women 'judges' [were] not permitted to make substantial decisions in any case," and none of the 100 branches of General and Revolutionary Courts included a female judge.

While Iran's existing legal framework continues to hinder women's participation in the county's decision-making process, rights groups and international organizations believe that by amending current laws, the government can still take positive steps in realizing the equal rights of Iranian women promised thirty-six years ago when the Islamic Revolution took place.

By Jessica Lee McKenney, staff writer

Human Rights Abuses in Ukraine's Armed Conflict

Amidst the recent armed conflict in Ukraine, new allegations are surfacing of serious human rights abuses there including torture, cruel and inhumane or degrading treatment, and arbitrary executions in detention facilities across the country. A recent report by Amnesty International reveals that both Ukrainian forces and pro-Kyiv militia have ignored common international standards for adequate detention centers and carried out serious violations of the rights of both military and civilian prisoners.

Amnesty International's interviews with prisoners revealed that abuse in prisons is both frequent and widespread, and that it occurs on both sides of the conflict. These interviews also indicated informal militia, and anyone operating largely outside the chain of command, showed a greater propensity for violence and torture in the detainment of prisoners. Such groups on the separatist side include the Prizrak and Sparta battalion located out of the Donetsk and Luhansk regions. On the pro-Kyiv side, groups allegedly involved in torture include the Right Sector, a volunteer militia created by pro-Kyiv nationalist groups.

A majority of the worst abuses have taken place in detention centers not formally recognized by the state of Ukraine. Examples have included abandoned police stations, underground bomb shelters, and university buildings. Former prisoners have reported a wide array of abuses including excessive beatings, electric shock, and mock executions. Nearly all cases reported the withholding of emergency medical care, along with the deprivation of food, water, and sleep. Such abuses reportedly ended once prisoners entered official, state-run prisons.

Captives held in pro-Kyiv custody have come forward to identify at least four cases of arbitrary executions which took place after severe beatings left the prisoners unable to move or speak. Prisoners and civilians held in the village of Krasniy Partizan have alleged more executions occurring in January of 2015. Several civilians in the village attempted to report what they had seen, sometimes even with video evidence of the executions which later became available on YouTube.

Although a majority of prisoners held by pro-Kyiv forces have reported the abuse suffered to local judges and police, the response has been slow. Many of the prisoners showed clear signs of abuse when reporting to local judiciaries including bruised faces, black eyes, and split lips. However, the government has not ordered investigations. Investigation and prosecution has been difficult because of the sheer amount of military groups, both formal and informal, on either side of the conflict holding prisoners. Amnesty International has received several different estimates from various sources as to the number of prisoners currently imprisoned throughout Ukraine. A lack of transparency has obstructed families seeking to locate imprisoned loved ones.

Amnesty International alleges violations of Common Article 3 of the Geneva Conventions of 1949 and violations of the International Covenant on Civil and Political Rights. Violations of Common Article 3 include the protection of prisoners of war and the standards by which detention facilities should respect prisoner's rights. Both treaty bodies are based on a right to be free of torture, cruel, and inhuman or degrading treatment. Various provisions under international human rights law, which applies during times of armed conflict both national and international, asserts the rights of persons placed in detention centers to judicial review of the legality of the detention. The United Nations (UN) Working Group on Arbitrary Detention outlines the legal standards for arbitrary detention as a possible violation of human rights law.

The UN Security Council has also en-

dorsed the "Minsk Agreements" reached by both parties. The thirteen-paragraph "pack of measures" calls for the creation of a security zone and reforms that would result in a new constitution, monitoring by the Organization for Security and Cooperation of Europe, and the continued disarmament of all paramilitary groups. Additionally, the UN Office of the High Commissioner for Human Rights (OHCHR) conducted a report encouraging sustained dialogue between the parties for seeking common ground.

The violations of international human rights law asserted by NGOs like Amnesty International, the OHCHR, and the UN Security Council collectively call for an immediate investigation into all possible human rights abuses in Ukraine and in particular, into the situation of Ukraine's informal detention facilities. Rights groups believe that a need for transparency and the cooperation of law enforcement is evident, as well as support from local judiciaries. Investigation and prosecution of potential war crimes and crimes against humanity are appropriate and necessary next steps once the conflict in Ukraine has ended.

By Lindsey White, staff writer

Mandela Rules Create New Standards for International Treatment of Prisoners

"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." –Nelson Mandela

On May 22, 2015, the United Nations Commission on Crime Prevention and Criminal Justice (CCPJC) approved a new set of standards for the treatment of prisoners called "The Mandela Rules," named after the late South African President Nelson Mandela. The Mandela Rules are intended to revise the United Nations Standard Minimum Rules for the Treatment of Prisoners(SMRs), which the United Nations (UN) has not changed for nearly sixty years. During the five-year "targeted revision" process, intergovernmental expert groups worked together to rewrite the SMRs' text. Although not legally binding, the SMRs are considered one of the only sources of standards related to detainment practices, and are used as the primary instrument to monitor, inspect, and assess the treatment of prisoners.

Since the adoption of the original SMRs in 1955, international developments in human rights law, technology, and social norms have left the rules out of date. The resolution adopting the Mandela Rules takes into account post-1955 developments including the widespread adoption of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The revisions also address relevant contemporary human rights concerns such as those expressed in the 2011 report of Juan Méndez, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Special Rapporteur). The Special Rapporteur's report argued that solitary confinement in excess of fifteen consecutive days amounts to torture or degrading punishment.

Although the Mandela Rules still require approval by the UN General Assembly this fall, David Fathi, Director of the American Civil Liberties Union's National Prison Project, called the new rules "a tremendous step forward, particularly given that the original rules were silent on [solitary confinement]." The revisions provide that solitary confinement "shall be used only in exceptional cases as a last resort for as short as a time as possible and subject to independent review," and that "indefinite" and "prolonged" solitary confinement (more than fifteen days) is strictly prohibited. In an open letter to the chair of the CCPJC, the Special Rapporteur regarded the new rules as "real progress in the prevention of torture and ill-treatment and help to ensure accountability."

Other revisions include standards that affirm fundamental human rights principles, such as the responsibility to provide general

living conditions to "all prisoners without exception," and to conduct searches "in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity." Rules 83–85 also require prison administrators to allow for independent inspection of prisons, including access to relevant documentation and unsupervised contact with prisoners. Yury Fedotov, the head of the United Nations Office on Drugs and Crime, described the new rules as "one of the most significant human rights advances in recent years."

However, as Mr. Fathi put it, "[t]he Rules are only as good as their implementation." In order for the new rules to be successful, Mr. Fathi explained that public awareness is key, as is a willingness on the part of decision makers to use the Mandela Rules as a reference point for evaluating international criminal justice institutions. According to Andrea Huber, Policy Director of Penal Reform International—one of the advocacy groups that participated in the revision process—there are still major obstacles in fully implementing the Mandela Rules. One obstacle she describes is the common attitude civil society has towards incarcerated persons, such as the idea that "it is justifiable to mistreat [prisoners] because they have been convicted of crimes, and so their legal status removes them from the realm of human rights protection."

The hope is that if fully implemented, according to Yuval Ginbar, Legal Advisor at Amnesty International, the rules "would help turn imprisonment from a wasted time of suffering and humiliation into one used for personal development leading to release, to the benefit of society as a whole." The resolution adopting the Mandela Rules also calls for July 18 to be known as "Mandela Prisoner Rights Day," which will promote "humane conditions of confinement and raise awareness of prisoners as a continuing part of society." Perhaps the greatest impact of these revisions, however, lies "in the reconciliation of human rights norms with criminal justice standards." Rights groups believe that the Mandela Rules represent an important first step towards meaningful penal reform and the universal recognition of prisoners' equal human rights regardless of their legal status.

By Andrea Flynn-Schneider, staff writer

Isolated: Disabled Children in Russia's Education System

The Russian government has attempted to make significant commitments to promote the rights of disabled children by expanding inclusive education across the country, revising curricular standards, and training more teachers. However, rights groups like Human Rights Watch (HRW) have argued that Russian schools are still leaving too many children with disabilities on the fringes of the education system.

Although Russia ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2012, according to HRW, the government is still struggling to enforce the rights outlined in the treaty. In terms of education, CRPD Article 24 requires that "persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability." Furthermore, Article 29 of the United Nations (UN) Convention on the Rights of the Child (CRC) guarantees the right to education on the basis of equal opportunity, directed to the "development of the child's personality, talents and mental and physical abilities to their fullest potential."

Since 2012, Russian law has provided a choice for families with children with disabilities to study in a mainstream school, a specialized school, or at home. However, a recent report released by HRW argues that despite substantial policy changes in recent years, the Russian education system is still discriminating against children with disabilities in a variety of ways, including in the ability to make the choice of educational venue offered by Russian law. The report, titled "Left Out: Obstacles to

Education for People with Disabilities in Russia," is based on over two-hundred interviews with families, visits to ten state institutions, meetings with officials from the Ministry of Education and Science, and meetings with officials from the Ministry of Labor and Social Protection.

The report notes that the lack of infrastructure set up to assist persons with disabilities is a significant barrier to ensuring equal access to education in Russia. Most schools and apartment buildings lack ramps or lifts to help children enter and move around the school and a majority of cities also lack suitable transportation to help children get to and from school. Within mainstream schools, specialized accommodations or properly trained teachers are still extremely rare. Because of these limitations, most children with disabilities remain either segregated in special schools or isolated in their homes.

Since mainstream schools usually lack the appropriate accommodations or refuse to admit children with disabilities, families often send their students to a specialized schools out of necessity. These schools are usually located far away from children's families, who lack the financial capacity to visit, and may offer inadequate academic programs. The only alternative for families is to keep children at home where they have little interaction with teachers and their peers.

While laws have changed, attitudes in Russian society are developing at a much slower rate. Human Rights Watch (HRW) reported that some school administrators refuse to admit children with disabilities based on false assumptions that they are unable to learn or that their behavior will be disruptive to other students.

In a similar report issued in 2014, titled "Abandoned by the State," HRW found that nearly thirty percent of children with disabilities in Russia live in state orphanages where, in addition to a lack of access to education, "they may face violence and neglect." Traditionally, children born with physical damage or cerebral palsy are labeled to have "multiple severe developmental disabilities" at birth, and doctors strongly recommend families abandon the child. Even families who still take children with cerebral palsy or physical disabilities home oftentimes send the children back to orphanages later on as toddlers. Within these orphanages, children with disabilities frequently spend their days in the "mercy department," where they lie in bed all day and cannot play with other children or meet with adoptive parents. Once they reach adulthood, having had no chance to develop and no benefit of education, they often face a grim future in a mental asylum.

Individuals not confined to mental asylums still face significant challenges upon reaching adulthood. Due to their lack of significant education, adults with disabilities struggle to attend universities or gain the professional skills necessary to find employment. According to continued research done by HRW, these individuals are stuck in a cycle of poverty with little resources to help them break out.

Going forward, HRW recommends an increase in efforts by the Russian government to reverse these long-standing practices and severe restrictions on education in accordance with Russia's commitments under CRPD. HRW advocates for further integration of children with disabilities into the education system. In the long-term, HRW advocates a move away from current practices of categorizing children according to disability and perceived ability to learn, which it says perpetuates false stereotypes and discrimination.

By Summer Woods, staff writer

The Need for Legal Channels to Remedy the EU Migration Crisis

The European Union (EU) is facing a refugee crisis, as many refugees enter by any means necessary. According to Human Rights Watch (HRW), in 2014, at least 219,000 people crossed the Mediterranean into Europe, up from 60,000 the previous year. According to the United Nations High Commission for Refugees (UNHCR), from January through October 2015, 705,251 refugees arrived by sea

and another 3,250 died or went missing. Individual member states have inconsistent refugee and asylum policies, and the EU as a whole has exacerbated the crisis by focusing on preventing departures and limiting arrivals.

The EU and its member states are required to uphold the 1951 Convention Relating to the Status of Refugees, the Charter of Fundamental Rights of the EU, and the laws of sea when creating and adopting refugee and asylum policies. According to HRW, the EU should shape legal pathways for asylum seekers and migrants escaping regional conflicts—in Syria and elsewhere—in accordance with its international legal obligations. More specifically, the EU should implement generous resettlement programs, ease access to family reunification programs, and simplify access to humanitarian visas.

Government forces and pro-government militias are exacerbating the conflict in Syria, carrying out attacks on civilian areas, including through the use of high explosive barrel bombs, as reported by HRW. In addition, the extremist Islamist group, ISIS, and al-Qaeda's affiliate in Syria, Jabhat al-Nuhsra, are responsible for systemic violations of international human rights and humanitarian law, including the targeting of civilians, kidnapping, and extrajudicial executions. As a result, the death toll after four years of the Syrian Civil War is estimated at 210,060 people, nearly half of them civilians. The *New York Times* estimates that the violence has claimed more than 13,000 children since the start of the Syrian Civil War, with 3,500 killed in 2014.

UNHCR has called this crisis "the biggest humanitarian emergency of our era," but the EU has allowed significantly fewer refugees to enter its territory. As of early May 2015, UNHCR had registered almost 4 million Syrian refugees in neighboring countries and North Africa, compared to 216,300 in the European Union in that same period. Though EU leaders recently agreed to a 17-point plan to address the refugee crisis, HRW and other civil society groups continue to call on the EU to take a more central role in the handling of the refugee crisis.

In order to compensate for the large influx of asylum seekers, the EU must allow safe access for people in need of international protection. Pursuant to the UN Convention on the Law of Sea (UNCLOS) and the International Convention for Life at Sea of 1974 (SOLAS), to which the EU member states are parties, they are obligated individually to come to the assistance of any person distressed at sea. In addition, coastal states must develop adequate search and rescue procedures, and the ship master bears the responsibility of the people rescued at sea. Furthermore, according to Article 12 of the International Covenant on Civil and Political Rights (ICCPR), "everyone shall be free to leave any country, including his own." This provision guarantees the right to enjoy civil and political freedom, and freedom from fear and persecution. Asylum seekers may therefore travel to neighboring countries and to the EU in order to escape political crisis. EU member states have an obligation to accommodate refugees seeking safety, including within their maritime territories.

As suggested by HRW, the EU should strengthen existing EU and international laws, and enforce their current legal obligations. EU governments should improve asylum and reception conditions, share responsibilities, and open their borders to more refugees. In addition, they need to take steps to protect incoming refugees from civil rights abuses, such as the police abuses in Macedonia. Any state that undergoes a rescue effort of asylum seekers and refugees should take responsibility for the group. No coastal state should deny an individual or group of people entry into the country because of their legal status. Thus, European states should fulfill their obligations to rescue and care for refugees in compliance with their international and EU legal obligations.

By Rudy Williams